



2011-0000142

Recorded	REC FEE	0.00
Official Records		
County of	CONFORMED C	0.00
San Benito		
JOE PAUL GONZALEZ		
Clerk-Auditor-Recorder		

	MR
11:41AM 05-Jan-2011	Page 1 of 96

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:
San Benito County
Attn: San Benito County Clerk
440 Fifth St., Room 206
County Courthouse
Hollister, CA
95023

ORIGINAL

RECORDING FEE EXEMPT
PURSUANT TO GOVERNMENT CODE
SECTION 27383

(Space Above Line For Recorder's Use)

DEVELOPMENT AGREEMENT BY AND BETWEEN

THE COUNTY OF SAN BENITO AND

SANTANA RANCH LANDOWNERS

Section 1 Definition of Terms	4
Section 2 Owner's Obligations	9
2.1 Development of the Project	9
2.2 County's Reliance on Owner's Provision of, or Contribution Towards, Project Infrastructure	10
2.3 Construction of Formal Parks and Related Improvements	10
2.4 Additional Park and Recreational Space	11
2.5 Street Improvements and Other Project Infrastructure	12
2.6 Design of Project Infrastructure	12
2.7 Affordable Housing	12
2.8 Offer for Sale of Lots to Local, Small Builders	15
2.9 Reservation of School Site	15
2.10 Reimbursement; Credits	16
2.11 Habitat Conservation	17
Section 3 Owner's Vested Rights	17
3.1 Vested Right to Develop the Project	17
3.2 Development Impact Fees and Regulatory Processing Fees	17
3.3 Application of Subsequently Enacted Rules, Regulations and Official Policies	18
3.4 Modification or Suspension by State or Federal Law	18
3.5 CEQA	18
3.6 Exemption from Growth Management Ordinance	19
3.7 Timing of Development	19
3.8 Regulation by Other Public Agencies	19
3.9 Eminent Domain	19
Section 4 Cooperation	20
4.1 Owner's Application for Subsequent Approvals	20
4.2 County's Processing of Subsequent Approvals	20
4.3 Revenue Neutrality of Project; Cooperation in Forming Financing Districts	20
4.4 Comprehensive Update to the County's Traffic Update Fee Program and Related Nexus Study	20
Section 5 Term of This Agreement	21
5.1 Duration of Agreement	21
5.2 Extension by Agreement	21
Section 6 Periodic Compliance Review; Default	21
6.1 Periodic Compliance Review	21
6.2 Default	22
Section 7 Termination	23
7.1 Termination Upon Completion of Project or Expiration of Term	23
7.2 Termination Due to Default	23
7.3 Termination of Agreement with Respect to Individual Units Upon Sale to Ultimate User and Completion of Construction	24
7.4 Termination by Mutual Consent	24
Section 8 Dispute Resolutions	24

8.1	Informal Resolution of Disputes; Mediation	24
8.2	Arbitration.....	25
8.3	Attorneys' Fees and Dispute Resolution Costs	26
Section 9 Assignment and Assumption; Rights and Duties of Mortgagees.....		26
9.1	Assignment of Rights, Interests and Obligations	26
9.2	Assumption of Rights, Interests and Obligations	26
9.3	Rights and Duties of Mortgagee in Possession of Property.....	27
Section 10 General Provisions		27
10.1	Independent Contractors.....	27
10.2	Invalidity of Agreement and Severability of Provisions	27
10.3	Third Party Beneficiary	28
10.4	Further Documents	28
10.5	Time of Essence	28
10.6	Modifications	28
10.7	Subsequent Approvals Do Not Require Amendment	28
10.8	Project is a Private Undertaking	28
10.9	No Discrimination Permitted.....	28
10.10	Covenants Running with the Land	29
10.11	Recordation of Agreement	29
10.12	Notices	29
10.13	Prevailing Wage.....	30
10.14	Applicable Law	30
10.15	Venue.....	31
10.16	Cooperation in the Event of Legal Challenge; Indemnification	31
10.17	No Waiver	31
10.18	Construction.....	32
10.19	Entire Agreement.....	32
10.20	Estoppel Certificate	32
10.21	Counterparts	32
10.22	Authority to Execute	32
10.23	Captions.....	32
10.24	Compliance, Monitoring, and Management Duties; Default.....	33
10.25	Listing and Incorporation of Exhibits.....	33

4

**DEVELOPMENT AGREEMENT BY AND BETWEEN THE COUNTY OF SAN BENITO
AND NORTHEAST FAIRVIEW LANDOWNERS GROUP (SANTANA RANCH)**

THIS DEVELOPMENT AGREEMENT ("**Agreement**") is made and entered into on November 2, 2010 by and between the County of San Benito, a political subdivision of the State of California ("**County**") and the Santana Ranch Landowners, which include Guerra Nut Shelling Company, a California corporation, Larry W. Anderson and Georgeann M. Anderson, Restated Larry W. Anderson and Georgeann M. Anderson Revocable Family Trust, and King & Domingues Properties, a California general partnership (collectively, "**Owner**"). County and Owner are sometimes herein referred to individually as a "**party**" and collectively as "**parties**."

RECITALS

This Agreement is predicated on the following facts, which are incorporated into and made a part of this Agreement.

A. Capitalized Terms.

This Agreement uses certain terms with initial capital letters that are defined in Section 1 below. County and Owner intend to refer to those definitions when the capitalized terms are used in this Agreement.

B. Nature and Purpose of Development Agreements.

The Legislature enacted Government Code section 65864 *et seq.* ("**Development Agreement Statute**") in response to the lack of certainty in the approval of development projects, which can result in a waste of resources, escalate the cost of housing, and discourage investment in and commitment to planning that would maximize the efficient utilization of resources. The Development Agreement Statute is designed to strengthen the public planning process, to encourage private participation in comprehensive, long-range planning, and to reduce the economic costs of development. It authorizes a county to enter into a binding agreement with any person having a legal or equitable interest in real property located in the county regarding the development of that property.

C. County's Development Agreement Procedures.

Pursuant to the Development Agreement Statute, County adopted San Benito County Code Chapter 19.11, which sets forth procedures and requirements for the consideration of development agreements ("**County Development Agreement Procedures**"). This chapter enables County and a developer seeking County approval of a project to enter into a development agreement that vests certain rights and that requires a developer to provide certain public benefits beyond those that could otherwise be imposed as conditions of development.

D. Owner's Interest in the Property.

The land governed by this Agreement consists of the following: (1) approximately two hundred and ninety two (292) acres in unincorporated San Benito County adjacent to

the City of Hollister, as more particularly described in attached Exhibit 1 and depicted on Exhibit 2 ("**Specific Plan Area**"); and (2) approximately twenty-six (26) acres located immediately adjacent to the Specific Plan Area, as more particularly described in attached Exhibit 3 and depicted on attached Exhibit 4 ("**Potential Wastewater Treatment Plant Site**"). Together, the Specific Plan Area and the Potential Wastewater Treatment Plant Site are collectively referred to herein as the "**Property**." Owner has a legal interest in the Property. The Property has been designated by the San Benito County Board of Supervisors ("**Board**") and in the County's General Plan as an "Area of Special Study," which is an area where significant growth is expected to occur upon completion and adoption of a comprehensive specific plan pursuant to Government Code Section 65450.

E. Development of the Property.

Owner has prepared the Santana Ranch Specific Plan ("**Specific Plan**"), which relates to the development of the Property as described more fully in the Specific Plan, including, without limitation, the development of a maximum of one thousand ninety-two (1,092) residential units (consisting of approximately 774 Santana Ranch single-family units [R1-SR] and approximately 318 Santana Ranch residential multiple units [SR-RM], with a variety of housing types); a maximum of one hundred six thousand (106,000) square feet of neighborhood commercial and mixed uses, including approximately sixty-five thousand (65,000) square feet of neighborhood commercial uses and forty-one thousand (41,000) square feet of potential mixed uses; reservation of a site, anticipated to consist of eight to twelve (8 to 12) acres, for purposes of an elementary school to serve approximately seven hundred (700) students; approximately eighteen (18) acres of Formal Parks (as the term is defined below in Section 2.3(a) below); and additional park and recreational facilities, including a pedestrian and bicycle network throughout the Property. Collectively, such development shall be known as the "**Project**."

F. Initial Project Approvals.

County has taken or intends to take various planning, land use entitlement and environmental review actions relating to the Project ("**Initial Approvals**") including, without limitation, the following:

1. Environmental Impact Report (Resolution No. 2010-114). On October 5, 2010, pursuant to the California Environmental Quality Act (Pub. Res. Code § 21000 *et seq.*), the CEQA Guidelines (14 Cal. Regs. § 15000 *et seq.*), and County's local Implementing Procedures for CEQA (collectively, "**CEQA**"), and in accordance with the recommendation of the San Benito County Planning Commission ("**Planning Commission**"), the Board took the following actions: (a) certified an Environmental Impact Report (State Clearinghouse No. 2008031019) for the Project ("**Project EIR**"); (b) adopted written findings relating to significant environmental impacts; (c) adopted a Statement of Overriding Considerations; and (d) adopted a mitigation monitoring and reporting plan ("**MMRP**").

2. General Plan Amendment (Resolution No. 2010-128). On October 26, 2010, following review and recommendation by the Planning Commission and after a duly noticed public hearing, the Board took the following actions: (a) approved General Plan Amendment No. 10-45 as an amendment to the County's General Plan ("**General Plan Amendment**") in

6

connection with the Project; and (b) made determinations regarding the Project's consistency with the County's General Plan (as amended) and the non-applicability of the County's Potential Residential Growth Increase (PRGI) Ordinance.

3. Specific Plan Adoption (Resolution No. 2010-129). On October 26, 2010, following review and recommendation by the Planning Commission and after a duly noticed public hearing, the Board adopted the Specific Plan, which governs development of the Project ("**Specific Plan Adoption**").

4. County Code, Zoning Text and Zoning Map Amendments (Ordinance No. 860). On October 26, 2010, following review and recommendation by the Planning Commission and after a duly noticed public hearing, the Board took the following actions: (a) amended the text in the County's Zoning Code to reflect the new zoning designation of "Santana Ranch-Specific Plan (SR-SP)" to be applied to the Property; (b) amended the County's Zoning Map to show the Property as rezoned to "Santana Ranch-Specific Plan (SR-SP);" and (c) made other conforming amendments to ensure consistency between the County Code and the Project (collectively, "**Code Amendments**").

5. Development Agreement (Ordinance No. 861). On November 2, 2010, following review and recommendation by the Planning Commission and after a duly noticed public hearing, the Board made the following findings with respect to the Agreement:

(a) It was processed in accordance with the Development Agreement Statute.

(b) It is consistent with the San Benito County General Plan (as amended), the Specific Plan, any area plans and other applicable Rules, Regulations and Official Policies.

(c) It is compatible with the uses authorized in, and the regulations prescribed for, the applicable zoning of the Property.

(d) It will not adversely affect the orderly development of the surrounding community.

(e) It is fair, just and reasonable.

(f) It is consistent with and best serves the public health, safety and general welfare of the County's citizens and good land use practice because, among other things, it provides for public benefits beyond those benefits that would be forthcoming through conditions of development project approvals as set forth herein.

(g) It should be encouraged in order to meet important economic, social, environmental and planning goals of the County.

(h) It is consistent with the County's Development Agreement Procedures reflected in the San Benito County Code, title 19, chapter 19.11, as amended.

(i) The Board has approved the underlying legislative entitlements at a meeting precedent to the hearing in which the Board seeks to approve the Development Agreement.

On this basis, the Board approved this Agreement. On November 2, 2010, the Board adopted Ordinance No. 861, enacting this Agreement. This Agreement will become effective on December 2, 2010 ("**Effective Date**").

H. Intent of Parties.

County and Owner have, in good faith, negotiated the terms and conditions of this Agreement, and have determined that use of a development agreement is appropriate for development of the Project in accordance with the Project Approvals. County desires to enter into this Agreement because it will eliminate uncertainty in planning and provide for the orderly development of the Property; it will ensure the maximum efficient utilization of resources within the County and the surrounding community; it will provide for public benefits beyond those that otherwise could be imposed as conditions of approval; and it will otherwise achieve the goals and purposes of the Development Agreement Statute and the County's Development Agreement Procedures. In exchange for these benefits to County, together with the other public benefits derived from development of the Project, Owner desires to enter into this Agreement to receive the assurance that it may proceed with development of the Project in accordance with the Project Approvals, as set forth more fully below.

NOW, THEREFORE, with reference to the foregoing recitals and in consideration of the mutual promises, obligations and covenants contained herein, Owner and County agree as follows:

AGREEMENT

Section 1 Definition of Terms.

The following defined terms are used in this Agreement:

- 1.1 "**Additional Park and Recreational Space**" has the meaning set forth in Section 2.4.
- 1.2 "**Additional Outreach and Marketing Period**" has the meaning set forth in Section 2.7(e).
- 1.3 "**Affordable Housing Implementation Plan**" has the meaning set forth in Section 2.7(f).
- 1.4 "**Affordable Housing Procedures**" has the meaning set forth in Sections 2.7(c) and 2.7(f).
- 1.5 "**Affordability Term**" has the meaning set forth in Section 2.7(c).
- 1.6 "**Affordable Units**" means any one or more of the Project's units reserved for occupancy by Low and Moderate Income Households.

- 1.7 **"Age-Restricted"** means those Moderate Income Units that are reserved for Moderate Income Households where all household members are fifty-five (55) years of age or older.
- 1.8 **"Agreement"** means this Development Agreement between County and Owner. This Agreement also is sometimes referred to herein as "DA."
- 1.9 **"Area Median Income" or "AMI" Median Income"** means the annual median income for San Benito County, adjusted for family size, as published from time to time by the California Department of Housing and Community Development (HCD) pursuant to Health & Safety Code Sections 50079.5 and 50105.
- 1.10 **"Basic Community Park Improvements"** has the meaning set forth in Section 2.3(c).
- 1.11 **"Board"** means the San Benito County Board of Supervisors.
- 1.12 **"Building Permit"** refers to a document authorizing the holder to construct a building, as provided for in the San Benito County Code.
- 1.13 **"CEQA"** has the meaning set forth in Recital F(1).
- 1.14 **"Certificate of Occupancy"** means a final certificate of occupancy issued by County's Building Official or, if County's Building Code does not provide for the issuance of a certificate of occupancy for a particular structure, the functional equivalent thereto.
- 1.15 **"Code Amendments"** has the meaning set forth in Recital F(4).
- 1.16 **"COG"** refers to the Council of San Benito County Governments.
- 1.17 **"Community Financing District" or "CFD"** shall mean a financing district formed under the Mello-Roos Community Facilities Act of 1982, pursuant to Government Code section 53311 *et seq.*
- 1.18 **"Community Park"** has the meaning set forth in Section 2.3(a).
- 1.19 **"County"** means the County of San Benito, a political subdivision of the State of California.
- 1.20 **"County Development Agreement Procedures"** has the meaning set forth in Recital C.
- 1.21 **"Days"** means calendar days. If the last day to perform an act under this Agreement is a Saturday, Sunday or legal holiday in the State of California, said act may be performed on the next succeeding calendar day that is not a Saturday, Sunday or legal holiday in the State of California and in which the County offices are open to the public for business.

- 1.22 **"Defense Counsel"** has the meaning set forth in Section 10.16.
- 1.23 **"Development Agreement Statute"** has the meaning set forth in Recital B.
- 1.24 **"Development Impact Fee"** means any requirement of County in connection with a Project Approval for the dedication of land, the construction of public improvements, or the payment of fees in order to lessen, offset, mitigate or compensate for the impacts of development on the environment; facilities, services and infrastructure; or other public interests.
- 1.25 **"Dispute"** has the meaning set forth in Section 8.1.
- 1.26 **"Effective Date"** has the meaning set forth in Recital F(5).
- 1.27 **"Enforced Delay"** has the meaning set forth in Section 6.2(d).
- 1.28 **"Engineer's Report"** has the meaning set forth in Section 4.3.
- 1.29 **"Existing Rules"** means the Rules, Regulations and Official Policies in effect on the Effective Date.
- 1.30 **"Fairview Road Improvements"** describes infrastructure improvements identified in attached Exhibit 7.
- 1.31 **"First Phase of Affordable Units"** has the meaning set forth in Section 2.7(d).
- 1.32 **"Formal Parks"** has the meaning set forth in Section 2.3(a).
- 1.33 **"General Plan Amendment"** has the meaning set forth in Recital F(2).
- 1.34 **"Initial Approvals"** has the meaning set forth in Recital F.
- 1.35 **"Initial Outreach and Marketing Period"** has the meaning set forth in Section 2.7(e).
- 1.36 **"JAMS"** has the meaning set forth in Section 8.1.
- 1.37 **"Legal Challenge"** has the meaning set forth in Section 10.16.
- 1.38 **"Linear Park"** has the meaning set forth in Section 2.3(a).
- 1.39 **"Local Builder"** means those homebuilders that have their primary place of business in San Benito County and that have constructed ten (10) or fewer residential units in any year within the previous three (3) years.
- 1.40 **"Local Builder Lot"** has the meaning set forth in Section 2.8.
- 1.41 **"Low Income Household"** means a household with an annual income not greater than (and including) eighty percent (80%) of the Median Income.

- 1.42 **"Low Income Unit"** means an Affordable Unit that shall be rented or sold to a Low Income Household at a monthly rent or at a sales price that equates to a monthly cost that is no greater than thirty percent (30%) of eighty percent (80%) of the monthly Median Income, less the Utility Allowance then in effect.
- 1.43 **"Milestones"** refers to a schedule for the construction of improvements, as described in attached Exhibit 8.
- 1.44 **"MMRP"** has the meaning set forth in Recital F(1).
- 1.45 **"Moderate Income Household"** means a household with an annual income not greater than (and including) one hundred and twenty percent (120%) of the Median Income.
- 1.46 **"Moderate Income Unit"** means an Affordable Unit that shall be rented or sold to a Moderate Income Household at a monthly rent or at a sales price that equates to a monthly cost that is no greater than thirty-five percent (35%) of one hundred and twenty percent (120%) of the monthly Median Income, with no deduction or offset for any Utility Allowance.
- 1.47 **"Mortgage"** means any mortgage, deed of trust, security agreement, assignment or other like security instrument encumbering all or any portion of the Property or Owner's rights under this Agreement.
- 1.48 **"Mortgagee"** means the holder of any Mortgage encumbering all or any portion of the Property or Owner's rights under this Agreement, and any successor, assignee or transferee of any such Mortgagee.
- 1.49 **"Neighborhood Parks"** has the meaning set forth in Section 2.3(a).
- 1.50 **"New Rules"** has the meaning set forth in Section 3.3.
- 1.51 **"Notice of Default"** has the meaning set forth in Section 6.2(a).
- 1.52 **"Notice of Intent to Terminate"** has the meaning set forth in Section 7.2.
- 1.53 **"Offsite Land"** means lands other than the Property that prove necessary to support Project Infrastructure, as is further detailed in Section 3.9.
- 1.54 **"Owner"** means the Santana Ranch Landowners and all of their successors and assigns.
- 1.55 **"Periodic Review"** has the meaning set forth in Section 6.1.
- 1.56 **"Planning Commission"** means the San Benito County Planning Commission.
- 1.57 **"Planning Director"** means the head of the Planning and Building Departments and the Chief Planning Officer of San Benito County.

- 11
- 1.58 **"Potential Wastewater Treatment Plant Site"** has the meaning set forth in Recital D.
- 1.59 **"Project"** has the meaning set forth in Recital E.
- 1.60 **"Project Approvals"** means the Initial Approvals and Subsequent Approvals, collectively.
- 1.61 **"Project EIR"** has the meaning set forth in Recital F(1).
- 1.62 **"Project Infrastructure"** has the meaning set forth in Section 2.2.
- 1.63 **"Project Land Use Plan"** denotes the location of Project components, as set forth in attached Exhibit 5.
- 1.64 **"Project Revenues"** mean any and all revenues generated in connection with the Project, whether by property taxes, sales taxes, special taxes, special assessments or otherwise.
- 1.65 **"Property"** has the meaning set forth in Recital D.
- 1.66 **"Recorder"** means the San Benito County Recorder, which is responsible, in part, for recording legal documents that determine ownership of real property and other agreements related to real property.
- 1.67 **"Regulatory Processing Fees"** means fees and charges adopted by County for the purpose of defraying County's actual costs incurred or to be incurred in the processing and administration of any form of regulatory permit, license, land use entitlement, financing district or mechanism, permit or approval, or imposed by County to defray the costs of periodically updating its plans, policies, and procedures, including, without limitation, the fees and charges referred to in Government Code section 66014.
- 1.68 **"Rules, Regulations and Official Policies"** means the County rules, regulations, ordinances, laws, general or specific plans, zoning and official policies governing development, including, without limitation, density and intensity of use; permitted uses; the maximum height and size of proposed buildings; the provisions for the reservation or dedication of land for public purposes or payment of fees in lieu thereof; the construction, installation and extension of public improvements; growth management; environmental review; and other criteria relating to development or use of real property and applicable to the Property.
- 1.69 **"School District"** means the Hollister School District.
- 1.70 **"School Site"** means the proposed elementary school site on the Property.
- 1.71 **"Second Phase of Affordable Units"** has the meaning set forth in Section 2.7(d).

- 12
- 1.72 **"Specific Plan"** means the Santana Ranch Specific Plan adopted by the Board on October 26, 2010 by Resolution No. 2010-129, as set forth in Recital E.
- 1.73 **"Specific Plan Adoption"** has the meaning set forth in Recital F(3).
- 1.74 **"Specific Plan Area"** has the meaning set forth in Recital D.
- 1.75 **"Subsequent Approvals"** means any and all land use, environmental, building and development approvals, entitlements and permits required subsequent to the Effective Date in connection with development of the Project on the Property, including, without limitation, tentative and final subdivision maps, parcel maps and lot line adjustments; conditional use permits; design review approvals; building permits; grading permits; certificates of occupancy; approvals of financing districts or other financing mechanisms; and any amendments thereto.
- 1.76 **"Subsequent Landowner"** is a party who has acquired all or a portion of the Property from Owner other than: (1) a Mortgagee; or (2) the ultimate user of any residential lot who has been released from liability under this Agreement pursuant to Sections 7.3 and 9.1 below.
- 1.77 **"Term"** has the meaning set forth in Section 5.1.
- 1.78 **"Traffic Impact Fee Program"** or **"TIF Program"** refer to the City of Hollister/San Benito County Regional Traffic Impact Fee Program.
- 1.79 **"Traffic Impact Fees"** refers to fees required under the City of Hollister/San Benito County Regional Traffic Impact Fee Program.
- 1.80 **"Utility Allowance"** means the allowance for tenant-purchased utilities adopted by the San Benito Housing Authority and approved by the U.S. Department of Housing and Urban Development (HUD) for the Section 8 Existing Rent Subsidy/Section 8 Voucher Programs.

Section 2 Owner's Obligations.

