Sixth Cycle Regional Housing Needs Assessment (RHNA) Appeal Request Form

All appeal requests and supporting documentation must be received by SCAG October 26, 2020, 5 p.m.
Appeals and supporting documentation should be submitted to housing@scag.ca.gov.
Late submissions will not be accepted.

Date: 10/26/20

Jurisdiction Subject to This Appeal Filing:
(to file another appeal, please use another form)
County of Orange

Filing Party (Jurisdiction or HCD)
County of Orange

Filing Party Contact Name
Donald Wagner

Filing Party Email:
Donald.Wagner@ocgov.com

APPEAL AUTHORIZED BY:

Name: Donald Wagner

PLEASE SELECT BELOW:

- ☐ Mayor
- ☐ Chief Administrative Office
- ☐ City Manager
- ☐ Chair of County Board of Supervisors
- ☐ Planning Director
- ☑ Other: County of Orange / Board of Supervisor

BASES FOR APPEAL

- ☐ Application of the adopted Final RHNA Methodology for the 6th Cycle RHNA (2021-2029)
- ☐ Local Planning Factors and/or Information Related to Affirmatively Furthering Fair Housing (See Government Code Section 65584.04 (b)(2) and (e))
  - ☐ Existing or projected jobs-housing balance
  - ☐ Sewer or water infrastructure constraints for additional development
  - ☐ Availability of land suitable for urban development or for conversion to residential use
  - ☐ Lands protected from urban development under existing federal or state programs
  - ☐ County policies to preserve prime agricultural land
  - ☐ Distribution of household growth assumed for purposes of comparable Regional Transportation Plans
  - ☐ County-city agreements to direct growth toward incorporated areas of County
  - ☐ Loss of units contained in assisted housing developments
  - ☐ High housing cost burdens
  - ☐ The rate of overcrowding
  - ☐ Housing needs of farmworkers
  - ☐ Housing needs generated by the presence of a university campus within a jurisdiction
  - ☐ Loss of units during a state of emergency
  - ☐ The region's greenhouse gas emissions targets
  - ☐ Affirmatively furthering fair housing
- ☐ Changed Circumstances (Per Government Code Section 65584.05(b), appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change in circumstance occurred)

FOR STAFF USE ONLY:
Date_____ Hearing Date: _____ Planner: _____

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Appeals and supporting documentation should be submitted to housing@scag.ca.gov.
Late submissions will not be accepted.

Brief statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584 (please refer to Exhibit C of the Appeals Guidelines):

Please include supporting documentation for evidence as needed, and attach additional pages if you need more room.

A revision to the Final Draft Allocation is necessary to further the intent of the statutorily mandated objectives listed in Government Code Section 65584(d). This appeal is based on the following grounds:
1. Methodology: SCAG failed to determine the share of regional housing needs in accordance with information described herein and within Government Code Section 65584.04, and in a manner that furthers and does not undermine the objectives listed in Government Code Section 665584(d);
2. Local Factors: SCAG failed to adequately consider information previously submitted by the County of Orange that specifically identified several local factors, which would directly impact housing production in the County; and
3. Changed Circumstances: Significant, unforeseen changes in circumstances has occurred in the County that strongly supports revisions to the information submitted pursuant to Government Code Section 65584 04(d).

Please see attached for additional details.

Brief Description of Appeal Request and Desired Outcome:

Based on all of the factors mentioned in the attachments, the County of Orange is requesting a reduction of 4,922 housing units from the 6th Cycle RHNA. This reduction considers SCAG's failure to correctly apply the RHNA Methodology in accordance with State law. SCAG also did not take into consideration local factors and changes in circumstances, which are beyond the County's land use control.

Please see attached for additional details.

Number of units requested to be reduced or added to the jurisdiction's draft RHNA allocation (circle one):

Reduced 4,922 _____ **Added**

List of Supporting Documentation, by Title and Number of Pages
(Numbers may be continued to accommodate additional supporting documentation):

1. Comment Letter from OCCOG to SCAG dated February 18, 2020 (3 pgs)

2. Comment Letter from State HCD to SCAG dated October 15, 2019 (7 pgs)

3. Comment Letter from County of Orange to SCAG dated June 6, 2019 (2 pgs)

Please see attached for a complete list of supporting documentation, by title and number of pages.

FOR STAFF USE ONLY:
Date_____ Hearing Date: _____ Planner: _____

Brief statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584.

In accordance with Government Code Section 65584.05(b), the County of Orange submits this appeal to the regional housing need proposed to be allocated to the County of Orange under the Regional Housing Needs Assessment (RHNA) methodology adopted for the 6th cycle. As of September 3, 2020, the County of Orange draft RHNA allocation is 10,381 units.

A revision to the Final Draft Allocation is necessary to further the intent of the statutorily mandated objectives listed in Government Code Section 65584(d). In addition, this appeal is consistent with, and not to the detriment of, the development pattern in the applicable sustainable communities strategy (SCAG's Connect SoCal Plan) developed pursuant to Government Code Section 65080(b)(2) as explained herein. This appeal is based on the following grounds:

1. **Methodology:** SCAG failed to determine the share of regional housing needs in accordance with information described herein and within Government Code Section 65584.04, and in a manner that furthers and does not undermine the objectives listed in Government Code Section 665584(d);

2. **Local Factors**: SCAG failed to adequately consider information previously submitted by the County of Orange that specifically identified several local factors, which would directly impact housing production in the County; and

3. **Changed Circumstances**: Significant, unforeseen changes in circumstances has occurred in the County that strongly supports revisions to the information submitted pursuant to Government Code Section 65584 04(d).

Based on the items listed above, the County is requesting a reduction of 4,922 units from the County's draft RHNA allocation (10,381 units), for a newly proposed RHNA allocation of 5,459 units.

A. GROUNDS FOR COUNTY OF ORANGE APPEAL

1. Methodology

SCAG failed to accurately determine the share of the regional housing need in accordance with the information established and approved by SCAG, and in a manner that furthers, and does not undermine the objectives listed in Government Code Section 65584(d). The State Department of Housing and Community Development (State HCD) provided a regional housing need determination of 1,341,827 housing units for the SCAG region, which is based on faulty methodology.

State HCD's final Regional Housing Needs Determination (RHND) of 1,341,827 housing units for the SCAG region is not a realistic or feasible number of units to be constructed during the 6th Cycle. In comparison, SCAG received a RHNA of 412,137 units for the previous 5th Cycle. This equates to a 226% increase in housing unit production for the SCAG region. This increase is unprecedented. Based upon the draft RHNA allocations currently available, the potential increase in 2021-2029 RHNA obligations indicates up to a 96.91% increase in growth need for the County while the County's available resources to accommodate future growth is hindered by the continued reduction in sites available to accommodate future development.

(a) SCAG's Methodology fails to consider growth projections consistent with the Connect SoCal Plan.

The comment letter sent by Orange County Council of Governments (OCCOG) to SCAG dated February 18, 2020 (see Attachment 1) outlines the various reasons for the flawed RHNA methodology. In particular, pursuant to Government Code 65584.01(a), State HCD is required by law to use the growth forecast created by SCAG for its' Connect SoCal Plan when it is within a range of 1.5% of the total regional population forecast projected by the Department of Finance (DOF). SCAG's Connect SoCal Plan projected the total regional population to grow to 20,725,878 by October 2029, which differs from the DOF projection of 20,689,591 issued by DOF in May 2018, by 0.18%. The total population provided in State HCD's determination is 20,455,355, which reflects an updated DOF projection and differs from SCAG's projection by 1.32%. Though SCAG's total projection is within the statutory tolerance of 1.5% for State HCD to use SCAG's forecast, SCAG's Growth Forecast was still not applied. This is a clear violation of State law. Since the SCAG Connect SoCal Plan should be consistent with the forecasts described in RHNA, as the planning areas are identical, SCAG population data should be utilized to ensure consistent application of future growth projections.

(b) SCAG's Methodology incorrectly uses national averages as a benchmark.

The Regional Housing Needs Determination is based on national averages of household overcrowding and cost-burden rates in the SCAG region, as mentioned in the State HCD letter sent to SCAG dated October 15, 2019 (Attachment 2). Government Code Section 65584.01(c)(2)(B) requires that this comparison be based on similar regions, not national averages as the benchmark. Since State HCD's Determination used national averages (rather than the regional forecast) as the comparison benchmark, the methodology is flawed.

RHNA is required to allocate housing units within the region consistent with the development pattern included in SCAG's Connect SoCal and in accordance with Government Code Section 65584.01; however, SCAG's Connect SoCal was not applied to generate the Regional Housing Needs Determination.

However, if SCAG's Connect SoCal figures were utilized, the County of Orange would be expecting an average growth rate of 587 units per year for a total of 4,696 total units over an 8-year period. See Table 1.

Table 1: Connect SoCal Forecast for County of Orange

2045 Household Projection	Connect SoCal Forecast Year	Average per year growth rate (2016-2045)	8-Year Growth Rate
56,600	2045	587 units	587 units per year x 8 years = 4,696 units

Moreover, if SCAG's Connect SoCal figures were properly utilized, the County's proposed RHNA for this upcoming 8-year period is consistent with the assumptions and figures within the Connect SoCal Growth Forecast. As illustrated in Table 2, the County of Orange's average annual growth rate of 4,696 total units over an 8-year period is consistent with the proposed County total of 5,459 units.

Table 2: Connect SoCal Data

Source	County of Orange RHNA
Connect SoCal Forecast	587 units per year x 8 years = 4,696 units
Proposed RHNA for County of Orange	5,459 units
Difference	The County of Orange is proposing 763 more units than the SoCal Connect Forecast would have allowed

2. Local Factors

SCAG failed to adequately consider the information submitted by the County of Orange related to certain local factors outlined in Government Code Section 65584.04(e).

In particular, SCAG disregarded factors pertaining to preserved/protected areas, an active development agreement, and sewer capacity, which is unique to the County. Local input is a valuable and integral part of SCAG's RHNA planning process. It provides the necessary local perspectives to help determine the local capacities, limitations and challenges inherent in each jurisdiction within the SCAG region.

As mentioned in previous comment letters from the County of Orange to SCAG dated June 6, 2019 and October 2, 2019 (see Attachments 3 and 4), responses provided in the Local Input Surveys that were submitted to SCAG (see Attachment 5) and attributes that were clearly identified in SCAG's Scenario Planning Model (SPM) Mapping Tool, the County is faced with unique challenges that are not encountered by cities. A one-size-fits-all approach is not a practical or feasible approach to achieve local and regional housing goals. Responsible and effective planning for housing must be done within the context of each jurisdiction's constraints, neighborhood character, and with the perspectives of the communities themselves.

(a) Local Factor: Lack of Available Land

As referenced in Government Code Section 65584.04, "lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources" is listed as an eligible basis to be considered for an appeal.

As illustrated in Map 1 and Table 3 below, unincorporated Orange County currently contains 176,385 acres of canyons, planned communities, national forests, as well as, coastal and densely populated areas. Approximately 40,949 acres of open space (or 23% of unincorporated Orange County), which is hashed in light green on the map

below, is preserved or protected from development under existing state or federal programs, thus is undevelopable. Open space was clearly identified in SCAG's SPM mapping tool and transferred to SCAG's Connect SoCal maps; however, land use constraints, are not a factor in the RHNA methodology that SCAG used to determine Orange County's allocation. Since a large portion of the County is preserved or protected from development, thus undevelopable, we are requesting a reduction of 23% or 2,388 units of the County's draft RHNA (10,381 units). This is one of the line item reductions that will result in the newly proposed 5,459 RHNA units for the County of Orange.

Map 1: Preserved and Protected Areas within Unincorporated Orange County

Source: OC Public Works/Survey September 2020

Table 3: Preserved or Protected Land within Unincorporated Orange County

Name	Total Acres of Open Space	Acres in Unincorporated Orange County
Aliso & Wood Canyons Wilderness Park	3,972.0	2,217.2
Arden: Helena Modjeska Historic House & Gardens	19.2	19.2
Black Star Canyon Wilderness Park	2,752.4	2,752.4
Carbon Canyon Regional Park	124.6	33.5
Crawford Canyon	2.6	2.6
Fremont Canyon Nature Preserve	7,826.5	7,438.3
Gypsum Canyon Nature Preserve	2,562.9	840.6
Harriett M. Wieder Regional Park	113.7	69.7
Historic Yorba Cemetery	0.9	0.9
Irvine Regional Park	493.4	482.6
Laguna Coast Wilderness Park	5,762.6	4,145.4
Limestone Canyon & Whiting Ranch Wilderness Park	26.1	25.9
Limestone Canyon Nature Preserve	7,976.4	7,969.2
Loma Ridge Nature Preserve	619.8	619.8
Modjeska Canyon Nature Preserve	650.5	650.5
Newport Parcel	21.7	21.7
O'Neill Regional Park	3,115.9	1,934.8
Peters Canyon Regional Park	339.5	4.9
Ronald W. Caspers Wilderness Park	7,848.3	7,407.3
Santa Ana River Greenbelt	2,017.2	387.8
Santiago Oaks Regional Park	986.3	574.0
Skyline Parcel	2.6	2.6
Talbert Regional Park	104.7	0.2
Thomas F. Riley Wilderness Park	544.4	544.4
Upper Newport Bay Nature Preserve	78.7	0.7
Weir Canyon Nature Preserve	3,116.5	2,799.5
Whiting Ranch Wilderness Park	1,544.2	0.8
Woodgate CSA	2.5	2.5
Total	52,626.0	40,949.0

Source: OC Public Works/Survey September 2020

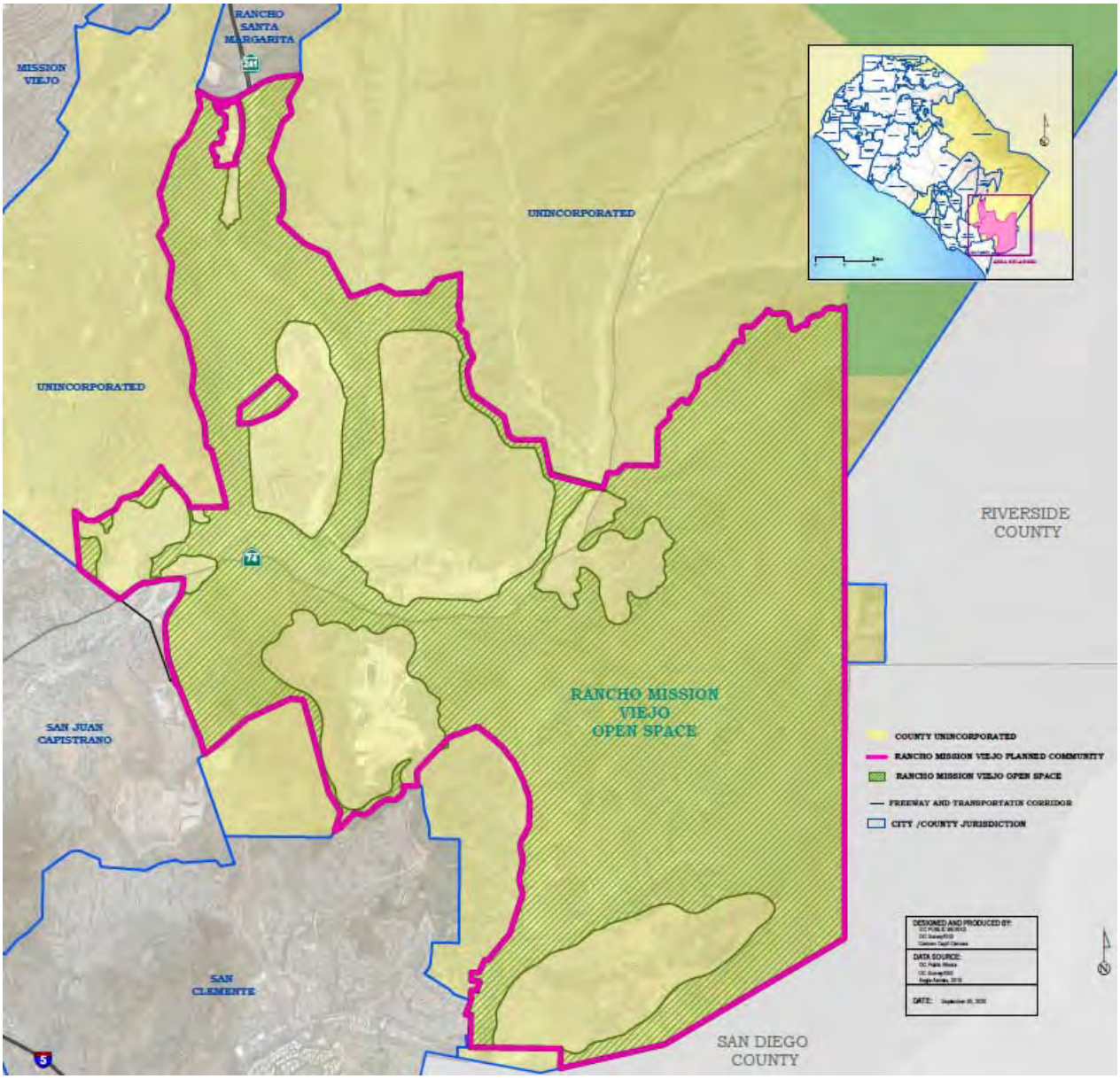
(b) Local Factor: Active Development Agreement

Government Code Section 65584.04 indicates that "the availability of land suitable for urban development" is listed as an eligible basis to be considered for appeal.

The County's comment letters to SCAG and the attributes identified in SCAG's SPM mapping tool further emphasize the entitlements controlled by development agreements, specifically within the Ranch Plan Planned Community. Though the duration and terms of the development agreements within the other planning communities in unincorporated Orange County have already been completed and fulfilled, the development agreement for the Ranch Plan Planned Community dated 2004 cannot be amended for additional housing units by the County of Orange, since the Ranch Plan Planned Community is still underway

with plans to start construction in Planning Area 3 in 2021 (see Attachment 6) and due to a settlement agreement limiting the number of development units. In particular, the active Ranch Plan Planned Community Development Agreement references a maximum of 14,000 units and 15,121 acres of dedicated open space (see Map 2). As part of a settlement agreement, the Rancho Mission Viejo landowner dedicated open space in an amount that is approximately 8.6% of unincorporated Orange County. Since this open space land cannot be used for residential uses (compared to County parcels zoned A1 General Agricultural/Open Space Districts that permit residential in other unincorporated County areas), we are requesting a reduction of 8.6% or 892 units of the County's draft RHNA (10,381 units). This is one of the line item reductions that will result in the newly proposed 5,459 RHNA units for the County of Orange.

Map 2: Ranch Plan Planned Community - Open Space



Source: OC Public Works/Survey September 2020

(c) Local Factor: Lack of Sewer Capacity

As referenced in Government Code Sec. 65584.04, the "lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions" is listed as an eligible basis to be considered for appeal.

SCAG also did not take into consideration local planning factors related to septic capacity within the unincorporated areas of Orange County. Septic capacity is regulated by the California State Water Resources Control Board and prevents the County from further developing upon parcels predominately within rural areas. In particular, the Onsite Wastewater Treatment Systems (OWTS) State Water Resources Control Board Policy Guidelines Section 7.8 (see Exhibit 1) regulates septic capacity by indicating the allowable density. The County of Orange utilizes the allowable default density of 2 acres per single-family dwelling unit.

Exhibit 1: Excerpt from State Water Resources Control Board Policy Guidelines

7.8 The average density for any subdivision of property made by Tentative Approval pursuant to the Subdivision Map Act occurring after the effective date of this Policy and implemented under Tier 1 shall not exceed the allowable density values in Table 1 for a single-family dwelling unit, or its equivalent, for those units that rely on OWTS.

Table 1: Allowable Average Densities per Subdivision under Tier 1.

Average Annual Rainfall (in/yr)	Allowable Density (acres/single family dwelling unit)
0 - 15	2.5
>15 - 20	2
>20 - 25	1.5
>25 - 35	1
>35 - 40	0.75
>40	0.5

Moreover, the 2019 California Building Standards Code Section 713.4 (see Exhibit 2) indicates that the maximum distance between a public sewer line and a proposed project is 200 feet.

Exhibit 2: Excerpt from 2019 California Building Standards Code

713.4 Public Sewer Availability

The public sewer shall be permitted to be considered as not being available where such public sewer or a building or an exterior drainage facility connected thereto is located more than 200 feet (60960 mm) from a proposed building or exterior drainage facility on a lot or premises that abuts and is served by such public sewer.

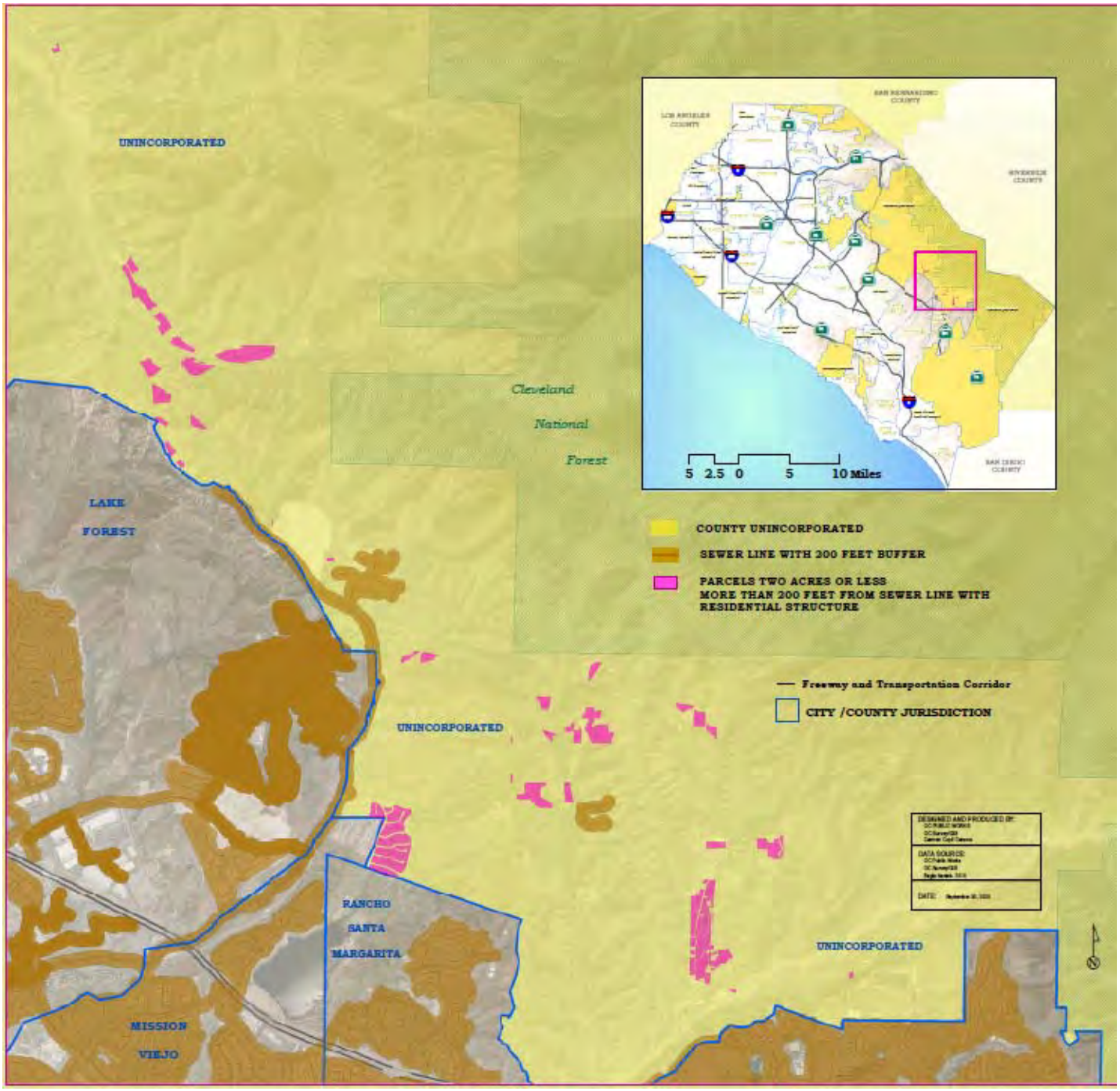
[HCD 1] *For residential occupancies, the public sewer may be considered as not being available by the Authority Having Jurisdiction.*

Consequently, these State requirements related to sewer capacity preclude unincorporated Orange County areas that are a) smaller than 2 acres and b) not within 200 feet from the nearest public sewer line from additional increases in residential units.

The rural areas within unincorporated County of Orange are mostly located within Foothill-Trabuco and Silverado-Modjeska canyons, thus further from public sewer lines. The closest public sewer lines are in neighboring cities. The zoning districts within the area have a wide range of base densities, and State regulations on septic tanks prohibit growth on sites that are a) less than 2 acres in size and b) further than 200 feet to the nearest public sewer line. As illustrated in Map 3, there are 459 residential parcels (see pink areas) that must be on a conventional septic system and cannot exceed their current septic capacities to

accommodate any additional units until they are within closer proximity (i.e. less than 200 feet) from a public sewer line via annexation; thus, we are requesting a reduction of 459 residential units from the County's draft RHNA of 10,381 units, to address those areas that cannot support additional units. This is one of the line item reductions that will result in the newly proposed 5,459 RHNA units for the County of Orange.

Map 3: Residential Parcels that Lack Sewer Capacity



Source: OC Public Works/Survey September 2020

SUMMARY OF LOCAL FACTORS

As illustrated in Table 4, SCAG did not consider local constraints and planning factors when allocating each jurisdiction their regional share of housing units. SCAG did not consider County areas that are preserved or protected, have an active development agreement, or have limitations due to sewer capacity. Thus, we are requesting a reduction of 3,739 total units from the County's draft RHNA (10,381 units) under the local factors category. This is one of the line item reductions that will result in the newly proposed 5,459 RHNA units for the County of Orange.

Table 4: Summary of Local Factors

A	Lack of Available Land due to State and Federal Open Space Designations	2,388 units	Reduction of 23% (or 2,388 units) of County's draft RHNA to address lack of available land.
B	Rancho Mission Viejo Development Agreement that limits the maximum number of housing units	892 units	Reduction of 8.6% (or 892 units) of the County's draft RHNA for area dedicated to open space that does not permit residential units.
C	Lack of Sewer Capacity that limits the density on residential parcels, primarily within the Canyons	459 units	Reduction of 459 units of the County's draft RHNA, since unincorporated County of Orange has 459 parcels that cannot support additional units due to lack of sewer capacity.

3. Changed Circumstances

Significant and unforeseen change in circumstances has occurred in the County after April 30, 2019 and merits a revision of the information previously submitted, as indicated in Government Code Section 65584.05(b)(3).

The County of Orange is faced with such challenges that are not encountered by cities, including the loss of developable land due to annexations throughout the 8-year housing element cycles. As unincorporated areas develop a stronger sense of community and an economic base, cities are more likely to annex these unincorporated areas. Counties will eventually lose areas of land that are ideal for infill development to cities over time, thus putting counties at an inherent disadvantage when considering the number of units to plan in the future.

(a) Changed Circumstances: Ongoing and future annexations: As illustrated in Map 4, the County of Orange has lost 168 acres (see red areas in the map below) due to annexations since 2014. In particular, there has been a 9.5% decrease in acres from 176,553 acres in 2014 to the currently existing 176,385 acres within the unincorporated County areas. Therefore, staff is requesting a reduction of 9.5% (or 986 units) from the County's draft RHNA (10,381 units) to address any future annexations based on actuals from the previous 8-year cycle. This is one of the line item reductions that will result in the proposed 5,459 RHNA units for the County of Orange.

Map 4: County Annexations (2014-2020)

Source: OC Public Works/Survey September 2020

Annexations will continue to occur in the County in the near and distant future. In the meantime, we will notify SCAG and request RHNA modifications. In particular, recent annexations and mutually agreed upon transfer agreements were not addressed by SCAG in the 6th Cycle Final RHNA Methodology, thus a violation of Government Code Section 65584.05(b)(3). Also, as stated in the response for question 5 of SCAG's RHNA Appeals FAQ, "annexations are a permissible basis for an appeal, and this would likely be considered a change in circumstance". Thus, we are requesting that the following annexations be addressed resulting in a reduction of additional RHNA units for the County.

(b) Changed Circumstances: Yorba Linda Annexation: On December 13, 2016, the County of Orange Board of Supervisors approved the entitlements for the Cielo Vista development, an 80-unit residential subdivision, which at the time was located within uninhabited County territory and substantially surrounded by the City of Yorba Linda. On October 22, 2019, the City of Yorba Linda and the County of Orange entered into a cooperative agreement that allows the County to complete the planning approvals for development after annexation (see Attachment 7). Since the County of Orange is currently reviewing the grading permits for the 80-unit development, staff is requesting that the County of Orange be given credit for these 80 units through a reduction of 80 units from the County's draft RHNA (10,381 units). This is one of the line item reductions that will result in the proposed 5,459 RHNA units for the County of Orange.

(c) Changed Circumstances: Santa Ana Annexation: In November 2019, the City of Santa Ana completed an annexation that includes approximately 25 acres (see Attachment 8). Exhibit 3 and 4 include excerpts from the Santa Ana Cooperative Agreement, which list and illustrate the parcels that have been annexed. More specifically, the annexed parcels in Table 5 and Exhibit 5 were also identified in the County's 5th Cycle Housing Element site inventory to be used for the development of 117 potential units. Thus, we are requesting a reduction of 117 total units from the County's draft RHNA(10,381 units) due to the recent annexation to the City of Santa Ana. This is one of the line item reductions that will result in the proposed 5,459 RHNA units for the County of Orange.

Exhibit 3: Excerpt from Santa Ana Cooperative Agreement

A. As provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Gov. Code, §§ 56000 et seq.) and the Orange County Local Agency Formation Commission's ("OC LAFCO") policies and procedures, Santa Ana will submit to OC LAFCO an application to annex 57 parcels and detachment of the same parcels from the Municipal Water District of Orange County. The annexation collectively constitutes an island of unincorporated territory within Santa Ana's sphere of influence with Assessor's Parcel Numbers ("APNs") 396-303-01 to -28, 396-304-01 to -11, 396-312-13, -14, and -15, 396-313-01 to -03, -06 to -11, and 396-314-01 to -06 ("Island Parcels") as shown on Exhibit A.

Exhibit 4: Map from Santa Ana Cooperative Agreement

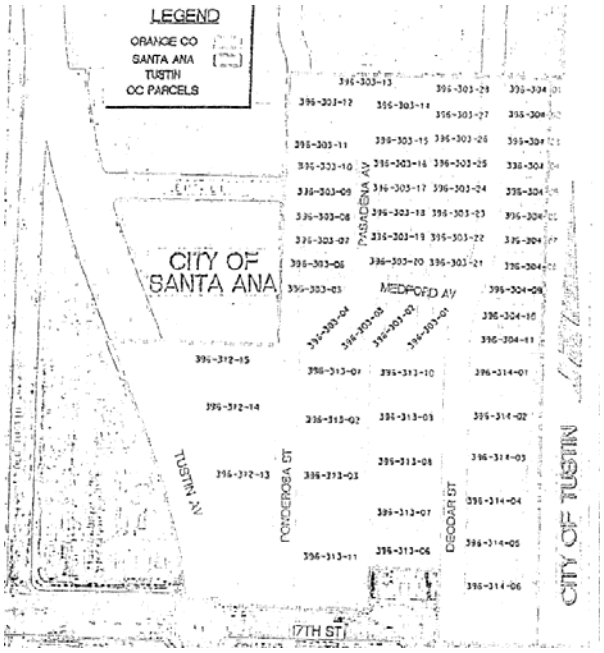


Table 5: Orange County Housing Element Sites (5th Cycle)

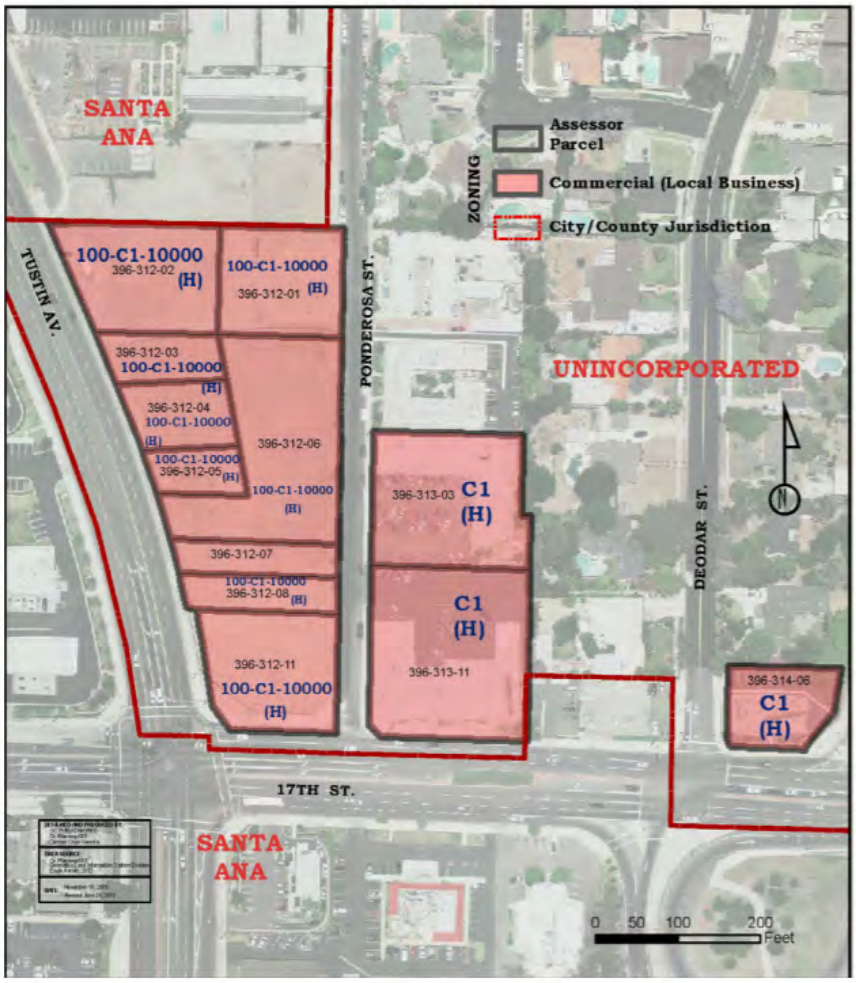
APN	Address	Zoning	General Plan	Parcel Size (Acres)	Potential Units[1]
Site 1					
396-313-03	13912 Ponderosa	C1	1B	0.69	17
396-313-11	17061 E. 17th St	C1	1B	0.9	22
Subtotal					39
Site 2[2]					
396-312-13	No street address	C1	1B	0.75	16
396-312-14	No street address	C1	1B	1.20	30
396-312-15	No street address	C1	1B	1.35	32
Subtotal					78
Totals					117

1 Based on density of 25 units per acre

2 New APNs were created due to a lot consolidation of the annexed sites. These were previously noted in the Housing Element as 396-312-01 to 08 and 396-312-11.

Exhibit 5: Excerpt from Orange County Housing Element (5th Cycle)

Figure B-2h
Santa Ana Area



SUMMARY OF CHANGED CIRCUMSTANCES

SCAG did not consider a change in circumstances, which is defined as a significant and unforeseen change in circumstance that has occurred in the jurisdiction after April 30, 2019. As illustrated in Table 6, we are requesting a reduction of 1,225 total units from the County's draft RHNA (10,381 units) under the change of circumstances category. The County of Orange is expected to face ongoing annexations over this upcoming 6th cycle, and 197 total units were annexed into the cities of Yorba Linda and Santa Ana.

Table 6: Change of Circumstances Summary

	Annexation	**Total**
A	Ongoing and future annexations (2020-2029) (Reduction of 9.8% of County's draft RHNA to address future annexations, based on actuals from previous 5th Cycle)	986 units
B	Yorba Linda Cielo Vista Development	80 units
C	Santa Ana Islands	117 units
	Total	1,183 units

B. CONCLUSION

Based on all of the factors mentioned herein, the County of Orange is requesting a reduction of 4,922 housing units from the 6th Cycle RHNA, as illustrated in Table 7. This reduction considers SCAG's failure to correctly apply the RHNA Methodology in accordance with State law. SCAG also did not take into consideration local factors and changes in circumstances, which are beyond the County's land use control.

Table 7: Summary of RHNA Reductions

1. Methodology (Govt Code Section 65584.04 and 65584(d))		
Methodology for Regional Housing Needs Determination	N/A	SCAG's Connect SoCal Growth Forecast (if applied) estimates 4,696 units for the County of Orange over this upcoming 8-year period.
2. Local Factors (Govt Code Section65574.04(b))		
A. Lack of Available Land	-2,388 units	Reduction of 23% (or 2,388 units) of County's draft RHNA to address land that is precluded from development under existing federal, state and local programs.
B. Development Agreement	-892 units	Reduction of 8.6% (or 892 units) of the County's draft RHNA for area dedicated to open space that does not permit residential units. The Ranch Plan Planned Community Development Agreement is legally binding and cannot be amended by the County.
C. Lack of Sewer Capacity	-459 units	Reduction of 459 units of the County's draft RHNA, since unincorporated Orange County has 459 parcels that cannot support any additional changes in density due to lack of sewer capacity.

3. Change in Circumstances (Govt Code Section 65584.04(b))		
A. Ongoing Annexations	-986 units	Reduction of 9.5% of County's draft RHNA to address any future annexations (based on actuals from the previous RHNA cycle).
B. Yorba Linda annexation (October 2019)	-80 units	Reduction of 80 units of the County's draft RHNA due to Yorba Linda annexation. Permits are currently in review with the County.
C. Santa Ana Island annexation (November 2019)	-117 units	Reduction of 117 units of the County's draft RHNA due to Santa Ana Island annexation.
Total Draft RHNA Allocation (September 3, 2020)	**10,381**	
Total County Request	-4,922	Reduction of 4,922 total RHNA units for County of Orange.
Proposed RHNA for County of Orange	A maximum of 5,459 units	This number furthers the intent of RHNA by ensuring that density is properly guided towards jurisdictions with the capacity to service a growing population.

Table 8 summarizes the County of Orange's recommended RHNA Allocation by income category, which utilizes the same income category breakdown proposed by SCAG.

Table 8: Summary of Recommended RHNA Allocations for County of Orange

Income Category	September 3, 2020 Final Draft SCAG RHNA Allocation	County of Orange Recommended RHNA Allocation
Very Low	3,131 Units	1,646 Units
Low	1,862 Units	980 Units
Moderate	2,035 Units	1,070 Units
Above Moderate	3,353 Units	1,763 Units
TOTAL	**10,381 Units**	**5,459 Units**

List of Supporting Documentation

Attachment 1	Comment letter from Orange County Council of Governments (OCCOG) to SCAG dated February 18, 2020	3 pages
Attachment 2	Comment letter from State HCD to SCAG dated October 15, 2019	7 pages
Attachment 3	Comment letter from County of Orange to SCAG dated June 6, 2019	2 Pages
Attachment 4	Comment letter from County of Orange to SCAG dated October 2, 2019	3 Pages
Attachment 5	County of Orange – Local Input Survey	29 Pages
Attachment 6	Rancho Mission Viejo Development Agreement (2004)	163 Pages
Attachment 7	Yorba Linda Certificate of Completion	223 Pages
Attachment 8	Santa Ana Certificate of Completion	58 Pages

Attachment 1 -
Comment letter from Orange County Council of Governments (OCCOG) to SCAG dated February 18, 2020

Orange County Council of Governments

Orange County Council of Governments (OCCOG)
3972 Barranca Parkway, Ste. J127
Irvine, CA 92606

info@occog.com

February 18, 2020

Mr. Bill Jahn
President, Southern California Association of Governments (SCAG)
900 Wilshire Blvd. Suite 1700
Los Angeles, CA 90017

Subject: Regional Determination Objection to HCD

Dear Mr. Jahn,

I am writing today on behalf of the Orange County Council of Governments (OCCOG) to express our disappointment that SCAG has not continued to forcefully oppose the regional determination provided by the Department of Housing and Community Development (HCD), despite having sound legal standing to do so. Part of SCAG's purview is to represent the local governments and agencies within its jurisdiction during the RHNA process. This process is long, complex, and has lasting effects on the future character and development of cities throughout California. SCAG plays an important role as the broker between the many local governments and agencies within its jurisdiction and the decision making body in HCD. SCAG represents these local governments and agencies during the RHNA process, and advocates for their best interests. We urge you to continue in this advocacy by re-asserting SCAG's objections to HCD's Regional Housing Need Determination.

After receiving an original Regional Determination that was 1.37M units, SCAG determined that HCD had not followed RHNA statute in calculating that number. On September 18, 2019, SCAG sent a letter to HCD asserting objections to the Regional Housing Need Determination ("Determination") calculated by HCD for the SCAG region. The letter specifically stated that its purpose was to "ensure the most technically and legally credible basis for a regional determination so that the 197 local jurisdictions in the SCAG region can approach the difficult task of zoning to accommodate regional needs with the backing of the most robust and realistic target that is possible." The letter went on to outline SCAG's specific objections to the Determination, including, but not limited, to the following:

- HCD did not base the Determination on SCAG's Growth Forecast. Pursuant to Government Code 54484.01(a), HCD is required to use SCAG's Growth Forecast when it is within a range

Orange County Council of Governments

Orange County Council of Governments (OCCOG)
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of 1.5% of the **total** regional population forecast projected by the Department of Finance ("DOF"). SCAG's Growth Forecast was within 1.5% of the total DOF projection, but HCD still did not use SCAG's Growth Forecast.

- The Determination was based on a comparison of household overcrowding and cost-burden rates in the SCAG region to national averages, rather than rates in comparable regions. Government Code 65584.01(c)(2)(B) requires that this comparison be based on similar regions, not national averages. HCD's Determination used national averages as the comparison benchmark.

In both cases, SCAG's objections were firmly grounded in clear interpretations of the applicable state statutes. SCAG's letter contained several additional objections not listed here but equally well grounded in state housing law.

On October 15, 2019, HCD responded to SCAG's September 17 objection letter. HCD's letter stated that the Determination was correct, and HCD was rejecting each of SCAG's objections. Specifically, HCD explained as follows:

- HCD chose not to use SCAG's Growth Forecast because HCD based the comparison between the SCAG and DOF projections on a difference found in certain age cohorts, rather than on the total population forecast. This allowed HCD to utilize the DOF projections with certain as yet to be disclosed modifications.

- While HCD acknowledged that SCAG was correctly following state statute by utilizing comparable regions for household overcrowding and cost-burden rates, HCD determined that this comparison was not an effective benchmark, and decided to reject SCAG's input.

This pattern continues across the entirety of SCAG's objections. SCAG attempted to urge HCD to follow state statutes in order to ensure the establishment of "the most technically and legally credible basis for a regional determination." HCD chose not to, in favor of HCD's own, previously-approved Determination.

The precedent set by HCD in ignoring RHNA statute in developing the regional determination, is extremely concerning to OCCOG, and the impact on our region is significant enough to warrant continued pressure on HCD to resolve the issue. Therefore, OCCOG strongly urges SCAG to continue to insist that HCD follow state statutes in calculating the Determination.

Orange County Council of Governments

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As this letter demonstrates, a significant portion of the local governments and agencies within SCAG's jurisdiction feel HCD's casual disregard a transparent and credible Determination directly affects them. As such, it is SCAG's responsibility to act as their representative, and continue to present the objections to the best of SCAG's ability.

Thank you for your attention to this matter and please feel free to contact me with any questions or if you wish to discuss further.

Sincerely,

Marnie O'Brien Primmer
Executive Director
Orange County Council of Governments

Attachment 2 -
Comment letter from State HCD to SCAG dated October 15, 2019

STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY GAVIN NEWSOM, *Governor*

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov

October 15, 2019

Kome Ajise
Executive Director
Southern California Association of Governments
900 Wilshire Boulevard, Suite 1700
Los Angeles, CA 90017

Dear Executive Director Ajise,

RE: Final Regional Housing Need Assessment

The California Department of Housing and Community Development (HCD) has received and reviewed your objection to the Southern California Association of Governments (SCAG)'s Regional Housing Needs Assessment (RHNA) provided on August 22, 2019. Pursuant to Government Code (Gov. Code) section 65584.01(c)(3), HCD is reporting the results of its review and consideration, along with a final written determination of SCAG's RHNA and explanation of methodology and inputs.

As a reminder, there are several reasons for the increase in SCAG's 6th cycle Regional Housing Needs Assessment (RHNA) as compared to the 5th cycle. First, as allowed under Gov. Code 65584.01(b)(2), the 6th cycle RHNA applied housing need adjustment factors to the region's total projected households, thus capturing existing and projected need. Second, overcrowding and cost burden adjustments were added by statute between 5th and 6th cycle; increasing RHNA in regions where incidents of these housing need indicators were especially high. SCAG's overcrowding rate is 10.11%, 6.76% higher than the national average. SCAG's cost burden rate is 69.88% for lower income households, and 18.65% for higher income households, 10.88% and 8.70% higher than the national average respectively. Third, the 5th cycle RHNA for the SCAG region was impacted by the recession and was significantly lower than SCAG's 4th cycle RHNA.

This RHNA methodology establishes the minimum number of homes needed to house the region's anticipated growth and brings these housing need indicators more in line with other communities, but does not solve for these housing needs. Further, RHNA is ultimately a requirement that the region zone sufficiently in order for these homes to have the potential to be built, but it is not a requirement or guarantee that these homes will be built. In this sense, the RHNA assigned by HCD is already a product of moderation and compromise; a minimum, not a maximum amount of planning needed for the SCAG region.

For these reasons HCD has not altered its RHNA approach based on SCAG's objection. However, the cost burden data input has been updated following SCAG's objection due to the availability of more recent data. Attachment 1 displays the minimum RHNA of **1,341,827** total homes among four income categories for SCAG to distribute among its local governments. Attachment 2 explains the methodology applied pursuant to Gov. Code section 65584.01.

The following briefly responds to each of the points raised in SCAG's objection:

Use of SCAG's Population Forecast
SCAG's overall population estimates for the end of the projection period exceed Department of Finance's (DOF) population projections by 1.32%, however the SCAG household projection derived from this population forecast is 1.96% lower than DOF's household projection. This is a result of SCAG's population forecast containing 3,812,391 under 15-year old persons, compared to DOF's population projection containing 3,292,955 under 15-year old persons; 519,436 more persons within the SCAG forecast that are anticipated to form no households. In this one age category, DOF's projections differ from SCAG's forecast by 15.8%.

Due to a greater than 1.5% difference in the population forecast assessment of under 15-year olds (15.8%), and the resulting difference in projected households (1.96%), HCD maintains the use of the DOF projection in the final RHNA.

Use of Comparable Regions
While the statute allows for the council of government to determine and provide the comparable regions to be used for benchmarking against overcrowding and cost burden, Gov. Code 65584.01(b)(2) also allows HCD to "accept or reject information provided by the council of governments or modify its own assumptions or methodology based on this information." Ultimately, HCD did not find the proposed comparable regions an effective benchmark to compare SCAG's overcrowding and cost burden metrics to. HCD used the national average as the comparison benchmark, which had been used previously throughout 6th cycle prior to the addition of comparable region language into the statute starting in January 2019. As the housing crisis is experienced nationally, even the national average does not express an ideal overcrowding or cost burden rate; we can do more to reduce and eliminate these worst-case housing needs.

Vacancy Rate
No changes have been made to the vacancy rate standard used by HCD for the 6th cycle RHNA methodology.

Replacement Need
No changes have been made to the replacement need minimum of adjustment .5%. This accounts for replacement homes needed to account for homes potentially lost during the projection period.

Household Growth Anticipated on Tribal Lands
No changes have been made to reduce the number of households planned in the SCAG region by the amount of household growth expected on tribal lands. The region should plan for these homes outside of tribal lands.

Overlap between Overcrowding and Cost Burden
No changes have been made to overcrowding and cost burden methodology. Both factors are allowed statutorily, and both are applied conservatively in the current methodology.

Data Sources

No changes have been made to the data sources used in the methodology. 5-year American Community Survey data allows for lower margin of error rates and is the preferred data source used throughout this cycle. With regard to cost burden rates, HCD continues to use the Comprehensive Housing Affordability Strategy, known as CHAS data. These are custom tabulations of American Community Survey requested by the U.S. Department of Housing and Urban Development. These customs tabulations display cost burden by income categories, such as lower income, households at or below 80% area median income; rather than a specific income, such as $50,000. The definition of lower income shifts by region and CHAS data accommodates for that shift. The 2013-2016 CHAS data became available August 9, 2019, shortly prior to the issuance of SCAG's RHNA determination so that data is now used in this RHNA.

Next Steps

As you know, SCAG is responsible for adopting a RHNA allocation methodology for the *projection* period beginning June 30, 2021 and ending October 15, 2029. Pursuant to Gov. Code section 65584(d), SCAG's RHNA allocation methodology must further the following objectives:

(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very-low income households.
(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.
(3) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.
(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.
(5) Affirmatively furthering fair housing.

Pursuant to Gov. Code section 65584.04(e), to the extent data is available, SCAG shall include the factors listed in Gov. Code section 65584.04(e)(1-12) to develop its RHNA allocation methodology. Pursuant to Gov. Code section 65584.04(f), SCAG must explain in writing how each of these factors was incorporated into the RHNA allocation methodology and how the methodology furthers the statutory objectives described above. Pursuant to Gov. Code section 65584.04(h), SCAG must consult with HCD and submit its draft allocation methodology to HCD for review.

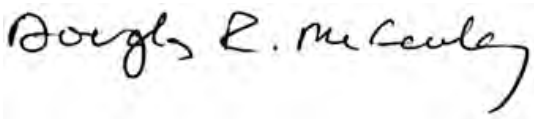
HCD appreciates the active role of SCAG staff in providing data and input throughout the consultation period. HCD especially thanks Ping Chang, Ma'Ayn Johnson, Kevin Kane, and Sarah Jepson.

HCD looks forward to its continued partnership with SCAG to assist SCAG's member jurisdictions meet and exceed the planning and production of the region's housing need. Just a few of the support opportunities available for the SCAG region this cycle include:

- SB 2 Planning Grants and Technical Assistance (application deadline November 30, 2019)
- Regional and Local Early Action Planning Grants
- Permanent Local Housing Allocation

If HCD can provide any additional assistance, or if you, or your staff, have any questions, please contact Megan Kirkeby, Assistant Deputy Director for Fair Housing, at *megan.kirkeby@hcd.ca.gov*.

Sincerely,



Douglas R. McCauley
Acting Director

Enclosures

ATTACHMENT 1

HCD REGIONAL HOUSING NEED DETERMINATION

SCAG: June 30, 2021 – October 15, 2029 (8.3 years)

Income Category	Percent	Housing Unit Need
Very-Low*	26.2%	351,796
Low	15.4%	206,807
Moderate	16.7%	223,957
Above-Moderate	41.7%	559,267
Total	**100.0%**	**1,341,827**
* Extremely-Low	14.5%	Included in Very-Low Category

Notes:

Income Distribution:
Income categories are prescribed by California Health and Safety Code (Section 50093, et.seq.). Percents are derived based on ACS reported household income brackets and regional median income, then adjusted based on the percent of cost-burdened households in the region compared with the percent of cost burdened households nationally.

ATTACHMENT 2

HCD REGIONAL HOUSING NEED DETERMINATION
SCAG: June 30, 2021 – October 15, 2029 (8.3 years)

Methodology

SCAG: June 30, 2021-October 15, 2029 (8.3 Years) HCD Determined Population, Households, & Housing Need					
1.	**Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029**				20,455,355
2.	*- Group Quarters Population: DOF 6/30/2029 projection adjusted +3.5 months to 10/15/2029*				-363,635
3.	**Household (HH) Population: October 15, 2029**				20,079,930
	Household Formation Groups	**HCD Adjusted DOF Projected HH Population**	***DOF HH Formation Rates***	**HCD Adjusted DOF Projected Households**	
		20,079,930		6,801,760	
	under 15 years	3,292,955	n/a	n/a	
	15 – 24 years	2,735,490	6.45%	176,500	
	25 – 34 years	2,526,620	32.54%	822,045	
	35 – 44 years	2,460,805	44.23%	1,088,305	
	45 – 54 years	2,502,190	47.16%	1,180,075	
	55 – 64 years	2,399,180	50.82%	1,219,180	
	65 – 74 years	2,238,605	52.54%	1,176,130	
	75 – 84 years	1,379,335	57.96%	799,455	
	85+	544,750	62.43%	340,070	
4.	**Projected Households (Occupied Unit Stock)**				6,801,760
5.	+ Vacancy Adjustment (2.63%)				178,896
6.	+ Overcrowding Adjustment (6.76%)				459,917
7.	+ Replacement Adjustment (.50%)				34,010
8.	*- Occupied Units (HHs) estimated (June 30, 2021)*				-6,250,261
9.	+ Cost Burden Adjustment (Lower Income: 10.63%, Moderate and Above Moderate Income: 9.28%)				117,505
6th Cycle Regional Housing Need Assessment (RHNA)					**1,341,827**

Explanation and Data Sources

1-4. Population, Group Quarters, Household Population, & Projected Households: Pursuant to Government Code Section 65584.01, projections were extrapolated from Department of Finance (DOF) projections. Population reflects total persons. Group Quarter Population reflects persons in a dormitory, group home, institution, military, etc. that do not require residential housing. Household Population reflects persons requiring residential housing. Projected Households reflect the propensity of persons, by age-groups, to form households at different rates based on Census trends.

5. Vacancy Adjustment: HCD applies a vacancy adjustment based on the difference between a standard 5% vacancy rate and the region's current "for rent and sale" vacancy percentage to provide healthy market vacancies to facilitate housing availability and resident mobility. The adjustment is the difference between standard 5% and region's current vacancy rate (2.37%) based on the 2013-2017 5-year American Community Survey (ACS) data. For SCAG that difference is 2.63%.

6. Overcrowding Adjustment: In region's where overcrowding is greater than the U.S overcrowding rate of 3.35%, HCD applies an adjustment based on the amount the region's overcrowding rate (10.11%) exceeds the U.S. overcrowding rate (3.35%) based on the 2013-2017 5-year ACS data. For SCAG that difference is 6.76%.

Continued on next page

7. Replacement Adjustment: HCD applies a replacement adjustment between .5% & 5% to total housing stock based on the current 10-year average of demolitions in the region's local

government annual reports to Department of Finance (DOF). For SCAG, the 10-year average is .14%, and SCAG's consultation package provided additional data on this input indicating it may be closer to .41%; in either data source the estimate is below the minimum replacement adjustment so the minimum adjustment factor of .5% is applied.

8. Occupied Units: Reflects DOF's estimate of occupied units at the start of the projection period (June 30, 2021).

9. Cost Burden Adjustment: HCD applies an adjustment to the projected need by comparing the difference in cost-burden by income group for the region to the cost-burden by income group for the nation. The very-low and low income RHNA is increased by the percent difference (69.88%-59.01%=10.88%) between the region and the national average cost burden rate for households earning 80% of area median income and below, then this difference is applied to very low- and low-income RHNA proportionate to the share of the population these groups currently represent. The moderate and above-moderate income RHNA is increased by the percent difference (18.65%-9.94%=8.70%) between the region and the national average cost burden rate for households earning above 80% Area Median Income, then this difference is applied to moderate and above moderate income RHNA proportionate to the share of the population these groups currently represent. Data is from 2013-2016 Comprehensive Housing Affordability Strategy (CHAS).

Attachment 3 -
Comment letter from County of Orange to SCAG dated June 6, 2019

DONALD P. WAGNER
ORANGE COUNTY BOARD OF SUPERVISORS
SUPERVISOR, THIRD DISTRICT

ORANGE COUNTY HALL OF ADMINISTRATION
333 W. SANTA ANA BLVD.
SANTA ANA, CALIFORNIA 92701
PHONE (714) 834-3220 FAX (714) 834-6190
http://bos.ocgov.com/third/

June 6, 2019

Honorable Peggy Huang, Chair
Community, Economic and Human Development Policy Committee
Regional Housing Needs Assessment Subcommittee
Southern California Association of Governments
900 Wilshire Boulevard, Suite 1700
Los Angeles, California 90017

Subject: Draft Regional Housing Needs Assessment (RHNA) Consultation Package to the California Department of Housing and Community Development (HCD) and Proposed RHNA Methodology Components

Honorable Chair Huang and Honorable Committee Members:

Thank you for the opportunity to provide comments on the Draft Regional Housing Needs Assessment (RHNA) Consultation Package to the California Department of Housing and Community Development (HCD) and proposed RHNA methodology components.

In the RHNA subcommittee meetings held on May 6 and June 3, 2019, the Southern California Association of Governments (SCAG) discussed the use of a RHNA methodology that will take into consideration newly-applied factors, such as overcrowding and existing need. Based on SCAG's proposed methodology to determine the RHNA allocation for the next planning period, it could result in a RHNA allocation of approximately 659,144 units (430,289 of projected need plus 228,855 units of existing need), which is a 60% increase from the 5th cycle RHNA allocation of 412,137 units for the entire SCAG region. Consequently, if jurisdictions are unable to accommodate these units, certification of the next Housing Element may not be attainable, especially given new housing legislation, which provides additional restrictions on site selection. As an example, AB 1397 restricts jurisdictions from carrying over vacant sites as housing sites if they have been included in two or more previous housing elements.

In 2014, SCAG allocated a RHNA of 5,272 units to the County of Orange (County) for the 5th cycle's 2014-2021 planning period. The County relies on private developers to build housing and cannot fully control how a property is built, such as whether a developer chooses to build at a lower density than allowed. As of December 2018, the County issued permits to construct a total of 4,292 units, which is 81.4% of the County's total RHNA allocation. Due to Orange County's market conditions and demand, 90% of the total permits requested by developers and issued were assigned to above-moderate units. In particular, the County of Orange is faced with

limitations in providing housing, such as the lack of available vacant land for high density housing, lack of funding due to the dissolution of redevelopment agencies, and previously approved and unknown future annexations. Also, entitlements controlled by development agreements for the Ranch Plan Planned Community and Ladera Ranch Planned Community cannot be altered for rezoning by the County.

In particular, the County of Orange is respectfully requesting that SCAG propose a total RHNA allocation of 430,000 for the SCAG region for the 6th RHNA cycle to State HCD, which reflects the eight-year regional projection from local jurisdictions that already incorporates both existing need and future projected need. The proposed original determination of 430,000 is consistent with the draft 2020 Regional Transportation Plan / Sustainable Community Strategy and involved a comprehensive local input process where the County reviewed data on growth approved and planned, and submitted to SCAG. Including a separate allocation for existing need will lead to double-counting. Therefore, all numbers, tables, and discussions regarding existing need as a separate calculation should be discarded from the State HCD consultation package.

In the meantime, the County is requesting preliminary draft RHNA allocations and the proposed RHNA counts for the individual variables, such as overcrowding and the share of the region's population within the high-quality transit areas, along with any supporting information for any proposed methodology so that the County can adequately analyze any potential impacts and provide feedback prior to SCAG submitting the consultation package to State HCD.

We appreciate your consideration.

Sincerely,

Donald P. Wagner
Supervisor, Third District
Orange County Board of Supervisors

CC: CEHD Committee
RHNA Subcommittee
Kome Ajise, Executive Director, SCAG

Attachment 4 -
Comment letter from County of Orange to SCAG dated October 2, 2019

DONALD P. WAGNER
ORANGE COUNTY BOARD OF SUPERVISORS
SUPERVISOR, THIRD DISTRICT

ORANGE COUNTY HALL OF ADMINISTRATION
333 W. SANTA ANA BLVD.
SANTA ANA, CALIFORNIA 92701
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http://bos.ocgov.com/third/

October 2, 2019

Honorable Peggy Huang, Chair
Community, Economic and Human Development Policy Committee
Regional Housing Needs Assessment Subcommittee
Southern California Association of Governments
900 Wilshire Boulevard, Suite 1700
Los Angeles, California 90017

Subject: Regional Housing Needs Assessment (RHNA) Methodology

Honorable Chair Huang and Committee Members:

The County of Orange expresses thanks to the RHNA Subcommittee, CEHD Policy Committee, Regional Council, and SCAG staff for the ongoing discussion to establish a feasible RHNA that complies with new state housing law and furthers the state housing goals. The County of Orange remains committed to addressing housing in the County's unincorporated areas, but is faced with unique challenges due to the 6th Cycle RHNA and the implications of recently enacted state housing laws.

California State Housing Law requires each jurisdiction to plan for existing and future housing needs to accommodate the unit allocation identified in the Regional Housing Needs Assessment (RHNA) process. The County supports the concept of using data, such as population growth rates, housing unit growth projections, and existing local land use policies as components of the RHNA methodology as these contribute to a collaborative local input process, which is also the foundation to SCAG's Regional Transportation Plan/Sustainable Communities Strategy, also known as Connect SoCal. Local input has always been a valuable and integral part of SCAG's RHNA planning process. It provides the necessary local perspectives to help determine the local capacities, limitations and challenges inherent in each jurisdiction within the SCAG region. A one-size-fits-all approach as currently being considered is not a practical or feasible approach to achieve local and regional housing goals. Responsible and effective planning for housing must be done within the context of each jurisdiction's surrounding constraints, neighborhood character, and with the perspectives of the communities themselves. As an example, entitlements controlled by development

agreements, such as for the Ranch Plan Planned Community (Rancho Mission Viejo) cannot be amended for rezoning by the County.

The County has already built much of the region's share of housing need. Since 2010, the County has successfully issued over 6,300 permits, thus making the County of Orange one of the leaders in the issuance of residential permits in Orange County.

State HCD recently released the final Regional Housing Needs Determination (RHND) of 1,344,740 housing units for the SCAG region. The County contends that this is not a realistic or feasible number of units to be constructed during the 6th Cycle. In comparison, SCAG received a 5th Cycle RHND of 412,137 units. This equates to a 226% increase in housing unit production for the SCAG region. This increase is unprecedented. Based upon the draft RHNA allocations currently available, the potential increase in 2021-2029 RHNA obligations indicates up to a 279% increase in growth need while the County's available resources to accommodate future growth is hindered by the continued reduction in sites available to accommodate future development.

