

1 **BEFORE THE BOARD OF SUPERVISORS, COUNTY OF SAN BENITO**

2 **A RESOLUTION OF THE SAN BENITO COUNTY) Resolution No. 2017-_____**
3 **BOARD OF SUPERVISORS ADOPTING AN)**
4 **ADDENDUM TO THE ENVIRONMENTAL IMPACT)**
5 **REPORT (EIR) FOR THE SUNNYSIDE ESTATES)**
6 **PROJECT AND ADOPTING FINDINGS UNDER THE)**
7 **CALIFORNIA ENVIRONMENTAL QUALITY ACT)**
8 **(CEQA) AND STATE PLANNING LAW REGARDING)**
9 **THE APPROVAL OF A DEVELOPMENT)**
10 **AGREEMENT FOR THE PROJECT)**
11 _____)

12 **WHEREAS**, John Brigantino of San Benito Realty Inc. ("**Owner**" or "**Applicant**") filed an
13 application to allow for development of the Project (as further defined below), which concerns an
14 approximately 44.4-acre site located approximately one-half mile south of the City of Hollister
15 (outside the City's sphere of influence), approximately one-half mile west of State Route 25, and
16 approximately 2.25 miles south of State Route 156, on parcels identified as APN's 020-280-022,
17 020-280-041, 020-280-043, and 020-320-007 in unincorporated San Benito County, California,
18 which shall be referred to as the "Project Site" as shown on the vicinity map attached hereto and
19 incorporated herein by reference as **Exhibit A**; and

20 **WHEREAS**, the Project consists of the development of 200 single-family residential units,
21 approximately 5.3 acres of parks and open space (of which approximately 0.4 acre would be a
22 retention/detention basin; approximately 2.0 acres of open space would be within the 100-year flood
23 plain; and the remaining 2.9 acres would be dedicated and developed pursuant to the County Code
24 requirements for parklands as a park open to the public), and other on- and off-site improvements
25 necessary to serve the Project, as shown on the site plan attached hereto and incorporated herein by
26 reference as **Exhibit B**; and

27 **WHEREAS**, in order to develop the Project, the Applicant filed applications with the County for
28 approval of: (1) a Zoning Map Amendment (ZC 14-181) to change the existing zoning of the Project Site
29 from Agricultural Productive (AP) to Single-Family Residential ("**Zone Change**"); and (2) a Vesting
30 Tentative Tract Map (TSM 19-41) to subdivide the Project Site to allow for development of the
31 Project ("**VTM**"); and

32 **WHEREAS** an Environmental Impact Report for the Project, comprised of a Draft Environmental
33 Impact Report ("**DEIR**") and a Responses to Comments/Final Environmental Impact Report
34 ("**FEIR**"), including, without limitation, all appendices attached thereto (collectively referred to as
35 the "**EIR**") was prepared in accordance with the California Environmental Quality Act (Pub. Res.
36 Code §21000 *et seq.*), the CEQA Guidelines (14 Cal. Code of Regs §§15000-15387) and the San
37 Benito County Implementing Procedures for CEQA (collectively, "**CEQA**") to study the potential
38 environmental impacts of approving the Project, and to propose feasible mitigation measures to
39 avoid or reduce any significant, adverse environmental impacts; and

40 **WHEREAS**, the Planning Commission of the County of San Benito considered the Project,
41 including certification of the EIR, adoption of the Mitigation Monitoring and Reporting Program
42 ("**MMRP**"), adoption of the CEQA findings including, without limitation, a Statement of

1 Overriding Considerations, adoption of General Plan Consistency findings, and adoption of a
2 Resolution recommending that the Board of Supervisors adopt an Ordinance amending the County
3 Zoning Map (Zone Change 14-181), as well as all other information in the administrative record, at
4 a duly noticed public hearing at its regularly scheduled meeting on January 20, 2016, at which time
5 it heard and received all oral and written testimony and evidence that was made, presented or filed,
6 and all persons present at the hearing were given an opportunity to hear and be heard with respect to
7 any and all matters related thereto; and

8 **WHEREAS**, at the conclusion of the public testimony, and in accordance with all applicable laws
9 and regulations, the Planning Commission closed the public hearing and deliberated and considered
10 the merits of recommending approval of the Project, including certification of the EIR, adoption of
11 the Mitigation Monitoring and Reporting Program ("MMRP"), adoption of the CEQA findings
12 including, without limitation, a Statement of Overriding Considerations, and adoption of General
13 Plan Consistency findings, and adoption of an ordinance amending the Zoning Map (Zone Change
14 14-181); and

15 **WHEREAS**, after considering the matter and in light of all evidence in the administrative record
16 for the Project, the Planning Commission adopted Planning Commission Resolution No. 2016-01,
17 recommending the Board of Supervisors' approval of the Project, including certification of the EIR,
18 adoption of the Mitigation Monitoring and Reporting Program ("MMRP"), adoption of the CEQA
19 findings including, without limitation, a Statement of Overriding Considerations, adoption of
20 General Plan Consistency findings, and adoption of an ordinance amending the Zoning Map (Zone
21 Change 14-181); and

22 **WHEREAS**, the Board of Supervisors of the County of San Benito considered the Project,
23 including certification of the EIR, adoption of the Mitigation Monitoring and Reporting Program
24 ("MMRP"), adoption of the CEQA findings including, without limitation, a Statement of
25 Overriding Considerations, adoption of General Plan Consistency findings, and adoption of an
26 Ordinance amending the County Zoning Map (Zone Change 14-181), as well as the Planning
27 Commission's recommendations set forth in Planning Commission Resolution No. 2016-01 and all
28 other information in the administrative record, at a duly noticed public hearing at its regularly
scheduled meeting on March 8, 2016, at which time it heard and received all oral and written
testimony and evidence that was made, presented or filed, and all persons present at the hearing
were given the opportunity to hear and be heard with respect to any and all matters related thereto;
and