2.1 Development of the Project.

Development of the Project shall be consistent with: (a) this Agreement; (b) the San Benito County General Plan as it existed on the Effective Date, as modified by the General Plan Amendment; (c) the San Benito County Code as it existed on the Effective Date, as modified by the Code Amendments; (d) the Initial Approvals, including, without limitation, the Specific Plan; (e) the Subsequent Approvals, as and when they are issued, approved, or adopted, including all conditions of approval; and (f) all other applicable Existing Rules. Notwithstanding the foregoing, in the event of a conflict between any provision of this Agreement and the Specific Plan, this Agreement shall control.

2.2 County's Reliance on Owner's Provision of, or Contribution Towards, Project Infrastructure.

The parties acknowledge and agree that County's approval of the Project is, in part, in reliance upon and in consideration of Owner's provision of, or pro rata fair share contribution towards, the infrastructure, facilities, improvements, services and amenities (including construction, operation (including personnel) and maintenance thereof) necessary to serve the Project, as described more fully in the Specific Plan and other Project Approvals (collectively, "**Project Infrastructure**") in accordance with Owner's obligations set forth herein.

2.3 Construction of Formal Parks and Related Improvements.

(a) Owner shall construct approximately eighteen (18) acres of parks and recreational space and related improvements, which shall consist of an approximate six (6) acre community park ("**Community Park**"), an approximate ten (10) acre linear park ("**Linear Park**"), and approximately two (2) acres of neighborhood parks ("**Neighborhood Parks**"), as described more fully in the Specific Plan and Subsequent Approvals (collectively, "**Formal Parks**"). The Formal Parks shall be located generally as designated on attached Exhibit 5 (Land Use Plan) or as otherwise determined appropriate by County and shall be constructed in accordance with the Specific Plan and Subsequent Approvals. Owner shall transfer the responsibility to operate and maintain the Formal Parks and all related improvements to the Santana Ranch Community Facilities District ("CFD") or similar financing district or mechanism, which such entity shall use Project Revenues to fund the operation and maintenance of the Formal Parks.

(b) County and Owner acknowledge and agree that the amount of required park acreage under this Section 2.3 exceeds current County standards by approximately ten percent (10%). Owner shall construct the amount of park acreage required under this Section 2.3 even if the maximum number of Project units (1,092) is not ultimately constructed. To ensure the Project continues to so exceed County park standards, in the event Owner subsequently seeks and obtains all necessary approvals to construct additional residential units in the Project in the amount of five percent (5%) or more beyond the maximum number currently permitted (1,092), Owner agrees to construct an additional amount of parks and related improvements such that the Project's total park acreage continues to exceed County standards as they exist on the Effective Date by at least ten percent (10%); provided, however, that if Owner seeks and obtains approval to construct additional residential units beyond the maximum number currently permitted (1,092) but less than five percent (5%), no such additional parcel acreage requirement shall apply. Notwithstanding the foregoing, Owner agrees that it shall not submit any application to County for approval to develop additional residential units on the Property, which would result in the Project's total unit count exceeding one thousand, two hundred, sixty-eight (1,268) units or would otherwise trigger the referendum procedure set forth in section 19.29.005 of the San Benito County Code.

(c) Owner shall improve the Community Park as required under the Specific Plan and Subsequent Approvals and in a manner generally consistent with the

14

Conceptual Plan shown on attached Exhibit 6 ("**Basic Community Park Improvements**"). In the event County ultimately determines to include the Community Park in its Master Parks Plan as a regional-serving facility, Owner shall receive a credit against its parklands fee (Ord. No. 542) otherwise due pursuant to Section 3.2 below as follows: said credit shall be equal to the amount of Owner's actual costs, as reasonably documented by Owner, to construct any additional improvements to the Community Park beyond the Basic Community Park Improvements, which are required for the Community Park to be covered as a regionally-serving facility under the County's Master Parks Plan; provided, however, any such credit shall not exceed the amount of the parklands fee otherwise due under Section 3.2 below.

(d) Owner acknowledges that Pacific Gas and Electric (PG&E) currently holds an easement on a portion of the Project Site, which is located in the general area where Owner proposes to construct the Linear Park. Owner shall provide PG&E with written notice of Owner's proposed development of the Linear Park, which such notice shall be provided at the time and in the manner as otherwise required in connection with the subdivision map process for that portion of the Project Site. In the unlikely event that Owner is prevented, due to applicable laws and regulations in connection with said PG&E easement, from developing the Linear Park as currently proposed, then Owner shall construct similar park facilities of substantially the same size and nature elsewhere in the Project Site in accordance with Section 2.3(a) above, subject to County's reasonable approval of said facilities and in accordance with the Specific Plan.

2.4 Additional Park and Recreational Space.

Along with the construction of the Formal Parks as required under Section 2.3 above, Owner shall provide additional park and recreational space and all related improvements, as described more fully in the Specific Plan and Subsequent Approvals, including, without limitation, a public trail system to provide pedestrian and bicycle access throughout the Project; landscaped parkways; naturally designed detention basins; and various "tot lots" throughout the Specific Plan Area (collectively, "**Additional Park and Recreational Space**"). The Additional Park and Recreational Space shall be constructed in the general location and manner described in the Specific Plan and Subsequent Approvals. Owner shall construct the Additional Park and Recreational Space to County's reasonable satisfaction at Owner's sole cost, and shall transfer the responsibility to operate and maintain the Additional Park and Recreational Space and all related improvements to the CFD or similar financing district or mechanism, which such entity shall use Project Revenues to the fund the operation and maintenance thereof.

2.5 Street Improvements and Other Project Infrastructure.

Owner shall provide, or contribute towards, all street improvements to be located within or around the Property, including those portions of Fairview, Sunnyslope and Hillcrest Roads and related improvements as set forth in Specific Plan and attached Exhibit 7 ("**Fairview Road Improvements**") as well as all other Project Infrastructure in accordance with its obligations under this Agreement and as required by the Project Approvals.

2.6 Design of Project Infrastructure.

Development of the Property, including, without limitation, the Project Infrastructure, shall be subject to final design review by County in accordance with the Specific Plan and the County Code, as applicable. The Project Approvals, and all required master infrastructure plans and improvement plans prepared in connection with the Project Approvals and in accordance with the Specific Plan, shall govern the design and scope of all Project Infrastructure to be constructed on or benefiting the Property.

2.7 Affordable Housing.

(a) Owner shall reserve ten percent (10%) of the Project's total residential units for Moderate Income Households and Low Income Households (collectively, "**Affordable Units**"), of which at least five percent (5%) shall be reserved for Low Income Units; provided however, that Owner could substitute all or a portion of the Moderate Income Units for Low Income Units, so long as the total percentage of Affordable Units remains ten percent (10%). The required number of Affordable Units under this Section 2.7 shall be calculated based on the total number of Project units (both single-family and multi-family) actually constructed; provided, however, that in the event and to the extent Local Builder Lots are sold to Local Builders (in accordance with Section 2.8 below), any such Lots shall be subtracted from the total Project unit count for purposes of calculating the required number of Affordable Units.

(b) If Owner builds a combination of Moderate-Income and Low Income Units, then at least five percent (5%) of the Affordable Units shall be reserved for Low Income Units, and the remaining Affordable Units may be reserved as Moderate Income Units; provided, however, that up to ten percent (10%) of any Moderate Income Units may also be Age-Restricted.

(c) The Affordable Units may be either for-sale or rental units, and shall be deed-restricted for a period of thirty (30) years or longer ("**Affordability Term**"), depending on any terms of financing, from the initial sale or rental of each such unit. For-sale Affordable Units may convert to market rate units prior to the Affordability Term, if the homebuyer enters into an equity and appreciation sharing program with the County, the basic terms of which shall be consistent with attached Exhibit 10 ("**Affordable Housing Procedures**"); provided, however, that if County adopts a new equity and appreciation sharing program in the future, Owner may sell Affordable Units under those terms instead. The Affordable Units shall contain complete, separate and distinct facilities for living, sleeping, eating, cooking, and sanitation for a single person or a family, including a sleeping area, bathing and

16

sanitation facilities, and cooking facilities equipped with a cooking range, refrigerator, and sink. The exterior of the Affordable Units shall be of similar quality and design to comparable market rate units within the Project, although interior finishes and amenities of the Affordable Units may be more modest than comparable market rate units.

(d) Owner shall complete construction of fifty percent (50%) of the Affordable Units prior to commencing construction of the Project's five hundredth (500th) unit ("**First Phase of Affordable Units**"), and shall complete construction of the remaining fifty percent (50%) of the Affordable Units prior to commencing construction of the Project's nine hundredth (900th) unit ("**Second Phase of Affordable Units**"); provided, however, that Owner may accelerate said Affordable Unit construction schedule so long as doing so is otherwise consistent with Owner's obligations under this Agreement and Subsequent Approvals.

(e) Owner shall conduct outreach, eligibility screening, and advertising and other marketing efforts for the purpose of renting or selling (as the case may be) the Affordable Units to eligible households ("**Initial Outreach and Marketing Period**") approximately one hundred eighty (180) days prior to the completion of construction for each Affordable Unit. With respect to Affordable Units offered for sale, in the event an Affordable Unit has not been sold during this 180-day period, then after the Certificate of Occupancy is issued for each said unit, Owner shall continue marketing the units for an additional 120 days ("**Additional Outreach and Marketing Period**") upon written notification to the County's Housing Department. During the Additional Outreach and Marketing Period, County may, but does not have the obligation to: (i) purchase said unit at a sale's price which equates to one hundred twenty percent (120%) of the area median income for San Benito County adjusted for bedroom size ("**AMI**") for a Moderate Income Unit, or 80% of AMI for a Low Income Unit, or (ii) assist with or undertake outreach, eligibility screening, and advertising and other marketing efforts for the purpose of renting or selling the Affordable Unit to an eligible household in accordance with Section 10.24 below. Owner shall use its best efforts to adequately market each Affordable Unit for the purpose of selling each unit to a qualified household, based on a comprehensive community wide outreach program, which could include, for example, brochures, flyers, media announcements and newspaper advertisements, as well as posting information at local public places such as libraries, community centers, post offices, schools, local businesses, churches, and offices of the County of San Benito and other public agencies within San Benito County.

(f) In the event an Affordable Unit(s) is not sold during either the Initial or Additional Outreach and Marketing Periods for said unit despite Owner's best marketing efforts as required in Section 2.7(e) above, then Owner shall be permitted to sell said Affordable Unit(s) at a price to be determined by Owner in its sole discretion upon notifying the County's Housing Department of its intent to do so; under such circumstances, said unit(s) shall no longer be subject to affordability restrictions, Owner shall be deemed to have complied with its affordable housing obligations for said unit(s), and Owner shall not be subject to any penalty under Section 2.7(i) below. Owner acknowledges that, as of the Effective Date, County does not have the financial resources or personnel available to manage the Project's

Affordable Units nor monitor and enforce the Project's obligations related thereto. Accordingly, to ensure the Affordable Units are made available to eligible households and remain affordable as required under this Section 2.7, Owner or a qualified third party experienced in providing such services (selected and paid for by Owner) shall manage the Affordable Units, as necessary, and shall monitor and enforce the Project's obligations related thereto until such time as County implements a Countywide program designed to accomplish these same objectives for other affordable units within the unincorporated County. Within six (6) months prior to the offering of the first (1st) Affordable Unit, Owner shall submit to County for its reasonable approval an implementation plan ("**Affordable Housing Implementation Plan**"), which shall contain, at minimum, the following information, an outline of which is set forth in the Affordable Housing Procedures.

(1) Name and contact information of the entity, whether Owner or a qualified third party, who will be responsible for implementation of the Project's Affordable Housing component as described in this Section 2.7, including managing the Affordable Units and monitoring and enforcing the Project's obligations related thereto.

(2) A description of the income eligibility determination process, including the method to be used to verify household income, the required documentation, and the manner in which complete and accurate books will be maintained.

(3) A description of the process by which the maximum allowable rent or sales price for an Affordable Unit (as the case may be) will be determined to ensure each unit's continued affordability for the required time period, both initially and for subsequent rental or sales, including the proposed standard form of lease or purchase and sales agreement and the proposed method(s) of deed restriction.

(4) For any Affordable Units that will be offered for sale, a description of any equity-sharing or other arrangements in connection with improvements made to the unit by the property owner.

(5) A description of the proposed marketing and outreach efforts, consistent with Owner's obligations in Section 2.7(e) above, to facilitate eligible households' access to the Affordable Units.

(g) Owner shall provide to County an annual status report as part of the Periodic Review (under Section 6 below) of its progress towards satisfying its affordable housing obligations under this Section 2.7. County shall have the right, but not the obligation, to review and/or audit books and records in connection with the Project's affordable housing obligations for purposes of monitoring overall compliance subject to Owner's management, monitoring and enforcement obligations under Section 2.7(e) and (f) above, and Owner (or the qualified third party) shall keep accurate and complete books and records, and shall make them reasonably available to County for this purpose. In addition to the annual status report referenced above, Owner shall provide an annual report to County's

Affordable Housing Committee on Owner's compliance regarding the affordable housing requirements set forth in this Agreement.

(h) At the time of resale of each for-sale Affordable Unit, the property owner shall pay County a five hundred dollar (\$500) administration fee along with County's share of equity and appreciation, if any, which shall be reinvested in the San Benito County Housing Trust Fund or other affordable housing programs in the County.

(i) In the event and to the extent Owner fails to satisfy its affordable housing obligations under this Section 2.7, County may withhold issuance of building permits for the Project until such time as Owner satisfies said obligations. In addition to withholding building permits, if Owner does not satisfy said obligations by the earlier of: full build-out of the Project or termination of this Agreement, then Owner shall pay to County the amount of Twenty-Five Thousand Dollars (\$25,000) for every Moderate Income Unit and Thirty-Five Thousand Dollars (\$35,000) for every Low Income Unit that was required but not constructed, which such funding County shall deposit in the San Benito County Housing Trust Fund for the purpose of facilitating affordable housing production elsewhere in the County.

2.8 Offer for Sale of Lots to Local, Small Builders.

Owner shall offer for sale a total of ten percent (10%) of the Project's single-family lots to Local Builders for the purpose of promoting additional variety in housing types and benefiting the local economy (collectively, "**Local Builder Lots**"). A total of sixteen (16) Local Builder Lots shall be offered for sale prior to commencement of construction of the Project's three hundredth (300th) single-family unit; a total of thirty two (32) Local Builder Lots shall be offered for sale prior to commencement of construction of the Project's four hundredth (400th) single-family unit; a total of forty eight (48) Local Builder Lots shall be offered for sale prior to commencement of construction of the Project's five hundredth (500th) single-family unit; a total of sixty four (64) Local Builder Lots shall be offered for sale prior to commencement of construction of the Project's six hundredth (600th) single family unit; and a total of seventy seven (77) (or the remaining balance due) Local Builder Lots shall be offered for sale prior to commencement of construction of the Project's seven hundredth (700th) single family unit. Owner shall advertise the sale of Local Builder Lots in a paper of local, general circulation and shall offer each Local Builder Lot for sale for a total of nine (9) months at the then-market rate based on comparable sales of similar lots; provided, however, if any such Local Builder Lot is ultimately not sold to a Local Builder during this required 9-month period, then Owner or another third party may construct a unit on said lot and all obligations within this Section 2.8 shall be deemed satisfied. Owner shall provide an annual status report of its progress in satisfying the Local Builder Lot obligations under this Section 2.8 as part of its Periodic Review (under Section 6 below).

2.9 Reservation of School Site.

Subject to the time limitations set forth below, Owner shall reserve a site for purposes of an elementary school designed to house approximately seven hundred (700) students, which is anticipated to be approximately eight to twelve (8 – 12) acres and located generally as designated on Exhibit 5 ("**Project Land Use Plan**") or as otherwise determined appropriate by County and the School District as set forth in Subsequent Approvals. In the

event Owner and the School District execute a written purchase and sale agreement with respect to the School Site, Owner shall offer any related road access improvements for dedication to County. In the event Owner and the School District do not execute a written purchase and sale agreement by December 31, 2020 or negotiations between Owner and the School District are otherwise sooner mutually terminated, Owner may develop the School Site as otherwise permitted under the Specific Plan and Subsequent Approvals. Notwithstanding the foregoing, Owner shall have no obligation under this Agreement to construct or fund the construction of any school on the School Site, except as it may relate to payment of the applicable school facilities fees pursuant to the Leroy F. Greene School Facilities Act of 1998. The obligation to reserve the School Site in accordance with this Section 2.9 shall survive termination of this Agreement.

2.10 Reimbursement; Credits.

Owner shall not be entitled to any reimbursement or fee credits in connection with any Project Infrastructure required under this Agreement or by any Project Approvals, except under the following limited circumstances:

(a) Owner shall be entitled to reimbursement from available TIF Program funds for its actual costs to install any intersection improvements identified in the Project EIR and installed by Owner beyond Owner's fair share so long as any such from said intersection(s) are expressly identified in the TIF Program.

(b) In the event and to the extent other private property owners outside of the Property directly benefit from Owner's construction of any Project Infrastructure on-site or off-site, Owner shall be entitled to reimbursement from any such other property owner(s) based on a pro rata, fair share apportionment of costs. To the extent Owner seeks reimbursement under this Section 2.10(b), County shall use its best efforts to form, consistent with all applicable federal, state, and local laws and regulations (including, without limitation, Proposition 218), a local benefit district or Area of Benefit for the purpose of facilitating the reimbursement of Owner for said improvements to the extent said improvements are not covered in the TIF Program; provided, however, Owner shall pay all of County's costs associated therewith and shall, as a condition of formation, indemnify and hold County harmless from and against all claims in connection therewith. Notwithstanding the foregoing, Owner agrees that County's obligations hereunder are limited to facilitating reimbursement from other private property owners as set forth above, and County shall have no obligation to reimburse Owner.

(c) The parties acknowledge and agree that County's current TIF Program and related nexus study assume the widening of Fairview Road for approximately 3.6 miles as a regional improvement, to be covered by Traffic Impact Fees collected under the County TIF program. Owner agrees to construct certain improvements at such time as described in attached Exhibit 8 ("Milestones") and consistent with attached Exhibit 7 (Fairview Road Improvements); provided, however, Owner shall be credited against Owner's TIF fees otherwise owed for its actual costs above its pro rata share, as described in Exhibit 7. Upon Owner's payment of the TIF fees owed in connection with the Project, County agrees to deposit said payment(s) into a segregated account such that those funds are available for purposes of reimbursing

Owner as contemplated under this Section 2.10; provided, however, that Owner agrees that County shall not be precluded from using funds other than those held in the above-referenced segregated account to reimburse Owner as provided herein.

(d) In the event the Community Park is ultimately included in the County's Master Parks Plan as covered improvement(s), then Owner shall receive a credit pursuant to Section 2.3 above.

2.11 Habitat Conservation.

Owner shall provide offsite mitigation for habitat conservation in the manner set forth in the Project EIR's Mitigation Measure 3.4-1c and 3.4-1g and as required by U.S. Fish and Wildlife Service and California Department of Fish and Game. County agrees that provision of such offsite mitigation satisfies the purpose of the County's Habitat Conservation Mitigation Fee (Ordinance No. 541; Chapter 19.19 of the San Benito County Code) and shall be in lieu of payment otherwise due by Owner under the County's Habitat Conservation Mitigation Fee.

Section 3 Owner's Vested Rights.

3.1 Vested Right to Develop the Project.

Owner shall have the right to develop the Property with the Project in accordance with this Agreement and other Project Approvals. The parties acknowledge and agree that Subsequent Approvals will be required to fully implement the Project. County shall process and consider any application for a Subsequent Approval in accordance with the Existing Rules. The permitted uses of the Property; the density and intensity of such uses; the maximum height and size of proposed buildings; the provisions for the reservation or dedication of land for public purposes or payment of fees in lieu thereof; the construction, installation and extension of public improvements; and the development standards and design guidelines shall be as set forth in the Project Approvals.

3.2 Development Impact Fees and Regulatory Processing Fees.

(a) Owner shall pay all Development Impact Fees, as identified in attached Exhibit 9 ("**Development Impact Fees**") and in the amount in effect on the Effective Date, and shall also pay any indexed increases of those identified fees; provided, however, that Owner shall not be required to pay any Development Impact Fees newly established after the Effective Date. Notwithstanding the foregoing, if and when County and Council of San Benito County Governments (COG) next complete a comprehensive update of the County's Traffic Impact Fee (TIF) and related nexus study, Owner shall vest into the amount as set forth in that updated TIF and nexus study.

(b) County agrees that Owner's payment of all Development Impact Fees due in accordance with this Section 3.2 shall be due and payable at issuance of the Certificates of Occupancy or final inspection, whichever comes first, consistent with Government Code section 66007, rather than at issuance of the Building Permit. The parties further agree that the amount of said fees owed shall be calculated as of

21

the date of issuance of each Certificate of Occupancy except for Traffic Impact Fees which shall be calculated as of the date of issuance of each Building Permit.

(c) Owner shall pay all Regulatory Processing Fees in accordance with Section 3.3 below.

3.3 Application of Subsequently Enacted Rules, Regulations and Official Policies.

County may adopt new or modified Rules, Regulations and Official Policies after the Effective Date ("**New Rules**"); provided, however, such New Rules shall be applicable to the Project or the Property only to the extent that such application will not modify, prevent or impede development of the Project on the Property or conflict with any of the vested rights granted to Owner under this Agreement. Any New Rules shall be deemed to conflict with Owner's vested rights if they seek to limit or reduce the density or intensity of development of the Project; or to limit the timing of the development of the Project, either with specific reference to the Property or as part of a general enactment that applies to the Property. Notwithstanding the foregoing, County shall not be precluded from applying any New Rules to the Project or Property under the following circumstances, where the New Rules are: (i) specifically mandated by changes in state or federal laws or regulations adopted after the Effective Date as provided in Government Code section 65869.5; (ii) specifically mandated by a court of competent jurisdiction; (iii) changes to the Uniform Building Code or similar uniform construction codes, or to County's local construction standards for public improvements so long as such code or standard has been adopted by County and is in effect on a County-wide basis; (iv) required as a result of facts, events or circumstances presently unknown or unforeseeable that would otherwise have an immediate adverse risk on the health or safety of the surrounding community; or (v) new or increased Regulatory Processing Fees so long as such fees are applied to all similar development projects on a County-wide basis.

3.4 Modification or Suspension by State or Federal Law.

In the event that state or federal laws or regulations enacted after the Effective Date prevent or preclude compliance with one or more provisions of this Agreement, such provision(s) of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Notwithstanding the foregoing, the remainder of this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

3.5 CEQA.

Owner acknowledges that implementation of the Project will require County's consideration and approval of applications for Subsequent Approvals and that County will complete environmental review in connection with those Subsequent Approvals as required by CEQA and other applicable federal, state and local laws and regulations. County's environmental review of the Subsequent Approvals pursuant to CEQA shall utilize the Project EIR to the fullest extent permitted by law; provided, however, nothing in this Agreement shall be deemed to limit the legal authority of County to conduct any

environmental review required under CEQA or other applicable laws and regulations.

3.6 Exemption from Growth Management Ordinance.

County agrees the Project is exempt from the County's Growth Management Ordinance pursuant to San Benito County Section 21.07.004(K) because Owner and County have entered into this Agreement, and therefore no growth management allocations are or will be required to develop the Project.

