

1 RESOLUTION OF THE BOARD OF SUPERVISORS OF
2 ORANGE COUNTY, CALIFORNIA

3 November 8, 2004

4 WHEREAS, Sections 65864 *et seq.* of the Government Code authorize the County to
5 enter into binding development agreements to achieve certain public purposes; and

6 WHEREAS, pursuant to the statutory authorization cited above, the County has
7 established procedures and requirements for the processing of proposed development agreements;
and

8 WHEREAS, Board of Supervisors Resolution No. 02-066 establishes procedures for the
9 processing of development agreements in the County; and

10 WHEREAS, pursuant to Government Code Section 65300 *et seq.*, the County has adopted
11 a General Plan that provides for residential, commercial, industrial and public facilities to meet
12 the future needs of the County population as projected in adopted population and growth
forecasts; and

13 WHEREAS, on November 8, 2004, this Board approved a General Plan Amendment
14 (GPA01-01) and Zone Change (ZC01-02) authorizing the development of the Ranch Plan
15 Planned Community Project (the "Project") upon a 22,815 parcel of real property owned by
Rancho Mission Viejo ("RMV") and located in southern Orange County (the "Property") (*see*
Board of Supervisors Resolution Nos. 04-291 and 04-292 and Ordinance No. 04-014); and

16 WHEREAS, this Board's approvals of GPA01-01 and ZC01-02 were expressly
17 conditioned upon RMV's satisfaction of certain conditions ("Conditions of Approval") obligating
18 RMV to provide specific public improvements to ensure that no public facility or service
deficiencies would occur as a result of development of the Project upon the Property; and

19 WHEREAS, RMV proposes to enter into a development agreement ("Development
20 Agreement") with the County for the Property whereby RMV would provide a series of public
21 benefits to the County in exchange for the County's assurance that (i) RMV's development rights
22 relative to the Project would immediately vest and (ii) the planned community development
23 regulations and ordinances, development plan and other existing land use ordinances and
regulations of the County would remain unchanged relative to the Project and the Property for a
period of not less than 30 years; and

24 WHEREAS, the proposed Development Agreement provides significant public benefits to
25 the County and the public that exceed those that the County could otherwise be lawfully obtained
or exacted through the entitlement process; and

26 WHEREAS, through commitments contained in the proposed Development Agreement,
27 RMV has agreed to pay or provide more than its pro-rata share of certain public facilities required
28 in connection with the development of the Property as one element of consideration to the County
for the Development Agreement; and

1 WHEREAS, in recognition of the need for assurances and predictability in providing these
2 and other benefits to the County in connection with the proposed Development Agreement, RMV
3 proposes said Agreement which provides that the regulations guiding development of the Project
4 will be those in effect on the Effective Date of the Development Agreement and, as related to the
5 Project, will not be modified except as set forth in the Development Agreement during the term
6 thereof; and

7 WHEREAS, as a result of the County's consideration of the development rights to be
8 vested pursuant to the proposed Development Agreement, the proposed Development Agreement
9 requires RMV to participate in the provision of certain public services and facilities in connection
10 with the development of the Property, including certain transportation improvements, a water
11 quality basin and recreational trail facilities, and

12 WHEREAS, these additional requirements of the proposed Development Agreement are
13 of significant benefit to the County and the residents of the Ranch Plan Planned Community; and

14 WHEREAS, the proposed Development Agreement reserves to the County all powers
15 reasonably necessary to protect the public health and safety in connection with development of
16 the Project; and

17 WHEREAS, the County also retains flexibility under the proposed Development
18 Agreement to adopt and apply to the Project future regulations which are not in conflict with
19 existing land use ordinances; and

20 WHEREAS, this Board has reviewed the proposed Development Agreement with respect
21 to consistency with the Orange County General Plan (as amended by GPA01-01), all applicable
22 specific plans, applicable zoning regulations, and Resolution No. 02-066; and

23 WHEREAS, in compliance with the California Environmental Quality Act (California
24 Public Resources Code Sections 21000 *et seq.*) ("CEQA"), the State CEQA Guidelines (Title 14,
25 California Code of Regulations Sections 15000 *et seq.*) ("CEQA Guidelines") and the County's
26 environmental analysis procedures, the County of Orange prepared Program Environmental
27 Impact Report No. 589 ("Program EIR No. 589") to address the environmental impacts of the
28 proposed Ranch Plan Planned Community Project – including the proposed Development
29 Agreement; and

30 WHEREAS, this Board has reviewed and considered all of the environmental
31 documentation prepared to evaluate the Project, including all elements of Program EIR No. 589;
32 and

33 WHEREAS, this Board, through Resolution No. 04-290, has heretofore certified Program
34 EIR No. 589, in its composite form, as complete and adequate in that it addresses all
35 environmental effects of the Project and fully complies with the requirements of CEQA, the
36 CEQA Guidelines and the County's environmental analysis procedures; and

1 WHEREAS, the proposed Development Agreement contemplates that further
2 environmental studies, analyses, reports and documents may be required in connection with
3 future approvals; and

4 WHEREAS, the Development Agreement provides that prior to and as a condition
5 precedent to the construction or development of any public facilities to be constructed and/or
6 funded, in whole or in part, by RMV, all governmental permits and approvals must be obtained as
7 required by the applicable land use ordinances or other regulations and all environmental studies,
8 analyses, reports and other documents are to be prepared and completed therefore in full and strict
9 compliance with CEQA and other applicable regulations; and

10 WHEREAS, the Orange County Planning Commission ("Planning Commission")
11 conducted legally noticed public hearings concerning GPA01-01, ZC01-02, the Development
12 Agreement and Program EIR No. 589 on September 14, September 28, October 6 and October
13 12, 2004, respectively; and

14 WHEREAS, at the conclusion of a supplemental meeting conducted by the Planning
15 Commission on October 14, 2004, said Commission adopted Resolution 04-07 recommending, in
16 relevant part, that this Board approve, execute and deliver the Development Agreement; and

17 WHEREAS, in accordance with the Government Code of the State of California, a legally
18 noticed public hearing concerning GPA01-01, ZC01-02, the Development Agreement and
19 Program EIR No. 589 was conducted by this Board on November 8, 2004; and

20 WHEREAS, this Board has listened to and carefully considered the public comments that
21 were presented to it at the public hearing held on the Project; and

22 WHEREAS, the proposed Development Agreement will not subject the County to any
23 additional liability for monetary damages as a result of any assurance or right contained therein or
24 for any other reason; and

25 WHEREAS, this Board shares the concerns of all citizens of Orange County that adequate
26 public facilities be provided within the Ranch Plan Planned Community area;

27 NOW, THEREFORE, BE IT RESOLVED THAT based upon the foregoing recitals,
28 which are incorporated herein as findings of this Board, and the following findings, this Board
hereby approves the Ranch Plan Development Agreement:

1. Final Program EIR No. 589, certified by this Board on November 8, 2004 (*see*
Resolution No. 04-290), adequately addresses the potential environmental effects of the proposed
Project covered by the Development Agreement.

2. The Development Agreement is consistent with the Orange County General Plan
(as amended by GPA01-01) and applicable zoning regulations and procedures.

3. The Development Agreement would, during the term of said Agreement (*i.e.*, 30
years), maintain the existing General Plan, the Ranch Plan Planned Community project

1 documents, land use regulations and other selected and identified ordinances for the benefit of the
2 Project and the Property. Notwithstanding, the Development Agreement would ensure that the
3 County's future discretionary authority in reviewing and processing Master Area Plans, Sub-Area
4 Plans, use permits, site development permits and subdivision maps will be maintained. In order
5 to achieve equity for the above consideration, the County will receive various, specified public
6 benefits.

7
8 4. The Development Agreement is consistent with the County Development
9 Agreement Resolution in that the affected school district (ala Capistrano Unified School District
10 [CUSD]) was afforded an opportunity to review and comment upon the proposed Ranch Plan
11 Planned Community and the school facility need generated by the Project throughout the review
12 process for Program EIR No. 589. A condition of the Project is that RMV shall coordinate with
13 CUSD to ensure that adequate educational facilities are implemented to serve students generated
14 by the proposed Project. In its action on the Project, this Board has determined that the impacts
15 of this Project on the affected school district are fully mitigated by the foregoing condition.

16
17 5. The Development Agreement would ensure the following major public benefits to
18 be provided by RMV as consideration for the County's entering into and performing the
19 Development Agreement:

20 a. Transportation Improvements/Contributions

21 The Conditions of Approval obligate RMV to participate, on a Fair Share basis, in the
22 financing of certain on-site and off-site transportation system improvements. In order to
23 facilitate and promote the County's timely completion and achievement of these necessary
24 improvements, RMV shall provide the following additional financial/resource assistance
25 to the County:

- 26 ➤ Acceleration of RMV's Fair Share payment obligations for the transportation
27 improvements identified in the Conditions of Approval.
- 28 ➤ Provision of land for public right-of-way to facilitate the future construction of
identified transportation facilities.
- Provision of financial contributions that exceed the minimum Fair Share
obligations specified in the Conditions of Approval.

The specific transportation benefits to be received by County and its residents are
summarized in Table D-1 of Exhibit D to the Development Agreement, and more
particularly described in Section I.C. of said Exhibit D. Table D-1, Exhibit D and
Exhibit E to the Development Agreement further identify the milestone events for when
the accelerated and additional resources will be provided by RMV to the County and the
phasing plan for the specified transportation improvements. Again, the provision of the
accelerated and additional resources will enable the County to expedite and accomplish
both current and future transportation improvement projects benefiting the residents of
Orange County (e.g., advance funding shall allow for the near-term preparation of design
materials and environmental documentation to expedite the approval processes for critical
off-site improvement projects). Furthermore, RMV's provision of advance funding will
enhance the ability of the County and adjoining jurisdictions to seek and receive matching

1 funds for identified circulation improvements (as said matching funds may be available
2 from regional, state and federal sources). As identified in Section I.B. of Exhibit D to the
3 Development Agreement, all funding provided by RMV pursuant to the Development
4 Agreement shall be deposited into the South County Roadway Improvement Program
5 (“SCRIP”) and credited against RMV’s Fair Share and extra contribution obligations.

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b. Water Resources

In planning the Project, RMV has designed an integrated Flood Management Program that effectively addresses and minimizes impacts associated with development of the Project. Notwithstanding, studies indicate that areas located south of the Project area will continue to be impacted by nuisance and first flush flows generated by existing, non-Project development. Additionally, storm flows generated by and within the Coto de Caza residential community have historically impacted downstream environmentally sensitive areas (e.g., the Gobernadora Ecological Restoration Area) and the mainstem of San Juan Creek, and have contributed to water quality and flooding problems in areas located downstream of the Project area. In the absence of affirmative planning and response, these non-Project related impacts will continue to produce negative downstream impacts.

In order to assist the County, Coto de Caza and the community at large in the abatement of this nuisance, RMV shall design and provide a water quality basin in Gobernadora Canyon that has the ability and capacity to capture nuisance and first flush storm flows generated by the Coto de Caza residential community. Specifically, and as identified in Section II of Exhibit D to the Development Agreement, RMV shall (i) contribute up to 35 acres of land that will be used as the situs for the water quality basin and (ii) design and implement the necessary water quality basin improvements in conjunction with Santa Margarita Water District and/or other partners. Section II of Exhibit D to the Development Agreement further specifies the events triggering RMV’s obligation to contribute the land and implement the water quality basin improvements.

c. Public Trails

The Conditions of Approval specify that prior to the recordation of individual subdivision maps within the Project area, each subdivider shall offer to the County an easement that provides for any designated regional riding and hiking trail located within the subdivided area. The purpose underlying said Condition is to facilitate the County’s implementation of the 348-mile regional trail network described and identified in the County General Plan. However, full implementation of the regional trail network (as said network traversed the Project area) and accomplishment of the County’s trail system goals will require the establishment of supplemental easements and trail linkages that are in addition to those mandated by the Conditions of Approval.

In furtherance of the public interest in (i) achieving completion of the County’s regional trail network, (ii) providing connectivity between existing and proposed community trails and (iii) enhancing connectivity between regional recreational facilities, RMV shall:

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- Dedicate to the County an easement for regional riding and hiking trail purposes that connects the existing Wagon Wheel Trail (extending from General Thomas F. Riley Wilderness Park) with the Ridge Top Trail (located within Caspers Wilderness Park). The general location of the trail easement is depicted as "Trail X" in Exhibit D-1 to the Development Agreement. Furthermore, Section III of Exhibit D to the Development Agreement specifies RMV's obligations with respect to the timing easement dedication.
- Design and implement a community trail connection between the existing Ladera Ranch Community Trail and the proposed San Juan Creek Regional Riding and Hiking Trail. The general location of the proposed community trail connection is depicted as "Trail Y" in Exhibit D-1 to the Development Agreement. Furthermore, Section III of Exhibit D to the Development Agreement specifies RMV's obligations with respect to the timing of the identified trail improvements.
- Design and implement a community trail connection between Coto de Caza and the proposed Wagon Wheel Community Connector Trail (*see first arrow point, above*) and the proposed San Juan Creek Class I Bikeway. The general location of the proposed community trail connection is depicted as "Trail Z" in Exhibit D-1 to the Development Agreement. Furthermore, Section III of Exhibit D to the Development Agreement specifies RMV's obligations with respect to the timing of the identified trail improvements.

BE IT FURTHER RESOLVED THAT this Board directs that the Development Agreement be entered into and that the Clerk of this Board is directed to: (i) execute the Development Agreement on behalf of the County of Orange after execution thereof by RMV, provided that RMV executes and delivers to the Clerk of this Board the Development Agreement within 30 days of this Resolution; and (ii) insert the date of said execution on the page numbered "1" of the Development Agreement.

BE IT FURTHER RESOLVED THAT the Clerk of this Board is hereby directed to record the Development Agreement with the County Recorder upon execution.

[THIS SPACE INTENTIONALLY LEFT BLANK]

1 The foregoing was passed and adopted by the following vote of the Orange County Board
2 of Supervisors on November 8, 2004; to wit:


3 AYES:	Supervisors	THOMAS W. WILSON, CHARLES V. SMITH, JAMES W. SILVA, BILL CAMPBELL, CHRIS NORBY
4 NOES:	Supervisor(s)	
5 EXCUSED:	Supervisor(s)	
6 ABSTAINED:	Supervisor(s)	

7
8 
CHAIRMAN

9
10 STATE OF CALIFORNIA)
11) ss.
12 County of Orange)

13 I, DARLENE J. BLOOM, Clerk of the Board of Orange County, California, hereby
14 certify that a copy of this document has been delivered to the Chairman of the Board and that the
15 above and foregoing Resolution was duly and regularly adopted by the Orange County Board of
16 Supervisors.

17 IN WITNESS WHEREOF, I have hereto set my hand and seal.

18 
19 DARLENE J. BLOOM
20 Clerk of the Board of Supervisors
County of Orange, State of California



21 Resolution No.: 04-293
22 Agenda Date: 11/08/2004
23 Item No.: 1

24 I certify that the foregoing is a true and correct copy of the Resolution
25 adopted by the Board of Supervisors, County of Orange, State of
26 California

27 DARLENE J. BLOOM, Clerk of the Board of Supervisors

28 By: _____
Deputy

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Recording Requested by and
when Recorded, return to:
Clerk of the Board
10 Civic Center Plaza, Room 465
Santa Ana, California 92701

Recorded in Official Records, Orange County
Tom Daly, Clerk-Recorder

 NO FEE

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**EXEMPT RECORDING REQUESTED
PER GOVERNMENT CODE 6103**

(Space Above This Line for Recorder's Use)

RANCHO MISSION VIEJO DEVELOPMENT AGREEMENT

COUNTY OF ORANGE

(Ranch Plan Project)

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RANCHO MISSION VIEJO DEVELOPMENT AGREEMENT

(Govt. Code Sections 65864-65869.5)

THIS RANCHO MISSION VIEJO DEVELOPMENT AGREEMENT ("Agreement") is entered into this 8th day of November, 2004, by and between the COUNTY OF ORANGE, a political subdivision, organized and existing under the laws of the State of California ("COUNTY"), and the following parties (each of which shall be individually referred to herein as an "OWNER" and all of which shall be collectively referred to herein as the "OWNERS"): DMB SAN JUAN INVESTMENT NORTH, LLC, a Delaware limited liability company, RMV MIDDLE CHIQUITA, LLC, a California limited liability company, RMV RANCH HOUSE, LLC, a California limited liability company, RMV HEADQUARTERS, LLC, a California limited liability company, RMV SAN JUAN WATERSHED, LLC, a California limited liability company, RMV SAN MATEO WATERSHED, LLC, a California limited liability company, and RMV BLIND CANYON, LLC, a California limited liability company.

RECITALS

This Agreement is entered into based upon the following facts:

A. When used in these Recitals, each of the terms defined in Section 1 of this Agreement shall have the meaning given to it therein.

B. Government Code Sections 65864-65869.5 authorize COUNTY to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, in order to, among other things: encourage and provide for the development of Public Facilities to support the development of new housing and commercial projects; provide certainty in the approval of development projects in order to avoid the waste of resources and the escalation in the cost of housing and other development to the consumer and to encourage investment in and commitment to comprehensive planning which will make maximum efficient utilization of resources at the least economic cost to the public; provide assurance to developers that they may proceed with their projects in accordance with existing policies, rules and regulations, subject to their conditions of approval; and strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic costs of development.

C. OWNERS hold legal title to the Property. The Property consists of approximately 22,815 acres. The Property is located in the unincorporated portion of southern Orange County, east of the Cities of Mission Viejo and San Juan Capistrano and north of the City of San Clemente.

D. OWNERS desire and intend to develop the Property as a large scale master planned development commonly known as the "Ranch Plan" for the uses and purposes set forth in the Development Plan. The Development of the Property requires substantial early and major capital expenditures and investments with respect to the construction and installation of major infrastructure and facilities, both on-site and off-site, of sufficient capacity to serve the future residents and users of the Property as anticipated by the General Plan and, in some instances, existing communities.

E. The Development Plan provides balanced and diversified land uses and imposes appropriate standards and requirements with respect to land development and usage so as to maintain the overall quality of life and of the environment within the County. COUNTY has determined that the Development Plan implements the goals and policies of COUNTY's General Plan applicable to the Project.

F. Pursuant to Government Code Section 65865, COUNTY has adopted the County Development Agreement Resolution, establishing procedures and requirements for the consideration of proposed development agreements such as this Development Agreement.

G. COUNTY has approved the Development Plan in order to protect the interests of COUNTY's existing and anticipated citizens and the quality of their community and environment through the planned development process. As part of the process of approving the Development Plan, COUNTY has undertaken, pursuant to the California Environmental Quality Act ("CEQA"), the required analyses of the environmental effects which would be caused by the Project. On November 8, 2004, the COUNTY Board of Supervisors adopted Resolution No. 04-290 certifying Environmental Impact Report No. 589. In addition to other matters which COUNTY took into consideration in its analyses of the environmental effects which would be caused by the Project, COUNTY scrutinized with particular care the adverse impacts associated with vehicular traffic conditions within the County and the availability of adequate levels of housing, public services and facilities within the County, including, without limitation, library, sheriff, fire and paramedic protection, open space and community parks. COUNTY has imposed a series of mitigation measures in connection with the development of the Project to reduce or eliminate the anticipated adverse impacts on traffic conditions and on levels of housing, public services and facilities within the County.

H. As consideration for the assurances provided by this Agreement, COUNTY has requested that OWNERS provide, and OWNERS are willing to provide, additional public benefits as described in Exhibit D of this Agreement. The COUNTY has determined that the public benefits for which OWNERS are obligated, together with the mitigation measures imposed by the COUNTY on the Project, adequately provide for the health, safety and welfare needs of the existing and future residents of the Property and the population of adjacent areas of the County subject to the provisions of this Agreement with respect to future monitoring programs.

I. The Public Facilities to be provided by OWNERS will benefit not only the Project, but also in many instances adjacent areas and, in the case of roadways, parks, open space areas and trails (see Exhibit D), regional populations. Given the regional significance of these improvements and facilities, COUNTY desires to obtain, and OWNERS are willing to assist in providing, the Public Facilities in an orderly phased manner.

J. As with other major private undertakings, the Development of the Project is subject to significant economic and demographic uncertainties. These uncertainties, together with other currently unknown factors which may arise over the term of this Agreement, prevent OWNERS from presently predicting the precise timing for Development of the Project.

K. The COUNTY has found and determined that this Agreement: (i) is consistent with COUNTY's General Plan; (ii) is in the best interests of the health, safety and general welfare of COUNTY, its residents and the public; (iii) is entered into pursuant to and constitutes a present exercise of the police power by COUNTY; and (iv) is entered into pursuant to and in compliance with the requirements of Section 65867 of the Development Agreement Legislation and the County Development Agreement Resolution; and the COUNTY Board of Supervisors has adopted an ordinance authorizing the execution of this Agreement.

L. COUNTY desires to be assured that if all or a material portion of the Property is annexed to, or included within the boundaries of, a Local Agency, OWNERS' Obligations will be completed to the extent required by this Development Agreement irrespective of the exercise of jurisdiction by the Local Agency. For that reason, this Agreement will provide assurances that the Exhibit D obligations will survive any transfer of land use jurisdiction to a Local Agency.

M. A Fiscal Impact Report has been prepared for the Project to analyze fiscal impacts on, among other items, the COUNTY's General Fund. This Agreement documents that the Project will result in a positive fiscal impact on the COUNTY General Fund.

N. Based on the foregoing, OWNER and COUNTY desire to enter into this Agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing recitals of fact, the mutual covenants contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

1. SECTIONS, DEFINITIONS AND EXHIBITS.

1.1 Sections and Paragraphs.

Any reference in this Agreement to a "Section" is a reference to the indicated numbered section or subsection of this Agreement and a reference to a "Paragraph" is a reference to the indicated paragraph of a Section.

1.2 Definitions.

The following terms when used in this Agreement shall be defined as follows:

1.2.1 "Annual Monitoring Review" means the annual review required pursuant to Section 5 hereinbelow.

1.2.2 "Approval Date" means November 8, 2004, when the COUNTY Board of Supervisors first adopted the Development Plan defined below.

1.2.3 "Assignment and Assumption Agreement" means the alternative forms of agreement attached hereto as Exhibit H-1 and Exhibit H-2.

1.2.4 “Benefitted Interest” means any corporation, company, joint venture, partnership, trust and individual owning the Property or any portion thereof benefiting from any Public Financing Mechanism created to support development of the Project associated with and obligated to make payments of taxes, fees, assessments, special taxes or other charges pursuant to or in support of said public financing.

1.2.5 “Building and Improvement Standards” means Regulations of COUNTY which are of general application to all development and improvement projects within the COUNTY’s jurisdiction and which establish regulations and standards for the building, construction and installation of structures and associated improvements such as and including, without limitation, COUNTY’s building, plumbing, mechanical, grading, swimming pool, sign and fire codes.

1.2.6 “COUNTY” means the County of Orange, a political subdivision of the State of California.

1.2.7 “County” means the geographical area within the boundaries of COUNTY.

1.2.8 “County Development Agreement Resolution” means the resolution adopted by the Board of Supervisors of COUNTY establishing a procedure for the consideration and approval of development agreements pursuant to the Development Agreement Legislation.

1.2.9 “CSA” means any County Service Area established pursuant to California Government Code Section 25210.1 *et seq.* by the COUNTY after execution of this Agreement to administer and provide certain public services to the Project.

1.2.10 “CSD” means any Community Services District established pursuant to California Government Code Section 61000 *et seq.* by the COUNTY after execution of this Agreement to administer and provide certain public services to the Project.

1.2.11 “Development” means the improvement of the Property for purposes of effecting the structures, improvements and facilities comprising the Project including, without limitation: grading, the construction of infrastructure and Public Facilities related to the Project whether located within or outside the Property; the construction of structures and buildings; and the installation of landscaping; but not including the maintenance, repair, reconstruction or redevelopment of any structures, improvements or facilities after the construction and completion thereof.

1.2.12 “Development Agreement Legislation” means Sections 65864 through 65869.5 of the California Government Code as it exists on the Effective Date.

1.2.13 “Development Approval(s)” means sites-specific plans, maps, permits and other entitlements of every kind and nature now or hereafter approved or granted by COUNTY in connection with the Development of the Property, including but not limited to: area plans and site plans, tentative and final subdivision tract maps, vesting tentative maps, conditional and special use permits and grading, building and other similar permits.

1.2.14 “Development Exactions” means requirements of COUNTY in connection with or pursuant to any Land Use Ordinance or Development Approval for the dedication of land or property, the payment of fees or money or the construction or improvement of Public Facilities in order to lessen, offset, mitigate or compensate for the adverse impacts of the Project on environmental or other public concerns or interests or for the improvement, construction or acquisition of any public infrastructure, facilities or property; provided, however, that said term shall not include assessments and taxes unless exacted as a condition of development under a Development Approval, nor shall it include any requirements for the purpose of or with respect to the replacement, repair, maintenance or operation of public infrastructure, facilities and property or the provision of public services.

1.2.15 “Development Plan” means the Ranch Plan Planned Community and regulations with respect thereto adopted by COUNTY Board of Supervisors on November 8, 2004 by Ordinance No. 04-014, and as amended from time to time pursuant to the terms of this Agreement or the Development Plan.

1.2.16 “Economic Expectations” means reasonable investment-based economic expectations with respect to the completion of the Project in accordance with the Governing Policies taking into consideration technical, financing, market and other factors.

1.2.17 “Effective Date” means the effective date of this Agreement which is the effective date of the COUNTY’s ordinance approving this Agreement.

1.2.18 “Existing Land Use Ordinances” means those certain Land Use Ordinances in effect on the Effective Date.

1.2.19 “Existing Land Use Regulations” means those certain Land Use Regulations in effect on the Effective Date and includes “Existing Land Use Ordinances.” Exhibit B sets forth certain of the Land Use Regulations in effect on the Approval Date and shall be adjusted to reflect the Existing Land Use Regulations as of the Effective Date. This adjustment shall occur as provided in Exhibit B of this Agreement.

1.2.20 Intentionally Omitted.

1.2.21 “General Plan” means the General Plan of COUNTY.

1.2.22 “Governing Policies” means (i) the policies specified in Section 4.1; (ii) the Existing Land Use Ordinances; and (iii) the Development Plan.

1.2.23 “Growth Management Program” means that program in the County’s General Plan which is intended to balance the timing of development with public service demands.

1.2.24 “Land Use Ordinances” means the ordinances adopted by the Board of Supervisors of COUNTY which govern the permitted uses of land, the density and intensity of use, and the design, improvement, and construction standards and specifications applicable to the Development of the Property, including, but not limited to: the General Plan, the Development Plan, specific plans, zoning ordinances, planned community district ordinances, development

moratoria and growth management and phased development programs, ordinances establishing Development Exactions, subdivision and park codes and Building and Improvement Standards.

1.2.25 “Land Use Regulations” means Regulations of COUNTY which govern the permitted uses of land, the density and intensity of use, and the design, improvement, and construction standards and specifications applicable to the Development of the Property, including, but not limited to, mitigation measures required in order to lessen or compensate for the adverse impacts of the Project on the environment and other public interests and concerns. Land Use Regulations include, but are not limited to, Land Use Ordinances, Development Approvals and Development Exactions. The term Land Use Regulations does not include, however, Regulations relating to the conduct of business, professions and occupations generally; taxes and assessments other than Development Exactions; Regulations for the control and abatement of nuisances; encroachment and other permits and the conveyances of rights and interests which provide for the use of or entry upon public property; and any exercise of the power of eminent domain.

1.2.26 “Local Agency” means any city into which the Property may be annexed or incorporated.

1.2.27 “Local Service District(s)” means a special district providing municipal services to, or Public Financing Mechanisms for, the Property (*e.g.*, a CSA, CSD or similar entity), to be established by COUNTY after execution of this Agreement to administer and provide to the Property certain municipal services and Public Facilities necessary for the development of the Property as set forth in the Development Approvals. One or more such Local Service Districts may be formed to achieve the governance and municipal services and infrastructure financing requirements set forth in this Agreement.

1.2.28 “MPAH” means the Master Plan of Arterial Highways which has been adopted by the Orange County Transportation Authority (OCTA) and which designates routes for collector, secondary, primary, major and principal arterial highways, and transportation corridors, “smartstreets” and freeways within the County.

1.2.29 “Mortgage” means a mortgage, deed of trust or sale and leaseback arrangement or other transaction in which the Property, or a portion thereof or an interest therein, is pledged as security, contracted for in good faith and for fair value.

1.2.30 “Mortgagee” means the holder of the beneficial interest under a Mortgage, or the owner of the Property, or interest therein, under a Mortgage.

1.2.31 “Municipal Services Agreement” means the agreement to be entered into between OWNERS and the Local Service District to provide Public Facilities and municipal services as set forth in Section 3.6 hereof.

1.2.32 “Ordinance Number 3570” means Sections 7-9-700 through 7-9-713 of the Codified Ordinances of the County of Orange, as in effect on the Effective Date. Those Sections were originally enacted by Ordinance 3570.

1.2.33 “OWNER” means the individual persons or entities identified as such in the preamble of this Agreement, and any permissible successor or assignee to the rights, powers and responsibilities of such persons or entities in accordance with Section 6 of this Agreement.

1.2.34 “OWNERS” means all of the individual OWNERS collectively.

1.2.35 “OWNERS’ Obligations” means the obligations of OWNERS set forth in Section 3 to pay the sums, build and construct the improvements, dedicate the lands and improvements and undertake and perform the other actions described in Section 3.

1.2.36 “Project” means the development project contemplated by the Development Plan with respect to the Property, including but not limited to on-site and off-site improvements, as such development project is further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.2.37 “Property” means the lands described in Exhibit A-1 and generally depicted on Exhibit A-2. A reference to the “Project Site” is intended to refer to the Property. The Property consists of approximately 22,815 acres.

1.2.38 “Pro-Rata Share” means a proportionate amount of any fee, charge or liability paid or otherwise tendered in satisfaction of an obligation or commitment, where full responsibility for the obligation or commitment is shared by OWNERS and others, and the respective obligations can be calculated exactly pursuant to a formula.

1.2.39 “Public Facilities” means i) those certain lands and facilities (including infrastructure) to be improved, constructed and/or dedicated or conveyed to the public; and ii) other public benefits as described in Exhibit D, all of which OWNERS are obligated to provide pursuant to Section 3.1.

1.2.40 INTENTIONALLY OMITTED.

1.2.41 “Public Financing Mechanism(s)” means the Local Service District, COUNTY, and any regional or independent special district, community facilities district (CFD), infrastructure financing district (IFD), integrated financing mechanism, assessment district, maintenance district, landscape and lighting district or any other similar financing mechanism or entity; revenue bonds and other debt financing; Project or area-specific development impact or mitigation fee; planning, environmental and processing fees; monitoring program fees; stand-by charges; developer advances; and other means of financing (including, but not limited to, Federal, State, regional and local funding sources); to be applied, formed, adopted or secured by the COUNTY or the Local Service District for the purpose of financing the construction, acquisition and/or maintenance of public improvements and facilities, and the provision of public services for the Project, and which may include other property in addition to the Property or portion thereof included within said Public Financing Mechanism.

1.2.42 “Regulations” means laws, statutes, ordinances, and codes (including the Building and Improvements Standards), resolutions, rules, regulations and orders; approvals, denials and conditional approvals in connection with tentative, vesting tentative and final subdivision maps, parcel maps, conditional and special use permits and other permits of every

kind and character; programs; and official policies and actions of COUNTY; together with amendments to all of the foregoing.

1.2.43 “Reservations of Authority” means the rights and authority excepted from the assurances and rights provided to OWNER in Section 4.2 and reserved to COUNTY therein and in Section 4.3.

1.3 Exhibits.

The reference to a specified “Exhibit” in this Agreement is a reference to a certain one of the exhibits listed below, as determined by the accompanying letter designation, which exhibits are attached hereto and by this reference made a part hereof.

<u>Exhibit Designation</u>	<u>Description</u>
A-1	Description of Property.
A-2	The Ranch Plan Planned Community (PC) Zoning Map.
A-3	The Ranch Plan Statistical Summary.
B	Existing Land Use Regulations.
C	Intentionally Omitted.
D	Benefits to COUNTY and its Residents.
E	Transportation Improvement Phasing Plan
F	Particular Conditions and Mitigation Measures Contained in the Land Use Regulations, Development Approvals and Mitigation Monitoring Programs Which are Satisfied or Partially Satisfied Through Adoption and Implementation of the Development Agreement.
G	Intentionally Omitted.
H-1	Assignment and Assumption Agreement (Form) – Non-Public Entities
H-2	Assignment and Assumption Agreement (Form) – Public Entities

2. MUTUAL BENEFITS AND ASSURANCES.

2.1 Purposes of Agreement.

This Agreement is entered into for the purpose of carrying out the Development Plan for the Project in a manner that will ensure certain anticipated benefits to both COUNTY (including, without limitation, the existing and future residents and populations of COUNTY) and OWNERS as described in the RECITALS, in Exhibit D, and as follows:

(i) To provide and assure to COUNTY certain Public Facilities and benefits and to provide for the anticipated levels of residents and populations of the Property, the County and adjacent areas, all as provided for in the General Plan;

(ii) To provide to OWNERS assurances regarding the Regulations that will be applicable to the Development of the Property that will justify the undertakings and commitments of OWNER described in Paragraph (i) above and the investment in on-site and off-site Public Facilities and improvements as set forth in the Development Plan and this Agreement.

2.2 Undertakings and Assurances Contemplated and Promoted by Development Agreement Legislation.

The mutual undertakings and assurances described above and provided for in this Agreement are for the benefit of COUNTY and OWNERS and promote the comprehensive planning, private and public cooperation and participation in the provision of Public Facilities, and the effective and efficient development of infrastructure and facilities supporting development which was contemplated and promoted by the Development Agreement Legislation.