29 **WHEREAS**, at the conclusion of the public testimony, and in accordance with all applicable laws
30 and regulations, the Board of Supervisors closed the public hearing and deliberated and considered
31 the merits of the Project, including certification of the EIR, adoption of the Mitigation Monitoring
32 and Reporting Program ("MMRP"), adoption of the CEQA findings including, without limitation, a
33 Statement of Overriding Considerations, and adoption of General Plan Consistency findings, and
34 adoption of an ordinance amending the Zoning Map (Zone Change 14-181), in light of all evidence
35 in the administrative record for the project, including public testimony received and the Planning
36 Commission's recommendations, as reflected in Planning Commission Resolution No. 2016-01;
37 and

38 **WHEREAS**, in light of all evidence in the administrative record for the project, including public
testimony received and upon positive recommendation from the Planning Commission, the Board

1 certified the EIR for the Project, adopted the Mitigation Monitoring and Reporting Program
2 (“**MMRP**”), adopted the requisite CEQA findings including, without limitation, a Statement of
3 Overriding Considerations, and adopted Ordinance No. 944, approving the above-referenced Zone
Change; and

4 **WHEREAS**, the Planning Commission subsequently considered the above-referenced VTM, at a
5 duly noticed public hearing at its regularly scheduled meeting on May 18, 2016, at which time it
6 heard and received all oral and written testimony and evidence that was made, presented or filed,
and all persons present at the hearing were given an opportunity to hear and be heard with respect to
any and all matters related thereto; and

7 **WHEREAS**, at the conclusion of the public testimony, and in accordance with all applicable laws
8 and regulations, the Planning Commission closed the public hearing and deliberated and considered
9 the merits of approving the VTM; and

10 **WHEREAS**, after considering the matter and in light of all evidence in the administrative record
11 for the Project, the Planning Commission approved the VTM, based upon the findings and
conditions of approval recommended by County staff; and

12 **WHEREAS**, the Applicant has requested to enter into a Development Agreement for the Project,
13 which would (as described more fully therein) vest Owners (as that term is defined therein) with the
14 right to develop the Project as envisioned by the Zone Change and VTM, while at the same time
obligating Owners to perform numerous obligations including, without limitation, those relating to
certain identified public benefits; and

15 **WHEREAS**, Owners each have a legal interest in the Project Site; and

16 **WHEREAS**, the requested Development Agreement was processed pursuant to section 65864 *et*
17 *seq.* (Development Agreement Statute) of the California Government Code, and chapter 19.11
18 (Development Agreements) of the San Benito County Code as well as other applicable laws and
19 regulations; and

20 **WHEREAS**, the County prepared a CEQA Addendum pursuant to CEQA Guidelines Sections
21 15162 and 15164, attached hereto and incorporated herein by reference as **Exhibit C**, which
22 documents the conclusion that no further environmental review shall be required in connection with
the County’s consideration of the proposed Development Agreement; and

23 **WHEREAS**, the Planning Commission considered the Project, including adoption of an Addendum
24 to the EIR and adoption of a Resolution recommending that the Board of Supervisors adopt an
25 Ordinance to approve a development agreement, as well as all other information in the
26 administrative record, at a duly noticed public hearing at its regularly scheduled meeting on
March 15, 2017, at which time it heard and received all oral and written testimony and evidence that
was made, presented or filed, and all persons present at the hearing were given an opportunity to
hear and be heard with respect to any and all matters related thereto; and

27 **WHEREAS**, at the conclusion of the public testimony, and in accordance with all applicable laws
28 and regulations, the Planning Commission closed the public hearing and deliberated and considered

1 the merits of recommending adoption of the CEQA Addendum to the EIR and approval of the
2 Development Agreement; and

3 **WHEREAS**, after considering the matter and in light of all evidence in the administrative record
4 for the Project, the Planning Commission adopted Planning Commission Resolution No. 2017-010,
5 recommending that the Board of Supervisors' approval of the development agreement, including
6 adoption of the Addendum to the EIR, adoption of findings under CEQA and State Planning Law,
7 and adoption of an Ordinance approving the Development Agreement; and

8 **WHEREAS**, the Board of Supervisors of the County of San Benito considered the Project,
9 including adoption of the Addendum to the EIR, adoption of findings under CEQA and State
10 Planning Law, and adoption of an Ordinance approving the Development Agreement, as well as the
11 Planning Commission's recommendations set forth in Planning Commission Resolution
12 No. 2017-010 and all other information in the administrative record, at a duly noticed public hearing
13 at its regularly scheduled meeting on April 25, 2017, at which time it heard and received all oral and
14 written testimony and evidence that was made, presented or filed, and all persons present at the
15 hearing were given the opportunity to hear and be heard with respect to any and all matters related
16 thereto; and

17 **WHEREAS**, at the conclusion of the public testimony, and in accordance with all applicable laws
18 and regulations, the Board of Supervisors closed the public hearing and deliberated and considered
19 the merits of the Project, including adoption of the Addendum to the EIR, adoption of findings
20 under CEQA and State Planning Law, and adoption of an Ordinance approving the Development
21 Agreement, in light of all evidence in the administrative record for the project, including public
22 testimony received and the Planning Commission's recommendations, as reflected in Planning
23 Commission Resolution No. 2017-010; and

24 **NOW THEREFORE BE IT RESOLVED** that based on all evidence in the administrative record
25 for the Project, the San Benito County Board of Supervisors hereby makes the following findings
26 and determinations:

27 **I. ADOPTION OF AN ADDENDUM TO THE PREVIOUSLY CERTIFIED EIR**

28 San Benito County is the lead agency for the Project for purposes of CEQA. The Project
concerns the approximately 44.4-acre Project Site, which is located approximately one-half mile
south of the City of Hollister (outside the City's sphere of influence), approximately one-half mile
west of State Route 25, and approximately 2.25 miles south of State Route 156, in unincorporated
San Benito County, California.