3.7 Timing of Development.

The parties acknowledge that Owner cannot at this time predict when, or at what rate the Project will be developed. Such decisions depend upon numerous factors that may not be within Owner's control, such as market orientation and demand, interest rates, absorption, completion and other similar factors. Owner and County agree that Owner shall have the right to develop the Project in such order, at such rate, and at such times as Owner deems appropriate within its exercise of subjective business judgment, subject only to any timing or phasing requirements set forth in the Specific Plan, this Agreement, and Subsequent Approvals.

3.8 Regulation by Other Public Agencies.

It is acknowledged by the parties that other public agencies not within County's control may possess authority to regulate aspects of the development of the Property, and this Agreement does not limit such authority of other public agencies.

3.9 Eminent Domain.

The parties acknowledge and agree that development of the Project Infrastructure is a critical component of the Project and also will result in key benefits to the community generally. The parties further acknowledge that fulfilling said obligations may require acquisition of additional land outside the Property. If such acquisition is necessary to develop any aspect of the Project Infrastructure, Owner shall use its best efforts to acquire any and all such land ("**Offsite Land**"), which shall include: a) paying for and obtaining an appraisal prepared by a qualified Member of the Appraisal Institute (MAI), in connection with the acquisition of the Offsite Land; and b) offering to acquire the Offsite Land based on such appraisal. In the event Owner is not successful in acquiring the Offsite Land, County and Owner shall meet and confer to determine: (a) whether the need for the Offsite Land is such that County should consider informally intervening to facilitate said acquisition; (b) whether there may be other feasible means of accomplishing the public objectives at issue such that acquisition of the Offsite Land is no longer needed; and (c) whether it would be appropriate for County to consider using its statutory powers of eminent domain to acquire the Offsite Land. In the event that County determines to use its statutory powers of eminent domain to pursue acquisition of the Offsite Land, Owner shall be responsible for all costs associated therewith. Notwithstanding the foregoing, neither this Section 3.9 nor any other provision of this Agreement is intended to abrogate County's responsibilities, in the exercise of eminent domain, to satisfy the substantive and procedural requirements of the Eminent Domain Law (California Code of Civil Procedure Part 3, Title 7, Sections 1230.010-1273.050), as amended from time to time. In the event the Offsite Land

is not ultimately acquired, either through private acquisition or eminent domain, or in the event that County determines not to pursue eminent domain of the Offsite Land, Owner's obligations in connection with that aspect of the Project Infrastructure that necessitated acquisition of the Offsite Land shall terminate and be of no further force or effect in accordance with Government Code section 66462.5 of the Subdivision Map Act.

Section 4 Cooperation.

4.1 Owner's Application for Subsequent Approvals.

Owner shall be obligated to obtain any and all required Subsequent Approvals to develop the Project. Owner shall apply for such approvals in a timely manner. Owner's obligations under this Section 4.1 apply to those approvals that are under County's jurisdiction and also to those approvals that may be required by other governmental or quasi-governmental agencies having jurisdiction over the implementation of any aspect of the Project (including, without limitation, the Department of Transportation; agencies having jurisdiction over boundary changes or district formation, flood control, sewer service, water service or fire protection; and agencies having jurisdiction over air quality, biological resources, solid wastes and hazardous wastes and materials).

4.2 County's Processing of Subsequent Approvals.

County shall cooperate and diligently work to promptly process and consider all applications for Subsequent Approvals, provided they are in a proper form and include payment of any applicable fees and provided that Owner is in compliance with this Agreement. In the event that County and Owner mutually determine that additional personnel or outside consultants need to be retained to assist County to expeditiously process any Subsequent Approval, the cost of any such personnel or consultants shall be paid by Owner but shall be under the direction of County. County shall retain its discretion in its consideration of any and all Subsequent Approvals but shall exercise that discretion in a manner consistent with the Specific Plan and this Agreement.

4.3 Revenue Neutrality of Project; Cooperation in Forming Financing Districts.

The parties acknowledge and agree that County is approving the Project, in part, based on Owner's obligation to ensure that the Project is revenue neutral such that Project Revenues fully cover the costs of the Project Infrastructure over the life of the Project ("**Revenue Neutrality**"). The parties further acknowledge and agree the Project is being approved during challenging and uncertain economic times, and therefore the parties desire to provide additional assurances, to the extent feasible, that the Project will achieve and maintain said revenue neutrality. Accordingly, the parties shall cooperate and diligently work to form a CFD or some other mutually acceptable financing district or mechanism, to the extent permitted under applicable law; provided, however, that nothing contained in this Agreement shall be construed as requiring County to form such a district or mechanism or to issue or sell bonds therefor. In preparing the analysis required under the law to form the CFD ("**Engineer's Report**"), the Engineer's Report shall use assumptions consistent with those set forth in attached Exhibit 11 (Fiscal Impact Analysis); provided, however, that the Engineer's Report shall determine the sales price based on industry standard methodology.

and assumptions mutually agreed upon by County and Owner as part of the CFD formation process. As a condition of approval to the Project's first small-lot tentative subdivision map, Owner shall be required to cooperate and diligently work with County to form the CFD as required herein and shall cover any and all actual County costs associated with said formation proceedings. Owner's obligation to ensure Revenue Neutrality as set forth in this Section 4.3 shall survive the termination of this Agreement.

4.4 Comprehensive Update to the County's Traffic Impact Fee Program and Related Nexus Study.

At such time as County and COG next prepare a comprehensive update to the County's TIF Program and related nexus study (as opposed to interim, non-comprehensive and temporary revisions to the TIF Program in anticipation of a later comprehensive update), County shall endeavor, consistent with applicable law, to have all traffic intersections intended to be covered under the updated TIF Program to be expressly described and delineated as such in the nexus study, and also shall endeavor to have the Project traffic intersections identified in the Project EIR included and/or continue to be included in the updated TIF Program and related nexus study as covered intersections.

Section 5 Term of This Agreement.

5.1 Duration of Agreement.

The term of this Agreement shall commence on the Effective Date and shall continue for a period of fifteen (15) years unless extended or sooner terminated as provided herein ("**Term**") and in accordance with County's Development Agreement Procedures. Following the expiration of the Term, this Agreement shall be deemed terminated and of no further force and effect except for Owner's indemnification obligations described in Sections 10.13 and 10.16 below, and its affordable housing obligations under Section 2.7 above, and its obligation to reserve the School Site under Section 2.9 above, which shall survive termination. Termination shall not affect any right or obligation arising from the Project Approvals.

5.2 Extension by Agreement.

The Term may be extended at any time before its termination date by the mutual agreement of the parties in writing and in accordance with County's Development Agreement Procedures.

Section 6 Periodic Compliance Review; Default.

6.1 Periodic Compliance Review.

County shall review Owner's good faith compliance with the terms of this Agreement on an annual basis. This periodic compliance review shall be conducted in accordance with the Development Agreement Statute and the County's Development Agreement Procedures, and shall address all items set forth therein as well as specifically demonstrate Owner's compliance, among other things, with its affordable housing obligations under Section 2.7 above, its Local Builder Lot obligations under Section 2.8

above, and its Development Impact Fee payment obligations under Section 3.2 above ("**Periodic Review**"). Owner shall reimburse County for the actual costs of preparing for and conducting the Periodic Review within thirty (30) days of written demand from County.

In the event County elects to terminate this Agreement pursuant to the provisions of Section 6.2(b) below, Owner, in accordance with Section 8 below, may challenge such termination by instituting arbitration proceedings in which event the arbitrator shall exercise its review, based on substantial evidence, as to the existence of cause for termination.

6.2 Default.

(a) **Notice of Default.** Failure or unreasonable delay by County or Owner to perform any material provision herein shall constitute a default under this Agreement. In the event of a default, the party alleging such default shall give the defaulting party not less than thirty (30) days' written notice of default ("**Notice of Default**"), unless the parties extend such time by mutual written consent or except in cases where Owner's default presents a threat of imminent harm to the public; provided, however, failure or delay in giving a Notice of Default shall not waive a party's right to give future notice of the same or any other default. The Notice of Default shall specify the nature of the alleged default, the manner and period of time in which said default may be satisfactorily cured, and shall otherwise adhere to the noticing requirements set forth in the County's Development Agreement Procedures. The time of the Notice of Default shall be measured from the date actually delivered in accordance with Section 10.12 below.

(b) **Cure Period; Right to Terminate or Initiate Arbitration Proceedings.** The defaulting party shall provide evidence establishing it was never, in fact, in default or shall cure the default within thirty (30) days; provided, however, that if the nature of the alleged default is such that it cannot be reasonably cured within such 30-day period, the commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure within such period. During any period of curing, the party charged shall not be considered in default for purposes of terminating this Agreement or instituting arbitration proceedings. If the default is cured, then no default shall exist or be deemed to have existed and the noticing party shall take no further action. After proper notice and the expiration of such 30-day cure period without cure and subject to the Dispute Resolution process set forth in Section 8.1 below, the noticing party, at its option, may terminate this Agreement without legal action or may institute arbitration proceedings as provided herein and in the County's Development Agreement Procedures. Further, pursuant to County Code section 19.11.011(B)(2)(c), Owner shall not initiate any arbitration proceedings until Owner applies to the Planning Commission for a determination of County's default and shall have the burden of proving County's default at the public hearing before the Planning Commission.

(c) **Remedies Generally.** The parties agree that remedies to enforce the terms of this Agreement shall be limited to actions for mandamus, specific performance, injunctive relief or other equitable relief, and that neither party shall be liable for monetary damages. Notwithstanding the foregoing, County reserves the

right to seek payment from Owner through arbitration proceedings for any fees, charges, costs or other monies owed under this Agreement, and to obtain recovery thereof.

(d) **Enforced Delay; Extension of Time of Performance.** No party shall be deemed in default of its obligations under this Agreement where a delay or default is due to an act of God, natural disaster, accident, breakage or failure of equipment, enactment of conflicting federal or state laws or regulations, third-party litigation, strikes, lockouts or other labor disturbances or disputes of any character, interruption of services by suppliers thereof, unavailability of materials or labor, rationing or restrictions on the use of utilities or public transportation whether due to energy shortages or other causes, war, civil disturbance, riot, or by any other severe and unforeseeable occurrence that is beyond the control of that party (collectively, "**Enforced Delay**"); provided, however, the parties agree a delay that results solely from unforeseen economic circumstances shall not constitute an Enforced Delay for purposes of this Section 6.2(d). Performance by a party of its obligations under this Section 6.2(d) shall be excused during, and extended for a period of time equal to, the period (on a day-for-day basis) for which the cause of such Enforced Delay is in effect.

Section 7 Termination.

7.1 Termination Upon Completion of Project or Expiration of Term.

This Agreement shall terminate upon the expiration of the Term (plus any extensions mutually agreed upon in accordance with Section 5.2 above) or when the Project has been fully developed and all of Owner's obligations in connection therewith and with this Agreement have been satisfied as reasonably determined by County. Upon termination of this Agreement, the County Recorder may cause a notice of such termination in a form satisfactory to County Counsel to be duly recorded in the official records of San Benito County.

7.2 Termination Due to Default.

After notice and expiration of the thirty ~~(30)~~-day-cure period as specified in Section 6.2 above and completion of the Dispute Resolution process set forth in Section 8.1 below, if the default has not been cured or it is not being diligently cured in the manner set forth above, the noticing party may, at its option, give notice of its intent to terminate this Agreement pursuant to the Development Agreement Statute and the County Development Agreement Procedures ("**Notice of Intent to Terminate**"). Within thirty (30) days of receipt of a Notice of Intent to Terminate, the matter shall be scheduled for consideration and review in the manner set forth in the Development Agreement Statute and the County Development Agreement Procedures. Following consideration of the evidence presented in said review, either party alleging the default may give written notice of termination of this Agreement. If a party elects to terminate as provided herein, upon sixty (60) days' written notice of termination, this Agreement shall thereby be terminated. Notwithstanding the foregoing, a written notice of termination given under this Section 7.2 is effective to terminate the obligations of the noticing party only if a default has occurred and such default, as a matter of law, authorizes the noticing party to terminate its obligations under

this Agreement. In the event the noticing party is not so authorized to terminate, the non-noticing party shall have all rights and remedies provided herein or under applicable law, including, without limitation, the right to specific performance of this Agreement. Once a party alleging default has given a written notice of termination, arbitration proceedings may be instituted to obtain a declaratory judgment determining the respective termination rights and obligations under this Agreement.

7.3 Termination of Agreement with Respect to Individual Units Upon Sale to Ultimate User and Completion of Construction.

The assignment provisions of Sections 9.1 and 9.2 below shall not apply, and the obligations hereunder shall terminate with respect to any unit and the owner of such unit shall be released and no longer be subject to this Agreement without the execution or recordation of any further document upon satisfaction of both of the following conditions:

(a) The lot upon which the unit is located has been finally subdivided and individually (i.e., not in "bulk") sold to a member of the public or other ultimate user; and

(b) A Certificate of Occupancy has been issued for a residential building on said lot.

7.4 Termination by Mutual Consent.

This Agreement may be terminated by mutual consent of the parties in the manner provided in the Development Agreement Statute and the County Development Agreement Procedures.

Section 8 Dispute Resolutions.

8.1 Informal Resolution of Disputes; Mediation.

If a dispute arises related to the interpretation or enforcement of, or compliance with, the provisions of this Agreement ("**Dispute**"), County and Owner shall first attempt to resolve it through informal discussions. In the event a Dispute cannot be resolved in this manner within twenty one (21) days, County and Owner shall endeavor to settle the Dispute by mediation. The Dispute shall be submitted to the San Jose, California office of Judicial Arbitration and Mediation Services, Inc. ("**JAMS**") for mediation, and if the matter is not resolved through mediation, then it shall be submitted to JAMS for final binding arbitration pursuant to Section 8.2 below. Either County or Owner may commence mediation by providing to JAMS and the other party a written request for mediation setting forth the subject of the Dispute and the relief requested. County and Owner shall cooperate with JAMS and with one another in selecting a mediator from JAMS' panel of neutrals and in scheduling the mediation proceedings. If the parties cannot agree on the appointment of the mediator or the date of the mediation within thirty (30) days after the written request for mediation has been received, then JAMS shall appoint the mediator at its discretion and/or set a mediation date. County and Owner agree to participate in any such mediation in good faith, and shall share equally in its costs. All offers, promises, conduct, and statements, whether oral or written, made in the course of the mediation by either of the parties, their

agents, employees, experts and attorneys, and by the mediator and any JAMS employees, are confidential, privileged, and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either party may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process.

8.2 Arbitration.

(a) Either County or Owner may initiate arbitration with respect to a Dispute by filing a written demand for arbitration at any time following completion of the informal dispute resolution and mediation processes described above; provided however, that mediation may continue after the commencement of arbitration, if County and Owner so desire. Unless otherwise agreed to by County and Owner, the mediator shall be disqualified from serving as the arbitrator in the case. The provisions of this Section 8.2 may be enforced by any court of competent jurisdiction, and the prevailing party shall be entitled to an award of all costs, fees, and expenses, including attorneys' fees, to be paid by the non-prevailing party. Any Dispute arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, not resolved by the mediation process set forth above, shall be determined by arbitration to be held in San Benito County before one arbitrator. Neither party may request an arbitration hearing in conformity with this Section 8.2 until after the completion of informal dispute resolution and mediation processes under Section 8.1 are complete; provided, however, that mediation may continue after the commencement of arbitration if County and Owner so mutually desire. The arbitration shall be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures, which rules shall govern the commencement of arbitration and the selection of the arbitrator among other things. Judgment on the arbitration award may be entered in the San Benito County Superior Court or any court having jurisdiction. This Section 8.2 shall not preclude County or Owner from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The costs and fees of arbitration (including those fees and expenses set forth in JAMS' fee schedule in effect at the time of commencement of the arbitration) shall be borne equally by County and Owner, and each side shall be responsible for its own attorney(s) and expert(s) witness fees.

(b) The dispute resolution process described under Sections 8.1 and 8.2(a) above shall be undertaken in good faith. A mediator or arbitrator other than JAMS may be mutually agreed upon by County and Owner in writing. By agreeing to this dispute resolution process, neither County nor Owner hereby loses or waives its right to assert the operation of any applicable statute of limitations as an affirmative defense. Any arbitration award shall be final and binding upon County and Owner and each shall accept such decision and award as binding and conclusive and shall abide thereby and neither party may commence civil litigation as a means of resolving a Dispute except for an action to obtain equitable relief.

8.3 Attorneys' Fees and Dispute Resolution Costs.

Subject to Sections 8.1 and 8.2 above, in any action or proceeding brought by any party to enforce or interpret a provision of this Agreement, or to seek injunctive relief or declaratory relief against any other party to this Agreement, the prevailing party is entitled to recover reasonable attorneys' fees and any other costs incurred in the action or proceeding in addition to any other relief to which it is entitled.

Section 9 Assignment and Assumption; Rights and Duties of Mortgagees.

9.1 Assignment of Rights, Interests and Obligations.

Subject to compliance with Section 9.2 below, Owner may sell, assign or transfer in whole or in part the Property to any Subsequent Landowner at any time during the Term of this Agreement. Owner shall seek County's prior written consent to any sale, assignment, or transfer, which consent shall not be unreasonably withheld or delayed; provided, however, that such consent shall not be required if the proposed sale, assignment or transfer would involve an entity directly related to any of the entities that make up Owner such that it holds a majority interest (fifty-one percent (51%) or more) therein.

Failure by County to respond within forty-five (45) days to any request made by Owner for the required consent shall be deemed to be County's approval of the sale, assignment or transfer in question. County may refuse to give its consent only if, in light of the proposed Subsequent Landowner's reputation and financial resources, such assignee would not in County's reasonable opinion be able to perform the obligations proposed to be assumed by such assignee. Such determination shall be made by the Planning Director, and is appealable by Owner to the Board. Notwithstanding the foregoing and in accordance with Section 7.3 above, this Section 9.1 shall not apply to the owner of any residential unit located on a lot that has been finally subdivided and individually sold to the ultimate user and a Certificate of Occupancy has been issued for a residential building on the lot.

9.2 Assumption of Rights, Interests and Obligations.

Express written assumption by a Subsequent Landowner of the obligations and other terms and conditions of this Agreement with respect to the Property or such portion thereof sold, assigned or transferred, shall relieve Owner of such obligations so expressly assumed. Any such assumption agreement shall be in a recordable form and shall be approved as to form by County Counsel. Said agreement shall provide for the Subsequent Landowner to contractually assume and be bound by all of Owner's obligations under this Agreement with respect to the Property, or portions thereof, which are sold, assigned or transferred to the Subsequent Landowner. The County Recorder shall duly record any such assumption agreement in the official records of San Benito County within ten (10) days of receipt. Subject to County's consent of such assignment pursuant to Section 9.1 above, upon recordation of said assumption agreement, Owner shall automatically be released from those obligations assumed by the assignee.

9.3 Rights and Duties of Mortgagee in Possession of Property.

(a) **Mortgagee Protection.** This Agreement shall be superior and senior to all liens placed upon the Property or any portion thereof after the Effective Date, including, without limitation, the lien of any Mortgage. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair any Mortgage made in good faith and for value; provided, however, this Agreement shall be binding upon and effective against all persons and entities, including all Mortgagees who acquire title to the Property or any portion thereof by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise.

(b) **Mortgagee Obligations.** County, upon receipt of a written request from a foreclosing Mortgagee, shall permit the Mortgagee to succeed to the rights and obligations of Owner under this Agreement, provided that the Mortgagee cures, as soon as reasonably practicable, any defaults by Owner hereunder that are reasonably susceptible of being cured. The foreclosing Mortgagee shall comply with this Agreement, including, without limitation, complying with the assumption requirements set forth in Section 9.2 above. The County Recorder shall cause any assumption agreement to be duly recorded in the official records of San Benito County within ten (10) days of receipt.

(c) **Notice of Default to Mortgagee; Right of Mortgagee to Cure.** If County receives notice from a Mortgagee requesting a copy of any Notice of Default given Owner hereunder, then County shall deliver said notice to such Mortgagee, concurrently with service thereof to Owner. Each Mortgagee shall have the right (but not the obligation) for a period of thirty (30) days after receipt of such notice to cure the alleged default set forth in said notice in accordance with Section 6.2(b) above.

Section 10 General Provisions.

10.1 Independent Contractors.

Each party is an independent contractor and shall be solely responsible for the employment, acts, omissions, control and directing of its employees. All persons employed or utilized by Owner in connection with this Agreement and the Project shall not be considered employees of County in any respect. Except as expressly set forth herein, nothing contained in this Agreement shall authorize or empower any party to assume or create any obligation whatsoever, express or implied, on behalf of any other party or to bind any other party or to make any representation, warranty or commitment on behalf of any other party.

10.2 Invalidity of Agreement and Severability of Provisions.

If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment, including any appeals. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, the remaining provisions shall continue in full force and effect.

10.3 Third Party Beneficiary.

County and Owner agree that the School District is a third party beneficiary of this Agreement with respect to this Section 10.3 and those portions of Section 2.3 above in which Owner agrees to set aside certain land and construct certain improvements.

10.4 Further Documents.

Each party shall execute and deliver to the other party all other instruments and documents as may be reasonably necessary to carry out the purpose of this Agreement in order to provide or secure to the other party the rights and privileges granted by this Agreement.

10.5 Time of Essence.

Time is of the essence in the performance of each and every covenant and obligation to be performed by the parties hereunder.

10.6 Modifications.

This Agreement may be modified from time to time by mutual consent of the parties, in accordance with the Development Agreement Statute and the County Development Procedures. In the event the parties modify this Agreement, the County Recorder shall cause notice of such action to be duly recorded in the official records of San Benito County within ten (10) days of such action.

10.7 Subsequent Approvals Do Not Require Amendment.

County's approval of any Subsequent Approval shall not require an amendment to this Agreement except in the event and to the extent Owner expressly seeks and County approves such amendment in connection with Subsequent Approval(s). Upon County's approval of any Subsequent Approval, it shall become part of the Project Approvals governing development of the Project covered by this Agreement.

10.8 Project is a Private Undertaking.

The parties agree that: (a) any development by Owner of the Property shall be a private development; (b) County has no interest in or responsibilities for or duty to third parties concerning any improvements constructed in connection with the Property until such time that County accepts the same pursuant to the provisions of this Agreement or in connection with any subdivision map approvals; (c) the contractual relationship between County and Owner is such that Owner is an independent contractor and not an agent of County; and (d) nothing in this Agreement is intended or shall be construed to create or reflect any form of partnership or joint venture between the parties.

10.9 No Discrimination Permitted.

Owner shall not discriminate in any way against any person on the basis of race, color, national origin, sex, marital status, sexual orientation, age, creed, religion, or condition of physical disability in connection with or related to the performance of this

Agreement.

10.10 Covenants Running with the Land.

Subject to Section 7.3 above, all of the provisions contained in this Agreement are binding upon and benefit the parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or any portion of the Property, whether by operation of law or in any manner whatsoever, during their ownership of the Property, or any portion thereof. All of the provisions of this Agreement constitute covenants running with land pursuant to California law, including, without limitation, Civil Code section 1468.