2.3 Bargained For; Reliance by Parties.

The assurances provided to OWNERS in this Agreement are provided pursuant to and as contemplated by the Development Agreement Legislation, bargained and in consideration for the undertakings of OWNERS set forth in this Agreement and are intended by COUNTY to be and have been relied upon by OWNERS to their detriment in undertaking the obligations and covenanting as provided in Section 3 hereinbelow and in this Agreement generally and in expending monies and making improvements pursuant to this Agreement with respect to the Public Facilities and the Project.

2.4 No Liability for Failure to Develop.

Notwithstanding anything to the contrary express or implied herein, OWNERS shall have no liability (other than the potential termination of this Agreement as provided below) if the contemplated Development of the Project fails to occur.

3. OWNERS' AND COUNTY'S RESPECTIVE OBLIGATIONS; PROVISION OF PUBLIC BENEFITS.

3.1 In General; Public Benefits.

OWNERS shall be obligated to, and shall, perform all of the duties and obligations provided for or required by any provisions of the existing General Plan and the Development Plan in connection with the Development of the Property. Subject to the terms and conditions set forth herein, OWNERS shall be obligated to provide the Public Facilities, including the public benefits as described in Exhibit D, and to comply with any and all requirements set forth in Exhibit D for securing or guaranteeing the performance of the OWNERS' Obligations. (Some obligations required by the Development Plan also are set forth in Exhibit D.) Conditions and mitigation measures contained in the Existing Land Use Regulations, Development Approvals and mitigation monitoring programs which are or will be satisfied or partially satisfied through the adoption and implementation of this Agreement are set forth in Exhibit F.

3.2 Dedication, Construction and Conveyance of Public Facilities.

a. In General.

The Public Facilities to be dedicated (in the case of lands) and constructed by OWNERS and dedicated or conveyed to COUNTY as described in Exhibit D, shall be completed in accordance with the provisions of Exhibit D, and dedicated and conveyed to COUNTY in fee, free of all liens and encumbrances of every kind and nature except as expressly set forth in Exhibit D or agreed in writing by COUNTY. All such dedications shall be accomplished in a manner meeting the approval of the COUNTY.

b. Public Facilities; Subdivision Requirements.

Public Facilities required by the Development Plan are subject to standard subdivision requirements of general application except as expressly set forth in Exhibit D or agreed to in writing by COUNTY.

3.3 Relationship of Parties.

In performing OWNERS' Obligations, OWNERS are acting under this Agreement as independent contractors and are not acting as the agents or employees of COUNTY. Nothing contained in this Agreement shall be construed as creating between the OWNERS and COUNTY a partnership or joint venture for any purpose.

3.4 Public Facilities.

If OWNERS are required by this Agreement to construct any Public Facilities which will be dedicated to COUNTY or any other public agency upon completion, and if required by applicable laws to do so, OWNERS shall perform such work subject to the same engineering specifications and standards as would be applicable to COUNTY or such other public agency should it have undertaken such construction.

3.5 Obligations of COUNTY Regarding Public Facilities.

In any instance where OWNERS are required to construct any Public Facilities on lands other than the Property, as a condition precedent to the performance of such obligation, COUNTY shall provide or cause to be provided the real property rights and interests necessary for the construction of such Public Facilities. Where those property rights and interests are to be acquired by any Public Financing Mechanism including the project site, OWNERS shall have no obligation to pay for such rights or interests except that OWNERS shall pay all reasonable administrative costs of COUNTY (including but not limited to the administrative costs of condemnation) related to the acquisition and transfer of said rights and interests. Where those real property rights and interests are acquired for ownership by COUNTY and not by a Public Financing Mechanism, OWNERS shall reach agreement with COUNTY for payment by OWNERS of all reasonable costs, including land costs, incurred in acquiring those real property rights and interests; in no event shall COUNTY have any obligation to pay for such acquisition. COUNTY's only obligation is to use at its option its power of eminent domain to acquire such property at OWNERS' expense. (Note: This Section does not mean that OWNERS are required to acquire any real property rights or interests related to OWNERS' "Fair Share Contributions" or "Extra Contributions" for the off-site traffic mitigation program as set forth in Exhibit D.)

3.6 Financing and Provision of Public Facilities and Services.

COUNTY and OWNERS may establish a series of Local Service Districts to provide necessary administration, financing and municipal services for the benefit of the Project area and its residents. Preliminary concepts envision the potential use of a two-tier structure for the Local Service Districts; namely: (i) creation of a Project area-wide limited purpose district designed to provide necessary services for the entire Project area as it develops and (ii) establishment of supplemental community service districts that will provide a range of municipal level services for each planning area developed within the Project area. In the event COUNTY and OWNERS elect to proceed with the establishment of one or more Local Service Districts for the Project area, the following provisions shall apply:

a. Local Service Districts.

It is the intent of the parties that COUNTY shall cooperate in establishing the Local Service Districts and other Public Financing Mechanisms to administer and provide to the Property, in conjunction with COUNTY and other public agencies, municipal services and Public Facilities necessary to support urban development pursuant to the Project. COUNTY agrees to use reasonable efforts to facilitate the formation of the Local Service Districts, and OWNERS shall cooperate with COUNTY in the formation of the Local Service Districts, including a waiver of any protest provisions set forth in the applicable statute related to the formation of the particular Local Service District if the formation is in accord with the Development Approvals and the terms and conditions of this Agreement. It is also a condition of this Agreement that OWNERS and the Local Service District(s) shall enter into a Municipal Services Agreement(s) providing for certain municipal services and Public Facilities to be provided in connection with the development of the Project and the parties shall undertake and carry out their respective obligations under the Municipal Services Agreement.

b. Establishment of Public Financing Mechanisms.

(i) The parties intend to explore and, where possible, use Public Financing Mechanisms for financing OWNERS' Obligations for Public Facilities under this Agreement. OWNERS shall have the right to request COUNTY and/or the Local Service District, upon OWNERS posting a deposit or other security satisfactory to COUNTY for payment of COUNTY's costs in connection therewith, to initiate and conclude appropriate proceedings for the establishment of Public Financing Mechanisms under applicable Regulations to pay for the costs and expenses associated with the construction and provision of the Public Facilities required to be provided by OWNERS under this Agreement. OWNERS may also request that COUNTY and/or the Local Service District(s) consider the utilization of any other financing method then available under the Regulations, provided that such alternative methods do not impose any additional un-reimbursed expense upon COUNTY. Upon OWNERS' request to initiate proceedings, COUNTY and/or the Local Service District(s) shall initiate proceedings under applicable law, it being understood and agreed, however, that COUNTY and/or the Local Service District(s) must follow applicable legal procedure with respect thereto and reserve its legislative discretion in determining spread of assessments, allocation of benefit and other matters and in deciding whether to approve the formation of any such Public Financing Mechanism.

(ii) OWNERS shall cooperate with the COUNTY and/or the Local Service District(s) in the establishment of any such Public Financing Mechanism and waive their right to protest such establishment if it is in accord with the Development Approvals and the terms and conditions of this Agreement. OWNERS do reserve, however, their rights to protest during any such proceedings the allocation of benefit and spread of assessments. OWNERS also reserve the right to withdraw their request for Public Financing Mechanisms under this Section 3.6, provided COUNTY and/or the Local Service District(s) is/are fully reimbursed for its/their costs and expenses hereunder. If a permitted assignment under Section 6.1 hereof is made after proceedings to establish a Public Financing Mechanism have been initiated, the OWNER or OWNERS then holding title to the Property or any interest therein shall continue to cooperate with the establishment of the Public Financing Mechanism. OWNERS acknowledge and understand that the failure to establish any such Public Financing Mechanism or OWNERS' failure to participate therein may preclude development of the Project until a Public Financing Mechanism is established by the COUNTY or the Local Service District(s) and OWNERS participate therein.

(iii) In connection with bonds or other financings proposed to be undertaken by COUNTY or the Local Service District(s) or pursuant to a Public Financing Mechanism, OWNERS understand and agree that OWNERS and other affected property owners may be required to provide detailed background, financial and project information deemed necessary by COUNTY and/or the Local Service District(s) or such Public Financing Mechanism in order to issue its bonds or obtain other financing. This information may include financial and project information necessary for COUNTY and/or the Local Service District(s) or the Public Financing Mechanism to determine financial feasibility as well as other information generally expected by the capital markets for transactions of the type of financing contemplated in order to meet industry standards for disclosure. Such information may include, but is not limited to: complete financial statements for up to three (3) years from each information

regarding principal owners, investors, and lenders of the Benefitted Interests; previous experience, if any, of the Benefitted Interests in undertaking projects of the kind contemplated under this Agreement; disclosure of the Benefitted Interests' bankruptcies, receiverships, delinquencies, defaults, tax liens, foreclosures, lawsuits, and criminal indictments and convictions, if any. OWNERS shall promptly provide this information to COUNTY and/or the Local Service District(s), the bond underwriters and/or financial advisors and/or counsels, subject to mutual agreement of the parties, and shall cooperate with the underwriters and/or financial advisors and/or counsels to assemble and analyze all such required information. The COUNTY, Local Service District(s), and the underwriters, financial advisors and counsels of the agency responsible for issuing the debt will cooperate with OWNERS, subject to their fiduciary or contractual obligations to the agency responsible for issuing the debt, to protect the confidentiality of confidential or proprietary information provided by OWNERS to COUNTY and/or the Local Service District(s). OWNERS shall warrant and certify to the COUNTY and/or Local Service District(s), as required, and to the underwriters, financial advisors and their counsels, the accuracy and completeness of such information and shall provide any opinions of OWNERS' counsel reasonably requested by the COUNTY, Local Service District(s) or their underwriters, financial advisors and their counsels.

(iv) The failure or inability of COUNTY to establish any such Public Financing Mechanism or the failure of any such Public Financing Mechanism to carry out its obligations shall not relieve OWNERS of the requirements of the Development Approvals and this Agreement to satisfy the OWNERS' Obligations as a condition to the development of the Property or any phase thereof.

c. Payment of Share of Costs.

To the extent not otherwise provided for in applicable Regulations, and subject to the provisions regarding establishment of Public Financing Mechanisms required hereunder, the parties intend that OWNERS shall arrange for and participate in necessary financing for construction and provision of the required Public Facilities applicable to the development of the Property. The parties acknowledge that OWNERS' financial obligations with respect to the Public Facilities may exceed the amount actually related to the development and use of the Property as set forth in the Development Approvals and that other properties and developers may also directly benefit from such improvements and regulations. COUNTY, to the extent the Local Service District or other Public Financing Mechanism does not provide for such matters, shall adopt by subsequent ordinance detailed procedures for reimbursement or offsetting credits to OWNERS for Public Facilities that provide measurable benefit to other developing properties.

3.7 Future Fee Programs.

Ordinance Number 3570 establishes a means by which development fees will be required of development projects where supporting facilities will be needed to provide public services. OWNERS have agreed to provide the Public Facilities and other public benefits as described in Exhibit D. In certain instances, the obligations of OWNERS in providing such facilities and services are in excess of OWNERS' Pro-Rata Share (and may include, in effect, amounts reflecting benefits to existing development or development anticipated in the future) of the costs of such facilities and services as determined pursuant to Ordinance Number 3570. It is

acknowledged by the parties that the Development of the Property in accordance with this Agreement will provide for orderly growth in accordance with the policies and goals set forth in the General Plan, as implemented through the Growth Management Program. Subject to the provisions below, OWNERS shall participate, on a pro rata basis in the manner as provided for in Ordinance Number 3570, in any future fee programs (which are not Development Exactions for the purpose of providing the Public Facilities and other public benefits as described in Exhibit D) and which are adopted by the COUNTY's Board of Supervisors in accordance with the Growth Management Program which include the Project as a portion of the respective area of benefit. Participation in any such future fee program shall be subject to the following:

(i) COUNTY shall use its best efforts to establish fair and equitable fee programs to allocate the costs of any facilities and services to be funded by the programs. COUNTY hereby acknowledges that the Property constitutes a majority of the undeveloped land within the County that is capable of development, and agrees to appropriately consider such fact in establishing fair and equitable programs such that the same do not disproportionately and adversely affect the Project or the costs thereof.

(ii) Notwithstanding any other provision of this Section 3.7, if, as a result of an initiative, COUNTY is compelled by a court of competent jurisdiction to construct Public Facilities within the Project for the purpose of benefiting the Project other than the Public Facilities, then OWNERS shall be subject to any fee program adopted pursuant to Ordinance Number 3570 for the purpose of funding such additional facilities. Nothing in this Agreement shall prohibit any OWNER from challenging or appealing any such judicial determination.

(iii) While the parties acknowledge the appropriateness of the Growth Management Program as a procedure for monitoring and providing for future residents and populations, OWNERS are concerned that COUNTY could attempt to decrease the rights and interests of OWNERS provided for in this Agreement under the guise of providing increased facilities for future residents or the public. Accordingly, in adopting any such program which is in conflict with the Governing Policies, COUNTY shall reasonably find and determine that the future needs of the residents or the public require such facilities.

3.8 No Further Development Exactions for Public Facilities.

Except as expressly provided elsewhere in this Agreement and subject to the Reservations of Authority, OWNERS shall have no obligation to participate in, pay, contribute or otherwise provide any further Development Exactions imposed by COUNTY in satisfying and completing OWNERS' Obligations.

3.9 Replacement; Repair, Maintenance and Operation.

Except as expressly provided in Section 3.1 to the contrary, the replacement, repair, and maintenance of any of the Public Facilities after the completion and acceptance thereof by COUNTY and during the term of this Agreement shall not be the subject of a fee with respect to, or a condition of, any Development Approval regarding, and no fee, tax or assessment shall be levied by COUNTY on, any undeveloped lands within the Property for any such

purposes with respect to such completed and accepted Public Facilities which does not include similarly situated and benefited developed lands. The foregoing shall not apply when OWNERS have requested that the County establish a Public Financing Mechanism affecting the Property specifically for the purpose of providing long-term maintenance for Public Facilities (including dedicated open space).

3.10 No Limitations on Objections.

Nothing in this Section 3 shall be construed as limiting OWNERS' rights to object before the COUNTY Board of Supervisors or to judicially challenge the adoption of any of the future fee programs or to otherwise take any action in opposition to the adoption of any future Regulations.

4. REGULATIONS GOVERNING THE DEVELOPMENT OF THE PROPERTY.

4.1 Specified Policies.

The following policies set forth in this Section 4.1 are consistent with and/or are provided for in or contemplated by the Existing Land Use Ordinances, including the General Plan and the Development Plan. Subject to the terms and conditions of this Agreement, the OWNERS shall have the vested right to carry out and develop the Project on the Property in accordance with the Existing Land Use Ordinances.

a. Permitted Uses.

The uses permitted hereunder in accordance with the Existing Land Use Ordinances, are as set forth in the Development Plan and include, without limitation, residential, commercial, office, business parks, neighborhood commercial, agricultural, Public Facilities, recreation and conservation.

b. Development Density and Intensity.

As set forth in the Development Plan, and as specifically identified in the Ranch Plan Statistical Summary (see Exhibit A-3), a maximum of 7,683 acres will be developed within the Project area. The maximum density/intensity for development of residential dwelling units within the Project area is 14,000 units on 7,277 acres. The Development Plan also permits the construction of (i) a maximum of 3,480,000 square feet of Urban Activity Center uses on 251 acres, (ii) a maximum of 1,220,000 square feet of Business Park uses on 80 acres, (iii) a maximum of 500,000 square feet of Neighborhood Center uses on 50 acres and (iv) a golf resort occupying not more than 25 acres. The parties acknowledge that the number of units for, and density and intensity of, the Project may be allocated by the OWNERS in accordance with the terms and conditions set forth in the Development Plan. [Note: The foregoing sentence does not apply to the allocation by OWNERS or their successors of their respective ownership/development interests in the Property or Project among the entities comprising OWNERS. Such allocations are outside the scope of this Agreement and shall not affect vested rights granted pursuant to this Agreement.]

c. Maximum Height and Size of Buildings.

The maximum height and size of structures within the Property is as set forth in the Development Plan.

d. Reservations and Dedication of Lands for Public Purposes and Undertakings for Provision of Public Facilities.

The obligations of the OWNERS to reserve and dedicate lands for public purposes and to provide the Public Facilities are set forth in Section 3 and Exhibit D.

e. Density/Intensity Increases.

COUNTY has expressed interest in ensuring the provision of regional- and community-level infrastructure, and is pursuing the use of development agreements as a method whereby a level of assurance can be achieved concerning the service demands within planned communities so that adequate long-range plans for needed infrastructure can be developed and implemented. COUNTY and OWNERS acknowledge that the establishment of land use density and dwelling unit/non-residential square footage maximums as set forth in Section 4.1.b. are necessary for facility planning efforts. OWNERS intend not to apply for increases in residential or non-residential uses for the Project, and COUNTY intends not to revise the maximum density, intensity and residential/non-residential use totals as set forth in Section 4.1.b., during the term of this Agreement, unless it can be demonstrated that such increases would not be inconsistent with, and would not unduly burden, existing and planned Public Facilities and services. Notwithstanding the foregoing, dwelling units and non-residential square footage may be allocated by OWNERS in accordance with Paragraph 6.1b.

f. Timing of Development.

The parties acknowledge that the most efficient and economic Development of the Property depends upon numerous factors such as market orientation and demand, interest rates, competition and similar factors and that generally it will be most economically beneficial to the ultimate purchasers to have the rate of Development determined by OWNERS. Accordingly, the timing, sequencing and phasing of Development shall be as determined by OWNERS in their sole subjective business judgment and discretion except that the rate of Development shall not exceed that permitted by the Phasing Schedule set forth in Exhibit E and shall be in accord with the Existing Land Use Regulations, subject to the Reservations of Authority and the other terms and conditions of this Agreement and the Development Plan.

g. Moratoria; Phasing of Development.

The parties acknowledge and agree that the Governing Policies contemplate and provide for the phasing of the Development of the Property and that except as expressly provided in this Agreement, no moratorium, ordinance, resolution, initiative or other Land Use Regulation or limitation on the conditioning, rate, timing or sequencing of the Development of the Property or any portion thereof shall apply to or govern the Development of the Property during the term hereof whether affecting parcel or subdivision maps (whether tentative, vesting tentative, or final), building permits, occupancy permits or other entitlements to use issued or granted by

COUNTY. In the event of any such subsequent action, OWNERS shall continue to be entitled to apply for and receive Development Approvals in accordance with the Existing Land Use Regulations, subject only to the exercise of the Reservations of Authority and the terms of this Agreement.

h. Development Exactions.

In addition to and not in limitation of the foregoing, or the provisions of Section 4.2, except and subject to the Reservations of Authority, COUNTY shall not levy or require:

(i) any further Development Exactions except those provided for in this Agreement or which are provided for or required by the Existing Land Use Regulations (including, but not limited to the existing General Plan and the Development Plan) which include, but are not limited to, Development Exactions which may be required by COUNTY in accordance with its current subdivision standards and policies (including, without limitation, as to the amount, time and method of payment); or

(ii) any further Development Exactions for the Public Facilities.

4.2 Regulation of Development.

a. In General.

Notwithstanding any future action of COUNTY, whether by ordinance, resolution, initiative or otherwise, during the term of this Agreement, the Regulations applicable to and governing the Development of the Property shall be the Existing Land Use Regulations (including the conditions of approval) together with amendments and additions adopted pursuant to the Reservations of Authority. OWNERS shall have the vested right to develop the Property in accordance with the terms, conditions and provisions of this Agreement. The intent of this Section 4.2a is to cause all development rights which may be required to develop the Project in accordance with this Agreement to be deemed vested in OWNERS upon the Effective Date to the greatest extent permitted by law.

b. Vested Rights.

In developing the Property, OWNERS are provided and assured the vested right to require that the Land Use Regulations of COUNTY applicable to and governing the Development of the Property during the term hereof shall be as provided in this Section 4.2.

c. Life of Development Approvals.

It is the intent of the parties that the term of any Development Approvals shall not expire prior to the expiration of the term of this Agreement. To accomplish this intent, all Development Approvals (including, without limitation, any tentative parcel map, tentative tract map or vesting tentative map which has or may be adopted for the Project) shall, if required, be

automatically extended to expire upon the later of the expiration of the particular Development Approval or the expiration of the term of this Agreement.

d. Water Supply.

Any tentative map prepared for a subdivision proposed in conjunction with the Project shall comply with the provisions of Section 66473.7 of the California Government Code, if then applicable.

4.3 Limitations, Reservations and Exceptions.

Notwithstanding anything to the contrary set forth in Section 4.2 hereinabove, in addition to the Existing Land Use Regulations, only the following Land Use Regulations adopted by COUNTY hereafter shall apply to and govern the Development of the Property:

a. Non-Conflicting Land Use Regulations.

COUNTY hereby reserves the right to adopt and implement future Land Use Regulations which (i) are not in conflict with this Agreement, the Governing Policies or the Existing Land Use Regulations; or (ii) are in conflict with this Agreement, the Governing Policies or the Existing Land Use Regulations provided the same (and/or the application thereof to the Development of the Property) has been consented to in writing by each affected OWNER.

b. State and Federal Laws and Regulations.

Existing and future State and federal laws and regulations, together with any Land Use Regulations, programs and actions, or inaction, which are reasonably (taking into consideration, among other things, the assurances provided to OWNERS hereunder) adopted or undertaken by COUNTY in order to comply with State and federal laws and regulations; provided, that in the event that State or federal laws and regulations prevent or preclude compliance with one or more provisions of this Agreement, then the parties shall meet in good faith to determine the feasibility of any modification or suspension that may be necessary to comply with such new law or regulation and to determine the effect such modification or suspension would have on the purposes and intent of this Agreement and the Existing Land Use Regulations and the implementation of the Development Plan. Following the meeting between the parties, the provisions of this Agreement may, to the extent feasible, be modified or suspended but only to the minimum extent necessary to comply with such new law or regulation. In such an event, this Agreement (together with any required modifications) shall continue in full force and effect. Notwithstanding the foregoing, if any material provision of this Agreement is adversely affected by the change in State or federal Regulation(s), OWNERS (in their sole discretion) may terminate this Agreement by providing written notice of such termination to COUNTY.

c. Public Health and Safety.

Land Use Regulations which are adopted by COUNTY, which may be in conflict with the Governing Policies or the Existing Land Use Regulations, which are reasonably necessary in order to protect the public health and safety;

d. Building and Improvement Standards.

Subject to Section 7 below, present and future Building and Improvement Standards, except that (taking into consideration the assurances to OWNER in this Section 4) any future amendment thereto which significantly reduces the amount of land within the Property which can be utilized for structures and improvements or significantly increases the amount of open space within the Project under the Development Plan shall not be considered a provision of any of the Building and Improvement Standards included within the exception provided by this Paragraph 4.3.d and shall not apply to and govern the Development of the Project unless it complies with another Reservation of Authority under this Section 4.3 (such as, for example, Paragraph 4.3.c);

e. Processing Fees and Charges.

Processing fees and charges of every kind and nature imposed or required by COUNTY under current or future Regulations covering the actual costs of COUNTY in (i) processing applications and requests for permits, approvals and other actions and (ii) monitoring compliance with any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of OWNERS hereunder; and

f. Full Extent of Law.

The parties acknowledge and agree that COUNTY is restricted in its authority to limit its police power by contract and that the foregoing limitations, reservations and exceptions are intended to reserve to COUNTY all of its police power which cannot be so limited. Therefore, this Agreement shall be construed, contrary to its stated terms if necessary, to reserve to COUNTY all such power and authority which cannot be restricted by contract.

4.4 Further Assurances to OWNER Regarding Exercise of Reservations of Authority.

a. Adoption of General Plan Amendment and Development Plan.

In preparing and adopting the General Plan Amendment and the Development Plan, COUNTY fully and comprehensively considered the health, safety and welfare of the existing and future residents and populations of the County as required by the California Environmental Quality Act (California Public Resources Code Section 21000 *et seq.*). Without limiting the generality of the foregoing, in preparing and adopting the General Plan Amendment and the Development Plan, the COUNTY Board of Supervisors carefully considered and determined the projected needs (taking into consideration the planned development of the Project, the County and adjacent areas) for sheriff, fire, library, paramedic and similar facilities and services within the Project, the County and adjacent areas, the general carrying capacity of the Property, the needs of the residents for open space and parks and the appropriateness of the number and type of dwelling units and non-residential square footage to be developed and the density and intensity of the development comprising the Project.

b. Assurances to OWNERS.

The parties acknowledge that the public benefits to be provided by OWNERS to COUNTY pursuant to this Agreement are in consideration for and reliance upon assurances that the Property can be developed in accordance with the Existing Land Use Regulations and the terms of this Agreement. Additionally, while recognizing that the Development of the Property may be affected by exercise of the Reservations of Authority and the requirement that OWNERS participate in future fee programs as set forth in Section 3.7, OWNERS are concerned that normally the courts extend to local agencies significant deference in the adoption of Land Use Regulations which might permit COUNTY to attempt to apply inconsistent Land Use Regulations in the future under the guise of the Reservations of Authority or the COUNTY's authority to require OWNERS' participation in future fee programs under Section 3.7. Accordingly, OWNERS desire assurances that COUNTY will not further restrict or limit the Development of the Property in conflict with the provisions of this Agreement except in strict accordance with the Reservations of Authority or Section 3.7. COUNTY hereby agrees that, to the extent it may legally do so, it will not attempt to so restrict or limit the development of the Property in conflict with the provisions of this Agreement. COUNTY acknowledges that the OWNERS cannot at this time predict the timing or rate at which the Property will be developed as the same will depend on numerous factors such as market demand, interest rates, absorption, completion schedules, and other factors which are not within the OWNERS' control. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development and controlling the parties' agreement, it is the intent of COUNTY and OWNERS to hereby acknowledge and provide for the right of OWNERS to develop the Property in such order and at such rate and times as the OWNERS deem appropriate within the exercise of OWNERS' prudent business judgment. In addition to and not in limitation of the foregoing, but except as set forth in the following sentence, it is the intent of the parties that no COUNTY moratorium or other similar limitation relating to the rate or timing of the development of the Project or any portion thereof, whether adopted by initiative or otherwise, shall apply to the Property to the extent such moratorium or other similar limitation is in conflict with the express provisions of this Agreement. Notwithstanding the foregoing, the OWNERS acknowledge and agree that nothing herein is intended or shall be construed as (i) overriding any provision set forth in this Agreement relating to the rate or timing of development of the Project, (ii) overriding any provision of the Existing Land Use Regulations relating to the rate or timing of development of the Project, or, (iii) restricting COUNTY's ability to properly exercise the Reservations of Authority or its rights under Section 3.7 of this Agreement.

c. Judicial Review.

(i) Burdens of Proof.

Based on the foregoing, in the event any OWNER challenges (judicially or otherwise) the application of a future Regulation, such OWNER shall bear the burden of proof in establishing that such Regulation (or the application thereof) was either (A.) in conflict with the Governing Policies or this Agreement (including, without limitation, Section 3.7 hereof) or (B.) in excess or violation of the Reservations of Authority. In the event that such OWNER bears its

burden of proof, COUNTY shall thereafter bear the burden of proof in establishing that such Regulation or the application thereof was permitted pursuant to the terms of this Agreement.

(ii) Considerations.

Considerations, among others, in determining whether any such future Land Use Regulation was properly applied pursuant to the terms of this Agreement shall include:

(A) with respect to any future Land Use Regulations adopted by COUNTY pursuant to paragraphs 4.3.b. (with respect to federal and state regulation) or 4.3.c. (with respect to the protection of public health and safety), the extent to which such regulation substantially impairs the rights of OWNERS under Section 4.2 and is (1) to be unreasonably borne by the Project (taking into consideration the obligations of OWNERS under this Agreement) rather than being also borne by other lands and interests, or (2) unreasonable taking into consideration other reasonable and practicable alternatives; and

(B) with respect to any future Land Use Regulations adopted pursuant to Paragraph 4.3.c. (with respect to the protection of public health and safety):

(1) Whether, and the extent to which, the concerns which are the subject of the proposed Land Use Regulation were considered and/or provided for in the adoption of the Existing Land Use Regulations or this Agreement; and

(2) The greater the severity of the adverse impact of the Land Use Regulation on the reasonable Economic Expectations of OWNER (taking into consideration the extent of any mitigation of such impacts provided by COUNTY in connection with such Regulation, for example, by the transfer of development density), the greater the showing required of COUNTY that the concerns addressed are legitimate and that such Regulation is reasonable taking into consideration such concerns.

The parties believe that the foregoing considerations are appropriate under the law and are not intended to, and shall not, limit the authority of COUNTY with respect to the police power which cannot be limited by contract. Further, said considerations shall be interpreted, supplemented and revised to reflect subsequent judicial determinations and State legislative enactments further defining the extent and nature of the authority of local agencies which must be reserved and cannot be limited by contracts such as this Agreement.

(iii) Administrative Findings and Burden of Proof .

(A) COUNTY Findings and Determinations.

As a condition precedent to adopting any Land Use Regulation, amending any Existing Land Use Regulation or taking any action requiring the action or approval of the COUNTY's Board of Supervisors which is in conflict with the Governing Policies, after providing OWNERS with reasonable notice and an opportunity to be heard, COUNTY shall make specific findings and determinations as to the basis for applying such Land Use Regulation to the Project in accordance with Section 4.3 or Section 3.7.

(B) OWNERS' Burden of Proof.

As a condition precedent to any claim by any OWNER that a proposed Land Use Regulation does not comply with the Reservations of Authority or Section 3.7 and, therefore, cannot be applied to and govern the Development of the Property (whether in a judicial proceeding or otherwise), such OWNER shall raise the claim at the COUNTY's Board of Supervisors hearing (and may raise it earlier) at which the proposed Land Use Regulation is considered and shall present all information then in its possession upon which it shall rely or present in any judicial proceeding, including, but not limited to, information regarding such OWNER's reasonable Economic Expectations, and, in addition, shall provide at such time any further information regarding OWNER's Economic Expectations reasonably requested by COUNTY. In the event that the proposed Land Use Regulation is of a kind that is not heard by or appealable to the COUNTY's Board of Supervisors and provided that such OWNER is given reasonable prior notice, as a condition precedent to any such claim, such OWNER shall raise the claim and provide the above information as a protest to the agent or representative of COUNTY promulgating or applying the proposed Regulation.

4.5 Regulation by Other Public Agencies.

It is acknowledged by the parties that other public agencies not within the control of COUNTY possess authority to regulate aspects of the Development of the Property separately from or jointly with COUNTY and this Agreement does not limit the authority of such other public agencies. For example, pursuant to Government Code Section 66477(i), in the event that an agency provides services or facilities, it is permitted, and that agency has a right to participate jointly with COUNTY to determine the location of land to be dedicated or in lieu of fees to be paid for specified purposes, provided that COUNTY shall exercise its authority subject to this Agreement. If any requirement of this Agreement cannot be implemented because of the actions of another jurisdiction, this Agreement shall continue in full force and effect and COUNTY may require OWNERS to provide public benefits of no greater expense (including regulatory processing expenses such as filing fees, consultant fees, legal fees, and mitigation expenses), subject to the provisions of Exhibit D regarding substitute improvements and all required environmental and regulatory review. Any such modifications to public benefits shall not be considered an amendment to this Agreement unless those modifications are inconsistent with Paragraphs 4.1.a., b., c. and d.

5. PERIODIC REVIEWS.

5.1 Annual Review.

During the term of this Agreement, COUNTY and OWNERS shall jointly review the performance of this Agreement and the Development of the Project at least once every 12-month period from the Effective Date. As part of the Annual Monitoring Review, within 90 days after each anniversary of this Agreement, OWNERS shall deliver to COUNTY all information reasonably requested by COUNTY regarding OWNERS' performance under this Agreement demonstrating that OWNERS have complied in good faith with the terms of this Agreement.

If as a result of such Annual Monitoring Review, COUNTY finds and determines, on the basis of substantial evidence, that OWNERS have not materially complied in good faith with any of the terms or conditions of this Agreement, COUNTY may declare a default by OWNERS pursuant to Section 11 and, if applicable, thereafter terminate this Agreement as provided in Section 11. If as a result of such Annual Monitoring Review, COUNTY finds and determines that OWNERS have materially complied in good faith with the terms and conditions of this Agreement, COUNTY shall, at OWNERS' request, issue and have recorded a certificate of compliance indicating OWNERS' compliance with the terms and conditions of this Agreement.

5.2 Five-Year General Plan Review.

Every five years following the Effective Date, COUNTY intends (but shall not be obligated) to conduct a review of the General Plan as it applies to the Project. OWNERS shall cooperate with COUNTY in the conducting of this review and in developing mutually acceptable revisions to the General Plan and the Development Plan pursuant thereto; provided, however, that neither COUNTY nor OWNER shall have any obligation to agree to such changes.

6. TRANSFERS AND ASSIGNMENTS.

6.1 Transfer and Assignments of Rights and Interests.

a. Rights and Interests Appurtenant.