For the 5th Cycle, 5,272 units were allocated to the County of Orange. As of December 2019, the County issued permits to construct a total of 4,292 units, which is 81.4% of the County's total RHNA allocation. Due to Orange County's market conditions and demand, 90% of the total permits issued were assigned to above moderate units. Removing the above moderate housing category as proposed would remove much of the County's contributions to creating market-rate housing, one of the most sought-after housing types. Also, the development of income-restricted units is scarce given the lack of available funding sources for affordable housing. Therefore, the County of Orange opposes the elimination or redistribution of the Above Moderate Category as described in Option 1 of the proposed RHNA methodologies.

The County is faced with unique challenges that are not encountered by cities, such as the potential loss of developable land due to annexations throughout the planning period. As unincorporated areas develop a stronger sense of community and economic base, cities are more likely to annex these unincorporated areas within city boundaries. In addition, the County, as a regional lender of affordable housing developments, provides funding to cities and does not receive RHNA credit. Therefore, the County is also requesting a clearly-defined and streamlined process for the transfer of RHNA credit from a city to the County, in instances where the County is financing the development in a city and both parties mutually agree on the arrangement.

The County supports the technical comments provided by the Center for Demographic Research (CDR) that are intended to ensure a reasonable RHNA methodology and allocation process.

Given the significant increases that are anticipated in RHNA unit allocations for all SCAG jurisdictions, the County encourages SCAG to host public forums for elected officials to discuss

how recent and pending legislation may impact each jurisdiction's Housing Element and the consequences of not achieving certification. It is imperative that elected officials are provided with information on how new state laws, State HCD guidance, and the relationship to statutes have to the feasibility of a jurisdiction's ability to provide available sites to accommodate the RHNA obligation.

The County is also requesting more information and details on the appeals and redistribution process.

SCAG has indicated that the final methodology that could be utilized may either be a new methodology or some hybrid of the three currently proposed methodologies. If so, the County is requesting that SCAG provide a sufficient amount of time and robust opportunity for public comment and review prior to any future SCAG Board action beyond the current standard three days for posting an agenda for a public meeting.

The County recognizes and appreciates the effort provided by everyone on this important and complex issue and for your consideration of these items.

Sincerely,

Donald P. Wagner
Supervisor, Third District
Orange County Board of Supervisors

CC: CEHD Committee
RHNA Subcommittee
Kome Ajise, Executive Director, SCAG
housing@scag.ca.gov

Attachment 5 -
County of Orange – Local Input Survey

SCAG Local Input Survey

The Southern California Association of Governments (SCAG) is currently seeking input from local jurisdictions across the six-county area to begin a new long-range plan for the region, the 2020- 2045 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS). The 2020 RTP/SCS is a long-range visioning plan containing transportation projects and land use development strategies, that balances future mobility and housing needs with economic, environmental and public health goals. Additionally, per SB 375, land use strategies developed within the SCS will help the region achieve state greenhouse gas emission reduction goals.

SCAG is collecting information from local jurisdictions related to the implementation of the 2012 and 2016 RTP/SCS, as well as to inform development of the 2020 RTP/SCS. A copy of the 2016 RTP/SCS Local Input Survey from your jurisdiction has also been provided to facilitate the response process. Please respond to each question as it pertains to your jurisdiction. Due to the multidisciplinary nature of the questions, we encourage an interdepartmental collaboration to answer questions within the survey. Responses are due by October 1, 2018. A web version of the survey is available at: https://www.surveymonkey.com/r/FB6QFTT

PART I – LAND USE

General Plan

1. Please enter the year of your jurisdictions most recent general plan element update. Add information for any additional elements contained in the General Plan but not listed:

Element	Year	Web link	Comments
Land Use	2015		
Circulation	2018		
Housing	2013		
Conservation	2013		
Open space	2012		
Noise	2012		
Safety	2013		
[Additional Element]	2012		Public Services & Facilities
[Additional Element]	2015		Growth Management
[Additional Element]			

[Other Comments]

2. Is your jurisdiction currently in the process of updating its General Plan? Yes ☐ No X If yes, when do you expect to complete the update? Date: [Publish Date]

[Other Comments]

3. Which elements of the general plan will your jurisdiction plan to update within the next five years?

Element	Year	Comments
Housing	2021	
Safety	2021	
[Title]		
[Title]		
[Title]		

[Other Comments]

4. Does the most recently adopted general plan update support or intend to support any of the following Sustainable Communities Strategies (SCS)?

Strategies	Yes	No	Intend	Elements	Web link
Transit oriented development (TOD)	X	☐	☐		
Infill	X	☐	☐		
Complete communities	☐	X	☐		
Non-residential mixed use	☐	X	☐		
Infill along Livable corridors	☐	X	☐		
Form based code	☐	X	☐		
Other [Other]	☐	☐	☐		

[Other Comments]

5. Does the circulation element of your General Plan include the following:

Plans and Guidelines	Yes	No	Web link
Guidelines for freight movement and heavy duty vehicles	☐	X	
Designated truck route system	☐	X	
Truck circulation plan	☐	X	
A plan for the development of multimodal transportation networks per the California Complete Streets Act (AB 1358)	☐	X	

[Other Comments]

6. When was the zoning code last updated to reflect your most recent amendments?
Date: pending Web link: http://www.ocgov.com/gov/pw/ds/

[Other Comments]

7. Is your jurisdiction currently in the process of updating its land use designation and zoning code? Yes x ☐ No ☐ If yes, when do you expect to complete the update? Date: 2019

[Other Comments]

8. Did your jurisdiction's most recent land use designation and/or zoning code update include provisions supporting any of these policies?

Land Use Designation and/or Zoning Code	Yes	No	Designation/Code	Web link
Transit oriented development (TOD)	x	☐		
Infill	x	☐		
Complete communities	☐	x		
Non-residential mixed use	x	☐		
Infill along Livable corridors	☐	x		
Form based code	☐	x		
Accessory dwelling units	x	☐		
Other [Other]	☐	☐		

[Other Comments]

9. Does your jurisdiction have TOD building standards and design guidelines? Yes ☐ No x

[Other Comments]

10. Does your jurisdiction offer incentives for infill development? Yes x ☐ No ☐
If yes, which of the following apply:

Incentives	Yes	No	Web link
Fast track permitting	x	☐	
Fee Waivers	x	☐	
Density bonus	x	☐	
Increased floor area ratio	☐	x	
Building height waivers	x	☐	
Tax subsidies or other benefits	☐	x	
Waived or reduced minimum parking requirement	x	☐	
Reduced open space requirements	☐	x	
Transfer of development rights	☐	x	

Other	[Other]	☐	☐	

[Other Comments]

11. Does your jurisdiction overlap with a High Quality Transit Area (HQTA) as included in the 2016 RTP/SCS? (Please refer to the HQTA Map located at SCAG's Scenario Planning Model (SPM)'s Data Management site at https://spmdm.scag.ca.gov to check out HQTA boundaries in your jurisdiction). Yes x] No ☐

[Other Comments] only bus routes

12. Does your jurisdiction have policy incentives to encourage development of TODs? Yes x No ☐
If yes, which of the following apply:

Incentives and Policies	Yes	No	Web link
Fast track permitting	x	☐	
Fee waivers	x	☐	
Density bonus	x	☐	
Increased floor area ratio	☐	x	
Building height waivers	x	☐	
Tax subsidies or other benefits	☐	x	
Waived or reduced minimum parking requirement	x	☐	
Reduced open space requirements	☐	x	
Affordable Housing Set aside	☐	x	
Other [Other]	☐	x	

[Other Comments]

13. Do any adopted specific plans and/or community plans with certified EIRs overlap with the existing Transit Priority Areas (TPAs)? Yes ☐ No x
If yes, please list their names and years of adoption below.

Name	**Year**	**Comments**
[Title]	1995	Ladera Ranch
[Title]	1995	Coto De Caza
[Title]	1991	Foothill Trabuco Specific Plan
[Title]	1990	Las Flores
[Title]	2004	Rancho Mission Viejo

[Other Comments]

14. Are there any other adopted specific plans and/or community plans that do not overlap with the existing Transit Priority Areas (TPAs)? Yes x No ☐
If yes, please list their name and years of adoption below.

Name	Year	Comments
[Title]	1986	Cowan Ranch
[Title]	1986	North Tustin
[Title]	1977	Silverado-Modjeska
[Title]		
[Title]		

[Other Comments]

15. Which of the following parking strategies are included in any of your existing specific plans or general plans?

Parking strategies	Yes	No	Web link
Right-sized parking	☐	x	
Park-once districts	☐	x	
Shared parking	☐	x	
Unbundled parking	☐	x	
Parking maximums in designated areas	☐	x	
Innovative parking design (i.e. Sustainable features)	☐	x	
Waived or reduced minimum parking requirement	x	☐	
Bicycle Parking	☐	x	
Other [Other]	☐	x	

[Other Comments]

16. Does your jurisdiction have a small lot development policy? Yes x No ☐ Date: [Publish Date]
Web link: [link] http://www.ocgov.com/gov/pw/ds/

[Other Comments]

17. Does your jurisdiction have any policies or programs in place to resolve potential impacts related to goods movement activities? Yes ☐ No x
If yes, please provide name and years of adoption below.

Policies or Programs	Year	Web link

[Title]		
[Title]		
[Title]		
[Title]		
[Title]		

[Other Comments]

18. Does your jurisdiction have any design guidelines in place for logistics center, warehouse or distribution facility development? Yes ☐ No x Date: [Publish Date] Web link: [link]

[Other Comments]

19. Does your jurisdiction have any policies or programs in place for the design of industrial neighborhoods? Yes ☐ No x
If yes, please provide name and years of adoption below.

Policies or Programs	**Year**	**Web link**
[Title]		
[Title]		
[Title]		
[Title]		
[Title]		

[Other Comments]

20. Does your jurisdiction have a development/impact/linkage fee ordinance? Yes x No ☐ Date: [Publish Date] Web link: [link] http://www.ocgov.com/gov/pw/ds/
If yes, which of the following does it fund?

Areas that receive funding	**Yes**	**No**	**Web link**
Parks	x	☐	
Affordable housing	☐	x	
Natural lands/Open space preservation	x	☐	
Transit improvements/amenities	x	☐	
Other [Other]	☐	☐	

[Other Comments]

21. Does your jurisdiction participate in the Mills Act in an effort to maintain, preserve or rehabilitate historically significant property? Yes x| No ☐

[Other Comments]

22. Does your jurisdiction use any of the following water management and efficiency strategies:

Strategies	Yes	No	Web link
Stormwater management best practices	x	☐	
Greywater/reclaimed water (purple pipes)	x	☐	
Ground water recharge	x	☐	
Low impact development	x	☐	
Green infrastructure	x	☐	
Reduced impervious surface and/or lot coverage incentives	x	☐	
Other [Other]	☐	☐	

[Other Comments]

Housing

23. Does your jurisdiction utilize or are considering any of the following zoning or land use strategies for housing?

Strategies	Yes	No	Web link
Inclusionary zoning ordinance	☐	x	
- **Is there an in-lieu fee component?**	☐	x	
Rent stabilization ordinance	☐	x	
- **Maximum annual percentage rent increase allowed**	[Comments]		
Affordable housing preservation ordinance	☐	x	
Mortgage down payment assistance program	x	☐	
Special financing district (CRIA, EIFD, Others?)	☐	x	
Incentives for affordable housing	x	☐	
- **Fast track permitting**	x	☐	
- **Fee waivers**	x	☐	
- **Density bonus**	x	☐	
- **Increased floor area ratio**	☐	x	
- **Building height waivers**	x	☐	
- **Tax subsidies or other benefits**	☐	x	
- **Waived or reduced minimum parking requirements**	x	☐	

- Reduced open space requirements	☐	x	
- Other relaxed requirements for affordable housing	x	☐	
Low-income housing tax credit (LITHC)	☐	x	
Other [Other]	x	☐	

[Other Comments]

24. Please fill in the number of affordable and non-affordable units permitted for each Regional Housing Needs Assessment (RHNA) category since the beginning of the reporting period for the current RHNA cycle (October 2013- October 2021). Affordable units are defined as affordable for households with incomes of 80% or less of county median income, or the very low and low income RHNA categories. Data can be found in your submitted annual progress report to the California Department of Housing and Community Development (HCD). (Please note that your housing permit data will not be used to determine the subsequent RHNA).

Year	Affordable Housing (very low and low)	Non-affordable housing (moderate and above moderate)
2014	0	773
2015	0	513
2016	232	777
2017	0	1388

[Other Comments]

25. Please indicate if any of the following planning circumstances affect future household growth in your jurisdiction (While this section is not the official local planning survey of the RHNA process, SCAG will use responses to inform the formal local survey as part of the 6th RHNA cycle process, beginning in 2018)

Circumstances	Yes	No
Existing and projected job housing balance	x	☐
Lack of capacity for sewer or water service due to federal and state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.	x	☐
Availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities.	x	☐
Lands preserved or protected from urban development under existing federal and state programs, or both, designed to protect open space, farmland, environmental habitats and natural resources on a long-term basis.	x	☐
County policies to preserve agricultural land within an unincorporated area.	x	☐

Distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.	☐	X
Loss of low-income housing units in assisted housing developments due to contract expirations or termination of use restrictions.	X	☐
Market demand for housing	☐	X
Agreements between a county and cities in a county to direct growth toward incorporated areas of the county	☐	X
High housing cost burdens	X	☐
Housing needs of farm workers	☐	X
Housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction	☐	X
Demand for rural housing	☐	X
Other [Other]	☐	☐

[Other Comments]

PART II – TRANSPORTATION

26. Has your jurisdiction adopted or plan to adopt any of the following (check I.D., if currently is in development):

Adopted Policies, Plans and Strategies	Yes	No	I.D.	Year	Web link
Complete streets policy	☐	X	☐		
- **Does it include provisions for delivery vehicles or truck access?**	☐	X	☐		
Safe routes to school program or plan	☐	X	☐		
Active transportation plan	X	☐	☐		
Bicycle master plan	X	☐	☐		
Pedestrian master plan	☐	X	☐		
Streetscape standards and design guidelines	X	☐	☐		
Transportation master plan	X	☐	☐		
Traffic calming measures	X	☐	☐		
Transportation demand management program	X	☐	☐		
Transportation demand management ordinance	X	☐	☐		
Parking management plan/ordinance	☐	X	☐		
- **Provisions for truck parking?**	☐	X	☐		
- **Provisions for commercial vehicle access?**	☐	X	☐		
Vision zero policy	☐	X	☐		
Safety plan/safety targets	☐	X	☐		
Industrial land use ordinance	X	☐	☐		
Intelligent transportation systems plan/program	X	☐	☐		

Intermodal facility plan	☐	X	☐	
Truck Route/Truck prohibit route plan	X	☐	☐	
Multimodal performance measures/targets	X	☐	☐	
Transit overlay district	☐	X	☐	
First/Last Mile Strategies	☐	X	☐	
Scenic Roadway Plan	X	☐	☐	

[Other Comments]

27. Has your jurisdiction or employers within your jurisdiction adopted or implemented any of the following Travel Demand Management (TDM) Strategies:

Adopted TDM strategies	Yes	No	Year	Web link
Ridesharing incentives and rideshare matching	X	☐		
Vanpool programs	X	☐		
Transit pass benefits	X	☐		
Private employer shuttles or other transportation providers	X	☐		
Parking cash-out policies	☐	X		
Preferential parking or parking subsidies for carpoolers	X	☐		
Intelligent parking programs	☐	X		
Dynamic pricing for parking	☐	X		
Programs or mobility services aimed at local tourism travel (e.g. Shuttle bus)	☐	X		
Guaranteed ride home programs	☐	X		
Incentives for telecommuting	X	☐		
Designated pick-up/drop-off for ride sourcing or transportation network companies (Lyft or Uber)	☐	X		
Bike share system	☐	X		
Facilities or incentives for low speed modes (Neighborhood Electric Vehicles)	☐	X		
Integrated mobility hubs	☐	X		
Transportation management areas	☐	X		

[Other Comments]

28. Is your jurisdiction currently in the process of or planning to address vehicle miles travelled (VMT) related development impacts? Yes ☐ No X

If yes, please list applicable projects and measures taken (or proposed) to mitigate VMT impacts.

Project Name	**Comments**

[Title]	
[Title]	
[Title]	
[Title]	
[Title]	

[Other Comments]

29. Does your jurisdiction provide or plan to provide any of the following Bus Rapid Transit (BRT) infrastructure:

BRT Infrastructure	Yes	No	Web link
Bus-only land	☐	X	
Signal prioritization	☐	X	
Ticket vending machines on sidewalks for expediting boarding	☐	X	
First/Last mile connectivity improvements	☐	X	
Other [Other]	☐	☐	

[Other Comments]

30. If applicable, please provide the estimated annual expenditures for the following:

N/A

Annual expenditures	Annual spending
Bus stops/shelters	
Wayfinding/signage	
Data/trip planner	

[Other Comments]

31. Does your jurisdiction receive local return funding (from a county transportation tax measure)?
Yes X] No ☐

If yes, does your jurisdiction have an adopted policy for prioritizing spending of these funds? Yes X ☐ No ☐ Date: [Publish Date] Web link: [link]

[Other Comments]

32. Does your jurisdiction use local return revenue to fund any of the following:

Funding	Yes	No

Bike Lanes	x	☐
Pedestrian improvements	x	☐
Repair (pavement, potholes)	x	☐
Signal synchronization	x	☐
Fixed route transit service	☐	x
Dial-a-ride or other demand response service	☐	x
Taxi scrip	☐	x
Cool streets	☐	x
Other Shuttle ride services, street intersections, road widening, storm water quality along streets	☐	☐

[Other Comments]

33. Does your jurisdiction have a vehicle idling reduction policy or use communication/signage to reduce idling, particularly in sensitive areas such as near schools or hospitals? Yes ☐ No x Date: [Publish Date] **Web link:** [link]

[Other Comments]

34. Has your jurisdiction recently budgeted a portion of its municipal funding (from the general fund, capital improvement program, or other sources) for bicycle and/or pedestrian improvements? Yes x No ☐ Date: [Publish Date]

[Other Comments]

PART III – ENVIRONMENTAL

Environmental Preferable Purchasing Policy

35. Does your jurisdiction have an environmentally preferable purchasing (EPP) Policy? (Includes office supplies, cleaning products, or electronics that are considered "green". Yes x No ☐

    If yes, what percent of your municipal expenditures goes towards environmentally preferable purchases? Percent: 50%

    If no, is your jurisdiction interested in developing or have visions of including one in future general plan updates? Yes ☐ No ☐

CEQA Streamlining

36. Has your jurisdiction approved projects utilizing CEQA streamlining? (SB 743, SB 375, or SB 226) Yes ☐ No x
    If yes, please provide projects and approval year below.

Project	Year	Web link
[Title]		
[Title]		
[Title]		
[Title]		
[Title]		

[Other Comments]

Natural and Agricultural Lands

37. Does your jurisdiction encourage the use of vegetation native to Southern California? Yes ☐ No [x

If yes, which of the following mechanisms does your jurisdiction use to promote native vegetation?

Mechanisms	Yes	No
Through code requirements	☐	[x
Code incentives	☐	x
In conjunction with development on privately owned land	☐	x
In conjunction with development on publicly owned land	☐	x
In conjunction with the development with public infrastructure projects	☐	x
Other [Other]	☐	☐

[Other Comments]

38. Does your jurisdiction participate in any of the following natural lands conservation strategies?

Natural lands conservation strategies	Yes	No	Web link
Conservation easement	[x	☐	
Development impact fee	x	☐	
Hillside/steep slope protection ordinance	☐	x	
Transfer of development rights	☐	x	
Mitigation bank	☐	x	
Multiple species habitat conservation program (MSHCP)	☐	[x	
Natural community conservation plan (NCCP)	x	☐	
Other [Other]	☐	☐	

[Other Comments]

39. Does your jurisdiction participate in any of the following agricultural lands conservation strategies?

Agricultural Lands Conservation Strategies	Yes	No	Web link
Conservation easement	X	☐	
In-lieu fee	☐	X	
Agricultural land mitigation program	☐	X	
Williamson act	X	☐	
Cluster ordinance	☐	X	
Other [Other]	☐	☐	

[Other Comments]

40. What kinds of funds (from your general fund, special allocations, or voter-approved taxes/bonds) or other funding mechanisms are available to implement natural/agricultural conservation programs? Please select all that apply.

Funds	Yes	No
General Fund	X	☐
Grant Funds	X	☐
Development impact fee	X	☐
Other [Other]	☐	☐

[Other Comments]

41. Do you have any pending or future plans to develop natural/agricultural programs or policies in your jurisdiction in the near future? Yes ☐ No X

If yes, please provide projects and approval year below:

Project	Year	Web link
[Title]		
[Title]		
[Title]		
[Title]		
[Title]		

[Other Comments]

42. Do you face any barriers to implementing conservation programs in your jurisdiction? Yes X No ☐

If yes, please indicate which barriers from the list below:

Barriers	Yes	No
Funding	x	☐
Capacity (staff time)	x	☐
Lack of interest from constituents	x	☐
Other [Other]	☐	☐

[Other Comments]

43. Is your jurisdiction interested in applying for conservation grants through the California Greenhouse Reduction Fund (i.e. Cap and Trade)? Yes ☐ No x
    If yes, which of the following would be most helpful to your jurisdiction:

Grants	Yes	No
Sustainable agricultural lands conservation program	☐	x
Urban greening grant program	☐	x
Wetlands restoration for greenhouse gas reduction program	☐	x
Other [Other]	☐	☐

[Other Comments]

44. Are there any additional data, resources, tools or examples you need for considering conservation planning or mitigation? What types of data would be useful to have?
    Please list: [Comments]

[Other Comments]

45. What other agencies, non-profits, or private entities are particularly active in conservation planning, mitigation and conservation in your jurisdiction? Who else should we talk to?
    Please list: [Comments]

Natural Communities Coalition, Friends of Harbors Beaches and Parks

Environmental Justice

46. Does your jurisdiction have any disadvantaged areas? Yes x No ☐
    If no, please skip to question 52.

[Other Comments]

47. Does your jurisdiction take into account disadvantaged areas in planning, when seeking grant funding? Yes x No ☐

[Other Comments]

48. Does your jurisdiction make use of the CalEnviroScreen tool developed by CalEPA to help identify disadvantaged communities within your jurisdiction? Yes ☒ No ☐

[Other Comments]

49. Does your jurisdiction have a program to mitigate air quality in environmentally sensitive areas (for example: hospitals, schools, hospices, or daycare facilities located within 500 feet of a freeway)? Yes ☐ No ☒ Date: [Publish Date] Web link: [link]

[Other Comments]

50. Which of the following strategies does your jurisdiction employ to engage low-income, minority groups and Tribal Governments when pursuing community infrastructure projects?

Strategies	Yes	No
We host community workshops in targeted locations to solicit feedback from low-income and minority residents	☒	☐
We regularly engage community groups that have a large membership from low-income and minority residents	☒	☐
We advertise in media outlets that aim to serve low income and minority residents	☒	☐
We go out to community events and activities to engage residents who may not be able to attend workshops	☒	☐
All of the above	☒	☐
Other [Other]	☐	☐

[Other Comments]

51. If your jurisdiction leads federally funded infrastructure or transportation programs, how do you identify and resolve potential severe and adverse impacts to low income and minority populations?

Strategies	Yes	No
We conduct an environmental justice impacts analysis and seek input from community residents to minimize, mitigate, or avoid potentially severe or adverse impacts for low income and minority communities	☒	☐
We engage low income and minority residents early in the planning process to avoid impacts	☒	☐

We work with our County Transportation Commission to address impacts	X	☐
Other [Other]	☐	☐

[Other Comments]

52. Does your jurisdiction promote the use of New Markets Tax Credit Benefits to revitalize the community? Yes ☐ No X

[Other Comments]

Environmental Sustainability

53. Has your jurisdiction adopted or plan to adopt a Climate Action Plan? Yes ☐ No X Date: [Publish Date] Web link: [link]
If yes, what is your greenhouse gas reduction target and anticipated horizon year? Target/Horizon Year: [Year]

[Other Comments]

54. Does your jurisdiction have plans or policies in place to implement a local version of the State's climate goal of reducing greenhouse gases by 40% below 1990 levels by 2030? Yes ☐ No X
Date: [Publish Date] Web link: [link]

[Other Comments]

55. Does your jurisdiction have the capacity (i.e. staffing and resources) to apply for Greenhouse Gas Reduction Fund (cap-and-trade) or other federal, state or local grants? Yes X No ☐

[Other Comments]

56. Does your general plan and/or specific plan consider implications resulting from any of the following climate change hazards:

Topics	Yes	No	Web link
Fire	X	☐	
Flood	X	☐	
Drought resistance	X	☐	
Heat island effect	☐	X	
Sea level rise	X	☐	
Other [Other]	☐	☐	

[Other Comments]

57. Does your jurisdiction monitor energy use in order to employ energy efficiency measures? Yes x ☐ No ☐

If yes, how frequently is energy use reviewed?

Frequency	Yes	No
Weekly	☐	☐
Monthly	☐	☐
Quarterly	☐	☐
Annually	x	☐
Other [Other]	☐	☐

[Other Comments]

58. Please indicate if your jurisdiction promotes the usage of Electrical Vehicles and/or Alternative Fuel Fleet stations or strategies:

Stations/Fleet	Yes	No	Comments
Electrical Vehicle Station	x	☐	
- Heavy Duty Vehicles	0		
- Passenger/Light Duty Vehicles	66		
- How many in municipal fleet?	66		
Alternative Fuel Fleet	x	☐	
- Heavy Duty Vehicles	33		
- Passenger/Light Duty Vehicles	6		
- How many in municipal fleet?	39		
Other [Comments]	☐	☐	

[Other Comments]

PART IV – PUBLIC HEALTH AND SAFETY

59. Does your jurisdiction have a 'Healthy Cities' resolution or ordinance? Yes ☐ No x Date: [Publish Date] Web link: [link]

[Other Comments]

60. Does your jurisdiction have a Health Element as part of its general plan or has your jurisdiction incorporated health as a consideration into the general plan? Yes ☐ No ☒ Date: [Publish Date] Web link: [link]

[Other Comments]

61. Has your jurisdiction incorporated any of the following planning practices?

Planning practices	Yes	No	Web link
Health in all policies	X	☐	
Health equity	X	☐	
Analysis of the social determinants of health	X	☐	

[Other Comments]

62. Does your jurisdiction have any of the following plans to address emergencies caused by natural disasters?

Emergency and Natural Disaster Plans	Yes	No	Web link
Seismic safety plan	X	☐	
Emergency evacuation plan	X	☐	
Emergency response plan	X	☐	
Hazard mitigation plan	X	☐	
Fire protection plan	X	☐	
Other [Other]	☐	☐	

[Other Comments]

PART V – DATA

63. Does your jurisdiction have or collect any of the following:

Data	Yes	No	Contact Name	Email
Bicycle or pedestrian volume data	X	☐		
Sidewalk data	☐	X		
Traffic counts	X	☐		
Truck traffic counts	X	☐		
Automated traffic counters	X	☐		
Warehousing/distribution centers	☐	X		
Number of manufacturing firms	☐	X		

Local road pavement management and performance data	X	☐		
Public health data	☐	X		
Bike lane mileage data (bike lane, bike path, Class 3 bike routes, separated bike lanes (cycle tracks))	X	☐		
Collision data	X	☐		
Bridge condition data	X	☐		
Pavement condition index (PCI) or International roughness index (IRI) data for local roads.	X	☐		
Open data portal	☐	X		
New Housing starts data	☐	X		
Allowed parking and restricted parking areas	☐	X		

[Other Comments]

Regional Housing Needs Assessment (RHNA) Local Planning Factor Survey

The RHNA process requires that SCAG survey its jurisdictions on local planning factors (formerly known as "AB 2158 factors") prior to the development of a proposed RHNA methodology, per Government Code 65584.04 (b). Information collected from this survey will be included as part of the proposed RHNA methodology.

Between October 2017 and October 2018, SCAG included these factors as part of the local input survey and surveyed a binary yes/no as to whether these factors impacted jurisdictions. If your jurisdiction answered this part of the survey, your reply has been pre-populated in the table. Please review each factor and provide any information that may be relevant to the RHNA methodology. You may attach additional information to the survey. Please keep in mind that recent housing-related legislation has updated some of the factors listed, which were not included in the prior survey.

Per Government Code Section 65584.04 (g), there are several criteria that **cannot** be used to determine or reduce a jurisdiction's RHNA allocation:

(1) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by the jurisdiction
(2) Underproduction of housing units as measured by the last RHNA cycle allocation
(3) Stable population numbers as measured by the last RHNA cycle allocation

The planning factors in the table below are abbreviated. For the full language used, please refer to Government Code Section 65584.04 (e) or the attached reference list.

Please review and submit the survey by 5 p.m. April 30, 2019 to housing@scag.ca.gov.

RHNA Methodology Local Planning Factor Survey

Jurisdiction	County of Orange
County	Orange

Planning Factor	Impact on Jurisdiction
Existing and projected jobs and housing relationship, particularly low-wage jobs and affordable housing	Yes
Lack of capacity for sewer or water service due to decisions made outside of the jurisdiction's control	Yes
Availability of land suitable for urban development	Yes

Lands protected from development under Federal or State programs	Yes
County policies to preserve agricultural land	Yes
Distribution of household growth assumed for regional transportation planning and opportunities to maximize use of public transportation	No
Agreements between a county and cities to direct growth to incorporated areas of the county	No

Loss of low income units through contract expirations	Yes
[NEW] Percentage of households that pay more than 30% and more than 50% of their income on rent	Share of renter households spending 30% or more on rent is 55%. Share of renter households spending 50% or more on rent is 28%.
[NEW] Rate of overcrowding	4%
Farmworker housing needs	No

Housing needs generated by the presence of a university campus within the jurisdiction	No
[NEW] Loss of units during a declared state of emergency that have yet to rebuilt at the time of this survey	No
[NEW] The region's greenhouse gas emission targets provided by the California Air Resources Board	Yes
Other factors	N/A

Affirmatively Furthering Fair Housing (AFFH) Survey

Jurisdiction	County of Orange
County	Orange County
Survey Respondent Name	Colby Cataldi
Survey Respondent Title	Deputy Director, OC Public Works

SCAG is surveying cities and counties on information related to affirmatively further fair housing* as part of its development of the Regional Housing Needs Assessment (RHNA) proposed methodology. Information related to AFFH may be obtained from local analysis for housing choice, housing elements, and other sources. Using your jurisdiction's Analysis of Impediments to Fair Housing Choice, Assessment of Fair Housing, and/or local housing element, please answer the questions below about local issues, strategies and actions regarding AFFH and submit your answers no later than April 30, 2019 to housing@scag.ca.gov.

Data Sources

1a. Does your jurisdiction have an Analysis of Impediments to Fair Housing Choice or an Assessment of Fair Housing due to U.S. Department of Housing and Urban Development (HUD) requirements?

Yes	X
No	

2. When did you jurisdiction last update the General Plan?

Year	Last amendment adopted in 2018

3a. Does your General Plan have an environmental justice/social equity chapter or integrate environmental justice/social equity, per SB 1000?

Yes	
No	X
In process	

3b. If you answered yes or in process to question 3a, how does your General Plan integrate or plan to integrate environmental justice?

A) An environmental justice chapter	
B) Throughout the General Plan in each chapter	
C) Both	

* Per Government Code 65584(e), affirmatively furthering fair housing is defined as "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws."

Fair Housing Issues

4. Describe demographic trends and patterns in your jurisdiction over the past ten years. Do any groups experience disproportionate housing needs?

The population size has increased by 7.5% and housing units have increased by 7.2% over the last decade.

5. To what extent do the following factors impact your jurisdiction by contributing to segregated housing patterns or racially or ethnically-concentrated areas of poverty?

Land use and zoning laws, such as minimum lot sizes, limits on multi-unit properties, height limits, or minimum parking requirements	See County of Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan.
Occupancy restrictions	See County of Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan.
Residential real estate steerings	See County of Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan.
Patterns of community opposition	See County of Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan.
Economic pressures, such as increased rents or land and development costs	See County of Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan.
Major private investments	See County of Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan.
Municipal or State services and amenities	See County of Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan.
Foreclosure patterns	See County of Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan.
Other	N/A

6. To what extent do the following acts as determinants for fair housing and compliance issues in your jurisdiction?

Unresolved violations of fair housing or civil rights laws	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Patterns of community opposition	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Support or opposition from public officials	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Discrimination in the housing market	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Lack of fair housing education	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Lack of resources for fair housing agencies and organizations	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.

Fair Housing Strategies and Actions

7. What are your public outreach strategies to reach disadvantaged communities?

Partnership with advocacy/non-profit organizations	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Partnership with schools	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Partnership with health institutions	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Variety of venues to hold community meetings	County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement.
Door-to-door interaction	Not applicable
Increased mobile phone app engagement	Not applicable.
Other	

8. What steps has your jurisdiction undertaken to overcome historical patterns of segregation or remove barriers to equal housing opportunity?

County has an existing contract with Orange County Fair Housing Council for fair housing education counseling and enforcement. Also, see County of Orange Housing Element.

9. What steps has your jurisdiction undertaken to avoid, minimize, or mitigate the displacement of low income households?

See County of Orange Housing Element.

Attachment 6 -
Rancho Mission Viejo Development Agreement (2004)

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

November 8, 2004

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

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

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

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

WHEREAS, on November 8, 2004, this Board approved a General Plan Amendment (GPA01-01) and Zone Change (ZC01-02) authorizing the development of the Ranch Plan 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

WHEREAS, this Board's approvals of GPA01-01 and ZC01-02 were expressly conditioned upon RMV's satisfaction of certain conditions ("Conditions of Approval") obligating 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

WHEREAS, RMV proposes to enter into a development agreement ("Development Agreement") with the County for the Property whereby RMV would provide a series of public benefits to the County in exchange for the County's assurance that (i) RMV's development rights relative to the Project would immediately vest and (ii) the planned community development 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED THAT based upon the foregoing recitals, 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

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

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

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

a. Transportation Improvements/Contributions

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

- Acceleration of RMV's Fair Share payment obligations for the transportation improvements identified in the Conditions of Approval.
- 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

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

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:

- 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]

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

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

CHAIRMAN

STATE OF CALIFORNIA)
) ss.
County of Orange)

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

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

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

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

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

DARLENE J. BLOOM, Clerk of the Board of Supervisors

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
2004001082094 11:24am 12/06/04
115 42 A12 157
0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00

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)

1-IR/404304.8

TABLE OF CONTENTS

Page

RECITALS 1

AGREEMENT 3

1. SECTIONS, DEFINITIONS AND EXHIBITS. 3
   - 1.1 Sections and Paragraphs. 3
   - 1.2 Definitions. 3
   - 1.3 Exhibits. 8

2. MUTUAL BENEFITS AND ASSURANCES. 9
   - 2.1 Purposes of Agreement. 9
   - 2.2 Undertakings and Assurances Contemplated and Promoted by Development Agreement Legislation. 9
   - 2.3 Bargained For; Reliance by Parties. 9
   - 2.4 No Liability for Failure to Develop. 9

3. OWNERS' AND COUNTY'S RESPECTIVE OBLIGATIONS; PROVISION OF PUBLIC BENEFITS. 10
   - 3.1 In General; Public Benefits. 10
   - 3.2 Dedication, Construction and Conveyance of Public Facilities. 10
   - 3.3 Relationship of Parties. 10
   - 3.4 Public Facilities. 10
   - 3.5 Obligations of COUNTY Regarding Public Facilities. 11
   - 3.6 Financing and Provision of Public Facilities and Services. 11
   - 3.7 Future Fee Programs. 13
   - 3.8 No Further Development Exactions for Public Facilities. 14
   - 3.9 Replacement; Repair, Maintenance and Operation. 14
   - 3.10 No Limitations on Objections. 15

4. REGULATIONS GOVERNING THE DEVELOPMENT OF THE PROPERTY. 15
   - 4.1 Specified Policies. 15
   - 4.2 Regulation of Development. 17
   - 4.3 Limitations, Reservations and Exceptions. 18
   - 4.4 Further Assurances to OWNER Regarding Exercise of Reservations of Authority 19
   - 4.5 Regulation by Other Public Agencies. 22

TABLE OF CONTENTS
(continued)

		Page
5.	PERIODIC REVIEWS.	22
	5.1 Annual Review.	22
	5.2 Five-Year General Plan Review.	23
6.	TRANSFERS AND ASSIGNMENTS.	23
	6.1 Transfer and Assignments of Rights and Interests.	23
	6.2 Termination of Agreement with Respect to Individual Parcels upon Sale to Public.	26
7.	ANNEXATION AND INCORPORATION.	26
	7.1 Transfer of Development Agreement Pursuant to Government Code.	26
	7.2 Exhibit D Obligations.	26
8.	TERM OF AGREEMENT.	27
	8.1 Stated Term.	27
	8.2 Rights and Duties Following Termination.	27
9.	AMENDMENT.	28
	9.1 General Provisions.	28
	9.2 Amendments to Development Agreement Legislation.	28
	9.3 Amendments to or Cancellation of Agreement.	28
	9.4 Amendments to Development Plan and/or Development Approvals.	29
	9.5 Amendments Authorized by the Development Plan.	29
	9.6 Operating Memoranda.	29
10.	PROCESSING OF REQUESTS AND APPLICATIONS.	30
11.	DEFAULT AND REMEDIES.	30
	11.1 Remedies in General.	30
	11.2 Termination of Agreement for Default of OWNERS.	31
	11.3 Termination of Agreement for Default of COUNTY.	31
	11.4 Specific Performance.	31
	11.5 Appointment of Referee.	32
	11.6 Cross-Default.	33
12.	THIRD PARTY LITIGATION.	33
	12.1 General Plan Litigation.	33

TABLE OF CONTENTS
(continued)

		Page
13.	ESTOPPEL CERTIFICATE.	34
14.	EFFECT OF AGREEMENT ON TITLE.	35
	14.1 Covenants Run With The Land.	35
	14.2 No Dedication or Lien.	35
	14.3 Termination Upon Final Sale.	36
15.	MORTGAGEE PROTECTION; CERTAIN RIGHTS OF CURE.	36
	15.1 Mortgagee Protection.	36
	15.2 Mortgagee Not Obligated.	36
	15.3 Notice of Default to Mortgagee; Right of Mortgagee to Cure.	36
	15.4 Bankruptcy.	37
16.	COOPERATION AND IMPLEMENTATION.	37
	16.1 Cooperation.	37
	16.2 Covenant of Good Faith and Fair Dealing.	37
	16.3 Regulation by Other Public Agencies.	37
	16.4 Other Governmental Permits and Approvals.	37
	16.5 Cooperation in the Event of Legal Challenge.	38
	16.6 Revision to Project.	38
17.	MISCELLANEOUS PROVISIONS.	39
	17.1 Recordation of Agreement.	39
	17.2 Entire Agreement.	39
	17.3 Project is a Private Undertaking.	39
	17.4 Limitation on Liability.	39
	17.5 Severability.	39
	17.6 Interpretation and Governing Law.	39
	17.7 Section Headings.	40
	17.8 Singular and Plural.	40
	17.9 Joint and Several Obligations.	40
	17.10 Time of Essence.	40
	17.11 Waiver.	40
	17.12 No Third Party Beneficiaries.	40
	17.13 Force Majeure.	40

TABLE OF CONTENTS
(continued)

Page

17.14 Attorneys Fees....41
17.15 Mutual Covenants....41
17.16 Notices....41
17.17 Successors and Assigns....42
17.18 Counterparts....42

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.

Exhibit Designation	Description
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 6.1a.; 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:

(i) any breach of, or which arise out of, this Agreement;

(ii) the taking, impairment or restriction of any right or interest conveyed or provided hereunder or pursuant hereto; or

(iii) arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement;

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

(iv) are not for a breach of this Agreement or which do not arise under this Agreement;

(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
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
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
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
President and Chief Executive Officer

By: _____
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
President and Chief Executive Officer

By: _____
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
President and Chief Executive Officer

By: _____
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
President and Chief Executive Officer

By: _____
Donald L. Vodra
Chief Operating Officer

COUNTY:

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

By: _____
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: _____
Clerk of the Board of Supervisors,
County of Orange, California

APPROVED AS TO FORM:

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

By: _____, 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

CHARLENE M. MCNAIR
COMMISSION #1379651
Notary Public - California
ORANGE COUNTY
My Commission Expires
OCTOBER 12, 2006

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

LINDA K. LEDGER
Commission # 1399781
Notary Public - California
Orange County
My Comm. Expires Mar 7, 2007

EXHIBIT A-1

Description of Property

[See following pages]

SHEET 1 OF 3

PROFESSIONAL LAND SURVEYOR
JAMES F. GILLEN
NO. 5557
EXP. 9/30/05
STATE OF CALIFORNIA

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	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
APPROVED BY 6/16/04		

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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. 2001050863 5 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.

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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. 20010508635 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.

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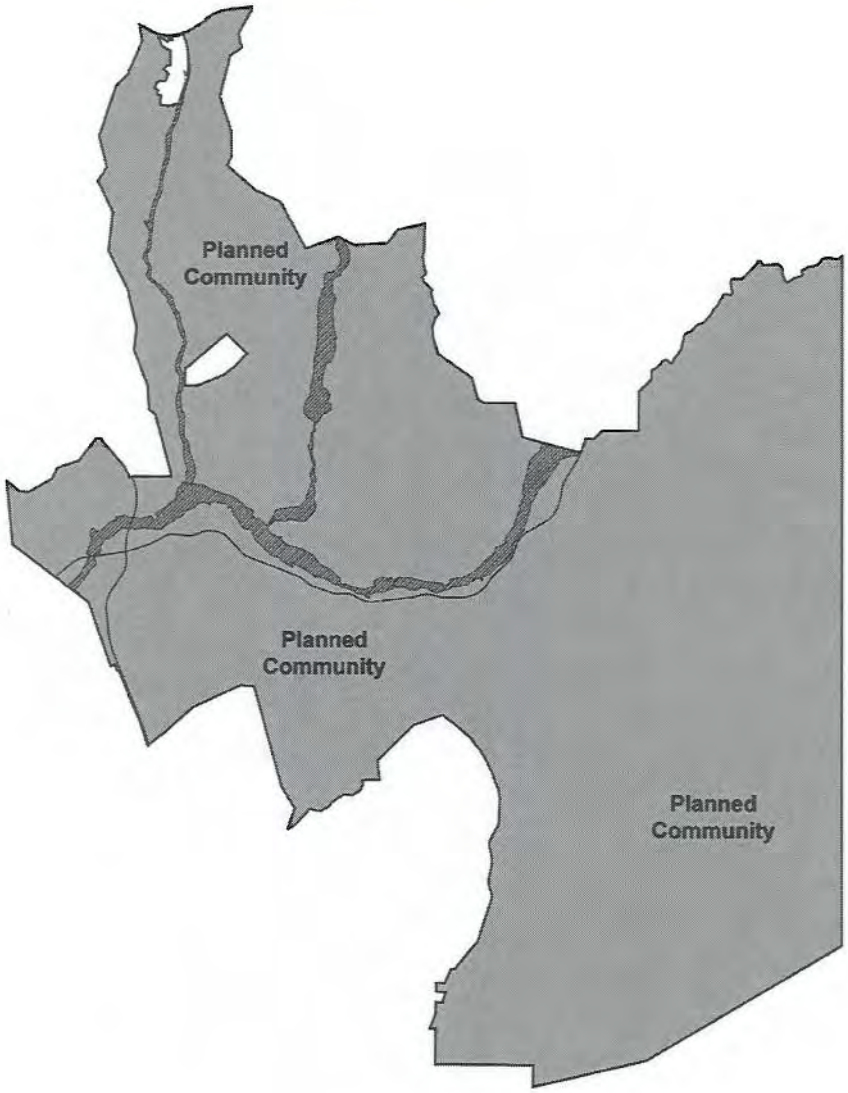
EXHIBIT A-2

The Ranch Plan Planned
Community (PC) Zoning Map

[See following page]



Legend

- PC (Planned Community) District
- FP-2 (Floodplain) District

PC Zoning Map

Rancho Mission Viejo

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	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.e.*, "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.e.*, "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.e.*, "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 Authorit(y/ies)
- Relevant Special Powers Entit(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

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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 analys(is/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.

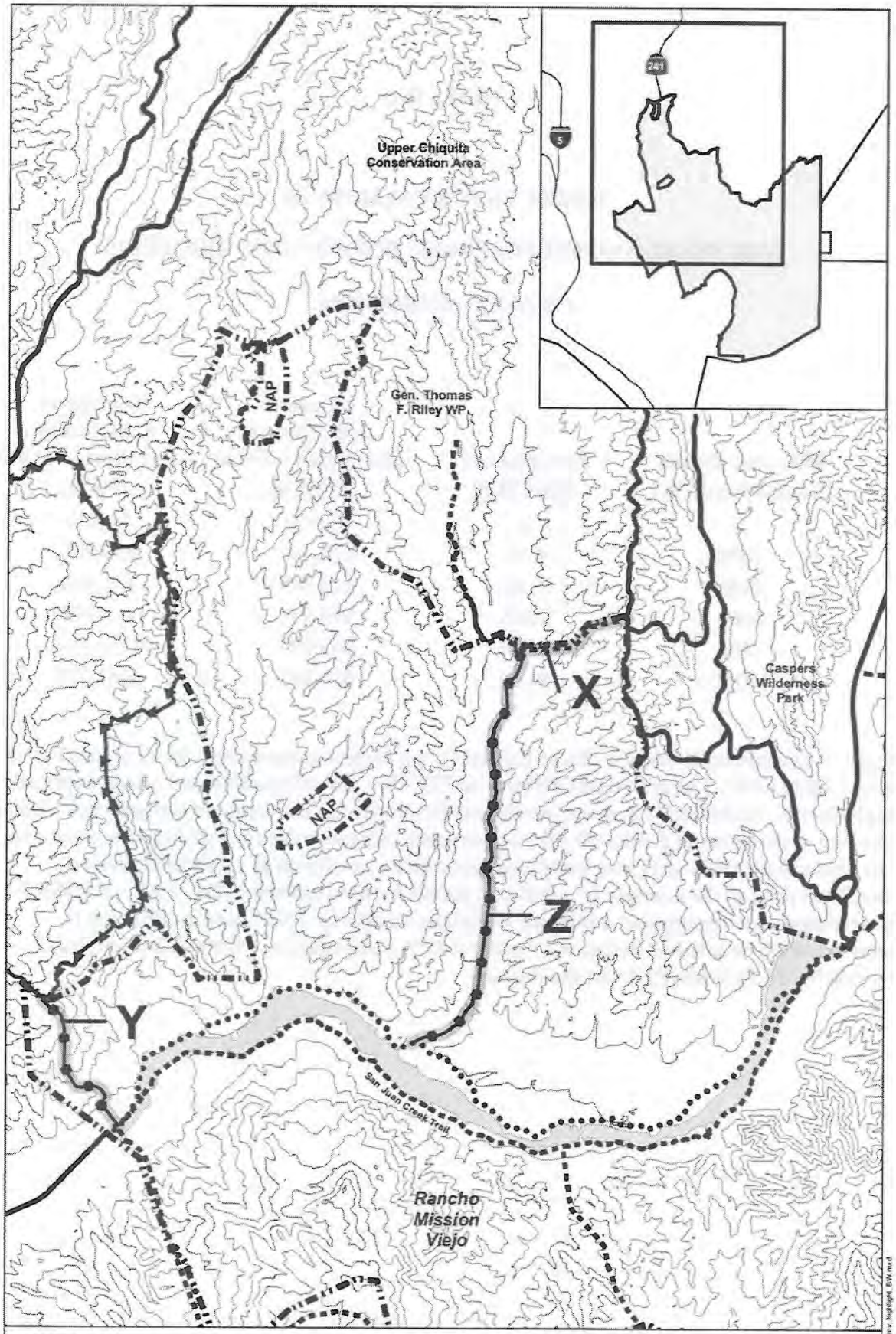

Exhibit D-1

Regional, Constructed
Regional, Proposed
Community, Constructed
Community, Proposed
Biking, Proposed

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

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) (000's)	Cumulative Contributions (Fair Share + Extra) (000's)
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
	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)	
1001 EDU – 2500 EDU	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)	

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					**$50,275**		

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 though 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

[Intentionally Omitted]

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.

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**]

Attachment 7 -
Yorba Linda Certificate of Completion

232

RECORDING REQUESTED BY:
ORANGE COUNTY LOCAL AGENCY
FORMATION COMMISSION

AND WHEN RECORDED MAIL TO:
ORANGE COUNTY LAFCO
2677 N. MAIN ST.
SUITE 1050
SANTA ANA, CA 92705

Recorded in Official Records, Orange County
Hugh Nguyen, Clerk-Recorder
NO FEE
* $ R 0 0 1 1 3 6 2 4 1 7 $ *
2019000535236 12:22 pm 12/20/19
232 407A C16 223
0.00 0.00 0.00 0.00 666.00 0.00 0.000.000.00 0.00

THIS SPACE FOR RECORDER'S USE ONLY

NT
TT
232P

CERTIFICATE OF COMPLETION

LAFCO

Orange County Local Agency Formation Commission

Pursuant to Government Code Section 27383, because the Local Agency Formation Commission is a government agency, no filing fee shall be charged for the filing of this document.

Pursuant to Government Code Section 57200, this Certificate is issued by the Executive Officer of the Local Agency Formation Commission of Orange County, California.

1. The short-term designation, as determined by LAFCO, is:

   City of Yorba Linda Annexation of Cielo Vista Development (CA 19-03)

2. The name of each district or city involved in this change of organization and the kind of type of change of organization ordered for each city or district as follows:

   CITIES/COUNTY: City of Yorba Linda / County of Orange
   TYPE OF CHANGE: Annexation

3. The above listed cities and district are located within the following county:
   County of Orange

4. A description of the boundaries of the above cited change of organization is shown on the attached map and legal (See Attachment A) and by this reference incorporated herein.

5. The territory is uninhabited.

RECEIVED
DEC 28 2019
LOCAL AGENCY FORMATION COMMISSION

6. The County and City respectively approved the "Cooperative Agreement" (Attachment B), which allows the County to continue to exercise permit and approval processing functions necessary to facilitate the development of the subject territory commonly known as the Cielo Vista Development.

7. The City and the North County BRS Project, LLC entered into a "Pre-Annexation Agreement" (Attachment C) that outlines the terms and conditions between the agencies.

8. The Yorba Linda Water District (YLWD) and North County BRS Project, LLC entered into the "Cielo Vista Project Water and Sewer Facilities Agreement between Yorba Linda Water District and North County BRS Project, LLC" (Attachment D) which outlines the terms, conditions and each party's responsibilities relative to water and wastewater service provision.

9. The resolution (CA 19-03) ordering this annexation subject to the following terms and conditions, was adopted on November 13, 2019, by the Local Agency Formation Commission (Attachment E).

    a) Upon annexation of the territory to the City, all right, title, and interest of the County, including the underlying fee title where owned by the County in any and all sidewalks, trails, landscaped areas, street lights, open space, signals, shall vest in the City of Yorba Linda, except for those properties to be retained by the County and specifically listed by these conditions.

    b) Upon annexation of the territory, the City of Yorba Linda shall be the owner of, and responsible for, all of the following property owned by the County at the time of annexation: public roads, adjacent slopes, street lights, traffic signals, mitigation sites that have not been accepted by regulatory agencies but exist or are located in public right-of-way and were constructed or installed as part of a road construction project within the annexed area and storm drains within street right-of-way and appurtenant slopes, medians and adjacent property. City of Yorba Linda shall also be responsible for regulatory oversight of the ongoing mitigation, but not the ownership of, mitigation sites that were installed on other County property, such as flood control property that were installed as a condition of road construction projects in or associated with the road projects in the annexed area and mitigation site that is annexed to the City of Yorba Linda.

    c) Upon the effective date of annexation, the City of Yorba Linda shall do the following: (1) assume ownership and maintenance responsibilities for all County Owned drainage devices, storm drains and culverts, appurtenant facilities (except regional OCFCD flood control facilities for which OCFCD has a recorded flood control easement or ownership interest), site drainage, and all master plan storm drain facilities that are within the annexation area and are currently operated and maintained by the County of Orange; and (2) administer flood zoning and Federal Emergency Management Agency floodplain regulations within the annexation area.

d) The Commission waives protest proceedings in accordance with Government Code Section 56662.

e) Payment by the applicant of State Board of Equalization fees.

f) The applicant agrees to defend, hold harmless and indemnify OC LAFCO and/or its agents, officers and employees from any claim, action or proceeding against OC LAFCO and/or its agents, officers and employees to attack, set aside, void or annul the approval of OC LAFCO concerning this proposal or any action relating to or arising out of such approval.

g) The effective date shall be the date of recordation.

I hereby certify that I have examined the resolution cited above, including any terms and conditions, and that they are true and complete copies.

Carolyn Emery
Executive Officer

Date: 12/20/2019

Attachment A

EXHIBIT A

LEGAL DESCRIPTION
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT
(CA 19-03)

THAT CERTAIN PARCEL OF LAND SITUATED IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING A PORTION OF THE RANCHO CANON DE SANTA ANA, AS SHOWN ON A MAP ATTACHED TO THE FINAL DECREE OF PARTITION RECORDED FEBRUARY 8, 1874 IN BOOK 28, PAGE 158 OF DEEDS, RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, AND BEING A PORTION OF THE CARRILLO RANCH PROPERTY AS SHOWN ON A MAP FILED IN BOOK 37, PAGE 33 OF RECORDS OF SURVEY, BOTH IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, ALL LYING WITHIN SECTION 18 AND 19, TOWNSHIP 3 SOUTH, RANGE 8 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION IN THE EXISTING BOUNDARY OF THE CITY OF YORBA LINDA ANNEXATION NO. 78-02 BRYANT RANCH TO THE CITY OF YORBA LINDA PER DOCUMENT RECORDED IN BOOK 12810 PAGE 369 WITH CITY OF YORBA LINDA ANNEXATION NO. 75-2 PER DOCUMENT RECORDED IN BOOK 11535 PAGE 462, BOTH OF OFFICIAL RECORDS OF SAID COUNTY, SAID INTERSECTION ALSO BEING THE WESTERLY TERMINUS OF THAT CERTAIN COURSE SHOWN IN SAID ANNEXATION NO. 78-02 AS "SOUTH 77°50'17" EAST 880.17'";

THENCE ALONG THE EXISTING EASTERLY BOUNDARY LINE OF THE CITY OF YORBA LINDA ANNEXATION NO. 75-2, NORTH 01°01'24" WEST 3578.27 FEET TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF THE EXISTING CITY OF YORBA LINDA ANNEXATION NO. 80-01 PER DOCUMENT RECORDED IN BOOK 14294 PAGE 1505 AND RECORDED IN BOOK 14294 PAGE 1510, BOTH OF OFFICAL RECORDS OF SAID COUNTY, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID ANNEXATION NO. 75-2;

THENCE ALONG THE SAID EXISTING SOUTHERLY BOUNDARY LINE OF THE CITY OF YORBA LINDA ANNEXATION NO. 80-01, SOUTH 87°05'05" EAST 583.21 FEET AND SOUTH 86°47'07" EAST 281.78 FEET TO THE NORTHEAST BOUNDARY CORNER OF PARCEL MAP NO. 2016-156 AS PER MAP FILED IN BOOK 400, PAGES 23 THROUGH 30 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY;

THENCE LEAVING SAID EASTING SOUTHERLY BOUNDARY LINE ALONG THE GENERALLY EASTERLY BOUNDARY LINES OF SAID PARCEL MAP NO. 2016-156 THROUGH THE FOLLOWING THREE COURSES;

SOUTH 00°56'08" EAST 2863.76 FEET;

SOUTH 86°40'40" EAST 619.50 FEET;

EXHIBIT A

LEGAL DESCRIPTION
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT
(CA 19-03)

SOUTH 05°32'21" EAST 735.23 FEET TO A POINT ON THE NORTHERLY BOUNDARY LINE OF SAID CITY OF YORBA LINDA PER ANNEXATION NO. 78-02, SAID POINT BEING ON A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 450.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS, NORTH 15°20'27" WEST;

THENCE LEAVING SAID GENERALLY EASTERLY BOUNDARY LINE AND ALONG SAID NORTHERLY BOUNDARY LINE THROUGH THE FOLLOWING:

SOUTHWESTERLY ALONG SAID CURVE 95.19 FEET THROUGH A CENTRAL ANGLE OF 12°07'13";

SOUTH 62°32'20" WEST 113.62 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 550.00 FEET;

WESTERLY 380.00 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39°35'11";

NORTH 77°52'29" WEST 119.29 FEET;

NORTH 00°56'08" 25.66 FEET;

NORTH 77°52'29" WEST 880.23 FEET TO THE **POINT OF BEGINNING**.

CONTAINING: 84.812 ACRES MORE OR LESS.

AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.

DATED THIS 10TH DAY OF JULY, 2019

KURT R. TROXELL, L.S. 7854
FUSCOE ENGINEERING

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EXHIBIT A

LEGAL DESCRIPTION
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT
(CA 19-03)

THIS DESCRIPTION AND MAP OF PROPOSED ANNEXATION DOES MEET THE APPROVAL OF THE ORANGE COUNTY SURVEYOR'S OFFICE.

DATED THIS 12TH DAY OF JULY, 2019

KEVIN R. HILLS, COUNTY SURVEYOR
L.S. 6617

LILY M. N. SANDBERG, DEPUTY COUNTY SURVEYOR
L.S. 8402

PROFESSIONAL LAND SURVEYOR
LILY M. NUNEZ SANDBERG
No. 8402
Exp. 6-30-20
STATE OF CALIFORNIA

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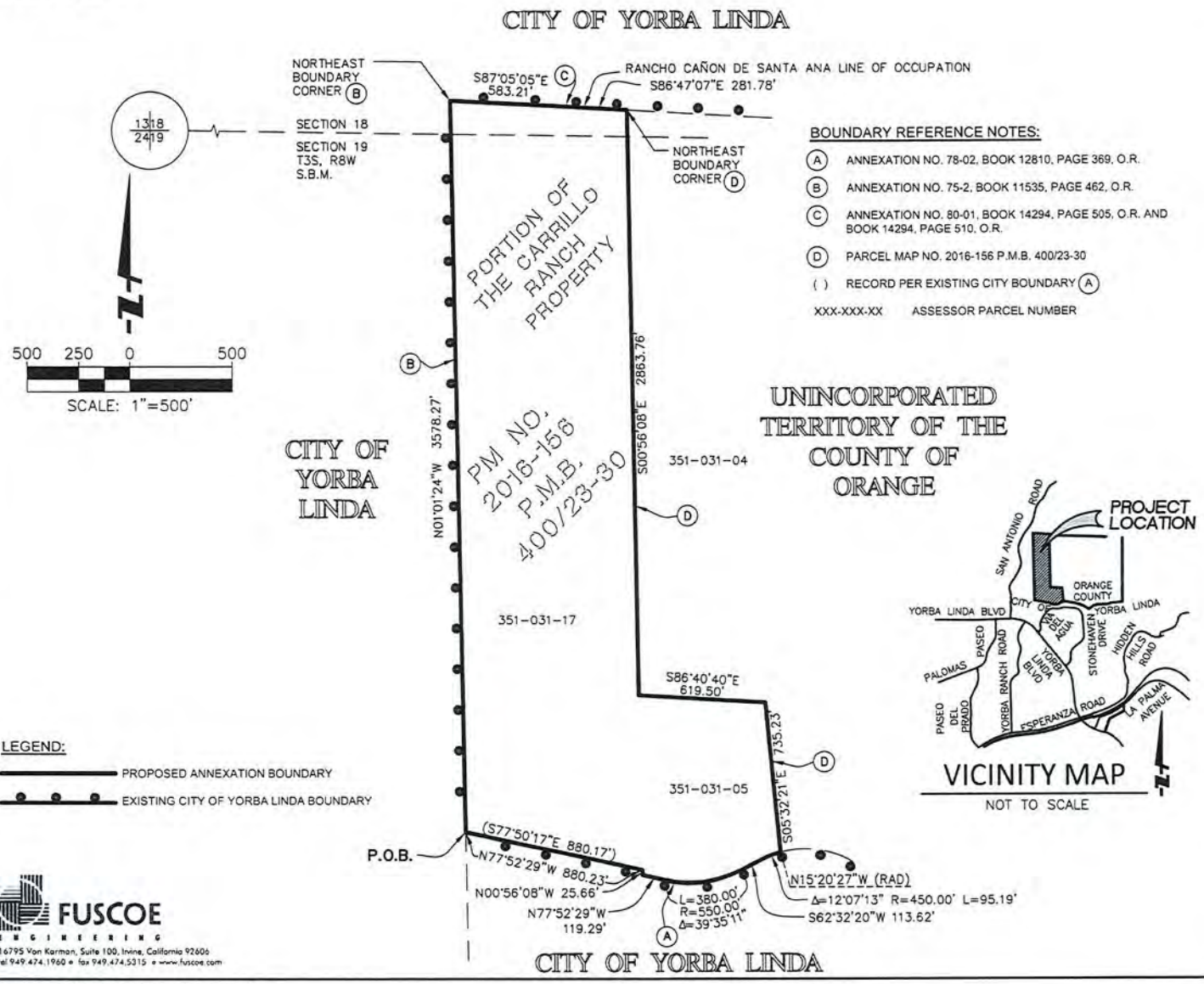
SHEET 1 OF 1



BOUNDARY REFERENCE NOTES:

(A) ANNEXATION NO. 78-02, BOOK 12810, PAGE 369, O.R.

(B) ANNEXATION NO. 75-2, BOOK 11535, PAGE 462, O.R.

(C) ANNEXATION NO. 80-01, BOOK 14294, PAGE 505, O.R. AND BOOK 14294, PAGE 510, O.R.

(D) PARCEL MAP NO. 2016-156 P.M.B. 400/23-30

( ) RECORD PER EXISTING CITY BOUNDARY (A)

XXX-XXX-XX ASSESSOR PARCEL NUMBER

VICINITY MAP

NOT TO SCALE

EXHIBIT "B"

CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT
(CA 19-03)

NOTE:

THIS ANNEXATION IS COMPRISED OF 84.812 ACRES

BEARINGS AND DISTANCES SHOWN HEREON ARE BASED ON PARCEL MAP NO. 2016-156 P.M.B. 400/23-30

PREPARED BY ME OR UNDER MY DIRECT SUPERVISION:

KURT R. TROXELL, L.S. 7854 7/10/2019

PROFESSIONAL LAND SURVEYOR KURT R. TROXELL No. 7854 STATE OF CALIFORNIA

THIS DESCRIPTION AND MAP OF PROPOSED ANNEXATION DOES MEET THE APPROVAL OF THE ORANGE COUNTY SURVEYOR'S OFFICE.