10.11 Recordation of Agreement.

Within ten (10) days of the Effective Date, the County Recorder shall cause this Agreement to be duly recorded in the official records of San Benito County.

10.12 Notices.

Any notice required under this Agreement shall be in writing and personally delivered, or sent by certified mail (return receipt requested and postage prepaid), overnight delivery, or facsimile to the following:

County: San Benito County Planning and Building Department
Attn: Planning Director
3224 Southside Road
Hollister, CA 95023
Telephone: (831) 637-5313
Fax: (831) 637-5334

Copy to: County Counsel's Office
Attn: County Counsel
481 4th Street, 2nd Floor
Hollister, CA 95023
Telephone: (831) 636-4040
Fax: (831) 636-4044

Copy to: Miller Starr Regalia
Attn: Nadia Costa, Esq.
1331 N. California Blvd., Fifth Floor
Walnut Creek, CA 94596
Telephone: (925) 935-9400
Fax: (925) 933-4126

Owner: Santana Ranch Landowners

Stonecreek Properties
Attn: Brian Curtis
1851 Airway Drive, Suite E
Hollister, CA 95023
Telephone: (831) 901-6304
Fax: (831) 630-9246

Guerra Nut Shelling
Attn: Frank Guerra
P.O. Box 1117
Hollister, CA 95024-4944
Telephone: (831) 637-4471
Fax: (831) 637-1358

Copy to: Law Offices of Tom Terpstra
Attn: Thomas H. Terpstra, Esq.
578 N. Wilma Avenue, Suite A
Ripon, CA 95366
Telephone: (209) 599-5003
Fax: (209) 559-5008

Notices to Mortgagees by County shall be given as provided above using the address provided by such Mortgagee. Notices to Subsequent Landowners shall be given by County as required above only for those Subsequent Landowners who have given County written notice of their addresses for the purpose of receiving such notices. Any party may change its mailing address/facsimile at any time by giving written notice of such change to the other party in the manner provided herein at least ten (10) days prior to the date such change is effected. All notices under this Agreement shall be deemed given, received, made or communicated on the earlier of the date personal delivery is effected or on the delivery date or attempted delivery date shown on the return receipt, air bill or facsimile.

10.13 Prevailing Wage.

Owner shall be solely responsible for determining whether construction of any or all of the improvements required in connection with the Project trigger the obligation to pay prevailing wages under California or federal law. In the event and to the extent that payment of prevailing wages is required, Owner shall comply with those requirements. Owner shall defend, indemnify and hold harmless County, its agents, employees, officers and officials from any claims, injury, liability, loss, costs or damages sought by a third party for a failure to pay prevailing wages in connection with the Project. The indemnification obligation set forth in this Section 10.13 shall survive the termination of this Agreement.

10.14 Applicable Law.

This Agreement shall be construed and enforced in accordance with the laws of the State of California.

10.15 Venue.

Any action brought relating to this Agreement shall be held exclusively in a state court in the County of San Benito.

10.16 Cooperation in the Event of Legal Challenge; Indemnification.

In the event of any legal action or proceeding brought by a third party challenging the validity of this Agreement or any provision hereof or any Project Approval ("**Legal Challenge**"), the parties shall cooperate in defending said action or proceeding. It being understood that the Project is a private undertaking, it shall be Owner's primary responsibility to defend any Legal Challenge, as defined herein. Owner shall engage the services of competent counsel ("**Defense Counsel**"), subject to County's reasonable approval at Owner's expense, to defend the interests of County and Owner in any Legal Challenge challenging any aspect of the Project Approval(s); provided, however, that nothing in this Section 10.16 shall preclude County Counsel's involvement in the Legal Challenge to defend County's interest therein. Furthermore, in accordance with the Reimbursement Agreement between County and Owner (executed on April 8, 2008), in the event that County determines, in its reasonable discretion, that separate counsel is necessary to serve the interests of the County and the public welfare, County may retain special counsel, for which Owner shall pay all actual legal fees and costs related thereto. If County retains special counsel in accordance with this Section 10.16, County shall direct special counsel to cooperate with Defense Counsel to the extent feasible and to use diligent and good faith efforts to avoid duplication with the efforts of Defense Counsel; such efforts may include, for example, the filing of joint briefs and other papers. Defense Counsel, County Counsel, and County's special counsel, if any, shall consult with each other and act in good faith in considering any settlement or compromise of any Legal Challenge.

Owner further agrees to and shall defend and hold harmless County, its agents, employees, officers, and officials from any claims, injury, liability, loss, costs or damages sought by a third party, relating to personal injury, death or property damage, arising from Owner's operations or those of its employees, officers, agents, contractors or subcontractors, which relate to the Project. It is understood that Owner's duty to indemnify and hold harmless includes the duty to defend as set forth in California Civil Code Section 2778; the parties further agree that County shall have the option to choose its own legal representation for which Owner shall pay all actual legal fees and costs related thereto. Acceptance by County of insurance certificates and endorsements required under this Agreement does not relieve Owner from liability hereunder. The provisions of this Section 10.16 shall survive the termination of this Agreement.

10.17 No Waiver.

No waiver by any party of any provision of this Agreement shall be considered a waiver of any other provision or any subsequent breach of the same or any other provision, including the time for performance of any such provision. The exercise by a party of any right or remedy provided in this Agreement or provided by law shall not prevent the exercise by that party of any other remedy provided in this Agreement or under the law.

10.18 Construction.

This Agreement has been reviewed and revised by legal counsel for both County and Owner, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement. The provisions of this Agreement and the attached exhibits shall be construed as a whole according to their common meaning and not strictly for or against any party, and in a manner that shall achieve the purposes of this Agreement. Wherever required by the context, the masculine gender shall include the feminine or neuter genders, or vice versa.

10.19 Entire Agreement.

This Agreement and all exhibits hereto constitute the entire agreement between the parties and supersede all prior discussions, negotiations, and agreements whether oral or written. Any oral representations or modifications concerning this instrument shall be of no force or effect unless contained in a subsequent written modification signed by both parties.

10.20 Estoppel Certificate.

Any party from time to time may deliver written notice to the other party requesting written confirmation that, to the knowledge of the certifying party: (a) this Agreement is in full force and effect and constitutes a binding obligation of the parties; (b) this Agreement has not been amended either orally or in writing, or if it has been amended, specifying the nature of the amendment(s); and (c) the requesting party is not in default in the performance of its obligations under this Agreement, or if in default, describing therein the nature of the default. A party receiving a request shall execute and return the certificate within thirty (30) days after receipt thereof. The Planning Director shall have the right to execute any certificate requested by Owner. At the request of Owner, the certificate provided by County establishing the status of this Agreement with respect to any lot or parcel shall be in recordable form and Owner shall have the right to record the certificate for the affected portion of the Property at its cost.

10.21 Counterparts.

This Agreement and any and all amendments thereto may be executed in counterparts, and all counterparts together shall be construed as one document.

10.22 Authority to Execute.

Each party hereto expressly warrants and represents that it has the authority to execute this Agreement on behalf of its entity and warrants and represents that it has the authority to bind its entity to the performance of its obligations hereunder.

10.23 Captions.

The caption headings provided herein are for convenience only and shall not affect the construction of this Agreement.

10.24 Compliance, Monitoring, and Management Duties; Default.

If Owner fails to perform any duties related to compliance review processes, monitoring, or the management of any programs as required herein, County has the right, but not the obligation, to undertake such duties and perform them at Owner's sole expense.

10.25 Listing and Incorporation of Exhibits.

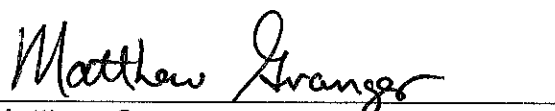
The exhibits to this Agreement, each of which is hereby incorporated herein by reference, are as follows:

- Exhibit 1: Legal Description of Specific Plan Area
- Exhibit 2: Map of Specific Plan Area
- Exhibit 3: Legal Description of Potential Wastewater Treatment Plant Site
- Exhibit 4: Map of Potential Wastewater Treatment Plant Site
- Exhibit 5: Project Land Use Plan
- Exhibit 6: Basic Community Park Improvements
- Exhibit 7: Fairview Road Improvements
- Exhibit 8: Milestones
- Exhibit 9: Developer Impact Fees
- Exhibit 10: Affordable Housing Procedures
- Exhibit 11: Santana Ranch Fiscal Impact Analysis (August 10, 2010)

COUNTY OF SAN BENITO


 Gary Armstrong
 Director, San Benito County Planning &
 Building Department
 Date:


APPROVED AS TO FORM:
 San Benito County Counsel's Office



 Matthew Granger
 County Counsel
 Date:

SANTANA RANCH LANDOWNERS

By:

Guerra Nut Shelling Company, a California Corporation



 Frank Guerra
 Its: President


 Larry W. Anderson



 Georgeann M. Anderson


Larry W. Anderson and Georgeann M. Anderson Trustees of The Restated Larry W. Anderson and Georgeann M. Anderson Revocable Family Trust dated August 9, 2004


 Larry W. Anderson, Trustee



 Georgeann M. Anderson, Trustee

King & Domingues Properties, a general partnership


 Thomas A. King
 Its: General Partner


 Ronald C. Domingues
 Its: General Partner

APPROVED AS TO FORM:
 Law Offices of Thomas H. Terpstra


 Thomas H. Terpstra
 Date: 11-9-10

ACKNOWLEDGMENT

State of California
County of San Benito

On 11-23-10 before me, Robert Ernest Flores, Notary Public
(insert name and title of the officer)

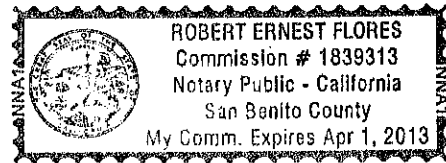
personally appeared FRANK GUERRA
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(Seal)



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Benito

On Dec. 9, 2010 before me,

Regina M. Waldron, Notary Public

Here Insert Name and Title of the Officer

personally appeared

Larry W. Anderson and Georgeann M.

Name(s) of Signer(s)

Anderson

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

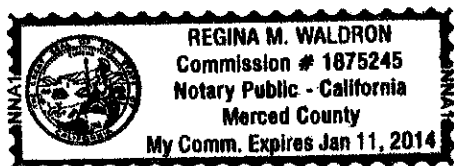
WITNESS my hand and official seal.

Signature

Regina M. Waldron

Signature of Notary Public

Place Notary Seal Above



OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

Development Agreement

Document Date:

Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

Larry W. Anderson

☒ Individual

☐ Corporate Officer — Title(s):

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other:

Signer Is Representing:

Signer's Name:

Georgeann M. Anderson

☒ Individual

☐ Corporate Officer — Title(s):

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other:

Signer Is Representing:

**RIGHT THUMBPRINT
OF SIGNER**
Top of thumb here

**RIGHT THUMBPRINT
OF SIGNER**
Top of thumb here

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

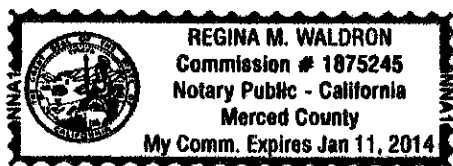
State of California

County of San Benito

On Dec. 9, 2010 before me, Regina M. Waldron, Notary Public

personally appeared Larry W. Anderson and Georgeann M. Anderson

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Regina M. Waldron

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Development Agreement

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Larry W. Anderson

- ☐ Individual
- ☐ Corporate Officer — Title(s): _____
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☒ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer's Name: Georgeann M. Anderson

- ☐ Individual
- ☐ Corporate Officer — Title(s): _____
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☒ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

ACKNOWLEDGMENT

State of California
County of San Benito County)

On December 2, 2010 before me, Cynthia J. McDonald, Notary Public
(insert name and title of the officer)

personally appeared Thomas A. King & Ronald C. Domginues,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature Cynthia J. McDonald (Seal)



Exhibit 1Legal Description of Specific Plan Area

All that certain real property situate in the County of San Benito, State of California, being a portion of Section 31, Township 12 South, Range 5 East, and a portion of Section 6, Township 13 South, Range 5 East, Mount Diablo Base and Meridian, described as follows:

Commencing at the southwest corner of said Section 31; thence S89°41'51"E, a distance of 30.00 feet to the easterly right-of-way of Fairview Road; thence along said easterly right-of-way, N00°04'56"W, a distance of 4.47 feet to the **True Point of Beginning**; thence continuing northerly along said easterly right-of-way, N00°04'56"W, a distance of 965.69 feet, to the south line of "Parcel A", as shown on Parcel Map "P.M. No. 283-76" filed February 17, 1977 in Book 3 of Parcel Maps, at Page 60, Records of San Benito County, California; thence along said south line, S89°38'02"E, a distance of 149.14 feet to a tangent curve to the left having a radius of 450.00 feet; thence continuing along said south line, easterly along said curve, through a central angle of 26°00'00", a distance of 204.20 feet; thence continuing along said south line, N64°21'58"E, a distance of 92.28 feet to the east line of said "Parcel A"; thence along said east line, N00°04'52"W, a distance of 494.00 feet to the north line of said "Parcel A"; thence along said north line, N89°38'02"W, a distance of 430.03 feet to the easterly right-of-way of Fairview Road; thence along said easterly right-of-way, N00°04'56"W, a distance of 2376.88 feet; thence S89°38'50"E, a distance of 2,637.21 feet to the north-south quarter section line of said Section 31; thence along said quarter section line, S00°09'20"W, a distance of 3,924.65 feet to the south quarter section corner for said Section 31; thence along the north-south quarter section line for said Section 6, S00°01'41"W, a distance of 990.00 feet; thence, N89°41'50"W, a distance of 2,618.12 feet to the easterly right-of-way of Fairview Road; thence along said easterly right-of-way N00°07'59"W, a distance of 743.33 feet to the south line of the lands of the City of Hollister conveyed by the Grant Deed recorded December 28, 2001 as Document No. 2001-0020958; thence along said south line, S89°41'51"E, a distance of 279.87 feet to the east line of said lands of the City of Hollister; thence along said east line, N00°07'59"W, a distance of 251.14 feet to the north line of said lands of the City of Hollister; thence along said north line, N89°41'51"W, a distance of 279.87 feet to the **True Point of Beginning**.

Containing 289.33 acres, more or less. As shown on Exhibit-2 "**Map of Specific Plan Area**" made a part hereof

END OF DESCRIPTION

This legal description was prepared by me or under my direction pursuant to the requirements of the Professional Land Surveyor's Act.

Andrew S. Chafer, PLS 8005 Date Expires 12/31/2010

Exhibit 2

Map of Specific Plan Area

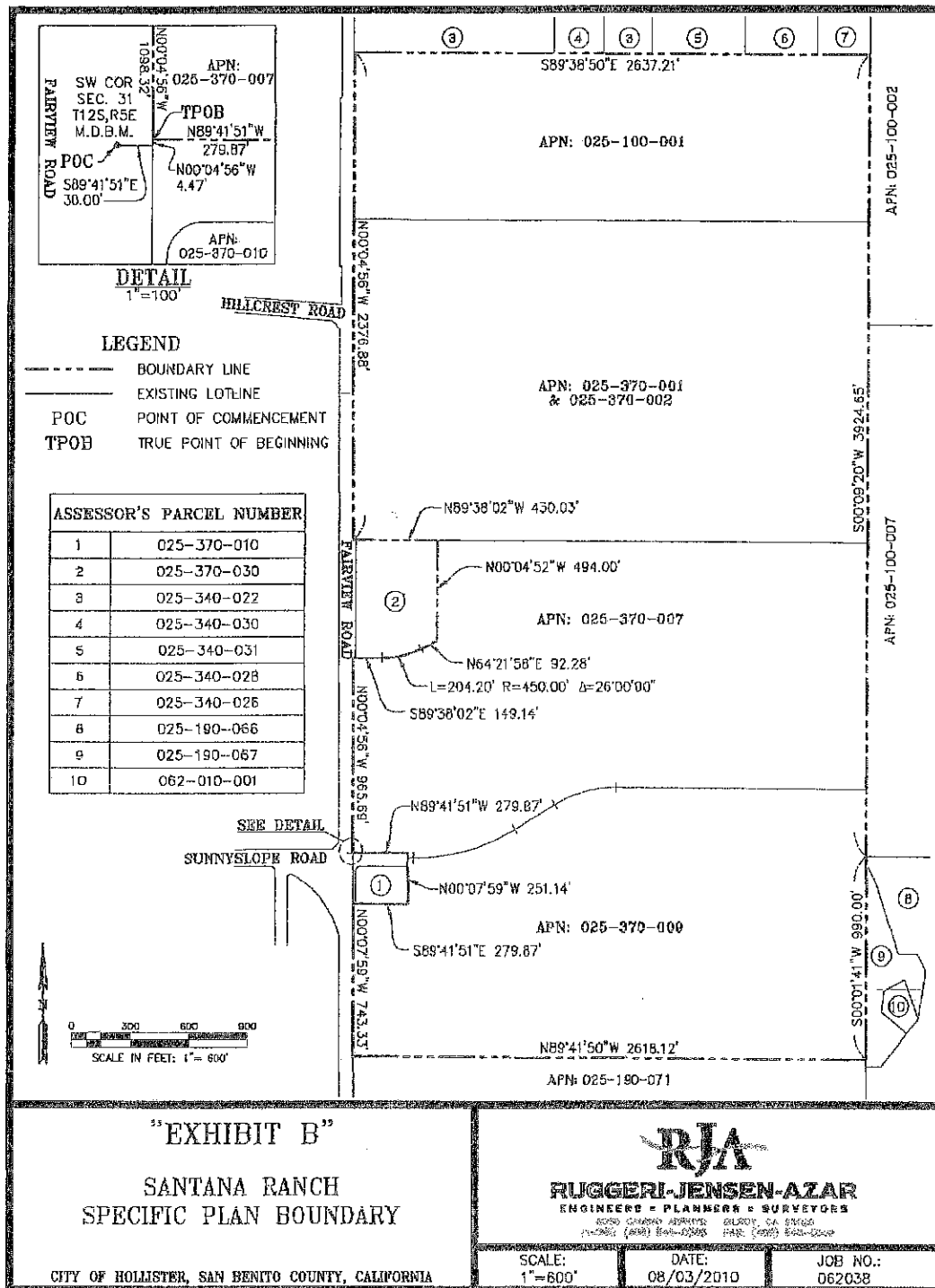


Exhibit 3Legal Description of Potential Wastewater Treatment Plant Site

All that certain real property situate in the County of San Benito, State of California, being a portion of the east half of Section 31, Township 12 South, Range 5 East, Mount Diablo Base and Meridian, described as follows:

Beginning at the center of said Section 31; thence along the north south quarter section line of said Section 31, N00°09'20"E, a distance of 1,487.89 feet; thence S89°50'40"E, a distance of 550.00 feet; thence S00°09'20"W, a distance of 1,160.00 feet; thence S27°50'40"E, a distance of 681.62 feet; thence S00°09'20"W, a distance of 77.50 feet; thence N89°50'40"W, a distance of 870.00 feet, to the aforementioned north south quarter section line; thence along said north south quarter section line, N00°09'20"E, a distance of 351.44 feet to the **Point of Beginning**.

Containing 26.00 acres, more or less.

As shown on Exhibit 4 "made a part hereof"

END OF DESCRIPTION

This legal description was prepared by me or under my direction pursuant to the requirements of the Professional Land Surveyor's Act.