Except as provided in Section 6.1c, the rights and interests conveyed and provided herein benefit and are appurtenant to the Property. Each OWNER has the right to sell, assign and transfer any and all of its rights and interests and to delegate any and all of its duties and obligations hereunder; provided, however, that such rights and interests may not be transferred or assigned except in strict compliance with the following conditions precedent:

(i) Said rights and interests may be transferred or assigned only together with and as an incident of the transfer and assignment of the portions of the Property to which they relate, including any foreclosure of a Mortgage or a deed in lieu of such foreclosure;

(ii) Concurrent with any such assignment or transfer or within five (5) business days thereafter, the assigning or transferring OWNER shall notify COUNTY in writing of such assignment or transfer. Said notice shall indicate and/or identify the portions of the Property to which the assignment or transfer is appurtenant; the name and address (for purposes of notices hereunder) of the transferee or assignee; the corresponding number and type of dwelling units or non-residential square footage which are included within such transfer; whether the assignee or transferee has assumed any of the OWNERS' Obligations under this Agreement; and which of OWNERS' Obligations have been assumed. Notwithstanding the preceding, a failure of OWNERS (or any of them) to strictly comply with the timing of this Subsection 6.1.a.(ii) shall not constitute a material breach of this Agreement;

(iii) Prior to or concurrent with such assignment or transfer, the assigning or transferring OWNER shall either make an offer of dedication to COUNTY of all rights-of-way and lands necessary to complete the Public Facilities within or through the

portions of the Property being assigned or transferred in accordance with the provisions of Section 3.1 or provide COUNTY with the binding commitment and agreement of the proposed assignee or transferee, in a form reasonably acceptable to COUNTY, irrevocably committing said proposed assignee or transferee to offer to dedicate said rights-of-way or lands to COUNTY in accordance with the provisions of Section 3.1; and

(iv) Prior to or concurrent with such assignment or transfer, either (A) the assigning or transferring OWNER shall prepay all fees described in Exhibit D attributable to the portions of the Property being assigned or transferred or (B) the proposed assignee or transferee shall assume the obligations of such OWNER with respect to the payment of such fees and shall provide COUNTY with an agreement, in a form reasonably acceptable to COUNTY, assuming such obligation and irrevocably committing said proposed assignee or transferee to pay such fees in accordance with the terms of Exhibit D.

In satisfaction of (A) the written notification requirements set forth in Section 6.1a(ii) above and (B) the written commitment and assumption options set forth in Sections 6.1a(iii) and (iv) above, the assigning or transferring OWNER may tender to COUNTY an Assignment and Assumption Agreement in the form attached hereto as Exhibit H-1 or in the form attached hereto as Exhibit H-2, as appropriate. Exhibit H-1 applies in circumstances involving assignments/transfers to non-public entities (e.g., builders and developers); Exhibit H-2 applies in circumstances involving assignments/transfers to public entities (e.g., school districts and water districts). The Assignment and Assumption Agreement shall be fully executed by the assigning or transferring OWNER(S) and the proposed assignee/transferee. Provided that the Assignment and Assumption Agreement is complete and contains all relevant information, commitments and avowals, COUNTY agrees that it shall (i) accept the Assignment and Assumption Agreement as final, (ii) promptly arrange for execution and return of same to the tendering OWNER(S) and (iii) be bound by the terms, conditions and covenants therein appearing.

Any attempt to assign or transfer any right or interest in this Agreement except in strict compliance with this Section 6, shall, at the option of COUNTY, be null and void and of no force and effect. COUNTY shall have no duty or obligation of any kind or nature to maintain a record of such transfers or assignments of portions of the Property or numbers and allocations of units or square footage involved or to notify or advise prospective or actual assignees or transferees or others of such assignments or the resulting allocation of units or square footage with respect to the Property or under this Agreement.

b. Allocation of Density and Intensity.

It is acknowledged that the density and intensity of development provided by the Governing Policies may be distributed by OWNERS disproportionately throughout the Property in accordance with and subject to the Existing Land Use Regulations and the Development Plan. COUNTY shall not be obligated to the successors of an OWNER to advise or notify any such successor or any other person as to the density of development allowed under this Agreement or any of the Land Use Regulations with respect to any particular portion of the Property; provided, however, that COUNTY shall upon the request of an OWNER enter into further agreements in a recordable form allocating to the various portions of the Property the then allowable

density/intensity of dwelling units, non-residential square footage and/or other land use types pursuant to the Governing Policies. Such an agreement may include provisions relating to the assumption of certain of OWNERS' Obligations hereunder and the allocation of the benefits and burdens of this Agreement, all as specifically provided in this Section 6. The reasonable costs and expenses of COUNTY in considering and responding to any such request shall be reimbursed to COUNTY by the requesting OWNER forthwith upon the request of COUNTY.

c. Subject to Terms of Agreement.

Following any such assignment or transfer of any of the rights and interests of an OWNER under this Agreement, the exercise, use and enjoyment thereof shall continue to be subject to the terms of this Agreement to the same extent as if the assignee or transferee were a signatory to this Agreement as an OWNER. Without limiting the generality of the foregoing,

(i) in order to claim or benefit from any right or interest hereunder or provision hereof (including but not limited to the rights of an OWNER under Section 11), any subsequent assignee or transferee shall have no right, and shall be obligated not, to claim damages from or against COUNTY under Section 11 (except as otherwise specifically permitted therein);

(ii) the further assignment or transfer of any of the rights or interests under this Agreement shall be made only in accordance with and subject to the terms of this Section 6.1; and

(iii) the rights and interests assigned or transferred are subject to termination in accordance with this Agreement.

Notwithstanding the foregoing, the assignee or transferee of any of the rights and interests of an OWNER shall take said rights and interests subject to this Agreement and shall have no duty or obligation to perform OWNERS' Obligations or other affirmative covenants of an OWNER under this Agreement unless such obligations and covenants are expressly assumed in connection with the conveyance of said rights and interests; provided, however, that any such assignee on acceptance of such assignment or transfer and without any other assumption or action shall be bound and obligated to, and shall, perform the duties and obligations of an OWNER under and with respect to Section 3.2.

d. Release of OWNER.

Notwithstanding the assignment or transfer of portions or all of the Property or rights or interests under this Agreement, each OWNER shall continue to be obligated under this Agreement unless released or partially released by COUNTY with respect to such OWNERS' obligations and the other duties and obligations of such OWNER under this Agreement, which release or partial release shall be provided by COUNTY upon the full satisfaction by such OWNER of the following conditions:

(i) OWNER is not then in default under this Agreement;

(ii) OWNER has provided COUNTY with the written notice or fully-executed Assignment and Assumption Agreement required under Paragraph 6.1 a.; and

(iii) Such assignee or transferee has assumed such duties and obligations as to which such OWNER is requesting to be released and has provided COUNTY with security and other assurances (as appropriate) equivalent to those which were provided by OWNER assuring COUNTY that such OWNER's duties and obligations under this Agreement for which such OWNER is being released will be fully and strictly performed as provided in this Agreement. Submission of a fully-executed and complete Assignment and Assumption Agreement shall constitute (A) adequate demonstration of the assignee's/transferee's assumption of the specified duties and obligations and (B) proper showing of assignee's/transferee's provision of appropriate security and assurances guaranteeing the performance of the relevant duties and obligations.

6.2 Termination of Agreement with Respect to Individual Parcels upon Sale to Public.

(i) Notwithstanding any provisions of this Agreement to the contrary, the burdens of this Agreement shall terminate as to any lot which has been finally subdivided and individually (and not in "bulk") leased (for a period of longer than one year) or sold to the purchaser or user thereof and thereupon and without the execution or recordation of any further document or instrument such lot shall be released from and no longer be subject to or burdened by the provisions of this Agreement; provided, however, that the benefits of this Agreement shall continue to run as to any such lot until a building is constructed on such lot, or until the termination of this Agreement, if earlier, at which time this Agreement shall terminate as to such lot.

7. ANNEXATION AND INCORPORATION.

7.1 Transfer of Development Agreement Pursuant to Government Code.

If the Property is annexed to or incorporated within a Local Agency the provisions of Government Code Section 65865.3 shall apply, to the extent those provisions remain applicable at the time of incorporation or annexation.

7.2 Exhibit D Obligations.

COUNTY has entered into this Agreement to provide maximum assurances to its residents that the Public Facilities will be completed as contemplated by this Agreement. To assure completion of those Public Facilities which will remain of substantial interest to COUNTY even after annexation or incorporation (see Exhibit D), OWNERS shall not enter into any agreement with the Local Agency to modify this Agreement after annexation to the Local Agency or to apply for any development permits from the Local Agency if (i) those actions would reduce or eliminate OWNERS' Obligations listed in Exhibit D and (ii) COUNTY has not consented to those actions in writing. Prior to consenting to any annexation of the Property, OWNERS shall enter into an agreement with COUNTY to either a) provide security for their Exhibit D obligations in the same time and manner set forth in this Agreement and any subsequent modifications; or b) grant COUNTY the continuing right to enforce OWNERS' Exhibit D obligations as set forth in this Agreement.

8. TERM OF AGREEMENT.

8.1 Stated Term.

a. Initial Term.

This Agreement shall become effective on the Effective Date and, unless earlier terminated pursuant to the provisions of this Agreement, shall continue in effect for a period of thirty (30) years.

b. Delayed Commencement of Term.

If any litigation affecting the Property is filed prior to or after the Effective Date challenging, or otherwise raising issues regarding the validity of, any of the Existing Land Use Regulations or this Agreement, the term of this Agreement shall be extended for the period of time such litigation is pending, and upon the conclusion thereof by dismissal or final judgment, the OWNERS and COUNTY shall indicate the period of such extension in a recorded notice referencing this Agreement.

8.2 Rights and Duties Following Termination.

a. In General.

Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligations that have been performed prior to said termination, or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to said termination, or with respect to any obligations or rights described in Paragraphs 8.2b and 8.2c below.

b. Reimbursement.

COUNTY acknowledges that in connection with certain fee programs, an OWNER may have participated financially in excess of such OWNER'S Pro-Rata Share in the cost of the Public Facilities. Accordingly and notwithstanding anything to the contrary contained in this Agreement (including, without limitation, Paragraph 8.2a above), in the event that this Agreement is terminated for any reason other than the default of such OWNER, COUNTY shall cooperate in good faith to cause other benefited undeveloped lands and owners thereof (including any other OWNERS) to be identified, and COUNTY shall, to the extent feasible, attempt to require such other landowners to reimburse to such OWNER, through COUNTY, that portion of such costs incurred by such OWNER in excess of its Pro-Rata Share, as reasonably determined by COUNTY, which has not been previously reimbursed by COUNTY or a Public Financing Mechanism. Each OWNER acknowledges that COUNTY is limited in the manner in which it may collect or require such reimbursement and that COUNTY may be unable to cause such OWNER to be reimbursed for such costs.

c. Assurances for Completed Milestones.

Exhibit E references "milestones" contained in the Exhibit D to this Agreement. These milestones reflect the required timing for contributions pursuant to this Agreement which must occur before an OWNER is entitled to proceed with specific phases of development. Where this Agreement is terminated and (1) at the time of termination, OWNERS (either individually or collectively) have met the obligations of OWNERS referenced in Exhibit E for a specific phase and (2) OWNERS' (or any OWNER's) Exhibit D obligations have been fully performed to the extent required at the time of termination, any changes after termination to the Existing Land Use Regulations shall not be applicable to any phases of the Project for which the obligations of OWNERS referenced in Exhibit E were satisfied on the date of termination. OWNERS shall retain their respective vested right under this Agreement to complete those phases under the Existing Land Use Regulations through the term of this Agreement as set forth in Section 8 above so long as OWNERS perform all of the duties and obligations associated with those phases as set forth in Section 3.1. The assurances of this Agreement, however, shall not continue to apply after termination to any phases of development for which the obligations of OWNERS referenced in Exhibit E were not met at the time of termination.

9. AMENDMENT.

9.1 General Provisions.

Except as otherwise expressly provided for herein, this Agreement may be amended or canceled only by the mutual agreement of the parties in accordance with Government Code Section 65868. No amendment, modification, waiver or change to this Agreement or any provision hereof shall be effective for any purpose unless specifically set forth in a writing which expressly refers to this Agreement and is signed by the duly authorized representatives of each Party, their successors or assigns.

9.2 Amendments to Development Agreement Legislation.

This Agreement has been entered into in reliance upon the provisions of the Development Agreement Legislation as those provisions existed on the Effective Date. No amendment or addition to those provisions which would materially affect the interpretation or enforceability of this Agreement shall be applicable to this Agreement unless such amendment or addition is specifically required by the California State Legislature, or is mandated by a court of competent jurisdiction. If such amendment or change is permissive (as opposed to mandatory), this Development Agreement shall not be affected by same unless the parties mutually agree in writing to amend this Development Agreement to permit such applicability. If such amendment or change is mandatory, the procedure described in Section 4.3(b) shall be followed.

9.3 Amendments to or Cancellation of Agreement.

This Agreement may be amended from time to time or cancelled in whole or in part by mutual consent of the parties or their successors-in-interest or assigns in writing in accordance with the provisions of the Development Agreement Legislation and the County Development Agreement Resolution. Review and approval of an amendment to this Agreement shall be strictly limited to consideration of only those provisions to be added or modified.

9.4 Amendments to Development Plan and/or Development Approvals.

Notwithstanding any other provisions in this Agreement, OWNERS may seek and COUNTY may review and grant, in accordance with applicable Regulations, amendments or modifications to the Development Plan and/or the Development Approvals subject to the following:

(i) Except as otherwise provided in this Agreement, an amendment of the Development Plan, or the issuance or the amendment of a Development Approval, which results in an increase in density or number of units, intensity of use, maximum height or size of proposed buildings, or a change in the permitted uses, provisions for reservation or dedication of land for public purposes, provisions relating to subsequent discretionary actions, provisions for public improvements and financing of public improvements, or a change in any other Development Approval, shall require an amendment to this Agreement for such increase or change to be vested, but OWNERS shall have the right (upon County approval of the requested amendment of the Development Plan or issuance/amendment of the Development Approval) to develop in accordance with any such increase or change at its election without obtaining an amendment to this Agreement and such election shall not adversely affect vesting with respect to other aspects of the Development Plan or any of the Development Approvals not changed.

(ii) Any change in an element of the Project not specified in this Agreement to be an element of the Development Plan or Development Approvals shall not require an amendment to this Agreement.

(iii) In no event shall any amendment or modification to a Development Approval be made except with the mutual agreement of the Parties.

9.5 Amendments Authorized by the Development Plan.

Upon written application by OWNERS, the Director of the Resources and Development Management Department may agree to certain modifications in the Project in accordance with the procedures in the Development Plan. COUNTY acknowledges that the modifications permitted by the Development Plan subject to the approval of the Director RDMD, or its successor department, are consistent with the Development Plan and do not constitute an amendment to this Agreement or the Development Approvals.

9.6 Operating Memoranda.

The provisions of this Agreement require a close degree of cooperation between the COUNTY and OWNERS and development of the Property hereunder may demonstrate that refinements and clarifications are appropriate with respect to the details of performance of the COUNTY and OWNERS. If and when, from time to time, during the term of this Agreement, the COUNTY and OWNERS agree that such clarifications are necessary or appropriate, the COUNTY and OWNERS shall effectuate such clarifications through operating memoranda approved by the COUNTY and OWNERS, which, after execution, may be attached hereto as addenda and become a part hereof, and may be further clarified from time to time as necessary

with future approval by the COUNTY and OWNERS. No such operating memoranda shall constitute an amendment to this Agreement requiring public notice or hearing. The Director of the Planning and Development Services Department, in consultation with the County Counsel, shall be authorized to make the determination on behalf of the COUNTY whether a requested clarification may be effectuated pursuant to this Section or whether the requested clarification is of such a character to constitute an amendment hereof pursuant to preceding Sections. Further, the Director of the Planning and Development Services Department shall be authorized to execute any operating memoranda hereunder on behalf of the COUNTY.

10. PROCESSING OF REQUESTS AND APPLICATIONS.

COUNTY shall process any applications for action pursuant to this Agreement, or for permits or approvals for Development of the Property, under the procedures for the processing of applications for such applications which are then in effect; provided, however, as provided in Section 4, no subsequently adopted Regulation (including, without limitation, any moratorium or other phasing of development) shall be applicable or delay the acceptance or processing of any such application except in strict accordance with the Existing Land Use Regulations or Land Use Regulations adopted by COUNTY pursuant to the Reservations of Authority. As provided above, the standards applied in approving or disapproving such applications shall be as set forth in the Existing Land Use Regulations, subject to the Reservations of Authority.

11. DEFAULT AND REMEDIES.

11.1 Remedies in General.

It is acknowledged by the parties that they would not have entered into this Agreement if they were to be liable in damages under or with respect to this Agreement or the application thereof. In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement; except that no party shall be liable in damages to any other party or to any assignee, transferee thereof or any other person, and each party hereby covenants not to sue for or claim any damages, for:

out of, this Agreement;

(i) any breach of, or which arise

restriction of any right or interest conveyed or provided hereunder or pursuant hereto; or

(ii) the taking, impairment or

with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement;

(iii) arising out of or connected

provided, however, that the foregoing does not limit the liability of a party, if any, for damages which:

Agreement or which do not arise under this Agreement;

(iv) are not for a breach of this

(v) are not with respect to any right or interest conveyed or provided hereunder or pursuant hereto; and

(vi) do not arise out of or which are not connected with any dispute, controversy or issue regarding the application, interpretation or effect of the provisions of this Agreement to, on or the application of, any Regulation of COUNTY.

Without limiting the generality of the foregoing, and as an example, in the event that COUNTY refuses to issue building permits under and in accordance with a vesting tentative map approved by COUNTY, OWNERS would be entitled to whatever remedies at law or in equity which are available, including, if available under law, the right to monetary damages.

11.2 Termination of Agreement for Default of OWNERS.

COUNTY in its discretion may terminate this Agreement for any failure of the OWNERS to perform any material duty or obligation of OWNERS under, or to comply in good faith with the terms of, this Agreement (hereinafter referred to as "default"); provided, however, COUNTY may terminate this Agreement pursuant to this Section only after providing written notice to OWNERS (or the applicable OWNER) of the default setting forth the nature of the default and the actions, if any, required by OWNERS (or the applicable OWNER) to cure such default and, where the default can be cured, OWNERS have failed to take such actions and cure such default within 30 days after the OWNERS' receipt of such notice, or, in the event that such default cannot be cured within such 30 day period but can be cured within a longer time, OWNERS (or the applicable OWNER) have failed to commence the actions necessary to cure such default within such 30 day period and to diligently proceed to complete such actions and cure such default. COUNTY shall provide OWNERS (or the applicable OWNER) an opportunity to be heard concerning any proposed termination prior to any final action by COUNTY.

11.3 Termination of Agreement for Default of COUNTY.

OWNERS in their discretion may terminate this Agreement by written notice to COUNTY after the default by COUNTY in the performance of a material term of this Agreement; provided, however, OWNERS may terminate this Agreement pursuant to this Section only after providing written notice to COUNTY of the default setting forth the nature of the default and the actions, if any, required by COUNTY to cure such default and, where the default can be cured, the failure of COUNTY to cure such default within 30 days after the effective date of such notice or, in the event that such default cannot be cured within such 30 day period, the failure of COUNTY to commence to cure such default within such 30 day period and to diligently proceed to complete such actions and to cure such default.

11.4 Specific Performance.

The parties acknowledge that monetary damages and remedies at law generally are inadequate and specific performance is a particularly appropriate remedy for the enforcement of this Agreement and should be available to both parties based on the following reasons and facts:

(i) the unavailability of monetary damages against a party provided in Section 11.1 hereinabove;

(ii) OWNERS' obligations under this Agreement were bargained for by COUNTY and given in return for assurances by COUNTY to OWNER regarding the Regulations that would be applicable to the Development of the Property, which assurances were in turn relied upon by OWNERS in undertaking OWNERS' Obligations;

(iii) due to the size, nature and scope of the Project, it may not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun; after such implementation, OWNERS may be foreclosed from other choices it may have had to utilize the Property, or portions thereof, and provide other benefits; OWNERS have invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sums of money which would adequately compensate OWNERS for such efforts;

(iv) the inability of OWNERS to recover and receive back its capital investment in the Public Facilities to be provided to COUNTY as part of OWNERS' Obligations and to replan and provide for different uses of the Property once such facilities and infrastructure have been completed;

(v) the use of the Property for the purposes and uses described in the Development Plan is unique; and

(vi) the public need and concern for the Public Facilities to be provided by OWNERS as part of OWNERS' Obligations as well as for the benefits that can be obtained from the long-term and comprehensive planning and stability contemplated by the Development Agreement Legislation.

Further, the parties acknowledge that for the reasons set forth above (particularly because of the lack of monetary damages available to OWNERS), in connection with any judicial proceeding regarding the performance of this Agreement, rights, or the interests and duties of the parties hereunder, including a proceeding pursuant to Section 11.5, it is appropriate for, and the parties shall cooperate in requesting (whether by stipulations or otherwise), the court with jurisdiction to proceed expeditiously and to retain jurisdiction until the underlying conflict or dispute has been fully resolved.

11.5 Appointment of Referee.

As an alternative procedure hereunder, a party initiating legal action hereunder may request that the action be heard by a referee from the Orange County Superior Court pursuant to Code of Civil Procedure Sections 638 *et seq.* OWNERS and COUNTY, in such case, shall use their best efforts to agree upon a single referee who shall then try all issues, whether of fact or law, and report a finding and judgment thereon and issue all legal and equitable relief appropriate under the circumstances of the controversy before him. If OWNERS and COUNTY are unable to agree upon a referee within ten (10) days of a written request to do

so by either party, either party may seek to have a referee appointed pursuant to Section 640 of the Code of Civil Procedure. The cost of such proceeding (exclusive of the attorneys fees and cost of the parties) shall be borne equally by the parties. Any referee selected pursuant to this Section 11.5 shall be considered a temporary judge appointed pursuant to Article 6, Section 21 of the California Constitution. In the event that an alternative method of resolving disputes concerning the application, enforcement or interpretation of development agreements is provided by legislative or judicial action after the Effective Date, the parties may, by mutual agreement, select such alternative method.

11.6 Cross-Default.

Notwithstanding anything to the contrary contained herein, a default by one OWNER shall not constitute a default of the other OWNERS except in the event the obligation breached (and failed to be timely cured) is one in which the OWNERS are jointly and severally liable. In the event that a default exists with respect to one or more (but not all) OWNERS, then COUNTY shall not be entitled to any legal or equitable remedies (including the termination of this Agreement) with respect to the non-defaulting OWNERS.

12. THIRD PARTY LITIGATION.

12.1 General Plan Litigation.

a. Litigation.

As set forth above, COUNTY has determined that this Agreement is consistent with the General Plan and that the General Plan meets all of the legal requirements of State law. OWNERS have reviewed the General Plan and concur with COUNTY's determination. The parties acknowledge that:

(i) there has been litigation challenging the legality, validity and adequacy of certain provisions of the General Plan;

(ii) in the future there may be other similar challenges to such provisions of the General Plan as well as others; and

(iii) if successful, such challenges could delay or prevent the performance of this Agreement and the Development of the Property.

In addition to the other provisions of this Agreement, including, without limitation, the provisions of Section 11, COUNTY shall have no liability under this Agreement for any failure of COUNTY to perform under this Agreement or the inability of OWNERS to develop the Property as contemplated by the Development Plan or this Agreement as the result of a judicial determination that on the Effective Date, or at any time thereafter, the General Plan, or portions thereof, are invalid or inadequate or not in compliance with law.

b. Revision of General Plan.

If for any reason the General Plan or any part thereof is hereafter judicially determined as provided above to be invalid or inadequate or not in compliance with the State or federal Constitutions, laws or regulations, this Agreement shall remain in full force and effect and upon the adoption or amendment of any General Plan provision which is necessary in order to comply with State or federal Constitutions, laws or regulations to cure such invalidity or inadequacy, together with any amendments of the Development Plan and the Land Use Regulations which are necessary in order to comply with the portions of such new or revised General Plan which are necessary to avoid the invalidation of this Agreement, the reference in Section 4 to the General Plan shall thereafter mean and refer to such portions of the new or amended General Plan and such amendments in the Development Plan and Land Use Regulations.

c. Suspension of Obligations.

In the event that Development of the Property is enjoined or prevented from proceeding by any judicial order or determination in connection with the determinations regarding the General Plan referred to above and the subsequent proceedings with respect thereto referred to in Paragraph b. of this Section, the time for performance of the obligations of the parties hereunder shall be extended as provided in Section 17.13.

d. Option to Terminate.

In the event that any such amendments of the General Plan result in a reduction in the number of units or the density or intensity, or timing, sequencing or phasing of Development or otherwise adversely impact the Economic Expectations of OWNERS in connection with the Project, OWNERS may terminate this Agreement by notice in writing to COUNTY and recorded in the official records of COUNTY.

13. ESTOPPEL CERTIFICATE.

Any party may, at any time, and from time to time, deliver written notice to the other party or parties requesting such party or parties to certify in writing that, to the knowledge of the certifying party, (i) this Agreement is in full force and effect and a binding obligation of the parties, (ii) this agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments, and (iii) the requesting party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults. A party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof. The Director of the Planning and Development Services Department of COUNTY (or his/her designee) shall have the right to execute any certificate requested by an OWNER hereunder. COUNTY acknowledges that a certificate hereunder may be relied upon by assignees or transferees of an OWNER and Mortgagees. In accordance with Section 11, COUNTY shall have no liability for monetary damages to OWNER, any assignee or transferee thereof or Mortgagee, or any other person in connection with, resulting from or based upon the issuance of any certificate hereunder.

14. EFFECT OF AGREEMENT ON TITLE.

14.1 Covenants Run With The Land.

Subject to the provisions of Sections 6 and 15:

a. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons acquiring any rights or interests in the Property, or any portion thereof, whether by operation of laws or in any manner whatsoever and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns;

b. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law;

c. Each covenant to do or refrain from doing some act on the Property hereunder (i) is for the benefit of and is a burden upon every portion of the Property; (ii) runs with such lands; and (iii) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and each person having any interest therein derived in any manner through any owner of such lands, or any portion thereof, and shall benefit each party and its lands hereunder, and each other person succeeding to an interest in such lands.

Notwithstanding any of the foregoing or anything in this Agreement to the contrary, any assignee or transferee or Mortgagee which acquires any right or interest in or with respect to the Property or any portion thereof shall take and hold such rights and interests subject to this Agreement and shall not have been deemed to have assumed the OWNERS' Obligations or the other affirmative duties and obligations of OWNERS hereunder except:

(A) to the extent that any such assignee, transferee or Mortgagee has expressly assumed any of the duties or obligations of any OWNER hereunder;

(B) if any such assignee, transferee or Mortgagee accepts, holds, or attempts to exercise or enjoy the rights or interests of an OWNER hereunder, it shall have assumed the obligations of such OWNER under Section 11; and

(C) to the extent that the performance of any duty or obligation by an OWNER is a condition precedent to the performances of a covenant by COUNTY, it shall continue to be a condition to COUNTY's performance hereunder.

14.2 No Dedication or Lien.

Nothing herein shall be construed as a dedication or transfer of any right or interest in, or as creating a lien with respect to, the title to the Property.

14.3 Termination Upon Final Sale.

As provided in Section 6.2, without the requirement of any further writing or action on the part of any party hereto, this Agreement shall terminate as to specific lots as provided therein.

15. MORTGAGEE PROTECTION; CERTAIN RIGHTS OF CURE.

15.1 Mortgagee Protection.

This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof, including the lien of any Mortgage. Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value and any acquisition or acceptance of title or any right or interest in or with respect to the Property or any portion thereof, by a Mortgagee (whether under or pursuant to a Mortgage, foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise), shall be subject to all of the terms and conditions contained in this Agreement, and any such Mortgagee who takes title to the Property or any portion thereof shall be entitled to the benefits arising under this Agreement.

15.2 Mortgagee Not Obligated.

Notwithstanding the provisions of Section 15.1 above, no Mortgagee shall have an obligation or duty under this Agreement to perform obligations or other affirmative covenants of an OWNER hereunder, or to guarantee such performance; except that to the extent that any covenant to be performed by an OWNER is a condition to the performance of a covenant by COUNTY, the performance thereof shall continue to be a condition precedent to COUNTY's performance hereunder.

15.3 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 OWNERS or one or more particular OWNERS hereunder and specifying the address for service thereof, and records a copy of each request in the official records of COUNTY in the manner required under Civil Code Section 2924b with respect to Requests for Notices of Default, then COUNTY shall deliver to such Mortgagee, concurrently with service thereon to the applicable OWNERS, any notice given to the such OWNER(s) with respect to any claim by COUNTY that such OWNER(s) have not complied in good faith with the terms of this Agreement or have committed an event of default. Each Mortgagee shall have the right (but not the obligation) for a period of ninety (90) days after the receipt of such notice from COUNTY to cure or remedy, or to commence to cure or remedy, the claim of default or noncompliance set forth in the COUNTY's notice. If the default is of a nature which can only be remedied or cured by such Mortgagee upon obtaining possession, such Mortgagee shall seek to obtain possession with diligence and continuity through foreclosure, a receiver or otherwise, and shall thereafter remedy or cure the default or noncompliance within thirty (30) days after obtaining possession. If any such default or noncompliance cannot, with diligence, be remedied or cured within such thirty (30) day period, then such Mortgagee shall have such additional time as may be reasonably

necessary to remedy or cure such default or noncompliance if such Mortgagee commences cure during such thirty (30) day period, and thereafter diligently pursues and completes such cure.

15.4 Bankruptcy.

Notwithstanding the foregoing provisions of Section 15, if any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving any OWNER or COUNTY, the times specified in Section 15.3 for commencing or prosecuting foreclosure or other proceedings shall be extended for the period of the prohibition, provided that such Mortgagee is proceeding expeditiously to terminate such prohibition and in no event for a period longer than one year.

16. COOPERATION AND IMPLEMENTATION.

16.1 Cooperation.

The parties to this Agreement shall cooperate with and provide reasonable assistance to the other parties to the extent contemplated in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of any party, the other parties shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement, to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

16.2 Covenant of Good Faith and Fair Dealing.

No party shall do anything which shall have the effect of harming or injuring the rights of the other parties to receive the benefits of this Agreement.

16.3 Regulation by Other Public Agencies.

It is acknowledged by the parties that other public agencies not within the control of the COUNTY may possess authority to regulate aspects of the Development of the Property separately from or jointly with the COUNTY and this Agreement does not limit the authority of such other public agencies. Nevertheless, the COUNTY shall be bound by, and shall abide by, its covenants and obligations under this Agreement in all respects when dealing with any such agency regarding the Property.

16.4 Other Governmental Permits and Approvals.

OWNERS or COUNTY (whichever is appropriate) shall apply in a timely manner for the permits and approvals which may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the development of, or provision of services to, the Project. COUNTY shall cooperate with OWNERS in their endeavors to obtain such permits and approvals and shall, from time to time,

at the request of OWNERS, attempt with due diligence and in good faith to enter into binding agreements with any such entity to ensure the availability of such permits and approvals, or services, at each stage of the development of the Project. To the extent allowed by law, OWNERS shall be a party to any such agreement, or third party beneficiaries thereof, entitled to enforce for its benefit on behalf of COUNTY, or in their own name, the rights of COUNTY or OWNERS thereunder or the duties and obligations of the parties thereto. In the event the issuance of a building permit for any part of the Project is delayed as a result of OWNERS' or COUNTY's inability to obtain any other required permit or approval, then the term of this Agreement shall be extended by the period of any such delay.

16.5 Cooperation in the Event of Legal Challenge.

In the event of any legal action instituted by a third party challenging the validity of any provision of this Agreement, the procedures leading to its adoption, or the issuance of Development Approvals for the Project, the parties hereby agree to affirmatively cooperate in defending said action. OWNERS agree to bear the litigation expenses of defense, including reasonable attorneys' fees; provided, however, that such compensation shall include only COUNTY's internal counsel and attorney time and overhead costs and other COUNTY staff overhead costs and normal day-to-day business expenses incurred by COUNTY and shall exclude, without limitation, compensation paid to counsel not otherwise employed as COUNTY staff. OWNERS shall be entitled to any award of reasonable attorneys' fees arising out of any such legal action. OWNERS' Obligation to pay for legal counsel shall not extend to fees incurred on appeal unless OWNERS are participating in the appellate process. OWNERS shall have sole discretion to terminate their defense at any time. COUNTY retains the option to employ independent defense counsel at its expense. As part of the cooperation in defending an action, COUNTY and OWNERS shall coordinate their defense in order to make the most efficient use of legal counsel.

16.6 Revision to Project.

In the event of a court order issued as a result of a successful legal challenge, the COUNTY shall, to the extent permitted by law or court order, in good faith seek to comply with the court order in such a manner as will maintain the integrity of this Agreement and the Development Approvals and avoid or minimize to the greatest extent possible (i) any impact to the Development of the Project as provided for in, and contemplated by, the Development Plan, or (ii) any conflict with the Development Plan or frustration of the intent or purpose of the Development Plan. In the event that any required amendments of this Agreement or the Development Approvals result in a reduction in the number of residential units or the square footage or the intensity, or adversely affects the timing, sequencing or phasing of development, or other material provision of the Development Plan, OWNERS (in their sole discretion) may terminate this Agreement by providing written notice to the COUNTY of such termination.

17. MISCELLANEOUS PROVISIONS.

17.1 Recordation of Agreement.

This Agreement and any amendment or cancellation hereof shall be recorded in the Official Records of COUNTY by the Clerk of the Board of Supervisors within the period required by Section 65868.5 of the Government Code.

17.2 Entire Agreement.

This Agreement sets forth and contains the entire understanding and agreement of the parties and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein and no testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

17.3 Project is a Private Undertaking.

It is specifically understood and agreed by the parties that (a) the Development contemplated by this Agreement is a private development, (b) that no party is acting as the agent of the other in any respect hereunder, (c) that COUNTY has no interest in or responsibility for or duty to third persons concerning any Public Facilities until such time as COUNTY accepts the same pursuant to the terms of this Agreement, and (d) that OWNERS shall have full power over the exclusive control of the Property subject only to the limitations and obligations of OWNERS under this Agreement.