The Project consists of the development of 200 single-family residential units, approximately
5.3 acres of parks and open space (of which approximately 0.4 acre would be a retention/detention
basin; approximately 2.0 acres of open space would be within the 100-year flood plain; and the
remaining 2.9 acres would be dedicated and developed pursuant to the County Code requirements
for parklands as a park open to the public); and other on- and off-site improvements necessary to
serve the Project.

1 The County prepared and certified the Project's EIR, which comprises a project-level
2 analysis. The EIR has State Clearinghouse No. 2014091018. Following is a summary of that
3 process.

4 The County prepared the DEIR, which was released for public and agency review on
5 October 28, 2015, including being posted on the County's website and making it available in hard
6 copy at the County of San Benito Resource Management Agency, Building and Planning Division
7 (2301 Technology Parkway, Hollister, CA) and with the Clerk of the Board of Supervisors (481
8 Fourth Street, Hollister, CA). The public comment period closed on December 14, 2015 after a 45-
9 day review period. The DEIR fully evaluated the potential environmental effects of Project
10 implementation, identified the means to eliminate or reduce potential adverse impacts to the extent
11 feasible, and evaluated a reasonable range of potentially feasible alternatives.

12 The County prepared the FEIR, which consisted of comments on the DEIR; written
13 responses to the environmental issues raised in those comments; and revisions to the text of the
14 DEIR reflecting changes made in response to comments and other information. The FEIR
15 incorporated the DEIR by reference and comprised the EIR for the Project. The FEIR was
16 published on January 10, 2016 and provided to commenting agencies on or before January 10,
17 2016. In addition to posting the FEIR on the County's website and making it available in hard copy
18 at the Resource Management Agency and Clerk of the Board, the County sent an electronic and/or
19 hard copy to each agency, entity, or individual that submitted written comments on the DEIR.

20 The EIR was certified by the Board on March 8, 2016, and is hereby incorporated into this
21 Resolution by reference.

22 Based on the foregoing and the additional findings and determinations set forth herein, the
23 Board hereby adopts the Addendum to the previously certified EIR.

24 **BE IT FURTHER RESOLVED** that based on all evidence in the administrative record for the
25 Project, the San Benito County Board of Supervisors makes the following findings and
26 determinations under the California Environmental Quality Act and CEQA Guidelines:

27 **II. CEQA FINDINGS**

28 Having received, reviewed, and considered the EIR, the Addendum (as that term is defined
below) and other relevant information in the administrative record of proceedings, the Board hereby
adopts the following findings in compliance with CEQA:

Part II.A: Findings regarding the environmental review process and the contents of the
EIR.

Part II.B: Identification of the custodian and location of the administrative record of
proceedings, as required by CEQA.

The Board hereby determines that the findings in Section II are based on full appraisal of all
viewpoints, including, without limitation, all information set forth in the administrative record. The
Board adopts the findings and the statement in Parts II.A through II.B related to the adoption of an
Ordinance approving the Development Agreement.

1 **A. Environmental Review Process**

2
3 **1. Development of the Project**

4 The Project Site encompasses approximately 44.4 acres, which is currently comprised of
5 agricultural uses (hay production and walnut orchards) and one single-family residence and garage,
6 located in the northeast corner of the site. The Project Applicant applied to San Benito County for
7 approval of the proposed Project. As described above, the Project consists of the development of
8 200 single-family residential units, approximately 5.3 acres of parks and open space (of which
9 approximately 0.4 acre would be a retention/detention basin; approximately 2.0 acres of open space
would be within the 100-year flood plain; and the remaining 2.9 acres would be dedicated and
developed pursuant to the County Code requirements for parklands as a park open to the public);
and other on- and off-site improvements necessary to serve the Project.

10 **2. Preparation of the EIR**

11 A public scoping meeting was held in the City of Hollister in San Benito County on
12 September 18, 2014, to receive comments on the scope of the EIR for the proposed Project. The
13 intent of the scoping meeting was to provide interested individuals, groups, public agencies and
14 others a forum to provide input to the County verbally in an effort to assist in further refining the
15 intended scope and focus of the EIR. San Benito County also accepted comments by letter and
16 email during the 30-day scoping period, which began on September 9, 2014 and ended on October
17 8, 2014. Written comments received during the scoping period are summarized and responded to in
18 Section 1.0 of the DEIR, and are included in full in Appendix A to the DEIR.

19 San Benito County completed the DEIR and circulated it for review and comment on
20 October 28, 2015. A Notice of Completion was submitted to the State Clearinghouse on October
21 28, 2015, and a Notice of Availability was published in the Free Lance on September 4, 2015. The
22 45-day period for receipt of comments on the DEIR remained open until December 14, 2015. One
23 (1) written comment letter was received, from the California Department of Transportation.

24 The FEIR was completed and made available to public agencies and members of the public
25 on January 10, 2016.

26 The EIR consists of the DEIR (including all attached appendices) and the Final EIR, which
27 consists of the comments received during the public comment period, together with written
28 responses to those comments that raised environmental issues as set forth in the FEIR and
refinements to the EIR text that merely clarify and/or amplify certain issues raised during the public
comment period, all of which were prepared in accordance with CEQA.