Andrew S. Chafer, PLS 8005 Date Expires 12/31/2010

Exhibit 4

Map of Potential Wastewater Treatment Plant Site

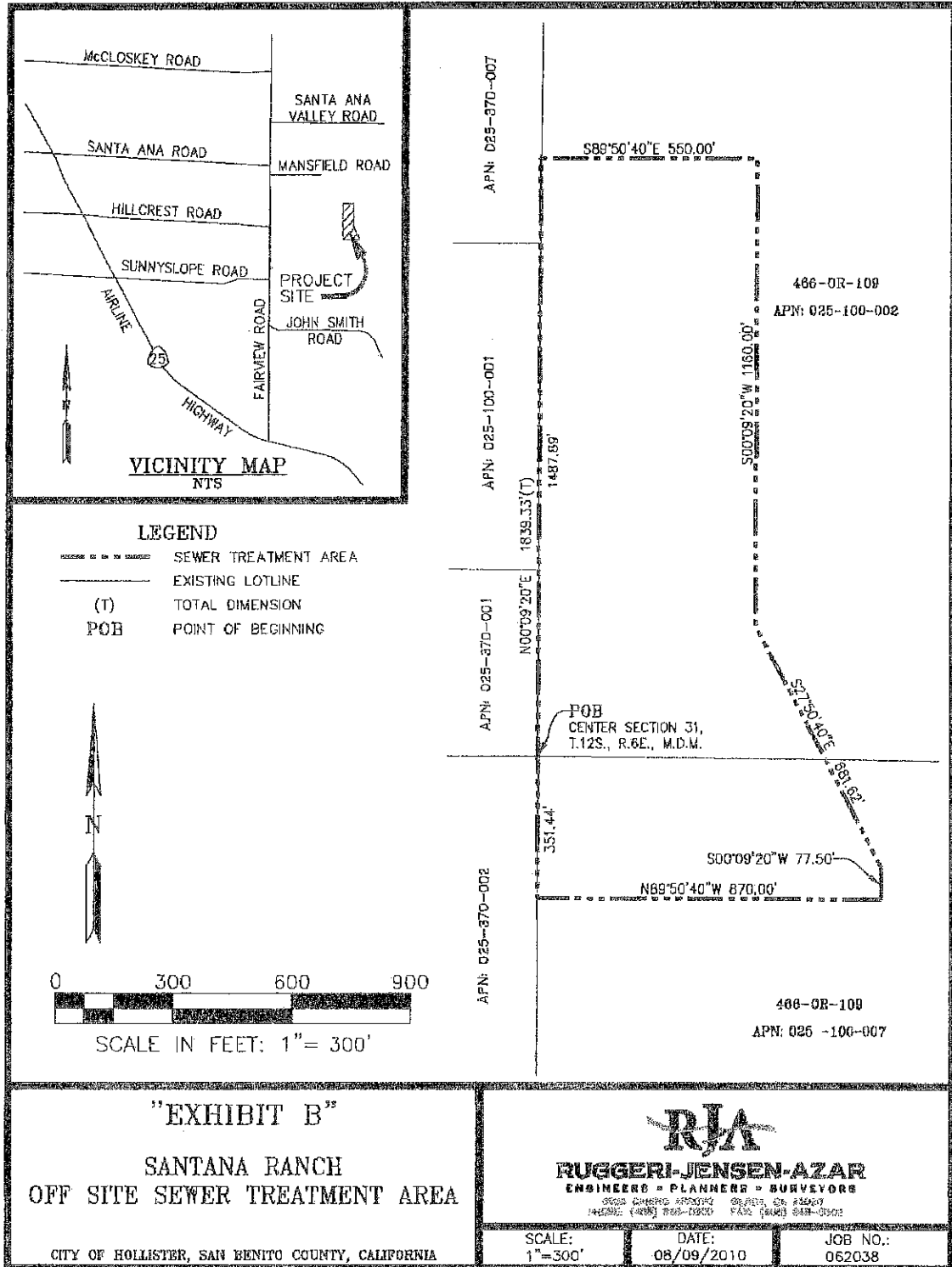
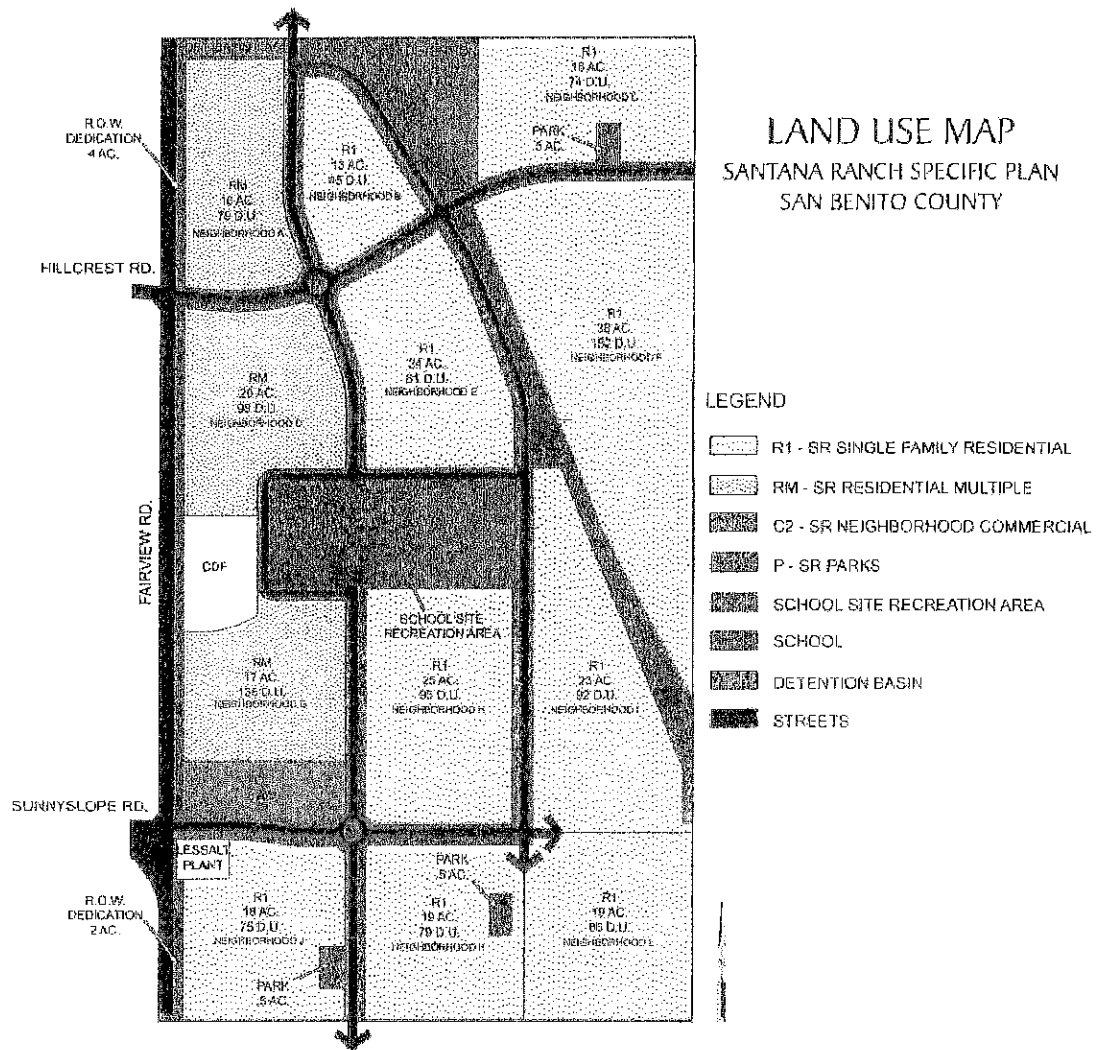


Exhibit 5

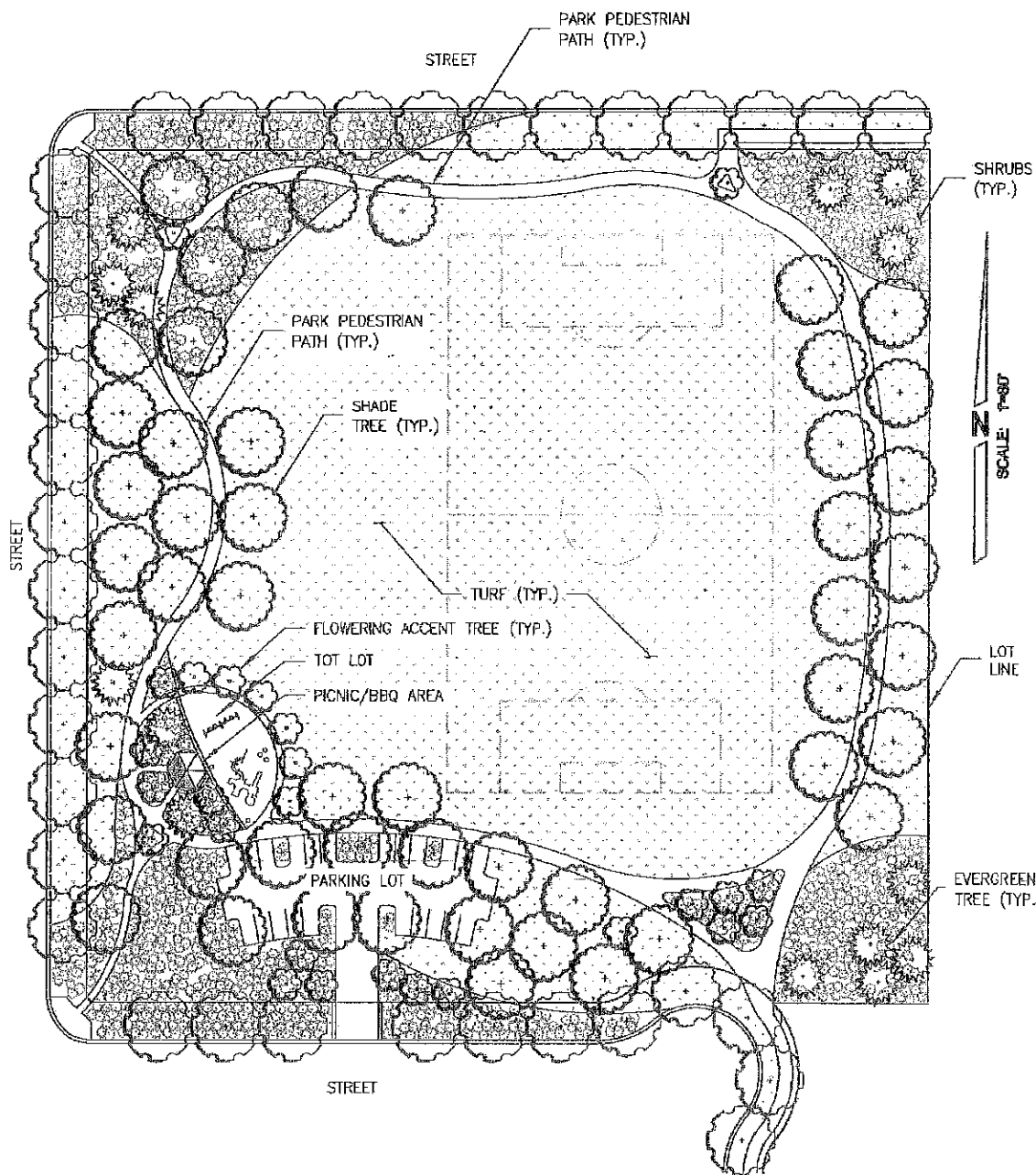
Project Land Use Plan



Note: Locations and sizes of parks and school are conceptual and may vary. Actual locations and sizes will be determined at the tentative map stage

Exhibit 6

Basic Community Park Improvements



NOTE:

1. THIS EXHIBIT IS A CONCEPTUAL LANDSCAPE PLAN ONLY. IT HAS BEEN PREPARED FOR ILLUSTRATIVE PURPOSES ONLY AND REPRESENTS A SINGLE SOLUTION TO THE SITE. THIS SOLUTION IS NOT BINDING AND DOES NOT REPRESENT ANY REQUIRED IMPROVEMENTS.
THE PARK WILL CONTAIN BASIC RESTROOM FACILITIES.

**SANTANA RANCH COMMUNITY PARK
CONCEPTUAL PLAN**

JULY 2010

Exhibit 7

Fairview Road Improvements

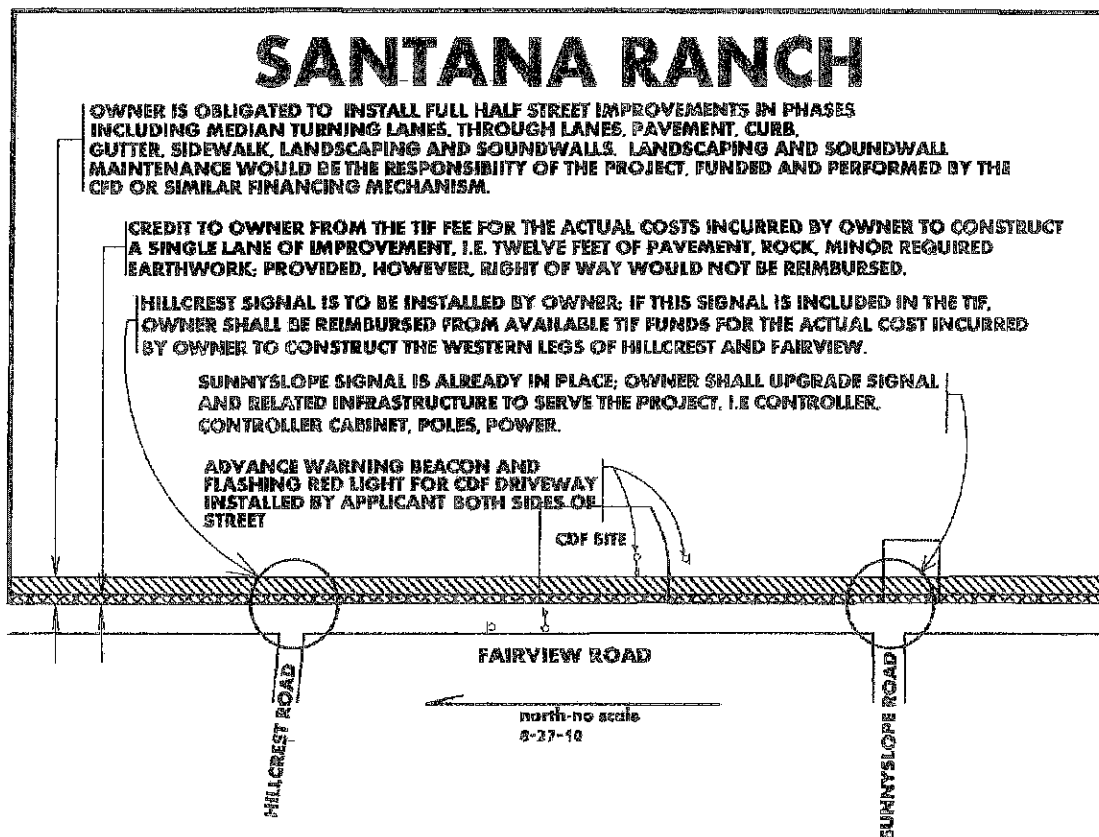


Exhibit 8Milestones

- Construct Sunnyslope Road and Fairview Road traffic signal prior to the certificate of occupancy of the first dwelling unit or commercial building (pg 8-10 sp)
- Construct Sunnyslope Road and Valley View Road traffic signal prior to the issuance of the 145th residential building permit subject to reimbursements beyond the developer's fair share of responsibility ("**Subject to Reimbursements**") (pg 3.13-43 DEIR)
- Construct Community Park prior to issuance of the certificate of occupancy of the 300th dwelling unit (pg 8-23 sp)
- Construct Hillcrest Road and Fairview Road traffic signal prior to issuance of the certificate of occupancy of the 514th unit subject to reimbursements (pg 8-10 sp)
- Construct Fairview Road and McCloskey Road traffic signal prior to the issuance of the 501st residential building permit and building permits for commercial uses in excess of 50,000 square feet subject to reimbursements (pg 3.13-42 DEIR)
- Improve Fairview Road Frontage concurrently with the development of the fronting property subject to reimbursements as outlined in Exhibit 7
- Construct Linear Park prior to completion of phase 4 or the issuance of the certificate of occupancy of the 1,092th unit (pg 8-23 sp)

Exhibit 9Developer Impact Fees

<u>Fee Category</u>	<u>Cost</u>
Drainage	\$1,340.00 per building permit
Traffic (may be changed upon future County TIF update)	\$11,995 / residential building permit \$11.24 / 1,000 SF Commercial \$5.63 / 1,000 SF Office
Road Equipment	\$0.70 / SF of Residential Living Space
Fire Protection	\$0.25 / SF of all Covered Space
Law Enforcement	\$0.38 / SF of all Covered Space – Residential and Non-Residential
Jail / Juvenile Hall	\$0.47 / SF of all Covered Space – Residential Only
Parks and Recreation	\$1.80 / SF of Residential Living Space

Impact fees may increase or decrease per the Construction Cost Index or Consumer Price Index as identified in the San Benito County Ordinance 5.01.

Exhibit 10Affordable Housing ProceduresMarketing and Selection Procedures

- All outreach efforts will be done in accordance with State and Federal fair lending regulations to assure nondiscriminatory treatment, outreach and access. The Fair Housing Lender logo will be placed on all outreach materials
- Developer and/or third party manager will maintain an interest and waiting list of prospective homeowners and tenants in Santana Ranch (see Attached Exhibit "A")
- San Benito County staff will direct inquiries regarding affordable units to developer
- Affordable units will be sold and/or rented to eligible households on a first come first serve basis with priority given to households who are either residents of San Benito County for at least 3 years prior to applying to the list or have worked in San Benito County for at least 12 months prior to applying on the list.
- Developer and/or third party will notify planning department when marketing of units begin
- Outreach, eligibility screening, and advertising shall be conducted approximately 180 days prior to the completion of construction for each phase of affordable units.
 - o This will allow necessary time for properly promoting units, orientation workshops, waiting list management, screening and selection process, pre-approving, entering into purchase contracts ahead of time, etc
- Each for-sale affordable unit will continue to be marketed and made available for sale at an affordable sales price for an additional 120 days after certificate of occupancy issued unless and at which time Owner shall be deemed to have complied with its affordable housing obligations for said unit:
 - o Unit sells to a qualified household
 - o The County exercises its option to purchase the affordable unit
 - o The developer experiences severe declining market conditions in which affordable for-sale units are unable to be sold within a reasonable amount of time at an affordable sales price even when acceptable marketing efforts and incentives such as down payment assistance and/or equity sharing programs are offered. The developer must submit supporting documentation acceptable to the County which may include an actual appraisal report performed by a licensed appraiser, real estate market analysis or Multiple Listings Service (MLS) sales report summary printout covering at a minimum, the prior three (3) months. Severe declining market conditions can be described as causing unrestricted market-rate homes that are similar in number of bedrooms, living area and lot size to the affordable for-sale unit to be priced at or below the otherwise affordable sales price

Establishment of Initial Sales Price

- Initial Sales Price will be based on guidelines set per California Health and Safety 50025.5
- Maximum housing costs are calculated on a case by case basis, but normally include mortgage payments, mortgage insurance, property taxes, homeowner's insurance. Examples from County are attached (Exhibits "B"- "E").

Establishment of Initial Rent Price

- Initial Rent Prices will be based on guidelines set per California Health and Safety 50052.5

Income verification before the sale or tenancy

- Potential homebuyer or tenant must complete, sign and date upfront application and disclosures
- 2 most recent pay stubs showing year-to-date gross earnings,
- Complete tax returns from previous three (3) years
- 2 most recent bank statements (all pages)
- Most recent 401K/Retirement statement (all pages)
- Supporting documentation of all additional income sources such as social security, alimony, and/or child support
- Copy of credit report
- Other income verification approved by the County

For Sale Units – Equity and Appreciation Sharing Agreement Basic Terms

Homeowner of affordable for-sale units who participate in an equity and appreciation sharing agreement will agree to sign a promissory note in favor of the County, secured by a deed of trust, to ensure repayment of the initial subsidy and a share of the appreciation in the value of the property.

The equity-sharing formula is as follows:

- o Initial Subsidy: difference between the appraised value and the deed restricted price
 - No monies are necessary from the County, but down-payment assistance could be provided if County has funding for such activities
- o Future Share of Appreciation: The ratio (%) of the Initial Subsidy to the appraised value at time of purchase
- o 30 year term with no interest charged on the initial subsidy, initial subsidy can be prepaid at time of resale
- o No Resale Restrictions: can resell unit at full market value to any willing buyer
- Home must be the homebuyer's principal place of residence
- Owner shall maintain a standard all risk property insurance policy equal to the replacement value of the home, naming the lender as additional insured
- After the initial eligibility check for for-sale units, there would be no re-eligibility checks
- Annual occupancy monitoring and reporting will be performed and a copy of reports submitted to the County for affordable for-sale units if required by financing sources

Monitoring

- Developer and/or third party will present annually to County the attached Affordable Housing Rent Roll (see Exhibit "F") or another spreadsheet approved by the County for monitoring the affordable rental units.
- Until project build-out, developer and/or third party will present annually to County the attached New Affordable Homes Sold (see Exhibit "G"), or another spreadsheet approved by the County for monitoring the affordable for-sale units.
- Annual occupancy monitoring and reporting will be performed and a copy of reports submitted to the County for affordable for-sale units if required by financing sources
- Annual occupancy monitoring, income re-certification and reporting will be performed and a copy of reports submitted to the County for affordable rental units if required by financing sources

53

[illegible]

2010 Low-Income Affordable Housing For-Sale Unit
Example Assumptions - Maximum Sales Price Calculation

Studio, (1 household)

Maximum Monthly Housing Payment (30%) = \$993.13/mo.

Sales Price = \$120,000.00

Down Payment (5.00%) = \$6,000.00

1st Mtg. Loan Amount = \$114,000.00

Interest Rate = 6.00%

Principal + Interest Payment = \$683.49

Property Taxes (1.25%) = \$125.00

Homeowner's Insurance = \$80.00

Mortgage Insurance (.59 factor) = \$56.00

Total Housing Payment = \$944.49/mo.

1 Bdrm., (2 household)

Maximum Monthly Housing Payment (30%) = \$1,198.75/mo.

Sales Price = \$145,000.00

Down Payment (5.00%) = \$7,250.00

1st Mtg. Loan Amount = \$137,750.00

Interest Rate = 6.00%

Principal + Interest Payment = \$825.88

Property Taxes (1.25%) = \$151.00

Homeowner's Insurance = \$80.00

Mortgage Insurance (.59 factor) = \$67.66

Total Housing Payment = \$1,124.54/mo.

2 Bdrm., (3 household)

Maximum Monthly Housing Payment (30%) = \$1,277.50/mo.

Sales Price = \$165,000.00

Down Payment (5.00%) = \$8,250.00

1st Mtg. Loan Amount = \$156,750.00

Interest Rate = 6.00%

Principal + Interest Payment = \$939.80

Property Taxes (1.25%) = \$171.83

Homeowner's Insurance = \$80.00

Mortgage Insurance (.59 factor) = \$77.00

Total Housing Payment = \$1,268.63/mo.

3 Bdrm., (4 household)

Maximum Monthly Housing Payment (30%) = \$1,419.25/mo.

Sales Price = \$185,000.00

Down Payment (5.00%) = \$9,250.00

1st Mtg. Loan Amount = \$175,750.00

Interest Rate = 6.00%

Principal + Interest Payment = \$1,053.71

Property Taxes (1.25%) = \$192.66

Homeowner's Insurance = \$80.00

Mortgage Insurance (.59 factor) = \$86.33

Total Housing Payment = \$1,412.70/mo.

4 Bdrm., (5 household)

Maximum Monthly Housing Payment (30%) = \$1,533.00/mo.

Sales Price = \$200,000.00

Down Payment (5.00%) = \$10,000.00

1st Mtg. Loan Amount = \$190,000.00

Interest Rate = 6.00%

Principal + Interest Payment = \$1,139.15

Property Taxes (1.25%) = \$208.33

Homeowner's Insurance = \$80.00

Mortgage Insurance (.59 factor) = \$93.41

Total Housing Payment = \$1,520.89/mo.

2010 Moderate-Income Affordable Housing For-Sale Unit
Example of Maximum Sales Price Calculation at 110% of Area Median Income

Studio, (1 household)

Maximum Monthly Housing Payment (35%) = \$1,820.73/mo.

Sales Price = \$240,000.00

Down Payment (5.00%) = \$12,000.00

1st Mtg. Loan Amount = \$228,000.00

Interest Rate = 6.00%

Principal + Interest Payment = \$1,366.98

Property Taxes (1.25%) = \$250.00

Homeowner's Insurance = \$80.00

Mortgage Insurance (.59 factor) = \$112.08

Total Housing Payment = \$1,809.06/mo.

1 Bdrm., (2 household)

Maximum Monthly Housing Payment (35%) = \$2,082.21/mo.

Sales Price = \$270,000.00

Down Payment (5.00%) = \$13,500.00

1st Mtg. Loan Amount = \$256,500.00

Interest Rate = 6.00%

Principal + Interest Payment = \$1,537.85

Property Taxes (1.25%) = \$281.25

Homeowner's Insurance = \$80.00

Mortgage Insurance (.59 factor) = \$126.08

Total Housing Payment = \$2,025.18/mo.

2 Bdrm., (3 household)

Maximum Monthly Housing Payment (35%) = \$2,342.08/mo.

Sales Price = \$305,000.00

Down Payment (5.00%) = \$15,250.00

1st Mtg. Loan Amount = \$289,750.00

Interest Rate = 6.00%

Principal + Interest Payment = \$1,737.20

Property Taxes (1.25%) = \$317.66

Homeowner's Insurance = \$80.00

Mortgage Insurance (.59 factor) = \$142.08

Total Housing Payment = \$2,276.94/mo.

3 Bdrm., (4 household)

Maximum Monthly Housing Payment (35%) = \$2,601.96/mo.

Sales Price = \$350,000.00

Down Payment (5.00%) = \$17,500.00

1st Mtg. Loan Amount = \$332,500.00

Interest Rate = 6.00%

Principal + Interest Payment = \$1,993.51

Property Taxes (1.25%) = \$364.58

Homeowner's Insurance = \$80.00

Mortgage Insurance (.59 factor) = \$163.41

Total Housing Payment = \$2,601.50/mo.

4 Bdrm., (5 household)

Maximum Monthly Housing Payment (35%) = \$2,810.50/mo.