DATED THIS 12TH DAY OF JULY, 2019

KEVIN R. HILLS, COUNTY SURVEYOR
L.S. 6617

BY: LILY M. N. SANDBERG, DEPUTY SURVEYOR
P.L.S. 8402

PROFESSIONAL LAND SURVEYOR LILY M. NUNEZ SANDBERG No. 8402 Exp. 6-30-20 STATE OF CALIFORNIA

M:\MAPPING\1296\001\LAFCO\1296-001LAFCO.DWG (07-10-19)

Attachment B

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT ("**Agreement**"), dated October 22, 2019 for purposes of identification, between the COUNTY OF ORANGE ("**County**") and the CITY OF YORBA LINDA ("**City**") (collectively referred to as the "**Parties**" herein) is based on the following:

RECITALS

WHEREAS, the City is in the process of annexing approximately 84 acres of property commonly known as Cielo Vista ("**Property**"). The Property, which is described in Exhibit A and depicted in Exhibit B, is currently in the unincorporated area of County. North County BRS Project, LLC, a Delaware limited liability company has an option to purchase the Property.

WHEREAS, the County has, for several years, planned for the development and use of the Property and related infrastructure on the Property.

WHEREAS, the North County BRS Project, LLC has obtained approvals from the County to develop the Property with an 80-unit residential subdivision called "Cielo Vista" ("**Project**").

WHEREAS, the Property is subject to that certain Cielo Vista Project Alternative 5 Area Plan with 80 units ("**Cielo Vista Alternative 5 Area Plan**") and Environmental Impact Report No. 615 ("**EIR**"), which were approved by the Orange County Board of Supervisors on December 13, 2016 and were not judicially challenged. The Property is also subject to the Vesting Tentative Tract Map No. 17341 approved by the Orange County Board of Supervisors on September 12, 2017, which was not judicially challenged, thereby conferring vested rights to the Project. Finally, the Property is subject to the Pre-Annexation Agreement between the City and North County BRS Project, LLC ("**Pre-Annexation Agreement**").

WHEREAS, City and County are public entities possessing the common power to review and approve applications for administrative and ministerial permits for development, including, but not necessarily limited to, subdivision maps, conditional use permits, grading permits, building permits, street improvement permits, storm drain improvement permits, retaining wall permits, WQMP reports, drainage reports, as-built plan processing, and bond exoneration processing and approvals related to the implementation, planning, and development of, real property ("**Implementing Approvals**" as defined herein).

WHEREAS, Government Code Sections 51300 *et seq.* authorize a county to contract with a city for a term of up to five (5) years, and renewable thereafter for additional five-year periods upon mutual consent of the city and county, for the performance of municipal functions common to both agencies. This Agreement fully complies with all State statutory and constitutional provisions related to the transfer of municipal functions from a city to a county.

WHEREAS, the Development Approvals (as defined below) for the Property prepared by or on behalf of the County represent an extremely complex and integrated plan for the preservation and development of the Property.

WHEREAS, City and North County BRS Project, LLC have entered into that certain Pre-Annexation Agreement, to ensure that annexation of the Property does not prevent or delay development of the Property to the full extent permitted by the Development Plan and Development Approvals.

WHEREAS, the City intends, by way of this Agreement and pursuant to California Government Code section 53100 *et seq.*, to contract with the County for the performance of certain City functions, as more specifically described herein, upon annexation of the Property, for the term set forth herein and not to exceed the limitations set forth in California Government Code section 53102. Subject to this Agreement, the County will assume the authority for Implementing Approvals, as defined herein, including but not limited to land use services until the point in time when the Property is Fully Improved, as defined herein. Implementing Approvals do not include actions on Units, Common Areas, Conservation Area, and Public Improvements on the Property once such area of the Property is Fully Improved.

WHEREAS, this Agreement achieves the objectives of the Parties, such as the efficient implementation and administration of the Development Approvals and Development Plan, by authorizing the County to exercise permit and approval processing functions of the City necessary to facilitate development consistent with the Development Plan and Development Approvals relative to each Unit, Common Areas, Conservation Area, and Public Improvements, upon annexation and until such Units, Common Areas, and Public Improvements are Fully Improved, as defined herein.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. DEFINITIONS AND EXHIBITS

1.1 Definitions. This Agreement uses a number of terms having specific meanings, as defined below. These specially defined terms are distinguished by having the initial letter capitalized, or all letters capitalized, when used in the Agreement. The defined terms include the following:

1.1.1 "**Agreement**" means this Cooperative Agreement.

1.1.2 "**Annexation**" means annexation of the Property to the City of Yorba Linda pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §§ 56000 et seq.).

1.1.3 "**Area Plan**" means the Cielo Vista Project Alternative 5 Area Plan.

1.1.4 "**City**" means the City of Yorba Linda.

1.1.5 "**Common Area(s)**" means any real property owned in fee simple by any homeowner association, or under the control of any such homeowner

association by way of easement, lease, encroachment, permit or license or other agreement, as defined in Section 1351(b) of the California Civil Code, including but not limited to private streets, private parks, and other areas.

1.1.6 **"Conservation Area"** means the northern portion of the Property which North County BRS Project, LLC is required to preserve as open space pursuant to the Cielo Vista Alternate 5 Area Plan and related approvals.

1.1.7 **"County"** means the County of Orange, a political subdivision of the State of California.

1.1.8 **"Development"** whether or not capitalized means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project. The term development includes grading, the construction of infrastructure and public facilities related to the Project located on the Property, the construction of buildings and structures and the installation of landscaping and park facilities and improvements. The term "Development" does not include any Project-related building or grading activity after the Property is Fully Improved, as defined herein, and annexed to the City.

1.1.9 **"Development Approvals"** means all permits, licenses, consents, inspections rights, privileges, agreements and other actions that:

(i) are approved by County; or

(ii) are subject to approval or issuance by County.

The term "Development Approvals" includes (including any modifications or amendments as described above), but is not limited to, the following Development Approvals in furtherance of the Project:

(a) Tentative and final subdivision and parcel maps, including, without limit, Vesting Tentative Tract Map No 17341;

(b) Cielo Vista Alternative 5 Area Plan (PA 10004) approved by the County on December 13, 2016;

(c) Environmental Impact Report No. 615 for the Cielo Vista Project Alternative 5 Area Plan approved by the County on December 13, 2016;

(d) Grading and building permits; and

(e) Habitat Management Plan

Development Approvals do not include actions on Units, Common Areas, Conservation Area, or Public Improvements once such respective properties are Fully Improved.

1.1.10 **"Development Plan"** means the plan for Development of the Property, including the planning and zoning standards, regulations, and criteria for the Development of the Property contained in and consistent with the Development Approvals.

1.1.11 **"Fully Improved"** means, in relation to Units, that the County has issued certificates of occupancy (or similar evidence that all structures have received all inspections and fully comply with all laws such that there is no further unmet condition to occupancy) for any Unit pursuant to the Development Approvals and Development Plan. "Fully Improved" with respect to Common Areas shall mean the issuance of a certificate of use or similar evidence that all structures and improvements have received all inspections and fully comply with all laws such that there is no further unmet condition to the use of such structures and improvements. Fully Improved with respect to the Conservation Area shall mean that the Conservation Area is in compliance with the requirements of the Development Plan, the Development Approvals, all conditions of approval and any regulatory requirements. With respect to all Public Improvements within the Property, "Fully Improved" means a notice of completion or like certificate has been issued and the improvements accepted by a governmental entity and signed off as complete by that entity.

1.1.12 **"Implementing Approvals"** means the common law power to review and approve applications for administrative, discretionary and ministerial permits for development, including, but not necessarily limited to, subdivision maps, conditional use permits, grading permits, building permits, street improvement permits, storm drain improvement permits, retaining wall permits, WQMP reports, drainage reports, as-built plan processing, and bond exoneration processing and approvals related to the implementation, planning, and development of, real property and the power to review, inspect, approve and issue certificates of completion for improvements constructed pursuant to any and all such permits for areas of the Project within the Property. All areas within the current territorial limits of the City outside the Property shall be processed in accordance with City requirements. For example, portions of any roadways constructed in the City not within the Property shall be processed in accordance with City requirements.

1.1.13 **"Land Use Regulations"** means all ordinances, resolutions, codes, rules, regulations and official policies governing Development and use of land applicable to the Property pursuant to the Development Approvals, the Development Plan, and this Agreement. The term "Land Use Regulations" also includes ordinances, resolutions, rules, regulations and official policies related to permitted use of land, development fees, exactions, impositions, the density or intensity of use, subdivision requirements and the maximum height and size of proposed buildings. The term "Land Use Regulations" also includes ordinances, resolutions, rules, regulations and official policies

governing the reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable on the effective date of this agreement, to the Development of the Property, which are not in conflict with the Development Approvals.

1.1.14 "**Project**" means the Development of the Property consistent with the Area Plan, Development Approvals, Land Use Regulations and/or Development Plan.

1.1.15 "**Property**" means the real property described in Exhibit A and shown on Exhibit B to this Agreement.

1.1.16 "**Public Improvements**" means all public streets, storm drains, street lighting, public parks and other improvements required and/or constructed pursuant to the Area Plan and Development Approvals located on the Property.

1.1.17 "**Unit**" means with respect to a single family residence, the legal lot or parcel and the residential housing unit located thereon but shall not include any exterior landscaping.

1.2 Exhibits: The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit A - Legal Description of the Property

Exhibit B - Map of the Property.

Exhibit C – Fees and Obligations

1.3 Construction. The word "include" or any form of the word "include" shall be construed and interpreted to add the phrase "without limitation "

2. OBJECTIVES AND INTENT

2.1 Objectives. The objectives of this Agreement are to:

2.2 Ensure that, following annexation of the Property to City, the Property is timely developed in substantial compliance with, and to the full extent permitted by, the Development Approvals and the Development Plan, and that Development Approvals are timely issued so as to avoid any unnecessary delays in the planning and permitting process for the Project while continuing to meet all public safety requirements.

2.2.1 Ensure that development of the Property proceeds in a manner that preserves the public benefits associated with the Development Approvals and Development Plan.

2.2.2 Effect a contract temporarily conveying responsibility for certain municipal functions as specified in section 3 1.1 below from the City to the County upon annexation and within the term authorized by Government Code Sections 51301 and 51302.

2.2.3 To provide a process for the transfer of documents necessary to County's assumption of City functions and a mechanism for facilitating County's right to monitor development as provided in this Agreement.

2.3 Intent. The Parties, through this Agreement, intend that the County shall have and exercise after annexation the same power, right and control over the administration, approval and implementation of the Development Approvals, Development Plan, and Implementing Approvals over the Property during the development of the Property as the County exercised before annexation. The Parties intend that the County will assume City functions regarding the Development Approvals, Development Plan, and Implementing Approvals over any Unit, Common Areas, Conservation Area, and Public Improvements, until the date that the Unit, Common Areas, Conservation Area and/or Public Improvements become Fully Improved. This Agreement shall be administered, implemented, construed and interpreted in a manner that is consistent with the Development Approvals, the Development Plan and the "intent" and "purpose" provisions of this Agreement.

3. AUTHORITY TRANSFERRED TO THE COUNTY

3.1 Performance of Municipal Functions.

3.1.1 Responsibility for Certain Municipal Functions. Pursuant to Government Code section 51300, et seq., the City hereby conveys to the County, upon annexation, and for the five (5) year period allowed under Government Code section 51302, the responsibility for the Implementing Approvals as defined in section 1.1.12 herein (**"Implementing Approval Authority"**) over the Property on the terms within this Agreement The term of this Agreement shall automatically be extended for one additional five (5) year period as provided in Government Code section 51302 unless any of the Parties, upon sixty (60) days notice to the other Party, elects to terminate this Agreement as of the end of the initial five (5) year period. Such election shall be based on "good cause" for such termination, and the notice of termination shall specify the facts and circumstances upon which the alleged "good cause" is predicated.

3.1.2 Conditions. The County shall exercise Implementing Approval Authority in substantial compliance with: (i) the provisions of the Development Approvals and Development Plan; (ii) conditions imposed by any State or local agency; and (iii) legally enforceable restrictions and limitations on development of the Property.

3.1.3 City Authority Following Areas Fully Improved. Once a Unit, a Common Area, the Conservation Area, or a Public Improvement is Fully Improved, the County's authority over the respective Unit, Common Area, Conservation Area or Public Improvement shall cease in its entirety. For example, once a certificate of occupancy has been issued for a Unit, the next permit issued for the Unit (for example, without limitation, a permit for a patio cover) shall be processed and issued by the City.

3.2 Term. Following annexation, County shall retain Implementing Approval Authority for the term set forth in Section 3 1.1 herein. However, the County only retains Implementing Approval Authority on a particular Unit, Common Area, Conservation Area or Public Improvement until such time the particular Unit, Common Area, Conservation Area or Public Improvement is Fully Improved. Once the entirety of the Property is Fully Improved, the County no longer has Implementing Approval Authority on the Property. The maximum term of this Agreement is 5 years, unless extended for up to an additional 5 years for a maximum term of 10 years as outlined in Section 3.1.1.

3.3 Fees. City and County shall be entitled to collect and keep those fees as indicated on Exhibit C attached hereto. It is understood that once a Unit, Common Area, Conservation Easement, or Public Improvement is Fully Improved, the City is entitled to receive all fees related to the respective Fully Improved Property.

3.4 Exoneration of Bonds. County shall be solely responsible for the inspection of any subdivision improvements installed within or outside the Project boundaries if the permits for which were issued by County. County shall be solely responsible for determining the extent to which any and all such improvements have been completed in accordance with all subdivision improvement agreements executed with the County and whether applicable subdivision bonds should be released. County has no authority over improvements constructed within the City and such improvements are subject to the processing, review, and approval of the City. Bonds for improvements within the City outside the Property shall be subject to the requirements of the City. Improvements for the purpose of this section shall include streets, storm drains, and other improvements constructed in the City but not on the Property. For example, roads constructed within the City outside the Property shall be bonded in a manner satisfactory to the City consistent with applicable City regulations and requirements.

3.5 Law Enforcement and Fire Protection Services. The City shall provide law enforcement, fire and emergency protection services to a Unit, Common Area, Conservation Area or Public Improvement once such area is Fully Improved or the County's authority over such Unit, Common Area, Conservation Area or Public Improvement ceases pursuant to the terms of this Agreement.

4. SPECIAL PROVISIONS

4.1 City Ordinance. City has, prior to the Effective Date of this Agreement, adopted Ordinance No. 2018-1055 regarding the City's prezoning for the Property consistent with the Development Approvals and Development Plan. The City Council has also authorized the execution of this Agreement by the City Manager and determined that this Agreement is fully consistent with the authority of the City and City Council pursuant to law.

4.2 City Commitments. Other than has outlined in this Agreement, the City does not waive any authority as to actions that occur within the jurisdictional boundaries of the City outside the Property or as to an Unit, Common Area, Conservation Area or Public Improvement once Fully Improved. Specifically, the City retains all authority over any roadway or other improvements within the jurisdiction of the City outside the Property.

4.3 County Consideration. County shall be entitled to charge, receive, and retain all fees for processing the Development Approvals.

4.4 County Officers. The County Executive Officer (CEO) shall designate the County officers and employees that are to perform the services contemplated by, and exercise the authority transferred pursuant to, this Agreement. The Parties contemplate that the CEO will designate the same officers and employees that have, prior to the effective date of this Agreement, been performing services or exercising powers related to the County's Implementing Approval Authority.

4.5 Transfer of Park Fees. The County shall collect park fees pursuant to the Quimby Act for the development based on Orange County Codified Ordinance section 7-9-520, *et seq.* and shall transfer to the City one hundred percent (100%) of such park fees.

5. COOPERATION

5.1 Cooperation. City and County shall mutually provide any assistance reasonably requested by the other Party with respect to the implementation and administration of the Development Approvals, the Development Plan and this Agreement. City and County shall cooperate with one another relative to any action necessary to ensure that County retains the authority to perform the functions required by, or to achieve the objectives of this Agreement.

5.2 Records. County shall provide the City the County records that would facilitate the City's assumption of City functions being performed by County, including Implementing Approval Authority, after any Unit, Common Area(s), Conservation Area, or Public Improvement is Fully Improved.

6. MISCELLANEOUS PROVISIONS

6.1 Term of Agreement. Subject to the extension provisions of Article 3, this Agreement shall continue in full force and effect with respect to the Property for a period of five (5) years following the date of the annexation of the Property to the City unless continued for an additional five (5) years pursuant to Section 3.1.1. However, the County only retains Implementing Approval Authority on a particular Unit, Common Area, Conservation Area or Public Improvement until such time the particular Unit, Common Area, Conservation Area or Public Improvement is Fully Improved. Once the entirety of the Property is Fully Improved, the County no longer has Implementing Approval Authority on the Property.

6.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the Parties, and all oral or written representations, understandings or agreements are expressly stated in this Agreement. No testimony or evidence of any such representations, understandings, or covenants outside the contents of this Agreement shall be admissible in any proceeding or any kind or nature to interpret or determine the terms or conditions of this Agreement.

6.3 Severability. If any term, provision, covenant, or condition of this Agreement is ruled invalid, void, or unenforceable by a court of competent jurisdiction, this Agreement shall nonetheless remain in full force and effect as to all remaining terms, provisions, covenants, and conditions.

6.4 Interpretation and Governing Law. This Agreement and any related dispute shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed according to its plain language and fair and common meaning to achieve the objectives and purposes of the Parties. The rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be employed in interpreting this Agreement since all Parties have been represented by counsel.

6.5 Indemnification. City shall defend, indemnify with counsel approved in writing by County pursuant to Government Code section 25203, and hold harmless the County, and its respective members, officers, employees and agents with respect to any claim, damage, loss, cause of action, lawsuit or proceeding that arises out of or is in any way related to any act or omission by City or its officers, employees or agents in the performance or non-performance of any duty or obligation pursuant to this Agreement. County shall defend, indemnify, and hold harmless the City, and its respective officers, employees and agents with respect to any claim, damage, loss, cause of action, lawsuit or proceeding that arises out of or is in any way related to any act or omission by County or its officers, employees, or agents in the performance or non-performance of any duty or obligation pursuant to this Agreement.

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

6.7 Singular and Plural. As used herein, the singular of any word includes the plural.

6.8 Waiver. The failure of a Party to insist upon the strict performance of any of the provisions of this Agreement by any other Party, or the failure of a Party to exercise its rights upon the default of any other Party, shall not constitute a waiver of that Party's right to demand and require, at any time, any other Party's strict compliance with the terms of this Agreement.

6.9 Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit for the Parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

6.10 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement.

6.11 Specific Performance. The Parties acknowledge that monetary damages may be inadequate to remedy any breach of this Agreement by any other Party. Accordingly, the Parties agree that any breach of this Agreement shall also entitle any non-breaching Party to file an action for specific performance in a court of competent jurisdiction.

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

6.13 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by any Party for the purpose of enforcing, construing, or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Orange, State of California. The Parties waive all provisions of law providing for the filing, removal or change or venue to any other court.

6.14 Further Actions and Instruments. All of the Parties shall cooperate with and provide reasonable assistance to the other Parties to the extent contemplated by this Agreement to achieve the objectives of this Agreement. Upon the request of any party at any time, the other Parties shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record instruments and writing. The Parties shall also take any action that may be reasonably necessary under the terms of this Agreement to carry out the intent and to achieve the objectives of this Agreement.

6.15 Amendments in Writing/Cooperation. This Agreement may be amended only by written consent of the Parties specifically approving the amendment and in accordance with the Government Code provisions for the amendment of Development Agreements. The Parties shall cooperate in good faith with respect to any amendment proposed in order to clarify that intent and application of this

Agreement, and shall treat any such proposal on its own merits, and not as a basis for the introduction of unrelated matters.

6.16 Authority to Execute. Any person or persons executing this Agreement on behalf of the City and County warrants and represents that he/she has the authority to execute this Agreement on behalf of his/her agency/entity and to bind that agency/entity to the performance of its obligations pursuant to this Agreement.

6.17 Notice. All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and shall be deemed served when delivered personally or on the third business day after deposit in the United States mad, postage prepaid, first class mad, addressed as follows.

All notices, demands, requests or approvals to CITY shall be addressed to:

City of Yorba Linda
4845 Casa Loma Avenue
City Manager's Office
Yorba Linda, CA 92886

All notices, demands, requests or approvals to COUNTY shall be addressed to:

Director of Planning and Development Services
County of Orange
601 N. Ross St.
Santa Ana, California 92701

6.18 Effective Date. This Agreement shall become effective upon authorized execution by all necessary parties.

WITNESS THEREOF, the parties hereto have executed this Agreement on the date set forth above

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

By: _____
Chairwoman of the Board of Supervisors
County of Orange, California

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD PER G.C. SECTION 25103, RESOLUTION 79-1535

Attest:

By: _____
Robin Stieler, Clerk of the Board of Supervisors

APPROVED AS TO FORM:

_____
County Counsel

THE CITY OF YORBA LINDA,
a California municipal corporation

By: _____
Beth Haney, Mayor Pro Tem

Attest:

By: _____
Marcia Brown, City Clerk

APPROVED AS TO LEGAL FORM:

_____
Todd O. Litfin, City Attorney

EXHIBIT A

LEGAL DESCRIPTION
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT
(CA 19-03)

THAT CERTAIN PARCEL OF LAND SITUATED IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING A PORTION OF THE RANCHO CANON DE SANTA ANA, AS SHOWN ON A MAP ATTACHED TO THE FINAL DECREE OF PARTITION RECORDED FEBRUARY 8, 1874 IN BOOK 28, PAGE 158 OF DEEDS, RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, AND BEING A PORTION OF THE CARRILLO RANCH PROPERTY AS SHOWN ON A MAP FILED IN BOOK 37, PAGE 33 OF RECORDS OF SURVEY, BOTH IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, ALL LYING WITHIN SECTION 18 AND 19, TOWNSHIP 3 SOUTH, RANGE 8 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION IN THE EXISTING BOUNDARY OF THE CITY OF YORBA LINDA ANNEXATION NO. 78-02 BRYANT RANCH TO THE CITY OF YORBA LINDA PER DOCUMENT RECORDED IN BOOK 12810 PAGE 369 WITH CITY OF YORBA LINDA ANNEXATION NO. 75-2 PER DOCUMENT RECORDED IN BOOK 11535 PAGE 462, BOTH OF OFFICIAL RECORDS OF SAID COUNTY, SAID INTERSECTION ALSO BEING THE WESTERLY TERMINUS OF THAT CERTAIN COURSE SHOWN IN SAID ANNEXATION NO. 78-02 AS "SOUTH 77°50'17" EAST 880.17'";

THENCE ALONG THE EXISTING EASTERLY BOUNDARY LINE OF THE CITY OF YORBA LINDA ANNEXATION NO. 75-2, NORTH 01°01'24" WEST 3578.27 FEET TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF THE EXISTING CITY OF YORBA LINDA ANNEXATION NO. 80-01 PER DOCUMENT RECORDED IN BOOK 14294 PAGE 1505 AND RECORDED IN BOOK 14294 PAGE 1510, BOTH OF OFFICAL RECORDS OF SAID COUNTY, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID ANNEXATION NO. 75-2;

THENCE ALONG THE SAID EXISTING SOUTHERLY BOUNDARY LINE OF THE CITY OF YORBA LINDA ANNEXATION NO. 80-01, SOUTH 87°05'05" EAST 583.21 FEET AND SOUTH 86°47'07" EAST 281.78 FEET TO THE NORTHEAST BOUNDARY CORNER OF PARCEL MAP NO. 2016-156 AS PER MAP FILED IN BOOK 400, PAGES 23 THROUGH 30 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY;

THENCE LEAVING SAID EASTING SOUTHERLY BOUNDARY LINE ALONG THE GENERALLY EASTERLY BOUNDARY LINES OF SAID PARCEL MAP NO. 2016-156 THROUGH THE FOLLOWING THREE COURSES;

SOUTH 00°56'08" EAST 2863.76 FEET;

SOUTH 86°40'40" EAST 619.50 FEET;

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2512/009410-1050
14171663.1 a09/30/19

EXHIBIT A

LEGAL DESCRIPTION
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT
(CA 19-03)

SOUTH 05°32'21" EAST 735.23 FEET TO A POINT ON THE NORTHERLY BOUNDARY LINE OF SAID CITY OF YORBA LINDA PER ANNEXATION NO. 78-02, SAID POINT BEING ON A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 450.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS, NORTH 15°20'27" WEST;

THENCE LEAVING SAID GENERALLY EASTERLY BOUNDARY LINE AND ALONG SAID NORTHERLY BOUNDARY LINE THROUGH THE FOLLOWING:

SOUTHWESTERLY ALONG SAID CURVE 95.19 FEET THROUGH A CENTRAL ANGLE OF 12°07'13";

SOUTH 62°32'20" WEST 113.62 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 550.00 FEET;

WESTERLY 380.00 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39°35'11";

NORTH 77°52'29" WEST 119.29 FEET;

NORTH 00°56'08" 25.66 FEET;

NORTH 77°52'29" WEST 880.23 FEET TO THE **POINT OF BEGINNING**.

CONTAINING: 84.812 ACRES MORE OR LESS.

AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.

DATED THIS 10TH DAY OF JULY, 2019

KURT R. TROXELL, L.S. 7854
FUSCOE ENGINEERING

M:\Mapping\1296\001\LAFCO\1296-001 LAFCO .docx

EXHIBIT B

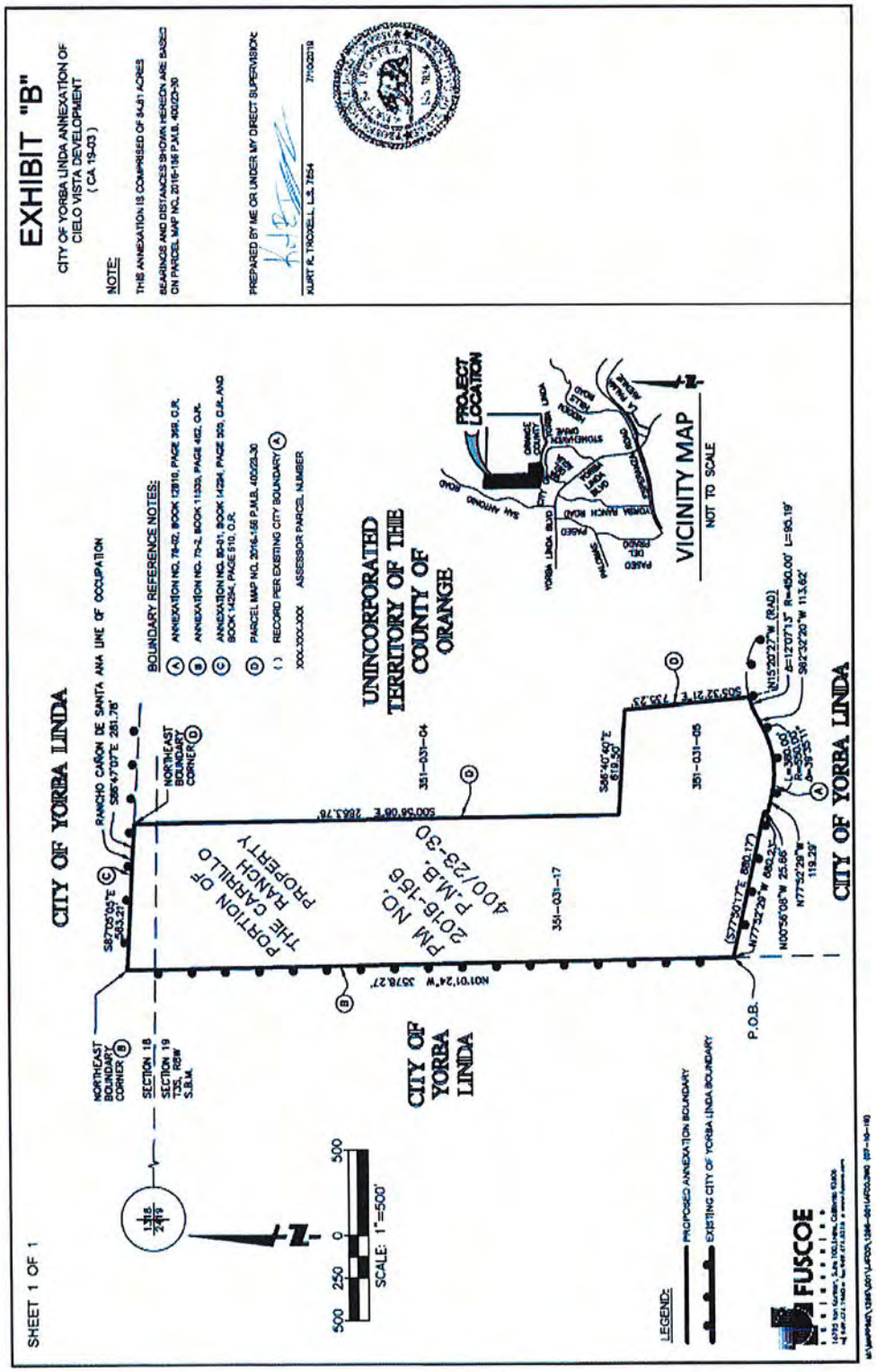
EXHIBIT "B"
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT
(CA 19-03)
NOTE:
THIS ANNEXATION IS COMPRISED OF 34.31 ACRES
BEARINGS AND DISTANCES SHOWN HEREON ARE BASED ON PARCEL MAP NO. 2016-156 P.M.B. 400/23-30
PREPARED BY ME OR UNDER MY DIRECT SUPERVISION
AURT R. TROXELL, L.S. 7254
7/10/2019
BOUNDARY REFERENCE NOTES:
(A) ANNEXATION NO. 76-42, BOOK 12810, PAGE 398, O.R.
(B) ANNEXATION NO. 75-2, BOOK 11335, PAGE 402, O.R.
(C) ANNEXATION NO. 80-01, BOOK 14294, PAGE 320, O.R. AND BOOK 14294, PAGE 510, O.R.
(D) PARCEL MAP NO. 2016-156 P.M.B. 400/23-30
( ) RECORD PER EXISTING CITY BOUNDARY (A)
XXX-XXX-XXX ASSESSOR PARCEL NUMBER
CITY OF YORBA LINDA
RANCHO CAÑON DE SANTA ANA LINE OF OCCUPATION
S85°47'07"E 281.78'
S87°03'06"E 243.21'
NORTHEAST BOUNDARY CORNER (D)
NORTHEAST BOUNDARY CORNER (B)
SECTION 18
SECTION 19
T3S, R8W
S.B.M.
UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE
PROJECT LOCATION
VICINITY MAP
NOT TO SCALE
PORTION OF THE CARRILLO RANCH PROPERTY
PM NO. 2016-156
P.M.B. 400/23-30
S00°56'06"E 2663.76'
N01°01'24"W 3578.27'
S05°40'40"E 619.50'
S05°32'21"E 753.23'
351-031-04
351-031-05
351-031-17
N15°20'27"W (R&D)
S62°32'20"W 113.62'
N77°32'29"W 119.28'
N00°56'08"W 25.66'
N77°32'29"W 680.23'
(S77°30'17"E 680.17')
P.O.B.
CITY OF YORBA LINDA
CITY OF YORBA LINDA
SCALE: 1"=500'
500 250 0 500
LEGEND:
PROPOSED ANNEXATION BOUNDARY
EXISTING CITY OF YORBA LINDA BOUNDARY
FUSCOE
SHEET 1 OF 1

EXHIBIT C

Fees and Obligations

Fees Retained By County

Unless otherwise specified herein, County shall retain fees and obligations from the Development Approvals.

Fees Retained By City

The County shall collect park fees pursuant to the Quimby Act for the development based on Orange County Codified Ordinance section 7-9-520, *et seq.* and shall transfer to the City one hundred percent (100%) of such park fees.

Prior to the issuance of building permits, to satisfy the requirement that North County BRS Project, LLC shall comply with the development fee program for Orange County Public Libraries as provided in Sections 7-9-700 through 7-9-713 of the Codified Ordinances of the County of Orange or the development fee program for the City of Yorba Linda Library system, North County BRS Project, LLC shall pay $250.00 per residential unit within the Project to the City of Yorba Linda for a total of $20,000.00. The fee shall be paid to the City on a per-unit basis upon the County's issuance of a building permit for each unit – and not as a single lump sum.

The City shall receive the Public Benefit Contribution from North County BRS Project, LLC as outlined in the Pre-Annexation Agreement by and among the City of Yorba Linda a California Municipal Corporation and North County BRS Project, LLC, a Delaware Limited Liability Company.

Once a Unit, Common Area, Conservation Easement, or Public Improvement is Fully Improved, the City is entitled to receive all fees related to the respective Fully Improved Property.

All areas within the current territorial limits of the City outside the Property shall be processed in accordance with City requirements and the City shall retain all fees related thereto.

The City shall retain applicable Master Plan of Drainage fees charged by the City on the Project.

North County BRS Project, LLC shall design and construct a traffic control device as set forth in Mitigation Measure 4.14-2 of the Project's EIR at the intersection of Via del Agua Street and Yorba Linda Boulevard. The traffic signal shall be installed prior to issuance of the Project's first Certificate of Occupancy for a production (*i.e.*, not a model) home. A pro-rata share of the traffic signal expenses shall be subject to reimbursement from the Esperanza Hills developer. If a Certificate of Occupancy is issued for a production home within the Esperanza Hills development prior to the issuance of the Project's first production home Certificate of Occupancy, then North County BRS Project, LLC shall pay the City of Yorba Linda its pro-rata share cost toward installation of a traffic signal in lieu of installing said signal.

Attachment C

PRE-ANNEXATION AGREEMENT

by and among

THE CITY OF YORBA LINDA
a California Municipal Corporation,

and

NORTH COUNTY BRS PROJECT, LLC,
a Delaware Limited Liability Company

[Dated as of 10/24/19 for reference purposes only]

539/009410-1050
14215642.1 a09/26/19

ARTICLE 1. PARTIES AND EFFECTIVE DATE

1.1 Parties. This Pre-Annexation Agreement ("Agreement") is entered into by and among (i) The City of Yorba Linda (the "City"), a California municipal corporation and North County BRS Project, LLC (the "Company"), a Delaware limited liability corporation. The City and the Company are sometimes referred to herein individually as a "Party" and collectively as the "Parties." This Agreement is dated as of 10/21/19, for reference purposes only and will not become effective until the "Effective Date" defined in Section 1.2 below.

1.2 Effective Date. This Agreement will not become effective until the date ("Effective Date") on which all the following have occurred: (i) this Agreement has been approved by the Company, executed by its legally authorized officers, and delivered to the City; (ii) this Agreement has been approved by the City Council and executed by the City; and (iii) all applicable statutes of limitation and appeal periods relating to the annexation of the Property have lapsed without a legal challenge.

1.3 Property Owner Consent. The property owners of the different properties constituting the Property irrevocably consent to the annexation of the Property into the City and authorize the Company to act on their behalf in connection with the annexation. The property owners include The Travis Ranch Trusts and the Virginia Richards Revocable Intervivos Trust dated May 1, 1986.

ARTICLE 2. RECITALS

2.1 The Company holds options to approximately 84 acres, the legal description of which is attached hereto as Exhibit "A" (the "Property"). The Property is shown on County of Orange Vesting Tentative Tract Map 17341. The Property is located in an unincorporated area of Orange County, California (the "County") within the City's sphere of influence. Policies of the Orange County Local Agency Formation commission favor the annexation of unincorporated areas so as to encourage the orderly and efficient provision of municipal services. (*See,*

e.g., OC LAFCO Legislative Policy Guidelines C and D from its 2019 Bylaws, Policies and Procedures).

2.2 The Company has obtained approvals from the County to develop the Property with an 80-unit residential subdivision (alternatively referred to herein as "Cielo Vista" or the "Project").

2.3 The Project's entitlements (including the Cielo Vista Project Alternative 5 Area Plan ["Cielo Vista Area Plan"]) and Environmental Impact Report ("EIR") were approved by the Orange County Board of Supervisors on December 13, 2016 and were not judicially challenged. The Project's Vesting Tentative Tract Map was approved by the Orange County Board of Supervisors on September 12, 2017 and was not judicially challenged.

2.4 On November 20, 2018, the City Council approved Zone Change 2018-02 to "pre-zone," or establish a pre-annexation zoning designation, for the Property, as permitted by California Government Code § 65859. In Ordinance No. 2018-1055 the City pre-zoned the Property to "PD (Planned Development) – Cielo Vista" to allow for development of the Property at a density of up to 1 dwelling unit per acre and to establish development standards consistent with the density and character of the surrounding single-family residential neighborhoods. The "PD (Planned Development) – Cielo Vista" designation implements and is consistent with the Cielo Vista Area Plan.

2.5 The Cielo Vista Area Plan approved by the County of Orange constitutes the City's "development plan" to guide physical development of the Property in compliance with Chapter 18.16, Article II of the City's Zoning Code.

2.6 Annexation of the Property into the City (collectively, the "Annexation") is contemplated by the Parties upon the terms and conditions set forth in this Agreement. Proceedings to implement the Annexation will be undertaken by the Orange County Local Agency Formation Commission ("OC LAFCO"). The City has submitted an application to OC LAFCO for the annexation

of the Property to the City referenced as City of Yorba Linda Annexation of Cielo Vista Development (CA 19-03) ("Annexation Application").

2.7 The Parties understand that the Annexation is essential to the plan for providing services required by OC LAFCO in its consideration of the annexation application.

2.8 The Company desires that the development and annexation of the Property occurs in a manner that preserves the vested rights and entitlements that the Company has received from the County.

2.9 The City desires any and all pre-annexation and post-annexation development to occur harmoniously and without disruption or discord to the City and its existing communities and inhabitants and without detriment to the City's infrastructure and/or City service providers. The City further desires to be assured that Company will continue to process its current application for annexation under the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration for the promises and mutual covenants set forth herein, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 3. TERMS

3.1 City Obligations.

3.1.1 Processing Review. In accordance with applicable legal requirements and procedures, and to the extent that its authority has not been contracted to the County of Orange under a separate instrument, the City shall timely process encroachment permits, license agreements, discretionary and non-discretionary actions, and all other legally cognizable documents consistent with the Project's entitlements and the City's zoning and other legal requirements to the extent necessary to facilitate the Project's implementation, including its connection to Via del Agua. The City does not waive or otherwise limit its ability to exercise its legal authority in the City's review or approval process for City actions.

3.1.2 Processing Roads. In accordance with applicable legal requirements and procedures, and to the extent that its authority has not been contracted to the County of Orange under a separate instrument, the City shall timely process all applications for construction of the Project's roads and infrastructure within its jurisdiction (including Street "A" on Tract Map 17341) and attendant landscaping, signage, striping, and monumentation, substantially consistent with the Cielo Vista Area Plan. The City does not waive or otherwise limit its ability to exercise its legal authority in the City's review or approval process for City actions.

3.1.3 Consent To Annexation. The City hereby irrevocably consents to the annexation of the Property pursuant to the terms of this Agreement and shall cooperate in the annexation process for the Property.

3.1.4 Traffic Control Device. Consistent with Mitigation Measure 4.14-2 of the Project's EIR and to the extent consistent with legal requirements and within the City's legal authority, if the Company constructs the traffic control devices at Via Del Agua and Yorba Linda Boulevard then the City shall require the developer of the Esperanza Hills residential project (Yorba Linda Estates, LLC, or its successor or assign) to make a pro-rata reimbursement to the Company for all expenses associated with the construction of the traffic control devices at Via Del Agua and Yorba Linda Boulevard as part of the first City-issued discretionary or ministerial approval for the Esperanza Hills project where the City can legally impose such a condition. The amount of such reimbursement shall be in proportion to the number of County-approved residential units at the Cielo Vista and Esperanza Hills residential projects. For example, if the Esperanza Hills project is approved by the County at 340 units, then the Cielo Vista project shall be responsible for 80/420ths of the cost of the traffic control devices at Via Del Agua and Yorba Linda Boulevard. Using the figures in that example for reference only, the City would condition the developer of the Esperanza Hills residential project to reimburse the Company for 340/420ths of said cost as part of the first City-issued approval for the Esperanza Hills project.

3.2 Company Obligations.

3.2.1 Pursue Annexation. The Company shall continue to diligently pursue the approval of the Annexation Application the City filed with OC LAFCO for the annexation of the Property into the City.

3.2.2 Notice Of Grading. The Company shall provide no less than sixty (60) days' notice to the City prior to commencement of mass grading for the Project.

3.2.3 Consent To Annexation. The Company hereby irrevocably consents to the annexation of the Property pursuant to the terms of this Agreement and the Annexation Application submitted pursuant to Section 3.2.1. The Company covenants for itself, the Property owners, its agents, employees, contractors, heirs, successors and assigns who obtain title to the Property or portions or parcels thereof ("Successors"), to diligently pursue annexation of the Property to the City consistent with the terms of this Agreement. The Company and its Successors shall cooperate in every reasonable way with the requests of the City, OC LAFCO or any other public agency in any proceeding to annex the Property to the City. Said cooperation shall include, but not be limited to, the filing of all necessary applications, petitions, plans, drawings, and any other documentation or information required by the City, OC LAFCO or any public agency at Company's sole cost and expense.

3.2.4 Internal Project Roads. The Company shall design and construct its internal roads to City standards at its sole expense.

3.2.5 Library. Prior to the issuance of building permits, to satisfy the requirement that the Company shall comply with the development fee program for Orange County Public Libraries as provided in Sections 7-9-700 through 7-9-713 of the Codified Ordinances of the County of Orange or the development fee program for the City of Yorba Linda Library system, Company shall pay Two Hundred Fifty Dollars ($250.00) per residential unit within the Project to the City of Yorba Linda for a total, if 80 units, of $20,000.00. The fee shall be paid to the City

on a per-unit basis upon the County's issuance of a building permit for each unit – and not as a single lump sum. In no event shall the total number of residential units used for the calculation of the fee be less than 69 units, and if there are less than 69 units developed on the Property then the total remaining fee shall be paid upon the issuance of the building permit for the last residential unit.

3.2.6 Bonds. The Company shall post subdivision completion bonds (the "Bonds") as required by the County prior to issuance of a grading permit, and shall agree that the City may either be named as a beneficiary under the Bonds, or may be named as a party who could make demand on the County to enforce the Bonds in the event of default by the Company. Furthermore, the Company shall post separate bonds for all work performed by Company and its agents on any City property or easements to the extent that such bonds are customarily required by the City in connection with such work.

3.2.7 Public Benefit Contribution. Upon the approval of annexation by OC LAFCO as provided herein, the Company agrees to pay the sum of Sixteen Thousand Seven Hundred Sixteen dollars ($16,716.00) per dwelling unit (the "Public Benefit Contribution") to the City as agreed reimbursement for annexation into the City of the Property and subject to the timing provisions of this paragraph. Subject to the satisfaction of the contingencies set forth in this paragraph, the Public Benefit Contribution shall be paid to the City on a per-residential unit basis upon the County's issuance of a Certificate of Occupancy for each unit—and not as a single lump sum. In no event shall the total number of residential units used for the calculation of the Public Benefit Contribution be less than 69 units, resulting in a total Public Benefit Contribution at the $16,716 per unit rate of One Million One Hundred Fifty Three Thousand Four Hundred and Four dollars ($1,153,404.00), and if there are less than 69 units developed on the Property then the total remaining Public Benefit Contribution shall be paid upon the issuance of the certificate of occupancy for the last residential unit. In the event that the City approves a Public Benefit Contribution of less than $16,716 per dwelling unit as part of a pre-annexation agreement for the Esperanza Hills project (the "Esperanza Contribution"), it shall reduce the

Company's per-unit Public Benefit Contribution to equal the Esperanza Contribution for any unpaid Public Benefit Contribution made after the date that the City approves the Esperanza Contribution.

3.2.8 Payment of City Fees and Costs. Company shall pay City all of City's costs and expenses pertaining to the annexation of the Property, including but not limited to costs associated with the Project's encroachment permit, grading, traffic signal design review, or other engineering plan check services related to the Project's entrance roadway. Company shall pay all City processing, permitting and other fees for work that is performed by the City pertaining to any aspect of the Project including but not limited to work performed on City Property. Company shall pay all of City's attorney's fees, consultant costs (including but not limited to environmental consultants and CEQA consultants) and other reasonable costs related to the City's actions pertaining to the annexation of the Property from the Effective Date of this Agreement. Company shall bear all City costs of the processing of the annexation proceedings to be conducted by OC LAFCO including the recordation fees for required by the State Board of Equalization. Company further agrees to pay the cost of any other regulatory activities pertaining to the annexation of the Property. The Parties agree that that the City's Master Plan of Drainage fee of Fourteen Thousand Dollars ($14,000.00) per acre shall apply to the Project but that Company shall receive a credit for drainage facilities constructed off the Property resulting in a City Master Plan of Drainage fee of Two Hundred Thirty-One Thousand and Four Hundred and Twenty Six Dollars ($231,426.00) owed by the Company. The City's Master Plan of Drainage fee shall be paid prior to tract map recordation.

3.2.9 Indemnity. Company agrees to indemnify, defend, and hold harmless City and its elected and appointed boards, commissions, officers, agents, and employees from and against any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations, and expenses (including but not limited to attorney's fees and costs) which: 1) may arise, directly or indirectly, from the acts, omissions, or operations of Company's or Company's agents, contractors, subcontractors, agents, or employees pursuant to this Agreement; 2) pertain to the

City's approval of this Agreement or related agreements and permits pertaining or related to the Project or the Property; 3) pertain to the location of the access road and bridge generally referenced as Street A on Tract Map 17341 that connects to Via Del Agua; or 4) pertain to any alleged interference with any alleged third party property rights pertaining to the access road and bridge generally referenced as Street A on Tract Map 17341 that connect to Tract Map 17341. City shall provide Company with notice of the pendency of any such action and request that Company defend such action. If Company fails to do so, City may defend the action and Company shall pay the cost thereof.

3.2.10 Traffic Control Device. Company shall design and construct a traffic control device as set forth in Mitigation Measure 4.14-2 of the Project's EIR. The traffic signal shall be installed by Company prior to issuance of the Project's first Certificate of Occupancy for a production (*i.e.*, not a model) home. A pro-rata share of Company's traffic signal expenses shall be subject to reimbursement from the Esperanza Hills developer, consistent with Section 3.1.4 of this Agreement. If a Certificate of Occupancy is issued for a production home within the Esperanza Hills development prior to the issuance of the Project's first production home Certificate of Occupancy, then Company shall pay the City of Yorba Linda its pro-rata share cost toward installation of a traffic signal in lieu of installing said signal, consistent with Section 3.1.4 of this Agreement.

3.2.11 LMAD. Company agrees to annex the Property into the City's Street Lighting and Landscaping Maintenance District ("LMAD") in accordance with the procedural legal requirements (including but not limited to the requirements of Article XIII D of the California Constitution and the Landscaping and Lighting Act of 1972) for the annexation of the Property into the LMAD. The annexation of the Property into the LMAD shall include annexation into the LMAD's applicable Arterial Landscaping Zone, Local Landscaping Zone, Arterial Lighting Zone, Local Lighting Zone, and Traffic Signal Zone. The annexation shall include approval of assessments up to the maximum amount of the allowable assessment, including a yearly increase based on CPI, on property within the City LMAD that neighbors the Property in City LMAD Local Landscaping Zone L-2K.

3.2.12 Trails. Consistent with Mitigation Measure 4-13.2 and Tract Map Condition No. 33, Company shall coordinate with the City trail alignments through the Project. The Parties have agreed on the location of the trail alignments as shown on Exhibit B and said trail alignments shall be dedicated to the City in a location and in a manner acceptable to the City.

3.2.13 Entry Way Into Project. Company shall be responsible for all costs pertaining to construction, operation, and future maintenance of the entry road and bridge into the Property and Project, and any retaining walls related thereto, and its connection to Via Del Aqua in the City (Street A as referenced on Tract Map 17341). Company shall be responsible for all future maintenance, repairs, and other matters pertaining to the entry road and bridge into the Property and any retaining walls related thereto. This obligation shall remain in full force and effect indefinitely in perpetuity unless and until this obligation is terminated by mutual written agreement of the Parties.

Company may assign this obligation to a potential future homeowner's association covering the Property or a portion of the Property or a future owner of the Property. The assignment requires the consent of the City, which consent shall not be unreasonably withheld. Upon the assignment of Company of its obligations under this section, the assignee shall enter into an agreement with the City agreeing to the terms and conditions of this section of the Agreement.

3.3 Agreement Not to Challenge or Support Challenge. The Parties shall not file lawsuits or directly or indirectly support litigation filed by others, either as a party, through financial contributions, providing staff support, or by failing to aggressively defend such litigation, that challenges the adequacy of the Cielo Vista Final EIR or any addenda to that EIR, the approval by the County of the Vesting Tentative Tract Map or the Final Map for the Project, the City's approval of the Pre-zone of the Property, or any other permits, entitlements, or approvals received in connection with the Project through the County or the City. The section only

pertains to the Project as entitled and any substantial changes to the Project or new projects are not covered by this Section.

ARTICLE 4. ANNEXATION

4.1 Timing. Upon recordation of the Final Map and approval of the annexation by OC LAFCO, the Property shall be automatically annexed into the City. Notwithstanding anything in this agreement, or any other Agreement, in no event shall a Certificate of Occupancy for any structure on the Property be issued prior to the recordation by OC LAFCO of a Certificate of Completion for the annexation.

ARTICLE 5. DAMAGES

5.1 Remedies. Subject to the limitations herein, in the event of a breach of the Agreement, the non-breaching party may at its option institute legal action to cure, correct, or remedy such breach, enjoin any threatened or attempted violation, or enforce the terms of this Agreement by specific performance. In the event of any breach of this Agreement, the non-breaching party shall have the right to pursue against the breaching party any and all remedies that are available at law or at equity for breach of a contractual obligation, provided however, that in no event shall Company have the right to sue City or any City officials, employees, contractors or agents for damages or monetary relief arising out of City's default of its obligations set forth in this Agreement, the Parties agreeing that declaratory and injunctive relief, mandate, and specific performance shall be Company's sole and exclusive judicial remedy. The prevailing party in any such litigation shall be entitled to its attorney's fees and costs.

ARTICLE 6. GENERAL PROVISIONS

6.1 Duration. This Agreement shall be effective on the date it is executed by both Parties and shall remain in effect until the later of (a) all of the obligations of the Parties contained herein are satisfied, or (b) the tenth (10th) anniversary of the Effective Date ("Anniversary"). If the Annexation is not recorded by the Anniversary, OC LAFCO may record the Annexation. Obligations that will

continue until satisfied or in perpetuity include but are not limited to the obligation of Company to pay the Public Benefit Contribution in Section 3.2.7, the obligation to maintain the Entry Way into the Project in Section 3.2.13, and the indemnity obligation in Section 3.2.9.

6.2 Attorney's Fees. In the event that any Party brings any legal action to interpret or enforce any provision of this Agreement, the prevailing Party in that action shall be entitled to receive, in addition to all other available relief, costs of litigation and reasonable attorneys' fees, including expert witness fees, costs and fees incurred on appeal and in enforcing any judgment which may be rendered on the underlying action.

6.3 No Third Party Beneficiaries. Except as provided by Section 6.11, the City and the Company expressly acknowledge that they do not intend, by their execution of this Agreement, to benefit any person or entities not signatory to this Agreement. Except as provided by Section 6.11, no person or entity not a signatory to this Agreement will have any rights or causes of action against the City or the Company, or any combination thereof, arising out of or due to the City's or the Company's entry into this Agreement.

6.4 Governing Law. This Agreement shall be interpreted and enforced in accordance with the provisions of California law, without regard to conflicts of laws. Any litigation shall be held in a court of competent jurisdiction located in Orange County, California.

6.5 Notice. Unless otherwise permitted by this Agreement, all notices to be given shall be in writing and may be made by personal delivery, certified mail, postage prepaid and return receipt requested. Mailed notices shall be addressed to the Parties at the addresses listed below, but each party may change the address by written notice in accordance with this paragraph. Receipt will be deemed made as follows: notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated on receipt or rejection.

If to the City:
City of Yorba Linda
c/o City Manager
4845 Casa Loma Ave.
Yorba Linda, CA 92886

With a Copy to:
Todd Litfin
Rutan & Tucker, LLP
611 Anton Blvd., 14th Floor
Costa Mesa, CA 92661

If to the Company:
Rory Ingels
North County BRS Project, LLC
c/o BlackRock
4400 MacArthur Blvd #700
Newport Beach, CA 92660

With a Copy to:
Sean Matsler
Cox, Castle & Nicholson LLP
3121 Michelson Drive, Suite 200
Irvine, CA 92612

6.6 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall constitute an original.

6.7 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements, either written or oral, express or implied.

6.8 Further Acts. The parties agree to execute such additional documents and to take such further actions as are reasonably necessary to accomplish the objectives and intent of this Agreement.

6.9 Waiver. The failure of any Party to insist upon strict compliance with any provision of this Agreement or to exercise any right or privilege provided herein, or any Party's waiver of any breach hereunder unless in writing, shall not

relieve any other Party of any of obligations hereunder, whether of the same or similar type. The foregoing shall be true whether the waiving Party's actions are intentional or unintentional.

6.10 Authorization to Execute. The signatories to this Agreement warrant that they have been lawfully authorized by their respective Parties to execute this Agreement on their behalf. Upon request, the Company shall deliver to the City copies of all applicable bylaws, resolutions or other documents evidencing the signatories' legal authority to execute this Agreement on behalf of the respective Parties.

6.11 Binding On Heirs, Successors and Assigns. The benefits and obligations described herein will inure to the benefit of and be binding upon the Company and any assignee or successor in interest of the Company to the Property, the City and its respective heirs, successors, grantees, transferees and permissible assigns.

6.12 Recordation. A memorandum of this Agreement shall be recorded as an encumbrance against the Property within ten days of the last signature required by this Agreement.

6.13 Warranties and Representations. The Company represents and warrants to the City that the Company has a valid and enforceable option to acquire the Property, and has due authority to enter into this Agreement. Furthermore, the individuals signing this Agreement on behalf of Company are authorized to sign on Company's behalf.

6.14 Severability. If any provision or clause of this Agreement or any application of it to any person, firm, organization, partnership or corporation is held invalid, such invalidity shall not affect other provisions of this Agreement which can be given effect without the invalid provision or application. To this end, the provisions of this Agreement are declared to be severable.

6.15 Compliance with other Rules and Regulations. The Company and its Successors shall comply with all other applicable rules and regulations of the City, the County and all other public agencies having jurisdiction over the Property. This Agreement does not abrogate, limit or modify any other of the City's rights which are provided by common law, statute, ordinance or regulation.

6.16 Non-liability of City Officials. No officer, official, employee, agent, attorney or representative of the City shall be personally liable to the Company or any successor in interest to the Company, in the event of any default or breach by the City.

6.17 Covenants Running with the Land. The terms and conditions of this Agreement shall constitute covenants running with the Property and binding on the Company and Company's successors and assigns to the Property and burdening the Property and benefiting the City and adjacent City streets.

6.18 Lack Of Annexation. In the event that the Property is not annexed into the City, the Parties are not bound by the obligations of this Agreement and the Parties retain any of their respective pre-existing rights pertaining to the Project, the Property and the City Property. In the event that the Property is not annexed into the City but the Parties desire for the City to provide public services to the Property, OC LAFCO's approval must be obtained prior to the date City services are provided to the Property. If OC LAFCO approval is not secured, the County shall be the service provider.

6.19 Assignment. Company may not assign this Agreement or any interest in it without the prior written consent of the City, which consent shall not be unreasonably withheld.

6.20 Development And Other Fees. The City may enter into an agreement, formally or informally, with the County whereby County imposed fees, otherwise potentially payable to the County as a condition of the issuance of development approvals for the Project, would be paid to the City by Company or

County, as the case may be, upon annexation of the Property to the City. Annexation shall not be contingent upon such an agreement.

THE CITY OF YORBA LINDA, a
California municipal corporation

By:_____
Beth Haney, Mayor Pro Tem

Attest:

_____
Marcia Brown, City Clerk

Approved as to Legal Form:

_____
Todd Litfin, City Attorney

North County BRS Project, LLC,
a Delaware limited liability corporation

By:_____

_____

Consent:

The Travis Ranch Trusts

The Travis Ranch Trusts for the benefit of Amos A. Travis

By:_____
AMOS A. TRAVIS, as Trustee of The Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth(1/4th) interest

THE CITY OF YORBA LINDA, a
California municipal corporation

By:_____

Attest:

_____
Marcia Brown, City Clerk

Approved as to Legal Form:

_____
Todd Litfin, City Attorney

North County BRS Project, LLC,
a Delaware limited liability corporation

By: Rory G Ingels
Rory G Ingels
Authorized Signatory

Consent:

The Travis Ranch Trusts

The Travis Ranch Trusts for the benefit of Amos A. Travis

By:_____
AMOS A. TRAVIS, as Trustee of The Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth(1/4th) interest

The Travis Ranch Trusts for the benefit of J. Coleman Travis

By: _____
AMOS A. TRAVIS, as Trustee of The Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth (1/4th) interest

The Travis Ranch Trusts for the benefit of William H. Travis

By: _____
AMOS A. TRAVIS, as Trustee of The Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth (1/4th) interest

The Travis Ranch Trusts for the benefit of Ann Travis

By: _____
AMOS A. TRAVIS, as Trustee of The Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4th) interest

All as tenants-in-common

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On 10/21/19, before me, Sherry Gentile,
(insert name and title of the officer)
Notary Public, personally appeared Amos A. Travis, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Sherry Gentile

SHERRY GENTILE
Notary Public - California
Orange County
Commission # 2255545
My Comm. Expires Sep 18, 2022

(Seal)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)
On October 30, 2019 before me, Barbara Hinshaw, Notary Public,
Date *Here Insert Name and Title of the Officer*
personally appeared Rory G. Ingels
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

BARBARA HINSHAW
Notary Public - California
Orange County
Commission # 2193484
My Comm. Expires Apr 24, 2021

Signature Barbara Hinshaw, Notary Public
Signature of Notary Public

Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth(1/4th) interest

The Travis Ranch Trusts for the benefit of J. Coleman Travis

By:
AMOS A. TRAVIS, as Trustee of The Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth (1/4th) interest

The Travis Ranch Trusts for the benefit of William H. Travis

By:
AMOS A. TRAVIS, as Trustee of The Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth (1/4th) interest

The Travis Ranch Trusts for the benefit of Ann Travis

By:
AMOS A. TRAVIS, as Trustee of The Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4th) interest

All as tenants-in-common

Virginia Richards Revocable Intervivos Trust dated May 1, 1986

By: Linda M. Rodger, Co-Trustee
LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

By: Nancy Ann Maggio, Co-Trustee
NANCY ANN MAGGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

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14215642.1 a09/26/19

NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California)
County of Orange)

On 10/28, 2019, before me, Holly Hutchins, a Notary Public, personally appeared **LINDA M. RODGER**, who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is~~/are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity~~(ies)~~, and that by ~~his~~/her/~~their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

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

WITNESS my hand and official seal.

Holly Hutchins

Holly Hutchins

HOLLY HUTCHINS
COMM. #2176450
Notary Public - California
Orange County
My Comm. Expires Jan. 18, 2021
NRO1 NRO1

NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California)
County of Orange)

On 10/28, 2019, before me, Holly Hutchins, a Notary Public, personally appeared **NANCY ANN MAGGIO**, who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is~~/are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity~~(ies)~~, and that by ~~his~~/her/~~their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Holly Hutchins

Holly Hutchins

HOLLY HUTCHINS
COMM. #2176450
Notary Public - California
Orange County
My Comm. Expires Jan. 18, 2021
NRO1 NRO1

EXHIBIT A

LEGAL DESCRIPTION
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT
(CA 19-03)

THAT CERTAIN PARCEL OF LAND SITUATED IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING A PORTION OF THE RANCHO CANON DE SANTA ANA, AS SHOWN ON A MAP ATTACHED TO THE FINAL DECREE OF PARTITION RECORDED FEBRUARY 8, 1874 IN BOOK 28, PAGE 158 OF DEEDS, RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, AND BEING A PORTION OF THE CARRILLO RANCH PROPERTY AS SHOWN ON A MAP FILED IN BOOK 37, PAGE 33 OF RECORDS OF SURVEY, BOTH IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, ALL LYING WITHIN SECTION 18 AND 19, TOWNSHIP 3 SOUTH, RANGE 8 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION IN THE EXISTING BOUNDARY OF THE CITY OF YORBA LINDA ANNEXATION NO. 78-02 BRYANT RANCH TO THE CITY OF YORBA LINDA PER DOCUMENT RECORDED IN BOOK 12810 PAGE 369 WITH CITY OF YORBA LINDA ANNEXATION NO. 75-2 PER DOCUMENT RECORDED IN BOOK 11535 PAGE 462, BOTH OF OFFICIAL RECORDS OF SAID COUNTY, SAID INTERSECTION ALSO BEING THE WESTERLY TERMINUS OF THAT CERTAIN COURSE SHOWN IN SAID ANNEXATION NO. 78-02 AS "SOUTH 77°50'17" EAST 880.17";

THENCE ALONG THE EXISTING EASTERLY BOUNDARY LINE OF THE CITY OF YORBA LINDA ANNEXATION NO. 75-2, NORTH 01°01'24" WEST 3578.27 FEET TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF THE EXISTING CITY OF YORBA LINDA ANNEXATION NO. 80-01 PER DOCUMENT RECORDED IN BOOK 14294 PAGE 1505 AND RECORDED IN BOOK 14294 PAGE 1510, BOTH OF OFFICAL RECORDS OF SAID COUNTY, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID ANNEXATION NO. 75-2;

THENCE ALONG THE SAID EXISTING SOUTHERLY BOUNDARY LINE OF THE CITY OF YORBA LINDA ANNEXATION NO. 80-01, SOUTH 87°05'05" EAST 583.21 FEET AND SOUTH 86°47'07" EAST 281.78 FEET TO THE NORTHEAST BOUNDARY CORNER OF PARCEL MAP NO. 2016-156 AS PER MAP FILED IN BOOK 400, PAGES 23 THROUGH 30 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY;

THENCE LEAVING SAID EASTING SOUTHERLY BOUNDARY LINE ALONG THE GENERALLY EASTERLY BOUNDARY LINES OF SAID PARCEL MAP NO. 2016-156 THROUGH THE FOLLOWING THREE COURSES;

SOUTH 00°56'08" EAST 2863.76 FEET;

SOUTH 86°40'40" EAST 619.50 FEET;

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EXHIBIT A

LEGAL DESCRIPTION
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT
(CA 19-03)

SOUTH 05°32'21" EAST 735.23 FEET TO A POINT ON THE NORTHERLY BOUNDARY LINE OF SAID CITY OF YORBA LINDA PER ANNEXATION NO. 78-02, SAID POINT BEING ON A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 450.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS, NORTH 15°20'27" WEST;

THENCE LEAVING SAID GENERALLY EASTERLY BOUNDARY LINE AND ALONG SAID NORTHERLY BOUNDARY LINE THROUGH THE FOLLOWING:

SOUTHWESTERLY ALONG SAID CURVE 95.19 FEET THROUGH A CENTRAL ANGLE OF 12°07'13";

SOUTH 62°32'20" WEST 113.62 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 550.00 FEET;

WESTERLY 380.00 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39°35'11";

NORTH 77°52'29" WEST 119.29 FEET;

NORTH 00°56'08" 25.66 FEET;

NORTH 77°52'29" WEST 880.23 FEET TO THE **POINT OF BEGINNING**.