17.4 Limitation on Liability.

Notwithstanding anything to the contrary contained herein, in no event shall any member, partner, officer, director, unit holder, shareholder, employee or agent of OWNERS (or any OWNER) be personally liable for any breach of this Agreement by OWNERS (or any OWNER) or for any amount which may become due to COUNTY under the terms of this Agreement.

17.5 Severability.

If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement.

17.6 Interpretation and Governing Law.

This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.

17.7 Section Headings.

All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

17.8 Singular and Plural.

As used herein and except for the terms "OWNER" and "OWNERS", the singular of any word includes the plural.

17.9 Joint and Several Obligations.

If any obligation of OWNERS hereunder to COUNTY is the obligation of more than one person, such obligation and any liability with respect thereto shall be joint and several among the obligees.

17.10 Time of Essence.

Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

17.11 Waiver.

Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by any other party, or the failure by a party to exercise its rights upon the default of any other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

17.12 No Third Party Beneficiaries.

The only parties to this Agreement are OWNERS and COUNTY. This Agreement is not intended, and shall not be construed to benefit or be enforceable by any other person whatsoever.

17.13 Force Majeure.

No party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots, terrorist acts or similar hostilities, strikes and other labor difficulties beyond such party's control, government regulations, court actions (such as restraining orders or injunctions) or other causes beyond such party's control. If any such events shall occur, the term of this Agreement and the time for performance by a party of any of its obligations hereunder shall be extended by the period of time that such events prevented such performance provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years or for a period which would cause this Agreement or provisions hereof to be void as violating the rule against perpetuities.

17.14 Attorneys Fees.

In any judicial proceeding, arbitration, or mediation (collectively referred to in this Paragraph as an "action") between COUNTY and one or more OWNERS seeking enforcement of any of the terms and provisions of this Agreement, the prevailing party(ies) in such action shall be awarded all of its(their) actual and reasonable costs and expenses (whether or not the same would be recoverable pursuant to Code of Civil Procedure Section 1033.5 or 1717 in the absence of this Agreement), including expert witness fees, attorney's fees, and costs of investigation and preparation prior to the commencement of such action. The right to recover such costs and expenses shall accrue upon commencement of such action, regardless of whether the action is prosecuted to a final judgment or decision.

17.15 Mutual Covenants.

The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

17.16 Notices.

All notices required or provided for under this Agreement shall be in writing and delivered in person or sent certified mail, postage prepaid and addressed as follows:

If to COUNTY:

Orange County Board of Supervisors
10 Civic Center Plaza
Santa Ana, CA 92701
ATTN: Clerk of the Board

With a copy to:

Planning Director
Planning and Development Services Department
County of Orange
300 North Flower Street
PO Box 4048
Santa Ana, CA 92702-4048

If to OWNERS:

c/o Rancho Mission Viejo, LLC
28811 Ortega Highway
PO Box 9
San Juan Capistrano, CA 92693
ATTN: Mr. Richard Broming

with a copy to:

Morgan, Lewis & Bockius LLP
1 Ada, Suite 250
Irvine, CA 92618
ATTN: Stephen R. Finn, Esquire

Any notice given as required herein shall be deemed given seventy-two (72) hours after deposit in the United States mail or upon receipt. A party may change its address for notices by giving notice in writing to the other party as required herein and thereafter notices shall be addressed and transmitted to the new address.

17.17 Successors and Assigns.

The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns.

17.18 Counterparts.

This Agreement may be executed by the parties in counterparts which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

OWNERS:

DMB SAN JUAN INVESTMENT NORTH, LLC,
a Delaware limited liability company

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: Anthony R. Moiso
Anthony R. Moiso
President and Chief Executive Officer

By: Donald L. Vodra
Donald L. Vodra
Chief Operating Officer

RMV MIDDLE CHIQUITA, LLC,
a California limited liability company

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: Anthony R. Moiso
Anthony R. Moiso
President and Chief Executive Officer

By: Donald L. Vodra
Donald L. Vodra
Chief Operating Officer

RMV RANCH HOUSE, LLC,
a California limited liability company

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: Anthony R. Moiso
Anthony R. Moiso
President and Chief Executive Officer

By: Donald L. Vodra
Donald L. Vodra
Chief Operating Officer

RMV HEADQUARTERS, LLC,
a California limited liability company

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: Anthony R. Moiso
Anthony R. Moiso
President and Chief Executive Officer

By: Donald L. Vodra
Donald L. Vodra
Chief Operating Officer

RMV SAN JUAN WATERSHED, LLC,
a California limited liability company

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: Anthony R. Moiso
Anthony R. Moiso
President and Chief Executive Officer

By: Donald L. Vodra
Donald L. Vodra
Chief Operating Officer

RMV SAN MATEO WATERSHED, LLC,
a California limited liability company

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: Anthony R. Moiso
Anthony R. Moiso
President and Chief Executive Officer

By: Donald L. Vodra
Donald L. Vodra
Chief Operating Officer

RMV BLIND CANYON, LLC,
a California limited liability company

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
as authorized agent and manager

By: *Anthony R. Moiso*
Anthony R. Moiso
President and Chief Executive Officer

By: *Donald L. Vodra*
Donald L. Vodra
Chief Operating Officer

COUNTY:

THE COUNTY OF ORANGE, a political subdivision
of the State of California

By: *Thomas Watson*
Chairman of the Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD.

By: *Joann Beach*
Clerk of the Board of Supervisors,
County of Orange, California



APPROVED AS TO FORM:

BENJAMIN P. DE MAYO, COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By: [Signature], Deputy

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On this 6th day of December, 2004, before me, Charlene M. McNAIR, personally appeared SUSAN NOVAK, known to me to be the Clerk of the Board of Supervisors of the County of Orange and known to me to be the person who executed the within instrument on behalf of the County of Orange pursuant to Government Code Section 25103, and acknowledged to me that such political subdivision executed the same by use of an authorized facsimile signature.

WITNESS my hand and official seal.

Charlene M. McNAIR
Notary Public
in and for said County and State



By: _____
Authorized Signature/Position

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

On November 23, 2004 before me, Linda K. Ledger, a Notary Public in and for said state, personally appeared Anthony R. Moiso and Donald L. Vodra, personally known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

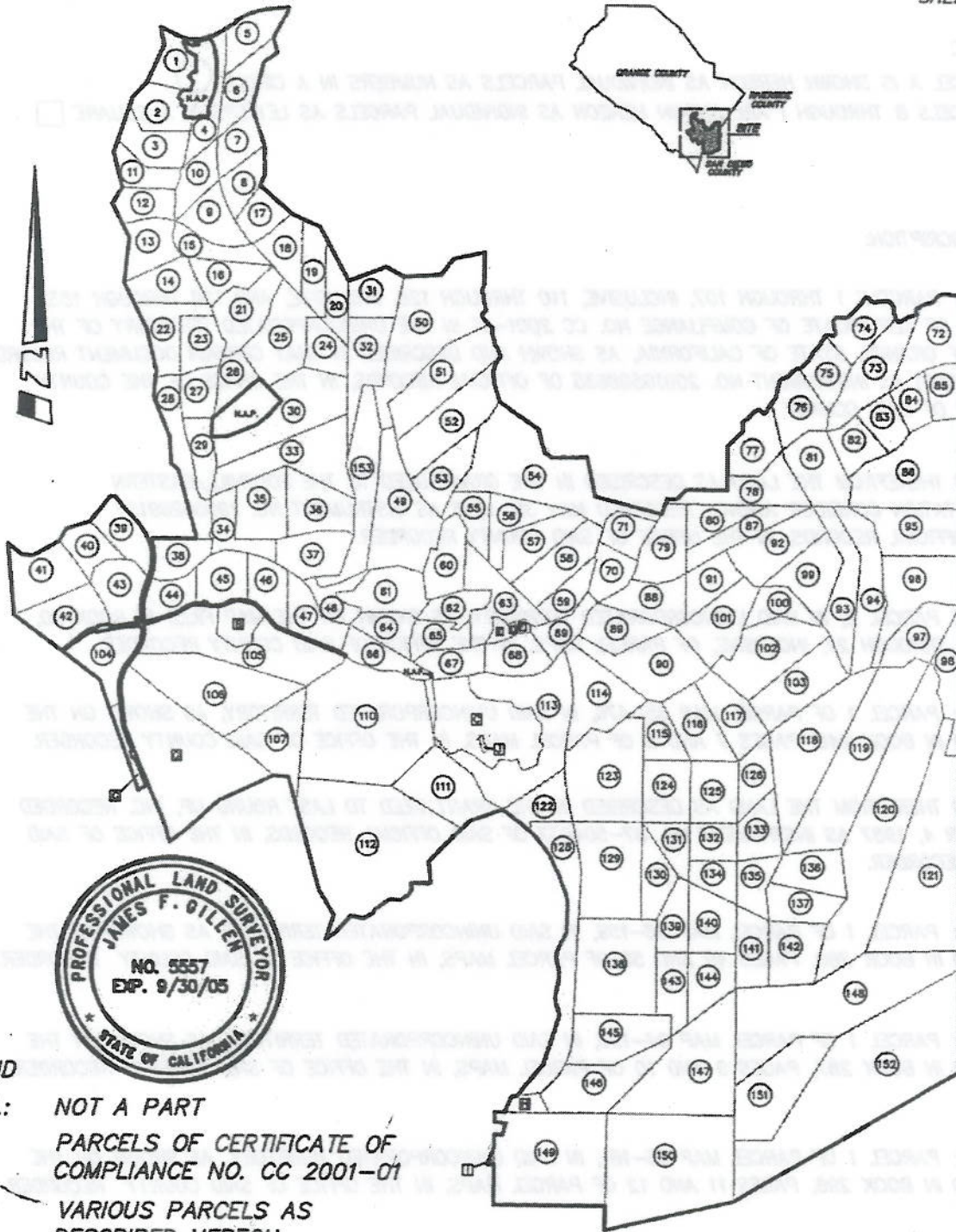
Linda K. Ledger
Signature of Notary
My Commission Expires:
March 7, 2007



EXHIBIT A-1

Description of Property

[See following pages]



LEGEND

- N.A.P.: NOT A PART
- PARCELS OF CERTIFICATE OF COMPLIANCE NO. CC 2001-01
- VARIOUS PARCELS AS DESCRIBED HEREON.

HUITT-ZOLLARS

Huitt-Zollars, Inc. Irvine
 430 Exchange, Suite 200, Irvine, CA 92602-1315
 Phone (714) 734-5100 Fax (714) 734-5155

APPROVED BY: *[Signature]* 6/16/04

SKETCH TO ACCOMPANY
 A LEGAL DESCRIPTION

RANCH PLAN PLANNED COMMUNITY

SCALE	NOT TO SCALE
DRAWN BY	DAO
CHECKED BY	PMC
DATE	6-16-04
JOB NO.	10-0755-01

NOTE:

PARCEL A IS SHOWN HEREON AS INDIVIDUAL PARCELS AS NUMBERS IN A CIRCLE ○.

PARCELS B THROUGH I ARE SHOWN HEREON AS INDIVIDUAL PARCELS AS LETTERS IN A SQUARE □.

LEGAL DESCRIPTION:

PARCEL A: PARCELS 1 THROUGH 107, INCLUSIVE, 110 THROUGH 126, INCLUSIVE, AND 128 THROUGH 153, INCLUSIVE, OF CERTIFICATE OF COMPLIANCE NO. CC 2001-01 IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN AND DESCRIBED IN THAT CERTAIN DOCUMENT RECORDED JULY 26, 2001 AS INSTRUMENT NO. 20010508635 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM THE LAND AS DESCRIBED IN THE GRANT DEED TO THE FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY RECORDED MAY 30, 1996 AS INSTRUMENT NO. 19960269157, OF SAID OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL B: PARCEL 2, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 90, PAGES 23 THROUGH 27, INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL C: PARCEL 1 OF PARCEL MAP 85-476, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 248, PAGES 7 AND 8 OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

EXCEPTING THEREFROM THE LAND AS DESCRIBED IN THE GRANT DEED TO LAST ROUND UP, INC. RECORDED SEPTEMBER 4, 1987 AS INSTRUMENT NO. 87-504837 OF SAID OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL D: PARCEL 1 OF PARCEL MAP 93-159, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 280, PAGES 49 AND 50 OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL E: PARCEL 1 OF PARCEL MAP 94-153, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 287, PAGES 9 AND 10 OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL F: PARCEL 1 OF PARCEL MAP 95-161, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON THE MAP FILED IN BOOK 296, PAGES 11 AND 12 OF PARCEL MAPS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL G: PARCEL 2 OF LOT LINE ADJUSTMENT NO. LL 2003-004, IN SAID UNINCORPORATED TERRITORY, AS SHOWN ON EXHIBIT B ATTACHED TO THAT CERTAIN DOCUMENT RECORDED MARCH 19, 2003 AS INSTRUMENT NO. 2003000294469 OF SAID OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

EXHIBIT A

The Ranch Plan
Community (C) Zoning Map

TOGETHER WITH THOSE PORTIONS OF SECTION 24, TOWNSHIP 8 SOUTH, RANGE 7 WEST, OF RANCHO MISSION VIEJO AS SHOWN ON THE MAP SECTIONIZING RANCHO MISSION VIEJO, IN SAID UNINCORPORATED TERRITORY, FILED IN BOOK 9, PAGES 15 THROUGH 22, INCLUSIVE, OF RECORD OF SURVEYS, IN THE OFFICE OF SAID COUNTY RECORDER, DESCRIBED IN PARCELS AS FOLLOWS:

PARCEL H: BOUNDED SOUTHERLY BY THE NORTHERLY LINE OF PARCEL 149 OF SAID CERTIFICATE OF COMPLIANCE NO. CC 2001-01, RECORDED JULY 26, 2001, AS INSTRUMENT NO. 20010508635 OF OFFICIAL RECORDS, BOUNDED NORTHEASTERLY BY THE SOUTHWESTERLY LINE OF PARCEL 146 OF SAID CERTIFICATE OF COMPLIANCE, BOUNDED NORTHERLY BY THE SOUTHERLY LINE OF PARCEL 128 OF SAID CERTIFICATE OF COMPLIANCE AND BOUNDED WESTERLY AND NORTHWESTERLY BY THE SOUTHEASTERLY LINE OF PARCEL 127 OF SAID CERTIFICATE OF COMPLIANCE.

PARCEL I: BOUNDED EASTERLY BY THE WESTERLY LINE OF PARCEL 149 OF THAT CERTIFICATE OF COMPLIANCE NO. CC 2001-01, RECORDED JULY 26, 2001, AS INSTRUMENT NO. 200100508635 OF OFFICIAL RECORDS AND BOUNDED WESTERLY AND SOUTHERLY BY THE GENERAL EASTERLY LINE OF PARCEL 5 AS SHOWN ON CERTIFICATE OF COMPLIANCE NO. CC 87-06 RECORDED AUGUST 7, 1987 AS INSTRUMENT NO. 87-449971, BOTH OF OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

PARCEL J: THE LAND AS DESCRIBED IN THE GRANT DEED TO LAST ROUND UP, INC. RECORDED SEPTEMBER 4, 1987 AS INSTRUMENT NO. 87-504837 OF SAID OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER.

EXHIBIT A-2

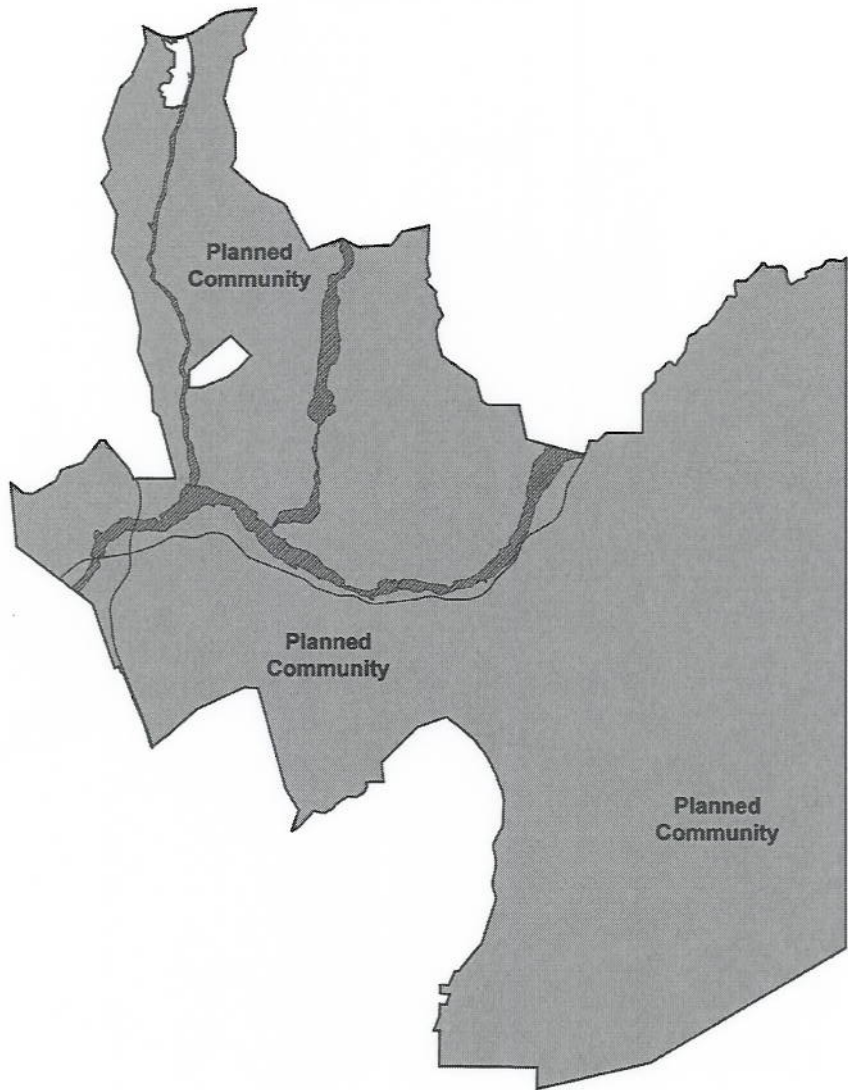
The Ranch Plan Planned
Community (PC) Zoning Map

[See following page]

EXHIBIT A-3

The Ranch Plan Statistical Summary

[See following page]



Legend

■ PC (Planned Community) District

▨ FP-2 (Floodplain) District

EXHIBIT A-3

The Ranch Plan Statistical Summary

[See following page]

The Ranch Plan Statistical Summary

Development Use										Open Space Use	Planning Area Totals
Residential		Urban Activity Center		Neighborhood Center		Business Park		Golf Resort	Gross Acres		
Gross Acres	Maximum Dwelling Units	Gross Acres	Maximum Square Footage	Gross Acres	Maximum Square Footage	Gross Acres	Maximum Square Footage	Gross Acres	Gross Acres	Open Space Acres	Gross Acres
7,277	14,000	251	3,480,000	50	500,000	80	1,220,000	25	7,683	15,132	22,815

EXHIBIT B

Existing Land Use Regulations

The following list is intended to reflect the principal Land Use Regulations in effect on the Approval Date. It does not, and is not intended to, represent an exhaustive study of County files to identify each and every Land Use Regulation in effect on the Approval Date. Either OWNER or COUNTY may establish independently in the future that a Land Use Regulation not listed below was, in fact, in effect on the Approval Date.

Those Land Use Regulations in effect on the Approval Date include:

1. Land Use Ordinances -

As of the Approval Date, the Land Use Ordinances applicable to the Property are:

- a. Ordinance No. 04-015 by which County adopted this Development Agreement (04-01);
- b. COUNTY's General Plan including General Plan Amendment 01-01 adopted by the Board of Supervisors on November 8, 2004.
- c. The Codified Ordinances of the County of Orange as in effect on the Approval Date, including Zone Change 01-02 adopted by the Board of Supervisors on November 8, 2004.

2. Development Approvals -

As of the Approval Date, the Development Approvals applicable to the Property are:

- a. Final Environmental Impact Report No. 589 (certified by Resolution No. 04-290)

This Exhibit B shall be adjusted to reflect any Development Approvals occurring between the Approval Date and the Effective Date.

3. Development Exactions:

As of the Approval Date, Development Exactions include all Development Exactions set forth as Conditions of Project approval and identified in the ordinances and resolutions adopted by COUNTY authorizing (i) approval of this Development Agreement (ii) certification of EIR No. 589 and (iii) approval of the General Plan Amendments and Zone Change for the Ranch Plan Planned Community.

4. Mitigation Monitoring and Reporting Program

On November 8, 2004, COUNTY's Board of Supervisors approved a Mitigation Monitoring and Reporting Program for the Project. This program sets forth mitigation measures for the project which were identified in EIR No. 589 for the Ranch Plan, as well as other Project conditions required by COUNTY for development of the Property.

This Exhibit B shall be modified to reflect any changes in the Mitigation Monitoring and Reporting Program occurring between the Approval Date and the Effective Date.

EXHIBIT C

[Intentionally Omitted]

**RANCH PLAN DEVELOPMENT AGREEMENT
EXHIBIT D**

BENEFITS TO COUNTY AND ITS RESIDENTS

The public benefits to be received by COUNTY and its residents as a result of the Development Agreement (“Agreement”) to which this Exhibit D is attached are summarized as follows:

TABLE D-1 Summary of Principal Public Benefits Conferred Pursuant to This Agreement Which Are in Addition to Those Benefits Required by the Project Conditions of Approval			
ITEM NO.	PUBLIC BENEFIT	ASSURANCES	TIMING (FOR GREATER DETAIL, SEE EXHIBITS E & F)
Transportation			
1.	Offer of dedication for Avenida La Pata right-of-way (extending from Ortega Highway to Prima Deshecha Landfill)	Development Agreement Approval	Dedication Prior to Issuance of Building Permit for 1st Equivalent Dwelling Unit (EDU) ✓
2.	Payment of defined financial contribution to offset costs incurred in the preparation of preliminary designs and environmental studies for traffic improvement projects (Part I)	Development Agreement Approval	Payment into South County Roadway Improvement Program (SCRIP) Prior to Issuance of Building Permit for 1st EDU ✓
3.	Accelerated payment of Owner’s Fair Share contribution for construction of Oso Parkway widening in unincorporated Orange County (east of Las Flores)	Development Agreement Approval	Payment into SCRIP Prior to Issuance of Building Permit for 1st EDU ✓
4.	Accelerated payment of Owner’s Fair Share contribution for Avenida Pico / I-5 interchange improvements	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 1,000th EDU ✓
5.	Accelerated payment of Owner’s Fair Share contribution for freeway ramp improvements at southbound I-5 / Oso Parkway	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 1,000th EDU ✓
6.	Accelerated payment of Owner’s Fair Share contribution for widening portions of Ortega Highway to 4-lanes within unincorporated County (westerly of Antonio Parkway)	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 1,000th EDU ✓

ITEM NO.	PUBLIC BENEFIT	ASSURANCES	TIMING (FOR GREATER DETAIL, SEE EXHIBITS E & F)
7.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at Crown Valley & Marguerite in Mission Viejo	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 1,000th EDU
8.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at Felipe & Oso in Mission Viejo	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 1,000th EDU
9.	Payment of defined financial contribution to assist in implementation of local and regional transportation improvements (<i>i.e.</i> , "Flex Funds Part I")	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 1,000th EDU
10.	Accelerated payment of Owner's Fair Share obligation for construction of southbound off-ramp improvements at I-5 and Crown Valley Parkway	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 2,500th EDU
11.	Accelerated payment of Owner's Fair Share contribution for widening of Crown Valley Parkway Bridge at I-5	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 2,500th EDU
12.	Accelerated payment of Owner's Fair Share contribution for construction of interchange improvements at I-5 and Ortega Highway	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 2,500th EDU
13.	Payment of defined financial contribution to assist in implementation of local and regional transportation improvements (<i>i.e.</i> , "Flex Funds Part II")	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 2,500th EDU
14.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of Avenida La Pata extension (Phase I)	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
15.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at La Pata & Vista Hermosa in San Clemente	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU

ITEM NO.	PUBLIC BENEFIT	ASSURANCES	TIMING (FOR GREATER DETAIL, SEE EXHIBITS E & F)
16.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at Vera Cruz & Vista Hermosa in San Clemente	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
17.	Accelerated payment of Owner's Fair Share contribution for construction of intersection improvements at Ortega Highway & Rancho Viejo Road in San Juan Capistrano	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
18.	Accelerated payment of Owner's Fair Share contribution for construction of intersection improvements at Ortega Highway & La Novia in San Juan Capistrano	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
19.	Accelerated payment of Owner's Fair Share contribution for construction of intersection improvements at Camino Capistrano & Del Obispo in San Juan Capistrano	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
20.	Accelerated payment of Owner's Fair Share contribution for construction of intersection improvements at San Juan Creek Road & Valle Road in San Juan Capistrano	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
21.	Accelerated payment of Owner's Fair Share contribution for widening portions of Ortega Highway to 4-lanes within San Juan Capistrano (easterly of Avenida La Novia [context sensitive design])	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 5,000th EDU
22.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at Antonio Parkway & Oso Parkway in the County of Orange	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
23.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at Antonio Parkway & Crown Valley Parkway in the County of Orange	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU

ITEM NO.	PUBLIC BENEFIT	ASSURANCES	TIMING (FOR GREATER DETAIL, SEE EXHIBITS E & F)
24.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at Antonio Parkway & Ortega Highway in the County of Orange	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
25.	Accelerated payment of Owner's Fair Share contribution for construction of interchange improvements at I-5 and Avery Parkway	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 5,000th EDU
26.	Provision of land for Park & Ride facility	Development Agreement Approval; Building Permit (EDU) Milestones	Dedication Prior to Issuance of Building Permit for 5000th EDU
27.	Payment of defined financial contribution to offset costs incurred in the preparation of preliminary designs and environmental studies for traffic improvement projects (Part II)	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP prior to issuance of Building Permit for 5,000th EDU.
28.	Payment of defined financial contribution to assist in implementation of local and regional transportation improvements (<i>i.e.</i> , "Flex Funds Part III")	Development Agreement Approval; Building Permit (EDU) Milestones	Complete Payment into SCRIP Prior to Issuance of Building Permit for 5,000th EDU
29.	Accelerated payment of Owner's Fair Share contribution for construction of Saddleback College / I-5 connector ramps in Mission Viejo	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 7,500th EDU
30.	Accelerated payment of Owner's Fair Share contribution for extension of Cow Camp Road (easterly to Ortega Highway)	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 7,500th EDU
31.	Offer of dedication for right of way, accelerated payment of Owners' Fair Share obligation, and design and construction of improvements to widen portions of Antonio Parkway within the County of Orange	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 7,500th EDU
32.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at Crown Valley Parkway & Cabot Road in the City of Laguna Niguel	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 7,500th EDU

ITEM NO.	PUBLIC BENEFIT	ASSURANCES	TIMING (FOR GREATER DETAIL, SEE EXHIBITS E & F)
33.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of intersection improvements at Crown Valley Parkway & Forbes Road in the City of Laguna Niguel	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 7,500th EDU
34.	Accelerated financial contribution in excess of Owner's Fair Share obligation for widening of Railroad Bridge along Crown Valley Parkway in the City of Laguna Niguel	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 7,500th EDU
35	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of Oso Parkway widening in Mission Viejo (Marguerite to I-5)	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 7,500th EDU
36.	Accelerated financial contribution in excess of Owner's Fair Share obligation for construction of Avenida La Pata extension (Phase II)	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 10,000th EDU
37.	Accelerated payment of Owner's Fair Share obligation for construction of lane improvements at Junipero Serra and I-5	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 10,000th EDU
38.	Accelerated payment of Owner's Fair Share obligation for construction of SR-241 ramp improvements	Development Agreement Approval; Building Permit (EDU) Milestones	Phased Milestone Payments into SCRIP; Final Payment Prior to Issuance of Building Permit for 10,000th EDU
Water Resources			
39.	Provision of acreage in Gobernadora Canyon to allow for construction of water quality basin to mitigate nuisance and first flush flows from Coto de Caza; participation in design and implementation of water quality basin	Development Agreement Approval	Implementation of Basin Improvements Concurrent with Development Activities Occurring in Any Planning Area Other Than Planning Area 1; Completion Prior to Issuance of Precise Grading Permit for 500th EDU (Exclusive of Grading Permits Issued for (i) Residential Units Located in Planning Area 1 and (ii) Model Homes)
40.	Provision of defined financial contribution to assist in preparation of studies which will analyze hydrology, river hydraulics, sedimentation and erosion within the San Juan Creek watershed	Development Agreement Approval	Funding provided by OWNERS in accordance with terms of a separate agreement executed by and between COUNTY and OWNERS concerning the preparation of the watershed studies.

ITEM NO.	PUBLIC BENEFIT	ASSURANCES	TIMING (FOR GREATER DETAIL, SEE EXHIBITS E & F)
Trails			
41.	Dedication of a Regional Trail Easement connecting Wagon Wheel Wilderness Park to Caspers Wilderness Park	Development Agreement Approval	Implementation Prior to Issuance of First Precise Grading Permit for Residential Unit within Project Area, but in No Event Prior to Completion of Specified Trail Improvements.
42.	Implementation of a Community Trail connecting Ladera Ranch Community Trail with San Juan Creek Trail	Development Agreement Approval	Phased Implementation Concurrent with Adjoining Development Activities in Planning Area 1
43.	Implementation of a Community Trail connecting Wagon Wheel Connector Trail with San Juan Creek Bikeway Trail	Development Agreement Approval	Implementation in Accordance with Terms and Conditions Set Forth in Supplemental Agreement
Affordable Housing Sites			
44.	Offer of 60 gross acres of land (comprised of one or more sites) that may be developed, operated and managed by COUNTY as affordable housing site(s) for Very-Low and Low Income households in South Orange County	Development Agreement Approval	Identification of Affordable Housing Site(s)/Acreage Concurrent with Preparation of Master Area Plans for Individual Planning Areas (as appropriate); Offer(s) of Dedication Tendered Following Identification of Affordable Housing Site(s)/Acreage and Approval of COUNTY Preliminary Development Plan/Program; Rough Grading of Affordable Housing Site(s)/Acreage Concurrent with Occurrence of Development Activity in Affected Planning Area(s).

The public benefits are detailed as follows:

I. TRANSPORTATION

A. BACKGROUND INFORMATION

On November 8, 2004, following public hearing and due consideration of all relevant issues/information, the Board of Supervisors approved Rancho Mission Viejo's (*i.e.*, OWNERS') request for General Plan Amendment (GPA01-01) and Zone Change (ZC01-02) relative to the Ranch Plan Project (the "Project"). Concurrent with said approvals, the Board of Supervisors certified as complete the Final Program Environmental Impact Report No. 589 ("Program EIR") prepared for the Project which addressed and analyzed the anticipated environmental impacts associated with the development of the Project. The Program EIR also describes a mitigation program designed to address both project and cumulative impacts.

The EIR mitigation program and certain other transportation-related conditions of approval (collectively "Conditions") establish specific obligations on OWNERS as a requirement of Project implementation. Of particular note, these Conditions specify a series of transportation

and circulation improvements for which OWNERS have an obligation. For example, OWNERS are obligated to participate, on a pro-rata basis, in the funding of certain on-site arterial improvements (e.g., widening of Antonio Parkway). Additionally, OWNERS are obligated to pay their “Fair Share” toward the development of certain off-site roadway improvements (e.g., widening of a portion of Ortega Highway between I-5 and the Project boundary). Funds contributed by the OWNERS pursuant to the Conditions are to be made to the South County Roadway Improvement Program (SCRIP), which is described below.

The Conditions were specifically designed to mitigate Project-related impacts in compliance with CEQA. However, OWNERS are desirous of providing additional assistance to COUNTY vis-à-vis participating in the attenuation of circulation problems that affect the greater community. In furtherance of this goal, OWNERS have entered into this Development Agreement which, in relevant part, defines, quantifies and memorializes specific covenants of OWNERS as to the funding and/or implementation of circulation improvements that not only mitigate the Project’s impacts, but which also provide additional circulation benefits to the public. Table D-1, above, summarizes the additional circulation system benefits (as well as other public benefits) that OWNERS are providing beyond those required by the Conditions; the following sections provide more particularized description/discussion of these additional benefits.

Note: The adoption and implementation of this Development Agreement will satisfy or partially satisfy certain Conditions. The specific Conditions which are fulfilled or partially fulfilled are listed in Exhibit F to this Agreement, together with a brief explanation of how they are fulfilled.

B. TRANSPORTATION SYSTEM IMPROVEMENTS – CONTRIBUTIONS, ACKNOWLEDGMENTS & COVENANTS

As indicated above, the Conditions obligate OWNERS to participate, on a Fair Share basis, in the financing of certain on-site and off-site transportation system improvements. In an effort to facilitate COUNTY’s timely completion and achievement of these improvements, OWNERS are willing to provide additional financial/resource assistance to COUNTY; to wit:

- Acceleration of OWNERS’ Fair Share payment obligations for transportation improvements identified in the Conditions
- Provision of land for public right-of-way to facilitate the future construction of transportation facilities
- Provision of financial contributions that exceed the minimum Fair Share obligations for specific improvements identified in the Conditions
- Provision of additional financial contributions (i.e., “Flex Funds”) for use in addressing local and regional transportation improvements identified in the SCRIP

The provision of these accelerated/additional resources will enable COUNTY to expedite and accomplish both current and future transportation improvement projects benefiting the residents of Orange County (e.g., advance funding shall allow for the near-term preparation of design

materials and environmental documentation to expedite the approval processes for critical off-site improvement projects). Furthermore, OWNERS' provision of advance funding will enhance the ability of COUNTY and adjoining jurisdictions to seek and receive matching funds for identified circulation improvements (as said matching funds may be available from regional, state and federal sources). Again, OWNERS' provision of such accelerated/additional resources is beyond the obligations specified in the Conditions, and represents an extra public benefit that would not otherwise exist but for approval/development of the Project.