 The Board certified the EIR, adopted the Mitigation Monitoring and Reporting Program
("MMRP"), and adopted the requisite CEQA findings including, without limitation, a Statement of
Overriding Considerations.

3. CEQA Addendum

As noted above, an EIR was prepared, circulated and ultimately certified as adequate by the Board in March 2016 for the Project, which expressly contemplated the development contemplated by the Zone Change and the VTM, and which would be vested under the proposed Development Agreement. Feasible mitigation measures were identified in the EIR, which have been incorporated into the adopted MMRP and the Conditions of Approval that were imposed via the VTM. The Development Agreement reiterates these obligations by expressly obligating compliance with all applicable Conditions of Approval (including, without limitation, the mitigation measures identified in the Project's adopted MMRP).

The Project has been evaluated in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines Section 15162, and it has been determined that the proposed Development Agreement is consistent with the other Project entitlements, the impacts of which were fully and adequately evaluated in the EIR, and that: 1) there are no substantial changes proposed in the Development Agreement that would require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; 2) there are no substantial changes in the circumstances under which the Project is proposed to be undertaken that would require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and 3) there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing: a) the Development Agreement would have one or more significant effects not discussed in the EIR; b) significant effects previously examined in the EIR would be substantially more severe than shown in the EIR; c) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the project proponent declined to adopt the mitigation measure or alternative; or d) mitigation measures or alternatives which are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment, but the project proponent declined to adopt the mitigation measure or alternative. Specifically, the Planning Commission, in adopting Planning Commission Resolution No. 2017-010, found and recommended that the Board make the following findings regarding the decision to prepare a CEQA Addendum to the previously certified EIR, rather than preparing a subsequent or supplemental EIR regarding its consideration of the Development Agreement, and the Board hereby makes the following findings:

Finding 1: That an Environmental Impact Report ("EIR") regarding the proposed project was prepared, circulated and certified as adequate by the Board of Supervisors.

Evidence: As noted above, an EIR was prepared, circulated and ultimately certified as adequate by the Board in March 2016 for the Project, which expressly contemplated the development contemplated by TSM 14-91 and which would be vested under the proposed Development Agreement. Feasible mitigation measures were identified in the EIR, and were incorporated into the Conditions of Approval imposed in connection with the approved TSM 19-41, with this obligation being further expressly incorporated into the proposed Development Agreement. The Planning Commission and Board of Supervisors each evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines (14 California Code of Regulations) Sections 15162 and 15163, and have determined that the proposed Development Agreement is consistent with the related Project entitlements, the impacts of which were fully and adequately evaluated in the EIR.

1 **Finding 2: That there are no substantial changes proposed in the Development Agreement that**
2 **would require major revisions of the EIR due to the involvement of new significant environmental**
3 **effects or a substantial increase in the severity of previously identified significant effects.**

4 **Evidence:** An EIR was prepared, circulated and ultimately certified as adequate by the Board in
5 March 2016 for the Project, which expressly contemplated the development contemplated by TSM
6 14-91 and which would be vested under the proposed Development Agreement. Feasible mitigation
7 measures were identified in the EIR, and were incorporated into the Conditions of Approval imposed in
8 connection with the approved TSM 19-41, with this obligation being further expressly incorporated into
9 the proposed Development Agreement. The Planning Commission and Board of Supervisors each
10 evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA
11 Guidelines (14 California Code of Regulations) Section 15162, and have determined that the proposed
12 Development Agreement is consistent with the related Project entitlements, the impacts of which
13 were fully and adequately evaluated in the EIR; that in the intervening approximately twelve
14 months since the EIR was certified, there has not been a substantial increase in any significant
15 environmental effects or a substantial increase in the severity of the significant effects identified in
16 the EIR, and that therefore, there are no substantial changes proposed in the Development
17 Agreement due to the involvement of significant environmental effects or a substantial increase in
18 the severity of the significant effects identified in the EIR.

19 **Finding 3: That there are no substantial changes in the circumstances under which the Project is**
20 **proposed to be undertaken that would require major revisions of the EIR due to the involvement of**
21 **new significant environmental effects or a substantial increase in the severity of previously identified**
22 **significant effects.**

23 **Evidence:** An EIR was prepared, circulated and ultimately certified as adequate by the Board in
24 March 2016 for the Project, which expressly contemplated the development contemplated by TSM
25 14-91 and which would be vested under the proposed Development Agreement. Feasible mitigation
26 measures were identified in the EIR, and were incorporated into the Conditions of Approval imposed in
27 connection with the approved TSM 19-41, with this obligation being further expressly incorporated into
28 the proposed Development Agreement. The Planning Commission and Board of Supervisors each
evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA
Guidelines (14 California Code of Regulations) Section 15162, and have determined that the proposed
Development Agreement is consistent with the related Project entitlements, the impacts of which
were fully and adequately evaluated in the EIR; that in the intervening approximately twelve
months since the EIR was certified, there has not been an involvement of significant environmental
effects or a substantial increase in the severity of the significant effects identified in the EIR, and
that therefore, there are no substantial changes in circumstances under which the proposed
Development Agreement is proposed to be undertaken that would require major revisions to the
EIR.

Finding 4: That there is no new information of substantial importance, which was not known and
could not have been known with the exercise of reasonable diligence at the time the EIR was
certified, showing the Development Agreement would have one or more significant effects not
discussed in the EIR.