CONTAINING: 84.812 ACRES MORE OR LESS.

AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.

DATED THIS 10TH DAY OF JULY, 2019

KURT R. TROXELL, L.S. 7854
FUSCOE ENGINEERING

2 OF 2

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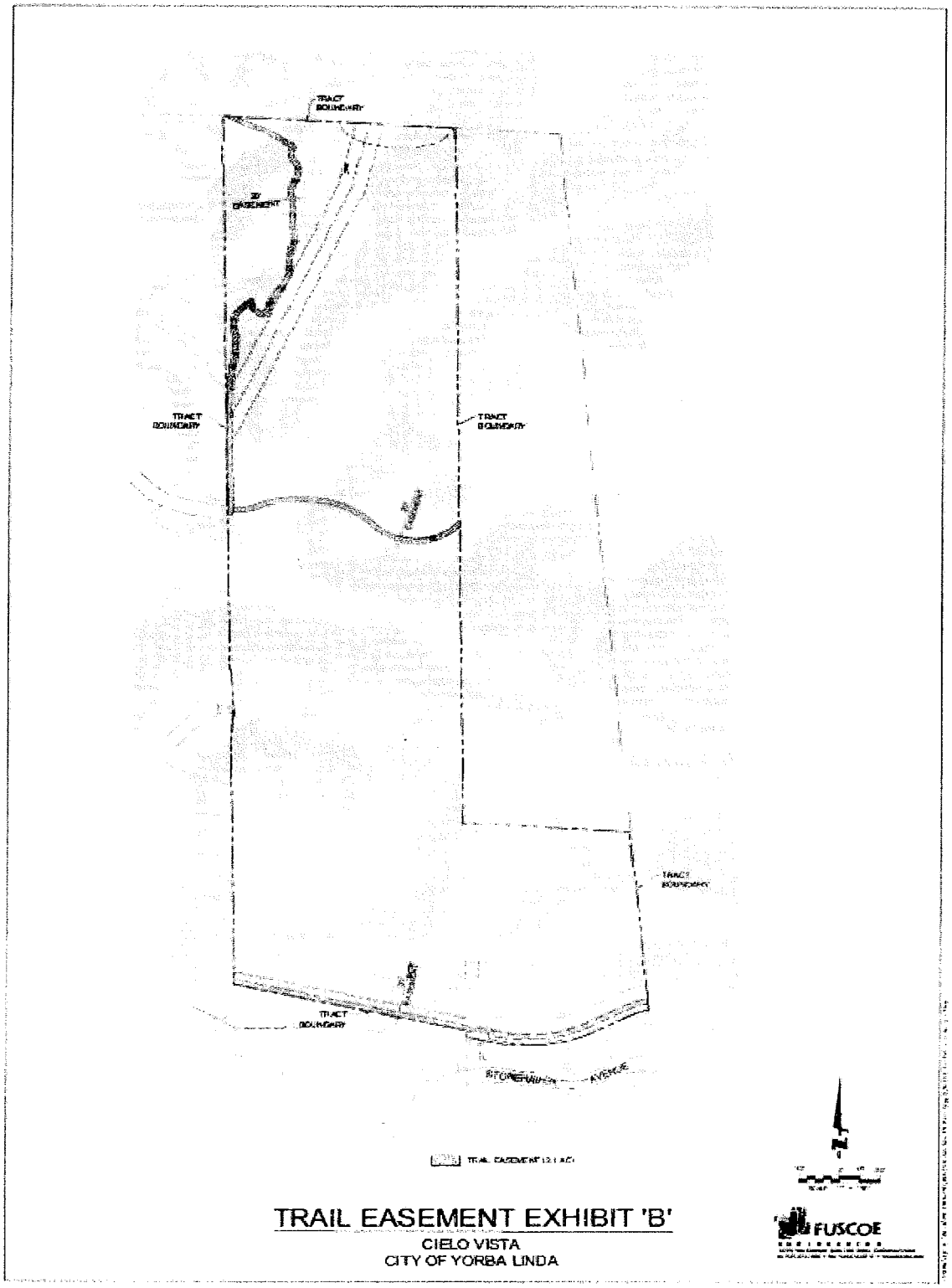
EXHIBIT "B"
TRAIL ALIGNMENTS



Attachment D

FIRST AMENDMENT TO
CIELO VISTA PROJECT WATER AND SEWER FACILITIES AGREEMENT
BETWEEN
YORBA LINDA WATER DISTRICT
AND
NORTH COUNTY BRS PROJECT, LLC

This FIRST AMENDMENT to Cielo Vista Project Water and Sewer Facilities Agreement ("First Amendment") is made and entered into, effective this 27th day of August 2019, by and between the Parties.

RECITALS

A. The Parties previously entered into the Agreement titled Cielo Vista Project Water and Sewer Facilities Agreement, which has an Agreement Date of August 1, 2018 ("Agreement"), a copy of which is attached hereto. Capitalized terms used in this First Amendment, without being separately defined herein, shall have the same meaning as defined in the Agreement.

B. Pursuant to Section 17, all amendments to the Agreement must be in writing and signed by the Parties.

C. Certain water facility improvements that will benefit both Developer and Yorba Linda Estates, LLC, who is the developer of the Esperanza Hills Estates ("EHE") project, will be connected to the water main in Stonehaven Drive and other Existing Offsite Facilities and will be designed and constructed as listed in **Exhibit "M"** and illustrated on **Exhibit "N"**, which are attached to this First Amendment ("Shared Facility Improvements"). The Parties intend for the rights and obligations as to the Subdivision Facilities in Subsections A(i), (iii), and D through F in Section 3 of the Agreement to apply to the Shared Facility Improvements.

D. The Shared Facility Improvements (1) were originally part of the EHE project memorialized in a separate agreement between YLWD and Yorba Linda Estates, LLC, dated October 13, 2016, (2) are subject to cost sharing between Developer and Yorba Linda Estates, LLC, as documented in a separate agreement between those parties, and (3) caused significant changes to the Cielo Vista Project Subdivision Facilities Plans. YLWD incurred significant time to review these design concept and improvement plans along with legal fees for the EHE project and previously invoiced Yorba Linda Estates, LLC for this time in YLWD invoice no. 2012-06 dated March 7, 2019 in the amount of $14,324.19. The invoice amount of $14,324.19 has been fully paid by Developer. The expenses incurred by YLWD associated with revisions to the Subdivision Facilities Plans have greatly exceeded the fees previously paid by Developer on May 22, 2018. Reimbursement for all outstanding and future YLWD Administrative Costs as defined in both the Agreement and herein shall be paid by Developer to YLWD out of the Administrative Costs Account.

E. Pursuant to Section 2 of the Agreement, the Effective Date term for Developer to provide proof and notice of transfer of ownership from Property Owner to Developer and recordation of the Project's final map was August 1, 2019, and the Parties desire to extend the Effective Date term for an additional three hundred sixty-five (365) day period to August 1, 2020. The extension of the Effective Date term will cause the Project milestones in **Exhibit "J"** and the schedule in **Exhibit "K"** to be modified.

F. Pursuant to Section 5.D. of the Agreement, Developer shall reimburse all YLWD Administrative Costs related to the Project. The Parties desire to amend this Section to (1) amend the use of the term "Administrative Costs" in Section 5.D to mean YLWD staff and attorney time and costs related to the Project, the Agreement as amended from time to time, and "Developer Improvements" defined collectively as: (i) the Subdivision Facilities, (ii) the Existing Offsite Facility Improvements and (iii) the Shared Facility Improvements; and (2) require Developer to reimburse YLWD for all fees and costs associated with consultant(s) and/or contractor(s) hired by YLWD for the Developer Improvements.

G. Since the Agreement Date, Subdivision Facilities Plans have been modified and the scope of Developer's design/work has been amended to include the Shared Facility Improvements.

H. Pursuant to Section 5.F of the Agreement, YLWD will construct off-site facilities to support Advanced Metering Infrastructure ("AMI") for the Subdivision Facilities. Developer agreed to pay $40,000 to YLWD for the tower and signal collection equipment as part of the AMI. So YLWD does not have to wait another year for payment, the Parties agreed to amend Section 5.F so the $40,000 is not to be deposited into the Existing Offsite Facility Improvements Escrow and instead Developer will pay the $40,000 to YLWD by check within 30 calendar days of Developer signing this First Amendment.

I. The Parties acknowledge that it is industry standard for a developer and a public agency to procure a surety bond for the facilities to be constructed by Developer and dedicated to the public agency. Moreover, the Parties acknowledge that it is industry standard for a developer to provide closing forms listed in Subsection 1.D below for, and access to, such facilities to the public agency, and to indemnify YLWD for damages and charges to Existing Offsite Facilities caused by Developer. Lastly, the Parties acknowledge that it is industry standard for Developer to comply with public agency rules and regulations for water and sewer service when constructing water and sewer facilities. These industry standards were not memorialized in the Agreement so the Parties desire to obligate Developer to these industry standards.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged and accepted, the Parties agree as follows:

1. The Agreement is amended as follows:

A. To reflect the addition of the Shared Facility Improvements, **Exhibits "M"** and **"N"** attached hereto are added and made a part of the Agreement.

B. Section 2 of the Agreement is hereby amended and replaced in its entirety with the following language:

"Except for Sections 5.D. and 5.F., which the Parties' rights and obligations are already in effect and will stay in effect for the term of this Agreement, the Parties' rights and obligations under this Agreement shall not take effect until (a) 10 days after Developer provides written proof and notice to YLWD of the Property Owner's transfer of ownership of the Property to Developer and (b) recordation of the Project's final map ("Effective Date"). If YLWD is not provided written proof and notice of both transfer of ownership from Property Owner to Developer and recordation of the Project's final map by August 1, 2020, then YLWD may provide written notice to Developer that the Agreement, as amended from time to time, is null and void; at which time the Agreement and any amendments will be null and void."

C. Subsections A(i), (iii), and D through F of Section 3 is amended to include the Shared Facility Improvements wherever "Subdivision Facilities" are mentioned.

D. The following language is added as a new Subsection H within Section 3 of the Agreement:

"H. Developer's Bond and Warranty Period Obligations. At Developer's sole expense, Developer shall furnish surety bond(s) to YLWD for the Subdivision Facilities and Shared Facility Improvements before commencing work on the Subdivision Facilities and Shared Facility Improvements. Developer shall not commence work on the Subdivision Facilities and Shared Facility Improvements until it has procured, and YLWD has approved, the surety bond(s), which shall continue in force from the date of YLWD's Final Acceptance of the Subdivision Facilities and Shared Facility Improvements for a warranty period of one (1) year. The surety bond(s) shall be in an amount equal to one hundred (100) percent of the Engineer's Estimate of the cost of construction of the Subdivision Facilities and Shared Facility Improvements. YLWD shall review the Engineer's Estimate and determine the amount of the surety bond(s). At the end of the one-year warranty period for the Subdivision Facilities and Shared Facility Improvements, YLWD will release the surety bond(s) to Developer.

When defects in Subdivision Facilities and Shared Facility Improvements are discovered within the warranty period, Developer shall start work to remedy any such defects within five (5) calendar days of written or electronic notice by YLWD and shall promptly complete such work. In emergencies, where damages may result from delay and where loss of service may result, corrections may be made by YLWD upon discovery, in which case the cost thereof shall be borne by Developer. In the event Developer does not commence and/or accomplish corrections within the time specified, the work may be accomplished by YLWD at its option, and the cost thereof shall be paid by Developer within thirty (30) days of receipt by Developer of an itemized invoice for such cost.

Pursuant to Section 8 of the Agreement, Developer shall indemnify YLWD for any expenses incurred by YLWD resulting from defects in Developer's work, including actual damages, costs of materials and labor expended by YLWD in making repairs and the cost of engineering, inspection and supervision by YLWD."

E. The following language is added as a new Subsection I within Section 3 of the Agreement:

"I. Closing Forms:

i. *Notice(s) of Completion*: Developer agrees that the Notice(s) of Completion prepared by YLWD and signed by the Developer for the Subdivision Facilities and Shared Facility Improvements shall be recorded by YLWD with the County Recorder's office of Orange County, California, at Developer's expense.

ii. *Statement of Cost of Construction*: Developer agrees to provide YLWD with a report of the actual costs of the Subdivision Facilities and Shared Facility Improvements on the standard reporting form of YLWD and to substantiate such report with invoices and receipts acceptable to YLWD.

iii. *Certification and Waiver of Lien Rights*: Developer agrees that upon final payment of the contractor constructing or installing the Subdivision Facilities and Shared Facility Improvements, 35 or more days after date of recording of the Notice(s) of Completion with the County Recorder, Developer will obtain from the contractor(s) a Certification and Waiver of Lien Rights in favor of the Developer and YLWD, and that the original of said Certification and Waiver of Lien Rights shall be delivered to YLWD.

iv. *Bill of Sale*: Developer agrees that upon expiration of said 35 days, Developer will execute and deliver a proper Bill of Sale, on the standard form of YLWD, for the Subdivision Facilities and Shared Facility Improvements to YLWD."

F. The following language is added as a new Subsection J within Section 3 of the Agreement:

"J. Inspections. During construction, YLWD shall have the right to inspect the Subdivision Facilities and Shared Facility Improvements during normal business hours and upon reasonable advanced written or electronic notice to Developer."

G. The following language is added as a new Subsection K within Section 3 of the Agreement:

"K. Damage to YLWD Facilities. Developer hereby agrees that, pursuant to Section 8 of the Agreement, it will indemnify YLWD for damages and charges to Existing Offsite

Facilities caused by Developer's construction of the Subdivision Facilities and Shared Facility Improvements, and any person, firm or corporation working for, on behalf of, or by direction of Developer."

H. The following language is added as a new Subsection L within Section 3 of the Agreement:

"L. YLWD's Acceptance of Shared Facilities Improvements. Completion of the Shared Facilities Improvements described in Exhibits M and N may pre-date the EHE Project's readiness to hook up. YLWD's acceptance of the Shared Facility Improvement shall not be conditioned or otherwise dependent on the EHE Project readiness to hook up; however, YLWD is not obligated to accept the Shared Facility Improvements either for any reason stated in Sections 3.D through 3.F of the Agreement or until both the Shared Facility Improvements and Subdivision Facilities are operational.

I. Section 5.D. of the Agreement is hereby amended as to the first sentence, only, to read:

"Both before and after the Agreement Date until issuance of the last building permit, Developer shall reimburse all YLWD staff and attorney time and costs, and all fees and costs associated with consultants and contractors hired by YLWD, related to either the Agreement, as amended from time to time, or the Project, including the Developer Improvements ("YLWD Administrative Costs").

The remainder of Section 5.D of the Agreement is unchanged.

J. Subsection F within Section 5 of the Agreement is hereby amended and replaced in its entirety with the following language:

"F. YLWD shall construct off-site facilities to support Advanced Metering Infrastructure ("AMI") for the Subdivision Facilities, with signal from each meter transmitted to a tower and retransmitted to the YLWD Headquarters located at 1717 E. Miraloma Avenue, Placentia, CA. Developer agreed to pay $40,000 to YLWD for its share of the AMI."

K. To reflect the omission of Developer's $40,000 deposit into the Existing Offsite Facility Improvements Escrow, **Exhibit "G"** to the Agreement is hereby amended and replaced by **Exhibit "G.1"** attached hereto.

L. Pursuant to Section 5.B.iii of the Agreement and in order to reflect a change in the Project milestones, **Exhibit "J"** to the Agreement is hereby amended and replaced by **Exhibit "J.1"** attached hereto.

M. Pursuant to Section 5.B.iii of the Agreement and in order to reflect a change in the Project schedule, **Exhibit "K"** to the Agreement is hereby amended and replaced by **Exhibit "K.1"** attached hereto.

N. Section 15 is hereby amended and replaced in its entirety with the following language:

"15. Further Cooperation. The Parties agree to execute, acknowledge if appropriate, and deliver any and all documents and cooperate in performing any and all acts both consistent with the District's Rules and Regulations For Water Service and Sewer Service and in any commercially reasonable manner as may be necessary to implement the intent of this Agreement, as set forth in the Recitals, and the terms of the Agreement as amended from time to time."

O. The following language is added as new Section 27:

"27. Relationship of Parties. Nothing in this Agreement shall be deemed to create any form of business organization between the Parties, without limitation, a joint venture or partnership. Developer, in constructing and installing the Subdivision Facilities and Shared Facility Improvements, is not acting as an agent or employee of YLWD."

2. Pursuant to Section 5.D., as amended, YLWD Administrative Costs include (1) YLWD outstanding and future expenses associated with the Developer Improvements, and (2) the YLWD invoice no. 2012-06 dated March 7, 2019 in the amount of $14,324.19 owed by Yorba Linda Estates, LLC. On August 6, 2019, YLWD received and deposited a check from Developer dated July 31, 2019 in the amount of $14,324.19 so Developer's payment obligation for invoice no. 2012-06 is satisfied. Developer's payment of YLWD's outstanding expenses related to the Developers Improvements will be deducted from Developer's Administrative Costs Account after this First Amendment is signed by YLWD.

3. Pursuant to Section 5.F. of the Agreement as amended, Developer agrees to pay $40,000 to YLWD by check within 30 calendar days of Developer signing this First Amendment. Developer's failure to deliver this check in the amount of $40,000 to YLWD within 30 calendar days will nullify this First Amendment.

5. This First Amendment and the attached Agreement shall be recorded with the Orange County Recorder's Office.

6. The Agreement shall remain in full force and effect in accordance with its terms and provisions except as amended by this First Amendment. The Parties hereby confirm and ratify each of the provisions of the Agreement as amended by this First Amendment. This First Amendment may be executed in one or more counterparts, all counterparts shall be valid and binding on the Party executing them and all counterparts shall together constitute one and the same document for all purposes.

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,
a public agency
("YLWD")

By: Marc Marcantonio

Print: Marc Marcantonio

Title: General Manager

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: _____

Andrew B. Gagen, General Counsel

North County BRS Project, LLC
a Delaware limited liability company
("Developer")

By: Sign in Counterpart

Print: _____

Title: _____

APPROVED AS TO FORM:

Jackson Tidus, A Law Corp.

By: _____

Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

_____
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

_____
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

_____
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On September 3, 2019 before me, Annie Alexander, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Marc Marcantonio
Name(s) of Signer(s)

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

ANNIE ALEXANDER
Commission # 2130167
Notary Public - California
Orange County
My Comm. Expires Nov 10, 2019

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

WITNESS my hand and official seal.

Signature
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Amendment to Cielo Vista Project Agreement Document Date: August 27, 2019
Number of Pages: 14 Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name: Marc Marcantonio
☐ Corporate Officer — Title(s):
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☒ Other: General Manager
Signer Is Representing: YLWD

Signer's Name:
☐ Corporate Officer — Title(s):
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other:
Signer Is Representing:

©2014 National Notary Association • www.NationalNotary.org • 1-800-US NOTARY (1-800-876-6827) Item #5907

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,
a public agency
("YLWD")

Sign in counterpart

By: _____

Print: _____

Title: _____

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: _____

Andrew B. Gagen, General Counsel

North County BRS Project, LLC
a Delaware limited liability company
("Developer")

By: Philip Mader

Print: Philip Mader

Title: Managing Director

APPROVED AS TO FORM:

Jackson Tidus, A Law Corp.

By: _____

Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

_____
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

_____
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

_____
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On September 4, 2019 before me, Barbara Hinshaw, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Philip Mader
Name(s) of Signer(s)

,

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

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

WITNESS my hand and official seal.

BARBARA HINSHAW
Notary Public - California
Orange County
Commission # 2193484
My Comm. Expires Apr 24, 2021

Signature Barbara Hinshaw, Notary Public
Signature of Notary Public

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,
a public agency
("YLWD")

By: sign in counterpart

Print: _____

Title: _____

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: _____

Andrew B. Gagen, General Counsel

North County BRS Project, LLC
a Delaware limited liability company
("Developer")

By: sign in counterpart

Print: _____

Title: _____

APPROVED AS TO FORM:

Jackson Tidus, A Law Corp.

By: Michele A. Staples

Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

_____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

_____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

_____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,
a public agency
("YLWD")

By: _____

Print: _____

Title: _____

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: _____

Andrew B. Gagen, General Counsel

North County BRS Project, LLC
a Delaware limited liability company
("Developer")

By: _____

Print: _____

Title: _____

APPROVED AS TO FORM:

Jackson Tidus, A Law Corp.

By: _____

Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

_____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

_____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

_____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

NANCY ANN MAGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Linda M. Rodger, Trustee

LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

Nancy Ann Magio, Trustee

NANCY ANN MAGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF Orange

On 23rd September 2019 before me, MARYANNE SCARPONI, NOTARY PUBLIC personally
(insert name and title of the officer),

Appeared Amos A. Travis

, who

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

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

WITNESS my hand and official seal.

Maryanne Scarponi
Signature

(Seal)

MARYANNE SCARPONI
Notary Public - California
Orange County
Commission # 2285984
My Comm. Expires May 19, 2023

NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California)
County of Orange)

On Sept 13, before me, Holly Hutchins, a Notary Public, personally appeared **LINDA M. RODGER** and **NANCY ANN MAGGIO**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Holly Hutchins

Holly Hutchins

NRO1 HOLLY HUTCHINS
COMM. #2176450
Notary Public - California
Orange County
My Comm. Expires Jan. 18, 2021 NRO1

The Parties hereto have executed this First Amendment for Re-Recording on the day and year written below.

Yorba Linda Water District,
a public agency
("YLWD")

By: Marc Marcantonio

Print: Marc Marcantonio

Title: General Manager

Date: 10/30/19

North County BRS Project, LLC
a Delaware limited liability company

By: _____

Print: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: _____
Andrew B. Gagen, General Counsel

APPROVED AS TO FORM:

Jackson Tidus, a Law Corp.

By: Michele Staples
Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties have executed this First Amendment for Re-Recording on the day and year written below, and hereby consent to said re-recording.

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On October 30, 2019 before me, Annie Alexander, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Marc Marcantonio
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

ANNIE ALEXANDER
Commission # 2130167
Notary Public - California
Orange County
My Comm. Expires Nov 10, 2019

Signature
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document 1st Amendment to Cielo
Title or Type of Document: Vista Water and Sewer Agreement Document Date: August 27, 2019
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Marc Marcantonio
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☒ Other: General Manager
Signer Is Representing: Yorba Linda Water District

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

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IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,
a public agency
("YLWD")

By:_____

Print:_____

Title:_____

North County BRS Project, LLC
a Delaware limited liability company

By: Rory G Ingels

Print: Rory G Ingels

Title: Director + Authorized Signatory

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: _____
Andrew B. Gagen, General Counsel

APPROVED AS TO FORM:

Jackson Tidus, a Law Corp.

By: _____
Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)
On October 30, 2019 before me, Barbara Hinshaw, Notary Public,
Date *Here Insert Name and Title of the Officer*
personally appeared Rory G. Ingels
Name(s) of Signer(s)

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

BARBARA HINSHAW
Notary Public – California
Orange County
Commission # 2193484
My Comm. Expires Apr 24, 2021

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

WITNESS my hand and official seal.

Signature Barbara Hinshaw, Notary Public
Signature of Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On October 29, 2019, before me, **SHERRY GENTILE**, Notary Public, personally appeared **AMOS A. TRAVIS**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature

SHERRY GENTILE
Notary Public - California
Orange County
Commission # 2255545
My Comm. Expires Sep 18, 2022

(Seal)

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

Linda M. Rodger, Co-Trustee

NANCY ANN MAGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

Nancy Ann Maggio - Co Trustee

[Notary Acknowledgments on next pages]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF ORANGE

On 10/30 2019, before me, Holly Hutchins
(here insert name and title of the officer)

personally appeared Linda M. Rodger

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

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

WITNESS my hand and official seal.

Holly Hutchins
Signature (Seal)

HOLLY HUTCHINS
COMM. #2176450
Notary Public - California
Orange County
My Comm. Expires Jan. 18, 2021
NRO1 NRO1

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF ORANGE

On 10/30 2019, before me, Holly Hutchins
(here insert name and title of the officer)

personally appeared Nancy Ann Maggio

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

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

WITNESS my hand and official seal.

Holly Hutchins
Signature (Seal)

HOLLY HUTCHINS
COMM. #2176450
Notary Public - California
Orange County
My Comm. Expires Jan. 18, 2021
NRO1 NRO1

The Parties hereto have executed this First Amendment for Re-Recording on the day and year written below.

Yorba Linda Water District,
a public agency
("YLWD")

By:_____

Print:_____

Title:_____

Date: _____

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: _____
Andrew B. Gagen, General Counsel

North County BRS Project, LLC
a Delaware limited liability company

By:_____

Print:_____

Title:_____

Date: _____

APPROVED AS TO FORM:

Jackson Tidus, a Law Corp.

By: Michele Staples
Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties have executed this First Amendment for Re-Recording on the day and year written below, and hereby consent to said re-recording.

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

The Parties hereto have executed this First Amendment for Re-Recording on the day and year written below.

Yorba Linda Water District,
a public agency
("YLWD")

By:_____

Print:_____

Title:_____

Date: _____

North County BRS Project, LLC
a Delaware limited liability company

By:_____

Print:_____

Title:_____

Date: _____

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: _____
Andrew B. Gagen, General Counsel

APPROVED AS TO FORM:

Jackson Tidus, a Law Corp.

By: Michele Staples
Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties have executed this First Amendment for Re-Recording on the day and year written below, and hereby consent to said re-recording.

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

CIELO VISTA PROJECT WATER AND SEWER FACILITIES AGREEMENT

(attached)

CIELO VISTA PROJECT WATER AND SEWER FACILITIES AGREEMENT BETWEEN YORBA LINDA WATER DISTRICT AND NORTH COUNTY BRS PROJECT, LLC

This WATER AND SEWER FACILITIES AGREEMENT ("Agreement") is entered into on August 1, 2018 ("Agreement Date"), by and between YORBA LINDA WATER DISTRICT, a public agency, created and operating under authority of Division 12 of the California Water Code ("YLWD"), and NORTH COUNTY BRS PROJECT, LLC, a Delaware limited liability company ("Developer"); LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986; NANCY ANN MAGGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986; AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest; AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest; AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest; and AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest (collectively referred to as "Property Owner"). For purposes of this Agreement, YLWD, Property Owner, and Developer may be referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

A. As of the Agreement Date, Developer is the master developer of, and controls, approximately 84.8 acres of real property ("Property"), located within the unincorporated area of the County of Orange ("County"). As of the Agreement Date, Property Owner owns the Property. The vicinity location of the Property is shown in the diagram attached hereto and marked **Exhibit "A"**, which is incorporated herein by this reference. The Property is described in the legal description attached hereto and marked **Exhibit "B"**, which is incorporated herein by this reference.

B. Approximately 40.1 acres of the Property are to be developed with no more than 80 single-family residential dwellings, along with associated common areas, and onsite infrastructure improvements (the "Project") pursuant to the approved Vesting Tentative Tract Map 17341 for the Project ("Map"). The Project is commonly referred to as the Cielo Vista subdivision.

C. The County certified the Project's Final Environmental Impact Report No. 615 and approved the Map on September 12, 2017.

D. YLWD provides retail municipal water and sewer service to land within its boundaries. The Property has been annexed into the YLWD jurisdictional boundaries and YLWD's water and sewer service area boundaries approved by the Orange County Local

Agency Formation Commission. However, the annexation fee payment to YLWD discussed in Section 4(A) below is outstanding.

E. YLWD currently owns and operates existing offsite water and sewer facilities (collectively, the "Existing Offsite Facilities"). The onsite water and sewer facilities to be constructed by Developer as part of the Project and conveyed to YLWD according to this Agreement (collectively referred to herein as the "Subdivision Facilities") are shown on Developer's improvement plans incorporated herein by reference, titled "Water and Sewer Improvement Plans for Cielo Vista Tract No. 17341", to be approved by YLWD and maintained on file with YLWD ("Subdivision Facilities Plans"). Collectively, the Existing Offsite Facilities with proposed improvements, and Subdivision Facilities will have the capability to serve the Property via gravity-feed from a reservoir in the 1000 Zone or higher.

F. The Parties intend, by this Agreement, to provide access to water and sewer service through YLWD for the benefit of the Project and the future occupants thereof, including access to water for Project grading and all phases of Project construction, water service to enable the lumber drop for Project framing, and water and sewer service for model homes and for issuance of certificates of occupancy for all of the Project's 80 single-family residential dwellings. However, the Parties acknowledge that protection of health, safety, and property require that framing and occupancy of residential structures cannot proceed prior to the availability of water service and that the Subdivision Facilities must be developed in a logical order.

G. As part of YLWD's approved Water Facilities Master Plan, YLWD identified certain operational improvements to the Existing Offsite Facilities that will preserve or enhance water quality, provide additional redundancy, and provide more reliable water service to the YLWD service area in the vicinity of the Project, which include installing a water main in Stonehaven listed in **Exhibit "G"** and illustrated on **Exhibit "H"**, and upgrading and expanding the pumping capacity of the existing Hidden Hills Pump Station listed in **Exhibit "G"** and illustrated on **Exhibit "I"** (collectively referred to herein as the "Existing Offsite Facility Improvements"). The Hidden Hills Pump Station is existing equipment within public right-of-way attached to a pipeline, and the water pipeline extension in Stonehaven is less than one mile in length within public right-of-way. The Existing Offsite Facility Improvements are exempt from the California Environmental Quality Act ("CEQA", Public Resources Code sections 21000-21189.57) under CEQA sections 21080.21 and 21080.23 and under the CEQA Guidelines (Title 14, California Code of Regulations sections 15000-15387) sections 15062, subd. (b)(1), (2) and (3), and 15282, subd. (k).

H. Under the terms of this Agreement, Developer intends to install the Subdivision Facilities at its sole expense, pay its fair share of the Existing Offsite Facilities, and pay for the Existing Offsite Facility Improvements; and YLWD intends to timely complete the Existing Offsite Facility Improvements, provide access to water for Project development according to the schedule set forth herein, and provide access to water and sewer service to the Property and the future occupants thereof.

I. The Parties acknowledge that the Subdivision Facilities have been planned at certain sizes in order to serve the number of residential dwelling units, or equivalent dwelling units identified in the Map, and that changes in land use, especially increased density of dwelling

units per land area, may change water and sewer system planning and facilities sizing. The total number of residential dwelling units shall not exceed 80. The Parties acknowledge further that once the Subdivision Facilities are installed, it may not be possible to increase land use density without providing additional water and/or sewer infrastructure at additional cost to the Developer.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged and accepted, the Parties agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are true and correct and incorporated into this Agreement.

2. Effective Date of Parties' Rights and Obligations. Except for Section 5.D., which the Parties' rights and obligations are already in effect and will stay in effect for the term of this Agreement, the Parties' rights and obligations under this Agreement shall not take effect until (a) 10 days after Developer provides written proof and notice to YLWD of the Property Owner's transfer of ownership of the Property to Developer and (b) recordation of the Project's final map ("Effective Date"). If YLWD is not provided proof and notice of transfer of ownership from Property Owner to Developer and recordation of the Project's final map within one year of the Agreement Date, then YLWD may provide written notice to Developer that this Agreement is null and void; at which time this Agreement will be null and void.

3. Parties' Obligations for Subdivision Facilities.

A. Developer shall cause Subdivision Facilities to be constructed as necessary and transferred to YLWD. All Subdivision Facilities shall be constructed:

(i) at no expense to YLWD;

(ii) within the easement areas dedicated to YLWD on the face of the Map ("Easements") as such Easements may be amended by Developer from time to time; and

(iii) in substantial conformance with the Subdivision Facilities Plans to be approved by YLWD and in substantial conformance with any variances, exceptions, or modifications approved in writing by the Parties.

B. The Subdivision Facilities Plans may be subject to modifications by the mutual written consent of the Parties due to engineering, site development, or marketing considerations that may arise in the future. The Parties wish to provide a mechanism for future amendments of the Subdivision Facilities Plans without the necessity of a formal amendment to the entirety of this Agreement. Therefore, the Parties agree to discuss in good faith adjustments or modifications to facilities identified in the Subdivision Facilities Plans, and if such modifications are approved in writing by both Parties, the revised Subdivision Facilities Plans may be substituted in this Agreement and will be effective for subsequent development.

C. Developer shall provide an easement grant deed in favor of YLWD, conveying to YLWD rights to access, operate, and maintain the Subdivision Facilities within the Easements. Developer shall defend and indemnify YLWD against any claim or challenge to YLWD's easement rights under the Easements from persons disputing said rights.

D. Written notice shall be provided to YLWD upon completion of the Subdivision Facilities ("Notice of Completion"). Within twenty (20) working days following receipt of the Notice of Completion, YLWD shall inspect the Subdivision Facilities and review all work and services performed with respect thereto, and shall either: (i) provide written notification affirming that the Subdivision Facilities are acceptable as constructed, certifying that the construction tasks have been fully satisfied for the Subdivision Facilities, and accepting the Subdivision Facilities and Easements; or (ii) if reasonable cause exists for doing so, provide written notification that the Subdivision Facilities are not acceptable as constructed, and stating in detail the reasons therefor and the list of items required to be completed in order for YLWD to accept the Subdivision Facilities and Easements. YLWD shall not unreasonably delay the inspection of Subdivision Facilities subject to the Notice of Completion. If necessary, YLWD will contract for inspection services at Developer's expense.

E. In the event YLWD determines the Subdivision Facilities are not acceptable as constructed, and Developer has not disputed YLWD's determination, Developer shall promptly take corrective action or perform additional work or other services that will achieve acceptability of the Subdivision Facilities as constructed, and shall issue to YLWD another Notice of Completion. Such procedure shall be repeated until YLWD Board of Directors has accepted both the Subdivision Facilities, as constructed, and Easements ("Final Acceptance"). YLWD's Final Acceptance shall not be unreasonably withheld, provided that YLWD Board of Directors shall be under no obligation to adopt Final Acceptance until the payments set forth in Section 4 below are received.

F. It is understood and agreed that upon YLWD's Final Acceptance, Developer disclaims in favor of YLWD all right, title and interest in and to the Subdivision Facilities and Easements, and that Developer hereby covenants and agrees to execute and deliver to YLWD any documents required to complete the transfer of the Subdivision Facilities concurrently with YLWD's Final Acceptance. Developer shall no longer own, operate, maintain, repair or replace the Subdivision Facilities following YLWD's Final Acceptance. Developer shall warranty all Subdivision Facilities for one year following Final Acceptance by the YLWD Board of Directors.

G. The Parties shall coordinate their respective activities in order to provide for orderly, efficient and timely completion and acceptance of the Subdivision Facilities and their connection to YLWD's Offsite Existing Facilities and Existing Offsite Facility Improvements required to provide water and sewer service to the Property.

4. Parties' Obligations for Existing Offsite Facilities.

A. YLWD studies recommended, and YLWD has determined, that pro-rata buy-in is required by Developer for the Existing Offsite Facilities. Subject to YLWD's completion of the Existing Offsite Facility Improvements, Developer agrees to pay YLWD the

Project's fair share of the Existing Offsite Facilities as follows: (1) $290,217.00 for the fair share cost of existing water infrastructure as detailed on **Exhibit "C"** and shown graphically on **Exhibit "D"**; (2) $109,242.00 for the fair share cost of existing sewer infrastructure as detailed on **Exhibit "E"** and shown graphically on **Exhibit "F"**; and (3) $15,644.00 for annexation fees as detailed on **Exhibit "G"**.

i. The fair share cost component of Developer's payment obligation for Existing Offsite Facilities shall be analyzed by Developer's engineer, which may cause the estimated payment obligation to change, up or down. Developer's analysis and revised payment obligation must be presented to YLWD in writing and approved, in writing, by YLWD. YLWD's approval of Developer's fair share cost component shall not be unreasonably withheld.

ii. Developer's approved fair share payment obligation for the Existing Offsite Facilities shall be paid on a pro-rata basis upon issuance of each building permit for the Project's single-family residential dwellings. The Developer shall be obligated to make final payment to YLWD for the remaining approved payment obligation for 80 homes either upon issuance of the last building permit, or within two years of the first building permit, being issued for the Project, whichever occurs first and even if fewer than 80 homes are constructed.

5. Parties' Obligations for Existing Offsite Facility Improvements.

A. YLWD shall be solely responsible for the construction of the Existing Offsite Facility Improvements, including but not limited to any YLWD amendments to the scope of design or scope of work for the Existing Offsite Facility Improvements attached as **Exhibit "L"** ("Scope of Work"), compliance with all federal, state and local laws applicable to the Existing Offsite Facility Improvements, and obtaining all rights of way, permits and approvals required for the Existing Offsite Facility Improvements. Developer assumes no liability and shall have no responsibility for the construction of the Existing Offsite Facility Improvements, except to make the payments provided in this Section 5.

B. Developer shall pay its engineering consultant, Psomas, to prepare a proposed preliminary design report, 60%, 90% and final design plans and specifications, bid support services, and construction support services for the Existing Offsite Facility Improvements (collectively, the "Existing Offsite Facility Improvements Documents"), to be submitted for YLWD's consideration consistent with YLWD's existing approvals, mitigation measures, standards and procedures for YLWD facility improvement projects. The Existing Offsite Facility Improvements Documents shall include engineer's opinions of probable construction costs in the preliminary design report, 60%, 90% and 100% submittals.

i. Psomas shall prepare a proposed scope of work and schedule for preparation of the Existing Offsite Facility Improvements Documents. YLWD shall promptly consider and provide Psomas with YLWD's final approved scope of work and schedule for the preparation of the Existing Offsite Facility Improvements Documents.

ii. Psomas shall prepare each of the Existing Offsite Facility Improvements Documents under YLWD's direction, in accordance with YLWD's standards and in the form and content required by YLWD. YLWD's General Manager or designee is authorized to approve the preliminary design report and final design plans and specifications for the Existing Offsite Facility Improvements.

iii. YLWD shall issue written Notices to Proceed to Developer upon completion of the Subdivision Facilities up to the hydrant(s) serving the model homes and/or completion of the Stonehaven Improvements and/or commencement of construction of the Hidden Hills Pump Station Improvements. The schedule for YLWD to provide access to water for the Project is described in **Exhibit "K"**. This schedule is based on (a) a projected Effective Date of August 1, 2018, and (b) the Project milestone dates provided by Psomas attached as **Exhibit "J"**. If the actual Effective Date is later than August 1, 2018, then the dates in **Exhibits "J" and "K"** shall be extended by the same time period as such delay in the Effective Date or to any earlier dates mutually agreeable to YLWD and Developer. The Parties wish to provide a mechanism for future amendments to **Exhibits "J" and "K"** without the necessity of a formal amendment to the entirety of this Agreement. Therefore, the Parties agree that if such amendments are approved in writing by the Parties, the amended **Exhibits "J" and "K"** may be substituted in this Agreement and will be effective for subsequent development.

C. Within 10 days of the Effective Date, Developer shall deposit into an interest-bearing escrow account $1,270,000.00 for Developer's costs of installing the Existing Offsite Facility Improvements as listed in **Exhibit "G"** ("Existing Offsite Facility Improvements Escrow").

i. The $1,270,000.00 is a preliminary estimate and the final costs may change up or down after construction completion of the Existing Offsite Facility Improvements. Developer shall pay 100% of the final costs of installing the Existing Offsite Facility Improvements, except that YLWD shall be solely responsible to pay all costs related to any change(s) in the Scope of Work by YLWD.

D. Both before and after the Agreement Date, Developer shall reimburse all YLWD staff and attorney time and costs related to the Project, including this Agreement ("YLWD Administrative Costs"). Developer has been and shall continue to submit to YLWD a deposit in the amount of $20,000 to be managed by the YLWD Finance Manager in a restricted deposit account ("Administrative Costs Account"), which Developer shall replenish to $20,000 within 5 days of YLWD's written notice to Developer that the Administrative Costs Account has fallen below $5,000. All YLWD Administrative Costs shall be deducted from the Administrative Costs Account. Concurrent with its above written notice to Developer, YLWD shall provide Developer with an itemized invoice of YLWD Administrative Costs incurred since YLWD's last invoice to Developer for YLWD Administrative Costs.

E. YLWD shall provide written notice to Psomas of each request for disbursement from the Existing Offsite Facility Improvements Escrow for Psomas' review and comment ("YLWD Disbursement Request"). The YLWD Disbursement Request shall set forth in reasonable detail the costs to be paid from the Existing Offsite Facility Improvements Escrow and shall be accompanied by invoices or other supporting documentation evidencing such costs. Psomas shall have fifteen (15) days to deliver written comments and supporting documentation to YLWD, and the Parties shall engage in good faith efforts to reach a mutually-agreeable resolution of Psomas' comments. Any funds remaining in the Existing Offsite Facility Improvements Escrow upon completion of construction of the Existing Offsite Facility Improvements shall be refunded to Developer.

F. YLWD shall construct off-site facilities to support Advanced Metering Infrastructure ("AMI") for the Subdivision Facilities, with signal from each meter transmitted to a tower and retransmitted to the YLWD Headquarters located at 1717 E. Miraloma Avenue, Placentia, CA. Developer shall be responsible for the costs, up to $40,000, of the tower and signal collection equipment, which shall be specified by YLWD. The $40,000 is to be deposited by Developer into the Existing Offsite Facility Improvements Escrow **(Exhibit "G")** within ten (10) days after the Effective Date and is listed as a separate line item in **Exhibit "G"**.

6. Environmental Impact Analysis and Indemnity Therefor. County certified the Final EIR for the Project. To the extent there are any discretionary Project approvals remaining to be obtained, Developer shall be responsible to obtain environmental approvals for the Project. The obligations of the Parties hereto are expressly contingent upon Developer receiving all environmental approvals and all entitlements necessary to proceed with subdivision and development of the Project. To the extent there are any discretionary Project approvals remaining to be obtained, Developer shall obtain such approvals at its sole cost and expense and it shall be responsible to comply with any requirements of the California Environmental Quality Act and/or the County of Orange in connection with the construction of the Subdivision Facilities.

7. Notice. Any and all notices submitted by any Party to another Party pursuant to or as required by this Agreement shall be proper if in writing and dispatched by messenger for immediate personal delivery, nationally recognized overnight (one business day) courier (i.e., United Parcel Service, Federal Express, etc.) or by registered or certified United States mail, postage prepaid, return receipt requested, to the address of the recipient Party, as designated in this Section. Notices may be sent in the same manner to such other addresses as the Parties may from time to time designate by notice in accordance with this Section. Notice shall be deemed received by the addressee, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, on the day that it is dispatched by messenger for immediate personal delivery, one business day after delivery to a nationally recognized overnight carrier or two (2) calendar days after it is placed in the United States mail in accordance with this Section. Any attorney representing a Party may give any notice on behalf of such Party. The notice addresses for the Parties are as follows:

If to Developer:

North County BRS Project, LLC
3 Corporate Plaza, Suite 102

Newport Beach, CA 92660
Attention: Laurence M. Netherton, Project Manager

If to YLWD:

Yorba Linda Water District
P.O. Box 309
Yorba Linda, CA 92885-0309
Attention: General Manager

If to Psomas:

PSOMAS
3 Hutton Centre Drive, Suite 200
Santa Ana, CA 92707 | 714.481.7979
Attention: Michael D. Swan

8. Indemnity. Developer shall indemnify, hold harmless, and defend YLWD (including its elected officials, officers, volunteers, agents, attorneys, and employees) and its affiliates, the Yorba Linda Water District Financing Authority and the Yorba Linda Water District Public Financing Corporation ("Affiliates"), from and against any and all claims (including all litigation, demands, damages, liabilities, costs, and expenses, and including court costs and attorney's fees) resulting or arising from Developer's performance or non-performance (actual or alleged) of this Agreement (with the exception of the sole negligence, willful misconduct, or breach of this Agreement by YLWD, or its elected officials, officers, volunteers, agents and employees).

Without limiting the generality of the forgoing, Developer's duty to defend and indemnify YLWD under this Agreement expressly includes, but is not limited to, defense and indemnity against claims and liability arising from (i) disputes as to environmental compliance in connection with development of the Project; (ii) disputes as to ownership rights to the Easements, and rights of way and land (if any) conveyed to YLWD under this Agreement; and (iii) disputes as to the payment of prevailing wages related to construction of the Subdivision Facilities that will be dedicated to public use.

9. Insurance Prior To Performance. The Developer shall not commence work on the Subdivision Facilities pursuant to this Agreement until it has obtained, and the YLWD has approved, all insurance required hereunder. YLWD's approval of Developer's insurance shall not be unreasonably withheld. In addition, Developer shall not allow any contractor to commence work on the Subdivision Facilities under this Agreement until such contractor has obtained all required insurance, as provided herein. Developer shall procure and maintain, for one year following YLWD's Final Acceptance, insurance against claims for injuries to persons or damage to property which may arise from or in connection with Developer's performance or non-performance (actual or alleged) of this Agreement, as set forth below. The cost of such insurance shall be borne by Developer.

A. Scope of Insurance. Coverage shall at least be as broad as:

(i) Commercial General Liability: Insurance Services Office (ISO) Occurrence Form No. CG 0001, or equivalent), including completed operations coverage, with no explosion, collapse or underground damage exclusions (XCU)

(ii) Automobile Liability: ISO Form No. CA 0001, or equivalent Code 1 (any auto) or in the alternative, owned or scheduled autos plus non-owned and hired autos.

(iii) Workers' Compensation: As required by the Labor Code of the State of California, including an "all states" endorsement and employer's liability coverage.

B. Minimum Limits of Insurance.

(i) Liability insurance: Total liability limits shall be no less than four million dollars ($4,000,000) per occurrence/claim/or accident, through any combination of primary and excess or umbrella insurance policies and shall apply above the other liability policies, providing coverage at least as broad as coverage provided in the underlying policies.

(ii) General liability: $2,000,000 per occurrence, $4,000,000 general aggregate, $4,000,000 completed operations aggregate.

(iii) Automobile liability: $1,000,000 per accident combined single limit.

(iv) Workers' Compensation limits shall be statutory as required by the Labor Code of the State of California.

C. Other Developer Insurance Provisions. The policies specified herein are to contain, or be endorsed to contain, the following provisions:

(i) Additional Insureds - YLWD and its Affiliates shall be named as additional insureds on all third party liability policies, including, general liability and excess or umbrella policies. The coverage shall contain no special limitations on the scope of protection afforded to YLWD and its Affiliates.

(ii) Primary Insurance - Developer's insurance coverage, including any excess liability coverage, shall be primary insurance as respects YLWD and its affiliates for all Claims arising out of Developer's performance under this Agreement. Any insurance, pool coverage, or self-insurance maintained by YLWD or its Affiliates shall be excess of Developer's insurance and shall not contribute with it.

(iii) Waiver of Subrogation – All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against YLWD and its Affiliates. Developer waives its right of recovery against YLWD and its affiliates for damages covered by insurance required by this

Agreement. Developer shall require similar written express waivers and insurance clauses from each of its contractors.

(iv) The insurer issuing the Workers' Compensation insurance shall amend its policy to waive all rights of subrogation against YLWD and its Affiliates.

D. No Waiver. Developer acknowledges and agrees that any actual or alleged failure on the part of YLWD to inform Developer of Developer's non-compliance with any requirement imposes no additional obligations on YLWD nor does it waive any rights hereunder.

E. Requirements not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

F. Notice of Cancellation. Developer agrees to obligate its insurance broker and insurers to provide YLWD with 30 day notice of cancellation (except for nonpayment for which 10 day notice is required) or nonrenewal for each required coverage.

G. Proof of Insurance. Developer shall, at the time of the execution of this Agreement, present the original policies of insurance required by this Section, or present signed certificates of insurance with original additional insured endorsements for general liability insurance effecting coverage required by this Contract, and a workers' compensation waiver of subrogation, showing the issuance of such insurance and the addition of policy insureds and other provisions required herein. Developer shall provide certified copies of all insurance policies required above within 10 days of YLWD's written request for said copies.

H. Policy Expiration. The Developer shall, at the expiration of any insurance policy required by the Contract Documents, file a signed and completed renewal "Certificate of Insurance" and endorsements as required by this Agreement.

I. Maintenance of Insurance. Should the Developer neglect to obtain or maintain in force any such insurance for one year following YLWD's Final Acceptance, then it shall be lawful for YLWD to obtain and maintain such insurance, and the Developer hereby appoints YLWD as its true and lawful attorney-in-fact to do all things necessary for this purpose. All money paid by YLWD for insurance premiums under the provisions of this Section shall be charged to Developer.

J. Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than A-: VII or equivalent as determined by YLWD.

K. Developer's Contractors. Developer's contract with each contractor shall include (1) an agreement by the contractor to indemnify YLWD and its Affiliates from claims that may be asserted by any person or entity arising out of or in any manner directly or indirectly

related to the contractor's performance of activities under this Agreement, including defense costs and attorney's fees; (2) insurance requirements for the contractor that are the same as the requirements imposed on the Developer by this Section except as to limits, but limits shall be no less than (a) $1 million per occurrence for General Liability, (b) $1 million per accident for automotive, and (c) statutory limits for Worker's compensation, and; (3) a requirement that the contractor name YLWD as an additional insured on the contractors General Liability policy. Developer shall be responsible to enforce compliance with these requirements, and all documentation establishing compliance shall be made available to YLWD upon request.

L. Compliance with Insurance Requirements. Developer's obligation to obtain insurance coverage as set forth in this Section is separate and distinct from Developer's obligation to indemnify, hold harmless, and defend YLWD.

10. Equitable Remedies. The Parties agree that irreparable damage would occur and that the Parties would not have any adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. The Parties shall be entitled to all forms of equitable relief, including restraining orders, injunctions and specific performance to prevent breaches and to enforce specifically the terms and provisions of this Agreement in addition to any other remedy to which they are entitled at law or in equity. The Parties waive any requirement for the securing or posting of any bond in connection with the obtaining of any equitable relief.

11. Governing Law. The Parties hereby agree that this Agreement is to be governed under the laws of the State of California and construed according to its plain meaning as if drafted by both Developer and YLWD. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Orange. In any action or proceeding, any photographic or other copy of this Agreement may be introduced into evidence.

12. Resolution of Disputes. If any dispute shall arise with respect to this Agreement and is not otherwise resolved by the parties hereto, then such dispute shall be determined by a general judicial reference pursuant to California Code of Civil Procedure Sections 638 et seq. in the County of Orange, before one general referee. This is a waiver of any right that may exist to a jury trial.

The Parties shall meet to select the referee no later than thirty (30) days after service of the initial complaint on all defendants named in the complaint. The referee shall be a retired judge who has served in either the California Superior Court or Federal Court in Orange County, California with substantial experience in the type of matter in dispute and without any relationship to either Party, unless the Parties agree otherwise.

Each Party shall bear its own attorneys' fees and costs incurred in connection with the judicial reference proceeding. All other fees and costs incurred in connection with the judicial reference proceeding, including the cost of the stenographic record, shall be advanced equally by the Parties. However, the referee shall have the power to reallocate such fees and costs among the Parties in the referee's final ruling.

13. Severability. If any provision, condition or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the voided provision, condition or covenant shall be deemed severed from the remaining provisions of this Agreement, which shall remain valid and enforceable to the full extent permitted by law, and the Parties shall negotiate in good faith to replace the unenforceable provision(s) in accordance with the original purpose and intent of this Agreement as set forth in the Recitals.

14. Counterparts. This Agreement may be executed in counterparts (signatures may be by facsimile or electronic mail), each of which is hereby declared to be an original. All, however, shall constitute but one and the same Agreement.

15. Further Cooperation. The Parties agree to execute, acknowledge if appropriate, and deliver any and all documents and cooperate in performing any and all acts in any commercially reasonable manner as may be necessary to carry out the intent of this Agreement as set forth in the Recitals and implement the terms and conditions of this Agreement.

16. Complete Agreement. This Agreement contains the entire agreement between the Parties, and supersedes and replaces any and all prior negotiations and agreements between the Parties, whether written or oral. Each Party acknowledges that no agent or attorney of any Party hereto has made any promise, representation, or warranty, express or implied, not contained herein, to induce the other Party hereto to execute this Agreement, and each Party hereto acknowledges that it has not executed this Agreement in reliance on any such promise or representation or warranty not contained in this Agreement.

17. Waiver and Amendment. All waivers of the provisions of this Agreement and all amendments to this Agreement must be in writing and signed by the appropriate authorities of the Parties.

18. Attorneys' Fees and Costs. In the event that a Party brings an action relating to or arising from this Agreement, the prevailing Party in such action shall be entitled to recover from the other Party its reasonable legal costs (which shall include all reasonable costs and expenses such Party incurs in any legal proceeding, or other matter for which such Party is entitled to be reimbursed for its legal costs, including reasonable attorneys' fees, court costs and expenses and consultant and expert witness fees and expenses) which may be determined by the court in the same action or in a separate action brought for that purpose.

19. Successors and Assigns. The terms, conditions and provisions of this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns. Should either Property Owner or Developer sell all or substantially all of its right, title and interest in the Property to another, then upon execution of an assignment and assumption agreement by such successor, Property Owner or Developer shall deliver to YLWD and, as of the date of delivery of such agreement to YLWD, be released from further obligations and responsibilities under this Agreement, including but not limited to Section 8 (Indemnity). Property Owner and Developer shall defend and indemnify YLWD against claim or challenge to YLWD's rights to enforce this Agreement against Property Owner and Developer's successors and assigns.

20. No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person or entity other than the Parties and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any third person to any Party or give any third person any right of subrogation or action over or against any Party.

21. Authorization. Each Party hereby warrants that it has the authority and is duly authorized to execute this Agreement.

22. Time is of the Essence. Time is of the essence in all aspects of the performance of the obligations under this Agreement.

23 Determination of Time. If the last day for the performance of any act provided or required by this Agreement is a holiday, Friday, Saturday, or Sunday, then that period is hereby extended to and including the next day that is not a holiday, Friday, Saturday, or Sunday.

24. Force Majeure. Upon written notice by a Party, the respective duties and obligations of the Parties hereunder (except for the Parties' rights and obligations under Section 5.D.) shall be suspended for the time period that performance of the Parties is prevented or impeded by work force strikes, riots, fire, flood, state or county regulatory action, war, or terrorism.

25. Term. This Agreement shall be operable for ten (10) years from the Agreement Date. YLWD and Developer will negotiate in good faith thereafter to make necessary changes to conform this Agreement to then existing YLWD standards, practices, and policies.

26. Recordation. This Agreement shall be recorded with the Orange County Recorder's Office.

(signatures on the following page)

SIGNATURE PAGE TO:

CIELO VISTA PROJECT
WATER AND SEWER FACILITIES
AGREEMENT

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first written above.

Yorba Linda Water District,
a public agency
("YLWD")

By: Marc Marcantonio

Print: Marc Marcantonio

Title: General Manager

North County BRS Project, LLC,
a Delaware limited liability company
("Developer")

By: Robert W. Smith

Print: Robert W. Smith

Title: Managing Member

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: [illegible]

Andrew B. Gagen, General Counsel

APPROVED AS TO FORM:

Jackson Tidus, A Law Corp.

By: Michele A. Staples

Michele Staples, Attorneys for Developer

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On August 1, 2018 before me, Annie Alexander, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Marc Marcantonio
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

ANNIE ALEXANDER
Commission # 2130167
Notary Public - California
Orange County
My Comm. Expires Nov 10, 2019

Signature *Annie Alexander*
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Cielo Vista Project Water and Sewer Facilities Agreement Document Date: August 1, 2018
Number of Pages: 26 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Marc Marcantonio
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☑ Other: General Manager
Signer Is Representing: Yorba Linda Water District

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

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A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF Orange)

On July 19, 2018, before me, Phillip Palazuelos, a Notary Public, personally appeared Robert W. Smith
who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature(s) on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: _____

PHILLIP PALAZUELOS
Notary Public - California
Orange County
Commission # 2154041
My Comm. Expires Jun 17, 2020

STATE OF CALIFORNIA)
COUNTY OF _____)

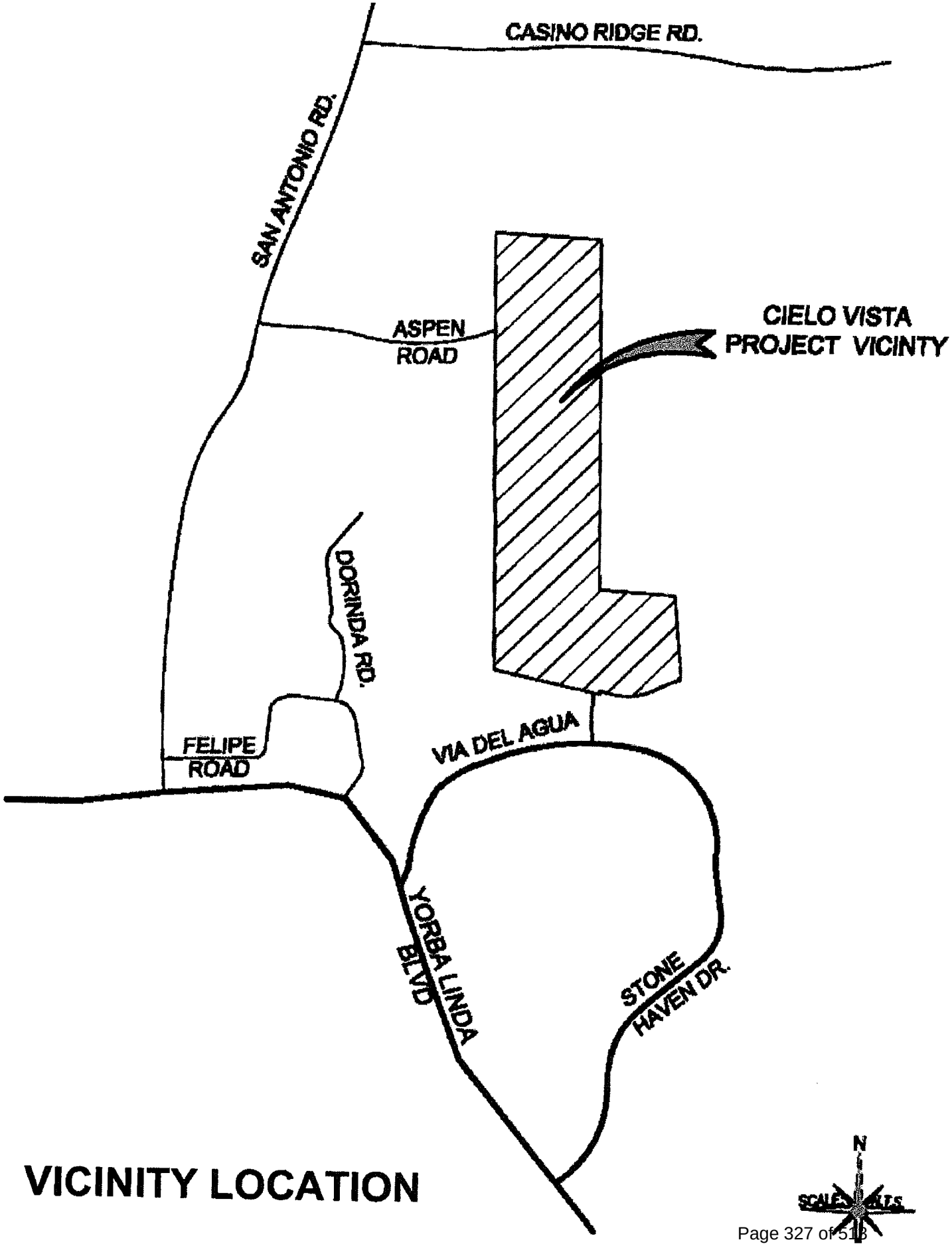
On _____, 20___, before me, _____, a Notary Public, personally appeared _____
who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature(s) on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: _____

EXHIBIT "A"



VICINITY LOCATION

EXHIBIT "B"
LEGAL DESCRIPTION

PARCEL 1:

Real property in the unincorporated area of the County of Orange, State of California, described as follows:

THAT PORTION OF THE RANCHO CANON DE SANTA ANA, AS SHOWN ON A MAP ATTACHED TO THE FINAL DECREE OF PARTITION RECORDED FEBRUARY 8, 1874 IN BOOK 28, PAGE 158 OF DEEDS, RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, ALSO BEING A PORTION OF THE CARRILLO RANCH PROPERTY AS SHOWN ON A MAP FILED IN BOOK 37, PAGE 33 OF RECORD OF SURVEYS IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WESTERLY LINE OF SAID CARRILLO RANCH PROPERTY, DISTANT NORTH 2° 02' 20" WEST 5363.01 FEET FROM THE NORTHERLY LINE OF THE ATCHISON TOPEKA AND SANTA FE RAILWAY COMPANY'S 100.00 FOOT STRIP OF LAND, AS SHOWN ON SAID RECORD OF SURVEYS MAP; THENCE SOUTH 87° 54' 37" EAST 787.19 FEET TO A POINT IN THE EASTERLY LINE OF SAID CARRILLO RANCH PROPERTY, DISTANT NORTH 6° 40' 31.3" WEST 4579.01 FEET FROM THE INTERSECTION OF SAID EASTERLY LINE WITH THE CENTERLINE OF THE CAJON CANAL OF THE ANAHEIM UNION WATER COMPANY, AS SHOWN ON SAID RECORD OF SURVEYS MAP; THENCE NORTH 6° 40' 31.3" WEST ALONG SAID EASTERLY LINE, 2065.93 FEET; THENCE NORTH 87° 54' 37" WEST 619.76 FEET TO A POINT IN SAID WESTERLY LINE, DISTANT NORTH 2° 02' 20" WEST 2047.12 FEET FROM THE POINT OF BEGINNING; THENCE SOUTH 2° 02' 20" EAST ALONG SAID WESTERLY LINE, 2047.12 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THAT PORTION LYING SOUTHERLY OF THE CENTERLINE OF THE 100.00 FOOT WIDE STRIP OF LAND AS DESCRIBED IN THE PERMANENT EASEMENT TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, RECORDED JANUARY 12, 1960 IN BOOK 5049, PAGE 316 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY.