Table D-2, attached hereto, reflects the aggregate, accelerated payments to be tendered by OWNERS at specific Project milestones. Notably, Table D-2 reflects that 100% of OWNERS' total financial obligations for transportation improvements (*i.e.*, Fair Share obligations –PLUS– extra contributions specified in this Development Agreement) shall be tendered before the Project is 85% complete. The Project utilizes an “equivalent dwelling unit” (“EDU”) formula/strategy for determining the amount of fees that must be paid upon issuance of each building permit within the Project area. An EDU is a unit of measurement which expresses single-family, multi-family and non-residential development on a common trip generation basis. As described in the SCRIP, for purposes of calculating transportation mitigation fees, the aggregate development program for the Project contemplates a total of 11,890 EDUs. As set forth in Table D-2, the entirety of OWNERS' financial commitment for transportation improvements must be paid prior to the issuance of a building permit for the 10,000th EDU. Thus, OWNERS' aggregate financial obligations hereunder will be paid well in advance of Project completion.

All funding provided by OWNERS hereunder shall be deposited into the SCRIP and credited against OWNERS' Fair Share and extra obligations. The SCRIP has been developed cooperatively by the OWNERS and COUNTY for the purpose of facilitating the implementation of specific transportation improvements that will benefit both local and regional elements of southern Orange County's circulation system. Specifically, the SCRIP complements existing road improvement programs in South Orange County by providing a comprehensive framework for implementing identified transportation improvements in a coordinated and timely manner. The SCRIP is essentially comprised of two parts:

- Part 1: A framework for (a) implementing the transportation improvement program outlined in the Program EIR and this Development Agreement for improvements located within the County's jurisdiction and (b) funding certain other local improvements within the jurisdiction of one or more cities that are to be funded whether or not the affected cities elect to participate in the SCRIP
- Part 2: Part 2, when adopted, would complement Part 1 with regard to (a) identified local City improvements that require the participation of the cities for their full funding/implementation and (b) identified regional improvements that require the participation of Caltrans and/or the Orange County Transportation Authority (OCTA) for their full funding/implementation

The Project is located within the area of benefit prescribed for the SCRIP action plan, and the action plan includes improvements which OWNERS will support through (i) Fair Share contributions pursuant to the Conditions and (ii) excess contributions pursuant to this Development Agreement. Accordingly, OWNERS' participation in the SCRIP will mitigate the future traffic impacts of the Project and other growth in the area and assist COUNTY in achieving its local and regional infrastructure goals.

As reflected in Table D-2, the aggregate value of OWNERS' financial commitment for transportation improvements vis-à-vis Project approval and implementation is \$143,775,000 (the "Total Transportation Fee"). OWNERS and COUNTY acknowledge that the Total Transportation Fee represents an amount that greatly exceeds the value of OWNERS' Fair Share costs for Project-related transportation mitigation, as detailed in the 2003 Traffic Study prepared by Austin-Foust and Associates and summarized in the Program EIR. In light of the foregoing, OWNERS and COUNTY agree that the Total Transportation Fee represents the maximum amount that OWNERS shall be required to pay for the mitigation of any and all traffic impacts relative to the Project, subject only to the escalation of fees as specified in the SCRIP (but not to exceed an average of 3 percent per year). In no event shall COUNTY request, nor shall OWNERS be obligated to pay, any amount in excess of the Total Transportation Fee for traffic impact mitigation.

As identified in the SCRIP, implementation and/or completion of certain of the off-site traffic improvements identified in the SCRIP action plan will require the approval and participation of other agencies (*e.g.*, affected cit(y/ies), Caltrans and resource agencies). Accordingly, the possibility exists that individual traffic improvements may not be complete or in place at the intended times due to action/inaction on the part of other parties. COUNTY recognizes this fact/possibility and acknowledges that (i) OWNERS' obligations hereunder are limited solely to the provision of financial contributions in an amount not to exceed the Total Transportation Fee and (ii) OWNERS cannot provide any assurance that action plan improvements will be completed in accordance with SCRIP objectives. Accordingly, COUNTY covenants and agrees that it shall not withhold, restrict or otherwise delay the issuance of any Project-related grading or building permit due to delays, complications or setbacks in the processing, construction or completion schedule for any transportation improvement, PROVIDED that OWNERS are current with respect to their EDU milestone payment obligations set forth herein.

COUNTY and OWNERS also recognize that SCRIP contains express terms/conditions that provide for the reapportionment of funding for particular transportation improvement projects, as well as the ability to identify/fund new priority projects, so long as certain findings can be made with regard to the "alternative improvements" (including a finding that the alternative improvement will provide an equivalent level of mitigation for traffic impacts). Accordingly, COUNTY and OWNERS acknowledge that a possibility exists that certain of the projects currently identified in the SCRIP action plan may be delayed, modified or otherwise eliminated as the SCRIP is implemented over time. COUNTY covenants and agrees that in no event shall any modifications, changes or revisions to the SCRIP or any of the individual improvements identified therein compromise, encumber or otherwise hinder the entitlements vested in OWNERS and the Project area pursuant to GPA01-01, ZC01-02, this Development Agreement or other Development Approvals. Nor shall any modification, change or revision to the SCRIP

(or any of the individual improvements identified therein) require an amendment to or modification of this Development Agreement.

Notwithstanding any provision herein to the contrary, to the extent of any conflict between the terms of this Development Agreement and the terms of the SCRIP, the terms of this Development Agreement shall control.

C. ADJUSTMENTS TO OWNERS' TRAFFIC MITIGATION COMMITMENTS AND OBLIGATIONS

For purposes of this Section I.C., the term "Transportation Improvements" shall refer to all transportation and circulation improvements identified in this Exhibit D and in the SCRIP action plan for which OWNERS have committed to provide Fair Share and supplemental funding pursuant to the Conditions and the Development Agreement.

1. Transportation Improvements Implemented and/or Funded by OWNERS and/or Other Private Entities

OWNERS shall be entitled to a credit against their Total Transportation Fee obligation to the extent of any and all Transportation Improvement(s) implemented and/or funded by OWNERS or their affiliates, whether directly or indirectly (and including, without limitation, funding through CFDs or similar financing mechanisms), following execution and delivery of this Development Agreement. Furthermore, in the event that any specific Transportation Improvement(s) is/are constructed, implemented and or funded by a private entity other than OWNERS (including, but not limited to, OWNERS' successors and assigns), OWNERS' obligations and commitments with respect to said Transportation Improvement(s) shall be deemed satisfied and no payment from OWNERS relative to said Transportation Improvement(s) shall be required.

2. Funding of Transportation Improvements by Non-OWNER Private Entities and/or Public Agencies

In the event that funding provided for one or more of the Transportation Improvements (i) is derived from sources other than OWNERS and (ii) exceeds the "Other (Non-Project) Funding" share for the individual Transportation Improvement(s) as specified in Exhibit E of the Development Agreement, OWNERS' fee obligations and commitments with respect to said Transportation Improvement(s) shall be proportionally adjusted to reflect the reduction of funds needed from OWNERS to complete the Transportation Improvement(s). Furthermore, in the event that:

(A) a regional or sub-regional program contains, in whole or in part, one or more of the Transportation Improvements and

(B) such regional/sub-regional Transportation Improvement(s) is/are implemented by OWNERS, any public agency, and/or a combination of entities/agencies,

then (1) OWNERS shall receive a credit against OWNERS' obligations and commitments relative to OWNERS' share of the funding of said Transportation Improvement(s) and (2)

OWNERS' Total Transportation Fee obligation shall be proportionally adjusted to reflect the reduction of costs needed to complete the Transportation Improvement(s).

3. Substitution of Transportation Improvements

As recognized in Section I.B., above, the SCRIP provides for the potential substitution of Transportation Improvements if such adjustments/actions are necessary and warranted. In the event that one or more Transportation Improvement(s) is/are eliminated in favor of the implementation of a substitute improvement(s), then (i) the substitute improvement(s) shall be implemented in accordance with the provisions of the SCRIP and (ii) OWNERS' fee commitments and obligations relative to the original Transportation Improvement(s) shall be recalculated to reflect OWNERS' proportional obligation for the substitute transportation improvement(s). In no event, however, shall the fee calculation described above result in OWNERS' fee obligation exceeding OWNERS' original Exhibit D obligation for the Transportation Improvement(s) thus modified/substituted. Furthermore, all fee offsets and credits applicable to the original Transportation Improvement(s) shall apply to the substitute transportation improvement(s).

D. STATE AND FEDERAL ASSISTANCE IN IMPLEMENTING THE SCRIP

In connection with implementation of the Project, COUNTY, at no out-of-pocket cost or expense and without being obligated to incur any obligation or liability with respect thereto, shall reasonably cooperate with OWNERS and any and all agencies or departments that may provide assistance to the SCRIP including, without limitation, the following:

- California Infrastructure and Economic Development Bank
- California Department of Transportation
- California Transportation Commission
- Orange County Transportation Authority
- United States Congress
- United States Department of Transportation
- United States Federal Highway Administration
- United States Federal Transit Administration
- Relevant Joint Powers Authority(y/ies)
- Relevant Special Powers Entity(y/ies)

E. IDENTIFICATION OF AGGREGATE TRAFFIC MITIGATION
COMMITMENTS AND OBLIGATIONS

OWNERS' aggregate obligations for transportation system improvements/contributions are as follows:

Item No. 1 *Dedication of Avenida La Pata Right-of-Way*

COUNTY is desirous of extending Avenida La Pata from its current northern terminus point (*i.e.*, south of Ortega Highway) to its current southern terminus point (*i.e.*, intersection at Calle Saluda) (the "Extension Area"). Portions of the Extension Area are located within the Project area and, as such, would require public purchase and/or acquisition prior to implementation of the intended right-of-way improvements. In furtherance of COUNTY's interest in providing and implementing the desired Avenida La Pata extension, OWNERS are willing to dedicate to COUNTY those portions of the Extension Area currently located within the Project area, all as more specifically described in the following paragraphs.

a. Offer of Dedication; Timing. Prior to recordation of the first final tract map (except for financing purposes) within Planning Area 1 in the Project, OWNERS shall enter into an agreement with COUNTY to provide a construction easement and fee dedication right of way, within the Project ownership, relative to the Extension Area. The agreement shall provide that the offer of dedication shall be made prior to the issuance of a building permit for the first (1st) EDU for the Project and shall be irrevocable.

b. Description of Extension Area. The precise location and width of the Extension Area shall be identified in the terms of the above-referenced agreement.

c. Use of Extension Area. The deed conveying the Extension Area to COUNTY pursuant to the agreement shall contain an express restriction limiting the use of said area for public right-of-way purposes.

Item No. 2 *Defined Financial Contribution – Part I*

OWNERS are willing to pay a defined contribution into the SCRIP that may be used by COUNTY to fund initial designs, environmental studies and other preliminary items that will facilitate COUNTY's timely implementation of traffic improvement projects (*vis-à-vis* the SCRIP action plan). Said contribution is in excess of, and in addition to, OWNERS' express contribution obligations specified in the Conditions. The following paragraphs describe the terms and conditions underlying Part I of OWNERS' commitment to provide the extra contribution (Part II is discussed hereafter in relation to Item No. 27).

a. Extra Contribution. The amount of the extra contribution described above (ala Part I) shall be \$7,320,000.

b. Payment of Extra Contribution. OWNERS shall pay the aforesaid extra contribution (ala Part I) into the SCRIP prior to COUNTY's issuance of a building permit for the first (1st) EDU for the Project.

c. Use of Extra Contribution. Consistent with the provisions of the SCRIP, all portions of the extra contribution identified in this Section shall be used for the preparation of the preliminary design, environmental and related materials described above.

Item No. 3 *Oso Parkway Widening – East of Las Flores*

The Conditions obligate OWNERS to tender a Fair Share contribution of \$1,250,000 toward the costs associated with widening portions of Oso Parkway extending east of Las Flores between Meandering Trail and Solano Avenue from a Primary arterial highway to a Major arterial highway. Specifically, the improvements contemplate the addition of one lane in each direction. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions. ✓

a. Timing and Method of Accelerated Payment. Prior to (a) the first date following twelve months after approval of the Ranch Plan project by the Board of Supervisors, or (b) 30 days following the final order/judgment issued by the courts in a successful defense of all litigation brought against the Ranch Plan GPA/ZC, EIR No. 589 and/or the Development Agreement, whichever occurs last, OWNERS shall post financial security (e.g., bond, letter of credit, cash, etc.) acceptable to the County of Orange in the full amount of the above-stated obligation, in a manner meeting the approval of the Director, RDMD. Said financial security shall be accompanied by an agreement that allows for phased payment of the obligation consistent with the construction payment requirements for the contract and/or reimbursement to the County for the Ranch Plan Project's Fair Share if the County has already completed the work. ✓

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the construction of the widening improvements described above.

Item No. 4 *Interchange Improvements – I-5 and Avenida Pico*

The Conditions obligate OWNERS to assist in the mitigation of Project-related impacts affecting the I-5 / Avenida Pico interchange. Specifically, the Conditions provide that OWNERS shall pay a Fair Share contribution of \$571,000 toward the costs of re-striping the southbound off-ramp and modifying the existing signal. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$571,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 1,000th EDU for the Project.

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the interchange improvements described above.

Item No. 5 *Ramp Improvements – I-5 and Oso Parkway*

The Conditions obligate OWNERS to financially participate in the construction of certain interchange improvements in the City of Mission Viejo. Specifically, the Conditions provide that OWNERS will contribute a Fair Share payment of \$4,126,000 toward the construction of certain improvements relative to the southbound I-5 connector ramps at Oso Parkway. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$4,126,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 1,000th EDU for the Project.

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the ramp improvements described above.

Item No. 6 *Ortega Highway Widening – Antonio Parkway to West of San Juan Creek (Including Bridge)*

The Conditions obligate OWNERS to tender a Fair Share contribution of \$6,000,000 toward the costs of (i) widening, to four lanes, certain portions of Ortega Highway located within the unincorporated County (between Antonio Parkway and San Juan Creek) and (ii) constructing certain bridge improvements. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$6,000,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 1,000th EDU for the Project.

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the roadway widening and bridge improvements described above.

Item No. 7 *Intersection Improvements – Crown Valley & Marguerite*

The Conditions obligate owners to tender a Fair Share contribution toward the costs of constructing certain improvements at the intersection of Crown Valley Parkway and Marguerite Parkway in the City of Mission Viejo. The specific improvements involve the addition of a second left-turn lane, a fourth thru-lane and a right turn lane for the benefit of westbound traffic. The Conditions specify that OWNERS shall make a Fair Share contribution in the amount of \$170,000 toward the construction of these improvements. OWNERS are willing to contribute an additional amount toward the completion of said improvements, subject to the following terms and conditions.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$724,000 toward the cost of accomplishing the intersection improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$894,000. This aggregated amount shall be paid into the SCRIP prior to COUNTY's issuance of a building permit for the 1,000th EDU for the Project.

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

Item No. 8 *Intersection Improvements – Oso Parkway & Felipe Road*

The Conditions obligate owners to tender a Fair Share contribution toward the costs of constructing certain improvements at the intersection of Oso Parkway and Felipe Road in the City of Mission Viejo. The specific improvements involve the addition of a second, southbound left-turn lane. The Conditions specify that OWNERS shall make a Fair Share contribution in the amount of \$324,000 toward the construction of these improvements. OWNERS are willing to contribute an additional amount toward the completion of said improvements, subject to the following terms and conditions.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$552,000 toward the cost of accomplishing the intersection improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$876,000. This aggregated amount shall be paid into the SCRIP prior to COUNTY's issuance of a building permit for the 1,000th EDU for the Project.

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

Item No. 9 *Defined Financial Contribution – Flex Funds Part I*

OWNERS are willing to pay a defined contribution into the SCRIP that may be used by COUNTY to facilitate the implementation of the individual traffic and circulation improvements identified in the SCRIP action plan. This supplemental funding (collectively described as the "Flex Funds") is not earmarked for, or otherwise allocated to, particular improvements identified

in the SCRIP action plan. Rather, COUNTY may utilize the Flex Funds to address one or more of the traffic and circulation issues identified in the SCRIP action plan as COUNTY deems appropriate and in the best interests of South Orange County. The aggregate amount of the Flex Funds to be contributed by OWNERS is \$16,000,000; notwithstanding, payment of the Flex Funds shall be divided into three discrete segments (*i.e.*, Part I, Part II and Part III), with periodic payments occurring in accordance with identified EDU milestone events. The following paragraphs describe the terms and conditions underlying OWNERS' commitment to provide Part I of the Flex Funds; the terms and conditions relating to Parts II and III of the Flex Funds are discussed hereafter in relation to Item No. 13 and Item No. 28, respectively.

a. Extra Contribution (Flex Funds Part I). The amount of the Flex Funds Part I contribution shall be \$5,000,000.

b. Payment of Extra Contribution (Flex Funds Part I). OWNERS shall pay the aforesaid Flex Funds Part I contribution into the SCRIP prior to COUNTY's issuance of a building permit for the 1,000th EDU for the Project.

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the Flex Funds Part I contribution shall be used for the implementation of one or more of the traffic and circulation improvements identified in the SCRIP action plan.

Item No. 10 *Interchange Improvements – I-5 and Crown Valley Parkway*

The Conditions obligate OWNERS to assist in the mitigation of Project-related impacts affecting the I-5 / Crown Valley Parkway interchange. Specifically, the Conditions provide that OWNERS shall pay a Fair Share contribution of \$240,000 toward the construction of certain improvements designed to improve the operation/efficiency of the southbound off-ramp. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$240,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 2,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 1,001st to the 2,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 2,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 1,001st EDU, But Not Later than Issuance of Building Permit for 2,000th EDU	\$160,000
Following Issuance of Building Permit for 2,001st EDU, But Not Later than Issuance of Building Permit for 2,500th EDU	\$80,000

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the interchange improvements described above.

Item No. 11 *Widening of Crown Valley Parkway / I-5 Bridge*

The Conditions obligate OWNERS to assist in the mitigation of Project-related impacts affecting the Crown Valley Parkway / Interstate 5 Bridge. Specifically, the Conditions provide that OWNERS shall pay a Fair Share contribution of \$109,000 toward the construction of certain improvements designed to widen the Crown Valley Parkway / I-5 Bridge. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$109,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 2,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 1,001st to the 2,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 2,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 1,001st EDU, But Not Later than Issuance of Building Permit for 2,000th EDU	\$73,000
Following Issuance of Building Permit for 2,001st EDU, But Not Later than Issuance of Building Permit 2,500th EDU	\$36,000

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the bridge widening improvements described above.

Item No. 12 *Interchange Improvements – I-5 and Ortega Highway*

The Conditions obligate OWNERS to assist in the mitigation of Project-related impacts affecting the I-5 / Ortega Highway interchange. Specifically, the Conditions provide that OWNERS shall pay a Fair Share contribution of \$13,600,000 toward the comprehensive costs associated with reconstruction of the interchange. In order to facilitate the implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$13,600,000 obligation into the SCRIP prior to COUNTY’s issuance of a building permit for the 2,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 1,001st to the 2,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 2,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 1,001st EDU, But Not Later than Issuance of Building Permit for 2,000th EDU	\$9,100,000
Following Issuance of Building Permit for 2,001st EDU, But Not Later than Issuance of Building Permit for 2,500th EDU	\$4,500,000

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the interchange improvements described above.

Item No. 13 *Defined Financial Contribution – Flex Funds Part II*

As identified above (see Item No. 9), OWNERS are willing to pay a defined contribution into the SCRIP that may be used by COUNTY to facilitate the implementation of the individual traffic and circulation improvements identified in the SCRIP action plan. This supplemental funding (heretofore collectively defined as the “Flex Funds”) is not earmarked for, or otherwise allocated to, particular improvements identified in the SCRIP action plan. Rather, COUNTY may utilize the Flex Funds to address one or more of the traffic and circulation issues identified in the SCRIP action plan as COUNTY deems appropriate and in the best interests of South Orange County. The following paragraphs describe the terms and conditions underlying OWNERS’

commitment to provide Part II of the Flex Funds; the terms and conditions relating to Parts I and III of the Flex Funds are discussed in Item No. 9 and Item No. 28, respectively.

a. Extra Contribution (Flex Funds Part II). The amount of the Flex Funds Part II contribution shall be \$5,000,000.

b. Payment of Extra Contribution (Flex Funds Part I). OWNERS shall pay the aforesaid Flex Funds Part II contribution into the SCRIP prior to COUNTY's issuance of a building permit for the 2,500th EDU for the Project.

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the Flex Funds Part II contribution shall be used for the implementation of one or more of the traffic and circulation improvements identified in the SCRIP action plan.

Item No. 14 *Improvement of Avenida La Pata (Phase I)*

Avenida La Pata currently exists as a three-lane road extending south of Ortega Highway and terminating at the Prima Deshecha Landfill. The ultimate design/geometry for Avenida La Pata connotes a four-lane road extending south from Ortega Highway and intersecting/ending at Avenida Vista Hermosa in the City of San Clemente. Implementation of the Avenida La Pata improvements is contemplated to occur in two phases, namely: Phase I – extension and improvement of Avenida La Pata as a two-lane road, extending southerly from the Prima Deshecha Landfill (terminus of existing Avenida La Pata) to Avenida Vista Hermosa. Phase II – upgrade and widen Avenida La Pata to its ultimate four-lane configuration. The Conditions obligate OWNERS to financially participate in the improvement of Avenida La Pata to its ultimate configuration/geometry. For Phase I, OWNERS are obligated to tender a Fair Share contribution of \$5,250,000 toward the specified improvements. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to contribute additional amounts toward the construction of Phase I and to dedicate right of way within OWNERS' property to facilitate the above-described improvements. The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said Phase I and to dedicate right of way.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an additional \$9,750,000 toward the cost of accomplishing the Phase I improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the Phase I improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$15,000,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$6,000,000
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$6,000,000
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$3,000,000

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the Phase I improvements described above.

d. Construction of Phase 1. In addition to OWNERS' Fair Share obligation and the extra contribution described in a. above, OWNERS further agree that prior to or concurrent with issuance of the 5001st EDU in the Ranch Plan development, and based upon approved documentation prepared by the COUNTY for environmental approval, permitting and design of Avenida La Pata, OWNERS shall enter into an agreement with COUNTY to construct Phase 1 of the improvement consistent with the alignment for this road adopted by the Board of Supervisors. Said roadway design and construction shall provide for full grading to accommodate a Primary arterial highway but paved for only two lanes.

e. COUNTY's Assistance. Given that the implementation of the described improvements is of regional benefit, COUNTY agrees to use its best efforts to secure supplemental funding as identified in the SCRIP to complement and/or reimburse OWNERS' funding of the improvements to the extent said funding is over and above the aggregate of OWNERS' Fair Share and the extra obligation as described in a. above.

Item No. 15 Intersection Improvements – La Pata & Vista Hermosa

The Conditions obligate owners to tender a Fair Share contribution toward the costs of constructing certain improvements at the intersection of Avenida La Pata & Avenida Vista Hermosa in the City of San Clemente. The specific improvements involve (i) the addition of a southbound free right turn lane to Avenida La Pata and (ii) the addition of a second and third eastbound left-turn lane for Avenida Vista Hermosa. The Conditions specify that OWNERS shall make a Fair Share contribution in the amount of \$52,000 toward the construction of these improvements. In order to facilitate the prompt implementation of these improvements,

OWNERS are willing to contribute additional amounts toward the construction of same. The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said intersection improvements.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$320,000 toward the cost of accomplishing the improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$372,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$148,800
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$148,800
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$74,400

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

Item No. 16 Intersection Improvements – Vera Cruz & Vista Hermosa

The Conditions obligate owners to tender a Fair Share contribution toward the costs of constructing certain improvements at the intersection of Camino Vera Cruz & Avenida Vista Hermosa in the City of San Clemente. The specific improvements involve the addition of a second southbound left-turn lane. The Conditions specify that OWNERS shall make a Fair Share contribution in the amount of \$66,000 toward the construction of these improvements. In

order to facilitate the prompt implementation of these improvements, OWNERS are willing to contribute additional amounts toward the construction of same. The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said intersection improvements.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$871,000 toward the cost of accomplishing the intersection improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$937,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$374,800
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$374,800
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$187,400

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

Item No. 17 *Intersection Improvements – Ortega Highway & Rancho Viejo Road*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$374,000 toward the costs of constructing certain improvements at the intersection of Ortega Highway and Rancho Viejo Road in the City of San Juan Capistrano. The specific improvements involve the addition of a second left turn lane to northbound Rancho Viejo Road. In order to facilitate the

prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$374,000 obligation into the SCRIP prior to COUNTY’s issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$149,600
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$149,600
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$74,800

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

Item No. 18 *Intersection Improvements – Ortega Highway & La Novia*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$248,000 toward the costs of constructing certain improvements at the intersection of Ortega Highway and La Novia Road in the City of San Juan Capistrano. The specific improvements involve the addition of a second eastbound left turn lane to Ortega Highway. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$248,000 obligation into the SCRIP prior to COUNTY’s issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$99,200
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$99,200
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$49,600

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

Item No. 19 *Intersection Improvements – Camino Capistrano & Del Obispo*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$54,000 toward the costs of constructing certain improvements at the intersection of Camino Capistrano and Del Obispo in the City of San Juan Capistrano (per City nexus program). In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$54,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$21,600
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$21,600
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$10,800

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

Item No. 20 *Intersection Improvements – San Juan Creek Road & Valle Road*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$300,000 toward the costs of constructing certain improvements at the intersection of San Juan Creek Road and Valle Road in the City of San Juan Capistrano (per City nexus program). In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$300,000 obligation into the SCRIP prior to COUNTY’s issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$120,000
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$120,000
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$60,000

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

Item No. 21 *Ortega Highway Widening – San Juan Capistrano (Context Sensitive Design)*

The Conditions obligate OWNERS to tender a Fair Share contribution of \$4,000,000 toward the costs of widening, to four lanes [using a context sensitive design], certain portions of Ortega Highway located within the City of San Juan Capistrano. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$4,000,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$1,600,000
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$1,600,000
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$800,000

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

Item No. 22 *Intersection Improvements – Antonio Parkway & Oso Parkway*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$644,000 toward the costs of constructing certain improvements at the intersection of Antonio Parkway and Oso Parkway in the unincorporated County. The specific improvements involve (i) the addition of a fourth southbound thru lane and a third northbound left turn lane to Antonio Parkway and (ii) the addition of a fourth westbound thru lane to Oso Parkway. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to contribute additional amounts toward the construction of same. The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said intersection improvements.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$705,000 toward the cost of accomplishing the intersection improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$1,349,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to

the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$539,600
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$539,600
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$269,800

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

d. Provision for Funding of Full Cost of Improvements. In addition to OWNERS' Fair Share obligation and the extra contribution described in a. above, OWNERS further agree that, prior to or concurrent with issuance of the 5001st EDU in the Ranch Plan development, OWNERS shall enter into an agreement with COUNTY to fully fund (*i.e.*, to provide the remaining cost of) the specified improvements to the extent said funds are not then available.

e. COUNTY's Assistance. Given that the implementation of the described improvements is of regional benefit, COUNTY agrees to use its best efforts to secure supplemental funding as identified in the SCRIP to complement and/or reimburse OWNERS' funding of the improvements to the extent said funding is over and above the aggregate of OWNERS' Fair Share and the extra obligation as described in a. above.

Item No. 23 *Intersection Improvements – Antonio Parkway & Crown Valley Parkway*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$137,000 toward the costs of constructing certain improvements at the intersection of Antonio Parkway and Crown Valley Parkway in the unincorporated County. The specific improvements involve (i) the addition of a second eastbound right turn lane to Crown Valley Parkway and (ii) the addition of a third northbound left turn lane to Antonio Parkway. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to contribute additional

amounts toward the construction of same. The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said intersection improvements.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$168,000 toward the cost of accomplishing the intersection improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$305,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$122,000
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$122,000
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$61,000

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

d. Provision for Funding of Full Cost of Improvements. In addition to OWNERS' Fair Share obligation and the extra contribution described in a. above, OWNERS further agree that, prior to or concurrent with issuance of the 5001st EDU in the Ranch Plan development, OWNERS shall enter into an agreement with COUNTY to fully fund (*i.e.*, to provide the remaining cost of) the specified improvements to the extent said funds are not then available.

e. COUNTY's Assistance. Given that the implementation of the described improvements is of regional benefit, COUNTY agrees to use its best efforts to secure supplemental funding as identified in the SCRIP to complement and/or reimburse OWNERS' funding of the improvements to the extent said funding is over and above the aggregate of OWNERS' Fair Share and the extra obligation as described in a. above.

Item No. 24 *Intersection Improvements – Antonio Parkway/Avenida La Pata & Ortega Highway*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$301,000 toward the costs of constructing certain improvements at the intersection of Antonio Parkway/Avenida La Pata and Ortega Highway in the unincorporated County. The specific improvements involve (i) the addition of a second thru lane and free right lane to Antonio Parkway, (ii) the addition of a second northbound left turn lane and second thru lane to La Avenida La Pata and (iii) the addition of a second eastbound thru lane to Ortega Highway. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to contribute additional amounts toward the construction of same. The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said intersection improvements.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$119,000 toward the cost of accomplishing the intersection improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$420,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$168,000
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$168,000
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$84,000

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

Item No. 25 *Interchange Improvements – I-5 and Avery Parkway*

The Conditions obligate OWNERS to assist in the mitigation of Project-related impacts affecting the I-5 / Avery Parkway interchange. Specifically, the Conditions provide that OWNERS shall pay a Fair Share contribution of \$152,000 toward the construction of an additional lane located beneath the I-5 / Avery Parkway overpass. In order to facilitate the implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$152,000 obligation into the SCRIP prior to COUNTY’s issuance of a building permit for the 5,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 2,501st to the 4,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 5,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 2,501st EDU, But Not Later than Issuance of Building Permit for 3,500th EDU	\$60,800
Following Issuance of Building Permit for 3,501st EDU, But Not Later than Issuance of Building Permit for 4,500th EDU	\$60,800
Following Issuance of Building Permit for 4,501st EDU, But Not Later than Issuance of Building Permit for 5,000th EDU	\$30,400

All incremental contribution payments shall be paid into the SCRIP. A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the interchange improvements described above.

Item No. 26 Park & Ride Facility

The Conditions obligate OWNERS to participate in the creation of a new Park & Ride facility. In satisfaction of said obligation, OWNERS shall dedicate to COUNTY a parcel of land (the "P&R Parcel") that may be used for the development, construction and operation of the desired Park & Ride facility. The terms and conditions underlying the proposed dedication are set forth below.

a. Offer of Dedication; Timing. Prior to issuance of a building permit for the 5,000th EDU for the Project, OWNERS shall prepare and deliver to COUNTY an offer of dedication relative to the P&R Parcel. The offer of dedication shall be irrevocable.

b. Description of Extension Area. The precise location and size of the P&R Parcel shall be identified per the terms of the Project Report.

c. Use of P&R Parcel. The deed conveying the P&R Parcel to COUNTY shall contain an express restriction limiting the use of said area to a public parking lot that is used in connection with community mass transit activities (*e.g.*, bus ridership).

d. Value of Extension Area. COUNTY and OWNERS agree that the value of the Extension Area conveyed pursuant hereto shall be \$600,000.

Item No. 27 *Defined Financial Contribution – Part II*

As identified in relation to Item No. 2, above, OWNERS are willing to pay a defined contribution into the SCRIP that may be used by COUNTY to fund initial designs, environmental studies and other preliminary items that will facilitate COUNTY's timely implementation of traffic improvement projects (vis-à-vis the SCRIP action plan). Said contribution is in excess of, and in addition to, OWNERS' express contribution obligations specified in the Conditions. The following paragraphs describe the terms and conditions underlying Part II of OWNERS' commitment to provide the extra contribution.

a. Extra Contribution. The amount of the extra contribution described above (ala Part II) shall be \$4,880,000.

b. Payment of Extra Contribution. OWNERS shall pay the aforesaid extra contribution (ala Part II) into the SCRIP prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project.

c. Use of Extra Contribution. Consistent with the provisions of the SCRIP, all portions of the extra contribution identified in this Section shall be used for the preparation of the preliminary design, environmental and related materials described above.

Item No. 28 *Defined Financial Contribution – Flex Funds Part III*

As identified above (see Item Nos. 9 and 13), OWNERS are willing to pay a defined contribution into the SCRIP that may be used by COUNTY to facilitate the implementation of the individual traffic and circulation improvements identified in the SCRIP action plan. This supplemental funding (heretofore collectively defined as the "Flex Funds") is not earmarked for, or otherwise allocated to, particular improvements identified in the SCRIP action plan. Rather, COUNTY may utilize the Flex Funds to address one or more of the traffic and circulation issues identified in the SCRIP action plan as COUNTY deems appropriate and in the best interests of South Orange County. The following paragraphs describe the terms and conditions underlying OWNERS' commitment to provide Part III of the Flex Funds.

a. Extra Contribution (Flex Funds Part III). The amount of the Flex Funds Part III contribution shall be \$6,000,000.

b. Payment of Extra Contribution (Flex Funds Part I). OWNERS shall pay the aforesaid Flex Funds Part III contribution into the SCRIP prior to COUNTY's issuance of a building permit for the 5,000th EDU for the Project.

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the Flex Funds Part III contribution shall be used for the implementation of one or more of the traffic and circulation improvements identified in the SCRIP action plan.