Sales Price = \$375,000.00

Down Payment (5.00%) = \$18,750.00

1st Mtg. Loan Amount = \$356,250.00

Interest Rate = 6.00%

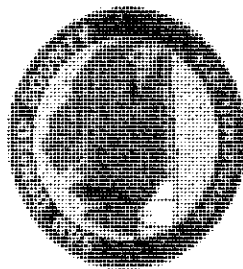
Principal + Interest Payment = \$2,135.90

Property Taxes (1.25%) = \$390.58

Homeowner's Insurance = \$80.00

Mortgage Insurance (.59 factor) = \$175.08

Total Housing Payment = \$2,781.56/mo.



2010 San Benito County (SBC) Affordable Housing Owner-Occupied Low-Income Housing Costs

Size of unit (person household)	2010 SBC Annual Median Income adjusted for family size	SBC Monthly Median Income adjusted for family size	Max. Monthly Housing Cost	Estimated Maximum Sales Price(s)
Studio (1 hshld.)	\$ 56,750.00	\$ 4,729.17	\$ 993.13	\$ 120,000.00
1 Bdrm. (2 hshld.)	\$ 64,900.00	\$ 5,408.33	\$ 1,198.75	\$ 145,000.00
2 Bdrm. (3 hshld.)	\$ 73,000.00	\$ 6,083.33	\$ 1,277.50	\$ 165,000.00
3 Bdrm. (4 hshld.)	\$ 81,100.00	\$ 6,758.33	\$ 1,419.25	\$ 185,000.00
4 Bdrm. (5 hshld.)	\$ 87,600.00	\$ 7,300.00	\$ 1,533.00	\$ 200,000.00

San Benito County Median Home Sales Price (June 2010): \$267,500.00

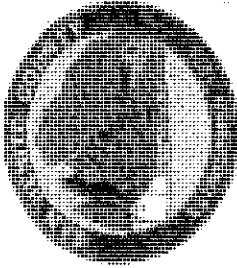
Maximum Monthly Housing Costs Calculation: $.3 \times 7 \times$ monthly median income, adjusted for family size

California Health & Safety Code Definition: Section 50052.5. (a), (3) For lower income households whose gross incomes exceed the maximum income for very low income households and do not exceed 70 percent of the area median income adjusted for family size, the product of 30 percent times 70 percent of the area median income adjusted for family size appropriate for the unit. In addition, for any lower income household that has a gross income that equals or exceeds 70 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable housing cost not exceed 30 percent of the gross income of the household.

For those lower income households that have a gross income that equals or exceeds 70 percent of the area median income adjusted for family size, San Benito County currently requires that affordable housing costs not exceed 30 percent of the gross income of the household up to 80 percent of the area median income adjusted for family size.

Maximum Sales Price(s) Assumptions: Conventional Financing, 30 yr. Fixed Mortgage, 6.00% Interest Rate, 5.00% Down Payment, 1.25% Property Taxes, \$80.00/mo. Homeowner's Insurance, .59% Mortgage Insurance Factor, No HOA Dues.

***Figures are estimates for 2010, information provided for Public Consumers, Real Estate Professionals, Lending Institutions and Developers. Distributed by San Benito County Housing Economic Development Department**



2010 San Benito County (SBC) Affordable Housing Low-Income Rental Housing Costs

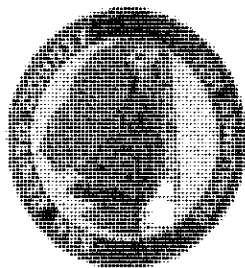
Size of unit (person household)	2010 SBC Annual Median		SBC Monthly Income adjusted for family size		Max. Monthly Housing Cost
	Income adjusted for family size		Income adjusted for family size		
Studio (1 hshld.)	\$ 56,750.00	\$	4,729.17	\$	851.25
1 Bdrm. (2 hshld.)	\$ 64,900.00	\$	5,408.33	\$	973.50
2 Bdrm. (3 hshld.)	\$ 73,000.00	\$	6,083.33	\$	1,095.00
3 Bdrm. (4 hshld.)	\$ 81,100.00	\$	6,758.33	\$	1,216.50
4 Bdrm. (5 hshld.)	\$ 87,600.00	\$	7,300.00	\$	1,314.00

Maximum Monthly Housing Costs Calculation: $.3 \times .6 \times \text{monthly median income, adjusted for family size}$

California Health & Safety Code Definition: 50053, (a), (3) For lower income households whose gross incomes exceed the maximum income for very low income households, the product of 30 percent times 60 percent of the area median income adjusted for family size appropriate for the unit. In addition, for those lower income households with gross incomes that exceed 60 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of gross income of the household.

For those lower income households that have a gross income that equals or exceeds 60 percent of the area median income adjusted for family size, San Benito County currently requires that the affordable rent not exceed 30 percent of the gross income of the household up to 80 percent of the area median income adjusted for family size.

****Figures are estimates for 2010, information provided for Public Consumers, Real Estate Professionals, Lending Institutions and Developers. Distributed by San Benito County Housing Economic Development Department****



2010 San Benito County (SBC) Affordable Housing Owner-Occupied Moderate-Income Housing Costs

Size of unit (person household)	2010 SBC Annual Median Income adjusted for family size	SBC Monthly Median Income adjusted for family size	Max. Monthly Housing Cost	Estimated Maximum Sales Price(s)
Studio (1 hshld.)	\$ 56,750.00	\$ 4,729.17	\$ 1,820.73	\$ 240,000.00
1 Bdrm. (2 hshld.)	\$ 64,900.00	\$ 5,408.33	\$ 2,082.21	\$ 270,000.00
2 Bdrm. (3 hshld.)	\$ 73,000.00	\$ 6,083.33	\$ 2,342.08	\$ 305,000.00
3 Bdrm. (4 hshld.)	\$ 81,100.00	\$ 6,758.33	\$ 2,601.96	\$ 350,000.00
4 Bdrm. (5 hshld.)	\$ 87,600.00	\$ 7,300.00	\$ 2,810.50	\$ 375,000.00

San Benito County Median Home Sales Price (June 2010): \$267,500.00

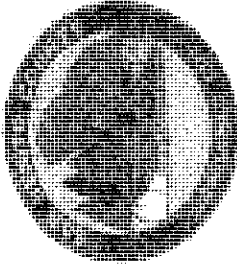
Maximum Monthly Housing Costs Calculation: $.35 \times 1.10 \times$ monthly median income, adjusted for family size

California Health & Safety Code Definition: Section 50052.5. (a), 4) For moderate-income households, affordable housing cost shall not be less than 28 percent of the gross income of the household, nor exceed the product of 35 percent times 110 percent of area median income adjusted for family size appropriate for the unit. In addition, for any moderate-income household that has a gross income that exceeds 110 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable housing cost not exceed 35 percent of the gross income of the household.

For those moderate-income households that have a gross income that equals or exceeds 110 percent of the area median income adjusted for family size, San Benito County currently requires that affordable housing costs not exceed 35 percent of the gross income of the household up to 120 percent of the area median income adjusted for family size.

Maximum Sales Price(s) Assumptions: Conventional Financing, 30 yr. Fixed Mortgage, 6.00% Interest Rate, 5.00% Down Payment, 1.25% Property Taxes, \$80.00/mo. Homeowner's Insurance, .59% Mortgage Insurance Factor, No HOA Dues.

****Figures are estimates for 2010, information provided for Public Consumers, Real Estate Professionals, Lending Institutions and Developers. Distributed by San Benito County Housing Economic Development Department****



2010 San Benito County (SBC) Affordable Housing Moderate-Income Rental Housing Costs

Size of unit (person household)	2010 SBC Annual		SBC Monthly		Max. Monthly Housing Cost
	Income adjusted for family size	Median	Income adjusted for family size	Median	
Studio (1 hshld.)	\$ 56,750.00	\$	4,729.17	\$	1,560.63
1 Bdrm. (2 hshld.)	\$ 64,900.00	\$	5,408.33	\$	1,784.75
2 Bdrm. (3 hshld.)	\$ 73,000.00	\$	6,083.33	\$	2,007.50
3 Bdrm. (4 hshld.)	\$ 81,100.00	\$	6,758.33	\$	2,230.25
4 Bdrm. (5 hshld.)	\$ 87,600.00	\$	7,300.00	\$	2,409.00

Maximum Monthly Housing Costs Calculation: $.30 \times 1.10 \times \text{monthly median income, adjusted for family size}$

California Health & Safety Code Definition: 50053, (a), (4) For moderate-income households, the product of 30 percent times 110 percent of the area median income adjusted for family size appropriate for the unit. In addition, for those moderate-income households whose gross incomes exceed 110 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of gross income of the household.

For those moderate income households that have a gross income that equals or exceeds 110 percent of the area median income adjusted for family size, San Benito County currently requires that the affordable rent not exceed 30 percent of the gross income of the household up to 120 percent of the area median income adjusted for family size.

Figures are estimates for 2010, information provided for Public Consumers, Real Estate Professionals, Lending Institutions and Developers. Distributed by San Benito County Housing Economic Development Department

Exhibit "F"
Affordable Housing Rent Roll

60

Santana Ranch
Rent Roll [Reporting Period]
[Address, Zip Code]

I. RENT ROLL

	Unit #	Tenant's Name	Unit Afford.	Sq Ft.	# of BdRm	Utility Allow.	Subsidy	Monthly Rent	HH Size	HH Annual Income	Date of Cert./ Recert.	Move-In-Date
1												
2												
3												
4												
5												
6												
7												
8												
9												
10												
11												
12												
13												
14												
15												
16												
17												
18												
19												
20												
21												
22												
23												
24												
25												
26												
27												
28												
29												
30												

II. TOTALS

Low-Income Occupied:

Low-Income Vacant:

Moderate-Income Occupied:

Moderate-Income Vacant:

Exhibit "G"
SANTANA RANCH - ANNUAL NEW AFFORDABLE HOUSING SOLD - PERIOD ENDING DD/MM/YYYY

#	Homeowner's Name	Homeowner's Phone #	Homeowner's Previous Address	Address of Affordable Unit	Lot #	Close of Escrow Date	County Resident or Employee	Unit Affordability (Low/Med)	Restricted (Y/N)	Household (HH) Size	HH Annual Income	Sale's Price	Sale's Price % of AMI
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													
11													
12													
13													
14													
15													
16													
17													
18													
19													
20													
21													
22													
23													
24													
25													
26													
27													
28													

Exhibit 11

Santana Ranch Fiscal Impact Analysis (August 10, 2010)



GOODWIN CONSULTING GROUP

*SANTANA RANCH SPECIFIC PLAN
STONECREEK PROPERTIES*

FISCAL IMPACT ANALYSIS

August 10, 2010

Santana Ranch Specific Plan
Fiscal Impact Analysis

Table of Contents

CHAPTER		PAGE
1	INTRODUCTION	1
	Scope.....	1
	Project Description.....	1
2	METHODOLOGY AND MAJOR ASSUMPTIONS	3
	Methodology	3
	Major Assumptions.....	4
3	FISCAL IMPACT ANALYSIS	8
	Fiscal Revenues	8
	Fiscal Expenses.....	10
4	CONCLUSIONS.....	12
5	POTENTIAL FUNDING SOURCES TO MITIGATE FISCAL DEFICITS	13

APPENDIX: Fiscal Impact Analysis Tables

INTRODUCTION

SCOPE

This report examines the potential recurring fiscal impacts to the County of San Benito (County) from new development in the Santana Ranch Specific Plan project area (Project). To determine the fiscal impacts, this analysis compares the annual costs of providing public services to the annual revenues expected to be generated by the Project. Districts and funds supported by development fees and user charges (e.g., enterprise funds), state funding (e.g., school districts), or a specific allocation of property taxes (e.g., school districts and fire districts) are not included in this analysis, which focuses solely on the fiscal impacts to the County's General Fund.

Fiscal impacts arising from land development can be categorized broadly into one-time impacts or recurring impacts, both of which generally contain a revenue component and an expense component. For example, while a proposed project may create the need for a police substation, a development impact fee would offset the one-time construction cost. Conversely, the annual expenses associated with staffing and maintaining the station may be funded with property taxes or other revenues generated annually by the project. The fiscal impacts evaluated in this report are a result of the annual, or recurring, County revenues and expenses resulting from development of the proposed Project.

PROJECT DESCRIPTION

The Project is situated in an unincorporated area of the County adjacent to the eastern edge of the City of Hollister Urban Area (City). The County covers approximately 1,396 square miles in the west-central part of the state and is bordered to the north by Santa Cruz and Santa Clara counties, to the east by Merced and Fresno counties, and to the west and south by Monterey County. The Department of Finance estimates the County's population at nearly 57,900.

The Project consists of two primary components: 1) a residential community; and 2) a mixed-use neighborhood commercial center. In addition, the Project's plan includes neighborhood parks, detention basins, and an elementary school. Within the residential community, a total of 1,092 dwelling units is proposed and includes a mix of housing types and densities intended to address the needs of a variety of future residents.

The residential component is expected to include Single Family Residential homes with densities ranging from 1.0 to 6.0 units per acre and Residential Multiple (RM) homes with densities of 5.0 to 20.0 units per acre.

The neighborhood commercial center will likely support retail-oriented uses such as restaurants, small grocery stores, specialty shops, and/or other forms of local-serving shopping opportunities

660
that offer an alternative shopping site closer to new development on the east side of the City.
The table below summarizes the Project's land uses.

Santana Ranch Specific Plan Land Uses

Residential Dwelling Units	
Single Family Residential (R1)	774
Residential Multiple	318
Total Dwelling Units	1,092
Neighborhood Commercial Acres	
Commercial	12.0
Total Acres	12.0

METHODOLOGY

Two methodologies are employed in this report to estimate potential recurring fiscal impacts. The first, known as the Multiplier Method, assumes that fiscal impacts will result from proposed development at forecasted rates – typically based on the current fiscal year budget. Conversely, the Case Study Method is used to estimate recurring revenues and expenses by applying defined service standards, existing tax and fee rates, and suggested operating and maintenance costs to the land uses and services planned for new development. The Multiplier and Case Study methods are generally used under the following conditions:

Multiplier Method

1. Average cost is a reasonable approximation of the actual cost to provide similar services to specific developments in future years.
2. Identifiable revenues and expenses are a direct function of the size of the population (e.g., social services).
3. Service standards and estimated future costs for new projects are not currently available or accurate.

Case Study Method

1. Marginal cost is a more suitable approximation of the actual cost to provide similar services to specific developments in future years.
2. The land use distribution of the project being analyzed does not resemble the land use distribution currently within the public agency.
3. Service standards and estimated future costs for new projects are anticipated to be different than they are now.

Table A-1 in the Appendix presents the estimated residential population and estimated number of jobs for the entire County and for the unincorporated area of the County as of January 1, 2010. Since the Multiplier Method often relies on a persons served factor, which equates to the sum of all residents plus 50% of employees for purposes of this report, persons served is presented along with the above assumptions. Although the exact relationship of service demands and revenue potential between residents and employees is difficult to measure, a service population comprised of 100% of the residents and 50% of the employees is standard fiscal practice. This relationship suggests that a resident generally has twice the impact of an employee (i.e., a resident is home 16 hours per day while an employee is at work 8 hours per day).

The Case Study and Multiplier methods are used, as presented in the table below, to estimate the various recurring fiscal impacts of the Project on the County's General Fund.

Case Study and Multiplier Methods

COUNTY OF SAN BENITO	
<i>Case Study Method</i>	<i>Multiplier Method</i>
Recurring Revenues	
Property Tax: Secured and Unsecured	Other Taxes
Real Property Transfer Tax	Licenses and Permits
Sales and Use Tax / Public Safety Sales Tax	Fines, Forfeitures, and Penalties
Property Tax In-Lieu of Vehicle License Fees	Gas Tax
	Other Revenue
Recurring Expenses	
Neighborhood Parks and Detention Basin	General Government
	Finance
	Judicial
	Police Protection
	Detention & Correction
	Protective Inspection
	Other Public Protection
	Health & Sanitation
	Public Assistance
	Education
	Recreation
	Fire Protection
	Street Lighting & Maintenance
	Park & Landscape Maintenance

MAJOR ASSUMPTIONS

Many assumptions are factored into this analysis of fiscal impacts. Some of the more critical assumptions in terms of the effect on revenues and expenses are explained below:

1. The projected annual fiscal impacts are presented in 2010 dollars. Future dollar impacts could be adjusted by a factor that is tied to an appropriate inflation index such as the *Engineering News-Record* (ENR) index or one of the regional consumer price indices (CPI).
2. Legal actions taken at the state level in the early 1990s diverted a percentage of the 1.0% property tax into Educational Revenue Augmentation Funds (ERAF). For purposes of this fiscal analysis, it is assumed that this ERAF shift will continue in future years.
3. The property tax allocation process is credited to Assembly Bill (AB) 8 after the 1979 legislation codifying the "new" system. Enacted as a response to the sweeping reforms

69

caused by the passage of Proposition 13 one year earlier, AB 8's effect is still evident in the tax rate area (TRA) data presented in Table A-2. The following three TRAs, which serve as the basis for the property tax distribution to local taxing entities, encompass the Project: 67-029, 67-030, and 67-034.

On average, this fiscal analysis suggests that the County will receive 14.5% of property tax revenues generated by the Project. The 14.5% distribution includes the full allocations to the County General Fund and State Fire Contract. The full allocation of the State Fire Contract is included because, although the California Department of Forestry and Fire Protection (CDF) will likely provide fire protection services to the Project, the arrangement is assumed to involve a contract through the County.

4. Pursuant to discussions with County staff and the County's consultant, revenue and expense standards reflect average net revenues and net costs based on budgets for the past four years (i.e., fiscal year 2006-07 through fiscal year 2009-10) as shown in Tables D-1 through D-3, with the exceptions being those expenses highlighted in Item #5 below. The net County cost equals the amount funded with General Fund general purpose revenues (i.e., discretionary revenues); dedicated revenue contributions from federal, state, or other non-General Fund sources are not included.

Also of note, the cost multiplier for departments characterized as General Government departments is reduced by 25% to reflect the fact that a portion of the activities in these budget areas will not grow significantly, if at all, due to new development. For example, the County will fund only one Board of Supervisors, county administrator, county counsel, and other similar positions. While certain staff and related expenses will increase to respond to growth as a result of the Project, executive staff and other management levels within the General Government departments will neither increase in size nor expense.

5. As mentioned earlier, not all expense standards reflect County costs. County staff believes service levels related to fire protection, street lighting, street maintenance, park maintenance, and landscape maintenance will be different in the Project (i.e., at an urban level of service). Consequently, this fiscal analysis does not incorporate County costs for these five services.

Police protection/sheriff service is not included in the list of services above as such costs have increased over 6.5% per year over the past four years. Rather than apply an average from comparable cities, this report assumes that the County's four-year average is a reasonable predictor of the sheriff department's future operations and maintenance costs.

To calculate service costs reflective of an urban level of service, the following five cities were selected for their demographic and/or geographic similarities with the County: Hollister, Gilroy, Watsonville, Woodland, and Rocklin. Again, four-year averages were applied, to ensure consistency with the remainder of the report.

6. Of the different expense categories presented in the results, only the Neighborhood Parks and Detention Basin line item does not make use of an expense standard. With specific cost data provided by the San Benito County Parks and Recreation Master Plan (P&R Master Plan),

70

the marginal cost of operating and maintaining the 2.0 acres of neighborhood parks and the 5.0 acre detention basin was readily quantifiable. While the P&R Master Plan indicates a cost of \$6,000 per acre per year for neighborhood parks, it does not specifically call out a cost for detention basins. Nonetheless, it does offer an estimate of \$1,500 per acre per year to maintain natural areas, and such a use seems sufficiently like that of the detention basin.

7. Within an incorporated area, municipal-type services would be provided by a city, instead of County departments. As a result, two categories of General Fund expenditures have been defined. "Countywide Services" include departments that provide service on a Countywide basis, and "Unincorporated Area Services" include departments that provide service to only the unincorporated population. Similarly, only the unincorporated area population contributes to certain revenue categories, while the countywide population does so to others. The following table provides a breakdown of Countywide and Unincorporated Area revenues and expenses.

Countywide and Unincorporated Area Services

COUNTY OF SAN BENITO	
<i>Countywide</i>	<i>Unincorporated Area</i>
Revenues	
Fines, Forfeitures, and Penalties	Other Taxes
Gas Tax (portion of)	Gas Tax (portion of)
Other Revenue	Licenses and Permits
Expenses	
General Government	Police Protection
Finance	Other Unincorporated Area Public Protection
Judicial	
Detention & Correction	
Protective Inspection	
Other Countywide Public Protection	
Health & Sanitation	
Public Assistance	
Education	
Recreation	

8. The water delivery system constructed for the Project will be dedicated to the Sunnyslope County Water District, which will operate and maintain the system. The Project will become part of the Sunnyslope County Water District's utility rate base, and monthly water charges will be collected by the district to pay for water system operations and maintenance.
9. New development within the Project will be responsible for funding the costs to install necessary capital improvements and provide ongoing public services, including the operations and maintenance of capital improvements. Consequently, there will be no financial impact on existing residences and businesses in the County due to development of the Project.

71
The County will provide a range of municipal-level public services, including the following:

- All streets in the Project will be public streets maintained by the County.
 - All park sites in the Project will be dedicated to the County, and the County will operate and maintain the parks.
 - The storm drainage system constructed for the Project will be dedicated to the County, and the County will operate and maintain the system.
 - Fire protection services will be provided by CDF under a contract with the County.
 - The sewer systems for the Project will be dedicated to Sunnyslope County Water District (SSCWD), and SSCWD will operate and maintain the system. The Project will become part of SSCWD's utility rate base, and monthly sewer charges will be collected by SSCWD to pay for sewer system operations and maintenance.
 - The reclaimed water system for the Project will be dedicated to San Benito County Water District (SBCWD), and SBCWD will operate and maintain the system. The Project will become part of SBCWD's utility rate base, and charges will be collected by SBCWD to pay for system operations and maintenance.
10. A summary of the land use assumptions incorporated into this fiscal analysis is presented in Table B-1 and Table C-1 of the Appendix. Since sales price assumptions play a direct role in 60%-70% of the estimate for total revenues generated by the Project, this report considers two sales price scenarios — a high-end value scenario and a low-end value scenario. Furthermore, it is important to note that, while a portion of the Project will be Affordable RM units, a distinction between Residential Multiple and Affordable RM values is not made.

FISCAL IMPACT ANALYSIS

FISCAL REVENUES

After buildout, the Project is expected to generate annual fiscal revenues for the County of approximately \$2.5 million in the high-end assessed value scenario (Scenario 1) and \$1.9 million in the low-end assessed value scenario (Scenario 2). Secured property tax and property tax in-lieu of vehicle license fees (PTILVLF) are the largest sources of projected County revenues, accounting for 42.3% and 23.6% of total revenues in Scenario 1 and 37.4% and 20.8% in Scenario 2.

Fiscal Revenues Estimated by the Multiplier Method

Of the different revenue sources itemized in this fiscal analysis, five are calculated using the Multiplier Method. The multipliers calculated in Table A-4 are applied to either the number of residents or persons served within the Project – depending on the applicable service population – to arrive at the annual impacts presented in Table B-2 or Table C-2. Since assessed value assumptions do not affect the calculation of these multipliers in any way, the estimates for these five revenue sources are the same regardless of the scenario.