ALSO EXCEPTING THEREFROM, THE INTEREST IN AND TO ALL OIL AND OIL RIGHTS, IN, ON AND APPURTENANT TO SAID LAND, AS EXCEPTED IN THE JUDGMENT IN PARTITION RECORDED MAY 26, 1958 IN BOOK 4297, PAGE 93 OF SAID OFFICIAL RECORDS.

THE SURFACE RIGHTS TO A DEPTH OF 500 FEET WERE QUITCLAIMED BY INSTRUMENTS OF RECORD.

APN: 351-031-05

PARCEL 2:

Real property in the unincorporated area of the County of Orange, State of California, described as follows:

PARCEL 2, AS SHOWN ON EXHIBIT "B" ATTACHED TO THAT CERTAIN APPLICATION FOR LOT LINE ADJUSTMENT NO. 87-10" RECORDED JULY 25, 1988 AS INSTRUMENT NO. 88-358348 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

APN: 351-031-17

EXHIBIT "C"

CIELO VISTA (SAGE) DEVELOPMENT

04/03/18

EXISTING WATER FACILITIES COST ALLOCATIONS

J2009-24

Development	MDD[1]	Unit	No. of Lots[2]		
Cielo Vista	53.5	GPM	80		

No./Component	Facility	Capacity (GPM)	Capital Cost Estimate[3]	Proportional Capacity	Proportional Cost
1) Well	Well 20	3,000	$ 2,400,000	1.8%	$ 42,800
2) RR W20 TM	20 - 36" TM	16,000	$ 6,505,800	0.3%	$ 21,754
3) Z1-2 BPS	High BPS	18,000	$ 6,000,000	0.3%	$ 17,833
4) Z2 TM	30" TM	11,000	$ 2,995,200	0.5%	$ 14,568
5) Z2 TM	2-16" TMs	5,000	$ 3,196,800	1.1%	$ 34,206
6) Z2-3 BPS	YLB BPS	5,000	$ 2,760,000	1.1%	$ 29,532
7) Z3 TM	YLB 20" TM	5,000	$ 2,040,000	1.1%	$ 21,828
8) YLBTM-FR 1	16" TM	3,200	$ 738,000	1.7%	$ 12,338
9) YLBTM-FR 2	27" TM	9,000	$ 921,600	0.6%	$ 5,478
10) Z3-4 BPS	Fairmont BPS	5,000	$ 8,400,000	1.1%	$ 89,880
Water Total					$ 290,217

Footnotes:

1) ADD = 58 AFY (651 GPD x 80 units) = 36.2 GPM; MDD = 36.2 GPM X 1.48 = 53.5 GPM (provided by Developer's Consultant & confirmed by YLWD)

2) No. of lots confirmed by Developer.

3) Includes 20% for Engineering, Construction Management, Administrative and Overhead expenses.

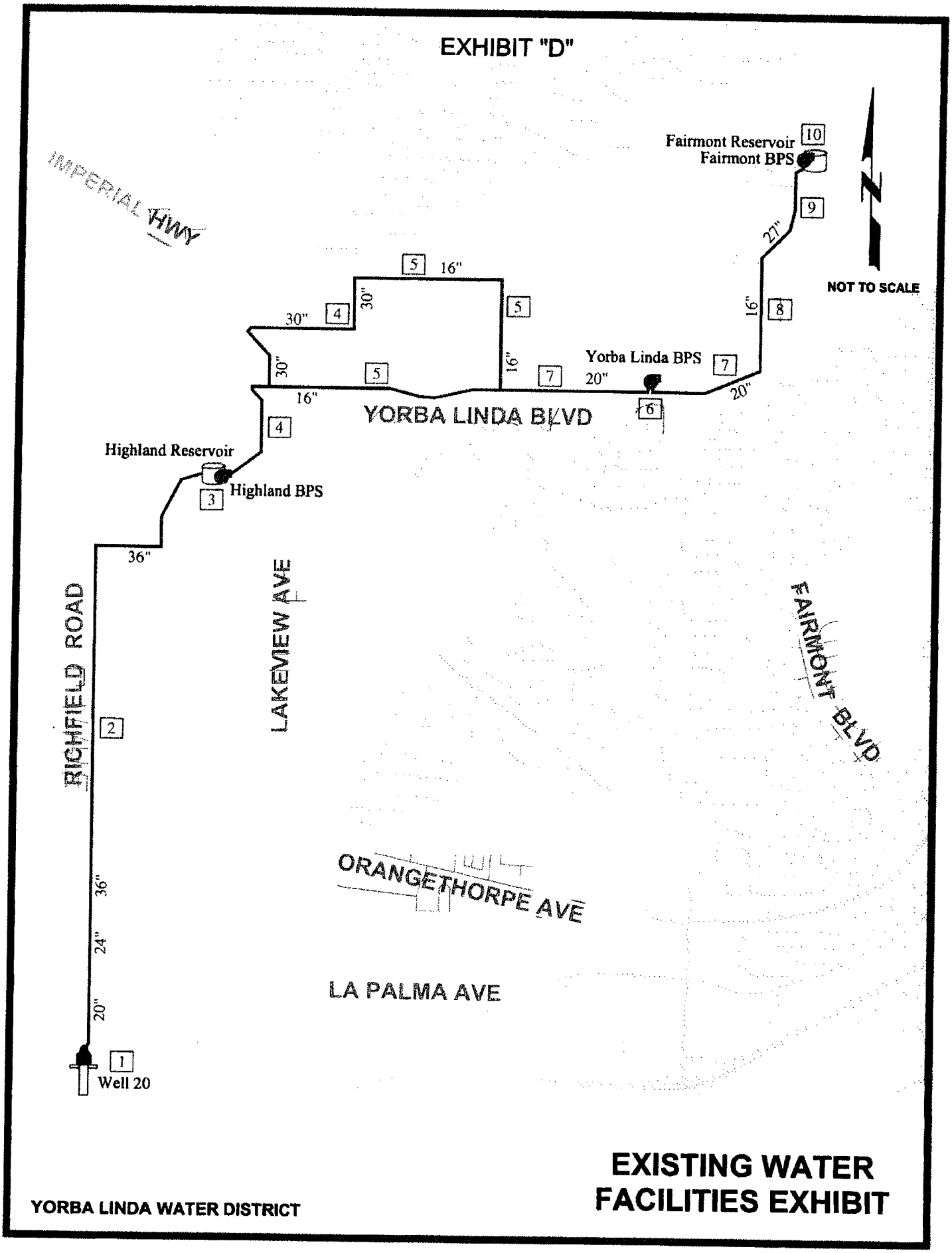


EXHIBIT "D"
IMPERIAL HWY
Fairmont Reservoir
Fairmont BPS
10
9
27"
16"
8
NOT TO SCALE
5
16"
30"
4
30"
5
30"
16"
Yorba Linda BPS
7
7
20"
20"
5
16"
YORBA LINDA BLVD
6
4
Highland Reservoir
Highland BPS
3
36"
RICHFIELD ROAD
LAKEVIEW AVE
FAIRMONT BLVD
2
ORANGETHORPE AVE
36"
24"
20"
LA PALMA AVE
1
Well 20
EXISTING WATER
FACILITIES EXHIBIT
YORBA LINDA WATER DISTRICT

EXHIBIT "E"

ESPERANZA HILLS ESTATES (EHE) AND CIELO VISTA (SAGE) DEVELOPMENTS
EXISTING SEWER FACILITIES COST ALLOCATIONS

01/31/18
J2009-24S

Table 1: Projected Sewer Flowrates[1]

Development	Flowrate[1]	Unit	No. of Lots[2]	% of Lots
Total	0.3100	CFS	420	
Cielo Vista	0.0590	CFS	80	19.05
EHE	0.2509	CFS	340	80.95

Table 2: Proportional Costs

Component	Pipe Size (inches)	Capacity[3] (CFS)	Capital Cost Estimate[4]	Proportional Capacity	Proportional Cost
Sewermain	10	1.88	$ 1,058,198	16.5%	$ 174,100
Sewermain	12	0.95	$ 586,874	32.8%	$ 192,407
Sewermain	15	4.51	$ 1,901,088	6.9%	$ 130,589
Sewermain	18	6.56	$ 1,618,200	4.7%	$ 76,426
Total					**$ 573,521**
CV (19.05% Share)					**$ 109,242**
EHE (80.95% Share)					**$ 464,279**

Table 3: Sewer Pipe Capacity

Pipe Size (inches)	Minimum Slope	Cental Angle (radians)	Flow Area (square feet)	Wetted Perimeter (feet)	Hydraulic Radius (feet)	Capacity (CFS)
10	0.0252	3.1416	0.2727	1.3090	0.2083	1.88
12	0.0024	3.1416	0.3927	1.5708	0.2500	0.95
15	0.005	4.1888	0.9873	2.6180	0.3771	4.51
18	0.004	4.1888	1.4217	3.1416	0.4525	6.56

Table 4: Existing Sewermain Quantity and Costs

Pipe Size (inches)	Total Linear Feet (ft)	Unit ($/ft.)	Total ($)
10	2436	362	$ 881,832
12	1267	386	$ 489,062
15	3864	410	$ 1,584,240
18	3100	435	$ 1,348,500

Footnotes:

1) Flowrate=pk. flow from KWC Engineering sewer study, Table 4-1 note of 0.000369CFS/Lot X 2, modified for April 2015 estimated lots.

2) No. of lots confirmed by EHE on 06-24-15 and CV on 01/31/18.

3) Sewer pipe capacity is calculated based on Manning's formula for circular pipe as shown in Table 3.

4) Includes 20% for Engineering, Construction Management, Administrative and Overhead expenses.

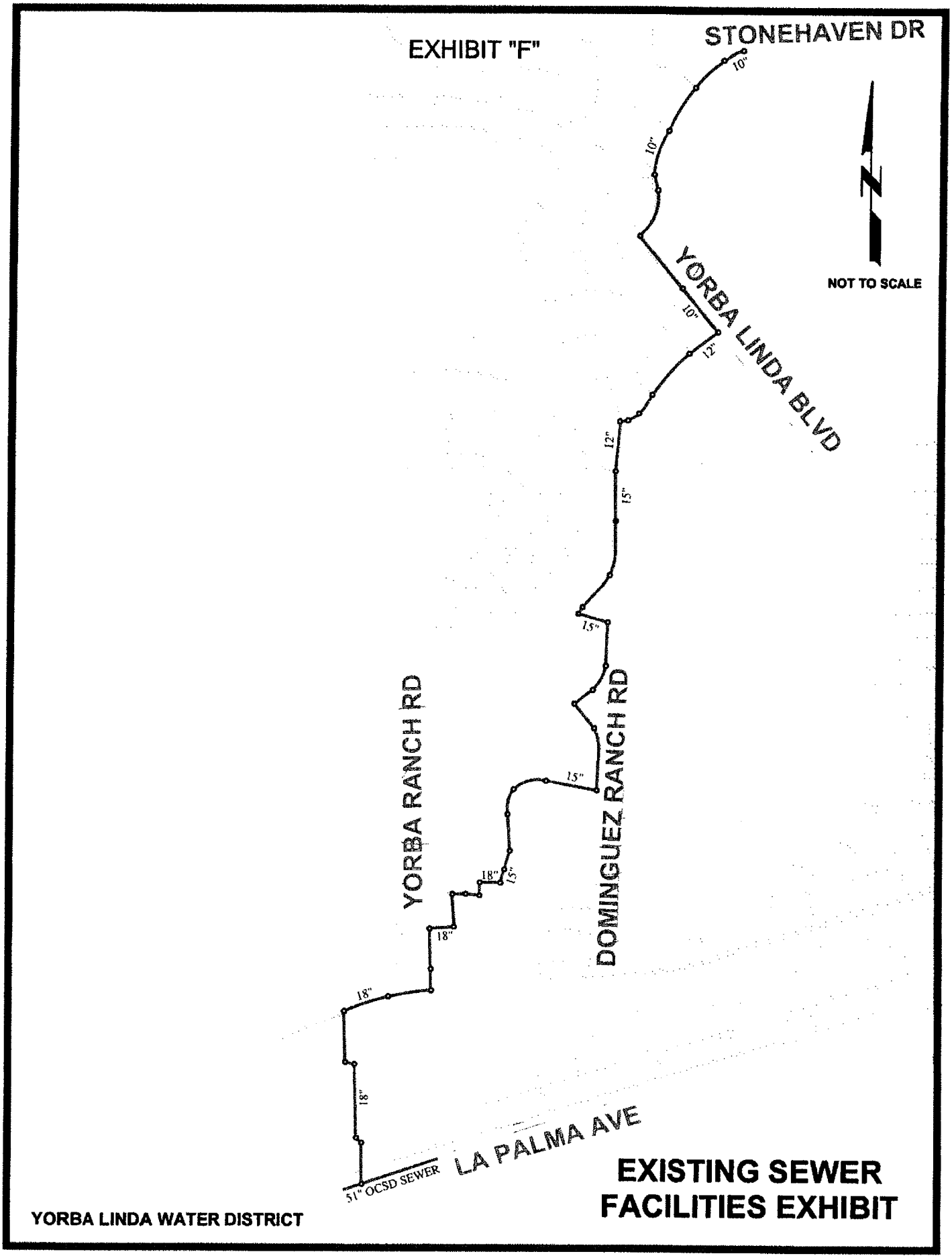


EXHIBIT "F"
STONEHAVEN DR
10"
10"
10"
12"
12"
15"
15"
15"
18"
15"
18"
18"
18"
YORBA LINDA BLVD
YORBA RANCH RD
DOMINGUEZ RANCH RD
LA PALMA AVE
51" OCSD SEWER
NOT TO SCALE
N
EXISTING SEWER
FACILITIES EXHIBIT
YORBA LINDA WATER DISTRICT

EXHIBIT "G"

EXISTING OFFSITE FACILITIES FEE SUMMARY
AND EXISTING OFFSITE FACILITY IMPROVEMENTS

07/18/18
J2009-24

Existing Offsite Facilities Fee Summary		
Existing Water Allocation Fees	$	290,217
Existing Sewer Allocation Fees	$	109,242
Water & Sewer Total	$	399,459
Annexation Fees[1]	$	15,644
Total All Fees	**$**	**415,103**
Fee per Dwelling Unit (80 DUs)	**$**	**5,188.79**

AMI Facilities[4]	**$**	**40,000**

Existing Offsite Facility Improvements				
Description	**Length (LF)**	**Cost per LF ($)**		**Cost**
12" Stonehaven Drive Watermain[2]	2,200	350	$	770,000
Hidden Hills Pump Station Upgrades[3]			$	500,000
Subtotal			**$**	**1,270,000**

Total Fees + Offsite Costs ..... **$ 1,725,103**

Footnotes:

1) Annexation Fees per October 24, 2017 memorandum from Brett R. Barbre to John Lewis.

2) Stonehaven Watermain alignment from Stonehaven & Heatheridge Drive intersection to Project entrance assumed to be in Stonehaven Drive.

3) Hidden Hills Pump Station upgrade costs be be analyzed and confirmed by the Developer's engineer.

4) Fee for AMI Facilities to be paid within ten (10) days after the Effective Date and not included in Fee per Dwelling Unit.

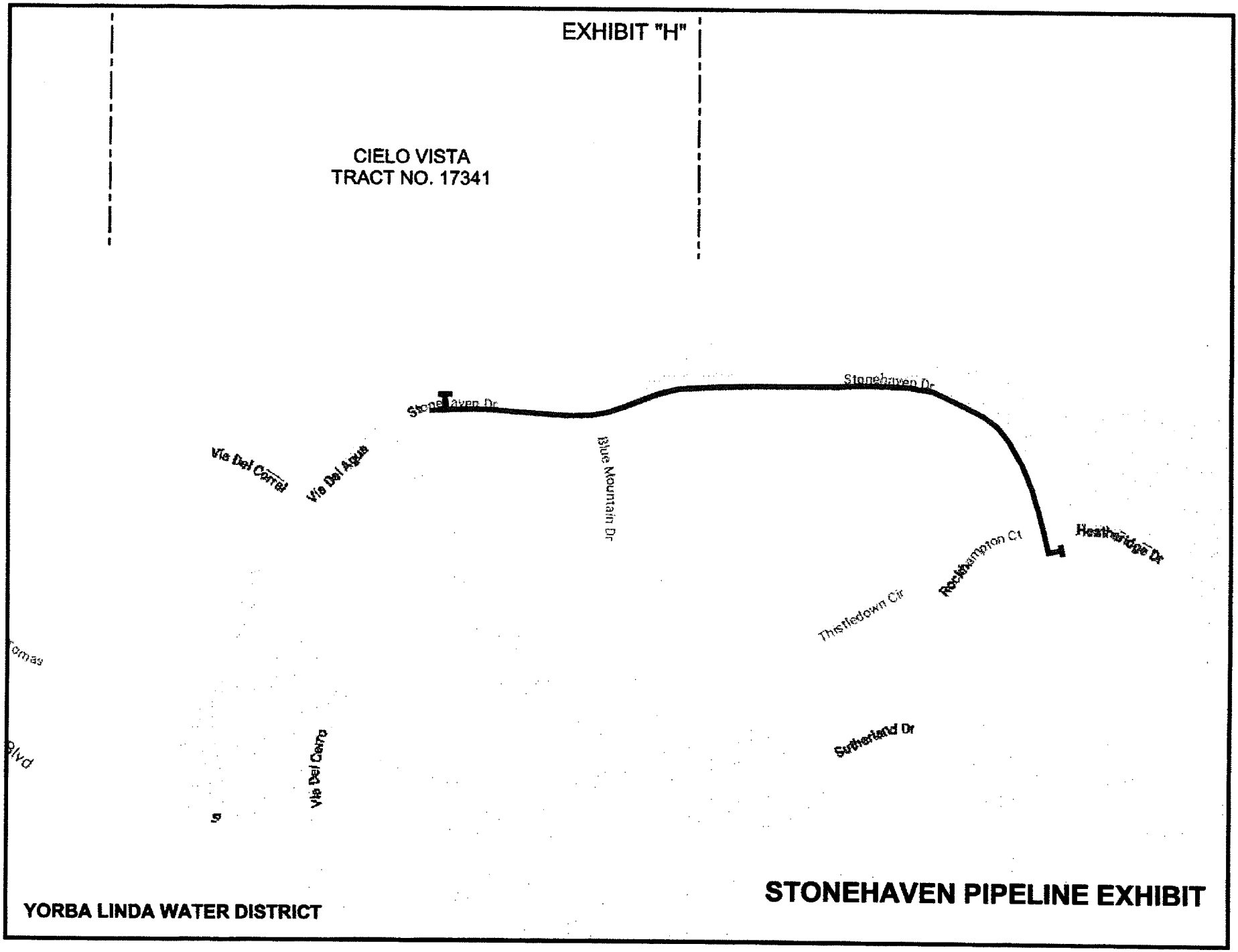


EXHIBIT "H"
CIELO VISTA
TRACT NO. 17341
Stonehaven Dr
Stonehaven Dr
Blue Mountain Dr
Via Del Corral
Via Del Agua
Heatherridge Dr
Rockhampton Ct
Thistledown Cir
Sutherland Dr
Via Del Cielo
Tomas
Blvd
YORBA LINDA WATER DISTRICT
STONEHAVEN PIPELINE EXHIBIT

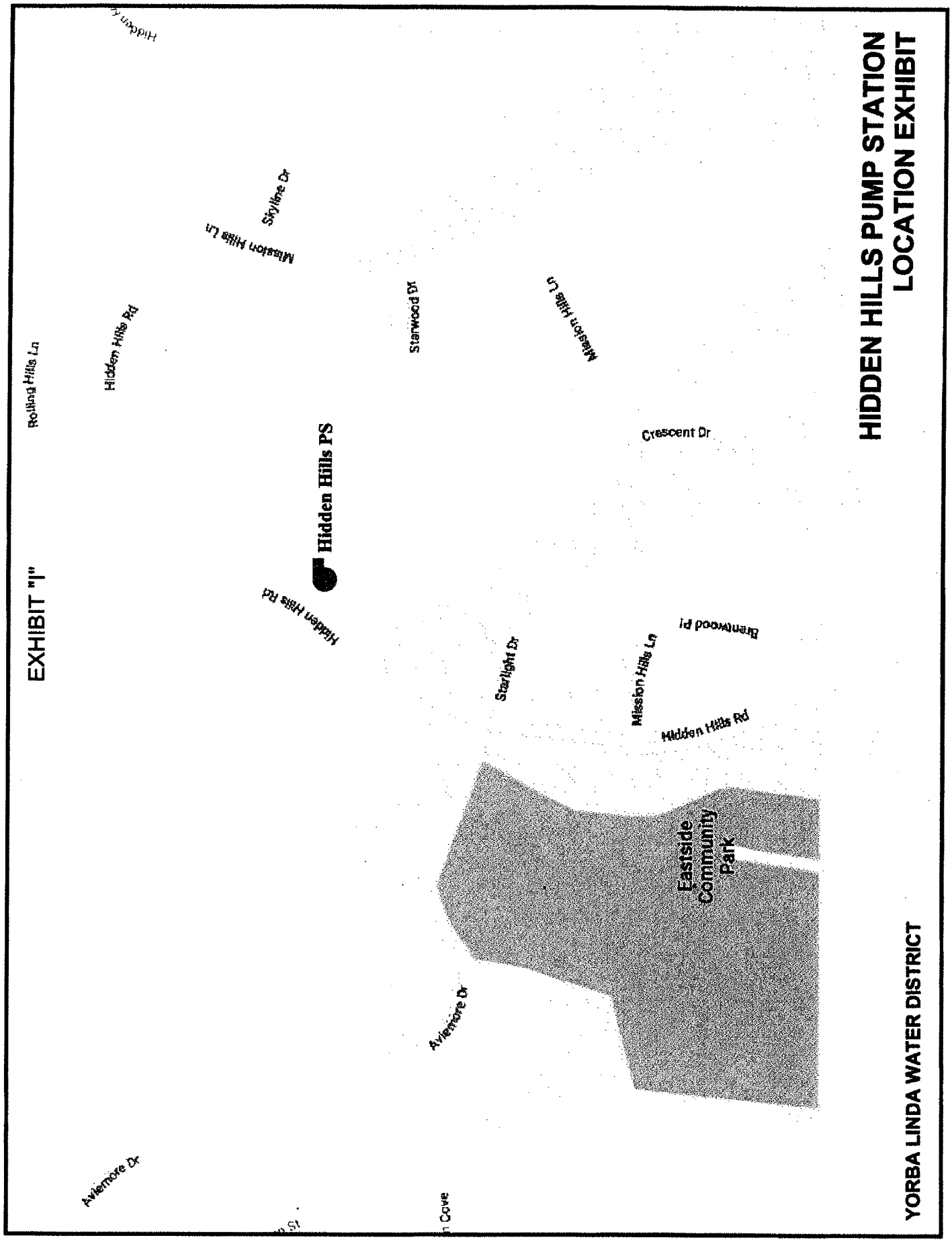


EXHIBIT "I"
Hidden Hills PS
Hidden Hills Rd
Rolling Hills Ln
Hidden Hills Rd
Mission Hills Ln
Skyline Dr
Starwood Dr
Mission Hills Ln
Crescent Dr
Brentwood Pl
Starlight Dr
Mission Hills Ln
Hidden Hills Rd
Eastside Community Park
Avlemore Dr
Avlemore Dr
HIDDEN HILLS PUMP STATION
LOCATION EXHIBIT
YORBA LINDA WATER DISTRICT

EXHIBIT "J"

CIELO VISTA EXISTING OFFSITE FACILITY IMPROVEMENTS SCHEDULE

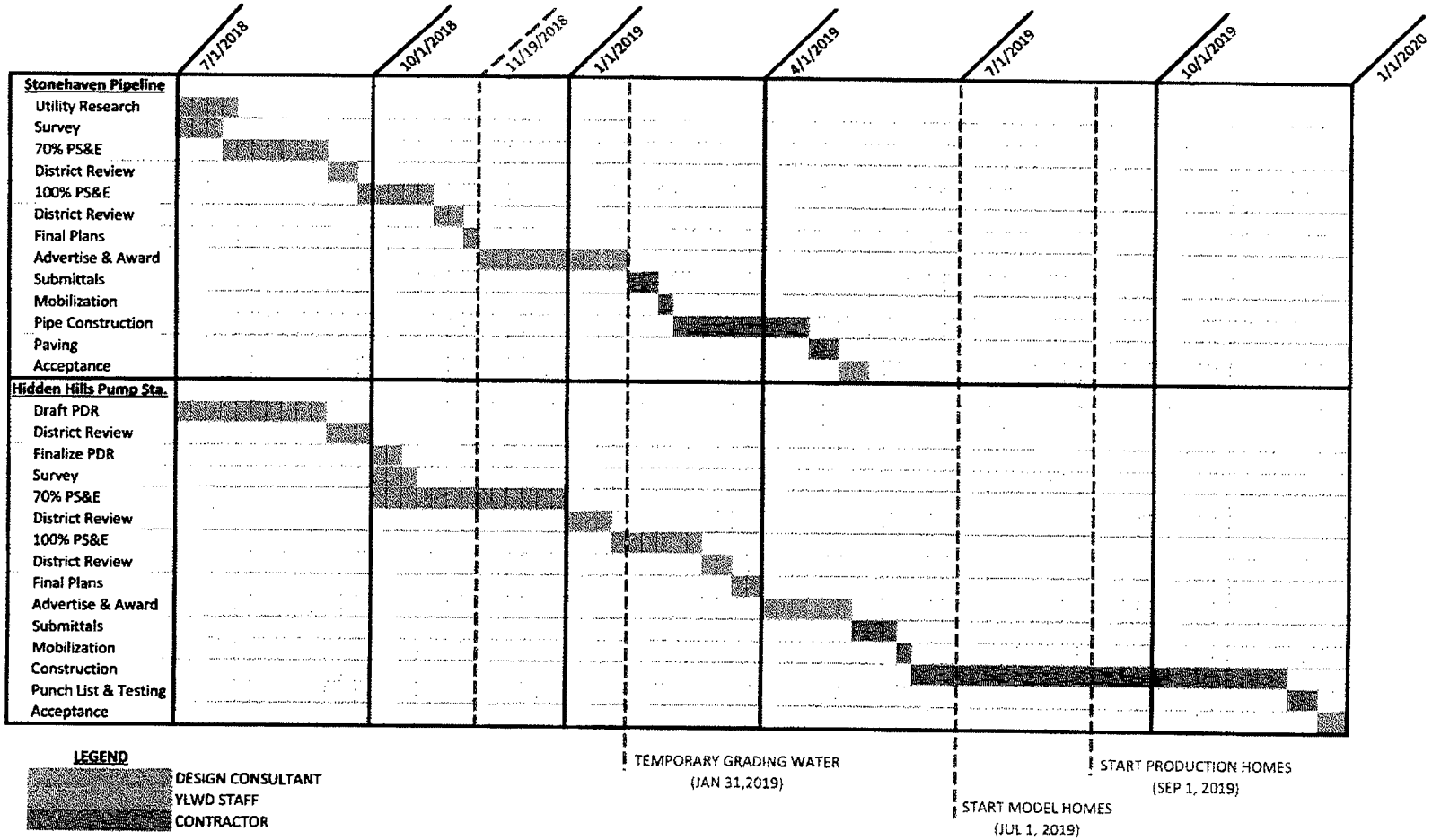


EXHIBIT "K"

Schedule for YLWD to Provide Access to Water

1. Project Rough Grading: YLWD shall provide temporary access to water for the Property through existing hydrants as necessary for Developer to commence Project rough grading, which is projected to commence January 31, 2019. YLWD shall provide temporary access to water for the Property through existing hydrants for dropping lumber, residential framing and construction of the remainder of project homes, subject to the water conveyance system's ability to meet the Orange County Fire Authority's fire flow requirements for all existing and proposed onsite residential construction.

2. Drop Lumber and Residential Framing for Model Homes: Before any lumber drop for project framing and construction of the model homes, the Stonehaven water main (illustrated on **Exhibit "H"**) and the Subdivision Facilities up to the hydrant(s) serving the model homes shall be constructed, complete and operational, tested and approved by YLWD. The Parties shall use all commercially reasonable efforts as necessary for YLWD to complete the Stonehaven water main in time to provide access to construction water for lumber drop and residential framing of the model homes by July 1, 2019. In addition to the scheduling contingencies in Section 5.B.iii. above, this schedule is also contingent upon Psomas completing the Stonehaven water main final design plans and specifications, and receiving YLWD acceptance by November 19, 2018. Subject to the Effective Date described in Section 2 and the scheduling contingencies in Section 5.B.iii. above, if YLWD's acceptance occurs later than November 19, 2018, the date for YLWD to provide construction water for lumber drop and residential framing of the model homes shall be extended by the same time period as such delay in YLWD's acceptance date or to any earlier date mutually agreeable to YLWD and Developer.

3. Drop Lumber, Residential Framing and Construction of Remainder of Project homes: The Developer may construct the Project's residential homes in phases. Before any lumber drop for framing and construction of the residential homes in each Project phase, the segment of the Subdivision Facilities serving such phase of residential homes shall be constructed, complete and operational, tested and approved by YLWD, and the Hidden Hills Pump Station improvements (illustrated on **Exhibit "I"**) shall be under construction. The Parties shall use all commercially reasonable efforts as necessary for YLWD to commence construction of the Hidden Hills Pump Station improvements in time to be under construction prior to lumber drop and residential framing of the first phase of Project homes by September 1, 2019. In addition to the scheduling contingencies in Section 5.B.iii. above, this schedule is also contingent upon Psomas completing the Hidden Hills Pump Station final design plans and specifications, and receiving YLWD acceptance by April 1, 2019. Subject to the Effective Date described in Section 2 and the scheduling contingencies in Section 5.B.iii. above, if YLWD's acceptance occurs later than April 1, 2019, the date for YLWD to commence construction of the Hidden Hills Pump Station improvements in time to be under construction prior to lumber drop and residential framing of the first phase of Project homes shall be extended by the same time period as such delay in YLWD's acceptance date or to any earlier date mutually agreeable to YLWD and Developer.

EXHIBIT "L"

Scope of Work

for

Existing Off-Site Facility Improvements

Stonehaven Pipeline – Construct approximately 2,200 linear feet of 12-inch diameter pipeline from Heatheridge Drive to proposed Cielo Vista entrance just east of Via de la Roca including connection to existing Santiago Reservoir 1000 Zone pipeline at Heatheridge Drive and connection to on-site subdivision pipeline at Cielo Vista entrance and ancillary valving and appurtenances.

Hidden Hills Pump Station Improvements – Replace existing 250 GPM jockey pump, motor and appurtenances with an 1,800 GPM pump and motor equipped with a variable frequency drive (VFD). Improvements will also include replacing portions of existing suction and discharge pipelines to maintain appropriate maximum hydraulic velocities through the station and may also include enlarging the building to provide adequate room for the new electrical equipment and VFD. A new, larger SCE transformer will also likely be required. A preliminary design report will be prepared, submitted to YLWD staff and reviewed and approved to confirm the exact scope but these are the minimum requirements. If YLWD decides to include additional improvements such as an emergency generator set and new automatic transfer switching gear, those additional improvements will be financed by YLWD.

EXHIBIT "G.1"

EXISTING OFFSITE FACILITIES FEE SUMMARY AND EXISTING OFFSITE FACILITY IMPROVEMENTS

Existing Offsite Facilities Fee Summary	
Existing Water Allocation Fees	$ 290,217
Existing Sewer Allocation Fees	$ 109,242
Water & Sewer Total	$ 399,459
Annexation Fees[1]	$ 15,644
Total All Fees	**$ 415,103**
Fee per Dwelling Unit (80 DUs)	**$ 5,188.79**

Existing Offsite Facility Improvements			
Description	**Length (LF)**	**Cost per LF ($)**	**Cost**
12" Stonehaven Drive Watermain[2]	2,200	350	$ 770,000
Hidden Hills Pump Station Upgrades[3]			$ 500,000
Subtotal			**$ 1,270,000**

Total Fees + Offsite Costs ..... **$ 1,685,103**

Footnotes:

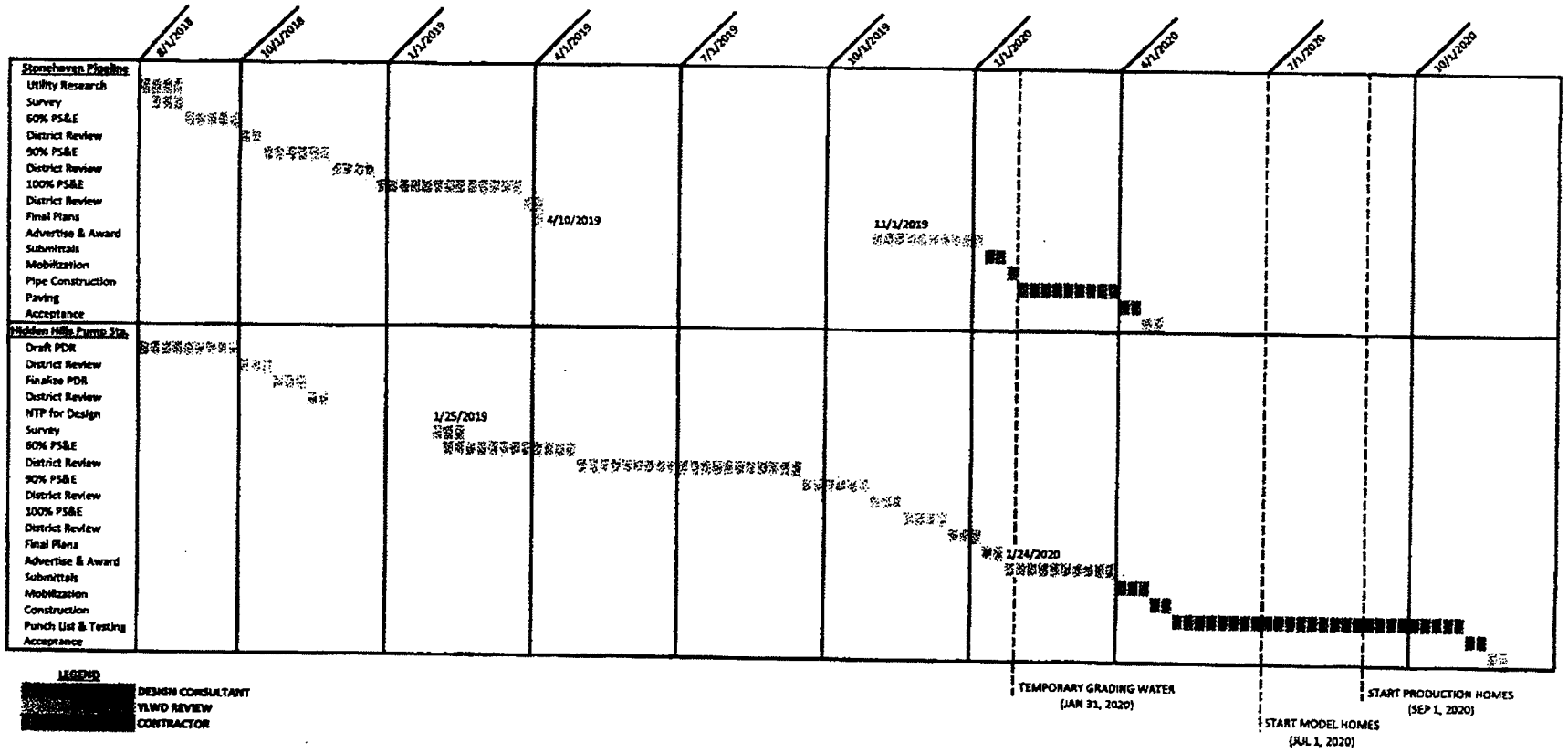
1) Annexation Fees per October 24, 2017 memorandum from Brett R. Barbre to John Lewis.

2) Stonehaven Watermain alignment from Stonehaven & Heatheridge Drive intersection to Project entrance assumed to be in Stonehaven Drive.

3) Hidden Hills Pump Station upgrade costs be be analyzed and confirmed by the Developer's engineer.

EXHIBIT "J.1"

CIELO VISTA OFF-SITE WATER IMPROVEMENTS SCHEDULE



8/7/2019

EXHIBIT "K.1"

Schedule for YLWD to Provide Access to Water

1. Project Rough Grading: YLWD shall provide temporary access to water for the Property through existing hydrants as necessary for Developer to commence Project rough grading, which is projected to commence January 31, 2020. YLWD shall provide temporary access to water for the Property through existing hydrants for dropping lumber, residential framing and construction of the remainder of Project homes, subject to the water conveyance system's ability to meet the Orange County Fire Authority's fire flow requirements for all existing and proposed onsite residential construction.

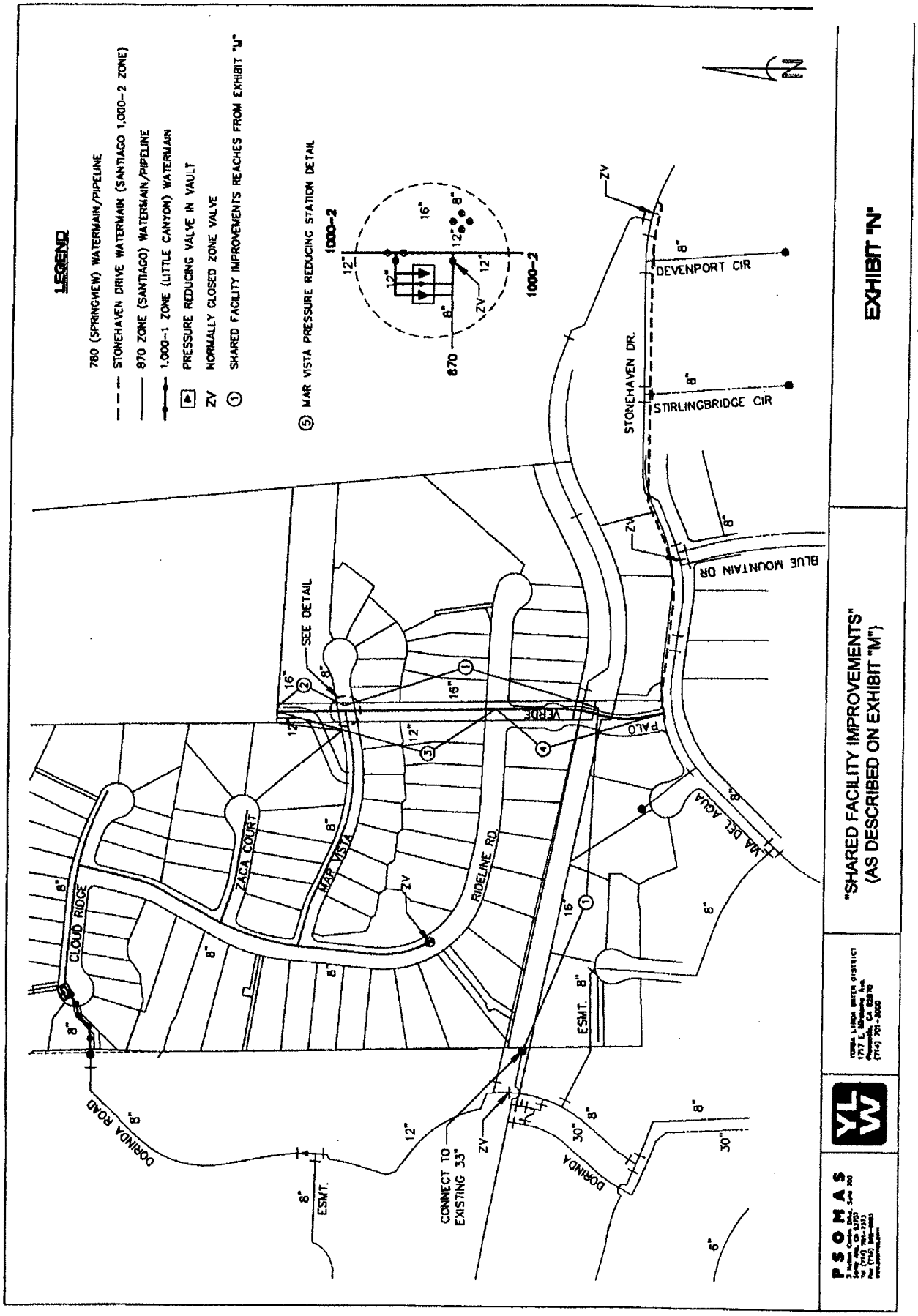
2. Drop Lumber and Residential Framing for Model Homes: Before any lumber drop for Project framing and construction of the model homes, the Stonehaven water main (illustrated on **Exhibit "H"**) and the Subdivision Facilities up to the hydrant(s) serving the model homes shall be constructed, complete and operational, tested and approved by YLWD. The Parties shall use all commercially reasonable efforts as necessary for YLWD to complete the Stonehaven water main in time to provide access to construction water for lumber drop and residential framing of the model homes by July 1, 2020. In addition to the scheduling contingencies in Section 5.B.iii in the original agreement, this schedule was also contingent upon Psomas completing the Stonehaven water main final design plans and specifications and receiving YLWD acceptance, which was completed and YLWD did provide such acceptance in April 2019. Based on typical construction practices and since it is ready to go to bid when necessary, the Stonehaven water main can be constructed in the same timeframe as the onsite water improvements for the Project and YLWD will make all efforts to coordinate the construction schedule of the Stonehaven water main with the Project onsite improvements such that it is operational by or before July 1, 2020.

3. Drop Lumber, Residential Framing and Construction of Remainder of Project Homes: The Developer may construct the Project's residential homes in phases. Before any lumber drop for framing and construction of the residential homes in each Project phase, the segment of the Subdivision Facilities serving such phase of residential homes shall be constructed, complete and operational, tested and approved by YLWD, and the Hidden Hills Pump Station improvements (illustrated on **Exhibit "I"**) shall be under construction. The Parties shall use all commercially reasonable efforts as necessary for YLWD to commence construction prior to lumber drop and residential framing of the first phase of Project homes by September 1, 2020. In addition to the scheduling contingencies in Section 5.B.iii in the original agreement, this schedule is also contingent upon Psomas completing the Hidden Hills Pump Station final design plans and specifications, and receiving YLWD acceptance by April 1, 2020. Subject to the Effective Date described in Section 2 and scheduling contingencies in Section 5.B.iii of the original agreement, if YLWD's acceptance occurs later than April 1, 2020, the date for YLWD to begin advertising the Hidden Hills Pump Station for bids in time to be under construction prior to lumber drop and residential framing of the first phase of Project homes shall be extended by the same time period as such delay in YLWD's acceptance date or to any earlier date mutually agreeable to YLWD and Developer.

EXHIBIT "M"

WATER FACILITIES TO BE CONSTRUCTED BY CIELO VISTA BENEFITING EHE
"SHARED FACILITY IMPROVEMENTS"

Item	Facility Description	Approx. Length (lf)
1	16" 780 Zone Pipeline in YLWD/MWD Easement, Palo Verde, and Easement - Cielo Vista Boundary to Mar Vista	1,600
2	16" 780 Zone Pipeline in Easement - Mar Vista north to EHE Boundary	180
3	12" 1000-2 Zone Pipeline in Easement - Rideline Road north to EHE Boundary	560
4	Oversizing Cost of 8" to 12" 1000-2 Zone Pipeline in Palo Verde and Easement - Stonehaven Drive to Rideline Road	470
5	Pressure Reducing Station at Mar Vista (1 of 3 PRVs in Station is for 780 Zone emergency supply)	NA


LEGEND
780 (SPRINGVIEW) WATERMAIN/PIPELINE
STONEHAVEN DRIVE WATERMAIN (SANTIAGO 1,000-2 ZONE)
870 ZONE (SANTIAGO) WATERMAIN/PIPELINE
1,000-1 ZONE (LITTLE CANYON) WATERMAIN
PRESSURE REDUCING VALVE IN VAULT
ZV NORMALLY CLOSED ZONE VALVE
SHARED FACILITY IMPROVEMENTS REACHES FROM EXHIBIT "M"
MAR VISTA PRESSURE REDUCING STATION DETAIL
1000-2
870
1000-2
SEE DETAIL
CLOUD RIDGE
ZACA COURT
MAR VISTA
RIDELINE RD
VERDE
PALO
STONEHAVEN DR.
DEVENPORT CIR
STIRLINGBRIDGE CIR
BLUE MOUNTAIN DR
JA DEL AGUA
DORINDA ROAD
DORINDA
CONNECT TO EXISTING 33"
ESMT.
ESMT. 8"
EXHIBIT "N"
"SHARED FACILITY IMPROVEMENTS"
(AS DESCRIBED ON EXHIBIT "M")
PSOMAS

Attachment E

CA 19-03

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF ORANGE COUNTY, CALIFORNIA MAKING RESPONSIBLE AGENCY FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND APPROVING THE "CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT (CA 19-03)"

November 13, 2019

On motion of Commissioner Davert, duly seconded and carried, the following resolution was adopted:

WHEREAS, the proposed annexation, designated as "City of Yorba Linda Annexation of Cielo Vista Development (CA 19-03)," was hereto filed with and accepted for filing on November 13, 2019 by the Executive Officer of the Local Agency Formation Commission of Orange County ("OC LAFCO") pursuant to Title 5, Division 3, commencing with Section 56000 et seq. of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658 set November 13, 2019 as the hearing date of this proposal; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56665 has reviewed this proposal and prepared a report including her recommendations therein and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, the proposed annexation, consists of the annexation of approximately 84 acres of uninhabited territory located in unincorporated Orange County identified as the "Cielo Vista Development" to the City of Yorba Linda (See Vicinity Map attached as "Exhibit A"); and

WHEREAS, the County of Orange served as the lead agency for the environmental review, analysis, and approval of the "Cielo Vista Development" and the proposed annexation pursuant to the requirements of the California Environmental

Quality Act (Public Resources Code section 21000 et seq.) and the State CEQA Guidelines (14 Cal. Code Regs., § 15000 et seq.) ("CEQA"); and

WHEREAS, pursuant to CEQA, on December 13, 2016 the County of Orange adopted the Environmental Impact Report No. 615 for the "Cielo Vista Development"; and

WHEREAS, OC LAFCO has been asked to approve the proposed "City of Yorba Linda Annexation of Cielo Vista Development (CA 19-03)"; and

WHEREAS, OC LAFCO has limited approval and implementing authority over the development site and, thus, is a "responsible agency" for the proposed annexation pursuant to the requirements of CEQA; and

WHEREAS, OC LAFCO, at its agendized public meeting on November 13, 2019, independently reviewed and considered the Environmental Impact Report No. 615, Cielo Vista Project Alternative 5 Area Plan and Vesting Tentative Tract Map 17341 prepared by the County of Orange and, as other related documents in the record before it; and

WHEREAS, all of the procedures of CEQA have been met, and the Environmental Impact Report No. 615, prepared in connection with the proposed annexation, is sufficiently detailed so that all of the potential effects of the proposal on the environment and measures necessary to avoid or substantially lessen such effects have been evaluated in accordance with CEQA;

WHEREAS, as contained herein, OC LAFCO has endeavored in good faith to set forth the basis for its decision on the proposal; and

WHEREAS, this Commission called for and held a public hearing on the proposal on November 13, 2019, this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

WHEREAS, all of the findings and conclusions made by OC LAFCO pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole and not based solely on the information provided in this Resolution; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, the Commission of OC LAFCO does hereby resolve as follows:

Section 1. OC LAFCO Findings.

The subject territory is found to be undeveloped, is currently within the City of Yorba Linda's Sphere of Influence and is assigned the following distinctive short-form designation, "City of Yorba Linda Annexation of Cielo Vista Development (CA 19-03)." The proposal consists of the annexation of approximately 84 acres located north of Vista del Agua/Stonehaven Driven and the intersection of Dorinda Road and San Antonio Road, and south of Casino Ridge Road within the City of Yorba Linda's sphere of influence.

Section 2. Compliance with the Environmental Quality Act.

As the decision-making body for OC LAFCO, and in OC LAFCO's limited role as a responsible agency under CEQA, the Commission has reviewed and considered the information contained in the Environmental Impact Report No. 615 prepared by the County of Orange as the lead agency and all supporting documentation, copies of which are on file at OC LAFCO's office and are incorporated by reference as though set forth fully herein. Based on this review, the Commission finds that, as to those potential environmental impacts within the Commission's powers and authorities as the responsible agency, that the Environmental Impact Report No. 615 and supporting environmental documentation contain a complete, objective, and accurate reporting of those

potential impacts, and that these findings reflect the independent judgement and analysis of the Commission.

Section 3. Findings on Environmental Impacts.

The Commission concurs with the County of Orange's environmental findings regarding the proposed annexation and adopts these findings, attached hereto as "Exhibit B," as though fully set forth herein. The Commission finds that there is no substantial evidence in the administrative record supporting a fair argument that the annexation proposal may result in significant environmental impacts.

Section 4. The "City of Yorba Linda Annexation of Cielo Vista Development" Conditions of Approval:

a) The annexation of the Cielo Vista Development, consisting of approximately 84 acres, to the City of Yorba Linda.

b) Upon approval, the annexation is subject to the terms and conditions of the Pre-Annexation Agreement executed by the City of Yorba Linda and the North County BRS, LLC, representing all landowners within the subject territory ("Exhibit C").

c) Upon approval, the annexation is subject to the terms and conditions of the Cooperative Agreement executed by the County of Orange Board of Supervisors and the City of Yorba Linda ("Exhibit D").

d) Upon approval, the annexation is subject to the terms and conditions of the Water and Sewer Service Agreement executed by the North County BRS Project, LLC and the Yorba Linda Water District ("Exhibit E").

e) Upon annexation of the territory to the City, all right, title, and interest of the County, including the underlying fee title where owned by the County in any and all sidewalks, trails, landscaped areas, street lights, open space, signals, shall vest in the City of Yorba Linda, except for those properties to be retained by the County and specifically listed by these conditions.

f) Upon annexation of the territory, the City of Yorba Linda shall be the owner of, and responsible for, all of the following property owned by the County at the time of annexation: public roads, adjacent slopes, street lights, traffic signals, mitigation sites that have not been accepted by regulatory agencies but exist or are located in public right-of-way and were constructed or installed as part of a road construction project within the annexed area and storm drains within street right-of-way and appurtenant slopes, medians and adjacent property. City of Yorba Linda shall also be responsible for regulatory oversight of the ongoing mitigation, but not the ownership of, mitigation sites that were installed on other County property, such as flood control property that were installed as a condition of road construction projects in or associated with the road projects in the annexed area and mitigation site that is annexed to the City of Yorba Linda.

g) Upon the effective date of annexation, the City of Yorba Linda shall do the following: (1) assume ownership and maintenance responsibilities for all County Owned drainage devices, storm drains and culverts, appurtenant facilities (except regional OCFCD flood control facilities for which OCFCD has a recorded flood control easement or ownership interest), site drainage, and all master plan storm drain facilities that are within the annexation area and are currently operated and maintained by the County of Orange; and (2) administer flood zoning and Federal Emergency Management Agency floodplain regulations within the annexation area.

h) Payment by the applicant of County Clerk-Recorder and State Board of Equalization fees is a condition of approval.

i) As a condition of approval, the applicant agrees to defend, hold harmless and indemnify OC LAFCO and/or its agents, officers and employees from any claim, action or proceeding against OC LAFCO and/or its agents, officers and employees to attack, set aside, void or annul the approval of OC LAFCO concerning this proposal or any action relating to or arising out

of such approval.

j) The effective date shall be the date of recordation.

Section 5. Notice of Determination.

The Commission directs staff to file a Notice of Determination with the Orange County Clerk's Office within five working days of adoption of this Resolution.

Section 6. Conducting Authority Proceedings.

The Commission authorizes the waiving of conducting authority proceedings in accordance with Government Code Section 56662.

Section 7. Mail Copy of Resolution.

The Executive Officer is hereby authorized and directed to mail copies of this resolution as provided in Section 56882 of the Government Code Section.

Section 8. Custodian of Records.

The documents and materials that constitute the record of proceedings on which this Resolution and the above findings have been based are located at the offices of OC LAFCO. The custodian for these records is OC LAFCO, and is located at 2677 North Main Street, Suite 1050, Santa Ana, California 92705.

PASSED, APPROVED AND ADOPTED, by the Commissioners of the Local Agency Formation Commission of Orange County this 13th day of November 2019.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of November 2019.

Cheryl Brothers
Chair of the Orange County
Local Agency Formation Commission

By: _____
Cheryl Brothers

EXHIBIT A

City of Yorba Linda Annexation of Cielo Vista Development (CA 19-03)

0 0.125 0.25 0.5 Miles

ORANGE COUNTY LAFCO EST. 1963

EXHIBIT B

NOTICE OF DETERMINATION

TO:	☐ Clerk of the Board of Supervisors or ☒ County Clerk County of: Orange Address: 12 Civic Center Plaza, Santa Ana, CA 92701	FROM:	Orange County Local Agency Formation Commission (Responsible Agency) Address: 2677 N. Main St., Suite 1050 Santa Ana, CA 92705 Contact: Luis Tapia Phone: 714-640-5100

TO:	☒ Office of Planning and Research P. O. Box 3044 Sacramento, CA 95812-3044 ☐ 1400 Tenth Street (overnight or hand delivery) Sacramento, CA 95814	Lead Agency: County of Orange Address: 300 North Flower Street Santa Ana, CA 92705 Contact: Kevin Shannon Phone: 714-667-1632

SUBJECT: Filing of Notice of Determination in Compliance with Section 21108 or 21152 of the Public Resources Code.

Project Title: City of Yorba Linda Annexation of Cielo Vista Development (CA 19-03)		
State Clearinghouse Number (If submitted to SCH): 2012071013	Applicant: City of Yorba Linda Contact Person: Todd O Litfin 4845 Casa Loma Avenue Yorba Linda, CA 92886	Telephone Number: (714) 641-3454
Specific Project Location – Identify street address and cross street or attach a map showing project site (preferably a USGS 15' or 7 ½' topographical map identified by quadrangle name): **See attached vicinity map.**		
General Project Location (City and/or County): The proposed annexation territory is located in unincorporated Orange County, adjacent to the north quadrant of the City of Yorba Linda's jurisdictional boundary. The subject territory is within the City's sphere of influence, north of Via del Agua/Stonehaven Drive and the intersection of Dorinda Road and San Antonio Road, and south of Casino Ridge Road.		
Project Description: The proposed annexation of approximately 84 acres of uninhabited territory to the City of Yorba Linda.		
Identify the person or entity undertaking the project, including any private applicant, any other person undertaking an activity that receives financial assistance from the Public Agency as part of the project, and any person receiving a lease, permit, license, certificate, or other entitlement of use from the Public Agency as part of the project. The Orange County Local Agency Formation Commission, as a responsible agency.		

This is to advise that the (☐ Lead Agency or ☒ Responsible Agency) has approved the above described project on November 13, 2019 and has made the following determinations regarding the above described project:

EXHIBIT B

1. ☐	The project will have a significant effect on the environment.	
☒	The project will NOT have a significant effect on the environment	
2. ☒	An Environmental Impact Report was prepared and certified for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.	
☐	A Negative Declaration was prepared for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.	
☐	A Mitigated Negative Declaration was previously prepared and adopted for this project by the Lead Agency pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.	
3. ☒	Mitigation measures were made a condition of the Lead Agency's approval of the project.	
☐	Mitigation measures were NOT made a condition of the approval of the project.	
4. ☒	A Mitigation Monitoring or Reporting Plan was adopted by the Lead Agency for this project.	
☐	A Mitigation Monitoring or Reporting Plan was NOT adopted for this project.	
5. ☐	A Statement of Overriding Considerations was adopted for this project.	
☒	A Statement of Overriding Considerations was NOT adopted for this project	
6. ☒	Findings were made pursuant to the provisions of CEQA.	
☐	Findings were NOT made pursuant to the provisions of CEQA.	
	This certifies that the location and custodian of the documents which comprise the record of proceedings for the Final EIR (with comments and responses) or Negative Declaration are available to the general public at the following location(s):	
	Custodian:	Location: County of Orange Development Services 601 North Ross Street Santa Ana, CA 92701 Orange County Local Agency Formation Commission 2677 N. Main Street Suite 1050 Santa Ana, CA 92705
Date: _____		_____ **Signature:**
Date Received for Filing: _____		Executive Officer **Title:**

Authority cited: Sections 21083, Public Recourse Code.
Reference Section 21000-21174, Public Resources Code.

EXHIBIT C

PRE-ANNEXATION AGREEMENT

by and among

THE CITY OF YORBA LINDA
a California Municipal Corporation,

and

NORTH COUNTY BRS PROJECT, LLC,
a Delaware Limited Liability Company

[Dated as of 10/24/19 for reference purposes only]

539/009410-1050
14215642.1 a09/26/19

EXHIBIT C

ARTICLE 1. PARTIES AND EFFECTIVE DATE

1.1 Parties. This Pre-Annexation Agreement ("Agreement") is entered into by and among (i) The City of Yorba Linda (the "City"), a California municipal corporation and North County BRS Project, LLC (the "Company"), a Delaware limited liability corporation. The City and the Company are sometimes referred to herein individually as a "Party" and collectively as the "Parties." This Agreement is dated as of 10/21/19, for reference purposes only and will not become effective until the "Effective Date" defined in Section 1.2 below.

1.2 Effective Date. This Agreement will not become effective until the date ("Effective Date") on which all the following have occurred: (i) this Agreement has been approved by the Company, executed by its legally authorized officers, and delivered to the City; (ii) this Agreement has been approved by the City Council and executed by the City; and (iii) all applicable statutes of limitation and appeal periods relating to the annexation of the Property have lapsed without a legal challenge.

1.3 Property Owner Consent. The property owners of the different properties constituting the Property irrevocably consent to the annexation of the Property into the City and authorize the Company to act on their behalf in connection with the annexation. The property owners include The Travis Ranch Trusts and the Virginia Richards Revocable Intervivos Trust dated May 1, 1986.

ARTICLE 2. RECITALS

2.1 The Company holds options to approximately 84 acres, the legal description of which is attached hereto as Exhibit "A" (the "Property"). The Property is shown on County of Orange Vesting Tentative Tract Map 17341. The Property is located in an unincorporated area of Orange County, California (the "County") within the City's sphere of influence. Policies of the Orange County Local Agency Formation commission favor the annexation of unincorporated areas so as to encourage the orderly and efficient provision of municipal services. (*See,*

e.g., OC LAFCO Legislative Policy Guidelines C and D from its 2019 Bylaws, Policies and Procedures).

2.2 The Company has obtained approvals from the County to develop the Property with an 80-unit residential subdivision (alternatively referred to herein as "Cielo Vista" or the "Project").

2.3 The Project's entitlements (including the Cielo Vista Project Alternative 5 Area Plan ["Cielo Vista Area Plan"]) and Environmental Impact Report ("EIR") were approved by the Orange County Board of Supervisors on December 13, 2016 and were not judicially challenged. The Project's Vesting Tentative Tract Map was approved by the Orange County Board of Supervisors on September 12, 2017 and was not judicially challenged.

2.4 On November 20, 2018, the City Council approved Zone Change 2018-02 to "pre-zone," or establish a pre-annexation zoning designation, for the Property, as permitted by California Government Code § 65859. In Ordinance No. 2018-1055 the City pre-zoned the Property to "PD (Planned Development) – Cielo Vista" to allow for development of the Property at a density of up to 1 dwelling unit per acre and to establish development standards consistent with the density and character of the surrounding single-family residential neighborhoods. The "PD (Planned Development) – Cielo Vista" designation implements and is consistent with the Cielo Vista Area Plan.

2.5 The Cielo Vista Area Plan approved by the County of Orange constitutes the City's "development plan" to guide physical development of the Property in compliance with Chapter 18.16, Article II of the City's Zoning Code.

2.6 Annexation of the Property into the City (collectively, the "Annexation") is contemplated by the Parties upon the terms and conditions set forth in this Agreement. Proceedings to implement the Annexation will be undertaken by the Orange County Local Agency Formation Commission ("OC LAFCO"). The City has submitted an application to OC LAFCO for the annexation

of the Property to the City referenced as City of Yorba Linda Annexation of Cielo Vista Development (CA 19-03) ("Annexation Application").

2.7 The Parties understand that the Annexation is essential to the plan for providing services required by OC LAFCO in its consideration of the annexation application.

2.8 The Company desires that the development and annexation of the Property occurs in a manner that preserves the vested rights and entitlements that the Company has received from the County.

2.9 The City desires any and all pre-annexation and post-annexation development to occur harmoniously and without disruption or discord to the City and its existing communities and inhabitants and without detriment to the City's infrastructure and/or City service providers. The City further desires to be assured that Company will continue to process its current application for annexation under the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration for the promises and mutual covenants set forth herein, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 3. TERMS

3.1 City Obligations.

3.1.1 Processing Review. In accordance with applicable legal requirements and procedures, and to the extent that its authority has not been contracted to the County of Orange under a separate instrument, the City shall timely process encroachment permits, license agreements, discretionary and non-discretionary actions, and all other legally cognizable documents consistent with the Project's entitlements and the City's zoning and other legal requirements to the extent necessary to facilitate the Project's implementation, including its connection to Via del Agua. The City does not waive or otherwise limit its ability to exercise its legal authority in the City's review or approval process for City actions.

3.1.2 Processing Roads. In accordance with applicable legal requirements and procedures, and to the extent that its authority has not been contracted to the County of Orange under a separate instrument, the City shall timely process all applications for construction of the Project's roads and infrastructure within its jurisdiction (including Street "A" on Tract Map 17341) and attendant landscaping, signage, striping, and monumentation, substantially consistent with the Cielo Vista Area Plan. The City does not waive or otherwise limit its ability to exercise its legal authority in the City's review or approval process for City actions.