Evidence: An EIR was prepared, circulated and ultimately certified as adequate by the Board in
March 2016 for the Project, which expressly contemplated the development contemplated by TSM
14-91 and which would be vested under the proposed Development Agreement. Feasible mitigation
measures were identified in the EIR, and were incorporated into the Conditions of Approval imposed in
connection with the approved TSM 19-41, with this obligation being further expressly incorporated into
the proposed Development Agreement. The Planning Commission and Board of Supervisors each
evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA
Guidelines (14 California Code of Regulations) Section 15162, and have determined that the proposed

1 Development Agreement is consistent with the related Project entitlements, the impacts of which
2 were fully and adequately evaluated in the EIR; that in the intervening approximately twelve
3 months since the EIR was certified, there has not been any discovery of any new information of
4 substantial importance, which was not known and/or could not have been known with the exercise
of reasonable diligence at the time the EIR was certified, showing that the Development Agreement
would have one or more significant effects not discussed in the EIR.

5 **Finding 5: That there is no new information of substantial importance, which was not known and**
6 **could not have been known with the exercise of reasonable diligence at the time the EIR was**
7 **certified, showing significant effects previously examined in the EIR would be substantially more**
8 **severe than shown in the EIR.**

9 **Evidence:** An EIR was prepared, circulated and ultimately certified as adequate by the Board in
10 March 2016 for the Project, which expressly contemplated the development contemplated by TSM
11 14-91 and which would be vested under the proposed Development Agreement. Feasible mitigation
12 measures were identified in the EIR, and were incorporated into the Conditions of Approval imposed in
13 connection with the approved TSM 19-41, with this obligation being further expressly incorporated into
14 the proposed Development Agreement. The Planning Commission and Board of Supervisors each
evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA
Guidelines (14 California Code of Regulations) Section 15162, and have determined that the proposed
Development Agreement is consistent with the related Project entitlements, the impacts of which
were fully and adequately evaluated in the EIR; that in the intervening approximately twelve
months since the EIR was certified, there has not been any discovery of any new information of
substantial importance, which was not known and/or could not have been known with the exercise
of reasonable diligence at the time the EIR was certified, showing that significant effects previously
examined in the EIR would be substantially more severe than shown in the EIR.

15 **Finding 6: That there is no new information of substantial importance, which was not known and**
16 **could not have been known with the exercise of reasonable diligence at the time the EIR was**
17 **certified, showing mitigation measures or alternatives previously found not to be feasible would in**
18 **fact be feasible and would substantially reduce one or more significant effects of the Project, but the**
19 **Project proponents declined to adopt the mitigation measure or alternative.**

20 **Evidence:** An EIR was prepared, circulated and ultimately certified as adequate by the Board in
21 March 2016 for the Project, which expressly contemplated the development contemplated by TSM
22 14-91 and which would be vested under the proposed Development Agreement. Feasible mitigation
23 measures were identified in the EIR, and were incorporated into the Conditions of Approval imposed in
24 connection with the approved TSM 19-41, with this obligation being further expressly incorporated into
25 the proposed Development Agreement. The Planning Commission and Board of Supervisors each
26 evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA
27 Guidelines (14 California Code of Regulations) Section 15162, and have determined that the proposed
28 Development Agreement is consistent with the related Project entitlements, the impacts of which
were fully and adequately evaluated in the EIR; that in the intervening approximately twelve
months since the EIR was certified, there has not been any discovery of any new information of
substantial importance, which was not known and/or could not have been known with the exercise
of reasonable diligence at the time the EIR was certified, showing that mitigation measures or
alternatives previously found not to be feasible would in fact be feasible and would substantially reduce
one or more significant effects of the Project, but the Project proponent declined to adopt the mitigation
measure or alternative.

1 **Finding 7: That there is no new information of substantial importance, which was not known and**
2 **could not have been known with the exercise of reasonable diligence at the time the EIR was**
3 **certified, showing mitigation measures or alternatives which are considerably different from those**
4 **analyzed in the EIR would substantially reduce one or more significant effects on the environment,**
5 **but the Project proponents declined to adopt the mitigation measure or alternative.**

6 **Evidence:** An EIR was prepared, circulated and ultimately certified as adequate by the Board in
7 March 2016 for the Project, which expressly contemplated the development contemplated by TSM
8 14-91 and which would be vested under the proposed Development Agreement. Feasible mitigation
9 measures were identified in the EIR, and were incorporated into the Conditions of Approval imposed in
10 connection with the approved TSM 19-41, with this obligation being further expressly incorporated into
11 the proposed Development Agreement. The Planning Commission and Board of Supervisors each
12 evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA
13 Guidelines (14 California Code of Regulations) Section 15162, and have determined that the proposed
14 Development Agreement is consistent with the related Project entitlements, the impacts of which
15 were fully and adequately evaluated in the EIR; that in the intervening approximately twelve
16 months since the EIR was certified, there has not been any discovery of any new information of
17 substantial importance, which was not known and/or could not have been known with the exercise
18 of reasonable diligence at the time the EIR was certified, showing that mitigation measures or
19 alternatives which are considerably different from those analyzed in the EIR would substantially reduce
20 one or more significant effects on the environment, but the Project proponents declined to adopt the
21 mitigation measure or alternative.

22 **Finding 8: None of the conditions described in CEQA Guidelines Section 15162 require the**
23 **preparation of a supplemental EIR.**

24 No supplemental EIR is required because there are no impacts, significant or otherwise, of the
25 Project beyond those already identified in the EIR. As explained above, there are not substantial
26 changes to the Project involving new or more severe significant impacts. To the contrary, the
27 Project now includes a Development Agreement for the purpose of confirming the Owners' vested
28 rights to develop the Project as well as confirming the Owners' obligations to the County in
connection therewith including, without limitation, those relating to specified public benefits. The
Project, as vested under the proposed Development Agreement, contemplates the same land uses
originally analyzed in the EIR, and also includes the same number of residential units in the same
configuration and at the same density, with the same related improvements (e.g., utilities, street
layout, lighting, landscaping, etc.) and amenities (e.g., parks, open space). In addition, all
conditions of approval, including, without limitation, those imposed in connection with the Vesting
Tentative Tract Map as well as the EIR mitigation measures, as set forth in the adopted MMRP,
remain obligations of the Project, and are expressly provided for in the Development Agreement. In
addition, there are no substantial changes in the conditions under which the Project is undertaken
involving new or more severe significant impacts. The Project's EIR was certified by the Board
only approximately twelve months ago. The approval of such a Development Agreement for the
Project does not involve substantial changes to the Project involving new or more severe significant
impacts. No new or revised mitigation measures would be required to reduce the environmental
impacts of the Project. Accordingly, no further environmental review may be required under this
trigger (d).