Each of the multipliers is net of revenues that are not expected to increase with population or employment growth. Grants, or similar “fixed” income streams, have been backed out of this analysis where appropriate.

Fiscal Revenues Estimated by the Case Study Method

Secured Property Tax

Property taxes, which are based on assessed valuation, are distributed to public agencies and special districts based on the allocation factors of the applicable TRA. Table A-2 outlines the allocation factors (before the ERAF shift) for the assortment of taxing entities that receive property taxes from the TRAs mentioned above. Then, the County’s ERAF shift percentage for fiscal year 2009-10 is applied to the two line items expected to flow to the County when the Project develops. Based on these calculations, the County’s General Fund is predicted to receive 14.5% of the property tax revenues generated by the Project. Total secured property tax revenue from the Project, distributed to the County’s General Fund, is shown in Tables B-2 and C-2.

Unsecured Property Tax

Unsecured property includes items such as computers, furniture, machinery, and equipment in non-residential areas and in some home-based businesses. It is also comprised of other types of personal property, including boats and airplanes. Unsecured property taxes are typically calculated as a percentage of secured property taxes based on the historical relationship between

the two. Non-residential property tends to generate significantly higher unsecured property taxes than residential property. As Table A-3 indicates, unsecured property tax revenues are assumed to be 1.0% of secured property tax revenues for residential property and 10.0% for non-residential property. Total unsecured property tax revenue is shown in Tables B-2 and C-2.

Real Property Transfer Tax

When a residential dwelling unit or non-residential structure is sold within a county, a tax representing a small percentage of the value is levied. As shown in Table A-3, the current County rate is \$1.10 per \$1,000 of value. Real property transfer tax revenue is shown in Tables B-2 and C-2.

Sales and Use Tax

Several methodologies can be used to estimate the taxable sales that a particular project area will generate. One method measures taxable sales based on the supply of retail square footage. Under this approach, an estimate of taxable sales per square foot is multiplied by the total retail square footage planned for the project. A second approach looks at the demand side of the equation. In this approach, household income, the percentage of household income spent on taxable goods and services, and a taxable sales capture rate are estimated to derive taxable sales.

The supply side approach, which simply counts taxable sales where point-of-sale transactions occur, is the more conservative of the two approaches and is the one used in this analysis. Industry standards for development projects of this type estimate taxable sales at \$270 per sq. ft. This assumption is presented in Table A-3.

In addition to the 1.0% local sales tax, the County also receives a portion of the County's and state's pooled tax revenues. When a sale cannot be identified with a permanent place of business in this state, the sales tax is allocated to the local jurisdictions through countywide or statewide pools. Accordingly, certain sellers are authorized to report their local sales tax either on a countywide or statewide basis. Examples of such sellers may include auctioneers, construction contractors making sales of fixtures, catering trucks, itinerant vendors, vending machine operators, and other permit holders who operate in more than one local jurisdiction but are unable to readily allocate taxable transactions to particular jurisdictions.

Use tax is allocated through a countywide pool. Examples of taxpayers who report use tax allocated through the countywide pool include both out-of-state and in-state sellers who ship goods directly to consumers in California from a stock of goods located outside the state. The countywide pools are prorated, first among the cities and the unincorporated area of each county using the proportion that the identified tax for each city and unincorporated area of a county bears to the total identified for the county as a whole. The combined total of the direct sales tax allocation and the prorated countywide pool amount is then used to allocate the statewide pool to each city and county.

Based on data from the State Board of Equalization, the County's share of revenues from these pooled funds is approximately 14.0% of its local sales tax revenue. This factor is presented in

74

Table A-3. It is assumed that this percentage will continue to be received in the future; therefore, these revenues are incorporated into this analysis as shown in Tables B-2 and C-2.

Public Safety Sales Tax

Proposition 172 created a one-half cent sales tax for local public safety. In fact, it was designed as a means of softening the impact of the ERAF shift on local agencies. Each county allocates Proposition 172 revenues to each city and unincorporated area of the county based on their proportionate share of net property tax loss due to ERAF.

Since counties bear the brunt of the net property tax loss due to ERAF, counties receive most of the public safety sales taxes. This analysis assumes that the County will be allocated approximately 95% of the Proposition 172 revenue that flows to the County as a whole. The annual public safety sales tax revenue at buildout of the Project is shown in Tables B-2 and C-2.

Vehicle License Fees and Property Tax In-Lieu of Vehicle License Fees

Previously, vehicle license fee ("VLF") revenue was determined on a per-capita basis. The November 2004 election and passage of Proposition 1A resulted in a constitutional amendment that introduced the property tax for VLF swap—what's known as Property Tax In-Lieu of VLF. Under the new law, the VLF, including backfill from the state general fund used to supplement taxpayer VLF revenues, is eliminated and replaced with a like amount of property taxes dollar-for-dollar. In subsequent years after the 2004-05 base year, the property tax in-lieu of VLF amount grows in proportion to the growth rate of gross assessed valuation in the city or county, rather than in proportion to population.

Table A-3 shows the County's net assessed value for the 2009-10 tax roll. The property tax in-lieu of VLF allocated to the County at Project buildout can be calculated by increasing the County's 2009-10 allocated VLF amount in proportion to the increase in the assessed value from the Project. Property tax in-lieu of VLF estimates are presented in Tables B-2 and C-2.

FISCAL EXPENSES

Development within the Project will increase operation and maintenance costs for the County as it works to meet the demands of the increased population. Tables B-2 and C-2 delineate the impact the Project would have on the County's General Fund expenses after buildout. Because the two scenarios evaluated in this report differ only in their assessed value assumptions, the fiscal expenses, individually and collectively, are equivalent. Fiscal expenses are, therefore, estimated to be \$2.2 million annually in both scenarios. The largest expense categories are Police Protection and Fire Protection, accounting for approximately 25.1% and 15.8%, respectively, of the total General Fund expenditures related to the Project.

Fiscal Expenses Estimated by the Multiplier Method

Excluding Neighborhood Parks and Detention Basin costs, all expenses are calculated using the Multiplier Method. The multipliers presented in Tables A-5.1, A-5.2, and A-6 are applied to either the number of residents or persons served within the Project – depending on the applicable service population – to arrive at the annual impacts presented in Tables B-2 and C-2.

As discussed more fully in the Major Assumptions section, some costs relied, not on the County's budgets, but on the budgets of comparable cities. The table that follows shows which expense standards are based on the County's four-year averages and which are based on the comparable cities four-year averages.

Use of County Budgets versus Comparable Cities Budgets

COUNTY OF SAN BENITO	
<i>County Budgets</i>	<i>Comparable Cities Budgets</i>
General Government	Fire Protection
Finance	Street Lighting
Judicial	Street Maintenance
Police Protection	Park Maintenance
Detention & Correction	Landscape Maintenance
Protective Inspection	
Other Countywide Public Protection	
Other Unincorporated Area Public Protection	
Health & Sanitation	
Public Assistance	
Education	
Recreation	

Fiscal Expenses Estimated by the Case Study Method

With the recent release of the P&R Master Plan, marginal cost is a more fitting approach to estimating the Neighborhood Parks and Detention Basin costs associated with the Project. The 2.0 acres of neighborhood parks and 5.0 acre detention basin are assumed to cost \$6,000 per acre and \$1,500 per acre, respectively, to operate and maintain on an annual basis. The resulting \$19,500 figure can be seen in Tables B-2 and C-2.

CONCLUSIONS

After buildout, the completed Project is expected to generate, depending on the scenario, approximately \$1.9 million to \$2.5 million in annual revenues. Coupled with the \$2.2 million in annual expenses, the expectation is that the Project's fiscal impact on the County's General Fund will be somewhere between a \$300,000 surplus and a \$220,000 deficit each year. On a per unit basis, the net fiscal impact is anticipated to range from a positive \$273 to a negative \$200, making the Project slightly better than revenue neutral on average.

It is possible that the Project after buildout may not generate sufficient revenues for the County to provide the appropriate level of services to new development in the Project, without some sort of fiscal mitigation measure. To address the possibility of a negative fiscal impact, implementation of a Community Facilities District (CFD) is recommended for study. Its ability to finance a wide range of public services and the flexibility inherent in its special tax rules, make a Mello-Roos special tax one of the most effective as well as administratively practical funding alternatives available today.

While a CFD is the recommended funding alternative, should circumstances warrant the need for a fiscal mitigation measure, other alternatives are presented in the following chapter to assist decision-makers during the implementation process. These other alternatives can be used individually, or in some combination, as agreed to by the County and the developer.

POTENTIAL FUNDING SOURCES TO MITIGATE FISCAL DEFICITS

There are five principal mechanisms to fund the ongoing maintenance and service costs of new development that exceed the General Fund revenues collected from new development to pay for those costs. These include Landscaping and Lighting Districts, Mello-Roos Community Facilities Districts, Maintenance Annuity Funds, Fiscal Shortfall Fees, and Master Developer Advances. A detailed description of each potential mechanism is provided below.

Landscaping and Lighting Districts

The Landscaping and Lighting Act of 1972 authorizes cities and counties to impose assessments on benefited properties to finance construction of street landscaping, street lighting, traffic signals, parks, street trees, sidewalk repair, and recreational improvements, as well as the maintenance and servicing of any of these improvements. Landscaping and Lighting Districts (LLDs) cannot be used to maintain streets or storm water facilities and cannot provide for general County services or public safety services, primarily because the special benefit tests of Proposition 218 cannot be met.

The formation of an LLD is initiated through either a petition submitted by 60% of the landowners in a proposed LLD or through adoption of a resolution of determination and preliminary approval of a report by the legislative body of a public agency (Council). The Council then adopts a resolution of intention, which designates the boundaries of the LLD, describes the proposed improvements and/or services, declares the agency's intention to levy assessments, and orders preparation of an Engineer's Report.

An assessment engineer prepares the Engineer's Report, which describes the improvements and/or services proposed to be funded by the LLD, provides a cost estimate for the facilities and/or services, includes an assessment diagram that shows the lines and dimensions of each parcel in the LLD, defines the benefit received by each parcel in the LLD, and determines the corresponding maximum lien and annual assessment that is assigned to each parcel. Because of the required special benefit finding, the boundaries of an LLD are almost always contiguous. Property cannot be left out of the boundaries and assessments cannot be adjusted based on a property's ability to pay, willingness to participate, or market feasibility.

Pursuant to Proposition 218, which was passed by the California voters in November 1996, each landowner is sent a notice of public hearing and a ballot that identifies the assessment assigned to their parcel. The owner is directed to return the ballot indicating its support or opposition to the assessment. At the public hearing, the public agency must determine whether a majority protest exists. In doing so, each ballot is weighted based on the amount of assessment assigned to the parcel. If ballots opposing the assessment outweigh the ballots submitted in favor of the assessment, the agency must abandon the assessment proceedings.

If there is not a majority protest, an LLD is created and annual assessments are authorized to be levied against all parcels within the LLD that have an assigned assessment lien. After an LLD is formed, the public agency is responsible for the annual levy of assessments, compliance with

78

state and federal continuing disclosure requirements (if bonds are issued), monitoring delinquencies in the LLD, and pursuing foreclosure on delinquent parcels. There is no commitment from the public agency to pay assessments in the event of a delinquency or default, and there is no risk to the agency's general fund if assessments are not paid.

Mello-Roos Community Facilities Districts

The Mello-Roos Community Facilities Act (Act) [Section 53311 et seq., of the Government Code] was enacted by the California State Legislature in 1982 to provide an alternate means of financing public infrastructure and services subsequent to the passage of Proposition 13 in 1978. The Act complies with Proposition 13, which permits cities, counties, and special districts to create defined areas within their jurisdiction and, by a two-thirds vote within the defined area, impose special taxes to pay for the public improvements and services needed to serve that area. The Act defines the area subject to a special tax as a Community Facilities District.

Services are funded through the levy of an annual special tax, which can be included as part of a CFD that also levies a separate special tax to secure bonds to fund public facilities. Because the special tax is not subject to a benefit or nexus requirement, Mello-Roos can fund a variety of public services, including but not limited to police and fire protection, street maintenance, recreation and library services, park and open space maintenance, maintenance of flood and storm drainage facilities, and seismic retrofitting.

A CFD can be formed by almost any public agency, including many special districts. Formation of a CFD can be initiated by either a motion of the Council/Board, a written request signed by two members of the Council/Board, or a petition signed by 10% of either the registered voters or landowners within the CFD. Within 90 days of initiating proceedings to form a CFD, the Council/Board adopts a resolution of intention to form the CFD. The resolution of intention sets forth the proposed boundaries of the CFD, the formula for allocating the special tax among properties in the CFD, services authorized to be funded by the CFD, and a date for a public hearing to consider formation of the CFD. At the public hearing, written protests may be submitted by voters or landowners within the CFD and, if a majority written protest exists (which is extremely rare), the CFD proceedings must be abandoned.

After the public hearing is closed, an election is conducted to authorize the levy of special taxes within the CFD. If there are less than 12 registered voters within the CFD, a landowner vote is conducted, with each landowner allowed one vote per acre or portion of acre owned within the CFD. If there are 12 or more registered voters within the CFD, a vote of the registered voters is required, with each voter allowed one vote in the election. When the vote is counted, at least two-thirds of the votes submitted must be in favor of forming the CFD and levying the special tax.

After a CFD is formed, the public agency is responsible for the annual levy of special taxes, state and federal continuing disclosure requirements (if bonds are issued), monitoring delinquencies in the CFD, and pursuing foreclosure on delinquent parcels. There is no commitment from the public agency to pay special taxes in the event of delinquency or default, and there is no risk to the agency's general fund if special taxes are not paid.

Unlike the LLD act, the Mello-Roos Act is extremely flexible as to the boundaries of the CFD; parcels included in the CFD do not need to be contiguous, and parcels can be left out of the CFD to reduce the number of registered voters or to avoid taxing particular land uses. In addition, property can be annexed into the CFD after formation, and such annexed property will be subject to either the same, or a different set of, special taxes levied on property that had been included in the CFD when it was formed. Probably the most important aspect of a CFD relative to an LLD is that no finding is required that property in the CFD receives a special benefit from services being funded by the CFD.

Maintenance Annuity Funds

The Maintenance Annuity Fund (MAF) mechanism uses the results from a fiscal impact analysis to determine an amount to be deposited into an annuity fund. Negative fiscal impacts are mitigated by requiring the developer to pay a one-time fee, which would be collected prior to and as a condition of building permit issuance. This amount is calculated by translating the annual net fiscal deficit into a one-time MAF fee based on current or historical assumptions regarding interest rates and the length of time that fiscal impacts will need to be mitigated.

There is no general law covering the concept of Maintenance Annuity Funds and no specific statutory provisions for adopting MAF requirements. The most common way to implement an MAF fee is to have it incorporated into a development agreement executed under Government Code Section 65864, et seq. Use of a development agreement will ensure that the MAF fee is not interpreted as a general or special tax, and that it will be excluded from the definition of development fees under Section 66000, et seq. (AB 1600), of the Government Code.

Fiscal Shortfall Fee

Similar to the MAF technique, the fiscal shortfall fee mechanism also uses the results from a fiscal impact analysis. However, the results of the fiscal impact analysis, for interim years prior to project buildout rather than after project buildout, are used to determine a one-time fee that will be levied on each residential unit at building permit issuance to directly fund public services in the year collected or to reimburse the Project's developers who have advanced funds for public services.

Also similar to an MAF, there is no general law covering the concept of fiscal shortfall fees and no specific statutory provisions for adopting fiscal shortfall fee requirements. The most common way to implement a fiscal shortfall fee is to have it incorporated into a development agreement executed under Government Code Section 65864, et seq. Use of a development agreement will ensure that the fee is not interpreted as a general or special tax, and that it will be excluded from the definition of development fees under Section 66000, et seq. (AB 1600), of the Government Code.

Master Developer Advances

Combining special tax and fiscal shortfall fee revenue may still leave a fiscal gap during the initial years of development. Direct funding contributions to the County from the Project's

master developer during those initial years that the Project is underway may be required. Master developer advances would be included as a provision in the development agreement for the Project.

APPENDIX

FISCAL IMPACT ANALYSIS TABLES

Table A-1
Santana Ranch Specific Plan
Fiscal Impact Analysis
General Assumptions

Year of Study	2010
Constant Dollar Analysis (2010\$)	
County of San Benito Statistics	
	Unincorporated Area
2010 Estimated Residential Population	18,856
2010 Estimated Employee Population	5,991
2010 Persons Served (Residents + 50% of Employees)	21,852
	County Total
	57,881
	18,771
	67,267

Source: California Department of Finance; Claritas, Inc.; Goodwin Consulting Group, Inc.

08/10/2010

Table A-2
Santana Ranch Specific Plan
Fiscal Impact Analysis
Property Tax Allocation Assumptions

Property Tax Fund	Property Tax Allocation Pre ERAF			Post ERAF Allocation /1
	TRA 67-029	TRA 67-030	TRA 67-034	
General Fund	0.223133	0.223133	0.223133	0.119630
State Fire Contract	0.025634	0.025634	0.025634	0.025634
SB Co. WC & FC Zone Admin	0.001829	0.001829	0.001829	
SB Co WC & FC Zone #5	0.018214	0.018214	0.018214	
SB Co WC & FC D.W. Admin	0.003426	0.003426	0.003426	
San Benito Hospital District	0.023361	0.023361	0.023361	
Education Tax Area #1	0.022854	0.022854	0.022854	
Education Tax Area #2	0.001283	0.001283	0.001283	
Education Tax Area #3	0.005141	0.005141	0.005141	
Hollister Elementary	0.316846	0.316846	0.316846	
San Benito High School	0.261315	0.261315	0.261315	
Gavilan Jr. College	0.090391	0.090391	0.090391	
SB Co Equalization Aid	0.006336	0.006336	0.006336	
Santa Cruz Co. Equalization Aid	0.000237	0.000237	0.000237	
Total	1.000000	1.000000	1.000000	
Property Tax Redistributed to the County of San Benito				0.145264

/1 The reallocation of property taxes away from counties, cities, and other agencies to the Education Revenue Augmentation Fund (ERAF) is based on certain formulas; the allocation in this column reflects the net allocation to the General Fund after the ERAF allocation has been removed.

Source: San Benito County Auditor's Office; Goodwin Consulting Group, Inc.

08/10/2010

83

Table A-3
Santana Ranch Specific Plan
Fiscal Impact Analysis
Revenue Assumptions (Case Study Method)

<u>Secured Property Tax</u>	
County of San Benito Share (post-ERAF)	14.53%
<u>Unsecured Property Tax</u>	
Unsecured Property Tax as a Percentage of Non-Residential Secured Property Tax	10.00%
Unsecured Property Tax as a Percentage of Residential Secured Property Tax	1.00%
<u>Real Property Transfer Tax</u>	
Rate = \$1.10 per \$1,000	0.0011
Percentage Allocated to County	100.00%
<u>Sales and Use Tax</u>	
Basic Sales Tax Rate	1.00%
Countywide and State Pooled Tax Revenue as a Percentage of Basic Sales Tax Revenue	13.78%
Safety (Prop. 172) Sales Tax Revenue as a Percentage of Basic Sales Tax Revenue	50.00%
County's Allocation of Safety (Prop. 172) Sales Tax Revenue	94.75%
<u>Taxable Sales per Improved Square Foot (4-year Average)</u>	
Commercial	\$270
<u>Vehicle License Fees (VLF) and Property Tax In-Lieu of VLF</u>	
<u>Property Tax In-Lieu of VLF</u>	
County of San Benito Net Assessed Value 2009-10 Tax Roll	\$6,080,987,755
County of San Benito Property Tax In-Lieu of VLF for 2009-10	\$4,923,089
Gross Assessed Value of Santana Ranch Specific Plan	\$716,700,000

Source: State Board of Equalization; Urban Land Institute Dollars and Cents of Shopping Centers; San Benito County Assessor's Office; San Benito County Recorder's Office; State Controller's Office; State Association of Counties; Goodwin Consulting Group, Inc.

08/10/2010

Table A-4
Santana Ranch Specific Plan
Fiscal Impact Analysis
Other Net General Fund Revenue Assumptions (Multiplier Method)

Revenues	Average Revenue /1	Average Revenue per Unincorporated Area			Average Revenue per County		
		Resident	Employee	Person Served	Resident	Employee	Person Served
Other Taxes							
Transient Occupancy Taxes	\$87,101	--	--	\$3.99	--	--	--
Licenses and Permits							
Franchise Fees - Utilities & Cable TV	\$271,714	--	--	\$12.43	--	--	--
Franchise Fees - Refuse Service	\$125,608	--	--	\$5.75	--	--	--
Total Licenses and Permits	\$397,322	--	--	\$18.18	--	--	--
Fines, Forfeitures, and Penalties							
Traffic School	\$157,219	--	--	--	--	--	\$2.34
Court Fines	\$56,243	--	--	--	--	--	\$0.84
PC 1461	\$142,023	--	--	--	--	--	\$2.11
Base Fine County Portion	\$262,149	--	--	--	--	--	\$3.90
Penalties on Delinquent Taxes	\$293,539	--	--	--	--	--	\$4.36
Misc. Fines and Forfeitures	\$98,373	--	--	--	--	--	\$1.46
Total Fines, Forfeitures, and Penalties	\$1,008,546	--	--	--	--	--	\$15.01
Gas Tax							
Highway Users Tax 2104	\$585,936	--	--	--	\$10.12	--	--
Highway Users Tax 2105	\$459,418	--	--	--	\$7.94	--	--
Highway Users Tax Administration	\$20,420	--	--	--	\$0.35	--	--
Highway Users Tax 2106	\$127,901	\$6.78	--	--	--	--	--
Total Gas Tax	\$1,193,674	\$6.78	--	--	\$18.41	--	--
Other Revenue							
Other General	\$27,940	--	--	--	--	--	\$0.42
Charges for Services - Misc.	\$26,265	--	--	--	--	--	\$0.39
Charges for Services - Cost Plan	\$1,832,556	--	--	--	--	--	\$27.24
Total Other Revenue	\$1,886,760	--	--	--	--	--	\$28.05

/1 Based on an average of the historical revenue figures from the County's budgets for FY 2006-07, 2007-08, 2008-09, and 2009-10, as detailed in Table D-1.

Source: San Benito County Budgets for FY 2006-07, 2007-08, 2008-09, and 2009-10; Goodwin Consulting Group, Inc.