3.1.3 Consent To Annexation. The City hereby irrevocably consents to the annexation of the Property pursuant to the terms of this Agreement and shall cooperate in the annexation process for the Property.

3.1.4 Traffic Control Device. Consistent with Mitigation Measure 4.14-2 of the Project's EIR and to the extent consistent with legal requirements and within the City's legal authority, if the Company constructs the traffic control devices at Via Del Agua and Yorba Linda Boulevard then the City shall require the developer of the Esperanza Hills residential project (Yorba Linda Estates, LLC, or its successor or assign) to make a pro-rata reimbursement to the Company for all expenses associated with the construction of the traffic control devices at Via Del Agua and Yorba Linda Boulevard as part of the first City-issued discretionary or ministerial approval for the Esperanza Hills project where the City can legally impose such a condition. The amount of such reimbursement shall be in proportion to the number of County-approved residential units at the Cielo Vista and Esperanza Hills residential projects. For example, if the Esperanza Hills project is approved by the County at 340 units, then the Cielo Vista project shall be responsible for 80/420ths of the cost of the traffic control devices at Via Del Agua and Yorba Linda Boulevard. Using the figures in that example for reference only, the City would condition the developer of the Esperanza Hills residential project to reimburse the Company for 340/420ths of said cost as part of the first City-issued approval for the Esperanza Hills project.

3.2 Company Obligations.

3.2.1 Pursue Annexation. The Company shall continue to diligently pursue the approval of the Annexation Application the City filed with OC LAFCO for the annexation of the Property into the City.

3.2.2 Notice Of Grading. The Company shall provide no less than sixty (60) days' notice to the City prior to commencement of mass grading for the Project.

3.2.3 Consent To Annexation. The Company hereby irrevocably consents to the annexation of the Property pursuant to the terms of this Agreement and the Annexation Application submitted pursuant to Section 3.2.1. The Company covenants for itself, the Property owners, its agents, employees, contractors, heirs, successors and assigns who obtain title to the Property or portions or parcels thereof ("Successors"), to diligently pursue annexation of the Property to the City consistent with the terms of this Agreement. The Company and its Successors shall cooperate in every reasonable way with the requests of the City, OC LAFCO or any other public agency in any proceeding to annex the Property to the City. Said cooperation shall include, but not be limited to, the filing of all necessary applications, petitions, plans, drawings, and any other documentation or information required by the City, OC LAFCO or any public agency at Company's sole cost and expense.

3.2.4 Internal Project Roads. The Company shall design and construct its internal roads to City standards at its sole expense.

3.2.5 Library. Prior to the issuance of building permits, to satisfy the requirement that the Company shall comply with the development fee program for Orange County Public Libraries as provided in Sections 7-9-700 through 7-9-713 of the Codified Ordinances of the County of Orange or the development fee program for the City of Yorba Linda Library system, Company shall pay Two Hundred Fifty Dollars ($250.00) per residential unit within the Project to the City of Yorba Linda for a total, if 80 units, of $20,000.00. The fee shall be paid to the City

on a per-unit basis upon the County's issuance of a building permit for each unit – and not as a single lump sum. In no event shall the total number of residential units used for the calculation of the fee be less than 69 units, and if there are less than 69 units developed on the Property then the total remaining fee shall be paid upon the issuance of the building permit for the last residential unit.

3.2.6 Bonds. The Company shall post subdivision completion bonds (the "Bonds") as required by the County prior to issuance of a grading permit, and shall agree that the City may either be named as a beneficiary under the Bonds, or may be named as a party who could make demand on the County to enforce the Bonds in the event of default by the Company. Furthermore, the Company shall post separate bonds for all work performed by Company and its agents on any City property or easements to the extent that such bonds are customarily required by the City in connection with such work.

3.2.7 Public Benefit Contribution. Upon the approval of annexation by OC LAFCO as provided herein, the Company agrees to pay the sum of Sixteen Thousand Seven Hundred Sixteen dollars ($16,716.00) per dwelling unit (the "Public Benefit Contribution") to the City as agreed reimbursement for annexation into the City of the Property and subject to the timing provisions of this paragraph. Subject to the satisfaction of the contingencies set forth in this paragraph, the Public Benefit Contribution shall be paid to the City on a per-residential unit basis upon the County's issuance of a Certificate of Occupancy for each unit—and not as a single lump sum. In no event shall the total number of residential units used for the calculation of the Public Benefit Contribution be less than 69 units, resulting in a total Public Benefit Contribution at the $16,716 per unit rate of One Million One Hundred Fifty Three Thousand Four Hundred and Four dollars ($1,153,404.00), and if there are less than 69 units developed on the Property then the total remaining Public Benefit Contribution shall be paid upon the issuance of the certificate of occupancy for the last residential unit. In the event that the City approves a Public Benefit Contribution of less than $16,716 per dwelling unit as part of a pre-annexation agreement for the Esperanza Hills project (the "Esperanza Contribution"), it shall reduce the

Company's per-unit Public Benefit Contribution to equal the Esperanza Contribution for any unpaid Public Benefit Contribution made after the date that the City approves the Esperanza Contribution.

3.2.8 Payment of City Fees and Costs. Company shall pay City all of City's costs and expenses pertaining to the annexation of the Property, including but not limited to costs associated with the Project's encroachment permit, grading, traffic signal design review, or other engineering plan check services related to the Project's entrance roadway. Company shall pay all City processing, permitting and other fees for work that is performed by the City pertaining to any aspect of the Project including but not limited to work performed on City Property. Company shall pay all of City's attorney's fees, consultant costs (including but not limited to environmental consultants and CEQA consultants) and other reasonable costs related to the City's actions pertaining to the annexation of the Property from the Effective Date of this Agreement. Company shall bear all City costs of the processing of the annexation proceedings to be conducted by OC LAFCO including the recordation fees for required by the State Board of Equalization. Company further agrees to pay the cost of any other regulatory activities pertaining to the annexation of the Property. The Parties agree that that the City's Master Plan of Drainage fee of Fourteen Thousand Dollars ($14,000.00) per acre shall apply to the Project but that Company shall receive a credit for drainage facilities constructed off the Property resulting in a City Master Plan of Drainage fee of Two Hundred Thirty-One Thousand and Four Hundred and Twenty Six Dollars ($231,426.00) owed by the Company. The City's Master Plan of Drainage fee shall be paid prior to tract map recordation.

3.2.9 Indemnity. Company agrees to indemnify, defend, and hold harmless City and its elected and appointed boards, commissions, officers, agents, and employees from and against any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations, and expenses (including but not limited to attorney's fees and costs) which: 1) may arise, directly or indirectly, from the acts, omissions, or operations of Company's or Company's agents, contractors, subcontractors, agents, or employees pursuant to this Agreement; 2) pertain to the

City's approval of this Agreement or related agreements and permits pertaining or related to the Project or the Property; 3) pertain to the location of the access road and bridge generally referenced as Street A on Tract Map 17341 that connects to Via Del Agua; or 4) pertain to any alleged interference with any alleged third party property rights pertaining to the access road and bridge generally referenced as Street A on Tract Map 17341 that connect to Tract Map 17341. City shall provide Company with notice of the pendency of any such action and request that Company defend such action. If Company fails to do so, City may defend the action and Company shall pay the cost thereof.

3.2.10 Traffic Control Device. Company shall design and construct a traffic control device as set forth in Mitigation Measure 4.14-2 of the Project's EIR. The traffic signal shall be installed by Company prior to issuance of the Project's first Certificate of Occupancy for a production (*i.e.*, not a model) home. A pro-rata share of Company's traffic signal expenses shall be subject to reimbursement from the Esperanza Hills developer, consistent with Section 3.1.4 of this Agreement. If a Certificate of Occupancy is issued for a production home within the Esperanza Hills development prior to the issuance of the Project's first production home Certificate of Occupancy, then Company shall pay the City of Yorba Linda its pro-rata share cost toward installation of a traffic signal in lieu of installing said signal, consistent with Section 3.1.4 of this Agreement.

3.2.11 LMAD. Company agrees to annex the Property into the City's Street Lighting and Landscaping Maintenance District ("LMAD") in accordance with the procedural legal requirements (including but not limited to the requirements of Article XIII D of the California Constitution and the Landscaping and Lighting Act of 1972) for the annexation of the Property into the LMAD. The annexation of the Property into the LMAD shall include annexation into the LMAD's applicable Arterial Landscaping Zone, Local Landscaping Zone, Arterial Lighting Zone, Local Lighting Zone, and Traffic Signal Zone. The annexation shall include approval of assessments up to the maximum amount of the allowable assessment, including a yearly increase based on CPI, on property within the City LMAD that neighbors the Property in City LMAD Local Landscaping Zone L-2K.

3.2.12 Trails. Consistent with Mitigation Measure 4-13.2 and Tract Map Condition No. 33, Company shall coordinate with the City trail alignments through the Project. The Parties have agreed on the location of the trail alignments as shown on Exhibit B and said trail alignments shall be dedicated to the City in a location and in a manner acceptable to the City.

3.2.13 Entry Way Into Project. Company shall be responsible for all costs pertaining to construction, operation, and future maintenance of the entry road and bridge into the Property and Project, and any retaining walls related thereto, and its connection to Via Del Aqua in the City (Street A as referenced on Tract Map 17341). Company shall be responsible for all future maintenance, repairs, and other matters pertaining to the entry road and bridge into the Property and any retaining walls related thereto. This obligation shall remain in full force and effect indefinitely in perpetuity unless and until this obligation is terminated by mutual written agreement of the Parties.

Company may assign this obligation to a potential future homeowner's association covering the Property or a portion of the Property or a future owner of the Property. The assignment requires the consent of the City, which consent shall not be unreasonably withheld. Upon the assignment of Company of its obligations under this section, the assignee shall enter into an agreement with the City agreeing to the terms and conditions of this section of the Agreement.

3.3 Agreement Not to Challenge or Support Challenge. The Parties shall not file lawsuits or directly or indirectly support litigation filed by others, either as a party, through financial contributions, providing staff support, or by failing to aggressively defend such litigation, that challenges the adequacy of the Cielo Vista Final EIR or any addenda to that EIR, the approval by the County of the Vesting Tentative Tract Map or the Final Map for the Project, the City's approval of the Pre-zone of the Property, or any other permits, entitlements, or approvals received in connection with the Project through the County or the City. The section only

pertains to the Project as entitled and any substantial changes to the Project or new projects are not covered by this Section.

ARTICLE 4. ANNEXATION

4.1 Timing. Upon recordation of the Final Map and approval of the annexation by OC LAFCO, the Property shall be automatically annexed into the City. Notwithstanding anything in this agreement, or any other Agreement, in no event shall a Certificate of Occupancy for any structure on the Property be issued prior to the recordation by OC LAFCO of a Certificate of Completion for the annexation.

ARTICLE 5. DAMAGES

5.1 Remedies. Subject to the limitations herein, in the event of a breach of the Agreement, the non-breaching party may at its option institute legal action to cure, correct, or remedy such breach, enjoin any threatened or attempted violation, or enforce the terms of this Agreement by specific performance. In the event of any breach of this Agreement, the non-breaching party shall have the right to pursue against the breaching party any and all remedies that are available at law or at equity for breach of a contractual obligation, provided however, that in no event shall Company have the right to sue City or any City officials, employees, contractors or agents for damages or monetary relief arising out of City's default of its obligations set forth in this Agreement, the Parties agreeing that declaratory and injunctive relief, mandate, and specific performance shall be Company's sole and exclusive judicial remedy. The prevailing party in any such litigation shall be entitled to its attorney's fees and costs.

ARTICLE 6. GENERAL PROVISIONS

6.1 Duration. This Agreement shall be effective on the date it is executed by both Parties and shall remain in effect until the later of (a) all of the obligations of the Parties contained herein are satisfied, or (b) the tenth (10th) anniversary of the Effective Date ("Anniversary"). If the Annexation is not recorded by the Anniversary, OC LAFCO may record the Annexation. Obligations that will

continue until satisfied or in perpetuity include but are not limited to the obligation of Company to pay the Public Benefit Contribution in Section 3.2.7, the obligation to maintain the Entry Way into the Project in Section 3.2.13, and the indemnity obligation in Section 3.2.9.

6.2 Attorney's Fees. In the event that any Party brings any legal action to interpret or enforce any provision of this Agreement, the prevailing Party in that action shall be entitled to receive, in addition to all other available relief, costs of litigation and reasonable attorneys' fees, including expert witness fees, costs and fees incurred on appeal and in enforcing any judgment which may be rendered on the underlying action.

6.3 No Third Party Beneficiaries. Except as provided by Section 6.11, the City and the Company expressly acknowledge that they do not intend, by their execution of this Agreement, to benefit any person or entities not signatory to this Agreement. Except as provided by Section 6.11, no person or entity not a signatory to this Agreement will have any rights or causes of action against the City or the Company, or any combination thereof, arising out of or due to the City's or the Company's entry into this Agreement.

6.4 Governing Law. This Agreement shall be interpreted and enforced in accordance with the provisions of California law, without regard to conflicts of laws. Any litigation shall be held in a court of competent jurisdiction located in Orange County, California.

6.5 Notice. Unless otherwise permitted by this Agreement, all notices to be given shall be in writing and may be made by personal delivery, certified mail, postage prepaid and return receipt requested. Mailed notices shall be addressed to the Parties at the addresses listed below, but each party may change the address by written notice in accordance with this paragraph. Receipt will be deemed made as follows: notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated on receipt or rejection.

If to the City:
City of Yorba Linda
c/o City Manager
4845 Casa Loma Ave.
Yorba Linda, CA 92886

With a Copy to:
Todd Litfin
Rutan & Tucker, LLP
611 Anton Blvd., 14th Floor
Costa Mesa, CA 92661

If to the Company:
Rory Ingels
North County BRS Project, LLC
c/o BlackRock
4400 MacArthur Blvd #700
Newport Beach, CA 92660

With a Copy to:
Sean Matsler
Cox, Castle & Nicholson LLP
3121 Michelson Drive, Suite 200
Irvine, CA 92612

6.6 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall constitute an original.

6.7 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements, either written or oral, express or implied.

6.8 Further Acts. The parties agree to execute such additional documents and to take such further actions as are reasonably necessary to accomplish the objectives and intent of this Agreement.

6.9 Waiver. The failure of any Party to insist upon strict compliance with any provision of this Agreement or to exercise any right or privilege provided herein, or any Party's waiver of any breach hereunder unless in writing, shall not

relieve any other Party of any of obligations hereunder, whether of the same or similar type. The foregoing shall be true whether the waiving Party's actions are intentional or unintentional.

6.10 Authorization to Execute. The signatories to this Agreement warrant that they have been lawfully authorized by their respective Parties to execute this Agreement on their behalf. Upon request, the Company shall deliver to the City copies of all applicable bylaws, resolutions or other documents evidencing the signatories' legal authority to execute this Agreement on behalf of the respective Parties.

6.11 Binding On Heirs, Successors and Assigns. The benefits and obligations described herein will inure to the benefit of and be binding upon the Company and any assignee or successor in interest of the Company to the Property, the City and its respective heirs, successors, grantees, transferees and permissible assigns.

6.12 Recordation. A memorandum of this Agreement shall be recorded as an encumbrance against the Property within ten days of the last signature required by this Agreement.

6.13 Warranties and Representations. The Company represents and warrants to the City that the Company has a valid and enforceable option to acquire the Property, and has due authority to enter into this Agreement. Furthermore, the individuals signing this Agreement on behalf of Company are authorized to sign on Company's behalf.

6.14 Severability. If any provision or clause of this Agreement or any application of it to any person, firm, organization, partnership or corporation is held invalid, such invalidity shall not affect other provisions of this Agreement which can be given effect without the invalid provision or application. To this end, the provisions of this Agreement are declared to be severable.

6.15 Compliance with other Rules and Regulations. The Company and its Successors shall comply with all other applicable rules and regulations of the City, the County and all other public agencies having jurisdiction over the Property. This Agreement does not abrogate, limit or modify any other of the City's rights which are provided by common law, statute, ordinance or regulation.

6.16 Non-liability of City Officials. No officer, official, employee, agent, attorney or representative of the City shall be personally liable to the Company or any successor in interest to the Company, in the event of any default or breach by the City.

6.17 Covenants Running with the Land. The terms and conditions of this Agreement shall constitute covenants running with the Property and binding on the Company and Company's successors and assigns to the Property and burdening the Property and benefiting the City and adjacent City streets.

6.18 Lack Of Annexation. In the event that the Property is not annexed into the City, the Parties are not bound by the obligations of this Agreement and the Parties retain any of their respective pre-existing rights pertaining to the Project, the Property and the City Property. In the event that the Property is not annexed into the City but the Parties desire for the City to provide public services to the Property, OC LAFCO's approval must be obtained prior to the date City services are provided to the Property. If OC LAFCO approval is not secured, the County shall be the service provider.

6.19 Assignment. Company may not assign this Agreement or any interest in it without the prior written consent of the City, which consent shall not be unreasonably withheld.

6.20 Development And Other Fees. The City may enter into an agreement, formally or informally, with the County whereby County imposed fees, otherwise potentially payable to the County as a condition of the issuance of development approvals for the Project, would be paid to the City by Company or

County, as the case may be, upon annexation of the Property to the City. Annexation shall not be contingent upon such an agreement.

EXHIBIT C

THE CITY OF YORBA LINDA, a
California municipal corporation

By:_____
Beth Haney, Mayor Pro Tem

Attest:

_____
Marcia Brown, City Clerk

Approved as to Legal Form:

_____
Todd Litfin, City Attorney

North County BRS Project, LLC,
a Delaware limited liability corporation

By:_____

_____

Consent:

The Travis Ranch Trusts

The Travis Ranch Trusts for the benefit of Amos A. Travis

By:_____
AMOS A. TRAVIS, as Trustee of The Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth(1/4th) interest

EXHIBIT C

THE CITY OF YORBA LINDA, a
California municipal corporation

By:_____

Attest:

_____
Marcia Brown, City Clerk

Approved as to Legal Form:

_____
Todd Litfin, City Attorney

North County BRS Project, LLC,
a Delaware limited liability corporation

By: Rory G Ingels
Authorized Signatory

Consent:

The Travis Ranch Trusts

The Travis Ranch Trusts for the benefit of Amos A. Travis

By:_____
AMOS A. TRAVIS, as Trustee of The Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth(1/4th) interest

EXHIBIT C

The Travis Ranch Trusts for the benefit of J. Coleman Travis

By: _____
AMOS A. TRAVIS, as Trustee of The Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth (1/4th) interest

The Travis Ranch Trusts for the benefit of William H. Travis

By: _____
AMOS A. TRAVIS, as Trustee of The Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth (1/4th) interest

The Travis Ranch Trusts for the benefit of Ann Travis

By: _____
AMOS A. TRAVIS, as Trustee of The Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4th) interest

All as tenants-in-common

EXHIBIT C

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On 10/21/19, before me, Sherry Gentile,
(insert name and title of the officer)
Notary Public, personally appeared Amos A. Travis, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature

SHERRY GENTILE
Notary Public - California
Orange County
Commission # 2255545
My Comm. Expires Sep 18, 2022

(Seal)

0.0

EXHIBIT C

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)
On October 30, 2019 before me, Barbara Hinshaw, Notary Public,
Date *Here Insert Name and Title of the Officer*
personally appeared Rory G. Ingels
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

BARBARA HINSHAW
Notary Public - California
Orange County
Commission # 2193484
My Comm. Expires Apr 24, 2021

Signature Barbara Hinshaw, Notary Public
Signature of Notary Public

EXHIBIT C

Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth(1/4th) interest

The Travis Ranch Trusts for the benefit of J. Coleman Travis

By:
AMOS A. TRAVIS, as Trustee of The Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth (1/4th) interest

The Travis Ranch Trusts for the benefit of William H. Travis

By:
AMOS A. TRAVIS, as Trustee of The Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one fourth (1/4th) interest

The Travis Ranch Trusts for the benefit of Ann Travis

By:
AMOS A. TRAVIS, as Trustee of The Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4th) interest

All as tenants-in-common

Virginia Richards Revocable Intervivos Trust dated May 1, 1986

By: Linda M. Rodger, Co-Trustee
LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

By: Nancy Ann Maggio, Co-Trustee
NANCY ANN MAGGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

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EXHIBIT C

NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California)
County of Orange)

On 10/28, 2019, before me, Holly Hutchins, a Notary Public, personally appeared **LINDA M. RODGER**, who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is~~/are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity~~(ies)~~, and that by ~~his~~/her/~~their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

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

WITNESS my hand and official seal.

Holly Hutchins

Holly Hutchins

NRO1 HOLLY HUTCHINS COMM. #2176450 Notary Public - California Orange County My Comm. Expires Jan. 18, 2021 NRO1

NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California)
County of Orange)

On 10/28, 2019, before me, Holly Hutchins, a Notary Public, personally appeared **NANCY ANN MAGGIO**, who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is~~/are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity~~(ies)~~, and that by ~~his~~/her/~~their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Holly Hutchins

Holly Hutchins

NRO1 HOLLY HUTCHINS COMM. #2176450 Notary Public - California Orange County My Comm. Expires Jan. 18, 2021 NRO1

EXHIBIT C

EXHIBIT A

LEGAL DESCRIPTION
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT
(CA 18-03)

THAT CERTAIN PARCEL OF LAND SITUATED IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING A PORTION OF THE RANCHO CANON DE SANTA ANA, AS SHOWN ON A MAP ATTACHED TO THE FINAL DECREE OF PARTITION RECORDED FEBRUARY 8, 1874 IN BOOK 28, PAGE 158 OF DEEDS, RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, AND BEING A PORTION OF THE CARRILLO RANCH PROPERTY AS SHOWN ON A MAP FILED IN BOOK 37, PAGE 33 OF RECORDS OF SURVEY, BOTH IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, ALL LYING WITHIN SECTION 18 AND 19, TOWNSHIP 3 SOUTH, RANGE 8 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION IN THE EXISTING BOUNDARY OF THE CITY OF YORBA LINDA ANNEXATION NO. 78-02 BRYANT RANCH TO THE CITY OF YORBA LINDA PER DOCUMENT RECORDED IN BOOK 12810 PAGE 369 WITH CITY OF YORBA LINDA ANNEXATION NO. 75-2 PER DOCUMENT RECORDED IN BOOK 11535 PAGE 462, BOTH OF OFFICIAL RECORDS OF SAID COUNTY, SAID INTERSECTION ALSO BEING THE WESTERLY TERMINUS OF THAT CERTAIN COURSE SHOWN IN SAID ANNEXATION NO. 78-02 AS "SOUTH 77°50'17" EAST 880.17'";

THENCE ALONG THE EXISTING EASTERLY BOUNDARY LINE OF THE CITY OF YORBA LINDA ANNEXATION NO. 75-2, NORTH 01°01'24" WEST 3578.27 FEET TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF THE EXISTING CITY OF YORBA LINDA ANNEXATION NO. 80-01 PER DOCUMENT RECORDED IN BOOK 14294 PAGE 1505 AND RECORDED IN BOOK 14294 PAGE 1510, BOTH OF OFFICAL RECORDS OF SAID COUNTY, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID ANNEXATION NO. 75-2;

THENCE ALONG THE SAID EXISTING SOUTHERLY BOUNDARY LINE OF THE CITY OF YORBA LINDA ANNEXATION NO. 80-01, SOUTH 87°05'05" EAST 583.21 FEET AND SOUTH 86°47'07" EAST 281.78 FEET TO THE NORTHEAST BOUNDARY CORNER OF PARCEL MAP NO. 2016-156 AS PER MAP FILED IN BOOK 400, PAGES 23 THROUGH 30 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY;

THENCE LEAVING SAID EASTING SOUTHERLY BOUNDARY LINE ALONG THE GENERALLY EASTERLY BOUNDARY LINES OF SAID PARCEL MAP NO. 2016-156 THROUGH THE FOLLOWING THREE COURSES;

SOUTH 00°56'08" EAST 2863.76 FEET;

SOUTH 86°40'40" EAST 619.50 FEET;

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EXHIBIT C

EXHIBIT A

LEGAL DESCRIPTION
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT
(CA 19-03)

SOUTH 05°32'21" EAST 735.23 FEET TO A POINT ON THE NORTHERLY BOUNDARY LINE OF SAID CITY OF YORBA LINDA PER ANNEXATION NO. 78-02, SAID POINT BEING ON A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 450.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS, NORTH 15°20'27" WEST;

THENCE LEAVING SAID GENERALLY EASTERLY BOUNDARY LINE AND ALONG SAID NORTHERLY BOUNDARY LINE THROUGH THE FOLLOWING:

SOUTHWESTERLY ALONG SAID CURVE 95.19 FEET THROUGH A CENTRAL ANGLE OF 12°07'13";

SOUTH 62°32'20" WEST 113.62 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 550.00 FEET;

WESTERLY 380.00 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39°35'11";

NORTH 77°52'29" WEST 119.29 FEET;

NORTH 00°56'08" 25.66 FEET;

NORTH 77°52'29" WEST 880.23 FEET TO THE POINT OF BEGINNING.

CONTAINING: 84.812 ACRES MORE OR LESS.

AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.

DATED THIS 10TH DAY OF JULY, 2019

KURT R. TROXELL, L.S. 7854
FUSCOE ENGINEERING

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EXHIBIT C

EXHIBIT "B"
TRAIL ALIGNMENTS

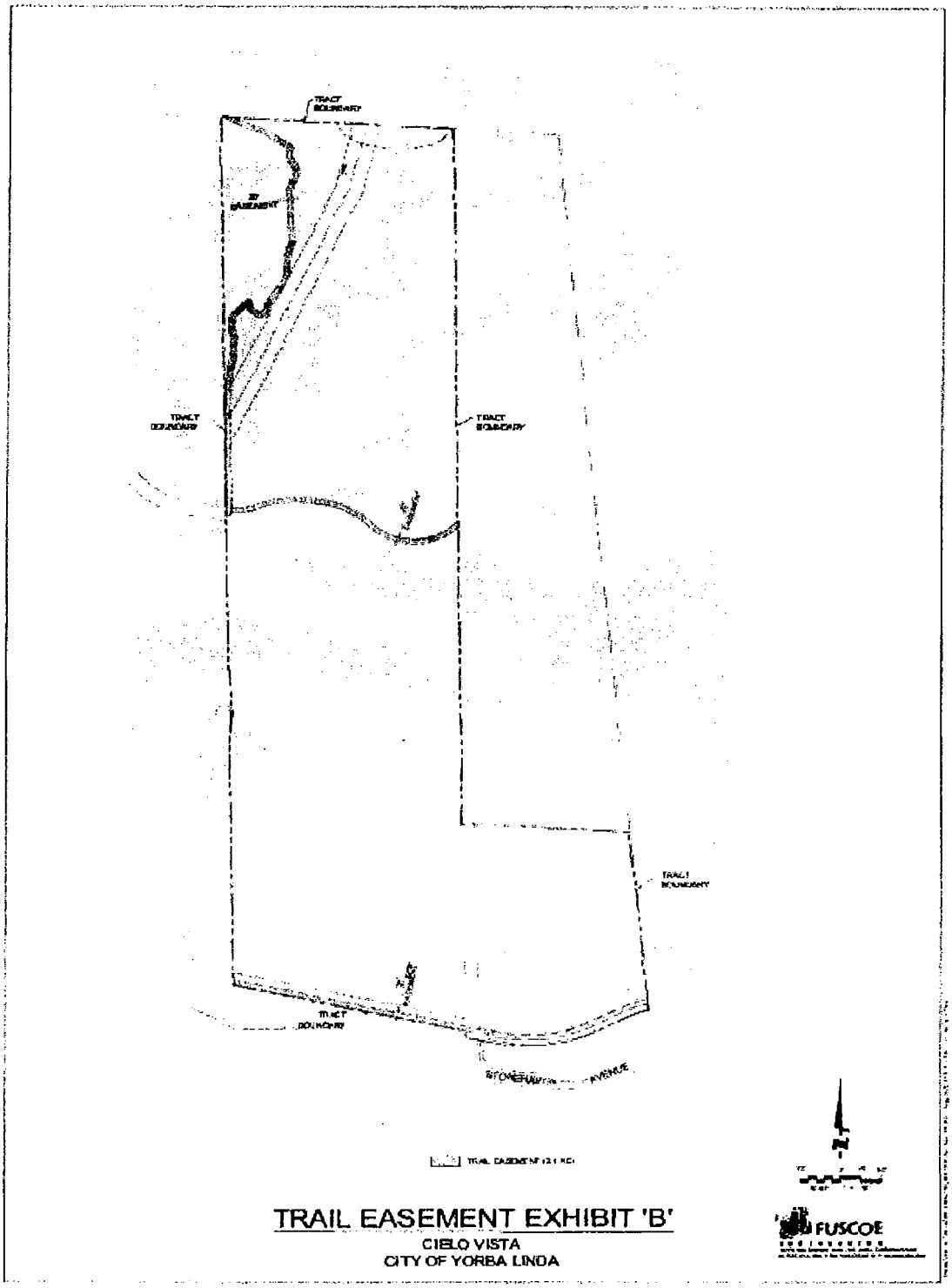

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EXHIBIT D

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT ("**Agreement**"), dated October 22, 2019 for purposes of identification, between the COUNTY OF ORANGE ("**County**") and the CITY OF YORBA LINDA ("**City**") (collectively referred to as the "**Parties**" herein) is based on the following:

RECITALS

WHEREAS, the City is in the process of annexing approximately 84 acres of property commonly known as Cielo Vista ("**Property**"). The Property, which is described in Exhibit A and depicted in Exhibit B, is currently in the unincorporated area of County. North County BRS Project, LLC, a Delaware limited liability company has an option to purchase the Property.

WHEREAS, the County has, for several years, planned for the development and use of the Property and related infrastructure on the Property.

WHEREAS, the North County BRS Project, LLC has obtained approvals from the County to develop the Property with an 80-unit residential subdivision called "Cielo Vista" ("**Project**").

WHEREAS, the Property is subject to that certain Cielo Vista Project Alternative 5 Area Plan with 80 units ("**Cielo Vista Alternative 5 Area Plan**") and Environmental Impact Report No. 615 ("**EIR**"), which were approved by the Orange County Board of Supervisors on December 13, 2016 and were not judicially challenged. The Property is also subject to the Vesting Tentative Tract Map No. 17341 approved by the Orange County Board of Supervisors on September 12, 2017, which was not judicially challenged, thereby conferring vested rights to the Project. Finally, the Property is subject to the Pre-Annexation Agreement between the City and North County BRS Project, LLC ("**Pre-Annexation Agreement**").

WHEREAS, City and County are public entities possessing the common power to review and approve applications for administrative and ministerial permits for development, including, but not necessarily limited to, subdivision maps, conditional use permits, grading permits, building permits, street improvement permits, storm drain improvement permits, retaining wall permits, WQMP reports, drainage reports, as-built plan processing, and bond exoneration processing and approvals related to the implementation, planning, and development of, real property ("**Implementing Approvals**" as defined herein).

WHEREAS, Government Code Sections 51300 *et seq.* authorize a county to contract with a city for a term of up to five (5) years, and renewable thereafter for additional five-year periods upon mutual consent of the city and county, for the performance of municipal functions common to both agencies. This Agreement fully complies with all State statutory and constitutional provisions related to the transfer of municipal functions from a city to a county.

WHEREAS, the Development Approvals (as defined below) for the Property prepared by or on behalf of the County represent an extremely complex and integrated plan for the preservation and development of the Property.

WHEREAS, City and North County BRS Project, LLC have entered into that certain Pre-Annexation Agreement, to ensure that annexation of the Property does not prevent or delay development of the Property to the full extent permitted by the Development Plan and Development Approvals.

WHEREAS, the City intends, by way of this Agreement and pursuant to California Government Code section 53100 *et seq.*, to contract with the County for the performance of certain City functions, as more specifically described herein, upon annexation of the Property, for the term set forth herein and not to exceed the limitations set forth in California Government Code section 53102. Subject to this Agreement, the County will assume the authority for Implementing Approvals, as defined herein, including but not limited to land use services until the point in time when the Property is Fully Improved, as defined herein. Implementing Approvals do not include actions on Units, Common Areas, Conservation Area, and Public Improvements on the Property once such area of the Property is Fully Improved.

WHEREAS, this Agreement achieves the objectives of the Parties, such as the efficient implementation and administration of the Development Approvals and Development Plan, by authorizing the County to exercise permit and approval processing functions of the City necessary to facilitate development consistent with the Development Plan and Development Approvals relative to each Unit, Common Areas, Conservation Area, and Public Improvements, upon annexation and until such Units, Common Areas, and Public Improvements are Fully Improved, as defined herein.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. DEFINITIONS AND EXHIBITS

1.1 Definitions. This Agreement uses a number of terms having specific meanings, as defined below. These specially defined terms are distinguished by having the initial letter capitalized, or all letters capitalized, when used in the Agreement. The defined terms include the following:

1.1.1 "**Agreement**" means this Cooperative Agreement.

1.1.2 "**Annexation**" means annexation of the Property to the City of Yorba Linda pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §§ 56000 et seq.).

1.1.3 "**Area Plan**" means the Cielo Vista Project Alternative 5 Area Plan.

1.1.4 "**City**" means the City of Yorba Linda.

1.1.5 "**Common Area(s)**" means any real property owned in fee simple by any homeowner association, or under the control of any such homeowner

association by way of easement, lease, encroachment, permit or license or other agreement, as defined in Section 1351(b) of the California Civil Code, including but not limited to private streets, private parks, and other areas.

1.1.6 **"Conservation Area"** means the northern portion of the Property which North County BRS Project, LLC is required to preserve as open space pursuant to the Cielo Vista Alternate 5 Area Plan and related approvals.

1.1.7 **"County"** means the County of Orange, a political subdivision of the State of California.

1.1.8 **"Development"** whether or not capitalized means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project. The term development includes grading, the construction of infrastructure and public facilities related to the Project located on the Property, the construction of buildings and structures and the installation of landscaping and park facilities and improvements. The term "Development" does not include any Project-related building or grading activity after the Property is Fully Improved, as defined herein, and annexed to the City.

1.1.9 **"Development Approvals"** means all permits, licenses, consents, inspections rights, privileges, agreements and other actions that:

(i) are approved by County; or

(ii) are subject to approval or issuance by County.

The term "Development Approvals" includes (including any modifications or amendments as described above), but is not limited to, the following Development Approvals in furtherance of the Project:

(a) Tentative and final subdivision and parcel maps, including, without limit, Vesting Tentative Tract Map No 17341;

(b) Cielo Vista Alternative 5 Area Plan (PA 10004) approved by the County on December 13, 2016;

(c) Environmental Impact Report No. 615 for the Cielo Vista Project Alternative 5 Area Plan approved by the County on December 13, 2016;

(d) Grading and building permits; and

(e) Habitat Management Plan

Development Approvals do not include actions on Units, Common Areas, Conservation Area, or Public Improvements once such respective properties are Fully Improved.

1.1.10 **"Development Plan"** means the plan for Development of the Property, including the planning and zoning standards, regulations, and criteria for the Development of the Property contained in and consistent with the Development Approvals.

1.1.11 **"Fully Improved"** means, in relation to Units, that the County has issued certificates of occupancy (or similar evidence that all structures have received all inspections and fully comply with all laws such that there is no further unmet condition to occupancy) for any Unit pursuant to the Development Approvals and Development Plan. "Fully Improved" with respect to Common Areas shall mean the issuance of a certificate of use or similar evidence that all structures and improvements have received all inspections and fully comply with all laws such that there is no further unmet condition to the use of such structures and improvements. Fully Improved with respect to the Conservation Area shall mean that the Conservation Area is in compliance with the requirements of the Development Plan, the Development Approvals, all conditions of approval and any regulatory requirements. With respect to all Public Improvements within the Property, "Fully Improved" means a notice of completion or like certificate has been issued and the improvements accepted by a governmental entity and signed off as complete by that entity.

1.1.12 **"Implementing Approvals"** means the common law power to review and approve applications for administrative, discretionary and ministerial permits for development, including, but not necessarily limited to, subdivision maps, conditional use permits, grading permits, building permits, street improvement permits, storm drain improvement permits, retaining wall permits, WQMP reports, drainage reports, as-built plan processing, and bond exoneration processing and approvals related to the implementation, planning, and development of, real property and the power to review, inspect, approve and issue certificates of completion for improvements constructed pursuant to any and all such permits for areas of the Project within the Property. All areas within the current territorial limits of the City outside the Property shall be processed in accordance with City requirements. For example, portions of any roadways constructed in the City not within the Property shall be processed in accordance with City requirements.

1.1.13 **"Land Use Regulations"** means all ordinances, resolutions, codes, rules, regulations and official policies governing Development and use of land applicable to the Property pursuant to the Development Approvals, the Development Plan, and this Agreement. The term "Land Use Regulations" also includes ordinances, resolutions, rules, regulations and official policies related to permitted use of land, development fees, exactions, impositions, the density or intensity of use, subdivision requirements and the maximum height and size of proposed buildings. The term "Land Use Regulations" also includes ordinances, resolutions, rules, regulations and official policies

governing the reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable on the effective date of this agreement, to the Development of the Property, which are not in conflict with the Development Approvals.

1.1.14 "**Project**" means the Development of the Property consistent with the Area Plan, Development Approvals, Land Use Regulations and/or Development Plan.

1.1.15 "**Property**" means the real property described in Exhibit A and shown on Exhibit B to this Agreement.

1.1.16 "**Public Improvements**" means all public streets, storm drains, street lighting, public parks and other improvements required and/or constructed pursuant to the Area Plan and Development Approvals located on the Property.

1.1.17 "**Unit**" means with respect to a single family residence, the legal lot or parcel and the residential housing unit located thereon but shall not include any exterior landscaping.

1.2 Exhibits: The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit A - Legal Description of the Property

Exhibit B - Map of the Property.

Exhibit C – Fees and Obligations

1.3 Construction. The word "include" or any form of the word "include" shall be construed and interpreted to add the phrase "without limitation "

2. OBJECTIVES AND INTENT

2.1 Objectives. The objectives of this Agreement are to:

2.2 Ensure that, following annexation of the Property to City, the Property is timely developed in substantial compliance with, and to the full extent permitted by, the Development Approvals and the Development Plan, and that Development Approvals are timely issued so as to avoid any unnecessary delays in the planning and permitting process for the Project while continuing to meet all public safety requirements.

2.2.1 Ensure that development of the Property proceeds in a manner that preserves the public benefits associated with the Development Approvals and Development Plan.

2.2.2 Effect a contract temporarily conveying responsibility for certain municipal functions as specified in section 3 1.1 below from the City to the County upon annexation and within the term authorized by Government Code Sections 51301 and 51302.

2.2.3 To provide a process for the transfer of documents necessary to County's assumption of City functions and a mechanism for facilitating County's right to monitor development as provided in this Agreement.

2.3 Intent. The Parties, through this Agreement, intend that the County shall have and exercise after annexation the same power, right and control over the administration, approval and implementation of the Development Approvals, Development Plan, and Implementing Approvals over the Property during the development of the Property as the County exercised before annexation. The Parties intend that the County will assume City functions regarding the Development Approvals, Development Plan, and Implementing Approvals over any Unit, Common Areas, Conservation Area, and Public Improvements, until the date that the Unit, Common Areas, Conservation Area and/or Public Improvements become Fully Improved. This Agreement shall be administered, implemented, construed and interpreted in a manner that is consistent with the Development Approvals, the Development Plan and the "intent" and "purpose" provisions of this Agreement.

3. AUTHORITY TRANSFERRED TO THE COUNTY

3.1 Performance of Municipal Functions.

3.I.1 Responsibility for Certain Municipal Functions. Pursuant to Government Code section 51300, et seq., the City hereby conveys to the County, upon annexation, and for the five (5) year period allowed under Government Code section 51302, the responsibility for the Implementing Approvals as defined in section 1.1.12 herein (**"Implementing Approval Authority"**) over the Property on the terms within this Agreement The term of this Agreement shall automatically be extended for one additional five (5) year period as provided in Government Code section 51302 unless any of the Parties, upon sixty (60) days notice to the other Party, elects to terminate this Agreement as of the end of the initial five (5) year period. Such election shall be based on "good cause" for such termination, and the notice of termination shall specify the facts and circumstances upon which the alleged "good cause" is predicated.

3.1.2 Conditions. The County shall exercise Implementing Approval Authority in substantial compliance with: (i) the provisions of the Development Approvals and Development Plan; (ii) conditions imposed by any State or local agency; and (iii) legally enforceable restrictions and limitations on development of the Property.

3.1.3 City Authority Following Areas Fully Improved. Once a Unit, a Common Area, the Conservation Area, or a Public Improvement is Fully Improved, the County's authority over the respective Unit, Common Area, Conservation Area or Public Improvement shall cease in its entirety. For example, once a certificate of occupancy has been issued for a Unit, the next permit issued for the Unit (for example, without limitation, a permit for a patio cover) shall be processed and issued by the City.

3.2 Term. Following annexation, County shall retain Implementing Approval Authority for the term set forth in Section 3 1.1 herein. However, the County only retains Implementing Approval Authority on a particular Unit, Common Area, Conservation Area or Public Improvement until such time the particular Unit, Common Area, Conservation Area or Public Improvement is Fully Improved. Once the entirety of the Property is Fully Improved, the County no longer has Implementing Approval Authority on the Property. The maximum term of this Agreement is 5 years, unless extended for up to an additional 5 years for a maximum term of 10 years as outlined in Section 3.1.1.

3.3 Fees. City and County shall be entitled to collect and keep those fees as indicated on Exhibit C attached hereto. It is understood that once a Unit, Common Area, Conservation Easement, or Public Improvement is Fully Improved, the City is entitled to receive all fees related to the respective Fully Improved Property.

3.4 Exoneration of Bonds. County shall be solely responsible for the inspection of any subdivision improvements installed within or outside the Project boundaries if the permits for which were issued by County. County shall be solely responsible for determining the extent to which any and all such improvements have been completed in accordance with all subdivision improvement agreements executed with the County and whether applicable subdivision bonds should be released. County has no authority over improvements constructed within the City and such improvements are subject to the processing, review, and approval of the City. Bonds for improvements within the City outside the Property shall be subject to the requirements of the City. Improvements for the purpose of this section shall include streets, storm drains, and other improvements constructed in the City but not on the Property. For example, roads constructed within the City outside the Property shall be bonded in a manner satisfactory to the City consistent with applicable City regulations and requirements.

3.5 Law Enforcement and Fire Protection Services. The City shall provide law enforcement, fire and emergency protection services to a Unit, Common Area, Conservation Area or Public Improvement once such area is Fully Improved or the County's authority over such Unit, Common Area, Conservation Area or Public Improvement ceases pursuant to the terms of this Agreement.

4. SPECIAL PROVISIONS

4.1 City Ordinance. City has, prior to the Effective Date of this Agreement, adopted Ordinance No. 2018-1055 regarding the City's prezoning for the Property consistent with the Development Approvals and Development Plan. The City Council has also authorized the execution of this Agreement by the City Manager and determined that this Agreement is fully consistent with the authority of the City and City Council pursuant to law.

4.2 City Commitments. Other than has outlined in this Agreement, the City does not waive any authority as to actions that occur within the jurisdictional boundaries of the City outside the Property or as to an Unit, Common Area, Conservation Area or Public Improvement once Fully Improved. Specifically, the City retains all authority over any roadway or other improvements within the jurisdiction of the City outside the Property.

4.3 County Consideration. County shall be entitled to charge, receive, and retain all fees for processing the Development Approvals.

4.4 County Officers. The County Executive Officer (CEO) shall designate the County officers and employees that are to perform the services contemplated by, and exercise the authority transferred pursuant to, this Agreement. The Parties contemplate that the CEO will designate the same officers and employees that have, prior to the effective date of this Agreement, been performing services or exercising powers related to the County's Implementing Approval Authority.

4.5 Transfer of Park Fees. The County shall collect park fees pursuant to the Quimby Act for the development based on Orange County Codified Ordinance section 7-9-520, *et seq.* and shall transfer to the City one hundred percent (100%) of such park fees.

5. COOPERATION

5.1 Cooperation. City and County shall mutually provide any assistance reasonably requested by the other Party with respect to the implementation and administration of the Development Approvals, the Development Plan and this Agreement. City and County shall cooperate with one another relative to any action necessary to ensure that County retains the authority to perform the functions required by, or to achieve the objectives of this Agreement.

5.2 Records. County shall provide the City the County records that would facilitate the City's assumption of City functions being performed by County, including Implementing Approval Authority, after any Unit, Common Area(s), Conservation Area, or Public Improvement is Fully Improved.

6. MISCELLANEOUS PROVISIONS

6.1 Term of Agreement. Subject to the extension provisions of Article 3, this Agreement shall continue in full force and effect with respect to the Property for a period of five (5) years following the date of the annexation of the Property to the City unless continued for an additional five (5) years pursuant to Section 3.1.1. However, the County only retains Implementing Approval Authority on a particular Unit, Common Area, Conservation Area or Public Improvement until such time the particular Unit, Common Area, Conservation Area or Public Improvement is Fully Improved. Once the entirety of the Property is Fully Improved, the County no longer has Implementing Approval Authority on the Property.

6.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the Parties, and all oral or written representations, understandings or agreements are expressly stated in this Agreement. No testimony or evidence of any such representations, understandings, or covenants outside the contents of this Agreement shall be admissible in any proceeding or any kind or nature to interpret or determine the terms or conditions of this Agreement.

6.3 Severability. If any term, provision, covenant, or condition of this Agreement is ruled invalid, void, or unenforceable by a court of competent jurisdiction, this Agreement shall nonetheless remain in full force and effect as to all remaining terms, provisions, covenants, and conditions.

6.4 Interpretation and Governing Law. This Agreement and any related dispute shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed according to its plain language and fair and common meaning to achieve the objectives and purposes of the Parties. The rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be employed in interpreting this Agreement since all Parties have been represented by counsel.

6.5 Indemnification. City shall defend, indemnify with counsel approved in writing by County pursuant to Government Code section 25203, and hold harmless the County, and its respective members, officers, employees and agents with respect to any claim, damage, loss, cause of action, lawsuit or proceeding that arises out of or is in any way related to any act or omission by City or its officers, employees or agents in the performance or non-performance of any duty or obligation pursuant to this Agreement. County shall defend, indemnify, and hold harmless the City, and its respective officers, employees and agents with respect to any claim, damage, loss, cause of action, lawsuit or proceeding that arises out of or is in any way related to any act or omission by County or its officers, employees, or agents in the performance or non-performance of any duty or obligation pursuant to this Agreement.

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

6.7 Singular and Plural. As used herein, the singular of any word includes the plural.

6.8 Waiver. The failure of a Party to insist upon the strict performance of any of the provisions of this Agreement by any other Party, or the failure of a Party to exercise its rights upon the default of any other Party, shall not constitute a waiver of that Party's right to demand and require, at any time, any other Party's strict compliance with the terms of this Agreement.

6.9 Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit for the Parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

6.10 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement.

6.11 Specific Performance. The Parties acknowledge that monetary damages may be inadequate to remedy any breach of this Agreement by any other Party. Accordingly, the Parties agree that any breach of this Agreement shall also entitle any non-breaching Party to file an action for specific performance in a court of competent jurisdiction.

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

6.13 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by any Party for the purpose of enforcing, construing, or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Orange, State of California. The Parties waive all provisions of law providing for the filing, removal or change or venue to any other court.

6.14 Further Actions and Instruments. All of the Parties shall cooperate with and provide reasonable assistance to the other Parties to the extent contemplated by this Agreement to achieve the objectives of this Agreement. Upon the request of any party at any time, the other Parties shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record instruments and writing. The Parties shall also take any action that may be reasonably necessary under the terms of this Agreement to carry out the intent and to achieve the objectives of this Agreement.

6.15 Amendments in Writing/Cooperation. This Agreement may be amended only by written consent of the Parties specifically approving the amendment and in accordance with the Government Code provisions for the amendment of Development Agreements. The Parties shall cooperate in good faith with respect to any amendment proposed in order to clarify that intent and application of this

Agreement, and shall treat any such proposal on its own merits, and not as a basis for the introduction of unrelated matters.

6.16 Authority to Execute. Any person or persons executing this Agreement on behalf of the City and County warrants and represents that he/she has the authority to execute this Agreement on behalf of his/her agency/entity and to bind that agency/entity to the performance of its obligations pursuant to this Agreement.

6.17 Notice. All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and shall be deemed served when delivered personally or on the third business day after deposit in the United States mad, postage prepaid, first class mad, addressed as follows.

All notices, demands, requests or approvals to CITY shall be addressed to:

City of Yorba Linda
4845 Casa Loma Avenue
City Manager's Office
Yorba Linda, CA 92886

All notices, demands, requests or approvals to COUNTY shall be addressed to:

Director of Planning and Development Services
County of Orange
601 N. Ross St.
Santa Ana, California 92701

6.18 Effective Date. This Agreement shall become effective upon authorized execution by all necessary parties.

EXHIBIT D

WITNESS THEREOF, the parties hereto have executed this Agreement on the date set forth above

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

By: _____
Chairwoman of the Board of Supervisors
County of Orange, California

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD PER G.C. SECTION 25103, RESOLUTION 79-1535

Attest:

By: _____
Robin Stieler, Clerk of the Board of Supervisors

APPROVED AS TO FORM:

_____
County Counsel

THE CITY OF YORBA LINDA,
a California municipal corporation

By: _____
Beth Haney, Mayor Pro Tem

Attest:

By: _____
Marcia Brown, City Clerk

APPROVED AS TO LEGAL FORM:

_____
Todd O. Litfin, City Attorney

EXHIBIT D

EXHIBIT A

LEGAL DESCRIPTION
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT
(CA 19-03)

THAT CERTAIN PARCEL OF LAND SITUATED IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING A PORTION OF THE RANCHO CANON DE SANTA ANA, AS SHOWN ON A MAP ATTACHED TO THE FINAL DECREE OF PARTITION RECORDED FEBRUARY 8, 1874 IN BOOK 28, PAGE 158 OF DEEDS, RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, AND BEING A PORTION OF THE CARRILLO RANCH PROPERTY AS SHOWN ON A MAP FILED IN BOOK 37, PAGE 33 OF RECORDS OF SURVEY, BOTH IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, ALL LYING WITHIN SECTION 18 AND 19, TOWNSHIP 3 SOUTH, RANGE 8 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION IN THE EXISTING BOUNDARY OF THE CITY OF YORBA LINDA ANNEXATION NO. 78-02 BRYANT RANCH TO THE CITY OF YORBA LINDA PER DOCUMENT RECORDED IN BOOK 12810 PAGE 369 WITH CITY OF YORBA LINDA ANNEXATION NO. 75-2 PER DOCUMENT RECORDED IN BOOK 11535 PAGE 462, BOTH OF OFFICIAL RECORDS OF SAID COUNTY, SAID INTERSECTION ALSO BEING THE WESTERLY TERMINUS OF THAT CERTAIN COURSE SHOWN IN SAID ANNEXATION NO. 78-02 AS "SOUTH 77°50'17" EAST 880.17'";

THENCE ALONG THE EXISTING EASTERLY BOUNDARY LINE OF THE CITY OF YORBA LINDA ANNEXATION NO. 75-2, NORTH 01°01'24" WEST 3578.27 FEET TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF THE EXISTING CITY OF YORBA LINDA ANNEXATION NO. 80-01 PER DOCUMENT RECORDED IN BOOK 14294 PAGE 1505 AND RECORDED IN BOOK 14294 PAGE 1510, BOTH OF OFFICAL RECORDS OF SAID COUNTY, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID ANNEXATION NO. 75-2;

THENCE ALONG THE SAID EXISTING SOUTHERLY BOUNDARY LINE OF THE CITY OF YORBA LINDA ANNEXATION NO. 80-01, SOUTH 87°05'05" EAST 583.21 FEET AND SOUTH 86°47'07" EAST 281.78 FEET TO THE NORTHEAST BOUNDARY CORNER OF PARCEL MAP NO. 2016-156 AS PER MAP FILED IN BOOK 400, PAGES 23 THROUGH 30 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY;

THENCE LEAVING SAID EASTING SOUTHERLY BOUNDARY LINE ALONG THE GENERALLY EASTERLY BOUNDARY LINES OF SAID PARCEL MAP NO. 2016-156 THROUGH THE FOLLOWING THREE COURSES;

SOUTH 00°56'08" EAST 2863.76 FEET;

SOUTH 86°40'40" EAST 619.50 FEET;

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LEGAL DESCRIPTION
CITY OF YORBA LINDA ANNEXATION OF CIELO VISTA DEVELOPMENT
(CA 19-03)

SOUTH 05°32'21" EAST 735.23 FEET TO A POINT ON THE NORTHERLY BOUNDARY LINE OF SAID CITY OF YORBA LINDA PER ANNEXATION NO. 78-02, SAID POINT BEING ON A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 450.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS, NORTH 15°20'27" WEST;

THENCE LEAVING SAID GENERALLY EASTERLY BOUNDARY LINE AND ALONG SAID NORTHERLY BOUNDARY LINE THROUGH THE FOLLOWING:

SOUTHWESTERLY ALONG SAID CURVE 95.19 FEET THROUGH A CENTRAL ANGLE OF 12°07'13";

SOUTH 62°32'20" WEST 113.62 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 550.00 FEET;

WESTERLY 380.00 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39°35'11";

NORTH 77°52'29" WEST 119.29 FEET;

NORTH 00°56'08" 25.66 FEET;

NORTH 77°52'29" WEST 880.23 FEET TO THE **POINT OF BEGINNING**.

CONTAINING: 84.812 ACRES MORE OR LESS.

AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

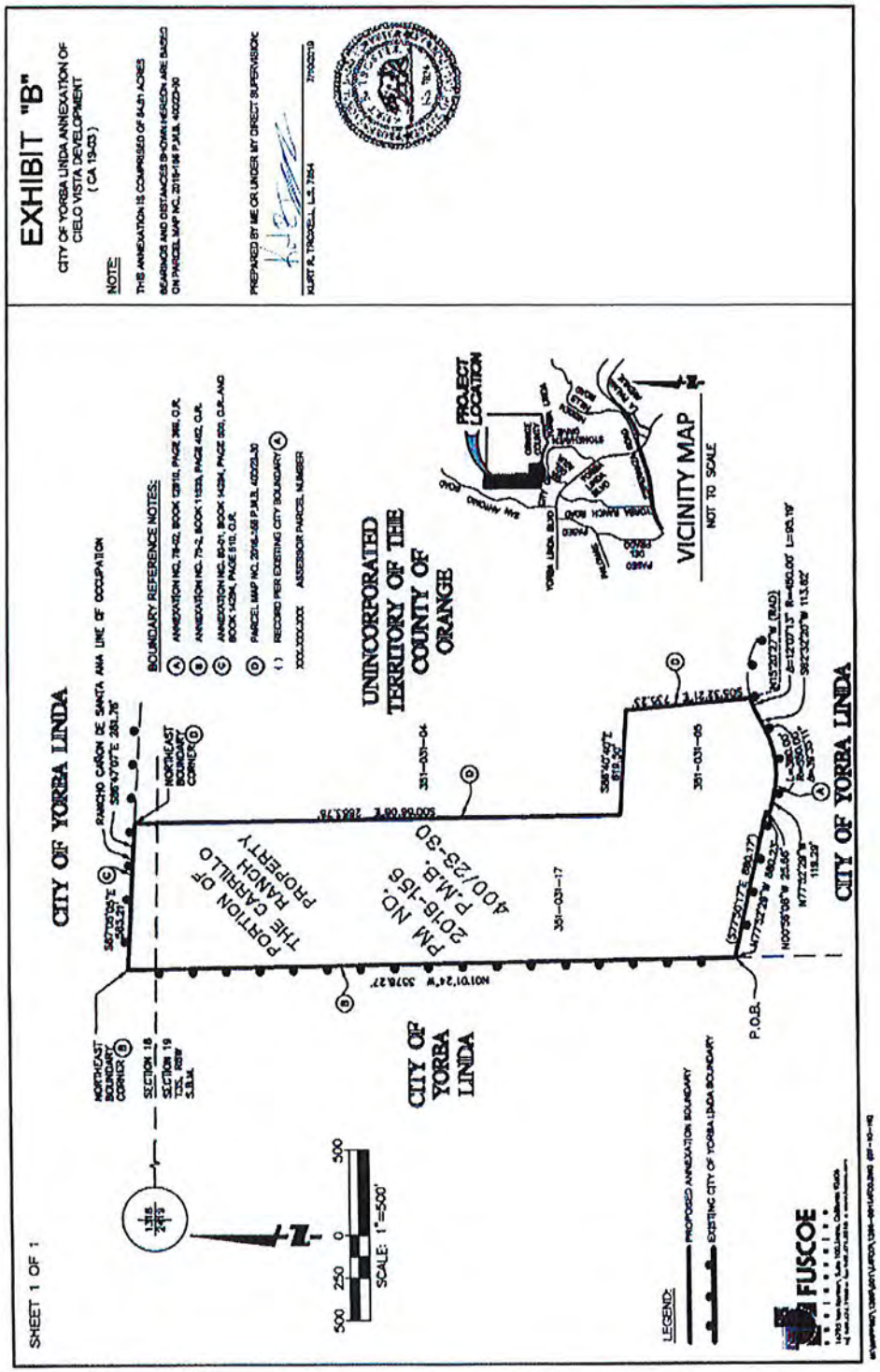
PREPARED BY ME OR UNDER MY DIRECT SUPERVISION.

DATED THIS 10TH DAY OF JULY, 2019

KURT R. TROXELL, L.S. 7854
FUSCOE ENGINEERING

EXHIBIT D

EXHIBIT B



2512/009410-1050
14171663.1 a09/30/19

EXHIBIT D

EXHIBIT C

Fees and Obligations

Fees Retained By County

Unless otherwise specified herein, County shall retain fees and obligations from the Development Approvals.

Fees Retained By City

The County shall collect park fees pursuant to the Quimby Act for the development based on Orange County Codified Ordinance section 7-9-520, *et seq.* and shall transfer to the City one hundred percent (100%) of such park fees.

Prior to the issuance of building permits, to satisfy the requirement that North County BRS Project, LLC shall comply with the development fee program for Orange County Public Libraries as provided in Sections 7-9-700 through 7-9-713 of the Codified Ordinances of the County of Orange or the development fee program for the City of Yorba Linda Library system, North County BRS Project, LLC shall pay $250.00 per residential unit within the Project to the City of Yorba Linda for a total of $20,000.00. The fee shall be paid to the City on a per-unit basis upon the County's issuance of a building permit for each unit – and not as a single lump sum.

The City shall receive the Public Benefit Contribution from North County BRS Project, LLC as outlined in the Pre-Annexation Agreement by and among the City of Yorba Linda a California Municipal Corporation and North County BRS Project, LLC, a Delaware Limited Liability Company.

Once a Unit, Common Area, Conservation Easement, or Public Improvement is Fully Improved, the City is entitled to receive all fees related to the respective Fully Improved Property.

All areas within the current territorial limits of the City outside the Property shall be processed in accordance with City requirements and the City shall retain all fees related thereto.

The City shall retain applicable Master Plan of Drainage fees charged by the City on the Project.

North County BRS Project, LLC shall design and construct a traffic control device as set forth in Mitigation Measure 4.14-2 of the Project's EIR at the intersection of Via del Agua Street and Yorba Linda Boulevard. The traffic signal shall be installed prior to issuance of the Project's first Certificate of Occupancy for a production (*i.e.*, not a model) home. A pro-rata share of the traffic signal expenses shall be subject to reimbursement from the Esperanza Hills developer. If a Certificate of Occupancy is issued for a production home within the Esperanza Hills development prior to the issuance of the Project's first production home Certificate of Occupancy, then North County BRS Project, LLC shall pay the City of Yorba Linda its pro-rata share cost toward installation of a traffic signal in lieu of installing said signal.

EXHIBIT E

FIRST AMENDMENT TO
CIELO VISTA PROJECT WATER AND SEWER FACILITIES AGREEMENT
BETWEEN
YORBA LINDA WATER DISTRICT
AND
NORTH COUNTY BRS PROJECT, LLC

This FIRST AMENDMENT to Cielo Vista Project Water and Sewer Facilities Agreement ("First Amendment") is made and entered into, effective this 27th day of August 2019, by and between the Parties.

RECITALS

A. The Parties previously entered into the Agreement titled Cielo Vista Project Water and Sewer Facilities Agreement, which has an Agreement Date of August 1, 2018 ("Agreement"), a copy of which is attached hereto. Capitalized terms used in this First Amendment, without being separately defined herein, shall have the same meaning as defined in the Agreement.

B. Pursuant to Section 17, all amendments to the Agreement must be in writing and signed by the Parties.

C. Certain water facility improvements that will benefit both Developer and Yorba Linda Estates, LLC, who is the developer of the Esperanza Hills Estates ("EHE") project, will be connected to the water main in Stonehaven Drive and other Existing Offsite Facilities and will be designed and constructed as listed in **Exhibit "M"** and illustrated on **Exhibit "N"**, which are attached to this First Amendment ("Shared Facility Improvements"). The Parties intend for the rights and obligations as to the Subdivision Facilities in Subsections A(i), (iii), and D through F in Section 3 of the Agreement to apply to the Shared Facility Improvements.

D. The Shared Facility Improvements (1) were originally part of the EHE project memorialized in a separate agreement between YLWD and Yorba Linda Estates, LLC, dated October 13, 2016, (2) are subject to cost sharing between Developer and Yorba Linda Estates, LLC, as documented in a separate agreement between those parties, and (3) caused significant changes to the Cielo Vista Project Subdivision Facilities Plans. YLWD incurred significant time to review these design concept and improvement plans along with legal fees for the EHE project and previously invoiced Yorba Linda Estates, LLC for this time in YLWD invoice no. 2012-06 dated March 7, 2019 in the amount of $14,324.19. The invoice amount of $14,324.19 has been fully paid by Developer. The expenses incurred by YLWD associated with revisions to the Subdivision Facilities Plans have greatly exceeded the fees previously paid by Developer on May 22, 2018. Reimbursement for all outstanding and future YLWD Administrative Costs as defined in both the Agreement and herein shall be paid by Developer to YLWD out of the Administrative Costs Account.