Accordingly, as documented more fully in the CEQA Addendum attached hereto as **Exhibit C**, the EIR is
adequate to serve as CEQA compliance for the proposed Development Agreement and no further
environmental review is warranted.

1 The Board of Supervisors hereby finds and determines that the EIR provides adequate, good
2 faith, and reasoned analysis as required under CEQA; it is adequate to serve as CEQA compliance
3 for the proposed Development Agreement; and no further environmental review is warranted under
4 applicable laws and regulations.

5 **B. Record of Proceedings**

6 Various documents, information, testimony, reports, studies, analyses and other materials
7 (both oral and written) constitute the administrative record upon which the Board of Supervisors
8 bases the findings and determinations contained herein. The location and custodian of these
9 documents and materials is the County of San Benito Resource Management Agency, Building and
10 Planning Division, 2301 Technology Parkway, Hollister, CA 95023.

11 **BE IT FURTHER RESOLVED** that based on all evidence in the administrative record for the
12 Project, the San Benito County Board of Supervisors hereby adopts the Addendum to the EIR,
13 adopts the findings and determinations as more fully set forth above, and directs the Resource
14 Management Agency Director or his designee to file a Notice of Determination with the County
15 Clerk.

16 **PASSED AND ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN**
17 **BENITO THIS 25th DAY OF APRIL, 2017 BY THE FOLLOWING VOTE:**