Item No. 29 *Connector Ramps – Saddleback College and I-5*

The Conditions obligate OWNERS to financially participate in the construction of certain interchange improvements in the City of Mission Viejo. Specifically, the Conditions provide

that OWNERS will contribute a Fair Share payment of \$7,000,000 toward the construction of the Saddleback College / I-5 connector ramps. In order to facilitate the implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$7,000,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 7,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 5,001st to the 7,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 7,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 5,001st EDU, But Not Later than Issuance of Building Permit for 6,000th EDU	\$2,800,000
Following Issuance of Building Permit for 6,001st EDU, But Not Later than Issuance of Building Permit for 7,000th EDU	\$2,800,000
Following Issuance of Building Permit for 7,001st EDU, But Not Later than Issuance of Building Permit for 7,500th EDU	\$1,400,000

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the connector ramp improvements described above.

Item No. 30 *Extension of Cow Camp Road*

The Conditions obligate OWNERS to financially participate in the easterly extension of Cow Camp Road to Ortega Highway. Specifically, the Conditions provide that OWNERS shall tender a Fair Share contribution in the amount of \$32,160,000 toward the construction of said extension improvements. In order to facilitate the implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$32,160,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 7,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 5,001st to the 7,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 7,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 5,001st EDU, But Not Later than Issuance of Building Permit for 6,000th EDU	\$12,864,000
Following Issuance of Building Permit for 6,001st EDU, But Not Later than Issuance of Building Permit for 7,000th EDU	\$12,864,000
Following Issuance of Building Permit for 7,001st EDU, But Not Later than Issuance of Building Permit for 7,500th EDU	\$6,432,000

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the improvements described above.

Item No. 31 *Antonio Parkway Widening*

OWNERS have been determined to have a Fair Share obligation of \$7,370,000 toward the costs of widening that portion of Antonio Highway (located within the unincorporated County) extending southerly from Ladera Ranch Planned Community to Ortega Highway as a Major arterial (hereafter, the Antonio Parkway Widening Project). The specific improvements contemplate the addition of one lane in each north/south direction (and the attendant widening of the Antonio Parkway bridge). In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, and to undertake certain other obligations as described below, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$7,370,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 7,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 5,001st to the 7,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 7,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 5,001st EDU, But Not Later than Issuance of Building Permit for 6,000th EDU	\$2,948,000
Following Issuance of Building Permit for 6,001st EDU, But Not Later than Issuance of Building Permit for 7,000th EDU	\$2,948,000
Following Issuance of Building Permit for 7,001st EDU, But Not Later than Issuance of Building Permit for 7,500th EDU	\$1,474,000

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the Antonio Parkway widening improvements described above.

c. Dedication of Right of Way. In addition to OWNERS' Fair Share obligation, prior to recordation of the first final tract map (except for financing purposes) within Planning Area 1 in the Ranch Plan development, OWNERS shall enter into an agreement with the County to provide necessary right-of-way, in fee, for construction of the Antonio Parkway Widening Project in a manner meeting the approval of the Director, RDMD.

d. Design and Construction of Improvements. Notwithstanding OWNERS' Fair Share obligation described in a. above, OWNERS agree that, prior to recordation of the first tract map (except for financing purposes) within Planning Area 1 in the Ranch Plan development, they shall enter into an agreement to design and construct the Antonio Parkway Widening Project. Said improvements shall also include the intersection of Antonio Parkway at Cow Camp Road, and at existing Ortega Highway, in a manner meeting the approval of the Manager, Transportation.

e. COUNTY's Assistance. Given that the implementation of the described improvements is of regional benefit, COUNTY agrees to use its best efforts to secure supplemental funding as identified in the SCRIP to complement and/or reimburse OWNERS' funding of the improvements to the extent said funding is over and above OWNERS' Fair Share obligation.

Item No. 32 *Intersection Improvements – Crown Valley Parkway & Cabot Road*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$103,000 toward the costs of constructing certain improvements at the intersection of Crown Valley Parkway and Cabot Road in the City of Laguna Niguel (per City "Gateway" conditions).

OWNERS are willing to contribute additional amounts toward the construction of same. The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said intersection improvements.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$874,000 toward the cost of accomplishing the intersection improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$977,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 7,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 5,001st to the 7,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 7,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 5,001st EDU, But Not Later than Issuance of Building Permit for 6,000th EDU	\$390,800
Following Issuance of Building Permit for 6,001st EDU, But Not Later than Issuance of Building Permit for 7,000th EDU	\$390,800
Following Issuance of Building Permit for 7,001st EDU, But Not Later than Issuance of Building Permit for 7,500th EDU	\$195,400

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

Item No. 33 *Intersection Improvements – Crown Valley Parkway & Forbes Road*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$71,000 toward the costs of constructing certain improvements at the intersection of Crown Valley Parkway and Forbes Road in the City of Laguna Niguel (per City "Gateway" conditions). The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said intersection improvements.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$605,000 toward the cost of accomplishing the intersection improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the intersection improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$676,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 7,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 5,001st to the 7,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 7,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 5,001st EDU, But Not Later than Issuance of Building Permit for 6,000th EDU	\$270,400
Following Issuance of Building Permit for 6,001st EDU, But Not Later than Issuance of Building Permit for 7,000th EDU	\$270,400
Following Issuance of Building Permit for 7,001st EDU, But Not Later than Issuance of Building Permit for 7,500th EDU	\$135,200

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the aggregate/accelerated contribution identified in this Section shall be used for the implementation of the intersection improvements described above.

Item No. 34 *Railroad Bridge Widening – Crown Valley Parkway*

The Conditions obligate owners to tender a Fair Share contribution in the amount of \$77,000 toward the costs of widening the railroad bridge located adjacent to Crown Valley Parkway in the City of Laguna Niguel (per City design). In order to facilitate the prompt implementation of these improvements, OWNERS are willing to contribute additional amounts toward the construction of same. The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said bridge widening improvements.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$651,000 toward the cost of accomplishing the bridge widening improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the bridge widening improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$728,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 7,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 5,001st to the 7,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 7,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 5,001st EDU, But Not Later than Issuance of Building Permit for 6,000th EDU	\$291,200
Following Issuance of Building Permit for 6,001st EDU, But Not Later than Issuance of Building Permit for 7,000th EDU	\$291,200
Following Issuance of Building Permit for 7,001st EDU, But Not Later than Issuance of Building Permit for 7,500th EDU	\$145,600

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the railroad bridge widening improvements described above.

Item No. 35 *Widening of Oso Parkway – Mission Viejo*

Oso Parkway currently exists as a 6-lane major arterial between I-5 and Marguerite Parkway. The Conditions obligate owners to tender a Fair Share contribution in the amount of \$2,741,000 toward the costs of improving/widening said right-of-way section to an 8-lane major arterial (*i.e.*, addition of one lane in each direction). In order to facilitate the prompt implementation of these improvements, OWNERS are willing to contribute additional amounts toward the construction of same. The following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said improvements.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an extra \$1,985,000 toward the cost of accomplishing the arterial widening improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the arterial widening improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$4,726,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 7,500th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 5,001st to the 7,000th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 7,500th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 5,001st EDU, But Not Later than Issuance of Building Permit for 6,000th EDU	\$1,890,400
Following Issuance of Building Permit for 6,001st EDU, But Not Later than Issuance of Building Permit for 7,000th EDU	\$1,890,400
Following Issuance of Building Permit for 7,001st EDU, But Not Later than Issuance of Building Permit for 7,500th EDU	\$945,200

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the arterial widening improvements described above.

Item No. 36 *Extension of Avenida La Pata (Phase II)*

As indicted in Item No. 14, above, the Conditions obligate OWNERS to financially participate in the extension/improvement of Avenida La Pata to its ultimate configuration/geometry. Phase II of the project contemplates (i) the addition of a fourth lane extending from Ortega Highway to the Prima Deshecha Landfill and (ii) the widening and improvement of the entire length of Avenida La Pata to four-lane road standards. Pursuant to the Conditions, OWNERS are obligated to tender a Fair Share contribution of \$5,250,000 toward the construction of said Phase II improvements. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to contribute additional amounts toward the construction of Phase II. The

following sections describe the terms and conditions underlying OWNERS' commitment to provide supplemental funding for said Phase II.

a. Extra Contribution. In addition to OWNERS' Fair Share obligation, OWNERS shall contribute an additional \$4,750,000 toward the cost of accomplishing the Phase II improvements described above.

b. Payment of Extra Contribution. In order to facilitate the prompt completion of the Phase II improvements described above, OWNERS shall pay their Fair Share contribution and their additional public benefit contribution on an accelerated basis. Specifically, OWNERS' Fair Share contribution shall be added to the additional public benefit contribution to create an aggregate obligation of \$10,000,000. This aggregated amount shall be paid prior to COUNTY's issuance of a building permit for the 10,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 7,501st to the 9,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 10,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 7,501st EDU, But Not Later than Issuance of Building Permit for 8,500th EDU	\$4,000,000
Following Issuance of Building Permit for 8,501st EDU, But Not Later than Issuance of Building Permit for 9,500th EDU	\$4,000,000
Following Issuance of Building Permit for 9,501st EDU, But Not Later than Issuance of Building Permit for 10,000th EDU	\$2,000,000

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

c. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the Phase II improvements described above.

Item No. 37 Road Improvements – Junipero Serra at Interstate I-5

The Conditions obligate OWNERS to tender a Fair Share contribution of \$160,000 toward the costs of making certain improvements to Junipero Serra at the Interstate I-5 interchange. Specifically, the improvements call for the modification of the existing eastbound/northbound lane to provide an additional eastbound through lane. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$160,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 10,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 7,501st to the 9,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 10,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 7,501st EDU, But Not Later than Issuance of Building Permit for 8,500th EDU	\$64,000
Following Issuance of Building Permit for 8,501st EDU, But Not Later than Issuance of Building Permit for 9,500th EDU	\$64,000
Following Issuance of Building Permit for 9,501st EDU, But Not Later than Issuance of Building Permit for 10,000th EDU	\$32,000

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the implementation of the roadway improvements described above.

Item No. 38 *SR-241 Ramp Improvements*

The Conditions obligate OWNERS to tender a Fair Share contribution of \$1,000 toward the costs of analyzing/implementing certain improvements to the SR-241 ramps. In order to facilitate the prompt implementation of these improvements, OWNERS are willing to accelerate the payment of their Fair Share obligation, subject to the following terms and conditions.

a. Timing of Accelerated Payment. OWNERS shall pay the aforesaid \$1,000 obligation into the SCRIP prior to COUNTY's issuance of a building permit for the 10,000th EDU for the Project. Payments are proposed in 1,000 EDU increments for building permits issued from the 7,501st to the 9,500th EDU, and in 500 EDU increments thereafter until issuance of the building permit for the 10,000th EDU. Namely:

Milestone Event	Contribution
Following Issuance of Building Permit for 7,501st EDU, But Not Later than Issuance of Building Permit for 8,500th EDU	\$400
Following Issuance of Building Permit for 8,501st EDU, But Not Later than Issuance of Building Permit for 9,500th EDU	\$400
Following Issuance of Building Permit for 9,501st EDU, But Not Later than Issuance of Building Permit for 10,000th EDU	\$200

A matrix of the proposed performance schedule for all Exhibit D contributions/obligations (including the foregoing) is provided in the attached Exhibit E (Transportation Improvement Phasing Plan).

b. Use of Contribution. Consistent with the provisions of the SCRIP, all portions of the accelerated contribution identified in this Section shall be used for the analysis/implementation of the ramp improvements described above.

II. WATER RESOURCES

Item No. 39 Water Resources Facility

As more fully discussed in the Program EIR, with the proposed mitigation measures, the change in storm flows to the mainstream of San Juan Creek resulting from the Project is reduced to a level of insignificance. Nonetheless, a series of mitigation measures have been established for the Project which provide for amelioration of all hydrological impacts associated with development of the Project. More specifically, these mitigation measures require OWNERS to construct certain facilities and improvements that will retain/detain/treat Project-related stormwater flows and nuisance flows that, in the absence of mitigation, would exceed the rate or volume of stormwater flows and water quality conditions occurring prior to development of the Project (*i.e.*, OWNERS must maintain pre-development rates of hydrologic flow and run-off and achieve consistency with the DAMP objectives and applicable 401 Permit requirements). These mitigation measures have been codified as Conditions for the Project.

In furtherance of these mitigation obligations, OWNERS have designed an integrated Flood Management Program that effectively addresses/minimizes impacts associated with development of the Project. However, studies indicate that areas located south of the Project area will continue to be impacted by nuisance and first flush flows generated by existing, non-Project development. Additionally, storm flows generated by and within the Coto de Caza residential community have historically impacted downstream environmentally sensitive areas (*e.g.*, the Gobernadora Ecological Restoration Area [GERA]) and the mainstream of San Juan Creek, and

have contributed to water quality and flooding problems in areas located downstream of the Project area.

In order to assist the County, Coto de Caza and the community-at-large in the abatement of this nuisance, OWNERS are willing to design and provide a water quality basin in Gobernadora Canyon that has the ability and capacity to capture nuisance and first-flush storm flows generated by the Coto de Caza residential community. Initial development and design plans for the facility indicate that the basin, in combination with potential future flood control facilities, will require approximately 35 acres of land to achieve full performance. OWNERS shall contribute this amount of acreage in furtherance of the public benefits to be achieved by implementation of the water quality basin and potential future flood control basin. Furthermore, OWNERS shall, in conjunction with Santa Margarita Water District and/or other partners, design and implement the water quality basin improvements in a manner that considers future flood control benefits that would result from a multi-purpose basin. Any and all facility design and implementation expenses incurred by OWNERS hereunder shall be in addition to any expenses that OWNERS will incur in implementing their Flood Management Program.

Subject to the issuance of appropriate permits and authorizations, contribution of the land and implementation of the basin improvements will occur concurrently with development activities initiated in any Planning Area other than Planning Area 1. Specifically, contribution of the land and implementation of the basin improvements will commence not later than the issuance of a permit for the first EDU for the Project area EXCLUSIVE OF (i) any permits issued for activities in Planning Area 1 and (ii) any permits issued for the construction of model homes. The basin improvements shall be completed not later than the issuance of a permit for the 500th EDU for the Project area EXCLUSIVE OF (i) any permits issued for activities in Planning Area 1 and (ii) any permits issued for the construction of model homes.

Item No. 40 Provision of Funding for San Juan Creek Watershed Studies

The San Juan Creek watershed encompasses a drainage area of approximately 176 square miles, extending from the Cleveland National Forest to the Pacific Ocean. The watershed contains several tributary streams and sub-basins, and is home to many different ecologies, geologic formations and biologic (as well as mineral) resources. The watershed is also an important source of sediment production/yield that influences the stability of alluvial stream systems and contributes to the replenishment of beach sand.

Over time, physical and biological conditions in the San Juan Creek watershed have been affected by both natural and anthropogenic forces. Natural events that have helped shape the current conditions in the watershed include wet and dry cycles, flooding and fires. Anthropogenic effects include changes in patterns of water use, urban development, mining, grazing and agriculture. These combined forces have created, and will continue to create, complex challenges and issues relative to the proper management and protection of the watershed. In order to meet and efficiently address these challenges, a systematic approach for evaluation, analysis and planning for the watershed is required.

In furtherance of COUNTY's interest in (i) achieving a better understanding of the San Juan Creek watershed and (ii) establishing a framework for the consideration of future planning

activities vis-à-vis the watershed, COUNTY and/or its assigns shall contract with an appropriate professional/firm for the preparation of specific studies which will analyze hydrology, river hydraulics, sedimentation and erosion within the San Juan Creek watershed assuming ultimate build-out/land uses. To facilitate the preparation of said studies (hereafter identified as the “Part I Studies”), OWNERS shall pay up to \$950,000 toward the costs and expenses associated with the preparation of the Part I Studies, provided that (i) the professional/firm selected to prepare the Part I Studies is mutually acceptable to both COUNTY and OWNERS and (ii) the terms of the contract negotiated by and between COUNTY and the professional/firm (the “Study Preparation Contract”) are acceptable to OWNERS. Within 60 days following COUNTY’s adoption of an ordinance approving this Development Agreement, COUNTY and OWNERS shall enter into an agreement (the “Watershed Study Agreement”) concerning, at a minimum, the form and content of the Study Preparation Contract, the identity of the mutually acceptable professional/firm, the scope of the Part I Studies, the schedule for performance and completion of the Part I Studies, and the timing of OWNERS’ obligations with respect to tendering (on a periodic basis) the specified financial contribution.

COUNTY and affected jurisdictions, agencies and other entities (collectively, the “Local Partners”) have participated in a study conducted by the U.S. Army Corps of Engineers (“ACOE”) in a multi-year analysis of San Juan Creek – *i.e.*, the “San Juan Creek Watershed Study”. In response to alternatives prepared under the San Juan Creek Watershed Study, the County and the Local Partners plan to provide focused analysis and feedback to ACOE to refine and define the scope and extent of a “Project of Federal Interest” in order to provide for significant Federal participation in a multi-purpose plan for the watershed. COUNTY and OWNERS intend and agree that the Part I Studies shall be utilized by COUNTY and all participating Local Partners in preparing a Locally Preferred Plan (“LPP”) for the San Juan Creek watershed. Specifically, the information contained in the Part I Studies shall be used to assist COUNTY and the Local Partners in developing and analyzing a series of LPP alternatives that will lead to the identification of a consensus LPP for future improvements within the mainstreams of San Juan Creek, Arroyo Trabuco Creek and Oso Creek. Furthermore, it is the intention of COUNTY and OWNERS that the consensus LPP will be used by ACOE in developing a Project of Federal Interest relative to the San Juan Creek watershed, and/or the evaluation of the results of any independent effort by ACOE to develop a project of federal interest. Notwithstanding any provision herein to the contrary, by virtue of having funded the Part I Studies, OWNERS shall not be obligated to contribute to the preparation of any studies, analyses or documents (collectively, the “Part II Studies”) leading to the identification and analysis of alternative LPPs or the selection of a consensus LPP. All costs and expenses associated with the preparation of the Part II Studies shall be borne exclusively by COUNTY and the non-OWNER Local Partners. All administration, direction and contracting obligations associated with the preparation of the Part II Studies shall be the sole and exclusive responsibility of COUNTY and the non-OWNER Local Partners.

The Conditions for the Ranch Plan Project obligate OWNERS to perform supplemental analyses for the hydrologic, hydraulic and water quality conditions of concern relative to implementation of the Ranch Plan Project (including evaluation of appropriate mitigation for identified significant effects within the Ranch boundaries). The results of these supplemental analyses (collectively, the “Part III Studies”) shall be used by OWNERS and COUNTY together

with the results of the Part I and Part II Studies in evaluating and determining the level of OWNERS' participation, if any, in the implementation of a LPP.

III. TRAILS

The Conditions specify that prior to the recordation of individual subdivision maps within the Project area, each subdivider shall offer to COUNTY an easement that provides for any designated regional riding and hiking trail located within the subdivided area. The purpose underlying the Condition is to facilitate COUNTY's implementation of the 348-mile regional trail network described/identified in the COUNTY General Plan. However, full implementation of the regional trail network (as said network traverses the Project area) and accomplishment of COUNTY's trail system goals will require the establishment of supplemental easements and trail linkages that are in addition to those mandated by the Conditions.

In furtherance of the public interest in (i) achieving completion of COUNTY's regional trail network, (ii) providing connectivity between existing and proposed community trails and (iii) enhancing connectivity between regional recreational facilities, OWNERS are willing to implement and/or facilitate the establishment of additional trail improvements within the Project area. The following paragraphs identify and describe the supplemental trail improvements that OWNERS shall implement/facilitate, and the terms and conditions underlying said implementation/facilitation (*e.g.*, timing). In each instance, the supplemental improvements represent a net benefit to COUNTY that exceed OWNERS' obligations under the Conditions and the Agreement.

NOTE: In order to ensure public safety and minimize risk associated with potentially conflicting land uses, OWNERS and any subsequent trail area owner (*e.g.*, homeowners association(s)) shall have the right to limit public access to all trails consistent with reasonable need and practice. Any trail access restrictions imposed by OWNERS (including subsequent trail area owners) shall be reasonably tailored to promote OWNERS' community protection goals, and shall have a duration no longer than reasonably necessary to accomplish said protection goals.

Item No. 41 *Trail Connection: General Thomas F. Riley Wilderness Park to Caspers Wilderness Park.*

In the interest of promoting the expansion of recreational opportunities in Orange County by enhancing linkages between existing wilderness parks, OWNERS shall dedicate to COUNTY an easement within the area proximately identified in the attached Exhibit D-1 as "Trail X" for the improvement and maintenance of a regional riding and hiking trail. As depicted, the Trail X Easement shall provide a critical connection between the existing Wagon Wheel Trail extending from General Thomas F. Riley Wilderness Park (located at the southern end of the Coto de Caza community) and the Ridge Top Trail located within Caspers Wilderness Park. The Trail X Easement shall be located upon existing RMV roads in an area easterly of Gobernadora Creek. OWNERS shall not be obligated to improve the Trail X Easement beyond its current state prior to dedication. OWNERS shall prepare and submit to COUNTY a written offer of dedication for the Trail X Easement upon the latter to occur of (i) COUNTY's issuance of a precise grading permit for the first residential unit to be developed within the Project Area or (ii) COUNTY's

completion of all necessary trail connections/improvements within the Thomas F. Riley Wilderness Park and Coto de Caza that will allow public utilization of the Trail X Easement. Should the aforesaid connections/improvements remain incomplete at the time that OWNERS are prepared to seek issuance of the first (or any subsequent) residential grading permit for the Ranch Plan project, COUNTY shall not withhold issuance of the requested grading permit(s) pending delivery of the written offer of dedication. Upon COUNTY's completion of the aforesaid connections/improvements (*i.e.*, following prior issuance of any precise residential grading permits for the Ranch Plan project), COUNTY shall notify OWNERS concerning said completion and OWNERS shall thereafter tender the written offer of dedication to COUNTY.

Item No. 42 *Trail Connection: Community Connector Trail from Ladera Ranch Community Trail to San Juan Creek Regional Riding and Hiking Trail.*

In the interest of promoting the expansion of recreational opportunities in Orange County by connecting existing communities with proposed regional trail facilities, OWNERS shall design and implement a community trail within the area proximately identified in the attached Exhibit D-1 as "Trail Y." As depicted, Trail Y shall provide a desired community trail connection between the existing Ladera Ranch Community Trail and the proposed San Juan Creek Regional Riding and Hiking Trail. In furtherance of its obligations hereunder, OWNERS shall improve Trail Y as a community trail.^{1/} Trail Y shall be maintained by OWNERS until such time as the underlying property (and all maintenance obligations pertaining thereto) are transferred to a master area association or similar property owners association. Trail Y shall be designed and established concurrent with development activities occurring within Planning Area 1, subject to the issuance of appropriate permits and authorizations. Specifically, construction of Trail Y will occur in stages based upon development activities occurring immediately adjacent to the proposed trail link. To wit, as development occurs in those portions of Planning Area 1 that are contiguous to the proposed Trail Y, the immediately adjoining portion(s) of Trail Y shall be implemented/established in accordance with the terms of this Agreement.

Item No. 43 *Trail Connection: Wagon Wheel Community Connector Trail to San Juan Creek Class I Bikeway.*

In the interest of promoting the expansion of recreational opportunities in Orange County by connecting existing communities/anticipated regional trails with other proposed regional trail facilities, OWNERS shall design and implement a community trail within the area proximately identified in the attached Exhibit D-1 as "Trail Z." As depicted, Trail Z shall provide a desired regional connection between Coto de Caza and the proposed Wagon Wheel Community Connector Trail (*see* Section III.A, above) and the proposed San Juan Creek Class I Bikeway. As further depicted, Trail Z shall be located upon existing RMV ranch roads in an area easterly

^{1/} For purposes of this Development Agreement and Exhibit D, "community trail" is defined as a recreational pathway suitable for pedestrian and off-road bicycle access. A community trail is not subject to County of Orange Regional Riding and Hiking Trail or Bikeway standards, and is not appropriate for equestrian use. Existing dirt roads may be utilized as community trails.

of Gobernadora Creek; Trail Z shall not be improved beyond its current ranch road condition. Trail Z shall be maintained by OWNERS until such time as the underlying property (and all maintenance obligations pertaining thereto) are transferred to a master area association or similar property owners association. The implementation schedule for Trail Z shall be the subject of a supplemental agreement between OWNERS and the Director, RDMD, in consultation with the Director, HB&P.

IV. PROVISION OF SITE(S) FOR AFFORDABLE HOUSING

The Housing Element of the Orange County General Plan (“Housing Element”) recognizes that an adequate supply of housing at affordable prices is critical to the long-term economic viability of Orange County. Specifically, “[a] shortage of housing at affordable levels makes it more difficult for businesses, government and universities to recruit new employees, and exacerbates traffic congestion and air quality problems as workers commute longer distances in search of housing.” Housing Element at X-145.

For many years, the County has experienced a significant shortage in the amount and availability of quality affordable housing to meet the needs of households of limited financial means. Demographic and market condition projections indicate that the number of Orange County households with limited incomes will continue to increase in the future. Notwithstanding, local housing opportunities available to meet the demands of these households will likely decrease as a result of, among other factors, higher housing costs, the elimination/displacement of existing affordable housing units, and reduction in the amount of land available for new affordable housing projects.

In an effort to directly confront these issues, the Housing Element establishes a five-year action plan (“5-Year Plan”) that establishes goals, strategies and actions for increasing the amount of quality affordable housing available in Orange County. Indeed, the Housing Element identifies the production of affordable housing as one of the County’s highest priorities, and specifies a planning horizon for achieving the housing mandates set forth in the Regional Housing Needs Assessment (“RHNA”) published by the Southern California Association of Governments (“SCAG”). Notably, the RHNA declares that Orange County’s fair share of new housing for Very Low income households in the Southern California region is 4,084 units (for the period beginning January 1, 1993 through June 30, 2005) and the County’s fair share of new housing for Low income households is 2,950 units (also for the period beginning January 1, 1993 through June 30, 2005). Tables VI-1 and VI-3 of the Housing Element reflect the County’s quantified objectives for accomplishing said housing mandate by 2005. Nevertheless, the Tables also reflect the difficulty of creating new housing opportunities for households of limited financial means – *e.g.*, only 43 new units for Very Low income households were constructed in the County between January 1998 and September 2000. Of particular note, Table VI-3 recognizes that the County’s Housing Opportunities Program is not projected to create any new housing opportunities for Very-Low Income households, but that the County’s Incentives Development Agreement Program is anticipated to create 150 new housing units for Very-Low Income households through private funding.

The 5-Year Plan identifies a number of actions designed to promote the production of new housing opportunities in Orange County. Of particular note, the 5-Year Plan suggests the

provision of incentives – such as tax exempt conduit financing and infrastructure financing assistance – to facilitate the production of more affordable units. *Id.* at X-147. For new large-scale development in the County, the 5-Year Plan suggests, in relevant part, that the County (i) review new planned communities for the possibility of providing adequate sites, or the means to acquire adequate sites, at appropriate densities for affordable housing and (ii) establish affordable housing at the Very-Low Income level as a priority in negotiating development agreements for new planned communities. *Id.* at X-148.

Item No. 44 *Provision of Affordable Housing Site(s)*

To facilitate COUNTY's efforts and obligations in (a) satisfying its regional affordable housing requirements under the RHNA and (b) increasing the availability and supply of affordable housing units in Orange County pursuant to the 5-Year Plan, OWNERS are willing to provide to COUNTY certain land that may be used by COUNTY for the development, operation and management of rental housing for the benefit of Low and Very-Low Income households in the County. Specifically, within 12 months following COUNTY's adoption of an ordinance approving this Development Agreement, OWNER shall enter into an agreement with COUNTY concerning the provision of one or more sites that may be used by COUNTY for the development of affordable rental housing projects. The essential elements, terms and conditions of the agreement (hereafter the "Land Agreement") shall be as follows; lesser terms and conditions (including the final form of the Land Agreement) shall be negotiated and determined by mutual consent of the parties:

1. **Dedicated Land.** OWNERS shall provide to COUNTY one or more parcels of land with an aggregate size of 60 gross acres (inclusive of perimeter slope areas) with development pad(s) suitable for the purposes identified in Section 2, below. OWNERS shall have full authority and discretion to identify the location of the parcel(s) that will be conveyed to COUNTY (hereafter the "Dedicated Land"). *See* Section 3, below. Furthermore, OWNERS shall be entitled to relocate, adjust and/or reconfigure all or part of the Dedicated Land at any time prior to conveyance to COUNTY without the prior consent or approval of COUNTY. Notwithstanding any provision herein to the contrary, any and all Dedicated Land conveyed to COUNTY pursuant to the Land Agreement shall be located in an area(s) identified and evaluated in Program EIR No. 589 as a potential development area.

2. **Purpose of Dedicated Land.** COUNTY shall cause the Dedicated Land to be used solely and exclusively for the development, operation and management of one or more affordable housing rental complexes [ala apartment buildings] designed to meet the needs of Very-Low and Low Income households in Orange County (as said capitalized terms are generally defined by the U.S. Department of Housing and Urban Development, and specifically defined as households earning up to 50% and 80%, respectively, of the median income in Orange County). The Dedicated Land shall not be used for the development of single-family homes; nor shall the Dedicated Land be subdivided or otherwise parcelized for the purpose of facilitating the sale, transfer or conveyance of portions of the Dedicated Parcel for individualized ownership. The Land Agreement shall contain specific terms, obligations and conditions relative to the development of each portion of the Dedicated Land (including, but not limited to, the establishment of specific time periods within which COUNTY must (i) obtain necessary building

permit(s) for the development of the affordable housing improvement(s), (ii) commence construction of the affordable housing improvement(s) and (iii) complete construction of the affordable housing improvement(s)).

3. Identification, Improvement and Conveyance of Dedicated Land. The Dedicated Land shall be identified, improved and conveyed by OWNERS in accordance with (and subject to) the following terms, conditions and limitations:

a. Preparation of Master Area Plans; Identification of Dedicated Land Acreage. Implementation of the Ranch Plan Project contemplates the preparation and approval of a Master Area Plan for each development Planning Area located within the comprehensive Project area. Preparation of the individual Master Area Plans will occur over time as OWNERS proceed with the phased implementation of the Ranch Plan Project. For each Master Area Plan prepared, OWNERS shall identify the amount of Dedicated Land (if any) located within the relevant Planning Area that will be available for conveyance to COUNTY pursuant to the terms of the Land Agreement. Upon preparing a Master Area Plan and identifying the Dedicated Land acreage located within the relevant Planning Area, OWNERS shall provide written notice to COUNTY concerning (i) the location of the Dedicated Land acreage, (ii) the size of the Dedicated Land acreage, and (iii) such other information concerning the Dedicated Land acreage that is in the possession of OWNERS and that OWNERS consider relevant concerning the identified Dedicated Land acreage.

b. Preparation and Submission of COUNTY Development Plan/Program. Within 120 days following OWNERS' delivery of a written notice described in Section 3.a., above, or prior to the expiration of such other period that is mutually acceptable to COUNTY and OWNERS, COUNTY shall prepare and deliver to OWNERS a plan describing COUNTY's intended development program with respect to the Dedicated Land acreage located within the relevant Planning Area. The plan shall include, at a minimum, (i) preliminary renderings and/or depictions of the proposed affordable housing development, (ii) an identification of the number of affordable housing units that COUNTY intends to cause to be built upon the Dedicated Land acreage, (iii) a conceptual site plan identifying the size and approximate location of the structure(s) to be developed on the Dedicated Land acreage, and (iv) a preliminary development and construction schedule describing the proposed commencement, operation and completion schedule for the proposed affordable housing project(s). In the event that COUNTY elects to engage the assistance or participation of a partner, affiliate or benefactor in developing the affordable housing project(s) (e.g., non-profit public housing organization), COUNTY shall also provide OWNERS with written information concerning the identity of the entity/organization, its prior development activities, its resources, its proposed relationship with COUNTY relative to development of the project(s), and any other information that OWNERS may reasonably request.

c. Review of COUNTY Development Plan/Program. Within 45 days following OWNERS' receipt of the development plan/program described in Section 3.b., above, OWNERS shall review same and shall either approve or reject COUNTY's development plan/program by delivering written notice thereof to COUNTY. OWNERS shall have the right to approve or disapprove any proposed partner, affiliate, benefactor, schedule or arrangement

that is offered by COUNTY relative to development of the project(s); notwithstanding, OWNERS' rejection of the development plan/program (or any element thereof) shall be reasonable. In the case of rejection, OWNERS shall specify the basis for the rejection. Upon receipt of any rejection notice, COUNTY may prepare and submit a revised development plan/program at any time within the three month period following OWNERS' delivery of the rejection notice. Should COUNTY elect not to submit a revised development plan/program, or should OWNERS' reasonably reject the resubmitted development plan/program, OWNERS' obligations under the Land Agreement with respect to the Dedicated Land acreage located within the relevant Planning Area(s) shall abate, and the amount of acreage identified in the notice specified in Section 3.a., above, shall be subtracted from OWNERS' aggregate obligation to provide 60 gross acres of land for affordable housing projects pursuant to this Development Agreement and the Land Agreement.

d. Irrevocable Offer of Dedication; Acceptance of Offer. In the event that OWNERS approve the development plan/program submitted by County for the identified Dedicated Land acreage, OWNERS shall submit a written offer of dedication to COUNTY concerning the proposed conveyance of the identified Dedicated Land acreage, coupled with a draft form of Deed (*see* Section 4.a., below). Notwithstanding any provision herein to the contrary, the terms of the offer of dedication shall expressly state that COUNTY may not exercise the option rights specified therein until such time as (i) OWNERS complete the grading and access improvements specified for the identified Dedicated Land acreage (*see* Section 5, below), and (ii) COUNTY demonstrates, to the satisfaction of OWNERS, that (a) the approved development plan/program remains viable and (b) COUNTY is prepared to obtain (or caused to be obtained) a building permit or permits for the proposed improvements within the time periods identified in the Land Agreement. Notwithstanding any provision herein to the contrary, OWNERS shall not be obligated to manufacture or otherwise improve the identified Dedicated Land acreage in advance of OWNERS' schedule for the conduct of development activity within the affected Planning Area. Upon completion of the grading and access improvements identified for the Dedicated Land acreage (*see* Section 5, below), OWNERS shall provide written notice to COUNTY concerning the completion thereof. COUNTY shall have 45 days following the delivery of said written notice of completion to accept the offer of dedication by complying with the terms of said offer. Should COUNTY elect or otherwise fail to exercise its rights under the offer of dedication, OWNERS' obligations under the Land Agreement with respect to the Dedicated Land acreage located within the relevant Planning Area(s) shall abate, and the amount of acreage identified in the notice specified in Section 3.a., above, shall be subtracted from OWNERS' aggregate obligation to provide 60 gross acres of land for affordable housing projects pursuant to this Development Agreement and the Land Agreement.

e. Conveyance of Deed. Upon COUNTY's acceptance of the irrevocable offer of dedication (all in accordance with the provisions of Section 3.d., above), OWNERS shall execute and deliver to COUNTY a Deed for the identified Dedicated Land acreage (*see* Section 4.a., below).