E. Pursuant to Section 2 of the Agreement, the Effective Date term for Developer to provide proof and notice of transfer of ownership from Property Owner to Developer and recordation of the Project's final map was August 1, 2019, and the Parties desire to extend the Effective Date term for an additional three hundred sixty-five (365) day period to August 1, 2020. The extension of the Effective Date term will cause the Project milestones in **Exhibit "J"** and the schedule in **Exhibit "K"** to be modified.

F. Pursuant to Section 5.D. of the Agreement, Developer shall reimburse all YLWD Administrative Costs related to the Project. The Parties desire to amend this Section to (1) amend the use of the term "Administrative Costs" in Section 5.D to mean YLWD staff and attorney time and costs related to the Project, the Agreement as amended from time to time, and "Developer Improvements" defined collectively as: (i) the Subdivision Facilities, (ii) the Existing Offsite Facility Improvements and (iii) the Shared Facility Improvements; and (2) require Developer to reimburse YLWD for all fees and costs associated with consultant(s) and/or contractor(s) hired by YLWD for the Developer Improvements.

G. Since the Agreement Date, Subdivision Facilities Plans have been modified and the scope of Developer's design/work has been amended to include the Shared Facility Improvements.

H. Pursuant to Section 5.F of the Agreement, YLWD will construct off-site facilities to support Advanced Metering Infrastructure ("AMI") for the Subdivision Facilities. Developer agreed to pay $40,000 to YLWD for the tower and signal collection equipment as part of the AMI. So YLWD does not have to wait another year for payment, the Parties agreed to amend Section 5.F so the $40,000 is not to be deposited into the Existing Offsite Facility Improvements Escrow and instead Developer will pay the $40,000 to YLWD by check within 30 calendar days of Developer signing this First Amendment.

I. The Parties acknowledge that it is industry standard for a developer and a public agency to procure a surety bond for the facilities to be constructed by Developer and dedicated to the public agency. Moreover, the Parties acknowledge that it is industry standard for a developer to provide closing forms listed in Subsection 1.D below for, and access to, such facilities to the public agency, and to indemnify YLWD for damages and charges to Existing Offsite Facilities caused by Developer. Lastly, the Parties acknowledge that it is industry standard for Developer to comply with public agency rules and regulations for water and sewer service when constructing water and sewer facilities. These industry standards were not memorialized in the Agreement so the Parties desire to obligate Developer to these industry standards.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged and accepted, the Parties agree as follows:

1. The Agreement is amended as follows:

A. To reflect the addition of the Shared Facility Improvements, **Exhibits "M"** and "N" attached hereto are added and made a part of the Agreement.

B. Section 2 of the Agreement is hereby amended and replaced in its entirety with the following language:

"Except for Sections 5.D. and 5.F., which the Parties' rights and obligations are already in effect and will stay in effect for the term of this Agreement, the Parties' rights and obligations under this Agreement shall not take effect until (a) 10 days after Developer provides written proof and notice to YLWD of the Property Owner's transfer of ownership of the Property to Developer and (b) recordation of the Project's final map ("Effective Date"). If YLWD is not provided written proof and notice of both transfer of ownership from Property Owner to Developer and recordation of the Project's final map by August 1, 2020, then YLWD may provide written notice to Developer that the Agreement, as amended from time to time, is null and void; at which time the Agreement and any amendments will be null and void."

C. Subsections A(i), (iii), and D through F of Section 3 is amended to include the Shared Facility Improvements wherever "Subdivision Facilities" are mentioned.

D. The following language is added as a new Subsection H within Section 3 of the Agreement:

"H. Developer's Bond and Warranty Period Obligations. At Developer's sole expense, Developer shall furnish surety bond(s) to YLWD for the Subdivision Facilities and Shared Facility Improvements before commencing work on the Subdivision Facilities and Shared Facility Improvements. Developer shall not commence work on the Subdivision Facilities and Shared Facility Improvements until it has procured, and YLWD has approved, the surety bond(s), which shall continue in force from the date of YLWD's Final Acceptance of the Subdivision Facilities and Shared Facility Improvements for a warranty period of one (1) year. The surety bond(s) shall be in an amount equal to one hundred (100) percent of the Engineer's Estimate of the cost of construction of the Subdivision Facilities and Shared Facility Improvements. YLWD shall review the Engineer's Estimate and determine the amount of the surety bond(s). At the end of the one-year warranty period for the Subdivision Facilities and Shared Facility Improvements, YLWD will release the surety bond(s) to Developer.

When defects in Subdivision Facilities and Shared Facility Improvements are discovered within the warranty period, Developer shall start work to remedy any such defects within five (5) calendar days of written or electronic notice by YLWD and shall promptly complete such work. In emergencies, where damages may result from delay and where loss of service may result, corrections may be made by YLWD upon discovery, in which case the cost thereof shall be borne by Developer. In the event Developer does not commence and/or accomplish corrections within the time specified, the work may be accomplished by YLWD at its option, and the cost thereof shall be paid by Developer within thirty (30) days of receipt by Developer of an itemized invoice for such cost.

Pursuant to Section 8 of the Agreement, Developer shall indemnify YLWD for any expenses incurred by YLWD resulting from defects in Developer's work, including actual damages, costs of materials and labor expended by YLWD in making repairs and the cost of engineering, inspection and supervision by YLWD."

E. The following language is added as a new Subsection I within Section 3 of the Agreement:

"I. Closing Forms:

i. *Notice(s) of Completion*: Developer agrees that the Notice(s) of Completion prepared by YLWD and signed by the Developer for the Subdivision Facilities and Shared Facility Improvements shall be recorded by YLWD with the County Recorder's office of Orange County, California, at Developer's expense.

ii. *Statement of Cost of Construction*: Developer agrees to provide YLWD with a report of the actual costs of the Subdivision Facilities and Shared Facility Improvements on the standard reporting form of YLWD and to substantiate such report with invoices and receipts acceptable to YLWD.

iii. *Certification and Waiver of Lien Rights*: Developer agrees that upon final payment of the contractor constructing or installing the Subdivision Facilities and Shared Facility Improvements, 35 or more days after date of recording of the Notice(s) of Completion with the County Recorder, Developer will obtain from the contractor(s) a Certification and Waiver of Lien Rights in favor of the Developer and YLWD, and that the original of said Certification and Waiver of Lien Rights shall be delivered to YLWD.

iv. *Bill of Sale*: Developer agrees that upon expiration of said 35 days, Developer will execute and deliver a proper Bill of Sale, on the standard form of YLWD, for the Subdivision Facilities and Shared Facility Improvements to YLWD."

F. The following language is added as a new Subsection J within Section 3 of the Agreement:

"J. Inspections. During construction, YLWD shall have the right to inspect the Subdivision Facilities and Shared Facility Improvements during normal business hours and upon reasonable advanced written or electronic notice to Developer."

G. The following language is added as a new Subsection K within Section 3 of the Agreement:

"K. Damage to YLWD Facilities. Developer hereby agrees that, pursuant to Section 8 of the Agreement, it will indemnify YLWD for damages and charges to Existing Offsite

Facilities caused by Developer's construction of the Subdivision Facilities and Shared Facility Improvements, and any person, firm or corporation working for, on behalf of, or by direction of Developer."

H. The following language is added as a new Subsection L within Section 3 of the Agreement:

"L. YLWD's Acceptance of Shared Facilities Improvements. Completion of the Shared Facilities Improvements described in Exhibits M and N may pre-date the EHE Project's readiness to hook up. YLWD's acceptance of the Shared Facility Improvement shall not be conditioned or otherwise dependent on the EHE Project readiness to hook up; however, YLWD is not obligated to accept the Shared Facility Improvements either for any reason stated in Sections 3.D through 3.F of the Agreement or until both the Shared Facility Improvements and Subdivision Facilities are operational.

I. Section 5.D. of the Agreement is hereby amended as to the first sentence, only, to read:

"Both before and after the Agreement Date until issuance of the last building permit, Developer shall reimburse all YLWD staff and attorney time and costs, and all fees and costs associated with consultants and contractors hired by YLWD, related to either the Agreement, as amended from time to time, or the Project, including the Developer Improvements ("YLWD Administrative Costs").

The remainder of Section 5.D of the Agreement is unchanged.

J. Subsection F within Section 5 of the Agreement is hereby amended and replaced in its entirety with the following language:

"F. YLWD shall construct off-site facilities to support Advanced Metering Infrastructure ("AMI") for the Subdivision Facilities, with signal from each meter transmitted to a tower and retransmitted to the YLWD Headquarters located at 1717 E. Miraloma Avenue, Placentia, CA. Developer agreed to pay $40,000 to YLWD for its share of the AMI."

K. To reflect the omission of Developer's $40,000 deposit into the Existing Offsite Facility Improvements Escrow, **Exhibit "G"** to the Agreement is hereby amended and replaced by **Exhibit "G.1"** attached hereto.

L. Pursuant to Section 5.B.iii of the Agreement and in order to reflect a change in the Project milestones, **Exhibit "J"** to the Agreement is hereby amended and replaced by **Exhibit "J.1"** attached hereto.

M. Pursuant to Section 5.B.iii of the Agreement and in order to reflect a change in the Project schedule, **Exhibit "K"** to the Agreement is hereby amended and replaced by **Exhibit "K.1"** attached hereto.

N. Section 15 is hereby amended and replaced in its entirety with the following language:

"15. Further Cooperation. The Parties agree to execute, acknowledge if appropriate, and deliver any and all documents and cooperate in performing any and all acts both consistent with the District's Rules and Regulations For Water Service and Sewer Service and in any commercially reasonable manner as may be necessary to implement the intent of this Agreement, as set forth in the Recitals, and the terms of the Agreement as amended from time to time."

O. The following language is added as new Section 27:

"27. Relationship of Parties. Nothing in this Agreement shall be deemed to create any form of business organization between the Parties, without limitation, a joint venture or partnership. Developer, in constructing and installing the Subdivision Facilities and Shared Facility Improvements, is not acting as an agent or employee of YLWD."

2. Pursuant to Section 5.D., as amended, YLWD Administrative Costs include (1) YLWD outstanding and future expenses associated with the Developer Improvements, and (2) the YLWD invoice no. 2012-06 dated March 7, 2019 in the amount of $14,324.19 owed by Yorba Linda Estates, LLC. On August 6, 2019, YLWD received and deposited a check from Developer dated July 31, 2019 in the amount of $14,324.19 so Developer's payment obligation for invoice no. 2012-06 is satisfied. Developer's payment of YLWD's outstanding expenses related to the Developers Improvements will be deducted from Developer's Administrative Costs Account after this First Amendment is signed by YLWD.

3. Pursuant to Section 5.F. of the Agreement as amended, Developer agrees to pay $40,000 to YLWD by check within 30 calendar days of Developer signing this First Amendment. Developer's failure to deliver this check in the amount of $40,000 to YLWD within 30 calendar days will nullify this First Amendment.

5. This First Amendment and the attached Agreement shall be recorded with the Orange County Recorder's Office.

6. The Agreement shall remain in full force and effect in accordance with its terms and provisions except as amended by this First Amendment. The Parties hereby confirm and ratify each of the provisions of the Agreement as amended by this First Amendment. This First Amendment may be executed in one or more counterparts, all counterparts shall be valid and binding on the Party executing them and all counterparts shall together constitute one and the same document for all purposes.

EXHIBIT E

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,
a public agency
("YLWD")

By: Marc Marcantonio

Print: Marc Marcantonio

Title: General Manager

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: _____

Andrew B. Gagen, General Counsel

North County BRS Project, LLC
a Delaware limited liability company
("Developer")

By: Sign in Counter part

Print: _____

Title: _____

APPROVED AS TO FORM:

Jackson Tidus, A Law Corp.

By: _____

Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

_____
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

_____
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

_____
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

EXHIBIT E

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On September 3, 2019 before me, Annie Alexander, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Marc Marcantonio
Name(s) of Signer(s)

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

ANNIE ALEXANDER
Commission # 2130167
Notary Public - California
Orange County
My Comm. Expires Nov 10, 2019

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

WITNESS my hand and official seal.

Signature
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Amendment to Cielo Vista Project Agreement Document Date: August 27, 2019
Number of Pages: 14 Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name: Marc Marcantonio
☐ Corporate Officer — Title(s):
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☒ Other: General Manager
Signer Is Representing: YLWD

Signer's Name:
☐ Corporate Officer — Title(s):
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other:
Signer Is Representing:

©2014 National Notary Association • www.NationalNotary.org • 1-800-US NOTARY (1-800-876-6827) Item #5907

EXHIBIT E

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,
a public agency
("YLWD")

Sign in counterpart

By: _____

Print: _____

Title: _____

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: _____

Andrew B. Gagen, General Counsel

North County BRS Project, LLC
a Delaware limited liability company
("Developer")

By: _____

Print: Philip Mader

Title: Managing Director

APPROVED AS TO FORM:

Jackson Tidus, A Law Corp.

By: _____

Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

_____
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

_____
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

_____
AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

EXHIBIT E

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On September 4, 2019 before me, Barbara Hinshaw, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Philip Mader
Name(s) of Signer(s)

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

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

BARBARA HINSHAW
Notary Public - California
Orange County
Commission # 2193484
My Comm. Expires Apr 24, 2021

WITNESS my hand and official seal.

Signature Barbara Hinshaw, Notary Public
Signature of Notary Public

EXHIBIT E

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,
a public agency
("YLWD")

By: sign in counterpart

Print: _____

Title: _____

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: _____

Andrew B. Gagen, General Counsel

North County BRS Project, LLC
a Delaware limited liability company
("Developer")

By: sign in counterpart

Print: _____

Title: _____

APPROVED AS TO FORM:

Jackson Tidus, A Law Corp.

By: Michele A. Staples

Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

_____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

_____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

_____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

EXHIBIT E

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,
a public agency
("YLWD")

By: _____

Print: _____

Title: _____

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: _____

Andrew B. Gagen, General Counsel

North County BRS Project, LLC
a Delaware limited liability company
("Developer")

By: _____

Print: _____

Title: _____

APPROVED AS TO FORM:

Jackson Tidus, A Law Corp.

By: _____

Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

_____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

_____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

_____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

EXHIBIT E

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

NANCY ANN MAGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

EXHIBIT E

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Linda M. Rodger, Trustee

LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

Nancy Ann Magio, Trustee

NANCY ANN MAGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

EXHIBIT E

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF Orange

On 23rd September 2019 before me, MARYANNE SCARPONI, NOTARY PUBLIC personally
(insert name and title of the officer),

Appeared Amos A. Travis

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

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

WITNESS my hand and official seal.

Maryanne Scarponi
Signature

(Seal)

MARYANNE SCARPONI
Notary Public - California
Orange County
Commission # 2285984
My Comm. Expires May 19, 2023

EXHIBIT E

NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California)
County of Orange)

On Sept 13, before me, Holly Hutchins, a Notary Public, personally appeared **LINDA M. RODGER** and **NANCY ANN MAGGIO**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Holly Hutchins

Holly Hutchins

NRO1 HOLLY HUTCHINS
COMM. #2176450
Notary Public - California
Orange County
My Comm. Expires Jan. 18, 2021 NRO1

EXHIBIT E

The Parties hereto have executed this First Amendment for Re-Recording on the day and year written below.

Yorba Linda Water District,
a public agency
("YLWD")

By: Marc Marcantonio

Print: Marc Marcantonio

Title: General Manager

Date: 10/30/19

North County BRS Project, LLC
a Delaware limited liability company

By: _____

Print: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: _____
Andrew B. Gagen, General Counsel

APPROVED AS TO FORM:

Jackson Tidus, a Law Corp.

By: Michele Staples
Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties have executed this First Amendment for Re-Recording on the day and year written below, and hereby consent to said re-recording.

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

EXHIBIT E

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On October 30, 2019 before me, Annie Alexander, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Marc Marcantonio
Name(s) of Signer(s)

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

ANNIE ALEXANDER
Commission # 2130167
Notary Public - California
Orange County
My Comm. Expires Nov 10, 2019

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

WITNESS my hand and official seal.

Signature
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document 1st Amendment to Cielo
Title or Type of Document: Vista Water and Sewer Agreement Document Date: August 27, 2019
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Marc Marcantonio
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☒ Other: General Manager
Signer Is Representing: Yorba Linda Water District

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

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EXHIBIT E

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the day and year first written above. Parties have caused this First Amendment to be executed on their behalf and the signatories represent that they have been duly authorized to enter into this First Amendment on behalf of their respective Parties.

Yorba Linda Water District,
a public agency
("YLWD")

By:_____

Print:_____

Title:_____

North County BRS Project, LLC
a Delaware limited liability company

By: Rory G Ingels

Print: Rory G Ingels

Title: Director + Authorized Signatory

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: _____
Andrew B. Gagen, General Counsel

APPROVED AS TO FORM:

Jackson Tidus, a Law Corp.

By: _____
Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties agree to Section 5.D of the Agreement as modified by this First Amendment and consent to recordation of this First Amendment and attached Agreement:

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)
On October 30, 2019 before me, Barbara Hinshaw, Notary Public,
Date *Here Insert Name and Title of the Officer*
personally appeared Rory G. Ingels
Name(s) of Signer(s)

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

BARBARA HINSHAW
Notary Public - California
Orange County
Commission # 2193484
My Comm. Expires Apr 24, 2021

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

WITNESS my hand and official seal.

Signature Barbara Hinshaw, Notary Public
Signature of Notary Public

EXHIBIT E

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On October 29, 2019, before me, **SHERRY GENTILE**, Notary Public, personally appeared **AMOS A. TRAVIS**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature

SHERRY GENTILE
Notary Public - California
Orange County
Commission # 2255545
My Comm. Expires Sep 18, 2022

(Seal)

EXHIBIT E

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

Linda M. Rodger, Co-Trustee

NANCY ANN MAGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986

Nancy Ann Magio - Co Trustee

[Notary Acknowledgments on next pages]

EXHIBIT E

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF ORANGE

On 10/30 2019, before me, Holly Hutchins
(here insert name and title of the officer)

personally appeared Linda M. Rodger

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

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

WITNESS my hand and official seal.

Holly Hutchins
Signature (Seal)

HOLLY HUTCHINS
COMM. #2176450
Notary Public - California
Orange County
My Comm. Expires Jan. 18, 2021

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF ORANGE

On 10/30 2019, before me, Holly Hutchins
(here insert name and title of the officer)

personally appeared Nancy Ann Maggio

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

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

WITNESS my hand and official seal.

Holly Hutchins
Signature (Seal)

HOLLY HUTCHINS
COMM. #2176450
Notary Public - California
Orange County
My Comm. Expires Jan. 18, 2021

EXHIBIT E

The Parties hereto have executed this First Amendment for Re-Recording on the day and year written below.

Yorba Linda Water District, a public agency ("YLWD")	North County BRS Project, LLC a Delaware limited liability company
By:_____	By:_____
Print:_____	Print:_____
Title:_____	Title:_____
Date: _____	Date: _____
APPROVED AS TO FORM:	APPROVED AS TO FORM:
Kidman Gagen Law, LLP	Jackson Tidus, a Law Corp.
By: _____ Andrew B. Gagen, General Counsel	By: _____ Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties have executed this First Amendment for Re-Recording on the day and year written below, and hereby consent to said re-recording.

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

EXHIBIT E

The Parties hereto have executed this First Amendment for Re-Recording on the day and year written below.

Yorba Linda Water District,
a public agency
("YLWD")

By:_____

Print:_____

Title:_____

Date: _____

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: _____
Andrew B. Gagen, General Counsel

North County BRS Project, LLC
a Delaware limited liability company

By:_____

Print:_____

Title:_____

Date: _____

APPROVED AS TO FORM:

Jackson Tidus, a Law Corp.

By: Michele Staples
Michele Staples, Attorneys for Developer

The undersigned Property Owner Parties have executed this First Amendment for Re-Recording on the day and year written below, and hereby consent to said re-recording.

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest

Date: _____ _____

EXHIBIT E

CIELO VISTA PROJECT WATER AND SEWER FACILITIES AGREEMENT

(attached)

EXHIBIT E

CIELO VISTA PROJECT WATER AND SEWER FACILITIES AGREEMENT BETWEEN YORBA LINDA WATER DISTRICT AND NORTH COUNTY BRS PROJECT, LLC

This WATER AND SEWER FACILITIES AGREEMENT ("Agreement") is entered into on August 1, 2018 ("Agreement Date"), by and between YORBA LINDA WATER DISTRICT, a public agency, created and operating under authority of Division 12 of the California Water Code ("YLWD"), and NORTH COUNTY BRS PROJECT, LLC, a Delaware limited liability company ("Developer"); LINDA M. RODGER, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986; NANCY ANN MAGGIO, as Successor Co-Trustee of the Virginia Richards Revocable Intervivos Trust dated May 1, 1986; AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Amos A. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest; AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of J. Coleman Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest; AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of William H. Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest; and AMOS A. TRAVIS, as Trustee of the Travis Ranch Trusts for the benefit of Ann Travis created under an Agreement of Trust dated May 8, 1995, by Amos Travis, as Trustor, as to an undivided one-fourth (1/4) interest (collectively referred to as "Property Owner"). For purposes of this Agreement, YLWD, Property Owner, and Developer may be referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

A. As of the Agreement Date, Developer is the master developer of, and controls, approximately 84.8 acres of real property ("Property"), located within the unincorporated area of the County of Orange ("County"). As of the Agreement Date, Property Owner owns the Property. The vicinity location of the Property is shown in the diagram attached hereto and marked **Exhibit "A"**, which is incorporated herein by this reference. The Property is described in the legal description attached hereto and marked **Exhibit "B"**, which is incorporated herein by this reference.

B. Approximately 40.1 acres of the Property are to be developed with no more than 80 single-family residential dwellings, along with associated common areas, and onsite infrastructure improvements (the "Project") pursuant to the approved Vesting Tentative Tract Map 17341 for the Project ("Map"). The Project is commonly referred to as the Cielo Vista subdivision.

C. The County certified the Project's Final Environmental Impact Report No. 615 and approved the Map on September 12, 2017.

D. YLWD provides retail municipal water and sewer service to land within its boundaries. The Property has been annexed into the YLWD jurisdictional boundaries and YLWD's water and sewer service area boundaries approved by the Orange County Local

Agency Formation Commission. However, the annexation fee payment to YLWD discussed in Section 4(A) below is outstanding.

E. YLWD currently owns and operates existing offsite water and sewer facilities (collectively, the "Existing Offsite Facilities"). The onsite water and sewer facilities to be constructed by Developer as part of the Project and conveyed to YLWD according to this Agreement (collectively referred to herein as the "Subdivision Facilities") are shown on Developer's improvement plans incorporated herein by reference, titled "Water and Sewer Improvement Plans for Cielo Vista Tract No. 17341", to be approved by YLWD and maintained on file with YLWD ("Subdivision Facilities Plans"). Collectively, the Existing Offsite Facilities with proposed improvements, and Subdivision Facilities will have the capability to serve the Property via gravity-feed from a reservoir in the 1000 Zone or higher.

F. The Parties intend, by this Agreement, to provide access to water and sewer service through YLWD for the benefit of the Project and the future occupants thereof, including access to water for Project grading and all phases of Project construction, water service to enable the lumber drop for Project framing, and water and sewer service for model homes and for issuance of certificates of occupancy for all of the Project's 80 single-family residential dwellings. However, the Parties acknowledge that protection of health, safety, and property require that framing and occupancy of residential structures cannot proceed prior to the availability of water service and that the Subdivision Facilities must be developed in a logical order.

G. As part of YLWD's approved Water Facilities Master Plan, YLWD identified certain operational improvements to the Existing Offsite Facilities that will preserve or enhance water quality, provide additional redundancy, and provide more reliable water service to the YLWD service area in the vicinity of the Project, which include installing a water main in Stonehaven listed in **Exhibit "G"** and illustrated on **Exhibit "H"**, and upgrading and expanding the pumping capacity of the existing Hidden Hills Pump Station listed in **Exhibit "G"** and illustrated on **Exhibit "I"** (collectively referred to herein as the "Existing Offsite Facility Improvements"). The Hidden Hills Pump Station is existing equipment within public right-of-way attached to a pipeline, and the water pipeline extension in Stonehaven is less than one mile in length within public right-of-way. The Existing Offsite Facility Improvements are exempt from the California Environmental Quality Act ("CEQA", Public Resources Code sections 21000-21189.57) under CEQA sections 21080.21 and 21080.23 and under the CEQA Guidelines (Title 14, California Code of Regulations sections 15000-15387) sections 15062, subd. (b)(1), (2) and (3), and 15282, subd. (k).

H. Under the terms of this Agreement, Developer intends to install the Subdivision Facilities at its sole expense, pay its fair share of the Existing Offsite Facilities, and pay for the Existing Offsite Facility Improvements; and YLWD intends to timely complete the Existing Offsite Facility Improvements, provide access to water for Project development according to the schedule set forth herein, and provide access to water and sewer service to the Property and the future occupants thereof.

I. The Parties acknowledge that the Subdivision Facilities have been planned at certain sizes in order to serve the number of residential dwelling units, or equivalent dwelling units identified in the Map, and that changes in land use, especially increased density of dwelling

units per land area, may change water and sewer system planning and facilities sizing. The total number of residential dwelling units shall not exceed 80. The Parties acknowledge further that once the Subdivision Facilities are installed, it may not be possible to increase land use density without providing additional water and/or sewer infrastructure at additional cost to the Developer.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged and accepted, the Parties agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are true and correct and incorporated into this Agreement.

2. Effective Date of Parties' Rights and Obligations. Except for Section 5.D., which the Parties' rights and obligations are already in effect and will stay in effect for the term of this Agreement, the Parties' rights and obligations under this Agreement shall not take effect until (a) 10 days after Developer provides written proof and notice to YLWD of the Property Owner's transfer of ownership of the Property to Developer and (b) recordation of the Project's final map ("Effective Date"). If YLWD is not provided proof and notice of transfer of ownership from Property Owner to Developer and recordation of the Project's final map within one year of the Agreement Date, then YLWD may provide written notice to Developer that this Agreement is null and void; at which time this Agreement will be null and void.

3. Parties' Obligations for Subdivision Facilities.

A. Developer shall cause Subdivision Facilities to be constructed as necessary and transferred to YLWD. All Subdivision Facilities shall be constructed:

(i) at no expense to YLWD;

(ii) within the easement areas dedicated to YLWD on the face of the Map ("Easements") as such Easements may be amended by Developer from time to time; and

(iii) in substantial conformance with the Subdivision Facilities Plans to be approved by YLWD and in substantial conformance with any variances, exceptions, or modifications approved in writing by the Parties.

B. The Subdivision Facilities Plans may be subject to modifications by the mutual written consent of the Parties due to engineering, site development, or marketing considerations that may arise in the future. The Parties wish to provide a mechanism for future amendments of the Subdivision Facilities Plans without the necessity of a formal amendment to the entirety of this Agreement. Therefore, the Parties agree to discuss in good faith adjustments or modifications to facilities identified in the Subdivision Facilities Plans, and if such modifications are approved in writing by both Parties, the revised Subdivision Facilities Plans may be substituted in this Agreement and will be effective for subsequent development.

C. Developer shall provide an easement grant deed in favor of YLWD, conveying to YLWD rights to access, operate, and maintain the Subdivision Facilities within the Easements. Developer shall defend and indemnify YLWD against any claim or challenge to YLWD's easement rights under the Easements from persons disputing said rights.

D. Written notice shall be provided to YLWD upon completion of the Subdivision Facilities ("Notice of Completion"). Within twenty (20) working days following receipt of the Notice of Completion, YLWD shall inspect the Subdivision Facilities and review all work and services performed with respect thereto, and shall either: (i) provide written notification affirming that the Subdivision Facilities are acceptable as constructed, certifying that the construction tasks have been fully satisfied for the Subdivision Facilities, and accepting the Subdivision Facilities and Easements; or (ii) if reasonable cause exists for doing so, provide written notification that the Subdivision Facilities are not acceptable as constructed, and stating in detail the reasons therefor and the list of items required to be completed in order for YLWD to accept the Subdivision Facilities and Easements. YLWD shall not unreasonably delay the inspection of Subdivision Facilities subject to the Notice of Completion. If necessary, YLWD will contract for inspection services at Developer's expense.

E. In the event YLWD determines the Subdivision Facilities are not acceptable as constructed, and Developer has not disputed YLWD's determination, Developer shall promptly take corrective action or perform additional work or other services that will achieve acceptability of the Subdivision Facilities as constructed, and shall issue to YLWD another Notice of Completion. Such procedure shall be repeated until YLWD Board of Directors has accepted both the Subdivision Facilities, as constructed, and Easements ("Final Acceptance"). YLWD's Final Acceptance shall not be unreasonably withheld, provided that YLWD Board of Directors shall be under no obligation to adopt Final Acceptance until the payments set forth in Section 4 below are received.

F. It is understood and agreed that upon YLWD's Final Acceptance, Developer disclaims in favor of YLWD all right, title and interest in and to the Subdivision Facilities and Easements, and that Developer hereby covenants and agrees to execute and deliver to YLWD any documents required to complete the transfer of the Subdivision Facilities concurrently with YLWD's Final Acceptance. Developer shall no longer own, operate, maintain, repair or replace the Subdivision Facilities following YLWD's Final Acceptance. Developer shall warranty all Subdivision Facilities for one year following Final Acceptance by the YLWD Board of Directors.

G. The Parties shall coordinate their respective activities in order to provide for orderly, efficient and timely completion and acceptance of the Subdivision Facilities and their connection to YLWD's Offsite Existing Facilities and Existing Offsite Facility Improvements required to provide water and sewer service to the Property.

4. Parties' Obligations for Existing Offsite Facilities.

A. YLWD studies recommended, and YLWD has determined, that pro-rata buy-in is required by Developer for the Existing Offsite Facilities. Subject to YLWD's completion of the Existing Offsite Facility Improvements, Developer agrees to pay YLWD the

Project's fair share of the Existing Offsite Facilities as follows: (1) $290,217.00 for the fair share cost of existing water infrastructure as detailed on **Exhibit "C"** and shown graphically on **Exhibit "D"**; (2) $109,242.00 for the fair share cost of existing sewer infrastructure as detailed on **Exhibit "E"** and shown graphically on **Exhibit "F"**; and (3) $15,644.00 for annexation fees as detailed on **Exhibit "G"**.

i. The fair share cost component of Developer's payment obligation for Existing Offsite Facilities shall be analyzed by Developer's engineer, which may cause the estimated payment obligation to change, up or down. Developer's analysis and revised payment obligation must be presented to YLWD in writing and approved, in writing, by YLWD. YLWD's approval of Developer's fair share cost component shall not be unreasonably withheld.

ii. Developer's approved fair share payment obligation for the Existing Offsite Facilities shall be paid on a pro-rata basis upon issuance of each building permit for the Project's single-family residential dwellings. The Developer shall be obligated to make final payment to YLWD for the remaining approved payment obligation for 80 homes either upon issuance of the last building permit, or within two years of the first building permit, being issued for the Project, whichever occurs first and even if fewer than 80 homes are constructed.

5. Parties' Obligations for Existing Offsite Facility Improvements.

A. YLWD shall be solely responsible for the construction of the Existing Offsite Facility Improvements, including but not limited to any YLWD amendments to the scope of design or scope of work for the Existing Offsite Facility Improvements attached as **Exhibit "L"** ("Scope of Work"), compliance with all federal, state and local laws applicable to the Existing Offsite Facility Improvements, and obtaining all rights of way, permits and approvals required for the Existing Offsite Facility Improvements. Developer assumes no liability and shall have no responsibility for the construction of the Existing Offsite Facility Improvements, except to make the payments provided in this Section 5.

B. Developer shall pay its engineering consultant, Psomas, to prepare a proposed preliminary design report, 60%, 90% and final design plans and specifications, bid support services, and construction support services for the Existing Offsite Facility Improvements (collectively, the "Existing Offsite Facility Improvements Documents"), to be submitted for YLWD's consideration consistent with YLWD's existing approvals, mitigation measures, standards and procedures for YLWD facility improvement projects. The Existing Offsite Facility Improvements Documents shall include engineer's opinions of probable construction costs in the preliminary design report, 60%, 90% and 100% submittals.

i. Psomas shall prepare a proposed scope of work and schedule for preparation of the Existing Offsite Facility Improvements Documents. YLWD shall promptly consider and provide Psomas with YLWD's final approved scope of work and schedule for the preparation of the Existing Offsite Facility Improvements Documents.

ii. Psomas shall prepare each of the Existing Offsite Facility Improvements Documents under YLWD's direction, in accordance with YLWD's standards and in the form and content required by YLWD. YLWD's General Manager or designee is authorized to approve the preliminary design report and final design plans and specifications for the Existing Offsite Facility Improvements.

iii. YLWD shall issue written Notices to Proceed to Developer upon completion of the Subdivision Facilities up to the hydrant(s) serving the model homes and/or completion of the Stonehaven Improvements and/or commencement of construction of the Hidden Hills Pump Station Improvements. The schedule for YLWD to provide access to water for the Project is described in **Exhibit "K"**. This schedule is based on (a) a projected Effective Date of August 1, 2018, and (b) the Project milestone dates provided by Psomas attached as **Exhibit "J"**. If the actual Effective Date is later than August 1, 2018, then the dates in **Exhibits "J" and "K"** shall be extended by the same time period as such delay in the Effective Date or to any earlier dates mutually agreeable to YLWD and Developer. The Parties wish to provide a mechanism for future amendments to **Exhibits "J" and "K"** without the necessity of a formal amendment to the entirety of this Agreement. Therefore, the Parties agree that if such amendments are approved in writing by the Parties, the amended **Exhibits "J" and "K"** may be substituted in this Agreement and will be effective for subsequent development.

C. Within 10 days of the Effective Date, Developer shall deposit into an interest-bearing escrow account $1,270,000.00 for Developer's costs of installing the Existing Offsite Facility Improvements as listed in **Exhibit "G"** ("Existing Offsite Facility Improvements Escrow").

i. The $1,270,000.00 is a preliminary estimate and the final costs may change up or down after construction completion of the Existing Offsite Facility Improvements. Developer shall pay 100% of the final costs of installing the Existing Offsite Facility Improvements, except that YLWD shall be solely responsible to pay all costs related to any change(s) in the Scope of Work by YLWD.

D. Both before and after the Agreement Date, Developer shall reimburse all YLWD staff and attorney time and costs related to the Project, including this Agreement ("YLWD Administrative Costs"). Developer has been and shall continue to submit to YLWD a deposit in the amount of $20,000 to be managed by the YLWD Finance Manager in a restricted deposit account ("Administrative Costs Account"), which Developer shall replenish to $20,000 within 5 days of YLWD's written notice to Developer that the Administrative Costs Account has fallen below $5,000. All YLWD Administrative Costs shall be deducted from the Administrative Costs Account. Concurrent with its above written notice to Developer, YLWD shall provide Developer with an itemized invoice of YLWD Administrative Costs incurred since YLWD's last invoice to Developer for YLWD Administrative Costs.

E. YLWD shall provide written notice to Psomas of each request for disbursement from the Existing Offsite Facility Improvements Escrow for Psomas' review and comment ("YLWD Disbursement Request"). The YLWD Disbursement Request shall set forth in reasonable detail the costs to be paid from the Existing Offsite Facility Improvements Escrow and shall be accompanied by invoices or other supporting documentation evidencing such costs. Psomas shall have fifteen (15) days to deliver written comments and supporting documentation to YLWD, and the Parties shall engage in good faith efforts to reach a mutually-agreeable resolution of Psomas' comments. Any funds remaining in the Existing Offsite Facility Improvements Escrow upon completion of construction of the Existing Offsite Facility Improvements shall be refunded to Developer.

F. YLWD shall construct off-site facilities to support Advanced Metering Infrastructure ("AMI") for the Subdivision Facilities, with signal from each meter transmitted to a tower and retransmitted to the YLWD Headquarters located at 1717 E. Miraloma Avenue, Placentia, CA. Developer shall be responsible for the costs, up to $40,000, of the tower and signal collection equipment, which shall be specified by YLWD. The $40,000 is to be deposited by Developer into the Existing Offsite Facility Improvements Escrow **(Exhibit "G")** within ten (10) days after the Effective Date and is listed as a separate line item in **Exhibit "G"**.

6. Environmental Impact Analysis and Indemnity Therefor. County certified the Final EIR for the Project. To the extent there are any discretionary Project approvals remaining to be obtained, Developer shall be responsible to obtain environmental approvals for the Project. The obligations of the Parties hereto are expressly contingent upon Developer receiving all environmental approvals and all entitlements necessary to proceed with subdivision and development of the Project. To the extent there are any discretionary Project approvals remaining to be obtained, Developer shall obtain such approvals at its sole cost and cxpense and it shall be responsible to comply with any requirements of the California Environmental Quality Act and/or the County of Orange in connection with the construction of the Subdivision Facilities.

7. Notice. Any and all notices submitted by any Party to another Party pursuant to or as required by this Agreement shall be proper if in writing and dispatched by messenger for immediate personal delivery, nationally recognized overnight (one business day) courier (i.e., United Parcel Service, Federal Express, etc.) or by registered or certified United States mail, postage prepaid, return receipt requested, to the address of the recipient Party, as designated in this Section. Notices may be sent in the same manner to such other addresses as the Parties may from time to time designate by notice in accordance with this Section. Notice shall be deemed received by the addressee, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, on the day that it is dispatched by messenger for immediate personal delivery, one business day after delivery to a nationally recognized overnight carrier or two (2) calendar days after it is placed in the United States mail in accordance with this Section. Any attorney representing a Party may give any notice on behalf of such Party. The notice addresses for the Parties are as follows:

If to Developer:

North County BRS Project, LLC
3 Corporate Plaza, Suite 102

Newport Beach, CA 92660
Attention: Laurence M. Netherton, Project Manager

If to YLWD:

Yorba Linda Water District
P.O. Box 309
Yorba Linda, CA 92885-0309
Attention: General Manager

If to Psomas:

PSOMAS
3 Hutton Centre Drive, Suite 200
Santa Ana, CA 92707 | 714.481.7979
Attention: Michael D. Swan

8. Indemnity. Developer shall indemnify, hold harmless, and defend YLWD (including its elected officials, officers, volunteers, agents, attorneys, and employees) and its affiliates, the Yorba Linda Water District Financing Authority and the Yorba Linda Water District Public Financing Corporation ("Affiliates"), from and against any and all claims (including all litigation, demands, damages, liabilities, costs, and expenses, and including court costs and attorney's fees) resulting or arising from Developer's performance or non-performance (actual or alleged) of this Agreement (with the exception of the sole negligence, willful misconduct, or breach of this Agreement by YLWD, or its elected officials, officers, volunteers, agents and employees).

Without limiting the generality of the forgoing, Developer's duty to defend and indemnify YLWD under this Agreement expressly includes, but is not limited to, defense and indemnity against claims and liability arising from (i) disputes as to environmental compliance in connection with development of the Project; (ii) disputes as to ownership rights to the Easements, and rights of way and land (if any) conveyed to YLWD under this Agreement; and (iii) disputes as to the payment of prevailing wages related to construction of the Subdivision Facilities that will be dedicated to public use.

9. Insurance Prior To Performance. The Developer shall not commence work on the Subdivision Facilities pursuant to this Agreement until it has obtained, and the YLWD has approved, all insurance required hereunder. YLWD's approval of Developer's insurance shall not be unreasonably withheld. In addition, Developer shall not allow any contractor to commence work on the Subdivision Facilities under this Agreement until such contractor has obtained all required insurance, as provided herein. Developer shall procure and maintain, for one year following YLWD's Final Acceptance, insurance against claims for injuries to persons or damage to property which may arise from or in connection with Developer's performance or non-performance (actual or alleged) of this Agreement, as set forth below. The cost of such insurance shall be borne by Developer.

A. Scope of Insurance. Coverage shall at least be as broad as:

(i) Commercial General Liability: Insurance Services Office (ISO) Occurrence Form No. CG 0001, or equivalent), including completed operations coverage, with no explosion, collapse or underground damage exclusions (XCU)

(ii) Automobile Liability: ISO Form No. CA 0001, or equivalent Code 1 (any auto) or in the alternative, owned or scheduled autos plus non-owned and hired autos.

(iii) Workers' Compensation: As required by the Labor Code of the State of California, including an "all states" endorsement and employer's liability coverage.

B. Minimum Limits of Insurance.

(i) Liability insurance: Total liability limits shall be no less than four million dollars ($4,000,000) per occurrence/claim/or accident, through any combination of primary and excess or umbrella insurance policies and shall apply above the other liability policies, providing coverage at least as broad as coverage provided in the underlying policies.

(ii) General liability: $2,000,000 per occurrence, $4,000,000 general aggregate, $4,000,000 completed operations aggregate.

(iii) Automobile liability: $1,000,000 per accident combined single limit.

(iv) Workers' Compensation limits shall be statutory as required by the Labor Code of the State of California.

C. Other Developer Insurance Provisions. The policies specified herein are to contain, or be endorsed to contain, the following provisions:

(i) Additional Insureds - YLWD and its Affiliates shall be named as additional insureds on all third party liability policies, including, general liability and excess or umbrella policies. The coverage shall contain no special limitations on the scope of protection afforded to YLWD and its Affiliates.

(ii) Primary Insurance - Developer's insurance coverage, including any excess liability coverage, shall be primary insurance as respects YLWD and its affiliates for all Claims arising out of Developer's performance under this Agreement. Any insurance, pool coverage, or self-insurance maintained by YLWD or its Affiliates shall be excess of Developer's insurance and shall not contribute with it.

(iii) Waiver of Subrogation – All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against YLWD and its Affiliates. Developer waives its right of recovery against YLWD and its affiliates for damages covered by insurance required by this

Agreement. Developer shall require similar written express waivers and insurance clauses from each of its contractors.

(iv) The insurer issuing the Workers' Compensation insurance shall amend its policy to waive all rights of subrogation against YLWD and its Affiliates.

D. No Waiver. Developer acknowledges and agrees that any actual or alleged failure on the part of YLWD to inform Developer of Developer's non-compliance with any requirement imposes no additional obligations on YLWD nor does it waive any rights hereunder.

E. Requirements not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

F. Notice of Cancellation. Developer agrees to obligate its insurance broker and insurers to provide YLWD with 30 day notice of cancellation (except for nonpayment for which 10 day notice is required) or nonrenewal for each required coverage.

G. Proof of Insurance. Developer shall, at the time of the execution of this Agreement, present the original policies of insurance required by this Section, or present signed certificates of insurance with original additional insured endorsements for general liability insurance effecting coverage required by this Contract, and a workers' compensation waiver of subrogation, showing the issuance of such insurance and the addition of policy insureds and other provisions required herein. Developer shall provide certified copies of all insurance policies required above within 10 days of YLWD's written request for said copies.

H. Policy Expiration. The Developer shall, at the expiration of any insurance policy required by the Contract Documents, file a signed and completed renewal "Certificate of Insurance" and endorsements as required by this Agreement.

I. Maintenance of Insurance. Should the Developer neglect to obtain or maintain in force any such insurance for one year following YLWD's Final Acceptance, then it shall be lawful for YLWD to obtain and maintain such insurance, and the Developer hereby appoints YLWD as its true and lawful attorney-in-fact to do all things necessary for this purpose. All money paid by YLWD for insurance premiums under the provisions of this Section shall be charged to Developer.

J. Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than A-: VII or equivalent as determined by YLWD.

K. Developer's Contractors. Developer's contract with each contractor shall include (1) an agreement by the contractor to indemnify YLWD and its Affiliates from claims that may be asserted by any person or entity arising out of or in any manner directly or indirectly

related to the contractor's performance of activities under this Agreement, including defense costs and attorney's fees; (2) insurance requirements for the contractor that are the same as the requirements imposed on the Developer by this Section except as to limits, but limits shall be no less than (a) $1 million per occurrence for General Liability, (b) $1 million per accident for automotive, and (c) statutory limits for Worker's compensation, and; (3) a requirement that the contractor name YLWD as an additional insured on the contractors General Liability policy. Developer shall be responsible to enforce compliance with these requirements, and all documentation establishing compliance shall be made available to YLWD upon request.

L. Compliance with Insurance Requirements. Developer's obligation to obtain insurance coverage as set forth in this Section is separate and distinct from Developer's obligation to indemnify, hold harmless, and defend YLWD.

10. Equitable Remedies. The Parties agree that irreparable damage would occur and that the Parties would not have any adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. The Parties shall be entitled to all forms of equitable relief, including restraining orders, injunctions and specific performance to prevent breaches and to enforce specifically the terms and provisions of this Agreement in addition to any other remedy to which they are entitled at law or in equity. The Parties waive any requirement for the securing or posting of any bond in connection with the obtaining of any equitable relief.

11. Governing Law. The Parties hereby agree that this Agreement is to be governed under the laws of the State of California and construed according to its plain meaning as if drafted by both Developer and YLWD. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Orange. In any action or proceeding, any photographic or other copy of this Agreement may be introduced into evidence.

12. Resolution of Disputes. If any dispute shall arise with respect to this Agreement and is not otherwise resolved by the parties hereto, then such dispute shall be determined by a general judicial reference pursuant to California Code of Civil Procedure Sections 638 et seq. in the County of Orange, before one general referee. This is a waiver of any right that may exist to a jury trial.

The Parties shall meet to select the referee no later than thirty (30) days after service of the initial complaint on all defendants named in the complaint. The referee shall be a retired judge who has served in either the California Superior Court or Federal Court in Orange County, California with substantial experience in the type of matter in dispute and without any relationship to either Party, unless the Parties agree otherwise.

Each Party shall bear its own attorneys' fees and costs incurred in connection with the judicial reference proceeding. All other fees and costs incurred in connection with the judicial reference proceeding, including the cost of the stenographic record, shall be advanced equally by the Parties. However, the referee shall have the power to reallocate such fees and costs among the Parties in the referee's final ruling.

13. Severability. If any provision, condition or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the voided provision, condition or covenant shall be deemed severed from the remaining provisions of this Agreement, which shall remain valid and enforceable to the full extent permitted by law, and the Parties shall negotiate in good faith to replace the unenforceable provision(s) in accordance with the original purpose and intent of this Agreement as set forth in the Recitals.

14. Counterparts. This Agreement may be executed in counterparts (signatures may be by facsimile or electronic mail), each of which is hereby declared to be an original. All, however, shall constitute but one and the same Agreement.

15. Further Cooperation. The Parties agree to execute, acknowledge if appropriate, and deliver any and all documents and cooperate in performing any and all acts in any commercially reasonable manner as may be necessary to carry out the intent of this Agreement as set forth in the Recitals and implement the terms and conditions of this Agreement.

16. Complete Agreement. This Agreement contains the entire agreement between the Parties, and supersedes and replaces any and all prior negotiations and agreements between the Parties, whether written or oral. Each Party acknowledges that no agent or attorney of any Party hereto has made any promise, representation, or warranty, express or implied, not contained herein, to induce the other Party hereto to execute this Agreement, and each Party hereto acknowledges that it has not executed this Agreement in reliance on any such promise or representation or warranty not contained in this Agreement.

17. Waiver and Amendment. All waivers of the provisions of this Agreement and all amendments to this Agreement must be in writing and signed by the appropriate authorities of the Parties.

18. Attorneys' Fees and Costs. In the event that a Party brings an action relating to or arising from this Agreement, the prevailing Party in such action shall be entitled to recover from the other Party its reasonable legal costs (which shall include all reasonable costs and expenses such Party incurs in any legal proceeding, or other matter for which such Party is entitled to be reimbursed for its legal costs, including reasonable attorneys' fees, court costs and expenses and consultant and expert witness fees and expenses) which may be determined by the court in the same action or in a separate action brought for that purpose.

19. Successors and Assigns. The terms, conditions and provisions of this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns. Should either Property Owner or Developer sell all or substantially all of its right, title and interest in the Property to another, then upon execution of an assignment and assumption agreement by such successor, Property Owner or Developer shall deliver to YLWD and, as of the date of delivery of such agreement to YLWD, be released from further obligations and responsibilities under this Agreement, including but not limited to Section 8 (Indemnity). Property Owner and Developer shall defend and indemnify YLWD against claim or challenge to YLWD's rights to enforce this Agreement against Property Owner and Developer's successors and assigns.

20. No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person or entity other than the Parties and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any third person to any Party or give any third person any right of subrogation or action over or against any Party.

21. Authorization. Each Party hereby warrants that it has the authority and is duly authorized to execute this Agreement.

22. Time is of the Essence. Time is of the essence in all aspects of the performance of the obligations under this Agreement.

23 Determination of Time. If the last day for the performance of any act provided or required by this Agreement is a holiday, Friday, Saturday, or Sunday, then that period is hereby extended to and including the next day that is not a holiday, Friday, Saturday, or Sunday.

24. Force Majeure. Upon written notice by a Party, the respective duties and obligations of the Parties hereunder (except for the Parties' rights and obligations under Section 5.D.) shall be suspended for the time period that performance of the Parties is prevented or impeded by work force strikes, riots, fire, flood, state or county regulatory action, war, or terrorism.

25. Term. This Agreement shall be operable for ten (10) years from the Agreement Date. YLWD and Developer will negotiate in good faith thereafter to make necessary changes to conform this Agreement to then existing YLWD standards, practices, and policies.

26. Recordation. This Agreement shall be recorded with the Orange County Recorder's Office.

(signatures on the following page)

EXHIBIT E

SIGNATURE PAGE TO:

CIELO VISTA PROJECT
WATER AND SEWER FACILITIES
AGREEMENT

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first written above.

Yorba Linda Water District,
a public agency
("YLWD")

By: Marc Marcantonio

Print: Marc Marcantonio

Title: General Manager

North County BRS Project, LLC,
a Delaware limited liability company
("Developer")

By: Robert W. Smith

Print: Robert W. Smith

Title: Managing Member

APPROVED AS TO FORM:

Kidman Gagen Law, LLP

By: [illegible]

Andrew B. Gagen, General Counsel

APPROVED AS TO FORM:

Jackson Tidus, A Law Corp.

By: Michele A. Staples

Michele Staples, Attorneys for Developer

EXHIBIT E

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On August 1, 2018 before me, Annie Alexander, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Marc Marcantonio
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

ANNIE ALEXANDER
Commission # 2130167
Notary Public - California
Orange County
My Comm. Expires Nov 10, 2019

Signature Annie Alexander
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Cielo Vista Project Water and Sewer Facilities Agreement Document Date: August 1, 2018
Number of Pages: 26 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Marc Marcantonio
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☑ Other: General Manager
Signer Is Representing: Yorba Linda Water District

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

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EXHIBIT E

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF Orange)

On July 19, 2018, before me, Phillip Palazuelos, a Notary Public, personally appeared Robert W. Smith
who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature(s) on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: _____

PHILLIP PALAZUELOS
Notary Public - California
Orange County
Commission # 2154041
My Comm. Expires Jun 17, 2020

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 20___, before me, _____, a Notary Public, personally appeared _____
who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature(s) on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

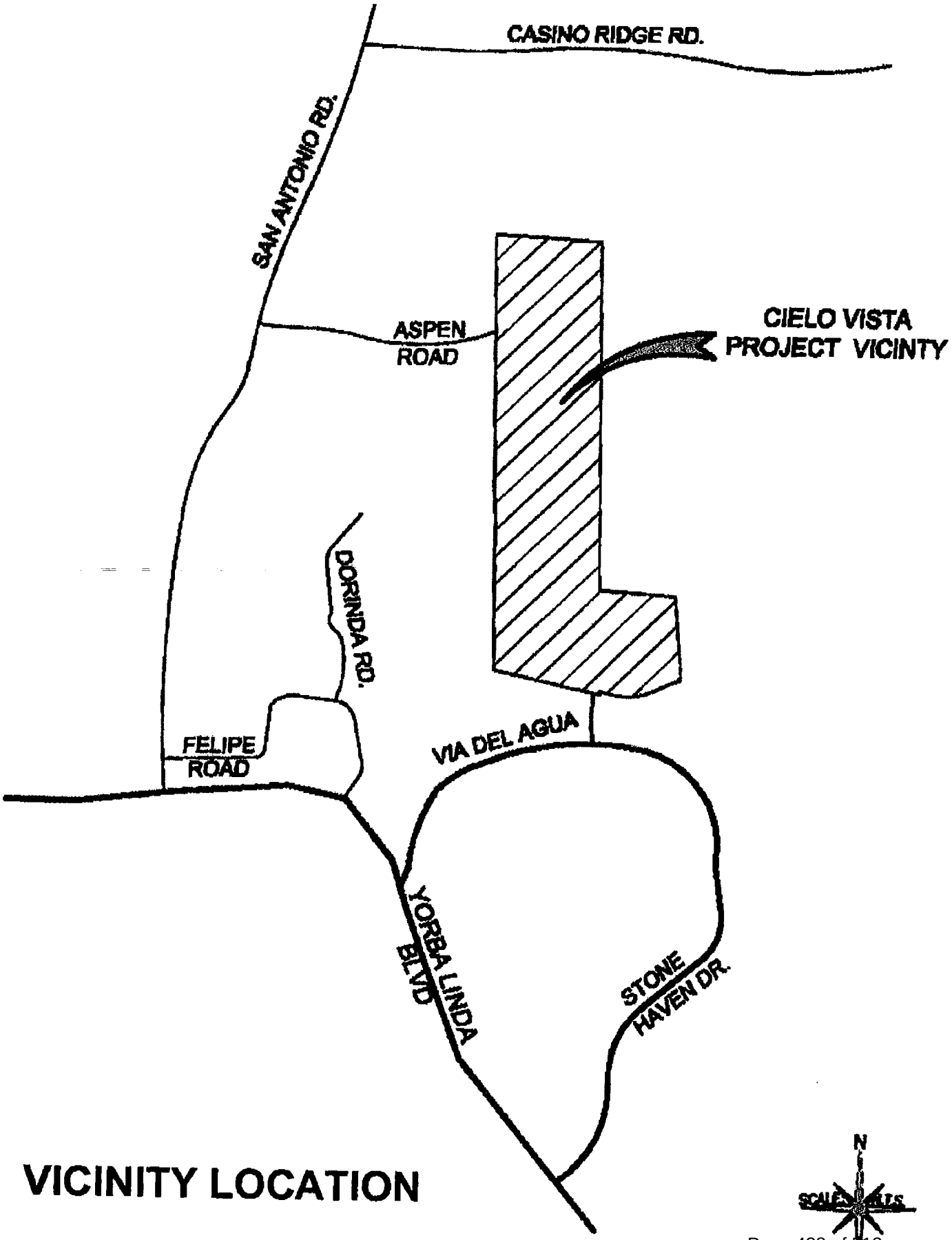
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

EXHIBIT E

EXHIBIT "A"



VICINITY LOCATION

EXHIBIT E

EXHIBIT "B"
LEGAL DESCRIPTION

PARCEL 1:

Real property in the unincorporated area of the County of Orange, State of California, described as follows:

THAT PORTION OF THE RANCHO CANON DE SANTA ANA, AS SHOWN ON A MAP ATTACHED TO THE FINAL DECREE OF PARTITION RECORDED FEBRUARY 8, 1874 IN BOOK 28, PAGE 158 OF DEEDS, RECORDS OF LOS ANGELES COUNTY, CALIFORNIA, ALSO BEING A PORTION OF THE CARRILLO RANCH PROPERTY AS SHOWN ON A MAP FILED IN BOOK 37, PAGE 33 OF RECORD OF SURVEYS IN THE OFFICE OF THE COUNTY RECORDER OF ORANGE COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WESTERLY LINE OF SAID CARRILLO RANCH PROPERTY, DISTANT NORTH 2° 02' 20" WEST 5363.01 FEET FROM THE NORTHERLY LINE OF THE ATCHISON TOPEKA AND SANTA FE RAILWAY COMPANY'S 100.00 FOOT STRIP OF LAND, AS SHOWN ON SAID RECORD OF SURVEYS MAP; THENCE SOUTH 87° 54' 37" EAST 787.19 FEET TO A POINT IN THE EASTERLY LINE OF SAID CARRILLO RANCH PROPERTY, DISTANT NORTH 6° 40' 31.3" WEST 4579.01 FEET FROM THE INTERSECTION OF SAID EASTERLY LINE WITH THE CENTERLINE OF THE CAJON CANAL OF THE ANAHEIM UNION WATER COMPANY, AS SHOWN ON SAID RECORD OF SURVEYS MAP; THENCE NORTH 6° 40' 31.3" WEST ALONG SAID EASTERLY LINE, 2065.93 FEET; THENCE NORTH 87° 54' 37" WEST 619.76 FEET TO A POINT IN SAID WESTERLY LINE, DISTANT NORTH 2° 02' 20" WEST 2047.12 FEET FROM THE POINT OF BEGINNING; THENCE SOUTH 2° 02' 20" EAST ALONG SAID WESTERLY LINE, 2047.12 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THAT PORTION LYING SOUTHERLY OF THE CENTERLINE OF THE 100.00 FOOT WIDE STRIP OF LAND AS DESCRIBED IN THE PERMANENT EASEMENT TO THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, RECORDED JANUARY 12, 1960 IN BOOK 5049, PAGE 316 OF OFFICIAL RECORDS OF SAID ORANGE COUNTY.

ALSO EXCEPTING THEREFROM, THE INTEREST IN AND TO ALL OIL AND OIL RIGHTS, IN, ON AND APPURTENANT TO SAID LAND, AS EXCEPTED IN THE JUDGMENT IN PARTITION RECORDED MAY 26, 1958 IN BOOK 4297, PAGE 93 OF SAID OFFICIAL RECORDS.

THE SURFACE RIGHTS TO A DEPTH OF 500 FEET WERE QUITCLAIMED BY INSTRUMENTS OF RECORD.

APN: 351-031-05

PARCEL 2:

Real property in the unincorporated area of the County of Orange, State of California, described as follows:

PARCEL 2, AS SHOWN ON EXHIBIT "B" ATTACHED TO THAT CERTAIN APPLICATION FOR LOT LINE ADJUSTMENT NO. 87-10" RECORDED JULY 25, 1988 AS INSTRUMENT NO. 88-358348 OF OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA.

APN: 351-031-17

EXHIBIT E

EXHIBIT "C"

CIELO VISTA (SAGE) DEVELOPMENT 04/03/18

EXISTING WATER FACILITIES COST ALLOCATIONS J2009-24

Development	MDD[1]	Unit	No. of Lots[2]		
Cielo Vista	53.5	GPM	80		

No./Component	Facility	Capacity (GPM)	Capital Cost Estimate[3]	Proportional Capacity	Proportional Cost
1) Well	Well 20	3,000	$ 2,400,000	1.8%	$ 42,800
2) RR W20 TM	20 - 36" TM	16,000	$ 6,505,800	0.3%	$ 21,754
3) Z1-2 BPS	High BPS	18,000	$ 6,000,000	0.3%	$ 17,833
4) Z2 TM	30" TM	11,000	$ 2,995,200	0.5%	$ 14,568
5) Z2 TM	2-16" TMs	5,000	$ 3,196,800	1.1%	$ 34,206
6) Z2-3 BPS	YLB BPS	5,000	$ 2,760,000	1.1%	$ 29,532
7) Z3 TM	YLB 20" TM	5,000	$ 2,040,000	1.1%	$ 21,828
8) YLBTM-FR 1	16" TM	3,200	$ 738,000	1.7%	$ 12,338
9) YLBTM-FR 2	27" TM	9,000	$ 921,600	0.6%	$ 5,478
10) Z3-4 BPS	Fairmont BPS	5,000	$ 8,400,000	1.1%	$ 89,880
Water Total					$ 290,217

Footnotes:

1) ADD = 58 AFY (651 GPD x 80 units) = 36.2 GPM; MDD = 36.2 GPM X 1.48 = 53.5 GPM (provided by Developer's Consultant & confirmed by YLWD)

2) No. of lots confirmed by Developer.

3) Includes 20% for Engineering, Construction Management, Administrative and Overhead expenses.