18 Ayes: Supervisor(s):
19 Noes: Supervisor(s):
20 Absent: Supervisor(s):
21 Abstain: Supervisor(s)

22 By: _____
23 Jaime De La Cruz, Chair

24 **ATTEST:**
25 Chase Graves, Clerk of the Board

26 **APPROVED AS TO LEGAL FORM:**
27 San Benito County Counsel's Office

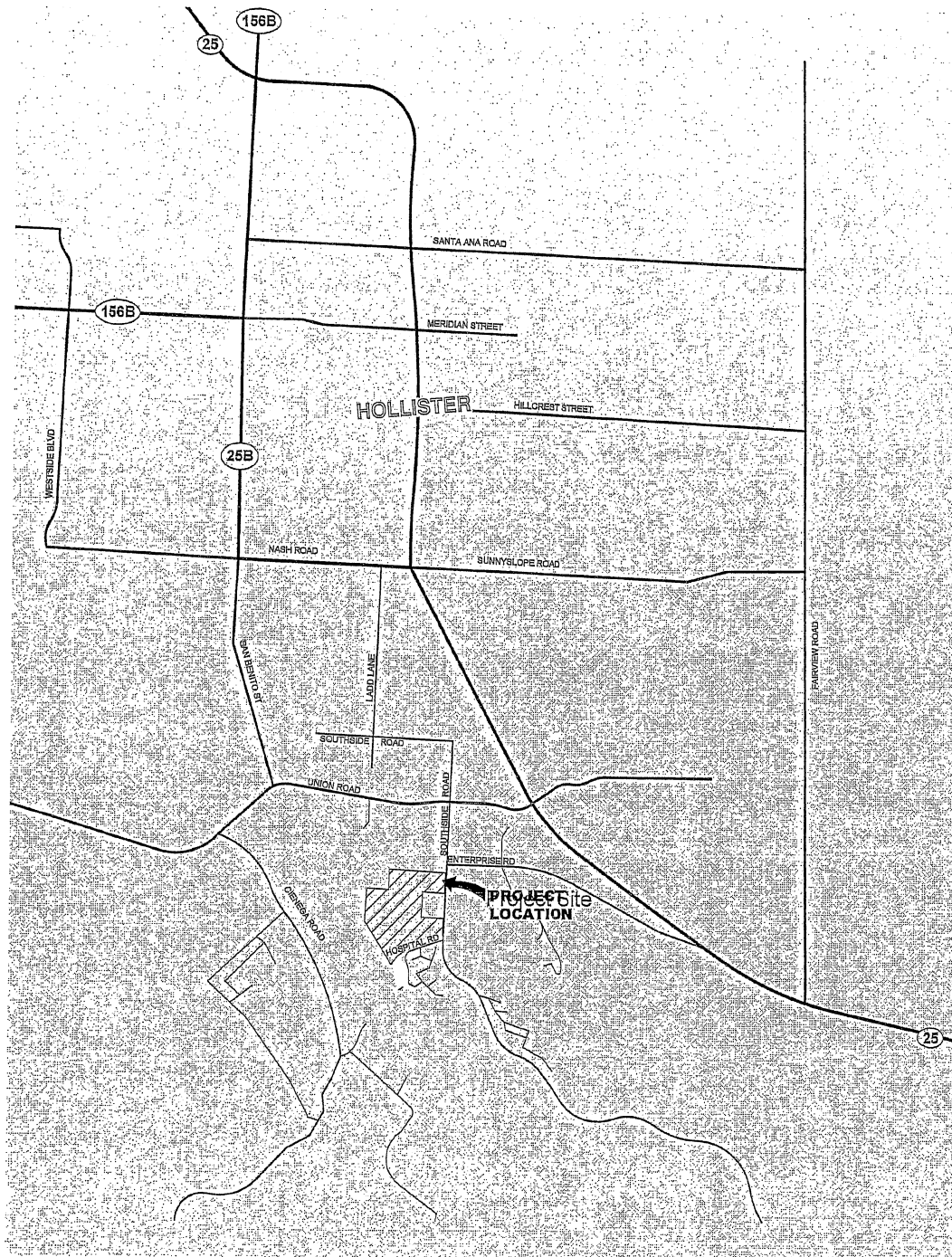
28 By: _____

By: Shirley L. Murphy
Shirley L. Murphy, Deputy County Counsel

Date: _____

Date: April 19, 2017

EXHIBIT A



Source: Kelley Engineering and Surveying, 2014

Vicinity Map

County of San Benito

EXHIBIT B



BOARD OF SUPERVISORS RESOLUTION 2017-__, EXHIBIT C

SUNNYSIDE ESTATES PROJECT ADDENDUM TO

ENVIRONMENTAL IMPACT REPORT (SCH # 2014091018)

COUNTY OF SAN BENITO, CALIFORNIA

Introduction

This document is an Addendum that has been prepared under the requirements of the California Environmental Quality Act (Cal. Pub. Res. Code § 21000 *et seq.*) and the CEQA Guidelines (14 Cal. Code. Res. § 15000 *et seq.*) (collectively, “CEQA”) based on an Environmental Impact Report (SCH # 2014091018) (“EIR”) prepared for the Sunnyside Estates Project (“Project”). The San Benito County Board of Supervisors (“Board”) certified the EIR in March 2016.

The Project concerns an approximately 44.4-acre site located approximately one-half mile south of the City of Hollister (outside the City’s sphere of influence), approximately one-half mile west of State Route 25, and approximately 2.25 miles south of State Route 156, in unincorporated San Benito County, California. The Project consists of the development of 200 single-family residential units, approximately 5.3 acres of parks and open space (of which approximately 0.4 acre would be a retention/detention basin; approximately 2.0 acres of open space would be within the 100-year flood plain; and the remaining 2.9 acres would be dedicated and developed pursuant to the County Code requirements for parklands as a park open to the public), and other on- and off-site improvements necessary to serve the Project.

The Owners (as that term is defined therein) of the Project and the County now desire to enter into a Development Agreement under section 65864 *et seq.* of the California Government Code and Chapter 19.11 of the San Benito County Code. The Development Agreement, if approved, would facilitate development of the Project as envisioned by the previously approved discretionary entitlements (including the zone change (ZC 14-181) and the Vesting Tentative Tract Map (TSM 14-91) that were previously approved by the Board and the Planning Commission. To that end, it would not modify any key features of the Project (e.g., maximum unit count, density, site plan, other applicable development standards, design guidelines, etc.). However, it would vest rights in the Owners (for a period of 15 years, consistent with the County’s local Development Agreement ordinance) to construct the Project as envisioned. The Development Agreement also contains provisions to ensure that the anticipated Project Infrastructure (as that term is defined therein); the requisite funding for same (including, without limitation, the formation of a Community Facilities District to ensure a perpetual funding source for purposes of Revenue Neutrality (as that term is defined therein)); and the necessary impact fees and other monies due are express obligations of the Owners and enforceable by the County under the provisions of the Development Agreement.

Prior to approval of subsequent actions under the EIR that constitute a “project” under CEQA, the County is required to determine whether the environmental effects of such actions are within the scope of the project covered by the EIR, and whether additional environmental analysis is required. If the County finds that none of the triggers set forth in Public Resources Code section 21166 or CEQA Guidelines sections 15162 or 15163 has occurred, then no further environmental review shall be required and the County may document these conclusions in an addendum pursuant to CEQA Guidelines section 15164(e).

CEQA Framework for Addendum

In an effort to provide a degree of finality, CEQA includes a strong presumption against requiring any further environmental review once an EIR has been prepared and certified for a project. Specifically, once an EIR has been completed, the lead agency may not require preparation of a subsequent or supplemental EIR unless one of the three triggering conditions described below exists.

Public Resources Code section 21166 states:

When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

- (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.
- (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

Section 15162 of the State CEQA Guidelines states, in relevant part:

- (a) When an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:
 - (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
 - (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
 - (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

- (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but project proponents decline to adopt the mitigation measure or alternative.

[...]

Section 15163 of the State CEQA Guidelines states in relevant part:

- (a) The lead or responsible agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:
 - (1) Any of the conditions described in Section 15162 would require the preparation of a subsequent EIR; and
 - (2) Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

[...]

CEQA Guidelines Section 15164(a) states, in relevant part: "The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR have occurred." Further, although not required under the law, a legal agency may prepare an addendum to an EIR to evaluate changes to a project, changes in circumstances, or new information, and to document the agency's determination that a subsequent or supplemental EIR is not required. See CEQA Guidelines § Section 15164(e).

No Subsequent Review is Required and an Addendum is Appropriate in Connection with the Proposed Development Agreement for the Sunnyside Estates Project

After a review of the above-referenced triggers, the County has determined that no subsequent or supplemental EIR or negative declaration is required, and an addendum is appropriate, for this Project. This is based on the following analysis:

a) Are there substantial changes to the Project involving new or substantially more severe significant impacts which require major revisions of the certified EIR?