4. Interest Conveyed

a. Deed Provisions. Subject to the conditions precedent identified in Section 3, above, OWNERS shall grant to COUNTY a fee simple interest in the Dedicated Land. Specifically, conveyance of the Dedicated Land shall be accomplished through the execution and delivery of one or more deeds pertaining to the relevant portion(s) of the Dedicated Land. Each deed ("Deed") shall contain an express restriction that limits the use of the Dedicated Land acreage to the purposes described in Section 2, above. Furthermore, each Deed shall provide OWNERS with the right (but not the obligation) to reacquire the identified Dedicated Land acreage upon the occurrence of any event identified in Section 10, below. The Land Agreement shall provide a fixed formula for valuing the cost of any portion of the Dedicated Land that OWNERS elect to reacquire under the stated conditions; *i.e.*: (a) For unimproved land (*i.e.*, land on which COUNTY has not caused to be constructed any improvements), COUNTY shall reconvey the property to OWNERS without charge; (b) for improved land (*i.e.*, land on which COUNTY has caused to be constructed actual, physical improvements), OWNERS shall pay to COUNTY an amount equal to the costs and expenses actually incurred by, or on behalf of, COUNTY in designing and constructing the existing physical improvements, less an amount equal to 20 percent for depreciation, reconveyance expenses and other costs.

b. Other Restrictions. In addition to the foregoing, all portions of the Dedicated Land shall be subject to any and all zoning ordinances, land use requirements, covenants, conditions and restrictions applicable to or otherwise recorded against the Dedicated Land, including, but not limited to, the terms and conditions of the *Ranch Plan Planned Community Text and Program* established and adopted for the Project area.

5. Improvements. Each portion of the Dedicated Land conveyed by OWNERS to COUNTY (*vis-à-vis* execution and delivery of a Deed in accordance with the provisions of Sections 3 and 4, above) shall be improved as follows:

a. Grading. Each development pad shall be graded to 1% sheet standards with a 2:1 ratio (maximum) for perimeter slopes. The pad(s) shall conform to all civil and geotechnical verifications for the subject property, and shall be subject to approval and release via a preliminary grading plan/permit. COUNTY shall not require the submission or approval of a subdivision map or other parcelization map as a condition of issuance of a preliminary grading permit for the Dedicated Land acreage. Interim erosion control shall be provided for each site.

b. Access. OWNERS shall provide appropriate public access to the relevant Dedicated Land acreage by designing and installing all right-of-way improvements contemplated and committed for the relevant Planning Area(s) such that COUNTY may obtain access to an improved public right-of-way from the Dedicated Land. OWNERS shall not be responsible for installing any right-of-way improvements on the Dedicated Land; nor shall OWNERS be responsible for constructing any right-of-way improvements between the Dedicated Land and the improved public road identified as the access route for the Dedicated Land.

c. Utilities. OWNERS shall provide COUNTY with the opportunity to obtain utility service (ala water, sewer, electricity, gas, telephone and cable) for the Dedicated Land acreage by (i) installing such utility lines as are designated on the Master Area Plan for the relevant Planning Area(s) and (ii) facilitating the creation of such supplemental easements as are necessary to convey utility service from the relevant Master Area Plan lines/easements to the Dedicated Land acreage. OWNERS shall not be responsible for constructing any utility lines, extensions or related improvements within these supplemental easements for the benefit of the Dedicated Land acreage; all utility connections and related infrastructure improvements shall be the responsibility of COUNTY.

d. Completion of Improvements. Any grading, access and utility service improvements for which OWNERS are expressly responsible hereunder shall be completed in accordance with OWNERS' development schedule for the relevant Planning Area(s). In no event shall OWNERS be obligated to design, prepare or otherwise install said improvements in advance of OWNERS' development schedule for the relevant Planning Area(s). COUNTY shall use its best efforts to timely review and approve all necessary permits to facilitate said grading and related improvements. COUNTY agrees that in no event shall issues pertaining to the grading of the Dedicated Land acreage (or the provision of supplemental easements/improvements related thereto) preempt, hinder or otherwise delay the processing, approval and/or development of the remaining portions of the relevant Planning Area (specifically) or the Ranch Plan Project (generally).

6. Permitting and Supplemental Environmental Analysis. COUNTY shall, at its sole cost and expense, obtain or cause to be obtained any and all necessary permits and approvals for development of affordable housing units/apartments upon the Dedicated Land. Furthermore, COUNTY shall, at its sole cost and expense, perform or cause to be performed any supplemental environmental analysis(es) that may be required prior to the commencement of any development activities upon a portion of the Dedicated Land, and shall fully comply with all relevant provisions of the California Environmental Quality Act (CEQA) and other regulatory statutes and ordinances. OWNERS shall not be obligated to contribute any funding or other resources toward COUNTY's permitting and supplemental analysis obligations; notwithstanding, OWNERS shall reasonably cooperate with COUNTY in obtaining any necessary permits and performing any supplemental environmental analyses. COUNTY shall reimburse OWNERS for any costs and expenses incurred by OWNERS in providing said cooperation and assistance.

7. No Reduction in Approved Dwelling Units/Development Acreage for the Ranch Plan Project; No Effect upon (or Expansion of) OWNERS' Obligations. The approved Ranch Plan Project authorizes OWNERS to develop up to 14,000 dwelling units within an approved Project development area of 7,683 acres (aggregated). These units and development acres are distributed between Planning Areas 1 through 9 in accordance with the *Ranch Plan Planned Community Statistical Summary*. In no event shall the number of dwelling units approved for the Ranch Plan Project or the individual Planning Areas be reduced to accommodate for, or otherwise offset, the number of affordable housing units/apartments that may be developed by COUNTY pursuant to the terms of the Land Agreement. Furthermore, in no event shall the 60 gross acres of Dedicated Land identified and conveyed pursuant to the Land

Agreement reduce or otherwise count against the 7,683 gross development acres approved for the Ranch Plan Project. Any affordable housing units/apartments developed by COUNTY shall not be counted for purposes of calculating OWNERS' development obligations under any provision of the Development Agreement, the Conditions, or any other entitlement program or document relative to the Ranch Plan Project. Additionally, COUNTY's development of the affordable housing units/apartments shall not expand or otherwise increase OWNERS' mitigation obligations relative to development of the Ranch Plan Project. By way of example only, and not as an exclusive list, development of the affordable housing units/apartments shall not:

- Trigger any milestone performance obligation for OWNERS established pursuant to this Development Agreement (*see, e.g.*, Section I of this Exhibit D concerning SCRIP fee contributions) or any other Project element or program.
- Count toward any unit cap or development threshold established for the Ranch Plan Project.
- Count toward any cumulative impact figures relative to OWNERS' current and/or future obligations for mitigating study area impacts.
- Require OWNERS to contribute additional funding or construct supplemental improvements to mitigate traffic and circulation impacts associated with development of the affordable housing units/apartments.
- Result in the delay, hindrance or revocation of any permit necessary for the development of any element or component of the Ranch Plan Project.

8. Mitigation for Affordable Housing Units. COUNTY shall be responsible for mitigating, at its sole cost and expense, any and all impacts associated with the development of the affordable housing units/apartments authorized by the Land Agreement. Said mitigation shall include, but not be limited to, the reduction and elimination of any and all traffic and circulation impacts, water resource impacts, and other adverse environmental effects occurring as a result of implementing the affordable housing project(s). To the extent that the affordable housing project compromises or otherwise reduces the efficiency of any mitigation measures established or implemented for the Ranch Plan Project, COUNTY shall, at its sole cost and expense, supplement and/or enhance the Ranch Plan mitigation measures in order to restore the adequacy and sufficiency of same. By way of example only, and not as an exclusive list, should implementation of the affordable housing project(s) generate traffic counts in excess of the figures calculated and estimated for the Ranch Plan Project, COUNTY shall:

- Arrange for the design, permitting, construction and funding (as appropriate) of any and all transportation and circulation system improvements necessary to correct the traffic capacity imbalance (*e.g.*, street widening, intersection improvements and/or SCRIP fee contributions).
- Indemnify and hold harmless OWNERS against any claims arising out of the traffic capacity imbalance (including the provision of additional improvements and contributions necessary to mitigate said imbalance).

9. Infrastructure Financing District. Government Code Sections 53395 *et seq.* provide for the establishment of infrastructure financing districts ("IFDs") to finance, in

relevant part, the purchase and construction of regional improvements that are of community-wide significance. The roadways and other infrastructure facilities contemplated for the Project area constitute improvements that will benefit the larger South Orange County community. Of particular note, the provision of public roadways and the extension of utility service within the Project area will facilitate access to and utilization of the Dedicated Land for the contemplated affordable housing project(s). COUNTY acknowledges that the provision of additional affordable housing opportunities within Orange County represents a proper goal for which the establishment of an IFD is proper. Specifically, utilization of IFD financing to purchase and construct regional improvements which are necessary to access and utilize the Dedicated Land for affordable housing is consistent with State law and County policies regarding infrastructure financing for public improvements. Accordingly, COUNTY shall cooperate with OWNERS in the establishment of an IFD that will allow OWNERS to recover the costs incurred in (i) providing the infrastructure necessary to support access to, and use of, the affordable housing project(s) to be developed on the Dedicated Land and (ii) grading, preparing and conveying the Dedicated Land to County in accordance with the provisions hereof.

10. Right of Reversion. Unless otherwise mutually agreed upon (in writing) by OWNERS and COUNTY, in the event that COUNTY:

(i) fails to timely satisfy any term, condition or obligation set forth in the Land Agreement concerning COUNTY's obligation to obtain permits for, construct and complete the relevant affordable housing development improvement(s);

(ii) desires to liquidate or terminate its interest in the identified Dedicated Land acreage;

(iii) proposes to transfer, use, or encumber the identified Dedicated Land acreage in contravention of the express terms or limitations of the Land Agreement; or

(iv) violates any term or condition appearing in the Land Agreement that is intended to ensure the continuing use and availability of the identified Dedicated Land acreage for affordable rental housing projects;

OWNERS shall have the right, but not the obligation, to demand that COUNTY reconvey all or a portion of the identified Dedicated Land acreage to OWNERS. Upon receipt of a written demand from OWNERS, COUNTY shall promptly execute and record any and all documentation necessary to effectuate the reconveyance. Upon completion of such reconveyance, the terms of the Land Agreement shall expire as to any portion of the Dedicated Land that is reconveyed. Following reconveyance, OWNERS shall be entitled to use the reconveyed Dedicated Land for any purpose or use that is consistent with all applicable laws, regulations and ordinances, free of any restrictions or reservations otherwise appearing in the individual Deed or the Land Agreement.

V. DEFINITION OF TERMS

Unless otherwise indicated, the terms used in this Exhibit D shall be defined as provided in the Development Agreement to which this Exhibit D is attached.

VI. TIMING OF DEVELOPMENT AND BENEFITS

There is no requirement under this Agreement, including any exhibit attached hereto, that OWNERS must initiate or complete Development of any phase of the Project nor that Development be initiated or completed within any period of time. Furthermore, notwithstanding any other provision of this Agreement and any exhibit attached hereto to the contrary, OWNERS' obligation and duty to provide those Public Facilities and other public benefits described in Sections I through IV above, which are tied to a specific development milestone, shall be contingent on the occurrence of that development milestone. OWNERS shall have no obligation to provide any specific component of said Public Facilities or other public benefits unless and until the development milestone triggering OWNERS' responsibility for that specific component of the Public Facilities and other public benefits occurs.

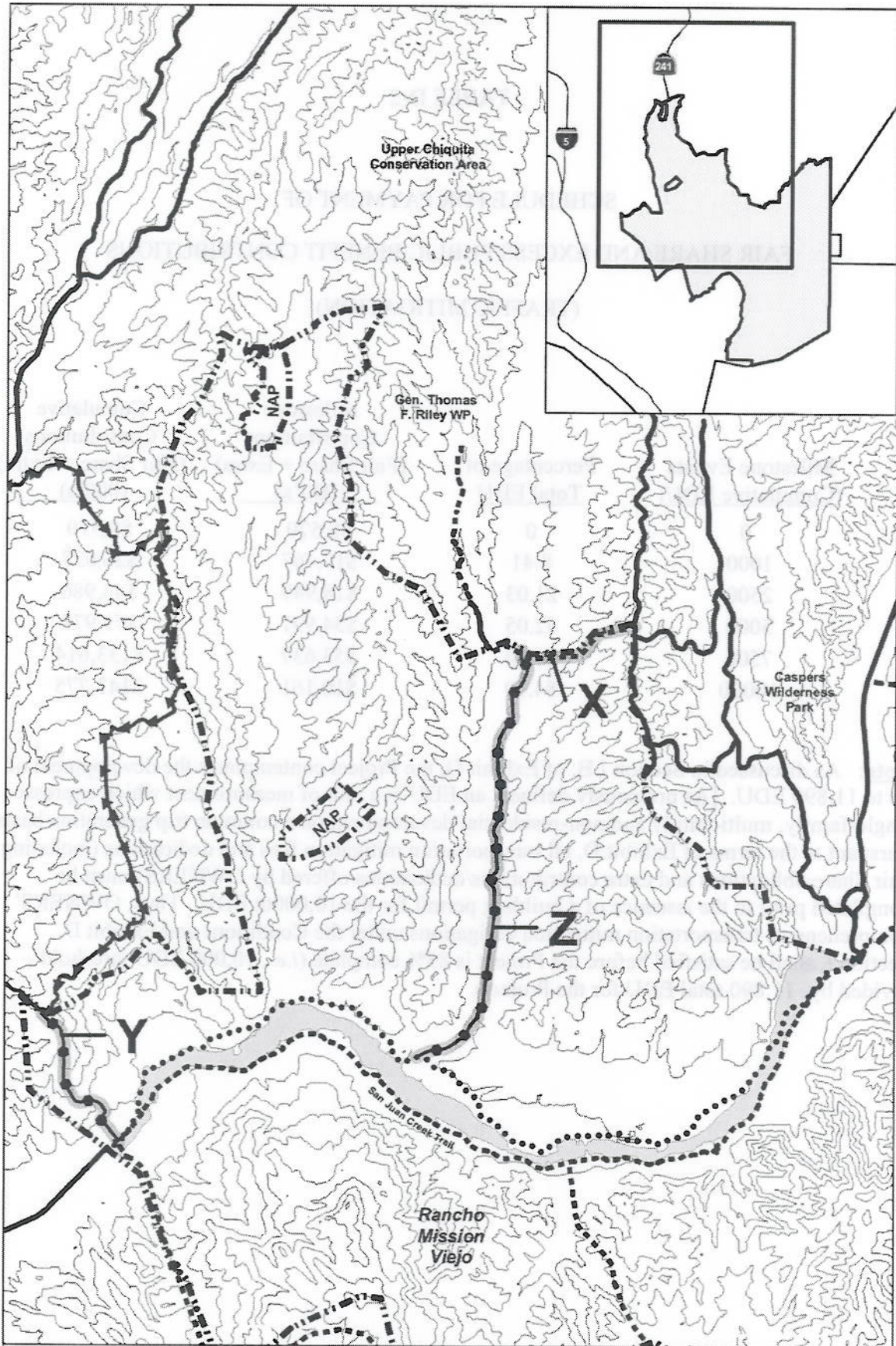







Exhibit D-1

- | | | |
|---|--|--|
|  Regional, Constructed |  Community, Constructed |  Biking, Proposed |
|  Regional, Proposed |  Community, Proposed | |



Scale: 1" = 3,000'
Date: November 15th 2004

P:\00020118.01\gtr\gr\trails_mv_2004\trails_mv.mxd

TABLE D-2

SCHEDULE FOR PAYMENT OF
FAIR SHARE AND EXCESS/PUBLIC BENEFIT CONTRIBUTIONS
(TRAFFIC MITIGATION)

Milestone Events (Cumulative EDU)	Percentage of Total EDU	Milestone Contributions (Fair Share + Extra) <u>(000's)</u>	Cumulative Contributions (Fair Share + Extra) <u>(000's)</u>
0	0	\$8,570	\$8,570
1000	8.41	\$17,467	\$26,037
2500	21.03	\$18,949	\$44,986
5000	42.05	\$34,991	\$79,977
7500	63.08	\$53,637	\$133,614
10000	84.10	\$10,161	\$143,775

Note: As discussed in Section I.B. of Exhibit D, the Project contemplates the development of up to 11,890 EDU. [As previously defined, an EDU is a unit of measurement which expresses single-family, multi-family and non-residential development on a common trip generation basis.] Pursuant to the terms of Exhibit D, all transportation mitigation fees and dedications (including Fair Share obligations and extra contributions/dedications offered by OWNERS) must be completed prior to the issuance of a building permit for the 10,000th EDU. Thus, OWNERS' comprehensive transportation mitigation obligations under the Conditions and Exhibit D, Section I, shall be satisfied before the Project is 85% complete (*i.e.*, 10,000 EDU threshold – divided by- 11,890 total EDU for the Project).

EXHIBIT E

Transportation Improvement Phasing Plan

Development Milestone	D.A. Item No.	Circulation Improvements	Cost of Improvements inc. Contingency (000's)	Engineering, Admin and Indirects (000's)	Project Fair Share (%)	Project Fair Share (000's)	Total Project Share (000's)	Other (Non-Project) Funding Req's (000's)	Jurisdictions
0 EDU - 1 EDU (Except for Model Homes)	1.	Offer of Dedication of La Pata ROW including Slopes (Width to be determined per Project Report)	(TBD)	(TBD)	100%				County
	2.	Fund Preliminary Designs, Env. Studies for Select Projects (25% of Admin/Contingency Amount)		\$12,200	0%	0	\$7,320	\$4,880	All
	3.	Oso Parkway Widening in Unincorporated County (e/o Las Flores)	\$2,500	(INC)	50%	\$1,250	\$1,250	\$1,250	County
1 EDU - 1000 EDU	4.	Pico/I-5 Interchange Improvements (See Note 1)	\$4,082	Note 2.	14%	\$571	\$571	\$3,511	Caltrans/San Clemente
	5.	I-5 SB Ramps @ Oso Parkway (See Note 1)	\$13,311	Note 2.	31%	\$4,126	\$4,126	\$9,185	Caltrans/Mission Viejo
1001 EDU - 2500 EDU	6.	Widen Ortega Highway - Antonio Parkway to west of San Juan Creek (including bridge)	\$15,000	Note 2.	40%	\$6,000	\$6,000	\$9,000	Caltrans/County
	7.	Crown Valley Parkway and Marguerite Parkway	\$795	\$99	19%	\$170	\$894	\$0	Mission Viejo
	8.	Oso Parkway and Felipe	\$779	\$97	37%	\$324	\$876	\$0	Mission Viejo
	9.	Flex Funds for Roadway Improvements (Part I)					\$5,000	(\$5,000)	
	10.	I-5/Crown Valley Parkway (ramp improvements for SB off-ramp)	\$6,000	Note 2.	4%	\$240	\$240	\$5,760	Caltrans/Laguna Niguel
	11.	Crown Valley Parkway/I-5 Bridge Widening	\$2,875	\$250	4%	\$109	\$109	\$3,016	Caltrans/Mission Viejo
	12.	I-5/Ortega Highway Interchange	\$40,000	Note 2.	34%	\$13,600	\$13,600	\$26,400	Caltrans/SJC
	13.	Flex Funds for Roadway Improvements (Part II)					\$5,000	(\$5,000)	

Exhibit E
-1-

Development Milestone	D.A. Item No.	Circulation Improvements	Cost of Improvements inc. Contingency (000's)	Engineering, Admin and Indirects (000's)	Project Fair Share (%)	Project Fair Share (000's)	Total Project Share (000's)	Other (Non-Project) Funding Req's (000's)	Jurisdictions
2501 EDU - 5000 EDU	14.	La Pata Avenue - Phase 1 (Two Lane Ext. from Landfill s'ly to Vista Hermosa)	\$25,000	(INC)	21%	\$5,250	\$15,000	\$10,000	County/San Clemente
	15.	Avenida La Pata and Avenida Vista Hermosa	\$331	\$41	14%	\$52	\$372	\$0	San Clemente
	16.	Camino Vera Cruz and Avenida Vista Hermosa	\$833	\$104	7%	\$66	\$937	\$0	San Clemente
	17.	Ortega Highway and Rancho Viejo Road	\$830	\$104	40%	\$374	\$374	\$561	Caltrans/SJC
	18.	Ortega Highway and La Novia	\$491	\$61	45%	\$248	\$248	\$303	Caltrans/SJC
	19.	Camino Capistrano and Del Obispo	\$300	(INC)	18%	\$54	\$54	\$246	Caltrans/SJC
	20.	San Juan Creek Road and Valle Road	\$3,000	(INC)	10%	\$300	\$300	\$2,700	Caltrans/SJC
	21.	Ortega Highway 4-Lane Widening (Context Sensitive Design) in SJC	\$10,000	Note 2.	40%	\$4,000	\$4,000	\$6,000	Caltrans/SJC
	22.	Antonio Parkway and Oso Parkway	\$1,789	\$224	32%	\$644	\$1,349	\$664	County
	23.	Antonio Parkway and Crown Valley Parkway	\$404	\$51	30%	\$137	\$305	\$150	County
	24.	Antonio Parkway and Ortega Highway	\$557	\$70	48%	\$301	\$420	\$207	RMV/County
	25.	Avery Parkway Interchange	\$1,725	\$150	8%	\$152	\$152	\$1,723	Caltrans/LN/MV
	26.	Park and Ride Facility	\$1,200	(INC)	50%	\$600	\$600	\$600	Caltrans/RMV
	27.	Fund Preliminary Designs, Env. Studies for Transportation Projects (25% of Admin/Contingency Amount)		\$12,200	0%	0	\$4,880	\$7,320	All
	28.	Flex Funds for Roadway Improvements (Part III)					\$6,000	(\$6,000)	

Development Milestone	D.A. Item No.	Circulation Improvements	Cost of Improvements inc. Contingency (000's)	Engineering, Admin and Indirects (000's)	Project Fair Share (%)	Project Fair Share (000's)	Total Project Share (000's)	Other (Non-Project) Funding Req's (000's)	Jurisdictions	
5001 EDU – 7500 EDU	29.	Saddleback/I-5 Connectors	\$70,000	Note 2.	10%	\$7,000	\$7,000	\$63,000	Caltrans/Mission Viejo	
	30.	Extend Cow Camp Road easterly to existing Ortega	\$48,000	(INC)	67%	\$32,160	\$32,160	\$15,840	TCA/RMV	
	31.	Antonio Parkway Widening	\$11,000	(INC)	67%	\$7,370	\$7,370	\$3,630	RMV/County	
	32.	Crown Valley Parkway and Cabot Road	\$2,699	\$235	4%	\$103	\$977	\$1,957	Laguna Niguel	
	33.	Crown Valley Parkway and Forbes	\$1,866	\$162	4%	\$71	\$676	\$1,353	Laguna Niguel	
	34.	Widen Railroad Bridge along Crown Valley Parkway	\$2,013	\$175	4%	\$77	\$728	\$1,459	Laguna Niguel	
	35.	Oso Parkway Widening in Mission Viejo-Marguerite to I-5	\$8,262	\$1,190	29%	\$2,741	\$4,726	\$4,726	Mission Viejo	
	--	Allocate 50% of Remaining Admin/Contingency		\$24,400	0%	\$0	\$0	\$24,400	All	
	7501 EDU – 10000 EDU	36.	La Pata Avenue - Phase 2	\$25,000	(INC)	21%	\$5,250	\$10,000	\$15,000	County
		37.	Road Improvements to Junipero Serra At I-5 Interchange	\$4,000	Note 2.	4%	\$160	\$160	\$3,840	Caltrans/SJC
38.		Ramp Improvements to SR 241	\$10	(N/A)	7%	\$1	\$1	\$9	TCA	
--		Extend FTC-South or Arterial Connector (Cow Camp Road to FTC at Oso) (Contingency Project)	(TBD)		(TBD)				County/TCA/RMV	
Totals			\$304,652	\$51,813		\$93,500	\$143,775	\$212,690		
Grand Total				\$356,465						
Contribution in Excess of Fair Share										

NOTES:

- 1 These projects are fully funded by OCTA/CALTRANS. Project's Fair Share assumed to be available for re-allocation to other State Highway projects
- 2 Caltrans Support Costs/Overhead (inc design) is not included and is assumed to be the total responsibility of Caltrans as administrator of State Highway system

EXHIBIT F

PARTICULAR CONDITIONS AND MITIGATION MEASURES CONTAINED IN THE LAND USE REGULATIONS, DEVELOPMENT APPROVALS AND MITIGATION MONITORING PROGRAMS WHICH ARE SATISFIED OR PARTIALLY SATISFIED THROUGH ADOPTION AND IMPLEMENTATION OF THE DEVELOPMENT AGREEMENT

Listed below are the conditions of approval and mitigation measures which are satisfied or partially satisfied through adoption and implementation of the Development Agreement together with a brief explanation of how the conditions and mitigations measures have been fulfilled. Conditions or mitigations not addressed herein are to be satisfied consistent with the provisions as established in Resolution No. 04-290 (certifying EIR 589), and Ordinance No. 04-014 (adopting the Ranch Plan Planned Community Program Text), which were approved/certified in conjunction with adopting this Project.

1. MM 4.6-1:

Table 4.6-26 and Table 4.6-27 [of the Draft Program EIR] identify the transportation improvement program proposed as mitigation for the Ranch Plan project for year 2025 and year 2010, respectively. The improvements differ depending on whether the SR-241 southerly extension is assumed. The project applicant shall participate on a fair share basis for improvements associated with cumulative impacts. Funds shall be paid to the County of Orange pursuant to the SCRIP.

The South County Road Improvements Program (“SCRIP”) Fee Program is being proposed by the County of Orange in conjunction with planning efforts aimed at accelerating completion of critical links in the south County arterial highway system. The County would approve an Action Plan which includes a list of highway and intersection improvements. The SCRIP Program is proposed as a comprehensive method of implementing the Action Plan to ensure the timely phasing and financing of the highway improvements and intersection improvements in the Action Plan. The SCRIP Program is to be prepared pursuant to Government Code Section 66484.3 and the Orange County Codified Ordinance Section 7-9-316 to finance construction of the highway gaps, intersection improvements, and traffic signals identified in the Action Plan. The “area of benefit” would, at a minimum, include the Rancho Mission Viejo Ranch Plan Area and off-site highway links and intersections included in the Action Plan. The improvements, costs, and fees may be divided into zones depending on land uses and phasing. The SCRIP Fee Program is intended to complement, not replace, the existing road fee programs in the south County area. It is proposed for adoption by the County prior to or concurrent with the County’s action on the proposed Ranch Plan project.

Fulfillment of MM 4.6-1: With this Development Agreement, the OWNERS have formalized their commitment to participate in the SCRIP fee program. The Development Agreement commitment includes the payment of OWNERS’ fair share obligation for on-site and off-site transportation improvements as required

by MM 4.6-1 and certain additional assistance to the COUNTY all as more fully set forth in Exhibit D to this Development Agreement.

2. PDF 4.12-4: The project provides for trail linkages between the Ladera Ranch and the Ranch Plan community trails, which provides connection to the regional trail system.

Fulfillment of PDF 4.12-4: This Development Agreement formalizes, and provides more specific information regarding, the OWNERS' commitment as reflected in PDF 4.12-4 to provide for trail linkages between the Ladera Ranch and the Ranch Plan community trails, and connection to the regional trail system. See Exhibit D-1, attached to Exhibit D to this Development Agreement.

3. MM 4.12-1: In conjunction with approval of the first Master Area Plan, the applicant shall develop a Master Trail and Bikeways Implementation Plan for the Ranch Plan that would establish viable routes for trails and bikeways to provide connectivity to community trails and bikeways in adjacent developments and with existing and proposed recreational facilities. The Master Trail and Bikeways Implementation Plan shall meet with the approval by the Director of PSD in consultation with the Manager, Harbors, Beaches & Parks Program Management.

Fulfillment of MM 4.12-1: As described in Exhibit D (and shown on Exhibit D-1) to this Development Agreement, the OWNERS have provided for certain trails and trail linkages which will be incorporated into the Master Trail and Bikeways Implementation Plan, thus partially meeting the requirements of MM 4.12-1.

4. MM 4.5-1 (Runoff Management Plan): Prior to the approval of the first Area Plan, or other planning level approval, for any part of the Ranch, the applicant shall prepare a detailed Runoff Management Plan ("ROMP") that shall be approved by the Manager, Flood Control Division, and the Manager, Watershed and Coastal Resources Division, and that meets the following standards and specifications: [Note: The standards and specifications are set forth in subparagraphs (a) through (n) of this mitigation measure. They are not repeated here but may be viewed in their entirety at pages 4.5-85 through 4.5-87 of the Draft Program EIR.]

PC Condition of Approval 4: Prior to the approval of the first Master Area Plan the applicant shall:

- a. Prepare a Runoff Management Plan (ROMP) satisfactory to Manager Flood Control Division and Manager, Watershed and Coastal Resources Division.
- b. . . .

PC Condition of Approval 5: Prior to the recordation of the first Final Tract Map, except for financing purposes, within each Planning Area the applicant shall set aside all land necessary to implement the ROMP . . . in a manner satisfactory to Manager Flood Control Division and Manager, Watershed and Coastal Resources Division.

Fulfillment of MM 4.5-1 and PC Conditions Nos. 4.a. and 5.: By virtue of OWNERS' commitment to (i) contribute funding toward the preparation of the Part I Studies and (ii) utilize the information appearing in the Part I Studies and Part II Studies in preparing and evaluating the Part III Studies (as described in Item 40 in Section II of Exhibit D), and in light of the additional facts and findings set forth below, COUNTY has determined that the provisions in Mitigation Measure 4.5-1 and corresponding provisions in Conditions of Approval 4.a. and 5 in the Ranch Plan Planned Community (PC) Program Text shall not be applicable to the development of Planning Area 1 of the Ranch Plan project area. Specifically, COUNTY has determined that OWNERS may proceed with the development of Planning Area 1 without first preparing the Runoff Management Plan (ROMP) described in the aforementioned measure and conditions. The additional facts and findings supporting COUNTY's determination are as follows:

- The calculated contribution, under developed conditions, of un-mitigated peak flow and increase in volume to the mainstream of San Juan Creek from Planning Area 1 is insignificant (>0.5% increase).
- OWNERS and COUNTY concur that there is adequate land to provide mitigation measures, as required, to offset the effects of development of Planning Area 1.
- Issues related to ownership and maintenance responsibilities for the mainstream of San Juan Creek and related improvements adjacent to, and part of, Planning area 1 will be resolved as part of the approval of Planning Area 1, including provisions of all applicable regulatory permits.
- The development of Planning Area 1 shall be considered in the cumulative analysis of the effects of the development of the Ranch Plan in assessing the fair-share (if any) requirements to participate in the implementation of a LPP.
- OWNERS shall complete the Runoff Management Plan (ROMP) for the entire Ranch Plan Project area (including Planning Area 1) prior to the approval of any other Master Area Plans, subdivision map (except for financing purposes only) or site development permits.
- OWNERS shall, in connection with the preparation and approval of the ROMP described above, demonstrate how the continuity of responsibility for required improvements is to be accomplished, especially as it relates to ownership changes, for compliance with the monitoring mitigation measures, and any necessary remediation that may result from such monitoring.

EXHIBIT G

Assignment and Assumption Agreement (Form)

[** NOTE: This form is for NON-PUBLIC entities. **] [Intentionally Omitted]

RECORDING REQUESTED BY:

[Specify Assigning OWNERS]

WHEN RECORDED, MAIL TO:

Rancho Mission Viejo, LLC
12811 Ortega Highway
San Juan Capistrano, California 92675

Ann _____

ASSIGNMENT NUMBER:

ASSIGNOR: [Specify Assigning OWNERS]

ASSIGNEE: _____

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("Agreement") is entered into this ____ day of _____, 20__ by and among [specify assigning OWNERS], (collectively "Assignor"), _____, a _____ ("Assignee"), and the COUNTY OF ORANGE, a political subdivision of the State of California ("COUNTY").