08/10/2010

85

Table A-5.1

Santana Ranch Specific Plan
Fiscal Impact Analysis
Net County Expenditure Assumptions by Function (Multiplier Method)

Function	Average Expenditures ^{1/}	Average Expense per Unincorporated Area				Average Expense per County	
		Resident	Employee	Person Served	Resident	Employee	Person Served
General Government							
Board of Supervisors	\$371,675	--	--	--	--	--	\$5.53
Clerk of the Board	\$177,903	--	--	--	--	--	\$2.64
County Administrative Officer	\$461,496	--	--	--	--	--	\$6.86
County Counsel	\$786,147	--	--	--	--	--	\$10.94
Personnel	\$514,919	--	--	--	--	--	\$7.65
Elections	\$580,065	--	--	--	--	--	\$8.62
Building & Grounds Maintenance	\$696,001	--	--	--	--	--	\$10.38
Pajaro River Watershed	\$4,000	--	--	--	--	--	\$0.06
Risk Management/Insurance	\$1,225,085	--	--	--	--	--	\$18.21
Information Technology	\$512,907	--	--	--	--	--	\$7.62
GIS	\$22,074	--	--	--	--	--	\$0.33
Gross General Government	\$5,304,272	--	--	--	--	--	\$78.85
Gross General Government Services Impacted by New Growth ^{1/2}	\$5,304,272						
Net General Government	\$3,978,204	--	--	--	--	--	\$59.14
Finance							
Auditor	\$916,750	--	--	--	--	--	\$13.93
Treasurer	\$7,207	--	--	--	--	--	\$0.11
Assessor	\$852,883	--	--	--	--	--	\$12.88
Tax Collector	\$187,538	--	--	--	--	--	\$2.79
Other Misc. General Contributions	\$43,010	--	--	--	--	--	\$0.64
GASB 43/45	\$670,349	--	--	--	--	--	\$9.97
Total Finance	\$2,677,737	--	--	--	--	--	\$39.61
Judicial							
Grand Jury	\$18,278	--	--	--	--	--	\$0.27
District Attorney	\$1,197,999	--	--	--	--	--	\$17.81
Public Defender	\$818,896	--	--	--	--	--	\$12.17
Marshal	\$96,194	--	--	--	--	--	\$1.43
General Fund Contribution to Victim Witness	\$26,100	--	--	--	--	--	\$0.39
General Fund Contribution to Trial Courts	\$275,511	--	--	--	--	--	\$4.10
Total Judicial	\$2,432,976	--	--	--	--	--	\$36.17
Police Protection							
Sheriff - Operations	\$3,711,635	--	--	\$169.85	--	--	--
Detention & Correction							
Jail	\$2,675,949	--	--	--	--	--	\$54.85
Probation	\$397,295	--	--	--	--	--	\$13.34
Juvenile Hall	\$1,446,269	--	--	--	--	--	\$21.50
General Fund Contribution to Gang Program	\$10,000	--	--	--	--	--	\$0.15
Total Detention & Correction	\$6,029,513	--	--	--	--	--	\$89.64

^{1/} Based on an average of the historical expenditure figures from the County's budgets for FY 2006-07, 2007-08, 2008-09, and 2009-10, as detailed in Table D-2.
^{1/2} It is estimated that 25% of the activities under the General Government expense category will not grow significantly, if at all, due to new development.

Source: San Benito County Budgets for FY 2006-07, 2007-08, 2008-09, and 2009-10; Goodwin Consulting Group, Inc.

08/10/2010

86

Table A-5.2
Santana Ranch Specific Plan
Fiscal Impact Analysis
Net County Expenditure Assumptions by Function (Multiplier Method) Cont.

Function	Net Expenditures ^{1/}	Average Expense per Unincorporated Area			Average Expense per County		
		Resident	Employee	Person Served	Resident	Employee	Person Served
Protective Inspection							
Agricultural Commissioner	\$176,960	--	--	--	--	--	\$2.63
Other Countywide Public Protection							
Communications	\$538,003	--	--	--	--	--	\$6.01
Air Pollution Control Board	\$4,335	--	--	--	--	--	\$0.06
County Clerk	\$93,964	--	--	--	--	--	\$1.40
Recorder	\$118,300	--	--	--	--	--	\$1.76
Coroner	\$49,630	--	--	--	--	--	\$0.74
Public Administrator	\$7,010	--	--	--	--	--	\$0.10
Office of Emergency Services	\$53,706	--	--	--	--	--	\$0.80
General Fund Contribution to LAFCO	\$32,411	--	--	--	--	--	\$0.48
General Plan Update	\$40,000	--	--	--	--	--	\$0.59
Total Other Countywide Public Protection	\$938,369	--	--	--	--	--	\$13.95
Other Unincorporated Area Public Protection							
Public Works Administration & Engineering	\$362,426	--	--	\$16.59	--	--	--
Planning Department	\$915,030	--	--	\$41.87	--	--	--
Abandoned Vehicle Abatement	\$10,960	--	--	\$0.50	--	--	--
Housing & Economic Development	\$53,862	--	--	\$2.46	--	--	--
Animal Control Contract	\$257,428	--	--	\$11.78	--	--	--
Total Other Unincorporated Area Public Protection	\$1,589,653	--	--	\$73.21	--	--	--
Health & Sanitation							
CMSF Participation Fee	\$4,628	--	--	--	\$0.08	--	--
General Fund Contribution to Mental Health Fund	\$45,772	--	--	--	\$0.79	--	--
Total Health & Sanitation	\$50,400	--	--	--	\$0.87	--	--
Public Assistance							
Aid to Indigents	\$6,358	--	--	--	\$0.11	--	--
Community Programs	\$103,817	--	--	--	\$1.79	--	--
Veterans Services	\$48,181	--	--	--	\$0.83	--	--
Gen Fund Contribution to HSA	\$288,180	--	--	--	\$4.48	--	--
Gen Fund Contribution to IHSS	\$367,186	--	--	--	\$6.34	--	--
Total Public Assistance	\$784,701	--	--	--	\$13.56	--	--
Education							
County Library	\$600,453	--	--	--	\$10.37	--	--
Agricultural Extension/Farm Advisor	\$77,795	--	--	--	\$1.34	--	--
Total Education	\$678,278	--	--	--	\$11.72	--	--
Recreation							
Veterans Memorial Park	\$75,178	--	--	--	\$1.30	--	--
Historical & San Justo Reservoir Parks	\$113,543	--	--	--	\$1.96	--	--
Total Recreation	\$188,721	--	--	--	\$3.26	--	--

^{1/} Based on an average of the historical expenditure figures from the County's budgets for FY 2006-07, 2007-08, 2008-09, and 2009-10, as detailed in Table D-3.

Source: San Benito County Budgets for FY 2006-07, 2007-08, 2008-09, and 2009-10; Goodwin Consulting Group, Inc.

08/10/2010

87

Table A-6
Santana Ranch Specific Plan
Fiscal Impact Analysis
Expenditure Assumptions Based on Average Municipal Costs /1

Comparison Cities /2	Persons Served			Fire Protection	Street Lighting & Maintenance /3	Park & Landscape Maintenance
	Residents	Employees	Persons Served			
Hollister	37,130	12,275	49,810	\$89.33	\$10.97	\$17.01
Gilroy	51,597	25,360	61,736	\$114.75	\$31.97	\$38.98
Watsonville	51,990	20,277	64,480	\$86.84	not avail.	not avail.
Woodland	55,910	24,979	65,135	\$135.00	not avail.	\$30.99
Rocklin	55,324	18,449	55,324	\$109.58	\$22.92	\$36.85
Average Gross Historical Cost /4				\$107.10	\$21.95	\$30.96

- /1 Assumes sewer and storm drainage maintenance costs are supported by enterprise funds.
 /2 Comparison cities were selected based on demographic and geographic similarities with San Benito County. In addition, the identified services are provided at an urban level of service in each of the comparison cities.
 /3 Includes street maintenance costs.
 /4 Average costs are based on historical costs for FY 2006-07 through FY 2009-10 (4-year average) for all cities except Woodland. Woodland average costs are based on historical costs for FY 2007-08 through FY 2009-10 (3-year average).

Source: FY 2009-10 Budgets for the Cities of Hollister, Gilroy, Watsonville, Woodland, and Rocklin;
 California Department of Finance; ABAG; SACOG; Claritas, Inc.; Goodwin Consulting Group, Inc.

08/10/2010

Table A-7
Santana Ranch Specific Plan
Fiscal Impact Analysis
Neighborhood Parks and Detention Basin Costs

Neighborhood Park	
Acres	2.0
Cost per Acre per Year	\$6,000
Total Cost	\$12,000
Detention Basin	
Acres	5.0
Cost per Acre per Year	\$1,500
Total Cost	\$7,500

Source: Santana Ranch Specific Plan; San Benito County Parks and Recreation Master Plan; Goodwin Consulting Group, Inc.

Table B-1
Santana Ranch Specific Plan
Fiscal Impact Analysis
Land Use, Demographic, and Related Assumptions
Scenario 1: High-End Assessed Value Scenario

Residential Land Uses	Estimated Sq. Ft.	Adjusted Gross Acres	Density (Units/Acre)	Dwelling Units	Population per Household	Population	Assessed Value per Unit	Annual Turnover Rate
Single Family Residential (R1)	2,400	197.5	3.9	774	3.00	2,322	\$700,000	10%
Residential Multiple (RM) /1	1,500	48.4	6.9	318	2.31	735	\$450,000	10%
Total		243.9		1,092		3,057		

Non-Residential Land Uses	Adjusted Gross Acres	Floor-to-Area Ratio (FAR)	Estimated Sq. Ft.	Sq. Ft. per Employee	Jobs	Assessed Value per Sq. Ft.	Annual Turnover Rate
Commercial	12.0	0.20	106,000	400	265	\$300	5%
Total	12.0		106,000		265		
Total Persons Served (Residents + 50% of Employees)					3,189		

/1 Assessed value assumptions do not reflect pricing of affordable units

Table B-2
Santana Ranch Specific Plan
Fiscal Impact Analysis
Summary of Net Fiscal Impacts
Scenario 1: High-End Assessed Value Scenario

<u>Revenues/Expenses</u>	<u>Annual Impacts after Buildout</u>	<u>Percent of Total</u>
GENERAL FUND		
<u>Revenues</u>		
Property Tax: Secured	\$1,041,104	42.3%
Property Tax: Unsecured	\$14,568	0.6%
Real Property Transfer Tax	\$77,088	3.1%
Sales and Use Tax	\$325,638	13.2%
Public Safety Sales Tax	\$135,593	5.5%
Property Tax In-Lieu of Vehicle License Fees	\$579,468	23.6%
Other Taxes	\$12,712	0.5%
Licenses and Permits	\$57,985	2.4%
Fines, Forfeitures, and Penalties	\$47,862	1.9%
Gas Tax	\$77,014	3.1%
Other Revenue	\$89,450	3.6%
Subtotal	\$2,458,482	100.0%
<u>Expenses</u>		
General Government	(\$188,604)	8.7%
Finance	(\$126,950)	5.9%
Judicial	(\$115,346)	5.3%
Police Protection	(\$541,676)	25.1%
Detention & Correction	(\$285,855)	13.2%
Protective Inspection	(\$8,390)	0.4%
Other Countywide Public Protection	(\$44,487)	2.1%
Other Unincorporated Area Public Protection	(\$233,459)	10.8%
Health & Sanitation	(\$2,661)	0.1%
Public Assistance	(\$41,438)	1.9%
Education	(\$35,818)	1.7%
Recreation	(\$9,966)	0.5%
Fire Protection	(\$341,553)	15.8%
Street Lighting & Maintenance	(\$70,015)	3.2%
Park & Landscape Maintenance	(\$94,623)	4.4%
Neighborhood Parks and Detention Basin	(\$19,500)	0.9%
Subtotal	(\$2,160,340)	100.0%
Net Fiscal Impact	\$298,142	
Net Fiscal Impact per Dwelling Unit	\$273	

Table C-1
Santana Ranch Specific Plan
Fiscal Impact Analysis
Land Use, Demographic, and Related Assumptions
Scenario 2: Low-End Assessed Value Scenario

Residential Land Uses	Estimated Sq. Ft.	Adjusted Gross Acres	Density (Units/Acre)	Dwelling Units	Population per Household	Population	Assessed Value per Unit	Annual Turnover Rate
Single Family Residential (R1)	2,400	197.5	3.9	774	3.00	2,322	\$490,000	10%
Residential Multiple (RM) /1	1,500	46.4	6.9	318	2.31	735	\$315,000	10%
Total		243.9		1,092		3,057		

Non-Residential Land Uses	Adjusted Gross Acres	Floor-to-Area Ratio (FAR)	Estimated Sq. Ft.	Sq. Ft. per Employee	Jobs	Assessed Value per Sq. Ft.	Annual Turnover Rate
Commercial	12.0	0.20	106,000	400	265	\$200	5%
Total	12.0		106,000		265		
Total Persons Served (Residents + 50% of Employees)					3,189		

/1 Assessed value assumptions do not reflect pricing of affordable units

Source: Santana Ranch Specific Plan; Stonecreek Properties; Terranomics Retail Shopping Centers Report; CoStar, Multiple Listing Service, American Community Survey, San Benito County Subdivision Ordinance, Goodwin Consulting Group, Inc.

08/10/2010

Table C-2
Santana Ranch Specific Plan
Fiscal Impact Analysis
Summary of Net Fiscal Impacts
Scenario 2: Low-End Assessed Value Scenario

93

<u>Revenues/Expenses</u>	<u>Annual Impacts after Buildout</u>	<u>Percent of Total</u>
GENERAL FUND		
<u>Revenues</u>		
Property Tax: Secured	\$727,233	37.4%
Property Tax: Unsecured	\$10,044	0.5%
Real Property Transfer Tax	\$53,903	2.8%
Sales and Use Tax	\$325,638	16.8%
Public Safety Sales Tax	\$135,593	7.0%
Property Tax In-Lieu of Vehicle License Fees	\$404,770	20.8%
Other Taxes	\$12,712	0.7%
Licenses and Permits	\$57,985	3.0%
Fines, Forfeitures, and Penalties	\$47,862	2.5%
Gas Tax	\$77,014	4.0%
Other Revenue	\$89,450	4.6%
Subtotal	\$1,942,204	100.0%
<u>Expenses</u>		
General Government	(\$188,604)	8.7%
Finance	(\$126,950)	5.9%
Judicial	(\$115,346)	5.3%
Police Protection	(\$541,676)	25.1%
Detention & Correction	(\$285,855)	13.2%
Protective Inspection	(\$8,390)	0.4%
Other Countywide Public Protection	(\$44,487)	2.1%
Other Unincorporated Area Public Protection	(\$233,459)	10.8%
Health & Sanitation	(\$2,661)	0.1%
Public Assistance	(\$41,438)	1.9%
Education	(\$35,818)	1.7%
Recreation	(\$9,966)	0.5%
Fire Protection	(\$341,553)	15.8%
Street Lighting & Maintenance	(\$70,015)	3.2%
Park & Landscape Maintenance	(\$94,623)	4.4%
Neighborhood Parks and Detention Basin	(\$19,500)	0.9%
Subtotal	(\$2,160,340)	100.0%
Net Fiscal Impact	(\$218,136)	
Net Fiscal Impact per Dwelling Unit	(\$200)	

Table D-1
Santana Ranch Specific Plan
Fiscal Impact Analysis
Historical Net General Fund Revenue Assumptions

94

	Fiscal Year Revenue Assumptions				
	Actual 2006-2007	Actual 2007-2008	Actual 2008-2009	Approved 2009-2010	Average
Other Taxes					
Transient Occupancy Taxes	\$79,573	\$85,697	\$93,135	\$90,000	\$87,101
Licenses & Permits					
Franchise Fees - Utilities & Cable TV	\$272,233	\$267,519	\$275,105	\$272,000	\$271,714
Franchise Fees - Refuse Service	\$131,298	\$128,171	\$114,963	\$128,000	\$125,808
Fines, Forfeitures, & Penalties					
Traffic School	\$138,756	\$101,468	\$178,653	\$210,000	\$157,219
Court Fines	\$68,603	\$46,631	\$57,738	\$52,000	\$56,243
PC 1461	\$155,024	\$165,529	\$110,540	\$137,000	\$142,023
Base Fine County Portion	\$269,404	\$257,086	\$245,104	\$277,000	\$262,149
Penalties on Delinquent Taxes	\$262,500	\$272,130	\$39,525	\$600,000	\$293,539
Misc. Fines and Forfeitures	\$1,379	\$20,401	\$224,411	\$147,300	\$98,373
Gas Tax					
Highway Users Tax 2104	\$618,040	\$606,385	\$559,317	\$560,000	\$585,936
Highway Users Tax 2105	\$481,907	\$476,264	\$439,499	\$440,000	\$459,418
Highway Users Tax Administration	\$20,004	\$20,004	\$21,671	\$20,000	\$20,420
Highway Users Tax 2106	\$136,883	\$131,569	\$123,151	\$120,000	\$127,901
Other Revenue					
Other General	\$23,934	\$61,079	\$26,746	\$0	\$27,940
Charges for Services - Misc.	\$54,700	\$1,901	\$28,458	\$20,000	\$26,265
Charges for Services - Cost Plan	\$2,033,206	\$1,821,194	\$1,646,822	\$1,829,000	\$1,832,556

Source: San Benito County Budgets for FY 2006-07, 2007-08, 2008-09, and 2009-10; Goodwin Consulting Group, Inc.

08/10/2010

Table D-2
Santana Ranch Specific Plan
Fiscal Impact Analysis
Historical Net General Fund Expense Assumptions

95

	Fiscal Year Expense Assumptions				
	Actual 2006-2007	Actual 2007-2008	Actual 2008-2009	Approved 2009-2010	Average
General Government					
Board of Supervisors	\$424,948	\$345,735	\$370,716	\$345,300	\$371,675
Clerk of the Board	\$198,278	\$171,481	\$174,751	\$167,103	\$177,903
County Administrative Officer	\$439,631	\$512,740	\$401,103	\$492,516	\$461,498
County Counsel	\$669,850	\$696,354	\$674,957	\$903,425	\$736,147
Personnel	\$436,308	\$539,299	\$565,679	\$518,389	\$514,919
Elections	\$334,819	\$707,124	\$555,754	\$722,563	\$680,065
Building & Grounds Maintenance	\$636,926	\$644,003	\$711,588	\$799,485	\$698,001
Pajaro River Watershed	\$0	\$8,000	\$0	\$8,000	\$4,000
Risk Management/Insurance	\$717,446	\$1,331,760	\$1,365,387	\$1,485,745	\$1,225,065
Information Technology	\$455,176	\$448,890	\$531,387	\$616,175	\$512,907
GIS	\$0	\$5,866	\$54,335	\$28,095	\$22,074
Finance					
Auditor	\$760,885	\$946,968	\$960,102	\$989,045	\$916,750
Treasurer	\$0	\$0	\$0	\$28,829	\$7,207
Assessor	\$661,485	\$838,068	\$932,968	\$979,012	\$852,883
Tax Collector	\$125,460	\$198,094	\$170,180	\$256,416	\$187,538
Other Misc. General Contributions	\$13,991	\$47,000	\$49,047	\$62,000	\$43,010
GASB 43/45	\$0	\$730,000	\$730,000	\$1,221,396	\$670,349
Judicial					
Grand Jury	\$10,228	\$27,023	\$14,696	\$21,163	\$18,278
District Attorney	\$1,044,611	\$1,165,799	\$1,221,790	\$1,359,795	\$1,197,909
Public Defender	\$666,282	\$732,188	\$949,481	\$927,632	\$818,596
Marshal	\$84,214	\$98,906	\$99,228	\$102,427	\$96,194
General Fund Contribution to Victim Witness	\$0	\$40,750	\$63,648	\$0	\$26,100
General Fund Contribution to Trial Courts	\$278,776	\$276,164	\$273,552	\$273,552	\$275,511
Police Protection					
Sheriff - Operations	\$3,351,692	\$3,600,759	\$3,853,893	\$4,040,195	\$3,711,635
Detention & Correction					
Jail	\$3,764,301	\$3,545,413	\$3,759,090	\$3,634,992	\$3,675,949
Probation	\$1,089,244	\$604,806	\$829,678	\$1,065,451	\$897,295
Juvenile Hall	\$1,360,754	\$1,511,326	\$1,377,273	\$1,535,724	\$1,446,269
General Fund Contribution to Gang Program	\$0	\$0	\$0	\$40,000	\$10,000

Source: San Benito County Budgets for FY 2006-07, 2007-08, 2008-09, and 2009-10; Goodwin Consulting Group, Inc.

08/10/2010

Table D-3
Santana Ranch Specific Plan
Fiscal Impact Analysis
Historical Net General Fund Expense Assumptions Cont.

96E

	Fiscal Year Expense Assumptions				
	Actual 2006-2007	Actual 2007-2008	Actual 2008-2009	Approved 2009-2010	Average
Protective Inspection					
Agricultural Commissioner	\$139,880	\$205,655	\$172,837	\$189,467	\$176,960
Other Countywide Public Protection					
Communications	\$375,761	\$641,219	\$609,853	\$529,180	\$538,003
Air Pollution Control Board	\$4,328	\$4,337	\$4,338	\$4,338	\$4,335
County Clerk	\$63,685	\$121,999	\$135,071	\$55,100	\$83,964
Recorder	\$44,155	\$10,236	\$280,706	\$138,104	\$118,300
Coroner	\$48,690	\$44,913	\$55,157	\$49,760	\$49,630
Public Administrator	\$5,474	\$5,192	\$2,322	\$15,050	\$7,010
Office of Emergency Services	\$42,434	\$29,531	\$90,051	\$52,808	\$53,708
General Fund Contribution to LAFCO	\$0	\$62,625	\$467	\$66,553	\$32,411
General Plan Update /1	\$0	\$0	\$0	\$400,000	\$40,000
Other Unincorporated Area Public Protection					
Public Works Administration & Engineering	\$436,896	\$80,861	\$354,114	\$577,831	\$362,426
Planning Department	\$716,868	\$909,474	\$1,050,805	\$982,973	\$915,030
Abandoned Vehicle Abatement	\$0	\$0	\$0	\$43,798	\$10,950
Housing & Economic Development	\$0	\$62,628	\$62,819	\$90,000	\$53,862
Animal Control Contract	\$232,937	\$248,494	\$285,674	\$262,600	\$257,426
Health & Sanitation					
CMSP Participation Fee	\$18,510	\$0	\$0	\$0	\$4,628
General Fund Contribution to Mental Health Fund	\$45,772	\$45,772	\$45,772	\$45,772	\$45,772
Public Assistance					
Aid to Indigents	\$525	\$2,335	\$2,570	\$20,000	\$6,358
Community Programs	\$146,307	\$103,838	\$83,019	\$82,102	\$103,817
Veterans Services	\$53,883	\$30,298	\$47,488	\$61,054	\$48,181
Gen Fund Contribution to HSA	\$168,589	\$289,350	\$289,350	\$289,350	\$269,160
Gen Fund Contribution to IHSS	\$256,000	\$414,487	\$423,852	\$374,405	\$367,186
Education					
County Library	\$489,375	\$636,982	\$608,018	\$667,556	\$600,483
Agricultural Extension/Farm Advisor	\$88,231	\$73,781	\$70,523	\$78,644	\$77,795
Recreation					
Veterans Memorial Park	\$82,505	\$66,877	\$85,090	\$66,241	\$75,178
Historical & San Juan Reservoir Parks	\$46,390	\$93,046	\$226,249	\$88,487	\$113,543

/1 Annual cost is amortized over a 10-year period.

Source: San Benito County Budgets for FY 2006-07, 2007-08, 2008-09, and 2009-10; Goodwin Consulting Group, Inc.

08/10/2010