There are not substantial changes to the Project involving new or more severe significant impacts. The Project now includes a Development Agreement for the purpose of confirming the Owners' vested rights to develop the Project as well as confirming the Owners' obligations to the County in connection therewith including, without limitation, those relating to specified public benefits. The Project, as vested under the proposed Development Agreement, contemplates the same land uses

originally analyzed in the EIR, and also includes the same number of residential units in the same configuration and at the same density, with the same related improvements (e.g., utilities, street layout, lighting, landscaping, etc.) and amenities (e.g., parks, open space). In addition, all conditions of approval, including, without limitation, those imposed in connection with the Vesting Tentative Tract Map as well as the EIR mitigation measures, as set forth in the adopted Mitigation, Monitoring and Report Program ("MMRP"), remain obligations of the Project, and are expressly provided for in the Development Agreement. Accordingly, the approval of such a Development Agreement for the Project does not involve substantial changes to the Project involving new or more severe significant impacts. No additional or different mitigation measures are required. Accordingly, no further environmental review may be required under this trigger (a).

b) Are there substantial changes in the conditions under which the Project is undertaken involving new or substantially more severe significant impacts which require major revisions of the certified EIR?

There are no substantial changes in the conditions under which the Project is undertaken involving new or more severe significant impacts. The Project's EIR was certified by the Board only approximately twelve months ago. The Project now includes a Development Agreement for the purpose of confirming the Owners' vested rights to develop the Project as well as confirming the Owners' obligations to the County in connection therewith including, without limitation, those relating to specified public benefits. The Project, as vested under the proposed Development Agreement, contemplates the same land uses originally analyzed in the EIR, and also includes the same number of residential units in the same configuration and at the same density, with the same related improvements (e.g., utilities, street layout, lighting, landscaping, etc.) and amenities (e.g., parks, open space). In addition, all conditions of approval, including, without limitation, those imposed in connection with the Vesting Tentative Tract Map as well as the EIR mitigation measures, as set forth in the adopted MMRP, remain obligations of the Project, and are expressly provided for in the Development Agreement. Furthermore, the EIR evaluated the Project's impacts in the cumulative context on all applicable environmental topic areas, and that analysis remains pertinent and accurate. Accordingly, no further environmental review may be required under this trigger (b).

c) Is there new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified that shows the Project will have a significant effect not addressed in the previous EIR; or significant effects previously examined will be substantially more severe than shown in the previous EIR; or, previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the applicant declined to adopt them; or mitigation measures or alternatives considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the applicant declines to adopt them?

There is no new information that indicates that new or more severe significant effects would occur beyond those identified in the prior EIR. The Project's EIR was certified by the Board only approximately twelve months ago. The Project now includes a Development Agreement for the purpose of confirming the Owners' vested rights to develop the Project as well as confirming the Owners' obligations to the County in connection therewith including, without limitation, those relating to specified public benefits. The Project, as vested under the proposed Development Agreement, contemplates the same land uses originally analyzed in the EIR, and also includes the same number of residential units in the same configuration and at the same density, with the same related improvements (e.g., utilities, street layout, lighting, landscaping, etc.) and amenities (e.g., parks, open space). In addition, all conditions of approval, including, without limitation, those imposed in connection with the Vesting Tentative Tract Map as well as the EIR mitigation measures, as set forth in the adopted MMRP, remain obligations of the Project. No new or different mitigation

measures are required for the Project. In fact, the Development Agreement further ensures this to be the case by expressly incorporating an obligation to that effect. The EIR adequately describes the impacts and mitigation measures associated with the proposed Project. Accordingly, no further environmental review may be required under this trigger (c).

d) If no subsequent EIR-level review is required, should a supplemental EIR be prepared?

No supplemental EIR is required because there are no impacts, significant or otherwise, of the Project beyond those already identified in the EIR. As explained above, there are not substantial changes to the Project involving new or more severe significant impacts. To the contrary, the Project now includes a Development Agreement for the purpose of confirming the Owners' vested rights to develop the Project as well as confirming the Owners' obligations to the County in connection therewith including, without limitation, those relating to specified public benefits. The Project, as vested under the proposed Development Agreement, contemplates the same land uses originally analyzed in the EIR, and also includes the same number of residential units in the same configuration and at the same density, with the same related improvements (e.g., utilities, street layout, lighting, landscaping, etc.) and amenities (e.g., parks, open space). In addition, all conditions of approval, including, without limitation, those imposed in connection with the Vesting Tentative Tract Map as well as the EIR mitigation measures, as set forth in the adopted MMRP, remain obligations of the Project, and are expressly provided for in the Development Agreement. In addition, there are no substantial changes in the conditions under which the Project is undertaken involving new or more severe significant impacts. The Project's EIR was certified by the Board only approximately twelve months ago. The approval of such a Development Agreement for the Project does not involve substantial changes to the Project involving new or more severe significant impacts. No new or revised mitigation measures would be required to reduce the environmental impacts of the Project. Accordingly, no further environmental review may be required under this trigger (d).

Conclusion

This Addendum is adopted pursuant to State CEQA Guidelines section 15164 based on an EIR dated October 2015 and certified by the Board in March 2016. The Addendum and EIR review of the proposed Project as discussed above. Through the adoption of this Addendum (supported by the environmental analysis set forth in the certified EIR), the County determines that the above Project changes do not require a subsequent or supplemental EIR or negative declaration under Public Resources Code section 21166 or CEQA Guidelines section 15162 or 15163. The County further determines that the EIR and this Addendum adequately address the potential environmental impacts of the proposed Project. As provided in CEQA Guidelines section 15164, this Addendum need not be circulated for public review but shall be considered with the prior environmental documentation before making a decision on this Project.

The EIR and related Addendum are available for public review at the San Benito County Resource Management Agency, Building and Planning Division, 2301 Technology Parkway, Hollister, CA 95023-9174. The documents are also available for review on the City's Web site: <http://cosb.us>