RECORDS OF FACT

This Agreement is entered into based upon the following facts:

A. All terms as used in this Agreement shall have the same meaning as in the Development Agreement, as described below, unless otherwise expressly provided herein;

B. [Collective OWNERS] and COUNTY entered into that certain Development Agreement dated _____, 200__ which was recorded in the official records of COUNTY on _____, 200__ as document number 200__ - _____ ("Development Agreement");

C. Assignor is the owner of the Transferred Lands described in Exhibit I hereto, which Transferred Lands are benefited and burdened by the provisions of the Development Agreement;

EXHIBIT H-1

Assignment and Assumption Agreement (Form)

[NOTE: This form to be used for assignments to NON-PUBLIC entities. **]**

RECORDING REQUESTED BY:

[Specify Assigning OWNERS]

WHEN RECORDED, MAIL TO:

Rancho Mission Viejo, LLC
28811 Ortega Highway
San Juan Capistrano, California 92675
Attn: _____

ASSIGNMENT NUMBER:

ASSIGNOR: [Specify Assigning OWNERS]

ASSIGNEE: _____

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("Agreement") is entered into this ____ day of _____ 20__, by and among [specify assigning OWNERS], (collectively "Assignor"), _____, a _____ ("Assignee"), and the COUNTY OF ORANGE, a political subdivision of the State of California ("COUNTY").

RECITALS OF FACT

This Agreement is entered into based upon the following facts:

A. All terms as used in this Agreement shall have the same meaning as in the Development Agreement, as described below, unless otherwise expressly provided herein;

B. [Collective OWNERS] and COUNTY entered into that certain Development Agreement dated _____, 200__, which was recorded in the official records of COUNTY on _____, 200__ as document number 200__ - _____ ("Development Agreement");

C. Assignor is the owner of the Transferred Lands described in Exhibit I hereto, which Transferred Lands are benefited and burdened by the provisions of the Development Agreement;

D. Concurrently with or prior to the taking effect of this Agreement, Assignor has transferred and conveyed to Assignee the Transferred Lands;

E. Pursuant to and in accordance with Section 6 of the Development Agreement, Assignor desires to assign and transfer certain of the rights and interests and to delegate certain of the duties and obligations of OWNERS under the Development Agreement subject to and in accordance with the terms of this Agreement and the Development Agreement;

F. As a condition precedent to said assignment and transfer pursuant to and as set forth in Section 6 of the Development Agreement, Assignee is willing to assume those certain OWNERS' Obligations described in Paragraph 4 of this Agreement, including those obligations under the Development Agreement which are listed on Exhibit II hereto;

G. In connection with said assignment and transfer, Assignor, Assignee and COUNTY desire to provide in certain respects for the allocation of certain burdens and benefits with respect to development under the Development Agreement between the Transferred Lands and the other lands within the Property pursuant to Section 6.1 of the Development Agreement; and

H. As provided in Paragraph 7 of this Agreement in connection with said assignment and transfer, Assignor desires to be released from certain of its obligations and duties under the Development Agreement with respect to the Transferred Lands and COUNTY is willing to release Assignor in accordance with and subject to the provisions of this Agreement and in accordance with the provisions of the Development Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals of fact, the consent and approval of COUNTY to the form of this assignment and assumption pursuant to the Development Agreement, the covenants, conditions, actions and undertakings set forth herein, and other consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree and do as follows;

1. Assignment; Effectiveness.
 - a. Assignment of Rights. Assignor hereby assigns, transfers and conveys to Assignee all of its rights and interests in and under the Development Agreement which are appurtenant and pertain to the Transferred Lands.
 - b. Effective Date. This Agreement and any Release contained herein shall not become effective unless and until recordation in the official Records of COUNTY of this Agreement and of the transfer and conveyance referred to in Paragraph D of the Recitals hereinabove of the Transferred Lands from Assignor to Assignee.
2. Allocation of [Units/Non-Residential Square Footage/Other]
 - a. [Units/Non-Residential Square Footage/Other]; Milestones. For purposes of Sections 6.1b and 8.2c of the Development Agreement, Assignor assigns and allocates to Assignee its rights under the Development Agreement in and to the [number of units/amount of non-residential square footage/other] and development set forth on Exhibit IV

("Allocation of Milestones") with respect to the completion of the milestones indicated thereon, and said [numbers of units/amount of non-residential square footage/other] and development shall be deducted from and reduce the amounts thereof available under Section 4.1b and Section 8.2c of the Development Agreement to Assignor hereafter.

b. Title; No Prior Transfer. Assignor represents and warrants to Assignee that Assignor presently holds and has not previously transferred or allocated the rights under the Development Agreement, including, but not limited to, Section 8.2c of the Development Agreement, which are to be transferred and allocated to Assignee as provided in this Paragraph 2.

c. No County Assurance. COUNTY makes no representation or warranty hereunder or otherwise with respect to the [number of units/amount of non-residential square footage/other] or the amount of development as to which Assignor presently has any rights under Section 4.1b and Section 8.2c of the Development Agreement or otherwise or the rights with respect thereto which have been previously assigned by Assignor to others.

3. Rights and Interests Subject to Development Agreement. Assignee shall hold the rights and interests assigned subject to the terms and conditions of the Development Agreement, except as set forth in this Paragraph 3.

a. Amendment. With respect to Section 9 of the Development Agreement, the Development Agreement may be amended as to the Transferred Lands by a writing executed by COUNTY and Assignee without the consent of Assignor or Assignor's predecessor in interest.

b. Defaults and Remedies. With respect to Section 11 of the Development Agreement:

(1) Termination. The termination of the Development Agreement with respect to the Property other than the Transferred Lands based on a default or failure to perform or observe any of the covenants or conditions required to be performed or observed by OWNERS under the Development Agreement shall not terminate the Development Agreement with respect to the Transferred Lands and, notwithstanding any such termination, the Development Agreement shall continue in full force and effect as to the Transferred Lands during the stated term; provided, however, that said termination is not based upon:

(i) Project-Wide Obligations. The default or failure in the full or punctual performance of those certain project-wide obligations set forth on Exhibit V hereto ("Project-Wide Obligations"); or

(ii) Assumed Obligations. A material default or failure by Assignee in the performance of any of the Assumed Obligations (as that term is defined below).

(2) Continuation – Transferred Lands. In the event that the Development Agreement is terminated as to the Transferred Lands for any reason other than those set forth in Paragraph 3b.(1)(i) and 3b.(1)(ii) hereinabove, the Development Agreement

shall continue in effect as to the Transferred Lands and as provided in Section 8.2c of the Development Agreement but only to the extent of the [number of units/amount of non-residential square footage/other] allocated to the Transferred Lands determined in accordance with and as provided in Paragraph 2 of this Agreement and shall thereafter terminate.

(3) Continuation Property. The termination of the Development Agreement as to the Transferred Lands as the result of the default of Assignee under the Development Agreement shall not terminate the Development Agreement as to the remainder of the Property not transferred or assigned to Assignee with reference to this Agreement.

(4) Assumption of Obligations. In addition to the acceptance by Assignee of the assignment of rights and interests hereunder subject to the terms and conditions of the Development Agreement, Assignee assumes and agrees to fully and punctually perform for the benefit of Assignor and COUNTY the following obligations of OWNERS under the Development Agreement (collectively, the “Assumed Obligations”):

a. Exhibit II Obligations. Those OWNERS’ Obligations set forth in Exhibit D of the Development Agreement which are listed in Exhibit II hereto;

b. Additional Obligations. All other obligations of OWNERS under the Development Agreement which relate to the Transferred Lands, which other obligations include but are not limited to the following:

(1) Public Facilities. The obligations of OWNERS under Section 3 of the Development Agreement relating to the Transferred Lands;

(2) Financing Districts. The obligations of OWNERS under Section 3.6a. of the Development Agreement to cooperate in the formation of a Financing District;

(3) Density. The obligations of OWNER under Section 4.1e. of the Development Agreement regarding no further applications for density increases with respect to the Transferred Lands;

(4) Reservations of Authority. The obligations of OWNER under Section 4.4 of the Development Agreement with respect to the Transferred Lands;

(5) Periodic Reviews. The obligations of OWNERS under Article 5 of the Development Agreement with respect to the Annual Monitoring Review and the Five-Year General Plan Review; provided, however, that in connection with the Annual Monitoring Review, Assignee shall provide the necessary information with respect to the Transferred Lands to Assignor (or the then-current OWNERS of the remaining Property) in a timely and complete manner and Assignor (or the then-current OWNERS of the remaining Property) shall compile the information provided together with information regarding the remainder of the Property and deliver a completed Annual Monitoring Review to COUNTY;

(6) Transfers and Assignments. The obligations of OWNERS under Article 6 of the Development Agreement with respect to any further transfers and assignments as such transfers and assignments relate to the Transferred Lands or a portion thereof;

(7) Development Regulations. The obligation to comply with any and all provisions of the existing General Plan, the Development Plan and the Existing Development Approvals that relate to or are in connection with the construction of residential structures on the Transferred Lands, including but not limited to compliance with any and all conditions of approval, zoning ordinances or map requirements; and

(8) Land Use Regulations. The obligation to comply with any and all existing or future Land Use Regulations or other rules or regulations applicable to the Transferred Lands (as described in Section 4.3 of the Development Agreement).

(c) Allocation of Burdens. In any case where the obligations to be assumed with respect to the Transferred Lands require the allocation of burdens or obligations between the Transferred Lands and other lands within the Property, such allocation shall be as determined by the Director, RDMD of COUNTY (or his successor or designee) at his sole discretion.

5. Dedication of Rights-of-Way and Prepayment of Fees. In accordance with Section 6.1a of the Development Agreement, Assignee hereby agrees:

a. Dedication of Rights-of-Way. Concurrent with and as a condition precedent to the effectiveness of this Agreement, Assignee or Assignor shall have delivered to COUNTY and recorded in the official records of COUNTY an irrevocable offer of dedication for all rights-of-way and lands (and improvements, as applicable) necessary to complete the Public Facilities described in Exhibit II hereto within the Transferred Lands, or, if provided by Exhibit II, by entering into this Agreement, Assignee shall have assumed and agreed to fully and punctually perform the obligations of OWNERS with respect to the dedication of all rights-of-way and lands necessary to complete the Public Facilities within the Transferred Lands. As provided in said Exhibit II hereto, said offer of dedication shall satisfy the obligations of Assignor and Assignee with respect thereto under the Development Agreement; and

b. Prepayment of Fees. Concurrent with and as a condition precedent to the effectiveness of this Agreement, Assignor or Assignee shall have prepaid all of the fees described in Exhibit II hereto attributable to the Transferred Lands or, if provided by Exhibit II, by entering into this Agreement, Assignee shall have agreed to prepay, upon the request of COUNTY and at a time designated by COUNTY therein, all such fees in accordance with and subject to Exhibit D and the other Provisions of the Development Agreement.

6. Security. As a condition precedent to the release of Assignor by COUNTY pursuant to Paragraph 7 hereinbelow, Assignee shall transfer, convey and otherwise provide to COUNTY the security, if any, described in Exhibit II hereto ("Security"), securing the performance by Assignee of those certain duties and obligations of the Assignor assumed and to be performed by Assignee under Paragraph 4 hereinabove or which pertain to the Transferred

Lands under the Development Agreement. Such security and the documents with respect thereto shall be in a form and amount approved by COUNTY.

7. Release Of Assignor. Upon the taking effect of this Agreement and provided that the Security, if any, required by Paragraph 6 hereinabove, is in a form and amount acceptable to COUNTY, in its sole discretion, and has been transferred and conveyed to COUNTY as provided therein, Assignor and OWNERS shall thereupon be released from performing the Assumed Obligations, including those certain obligations and duties set forth in Exhibit III hereto and the obligation to provide to or maintain with COUNTY the security, if any, listed in Exhibit III hereto.

8. Notices. Notwithstanding the assignment and transfer to Assignee under Paragraph 1 hereinabove, notices by COUNTY for purposes of Section 17.16 of the Development Agreement shall continue to be effective if mailed to OWNERS as provided therein and Assignee shall arrange with OWNERS for the receipt of such notices.

9. Continued Effectiveness of Development Agreement. Nothing herein shall be construed or interpreted to affect or reduce the obligations of OWNERS under the Development Agreement. Except as expressly provided herein and in any prior assignment executed by OWNERS and COUNTY (including, but not limited to, any release contained therein), the Development Agreement shall remain in full force and effect in accordance with its terms. Except as expressly set forth herein or in any prior assignment executed by OWNERS and COUNTY, OWNERS shall continue to be obligated to fully perform the obligations of OWNERS under and with respect to the Development Agreement.

10. Default and Remedies

a. Limitations; Damages. In addition to the terms and conditions of Section 11 of the Development Agreement, it is further acknowledged by the parties that COUNTY would not have entered into this Agreement or consented to the provisions hereof if it were to be liable in damages under or with respect to this Assignment and Assumption Agreement or the application thereof.

b. Acknowledgement. Each of the parties hereto agrees that COUNTY shall not be liable in damages to Assignor, Assignee or any assignee or transferee of a party to this Agreement or any other person and Assignor and Assignee and each of them covenants not to sue COUNTY for or claim any damages against COUNTY: (1) for any breach of, or which arise out of, this Agreement or the Development Agreement; (2) with respect to the taking, impairment or restriction of any right or interest conveyed or provided hereunder or pursuant to the Development Agreement; or (3) arising out of or connected with any dispute controversy or issue regarding the application, interpretation or effect of the provisions of this Agreement.

11. Miscellaneous Provisions.

a. Recordation of Agreement. This Agreement may be recorded in the Official Records of COUNTY by any party hereto. The original recorded document shall be retained by the County of Orange, Planning & Development Services Department. Copies of the

recorded document shall be distributed by County to Assignor, Assignee, Clerk of the Board, and jurisdiction of record if different than the County of Orange.

b. Entire Agreement. This Agreement sets forth and contains the entire understanding of the parties and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein and no testimony or evidence of any such representations, understandings or covenants, shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement. Nothing in this Agreement or the Assignee's execution hereof shall be construed to waive or limit any rights in connection with development of the Transferred Lands which are assigned to Assignee hereunder pursuant to the Development Agreement and the Existing Land Use Regulations, including any rights Assignee may have under any vesting tentative map applicable to the Transferred Lands.

c. Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.

d. Third Party Beneficiaries. The only parties to this Agreement are Assignor, Assignee and COUNTY. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit or be enforceable by any other person whatsoever.

e. Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

f. Successors and Assigns. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns; provided however, that no further assignment of the rights or interests or delegation of the duties set forth herein to any person not a party to this Agreement shall be made except in accordance with the provisions of Section 6 of the Development Agreement.

g. Reimbursement of Costs. Upon the written request of COUNTY, Assignor and Assignee, jointly and severally, shall pay and reimburse or advance to COUNTY the costs incurred by COUNTY (including attorneys fees) in reviewing and approving this form of assignment.

h. Indemnity of COUNTY Regarding Assignment. Assignor and Assignee, jointly and severally, shall indemnify and hold COUNTY harmless from and against all claims, costs and damages of COUNTY arising out of or connected with the assignment and transfer set forth in Paragraph 1 hereinabove including, but not limited to, the effectiveness or character of any rights and interests purported to be assigned or transferred thereby or any claim or dispute regarding the allocation of units under Paragraph 2 hereinabove; provided, however, that nothing herein shall be construed to obligate Assignor or Assignee to indemnify COUNTY for the willful or negligent acts, or omissions to act, of COUNTY or its employees, agents or contractors and provided further that nothing herein shall be construed to permit COUNTY to

seek from Assignor the performance of any of the obligations listed in Exhibit III from which Assignor has been released hereunder.

i. Counterparts. This Agreement may be executed by the parties in counterparts which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument. The signature pages of said counterparts may be accumulated and attached to a single instrument as if all of the parties had executed same counterpart.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

ASSIGNOR:

[Identify Specific OWNERS/Assignor]

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
its authorized agent and manager

By: _____
Its: _____

By: _____
Its: _____

ASSIGNEE:

_____,
a _____

By: _____
Its: _____

By: _____
Its: _____

COUNTY:

THE COUNTY OF ORANGE, CALIFORNIA, a political subdivision of the State of California

By: _____

STATE OF _____)
) ss
COUNTY OF _____)

On _____, 200_ before me, _____
personally appeared _____
personally known to me (or 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.

WITNESS my hand and seal.

Signature

STATE OF _____)
) ss
COUNTY OF _____)

On _____, 200_ before me, _____
personally appeared _____
personally known to me (or 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.

WITNESS my hand and seal.

Signature

EXHIBIT I

TO

ASSIGNMENT AND ASSUMPTION AGREEMENT

“Transferred Lands”

Legal Description:

Lot __ of Tract No. _____ as shown on a map recorded in the Official Records of Orange County, California on _____ in Book ____, Pages ____ through ____, inclusive, of Miscellaneous Maps.

The described parcel contains ____ acres more or less.

I. All fees and payments referred to as Building Permit Mitigation in Exhibit E to the Development Agreement.

C. The following fees or payments due under the Development Agreement with respect to the Transferred Lands have been paid by Assignor or Assignor's predecessor in interest prior to the Effective Date of this Agreement:

I. All fees and payments referred to as Building Permit Mitigation in Exhibit E to the Development Agreement.

D. Payment of the following fees by Assignor or the full satisfaction of the Assumed Obligation to pay said fees by drawing upon the Security listed in Paragraph E below (whether by judicial order or otherwise) is a condition precedent to the issuance of any building permit within the Transferred Lands after a demand by COUNTY for payment or prepayment of said fees in accordance with the provisions of Section 3 and Exhibit D to the Development Agreement:

E. Concurrently, Assignor has conveyed and provided the following Security to COUNTY as a condition precedent to the effectiveness of the subject assignment and release of Assignor pursuant to Section 6 of the Development Agreement:

Security in the form of a Letter of Credit in the amount of \$____ has been provided by Assignor to COUNTY concurrent herewith.

EXHIBIT II

TO

ASSIGNMENT AND ASSUMPTION AGREEMENT

“Assumed Obligations”

A. The OWNERS’ Obligations set forth in Exhibit D to the Development Agreement and herein which are assumed by Assignee include the following:

1. _____.

B. The following fees are to be prepaid and the following lands are to be offered for dedication concurrent with and as a condition precedent to the effectiveness of the subject assignment:

1. All fees and payments referred to as Building Permit Milestones numbered _____ in Exhibit E to the Development Agreement.

C. The following fees or payments due under the Development Agreement with respect to the Transferred Lands have been paid by Assignor or Assignor’s predecessor in interest prior to the Effective Date of this Agreement:

1. All fees and payments referred to as Building Permit Milestones _____ in Exhibit E to the Development Agreement.

D. Payment of the following fees by Assignee or the full satisfaction of the Assumed Obligation to pay said fees by drawing upon the Security listed in Paragraph E below (whether by judicial order or otherwise) is a condition precedent to the issuance of any building permit within the Transferred Lands after a demand by COUNTY for payment or prepayment of said fees in accordance with the provisions of Section 3 and Exhibit D to the Development Agreement:

1. _____.

E. Concurrently, Assignee has conveyed and provided the following Security to COUNTY as a condition precedent to the effectiveness of the subject assignment and release of Assignor pursuant to Section 6 of the Development Agreement:

1. _____.

Security in the form of a Letter of Credit in the amount of \$ N/A has been provided by Assignee to COUNTY concurrent herewith.

EXHIBIT III

to

ASSIGNMENT AND ASSUMPTION AGREEMENT

“Released Obligations”

Upon the occurrence of the conditions precedent set forth in the Assignment and Assumption Agreement to which this Exhibit III is attached, Assignor and OWNERS shall be released from the following specific obligations under the Development Agreement:

1. _____.

Upon the occurrence of the conditions precedent set forth in the Assignment and Assumption Agreement to which this Exhibit III is attached and at the request of Assignor, COUNTY shall release and reconvey to Assignor and OWNERS or reduce the amount of security held by COUNTY under Assignment No. DA N/A between Assignor/OWNERS and COUNTY in the aggregate amount of \$ _____ N/A. COUNTY shall release said security provided by Assignor/OWNERS under Assignment No. DA N/A in recognition of the security provided hereunder in the amount of \$ N/A and the previous satisfaction of secured obligations through payments in the amount of \$ N/A consisting of N/A.

EXHIBIT IV

to

ASSIGNMENT AND ASSUMPTION AGREEMENT

“Allocation of Milestones”

For purposes of Sections 6.1b and _____ of the Development Agreement, the [numbers of units/amount non-residential square footage/other] and development allocated to Assignee upon completion of each listed Milestone and subtracted from the amounts thereupon available to Assignor/OWNERS thereupon under the Development Agreement are as follows:

_____ dwelling units upon completion of Milestone number _____ listed (as well as all preceding Milestones) in Exhibit E of the Development Agreement.

EXHIBIT H-2

Assignment and Assumption Agreement (Form)

[NOTE: This form to be used for assignments to PUBLIC entities. **]**

RECORDING REQUESTED BY:

[Specify Assigning OWNERS]

WHEN RECORDED, MAIL TO:

Rancho Mission Viejo, LLC
28811 Ortega Highway
San Juan Capistrano, California 92675
Attn: _____

ASSIGNMENT NUMBER:

ASSIGNOR: [Specify Assigning OWNERS]

ASSIGNEE: _____

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (“Agreement”) is entered into this ____ day of _____ 20__, by and among [specify assigning OWNERS], (collectively “Assignor”), _____, a _____ (“Assignee”), and the COUNTY OF ORANGE, a political subdivision of the State of California (“COUNTY”).

RECITALS OF FACT

This Agreement is entered into based upon the following facts:

A. All terms as used in this Agreement shall have the same meaning as in the Development Agreement, as described below, unless otherwise expressly provided herein;

B. [Collective OWNERS] and COUNTY entered into that certain Development Agreement dated _____, 200__, which was recorded in the official records of COUNTY on _____, 200__ as document number 200__ - _____ (“Development Agreement”);

C. Assignor is the owner of the Transferred Lands described in Exhibit I hereto, which Transferred Lands are benefited and burdened by the provisions of the Development Agreement;

D. Concurrently with or prior to the taking effect of this Agreement, Assignor has transferred and conveyed to Assignee the Transferred Lands;

E. Pursuant to and in accordance with Section 6 of the Development Agreement, Assignor desires to assign and transfer certain of the rights and interests and to delegate certain of the duties and obligations of OWNERS under the Development Agreement subject to and in accordance with the terms of this Agreement and the Development Agreement;

F. As a condition precedent to said assignment and transfer pursuant to and as set forth in Section 6 of the Development Agreement, Assignee is willing to assume those certain OWNERS' Obligations described in Paragraph 4 of this Agreement, including those obligations under the Development Agreement which are listed on Exhibit II hereto;

G. In connection with said assignment and transfer, Assignor, Assignee and COUNTY desire to provide in certain respects for the allocation of certain burdens and benefits with respect to development under the Development Agreement between the Transferred Lands and the other lands within the Property pursuant to Section 6.1 of the Development Agreement; and

H. As provided in Paragraph 4 of this Agreement in connection with said assignment and transfer, Assignor desires to be released from certain of its obligations and duties under the Development Agreement with respect to the Transferred Lands and COUNTY is willing to release Assignor in accordance with and subject to the provisions of this Agreement and in accordance with the provisions of the Development Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals of fact, the consent and approval of COUNTY to the form of this assignment and assumption pursuant to the Development Agreement, the covenants, conditions, actions and undertakings set forth herein, and other consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree and do as follows;

1. Assignment; Effectiveness.

a. Assignment of Rights. Assignor hereby assigns, transfers and conveys to Assignee all of its rights and interests in and under the Development Agreement which are appurtenant and pertain to the Transferred Lands.

b. Effective Date. This Agreement and any Release contained herein shall not become effective unless and until recordation in the official Records of COUNTY of this Agreement and of the transfer and conveyance referred to in Paragraph D of the Recitals hereinabove of the Transferred Lands from Assignor to Assignee.

2. Rights and Interests Subject to Development Agreement. Assignee shall hold the rights and interests assigned subject to the terms and conditions of the Development Agreement, except as set forth in this Paragraph 2.

a. Amendment. With respect to Section 9 of the Development Agreement, the Development Agreement may be amended as to the Transferred Lands by a writing executed by COUNTY and Assignee without the consent of Assignor or Assignor's predecessor in interest.

b. Defaults and Remedies. With respect to Section 11 of the Development Agreement:

(1) Termination. The termination of the Development Agreement with respect to the Property other than the Transferred Lands based on a default or failure to perform or observe any of the covenants or conditions required to be performed or observed by OWNERS under the Development Agreement shall not terminate the Development Agreement with respect to the Transferred Lands and, notwithstanding any such termination, the Development Agreement shall continue in full force and effect as to the Transferred Lands during the stated term; provided, however, that said termination is not based upon:

(i) Project-Wide Obligations. The default or failure in the full or punctual performance of those certain project-wide obligations set forth on Exhibit IV hereto (“Project-Wide Obligations”); or

(ii) Assumed Obligations. A material default or failure by Assignee in the performance of any of the Assumed Obligations (as that term is defined below).

(2) Continuation -- Property. The termination of the Development Agreement as to the Transferred Lands as the result of the default of Assignee under the Development Agreement shall not terminate the Development Agreement as to the remainder of the Property not transferred or assigned to Assignee with reference to this Agreement.

3. Assumption of Obligations. In addition to the acceptance by Assignee of the assignment of rights and interests hereunder subject to the terms and conditions of the Development Agreement, Assignee assumes and agrees to fully and punctually perform for the benefit of Assignor and COUNTY the following obligations of OWNERS under the Development Agreement (collectively, the “Assumed Obligations”):

a. Exhibit II Obligations. Those OWNERS’ Obligations set forth in Exhibit D of the Development Agreement which are listed in Exhibit II hereto;

b. Additional Obligations. Those specific obligations of OWNERS which are set forth in the Development Agreement and more particularly described as follows:

(1) Public Facilities. *[**AS APPROPRIATE**]* The obligations of OWNERS under Section 3 of the Development Agreement relating to the Transferred Lands;

(2) Financing Districts. *[**AS APPROPRIATE**]* The obligations of OWNERS under Section 3.6a. of the Development Agreement to cooperate in the formation of a Financing District;

(3) Reservations of Authority. *[**AS APPROPRIATE**]* The obligations of OWNER under Section 4.4 of the Development Agreement with respect to the Transferred Lands;

(4) Transfers and Assignments. **[**AS APPROPRIATE**]**

The obligations of OWNERS under Article 6 of the Development Agreement with respect to any further transfers and assignments as such transfers and assignments relate to the Transferred Lands or a portion thereof; and

(5) Land Use Regulations. **[**AS APPROPRIATE**]**

The obligation to comply with any and all existing or future Land Use Regulations or other rules or regulations applicable to the Transferred Lands (as described in Section 4.3 of the Development Agreement).

4. Release Of Assignor. Upon the taking effect of this Agreement, Assignor and OWNERS shall thereupon be released from performing the Assumed Obligations, including those certain obligations and duties set forth in Exhibit III hereto and the obligation to provide to or maintain with COUNTY the security, if any, listed in Exhibit III hereto.

5. Notices. Notwithstanding the assignment and transfer to Assignee under Paragraph 1 hereinabove, notices by COUNTY for purposes of Section 17.16 of the Development Agreement shall continue to be effective if mailed to OWNERS as provided therein and Assignee shall arrange with OWNERS for the receipt of such notices.

6. Continued Effectiveness of Development Agreement. Nothing herein shall be construed or interpreted to affect or reduce the obligations of OWNERS under the Development Agreement. Except as expressly provided herein and in any prior assignment executed by OWNERS and COUNTY (including, but not limited to, any release contained therein), the Development Agreement shall remain in full force and effect in accordance with its terms. Except as expressly set forth herein or in any prior assignment executed by OWNERS and COUNTY, OWNERS shall continue to be obligated to fully perform the obligations of OWNERS under and with respect to the Development Agreement.

7. Default and Remedies

a. Limitations; Damages. In addition to the terms and conditions of Section 11 of the Development Agreement, it is further acknowledged by the parties that COUNTY would not have entered into this Agreement or consented to the provisions hereof if it were to be liable in damages under or with respect to this Assignment and Assumption Agreement or the application thereof.

b. Acknowledgement. Each of the parties hereto agrees that COUNTY shall not be liable in damages to Assignor, Assignee or any assignee or transferee of a party to this Agreement or any other person and Assignor and Assignee and each of them covenants not to sue COUNTY for or claim any damages against COUNTY: (1) for any breach of, or which arise out of, this Agreement or the Development Agreement; (2) with respect to the taking, impairment or restriction of any right or interest conveyed or provided hereunder or pursuant to the Development Agreement; or (3) arising out of or connected with any dispute controversy or issue regarding the application, interpretation or effect of the provisions of this Agreement.

8. Miscellaneous Provisions.

a. Recordation of Agreement. This Agreement may be recorded in the Official Records of COUNTY by any party hereto. The original recorded document shall be retained by the County of Orange, Planning & Development Services Department. Copies of the recorded document shall be distributed by County to Assignor, Assignee, Clerk of the Board, and jurisdiction of record if different than the County of Orange.

b. Entire Agreement. This Agreement sets forth and contains the entire understanding of the parties and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein and no testimony or evidence of any such representations, understandings or covenants, shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement. Nothing in this Agreement or the Assignee's execution hereof shall be construed to waive or limit any rights in connection with development of the Transferred Lands which are assigned to Assignee hereunder pursuant to the Development Agreement and the Existing Land Use Regulations, including any rights Assignee may have under any vesting tentative map applicable to the Transferred Lands.

c. Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.

d. Third Party Beneficiaries. The only parties to this Agreement are Assignor, Assignee and COUNTY. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit or be enforceable by any other person whatsoever.

e. Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

f. Successors and Assigns. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns; provided however, that no further assignment of the rights or interests or delegation of the duties set forth herein to any person not a party to this Agreement shall be made except in accordance with the provisions of Section 6 of the Development Agreement.

g. Reimbursement of Costs. Upon the written request of COUNTY, Assignor and Assignee, jointly and severally, shall pay and reimburse or advance to COUNTY the costs incurred by COUNTY (including attorneys fees) in reviewing and approving this form of assignment.

h. Indemnity of COUNTY Regarding Assignment. Assignor and Assignee, jointly and severally, shall indemnify and hold COUNTY harmless from and against all claims, costs and damages of COUNTY arising out of or connected with the assignment and transfer set forth in Paragraph 1 hereinabove including, but not limited to, the effectiveness or character of any rights and interests purported to be assigned or transferred thereby or any claim

or dispute regarding the allocation of units under Paragraph 2 hereinabove; provided, however, that nothing herein shall be construed to obligate Assignor or Assignee to indemnify COUNTY for the willful or negligent acts, or omissions to act, of COUNTY or its employees, agents or contractors and provided further that nothing herein shall be construed to permit COUNTY to seek from Assignor the performance of any of the obligations listed in Exhibit III from which Assignor has been released hereunder.

i. Counterparts. This Agreement may be executed by the parties in counterparts which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument. The signature pages of said counterparts may be accumulated and attached to a single instrument as if all of the parties had executed same counterpart.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

ASSIGNOR:

[Identify Specific OWNERS/Assignor]

By: Rancho Mission Viejo, LLC,
a Delaware limited liability company,
its authorized agent and manager

By: _____
Its: _____

By: _____
Its: _____

ASSIGNEE:

_____,
a _____

By: _____
Its: _____

By: _____
Its: _____

COUNTY:

THE COUNTY OF ORANGE, CALIFORNIA, a political subdivision of the State of California

By: _____

STATE OF _____)
) ss
COUNTY OF _____)

On _____, 200_ before me, _____
personally appeared _____
personally known to me (or 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.

WITNESS my hand and seal.

Signature

STATE OF _____)
) ss
COUNTY OF _____)

On _____, 200_ before me, _____
personally appeared _____
personally known to me (or 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.

WITNESS my hand and seal.

Signature

EXHIBIT I

TO

ASSIGNMENT AND ASSUMPTION AGREEMENT

“Transferred Lands”

Legal Description:

Lot __ of Tract No. _____ as shown on a map recorded in the Official Records of Orange County, California on _____ in Book ____, Pages ____ through ____, inclusive, of Miscellaneous Maps.

The described parcel contains ____ acres more or less.

EXHIBIT II

TO

ASSIGNMENT AND ASSUMPTION AGREEMENT

“Assumed Obligations”

A. The OWNERS’ Obligations set forth in Exhibit D to the Development Agreement and herein which are assumed by Assignee include the following:

1. _____.

B. [***AS APPROPRIATE/RELEVANT***] The following fees are to be prepaid and the following lands are to be offered for dedication concurrent with and as a condition precedent to the effectiveness of the subject assignment:

1. _____.

C. [***AS APPROPRIATE/RELEVANT***] The following fees or payments due under the Development Agreement with respect to the Transferred Lands have been paid by Assignor or Assignor’s predecessor in interest prior to the Effective Date of this Agreement:

1. _____.

EXHIBIT III

to

ASSIGNMENT AND ASSUMPTION AGREEMENT

“Released Obligations”

Upon the occurrence of the conditions precedent set forth in the Assignment and Assumption Agreement to which this Exhibit III is attached, Assignor and OWNERS shall be released from the following specific obligations under the Development Agreement:

1. _____.

[**AS APPROPRIATE**] Upon the occurrence of the conditions precedent set forth in the Assignment and Assumption Agreement to which this Exhibit III is attached and at the request of Assignor, COUNTY shall release and reconvey to Assignor and OWNERS or reduce the amount of security held by COUNTY under Assignment No. DA N/A between Assignor/OWNERS and COUNTY in the aggregate amount of \$ N/A . COUNTY shall release said security provided by Assignor/OWNERS under Assignment No. DA N/A in recognition of the previous satisfaction of secured obligations through payments in the amount of \$ N/A consisting of N/A.

EXHIBIT IV

TO

ASSIGNMENT AND ASSUMPTION AGREEMENT

“Project-Wide Obligations”

The OWNERS’ Obligations required to be performed by Assignor/OWNERS, failure of the performance of which may be the basis of the termination of the Development Agreement with respect to the Transferred Lands, include the following:

1. [***AS APPROPRIATE***]