EXHIBIT E

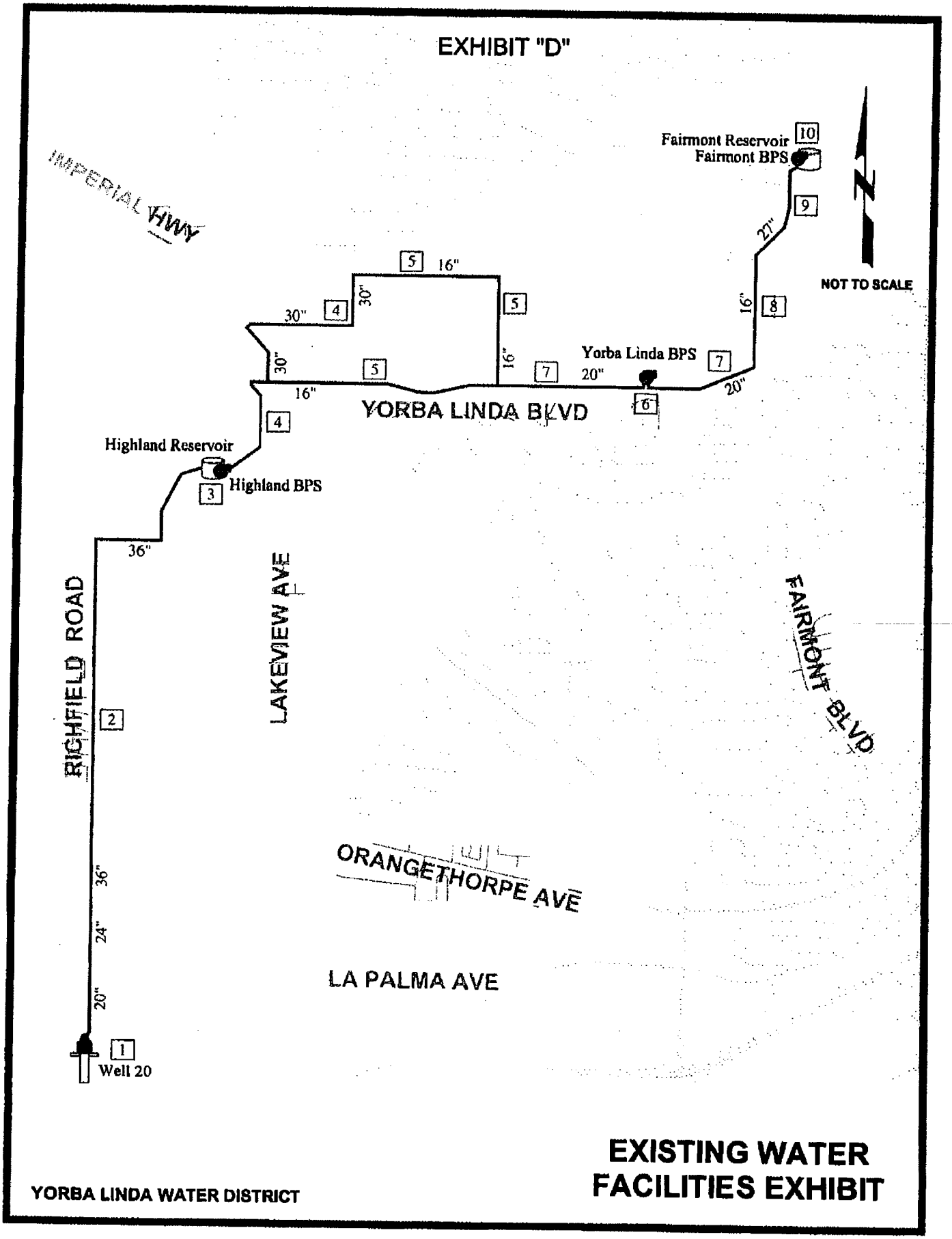


EXHIBIT "D"
IMPERIAL HWY
Fairmont Reservoir
Fairmont BPS
10
9
27"
NOT TO SCALE
5
16"
30"
4
30"
5
16"
8
30"
5
16"
7
Yorba Linda BPS
20"
7
20"
6
YORBA LINDA BLVD
4
Highland Reservoir
Highland BPS
3
36"
RICHFIELD ROAD
LAKEVIEW AVE
FAIRMONT BLVD
2
ORANGETHORPE AVE
36"
24"
20"
LA PALMA AVE
1
Well 20
YORBA LINDA WATER DISTRICT
EXISTING WATER
FACILITIES EXHIBIT

EXHIBIT E

EXHIBIT "E"

ESPERANZA HILLS ESTATES (EHE) AND CIELO VISTA (SAGE) DEVELOPMENTS 01/31/18
EXISTING SEWER FACILITIES COST ALLOCATIONS J2009-24S

Table 1: Projected Sewer Flowrates[1]

Development	Flowrate[1]	Unit	No. of Lots[2]	% of Lots
Total	0.3100	CFS	420	
Cielo Vista	0.0590	CFS	80	19.05
EHE	0.2509	CFS	340	80.95

Table 2: Proportional Costs

Component	Pipe Size (inches)	Capacity[3] (CFS)	Capital Cost Estimate[4]	Proportional Capacity	Proportional Cost
Sewermain	10	1.88	$ 1,058,198	16.5%	$ 174,100
Sewermain	12	0.95	$ 586,874	32.8%	$ 192,407
Sewermain	15	4.51	$ 1,901,088	6.9%	$ 130,589
Sewermain	18	6.56	$ 1,618,200	4.7%	$ 76,426
Total					**$ 573,521**
CV (19.05% Share)					**$ 109,242**
EHE (80.95% Share)					**$ 464,279**

Table 3: Sewer Pipe Capacity

Pipe Size (inches)	Minimum Slope	Cental Angle (radians)	Flow Area (square feet)	Wetted Perimeter (feet)	Hydraulic Radius (feet)	Capacity (CFS)
10	0.0252	3.1416	0.2727	1.3090	0.2083	1.88
12	0.0024	3.1416	0.3927	1.5708	0.2500	0.95
15	0.005	4.1888	0.9873	2.6180	0.3771	4.51
18	0.004	4.1888	1.4217	3.1416	0.4525	6.56

Table 4: Existing Sewermain Quantity and Costs

Pipe Size (inches)	Total Linear Feet (ft)	Unit ($/ft.)	Total ($)
10	2436	362	$ 881,832
12	1267	386	$ 489,062
15	3864	410	$ 1,584,240
18	3100	435	$ 1,348,500

Footnotes:

1) Flowrate=pk. flow from KWC Engineering sewer study, Table 4-1 note of 0.000369CFS/Lot X 2, modified for April 2015 estimated lots.

2) No. of lots confirmed by EHE on 06-24-15 and CV on 01/31/18.

3) Sewer pipe capacity is calculated based on Manning's formula for circular pipe as shown in Table 3.

4) Includes 20% for Engineering, Construction Management, Administrative and Overhead expenses.

EXHIBIT E

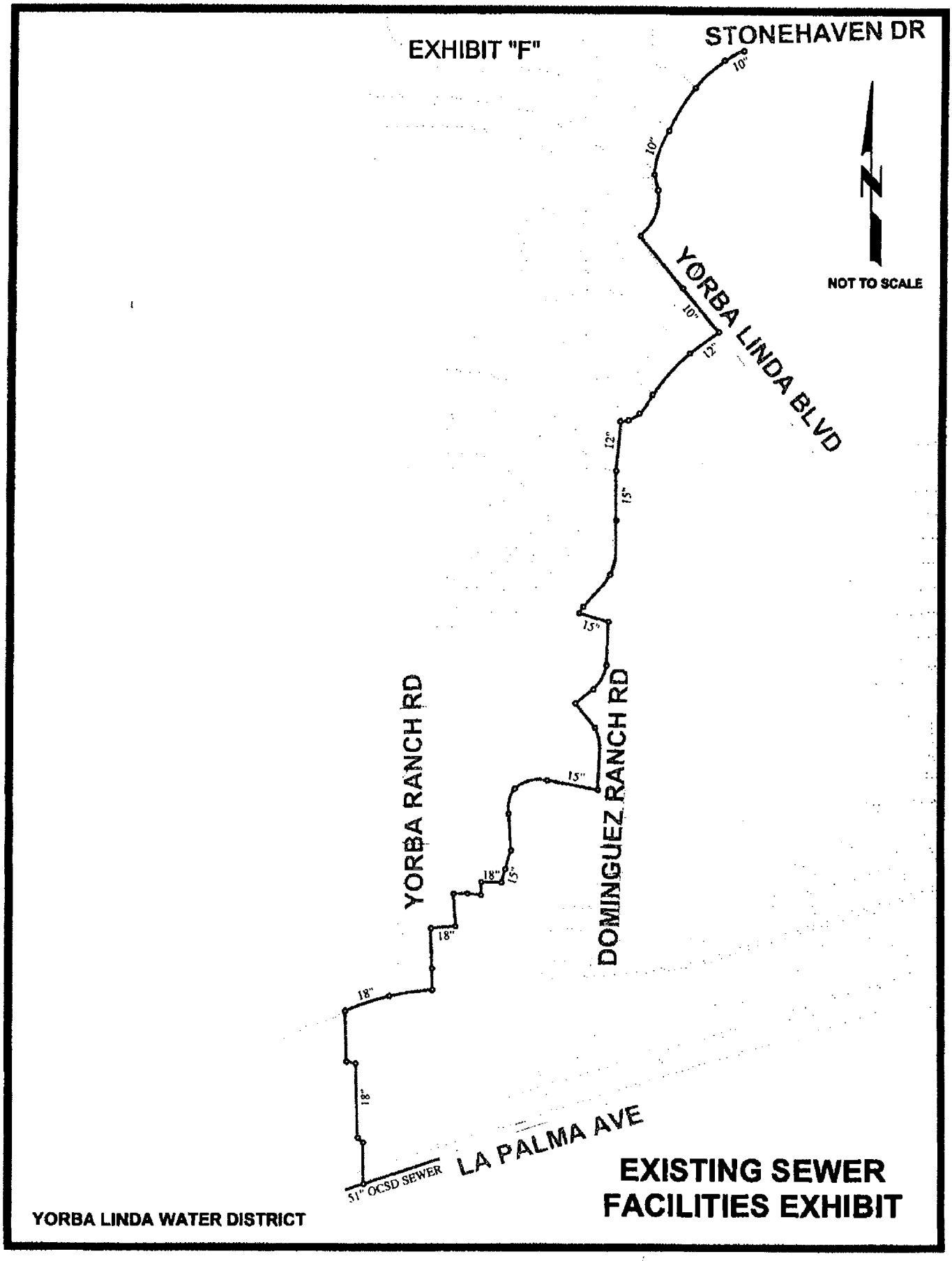


EXHIBIT "F"
STONEHAVEN DR
10"
10"
NOT TO SCALE
YORBA LINDA BLVD
10"
12"
12"
15"
15"
15"
YORBA RANCH RD
DOMINGUEZ RANCH RD
18"
15"
18"
18"
18"
LA PALMA AVE
51" OCSD SEWER
EXISTING SEWER
FACILITIES EXHIBIT
YORBA LINDA WATER DISTRICT

EXHIBIT E

EXHIBIT "G"

EXISTING OFFSITE FACILITIES FEE SUMMARY
AND EXISTING OFFSITE FACILITY IMPROVEMENTS

07/18/18
J2009-24

Existing Offsite Facilities Fee Summary	
Existing Water Allocation Fees	$ 290,217
Existing Sewer Allocation Fees	$ 109,242
Water & Sewer Total	$ 399,459
Annexation Fees[1]	$ 15,644
Total All Fees	**$ 415,103**
Fee per Dwelling Unit (80 DUs)	**$ 5,188.79**

AMI Facilities[4]	**$ 40,000**

Existing Offsite Facility Improvements			
Description	**Length (LF)**	**Cost per LF ($)**	**Cost**
12" Stonehaven Drive Watermain[2]	2,200	350	$ 770,000
Hidden Hills Pump Station Upgrades[3]			$ 500,000
Subtotal			**$ 1,270,000**

Total Fees + Offsite Costs ..... **$ 1,725,103**

Footnotes:

1) Annexation Fees per October 24, 2017 memorandum from Brett R. Barbre to John Lewis.

2) Stonehaven Watermain alignment from Stonehaven & Heatheridge Drive intersection to Project entrance assumed to be in Stonehaven Drive.

3) Hidden Hills Pump Station upgrade costs be be analyzed and confirmed by the Developer's engineer.

4) Fee for AMI Facilities to be paid within ten (10) days after the Effective Date and not included in Fee per Dwelling Unit.

EXHIBIT E

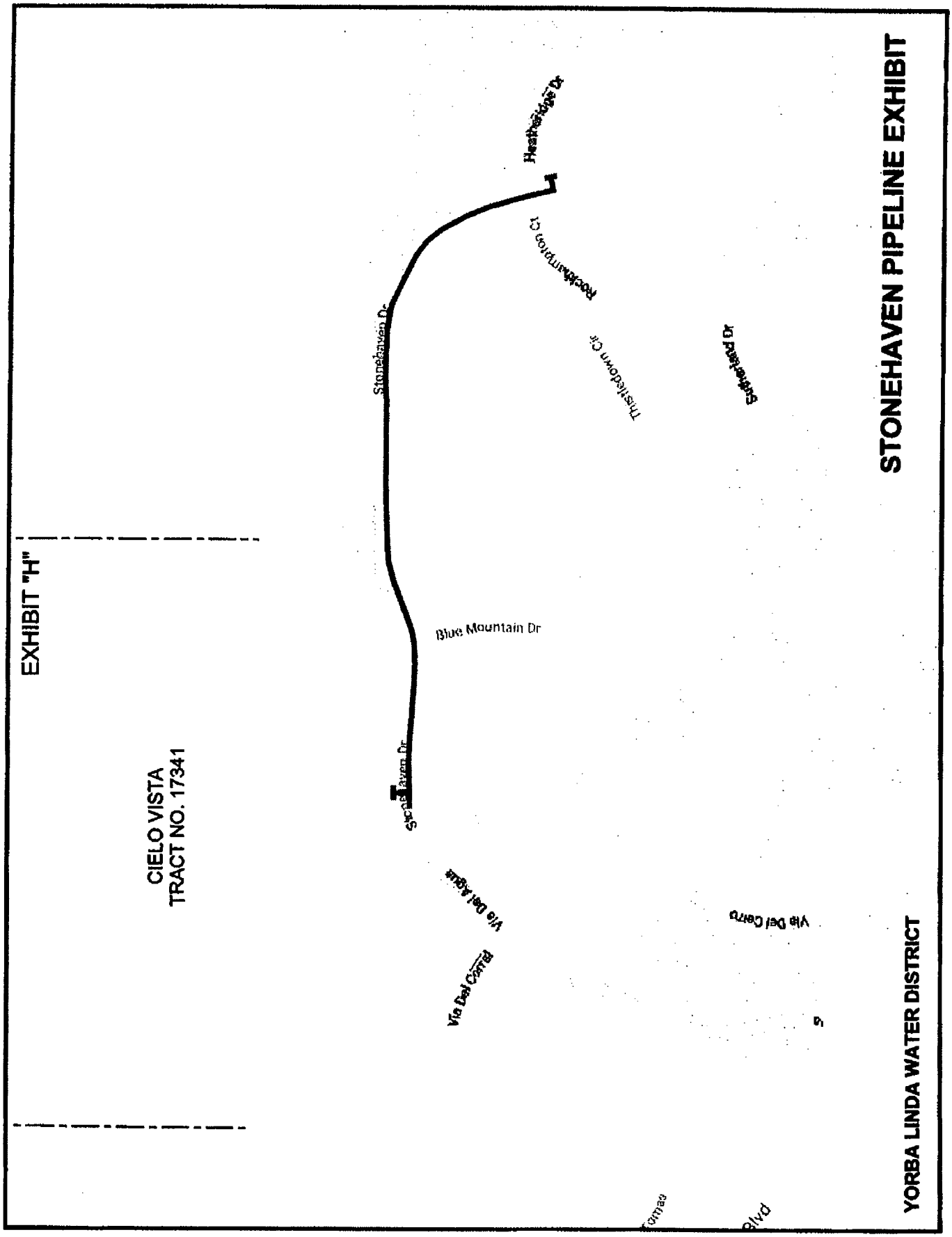

STONEHAVEN PIPELINE EXHIBIT
YORBA LINDA WATER DISTRICT
EXHIBIT "H"
CIELO VISTA
TRACT NO. 17341
Stonehaven Dr
Blue Mountain Dr
Stone Haven Dr
Via Del Agua
Via Del Centro
Via Del Cielo
Thistledown Cir
Rockhampton Ct
Heatherridge Dr
Blvd

EXHIBIT E

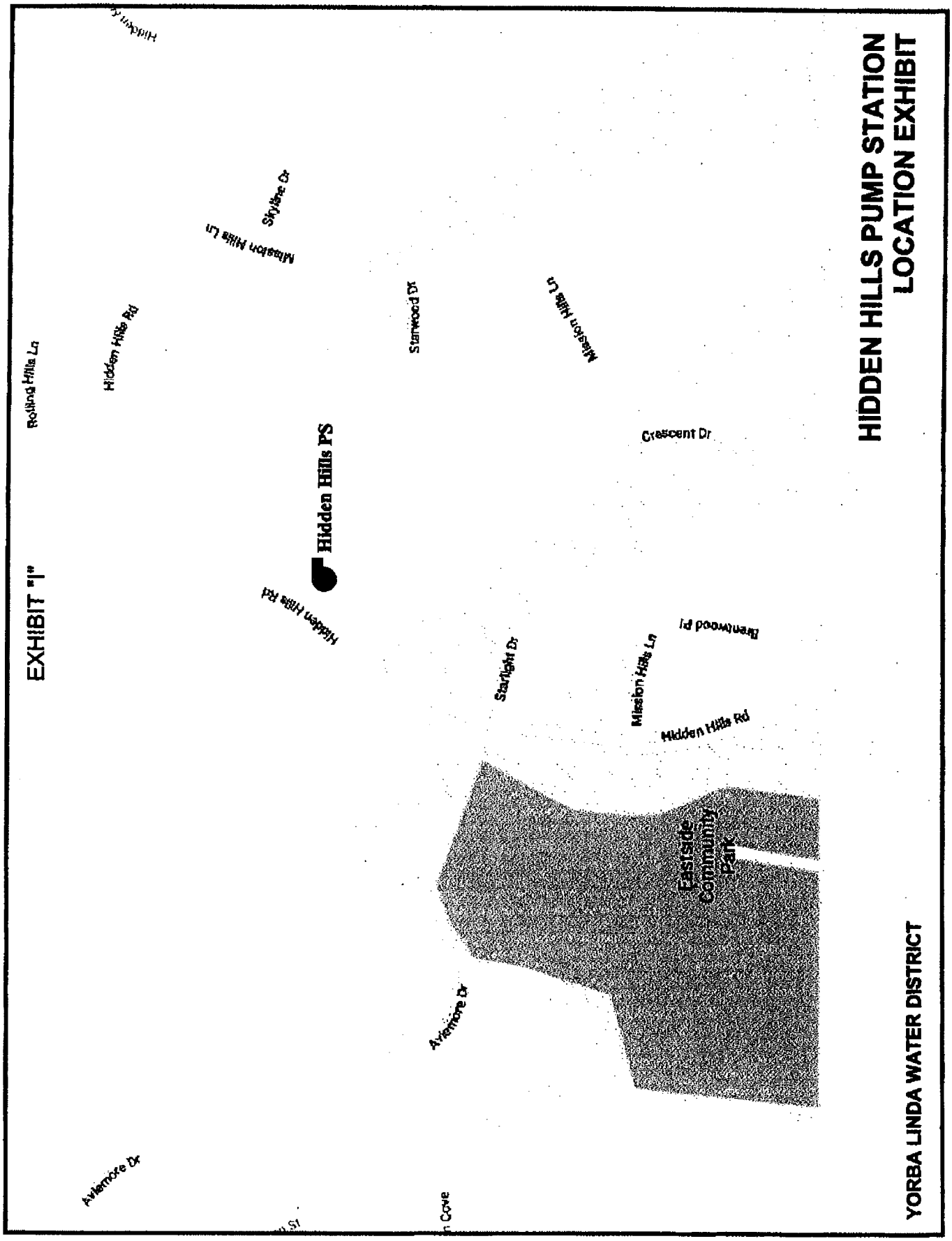


EXHIBIT "I"
Rolling Hills Ln
Hidden Hills Rd
Hidden Hills Rd
Hidden Hills PS
Mission Hills Ln
Skyline Dr
Starwood Dr
Mission Hills Ln
Crescent Dr
Starlight Dr
Brentwood Pl
Mission Hills Ln
Hidden Hills Rd
Eastside Community Park
Avlemore Dr
Avlemore Dr
HIDDEN HILLS PUMP STATION
LOCATION EXHIBIT
YORBA LINDA WATER DISTRICT

EXHIBIT E

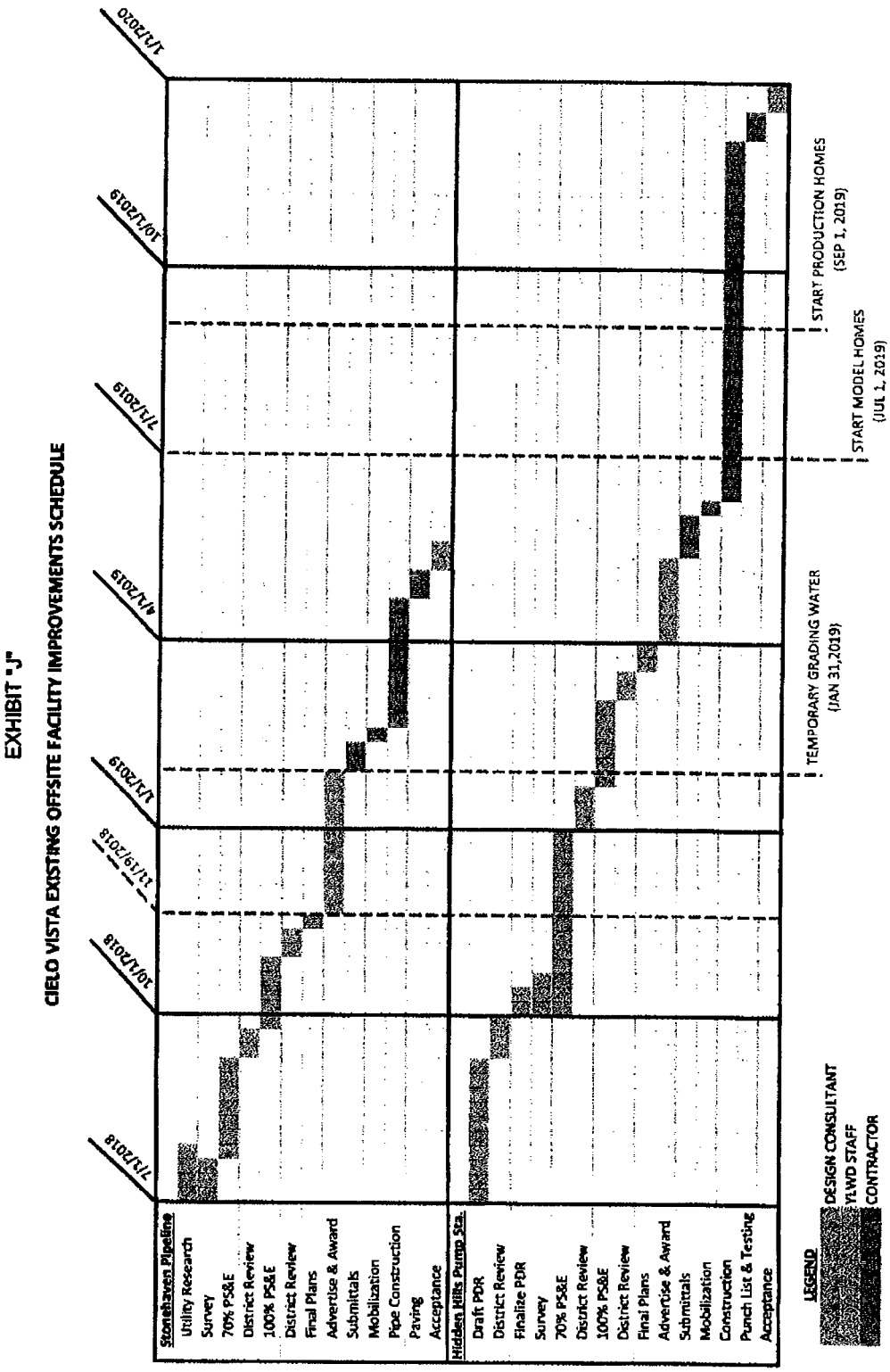


EXHIBIT "J"
CIELO VISTA EXISTING OFFSITE FACILITY IMPROVEMENTS SCHEDULE
7/1/2018
10/1/2018
12/19/2018
1/1/2019
4/1/2019
7/1/2019
10/1/2019
1/1/2020
Stonehaven Pipeline
Utility Research
Survey
70% PS&E
District Review
100% PS&E
District Review
Final Plans
Advertise & Award
Submittals
Mobilization
Pipe Construction
Paving
Acceptance
Hidden Hills Pump Sta.
Draft PDR
District Review
Finalize PDR
Survey
70% PS&E
District Review
100% PS&E
District Review
Final Plans
Advertise & Award
Submittals
Mobilization
Construction
Punch List & Testing
Acceptance
TEMPORARY GRADING WATER
(JAN 31,2019)
START MODEL HOMES
(JUL 1, 2019)
START PRODUCTION HOMES
(SEP 1, 2019)
LEGEND
DESIGN CONSULTANT
YLWD STAFF
CONTRACTOR

EXHIBIT "K"

Schedule for YLWD to Provide Access to Water

1. Project Rough Grading: YLWD shall provide temporary access to water for the Property through existing hydrants as necessary for Developer to commence Project rough grading, which is projected to commence January 31, 2019. YLWD shall provide temporary access to water for the Property through existing hydrants for dropping lumber, residential framing and construction of the remainder of project homes, subject to the water conveyance system's ability to meet the Orange County Fire Authority's fire flow requirements for all existing and proposed onsite residential construction.

2. Drop Lumber and Residential Framing for Model Homes: Before any lumber drop for project framing and construction of the model homes, the Stonehaven water main (illustrated on **Exhibit "H"**) and the Subdivision Facilities up to the hydrant(s) serving the model homes shall be constructed, complete and operational, tested and approved by YLWD. The Parties shall use all commercially reasonable efforts as necessary for YLWD to complete the Stonehaven water main in time to provide access to construction water for lumber drop and residential framing of the model homes by July 1, 2019. In addition to the scheduling contingencies in Section 5.B.iii. above, this schedule is also contingent upon Psomas completing the Stonehaven water main final design plans and specifications, and receiving YLWD acceptance by November 19, 2018. Subject to the Effective Date described in Section 2 and the scheduling contingencies in Section 5.B.iii. above, if YLWD's acceptance occurs later than November 19, 2018, the date for YLWD to provide construction water for lumber drop and residential framing of the model homes shall be extended by the same time period as such delay in YLWD's acceptance date or to any earlier date mutually agreeable to YLWD and Developer.

3. Drop Lumber, Residential Framing and Construction of Remainder of Project homes: The Developer may construct the Project's residential homes in phases. Before any lumber drop for framing and construction of the residential homes in each Project phase, the segment of the Subdivision Facilities serving such phase of residential homes shall be constructed, complete and operational, tested and approved by YLWD, and the Hidden Hills Pump Station improvements (illustrated on **Exhibit "I"**) shall be under construction. The Parties shall use all commercially reasonable efforts as necessary for YLWD to commence construction of the Hidden Hills Pump Station improvements in time to be under construction prior to lumber drop and residential framing of the first phase of Project homes by September 1, 2019. In addition to the scheduling contingencies in Section 5.B.iii. above, this schedule is also contingent upon Psomas completing the Hidden Hills Pump Station final design plans and specifications, and receiving YLWD acceptance by April 1, 2019. Subject to the Effective Date described in Section 2 and the scheduling contingencies in Section 5.B.iii. above, if YLWD's acceptance occurs later than April 1, 2019, the date for YLWD to commence construction of the Hidden Hills Pump Station improvements in time to be under construction prior to lumber drop and residential framing of the first phase of Project homes shall be extended by the same time period as such delay in YLWD's acceptance date or to any earlier date mutually agreeable to YLWD and Developer.

EXHIBIT "L"

Scope of Work

for

Existing Off-Site Facility Improvements

Stonehaven Pipeline – Construct approximately 2,200 linear feet of 12-inch diameter pipeline from Heatheridge Drive to proposed Cielo Vista entrance just east of Via de la Roca including connection to existing Santiago Reservoir 1000 Zone pipeline at Heatheridge Drive and connection to on-site subdivision pipeline at Cielo Vista entrance and ancillary valving and appurtenances.

Hidden Hills Pump Station Improvements – Replace existing 250 GPM jockey pump, motor and appurtenances with an 1,800 GPM pump and motor equipped with a variable frequency drive (VFD). Improvements will also include replacing portions of existing suction and discharge pipelines to maintain appropriate maximum hydraulic velocities through the station and may also include enlarging the building to provide adequate room for the new electrical equipment and VFD. A new, larger SCE transformer will also likely be required. A preliminary design report will be prepared, submitted to YLWD staff and reviewed and approved to confirm the exact scope but these are the minimum requirements. If YLWD decides to include additional improvements such as an emergency generator set and new automatic transfer switching gear, those additional improvements will be financed by YLWD.

EXHIBIT "G.1"

EXISTING OFFSITE FACILITIES FEE SUMMARY AND EXISTING OFFSITE FACILITY IMPROVEMENTS

Existing Offsite Facilities Fee Summary	
Existing Water Allocation Fees	$ 290,217
Existing Sewer Allocation Fees	$ 109,242
Water & Sewer Total	$ 399,459
Annexation Fees[1]	$ 15,644
Total All Fees	**$ 415,103**
Fee per Dwelling Unit (80 DUs)	**$ 5,188.79**

Existing Offsite Facility Improvements			
Description	**Length (LF)**	**Cost per LF ($)**	**Cost**
12" Stonehaven Drive Watermain[2]	2,200	350	$ 770,000
Hidden Hills Pump Station Upgrades[3]			$ 500,000
Subtotal			$ 1,270,000

Total Fees + Offsite Costs ..... **$ 1,685,103**

Footnotes:

1) Annexation Fees per October 24, 2017 memorandum from Brett R. Barbre to John Lewis.

2) Stonehaven Watermain alignment from Stonehaven & Heatheridge Drive intersection to Project entrance assumed to be in Stonehaven Drive.

3) Hidden Hills Pump Station upgrade costs be be analyzed and confirmed by the Developer's engineer.

EXHIBIT E

8/7/2019

EXHIBIT "J.1"

CIELO VISTA OFF-SITE WATER IMPROVEMENTS SCHEDULE

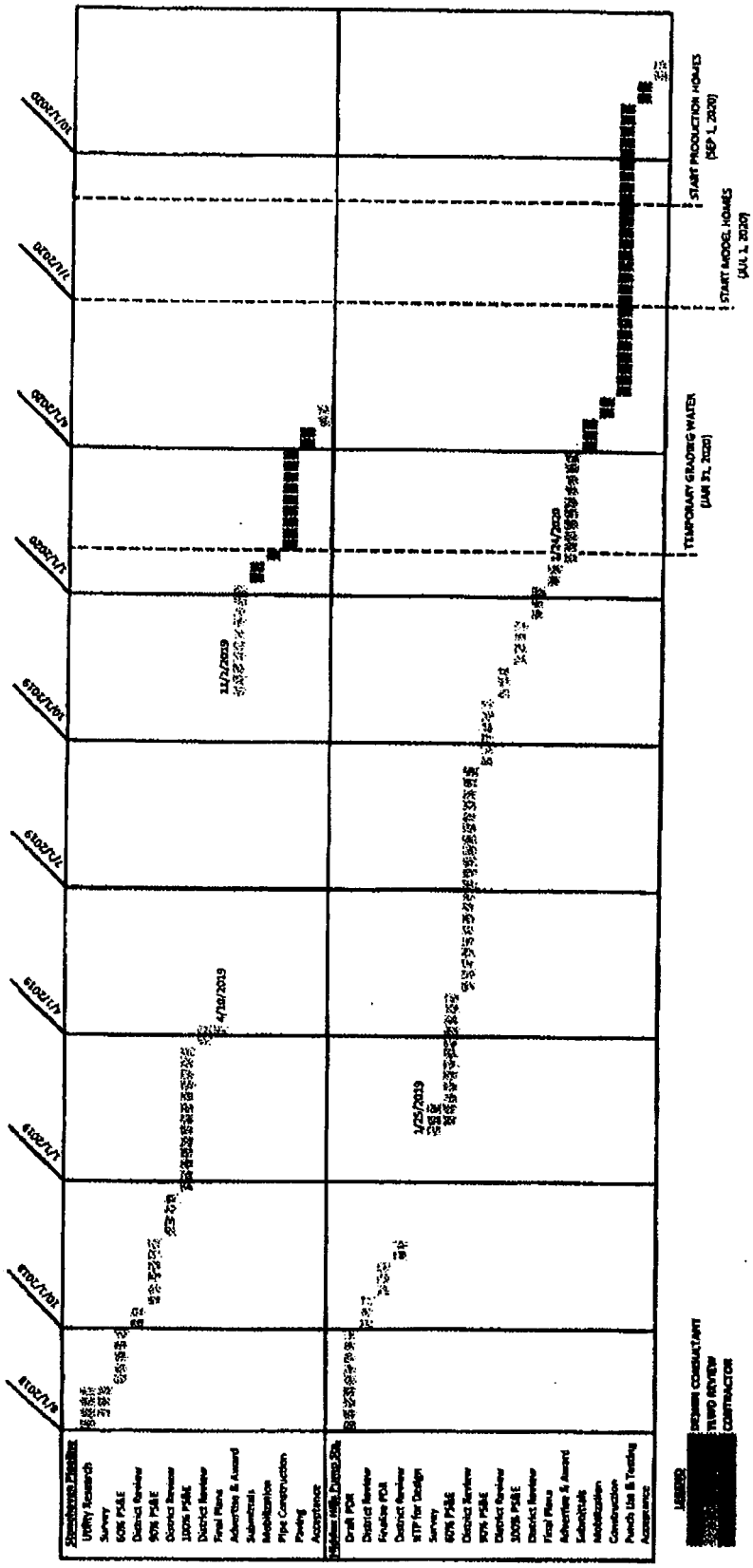


EXHIBIT "K.1"

Schedule for YLWD to Provide Access to Water

1. Project Rough Grading: YLWD shall provide temporary access to water for the Property through existing hydrants as necessary for Developer to commence Project rough grading, which is projected to commence January 31, 2020. YLWD shall provide temporary access to water for the Property through existing hydrants for dropping lumber, residential framing and construction of the remainder of Project homes, subject to the water conveyance system's ability to meet the Orange County Fire Authority's fire flow requirements for all existing and proposed onsite residential construction.

2. Drop Lumber and Residential Framing for Model Homes: Before any lumber drop for Project framing and construction of the model homes, the Stonehaven water main (illustrated on **Exhibit "H"**) and the Subdivision Facilities up to the hydrant(s) serving the model homes shall be constructed, complete and operational, tested and approved by YLWD. The Parties shall use all commercially reasonable efforts as necessary for YLWD to complete the Stonehaven water main in time to provide access to construction water for lumber drop and residential framing of the model homes by July 1, 2020. In addition to the scheduling contingencies in Section 5.B.iii in the original agreement, this schedule was also contingent upon Psomas completing the Stonehaven water main final design plans and specifications and receiving YLWD acceptance, which was completed and YLWD did provide such acceptance in April 2019. Based on typical construction practices and since it is ready to go to bid when necessary, the Stonehaven water main can be constructed in the same timeframe as the onsite water improvements for the Project and YLWD will make all efforts to coordinate the construction schedule of the Stonehaven water main with the Project onsite improvements such that it is operational by or before July 1, 2020.

3. Drop Lumber, Residential Framing and Construction of Remainder of Project Homes: The Developer may construct the Project's residential homes in phases. Before any lumber drop for framing and construction of the residential homes in each Project phase, the segment of the Subdivision Facilities serving such phase of residential homes shall be constructed, complete and operational, tested and approved by YLWD, and the Hidden Hills Pump Station improvements (illustrated on **Exhibit "I"**) shall be under construction. The Parties shall use all commercially reasonable efforts as necessary for YLWD to commence construction prior to lumber drop and residential framing of the first phase of Project homes by September 1, 2020. In addition to the scheduling contingencies in Section 5.B.iii in the original agreement, this schedule is also contingent upon Psomas completing the Hidden Hills Pump Station final design plans and specifications, and receiving YLWD acceptance by April 1, 2020. Subject to the Effective Date described in Section 2 and scheduling contingencies in Section 5.B.iii of the original agreement, if YLWD's acceptance occurs later than April 1, 2020, the date for YLWD to begin advertising the Hidden Hills Pump Station for bids in time to be under construction prior to lumber drop and residential framing of the first phase of Project homes shall be extended by the same time period as such delay in YLWD's acceptance date or to any earlier date mutually agreeable to YLWD and Developer.

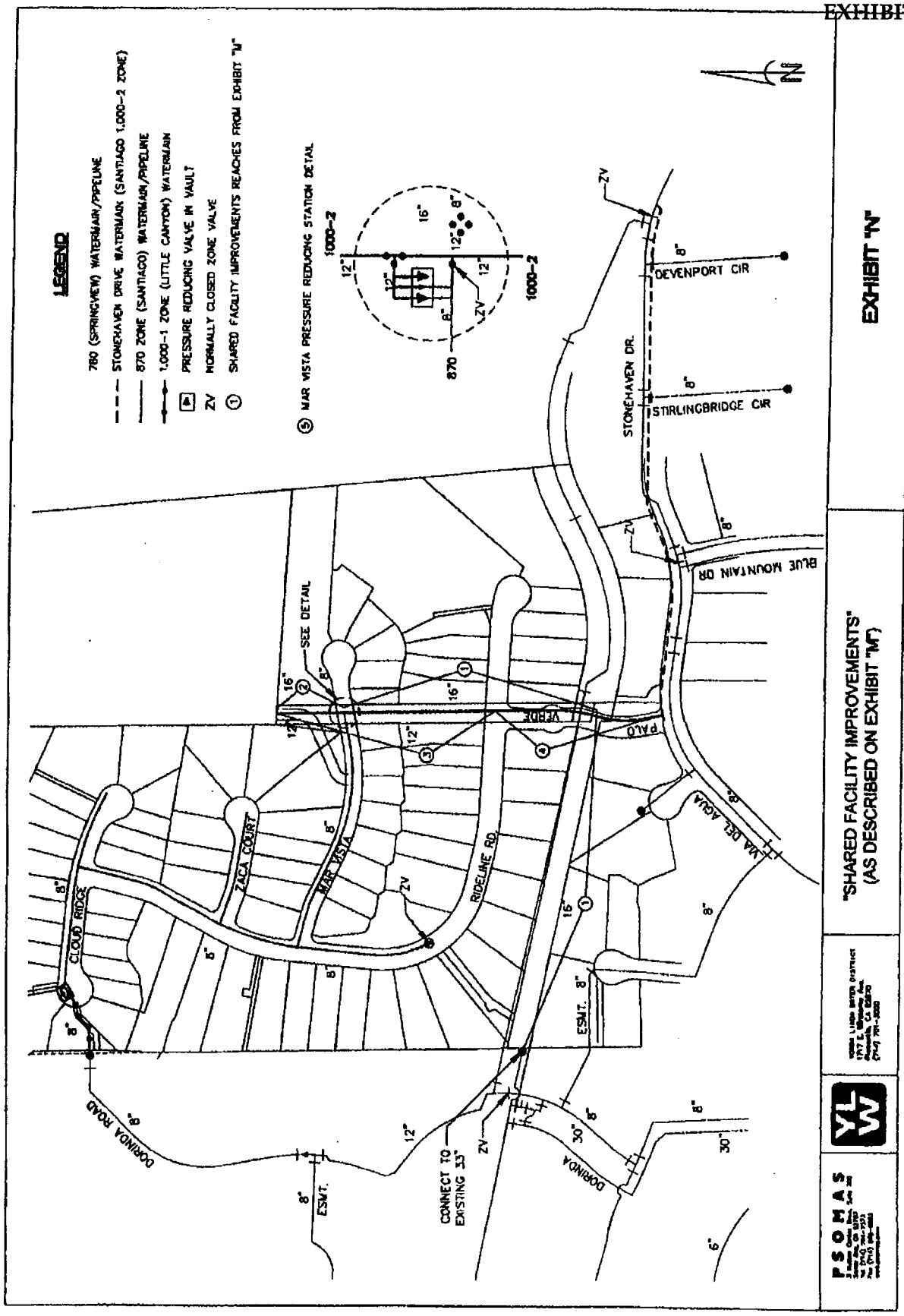
EXHIBIT E

EXHIBIT "M"

WATER FACILITIES TO BE CONSTRUCTED BY CIELO VISTA BENEFITING EHE "SHARED FACILITY IMPROVEMENTS"

Item	Facility Description	Approx. Length (lf)
1	16" 780 Zone Pipeline in YLWD/MWD Easement, Palo Verde, and Easement - Cielo Vista Boundary to Mar Vista	1,600
2	16" 780 Zone Pipeline in Easement - Mar Vista north to EHE Boundary	180
3	12" 1000-2 Zone Pipeline in Easement - Rideline Road north to EHE Boundary	560
4	Oversizing Cost of 8" to 12" 1000-2 Zone Pipeline in Palo Verde and Easement - Stonehaven Drive to Rideline Road	470
5	Pressure Reducing Station at Mar Vista (1 of 3 PRVs in Station is for 780 Zone emergency supply)	NA

EXHIBIT E


LEGEND
760 (SPRINGVIEW) WATERMAIN/PIPELINE
STONEHAVEN DRIVE WATERMAIN (SANTIAGO 1,000-2 ZONE)
870 ZONE (SANTIAGO) WATERMAIN/PIPELINE
1,000-1 ZONE (LITTLE CANYON) WATERMAIN
PRESSURE REDUCING VALVE IN VAULT
ZV NORMALLY CLOSED ZONE VALVE
① SHARED FACILITY IMPROVEMENTS REACHES FROM EXHIBIT "M"
⑤ MAR VISTA PRESSURE REDUCING STATION DETAIL
1000-2
870
ZV
SEE DETAIL
CLOUD RIDGE
ZACA COURT
MAR VISTA
RIDGELINE RD
VERDE
PALO
DEVENPORT CIR
STONEHAVEN DR.
STIRLINGBRIDGE CIR
BLUE MOUNTAIN DR
MA DEL AGUA
DORINDA ROAD
DORINDA
ESMT.
CONNECT TO EXISTING 33"
EXHIBIT "N"
"SHARED FACILITY IMPROVEMENTS"
(AS DESCRIBED ON EXHIBIT "M")
PSOMAS

Attachment 8 -
Santa Ana Certificate of Completion

RECORDING REQUESTED BY:
ORANGE COUNTY LOCAL AGENCY
FORMATION COMMISSION

AND WHEN RECORDED MAIL TO:
ORANGE COUNTY LAFCO
2677 N. MAIN ST.
SUITE 1050
SANTA ANA, CA 92705

Recorded in Official Records, Orange County
Hugh Nguyen, Clerk-Recorder
NO FEE
* $ R 0 0 1 1 3 8 4 0 6 6 $ *
2019000551035 11:23 am 12/31/19
62 417 C16 59
0.00 0.00 0.00 0.00 174.00 0.00 0.000.000.00 0.00

THIS SPACE FOR RECORDER'S USE ONLY

CERTIFICATE OF COMPLETION

LAFCO

Orange County Local Agency Formation Commission

Pursuant to Government Code Section 27383, because the Local Agency Formation Commission is a government agency, no filing fee shall be charged for the filing of this document.

Pursuant to Government Code Section 57200, this Certificate is issued by the Executive Officer of the Local Agency Formation Commission of Orange County, California.

1. The short-term designation, as determined by LAFCO, is:

   Reorganization of the 17th Street and Tustin Unincorporated Island to the City of Santa Ana and Municipal Water District of Orange County (RO 19-07)

2. The name of each district or city involved in this change of organization and the kind of type of change of organization ordered for each city or district as follows:

   CITIES/COUNTY: City of Santa Ana / County of Orange
   TYPE OF CHANGE: Reorganization

3. The above listed cities and district are located within the following county:
   County of Orange

4. A description of the boundaries of the above cited change of organization is shown on the attached vicinity map (See Attachment A) and by this reference incorporated herein.

5. The territory is inhabited.

6. The County and City respectively approved the "Cooperative Agreement between the City of Santa Ana and the County of Orange for the Reorganization of the 17th and Tustin Unincorporated Island to the City of Santa Ana and Municipal Water District of Orange County" (Attachment B), which specifies that the City shall receive a one-time compensation to be used for public improvements and maintenance projects for the unincorporated island. Additionally, the cooperative agreement allows the County to continue to exercise permit and approval processing functions necessary to facilitate the development of two commercial buildings within the unincorporated island.

7. The City of Santa Ana and the City of Tustin approved the "Service Agreement by and between the City of Santa Ana and the City of Tustin Regarding Potable Water Service for Various Parcels of Unincorporated Real Property" (Attachment C), which allows the City of Tustin to provide water service to the entire Island.

8. The resolution (RO 19-07) ordering this reorganization subject to the following terms and conditions, was adopted on November 13, 2019, by the Local Agency Formation Commission (Attachment D).

   a) Detachment of the 17th Street Unincorporated Island from the Municipal Water District of Orange County.

   b) Upon annexation of the territory to the City, all right, title, and interest of the County, including the underlying fee title where owned by the County in any and all sidewalks, trails, landscaped areas, street lights, open space, signals, shall vest in the City of Santa Ana, except for those properties to be retained by the County and specifically listed by these conditions.

   c) Upon annexation of the territory, the City of Santa Ana shall be the owner of, and responsible for, all of the following property owned by the County at the time of annexation: public roads, adjacent slopes, street lights, traffic signals, mitigation sites that have not been accepted by regulatory agencies but exist or are located in public right-of-way and were constructed or installed as part of a road construction project within the annexed area and storm drains within street right-of-way and appurtenant slopes, medians and adjacent property. City of Santa Ana shall also be responsible for the ongoing mitigation, but not the ownership of, mitigation sites that were installed on other County property, such as flood control property that were installed as a condition of road construction projects in or associated with the road projects in the annexed area and mitigation site that is annexed to the City of Santa Ana.

   d) Upon the effective date of annexation, the City of Santa Ana shall do the following: (1) assume ownership and maintenance responsibilities for all drainage devices, storm drains and culverts, appurtenant facilities (except regional OCFCD flood control facilities for which OCFCD has a recorded flood control easement or ownership interest), site drainage, and all master plan storm drain facilities that are within the annexation area and are currently operated and maintained by the County of Orange; (2) accept and adopt the County of Orange Master Plan of Drainage

(MPD), if any, which is in effect for the annexation area. Orange County Public Works Department/Planning & Development Services/Subdivision & Infrastructures should be contacted to provide any MPD which may be in effect for the annexation area. Deviations from the MPD shall be submitted to the Manager of Flood Control Division, Orange County Public Works Department for review to ensure that such deviations will not result in diversions between watersheds and/or will not result in adverse impacts to OCFCD's flood control facilities; (3) administer flood zoning and Federal Emergency Management Agency floodplain regulations within the annexation area; (4) coordinate development within the annexation area that is adjacent to any existing flood control facilities for which OCFCD has a recorded flood control easement or owns fee interest, by submitting maps and proposals to the Manager of Flood Control Division, Orange County Public Works Department, for review and comment. If such facilities are in need of improvement to provide the required flood control and/or erosion protection for the development, require the developer to enter into an agreement with OCFCD for the design, review, construction, acceptance, and maintenance of such necessary flood control improvements, and; (5) for development proposals that are adjacent to regional drainage courses which are not owned or maintained by OCFCD, but are in need of improvements to provide the required flood control and/or erosion protection for the development, required the developer to enter into an agreement with OCFCD for the design, review, construction, acceptance, and maintenance of proposed regional flood control facilities.

e) The Commission waives protest proceedings in accordance with Government Code Section 56375.3.

f) Payment by the applicant of State Board of Equalization fees.

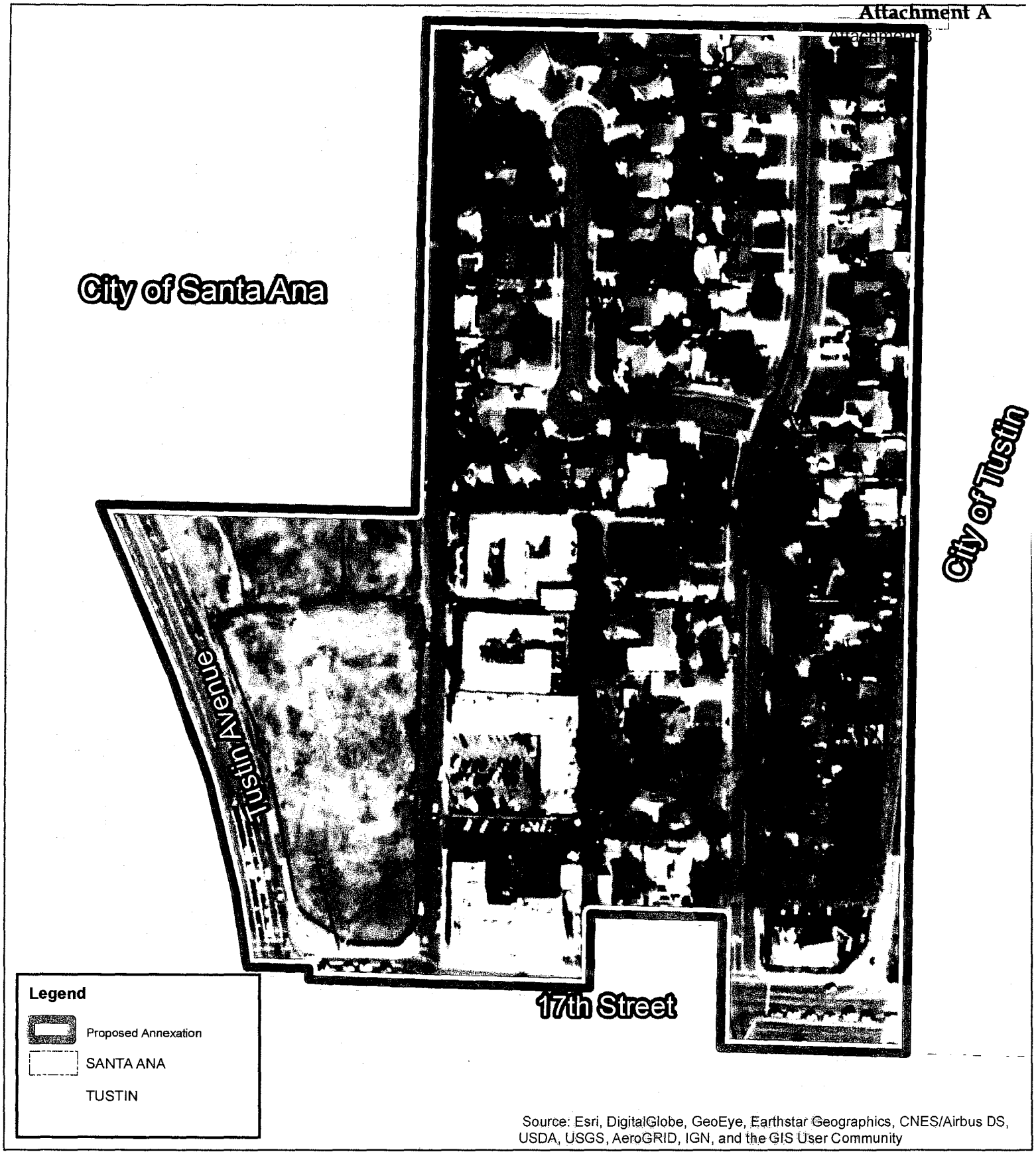
g) The applicant agrees to defend, hold harmless and indemnify OC LAFCO and/or its agents, officers and employees from any claim, action or proceeding against OC LAFCO and/or its agents, officers and employees to attack, set aside, void or annul the approval of OC LAFCO concerning this proposal or any action relating to or arising out of such approval.

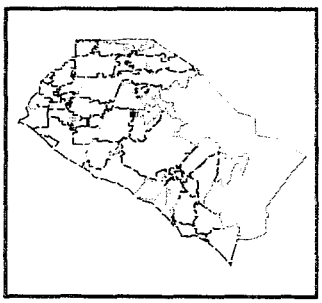
h) The effective date shall be the date of recordation.

I hereby certify that I have examined the resolution cited above, including any terms and conditions, and that they are true and complete copies.

Carolyn Emery
Executive Officer
Date: 12/31/19
Orange County Local Agency Formation Commission

Attachment A





Reorganization of 17th Street and Tustin Unincorporated Island to the City of Santa Ana and Municipal Water District of Orange County (RO 19-07)

Vicinity Map

N
W E
S

0 0.08 Miles

ORANGE COUNTY LAFCO EST. 1963

Attachment B

Return ORIGINAL
Executed Copy to COTC
(M-30/T1I)

SEP 05 2019

O: PBA (1)
Vince Fregoso

COOPERATIVE AGREEMENT BETWEEN THE CITY OF SANTA ANA AND THE COUNTY OF ORANGE FOR THE REORGANIZATION OF THE 17TH AND TUSTIN UNINCORPORATED ISLAND TO THE CITY OF SANTA ANA AND MUNICIPAL WATER DISTRICT OF ORANGE COUNTY (RO19-07)

THIS COOPERATIVE AGREEMENT ("Agreement"), dated September 3, 2019, between the CITY OF SANTA ANA ("CITY"), a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California, and the COUNTY OF ORANGE ("COUNTY"), a political subdivision of the State of California, (collectively referred to as the "PARTIES" herein) is based on the following:

RECITALS

A. The City is in the process of annexing an unincorporated County island consisting of approximately 25 acres and referred to as the 17th and Tustin Unincorporated Island ("Annexation Area") and detachment of the Annexation Area from the Municipal Water District of Orange County. The Annexation Area is described in **Exhibit 1** and depicted in **Exhibit 2.**

B. The Annexation Area more specifically includes 57 parcels in the COUNTY bearing Assessor's Parcel Numbers ("APNs") 396-303-01 to 396-303-28, 396-304-01 to 396-304-11, 396-312-13 to 396-312-15, 396-313-01 to 396-313-03, 396-313-06 to 396-313-11, and 396-314-01 to 396-314-06, as depicted on **Exhibit 3.**

C. Among the individual parcels in the Annexation Area, the John C. Hall Trust UAD is the fee title holder of three parcels with APN Nos. 396-312-13 to 396-312-15, which parcels are currently under COUNTY review, application number PA160055, for discretionary permits for development. There may be additional ministerial permit applications to be submitted to the County, and County shall continue to retain all planning, building, safety, and inspection authority until the point of occupancy (collectively the discretionary and ministerial permits are the "Development Project").

EXHIBIT 2

D. The CITY and COUNTY are public entities possessing the common power to conduct and evaluate applications for discretionary and ministerial permits for development, including, but not limited to, subdivision maps, conditional use permits, grading permits and building permits, and approvals related to the implementation, planning, and development of real property ("Development Approvals").

E. The CITY intends, by way of this Agreement and pursuant to California Government Code section 51300 et seq. to contract with the COUNTY for the performance of all Development Approvals for the Development Project. Subject to this Agreement, and as limited to the Development Project alone, the COUNTY will assume the authority for the Development Approvals.

F. In the event of a "jurisdictional change" as defined in California Revenue and Taxation Code section 99, prior to the effective date of any jurisdictional change, the affected agencies of such change shall negotiate the amount of property tax revenues to be exchanged.

G. The Parties have met and negotiated both a property tax exchange and other consideration, all of which is conditional upon the CITY'S annexation of the Annexation Area becoming final and effective.

AGREEMENT

NOW, THEREFORE, based on the foregoing and in consideration of the Parties' mutual agreements and promises hereinafter set forth, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. CITY'S ANNEXATION APPLICATION

Within 90 days of the execution of this Agreement, the CITY will file an application for and diligently pursue annexation of the Annexation Area with the Orange County Local Agency Formation Commission (OCLAFCO).

2. PROPERTY TAX EXCHANGE

Upon annexation of the Annexation Area and assumption of services by the CITY becoming final and complete, the COUNTY and CITY agree to an exchange of property taxes generated within the Annexation Area as follows:

a. The COUNTY shall receive 41.4715 percent and the CITY shall receive 58.5285 percent of the COUNTY's share of the 1 percent basic levy of property tax from the annexation, with the re-allocation taking effect after OCLAFCO approval of the annexation. These proportional shares shall remain as the allocation of tax revenues between the CITY and the COUNTY for the annexations for all future years unless the CITY and COUNTY agree by written Resolution to adjust the allocation proportions.

b. The CITY shall receive a one-time compensation of $711,814 to construct betterments in the Annexation Area, including Street Improvements ($397,314), Storm Drain Improvements ($187,500), and General Construction Costs ($127,000).

c. As the CITY contracts with the Orange County Fire Authority, the Structural Fire Fund shall remain unchanged.

3. PERFORMANCE OF DEVELOPMENT APPROVALS

For the Development Project alone, the CITY hereby conveys to the COUNTY authority and responsibility for the Development Approvals, as defined above and pursuant to Government Code section 51300, et seq. County shall have such authority and responsibility for the Development Project through issuance of the Certificates of Occupancy. The County shall exercise the Development Approvals in substantial compliance with: (I) conditions imposed by any State or local agency; and (II) legally enforceable restrictions and limitations on development of the Property.

4. DISSOLUTION OF ANNEXATION AREA

Except with respect to matters addressed in Sections 5 and 6 herein, the COUNTY shall dissolve the Annexation Area, with the CITY to assume the services for the area, and the CITY to receive a transfer of the one-time compensation amount specified in paragraph 2.b herein at the time of dissolution.

5. OPEN CODE ENFORCEMENT CASES

The COUNTY commits to making its best effort to close open code enforcement and building safety/planning cases prior to the date of annexation, with the understanding that CITY agrees that COUNTY shall be entitled to charge, receive and retain all code enforcement fine amounts, which shall be the COUNTY's sole consideration for all services performed in closing the open cases. For code enforcement cases that still remain open on the date of annexation, the COUNTY will administer the cases to completion, using COUNTY ordinances and code enforcement procedures.

6. PERMITS AND PLAN CHECKS

CITY agrees that COUNTY shall be entitled to charge, receive and retain all customary fees for the Development Project through issuance of the Certificates of Occupancy, including planning application, building permit fees, grading fees, and inspection fees. The fees shall be the COUNTY's sole consideration for all services performed in closing the Development Project.

7. ANNEXATION FEES

CITY shall request that OCLAFCO allow the annexation to be processed under the "Small Island Annexation Program" so that OCLAFCO fees and map and legal fees are waived for the CITY.

8. DEEDS

COUNTY and CITY agree to execute, in recordable form, such documents as may be required to complete the annexation. In addition, if any transfer of ownership of real property that would not automatically result from the annexation is necessary to carry out the objectives of this Agreement, the COUNTY will execute, in recordable form, such deeds or other documents as may be required to accomplish those objectives.

9. TERM OF AGREEMENT

This Agreement shall commence upon the execution of all necessary signatures, and except for the authority granted to COUNTY for the Development Approvals, this Agreement shall continue in full force and effect with respect to the Property until annexation of the Property by the City has been completed to the satisfaction of both parties.

10. ENTIRE AGREEMENT

This Agreement sets forth and contains the entire understanding and agreement of the Parties, and all oral or written representations, understandings or agreements are expressly stated in this Agreement. No testimony or evidence of any such representations, understandings, or covenants shall be admissible in any proceeding or any kind or nature to interpret or determine the terms or conditions of this Agreement.

11. SEVERABILITY

If any term, provision, covenant, or condition of this Agreement is ruled invalid, void, or unenforceable by a court of competent jurisdiction, this Agreement shall nonetheless remain in full force and effect as to all remaining terms, provisions, covenants, and conditions.

12. INTERPRETATION AND GOVERNING LAW

This Agreement and any related dispute shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed according to its plain language and fair and common meaning to achieve the objectives and purposes of the Parties.

13. INDEMNIFICATION

Each party agrees to indemnify, defend with counsel approved in writing by the other party, and hold the other party, and their officials, officers, employees and agents free and harmless from any claim, loss, damage, or injury to property or persons, including wrongful death, in any manner arising out of or incident to any negligent act, omission or willful misconduct of the agreeing party, their respective officers, employees

or agents, arising out of or in connection with the execution or performance of this Agreement, including without limitation the payment of attorney fees.

14. SECTION HEADINGS

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

15. WAIVER

The failure of a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure of a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of that Party's right to demand and require, at any time, the other Party's strict compliance with the terms of this Agreement

16. NO THIRD PARTY BENEFICIARIES

The Parties expressly acknowledge and agree that they do not intend, by their execution of this Agreement, to benefit any person or entities not signatory to this Agreement. No person or entity not a signatory to this Agreement will have any rights or causes of action against the CITY or COUNTY, or any combination thereof, arising out of or due to CITY'S or COUNTY'S entry into this Agreement.

17. SUCCESSORS IN INTEREST

The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement.

18. COUNTERPARTS

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

19. JURISDICTION AND VENUE

Any action at law or in equity arising under this Agreement or brought by any Party for the purpose of enforcing, construing, or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Orange, State of California. The Parties waive all provisions of law providing for the filing, removal or change or venue to any other court.

20. FURTHER ACTIONS AND INSTRUMENTS

Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated by this Agreement to achieve the objectives of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record instruments and writing. The Parties shall also take any action that may be reasonably necessary under the terms of this Agreement to carry out the intent and to achieve the objectives of this Agreement

21. AMENDMENTS

This Agreement may be amended only by written consent of the parties specifically approving the amendment. The Parties shall cooperate in good faith with respect to any amendment proposed in order to clarify that intent and application of this Agreement.

22. AUTHORITY TO EXECUTE

Any person or persons executing this Agreement on behalf of the City and County warrants and represents that he or she has the authority to execute this Agreement on behalf of his or her agency and to bind that Agency to the performance of its obligations pursuant to this Agreement.

23. NOTICE

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and shall be deemed served when delivered personally or on

the third business day after deposit in the United States mail, postage prepaid, first class mail, addressed as follows.

All notices, demands, requests or approvals to CITY shall be addressed to:

City of Santa Ana
20 Civic Center Plaza
Santa Ana, CA 90702
Attn: Clerk of the Council

All notices, demands, requests or approvals to COUNTY shall be addressed to:

Robin Stieler, Clerk of the Board
County of Orange
333 W. Santa Ana Blvd
Santa Ana, CA 92701

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set forth below:

CITY OF SANTA ANA

By: _____
Kristine Ridge
City Manager

Date: ___ ___

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM
Sonia R. Carvalho, City Attorney

By: _____
John M. Funk
Assistant City Attorney

Return ORIGINAL
Executed Copy to COTC
(M-30/T11)

COUNTY OF ORANGE

By: _____

LISA A. BARTLETT
Chairwoman of the Board of Supervisors
County of Orange, California

Date: 9/24/19

SIGNED AND CERTIFIED THAT A COPY OF THIS AGREEMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD PER G.C. SEC. 25103, RESO 79-1535
ATTEST:

_____
Robin Stieler
Clerk of the Board
Orange County, California

APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By: _____

Date: 9-17-19

Return ORIGINAL
Executed Copy to COTC
(M-30/T11)

COOPERATIVE AGREEMENT
BETWEEN THE CITY OF SANTA ANA AND THE COUNTY OF ORANGE FOR THE REORGANIZATION OF THE 17TH AND TUSTIN UNINCORPORATED ISLAND TO THE CITY OF SANTA ANA

The 17th and Tustin Island annexation area is described as approximately 25 acres of unincorporated territory generally located near where the SR-55 Costa Mesa Freeway intersects 17th street, lying to the north of 17th Street, to the east of Tustin Avenue, to the south of Catalina Avenue, and west of SR-55 Costa Mesa Freeway.

Included in the annexation is unincorporated public right of way as follows:

- 17th Street from Tustin Avenue to SR-55 Costa Mesa Freeway
- Tustin Avenue from 17th Street to the north line produced of APN 396-312-15
- Ponderosa Street from 17th Street to the north line produced of APN 396-303-12
- Deodar Street from 17th Street to the north line produced of APN 396-303-12
- Medford Street from Deodar Street to Pasadena Street
- Pasadena Street from Medford Street to the north end of the cul-de-sac

The above described annexation area is depicted in Exhibit 2.

The area includes the private property parcels with Assessor's Parcel Numbers ("APNs") as shown in Exhibit 3.

EXHIBIT 1

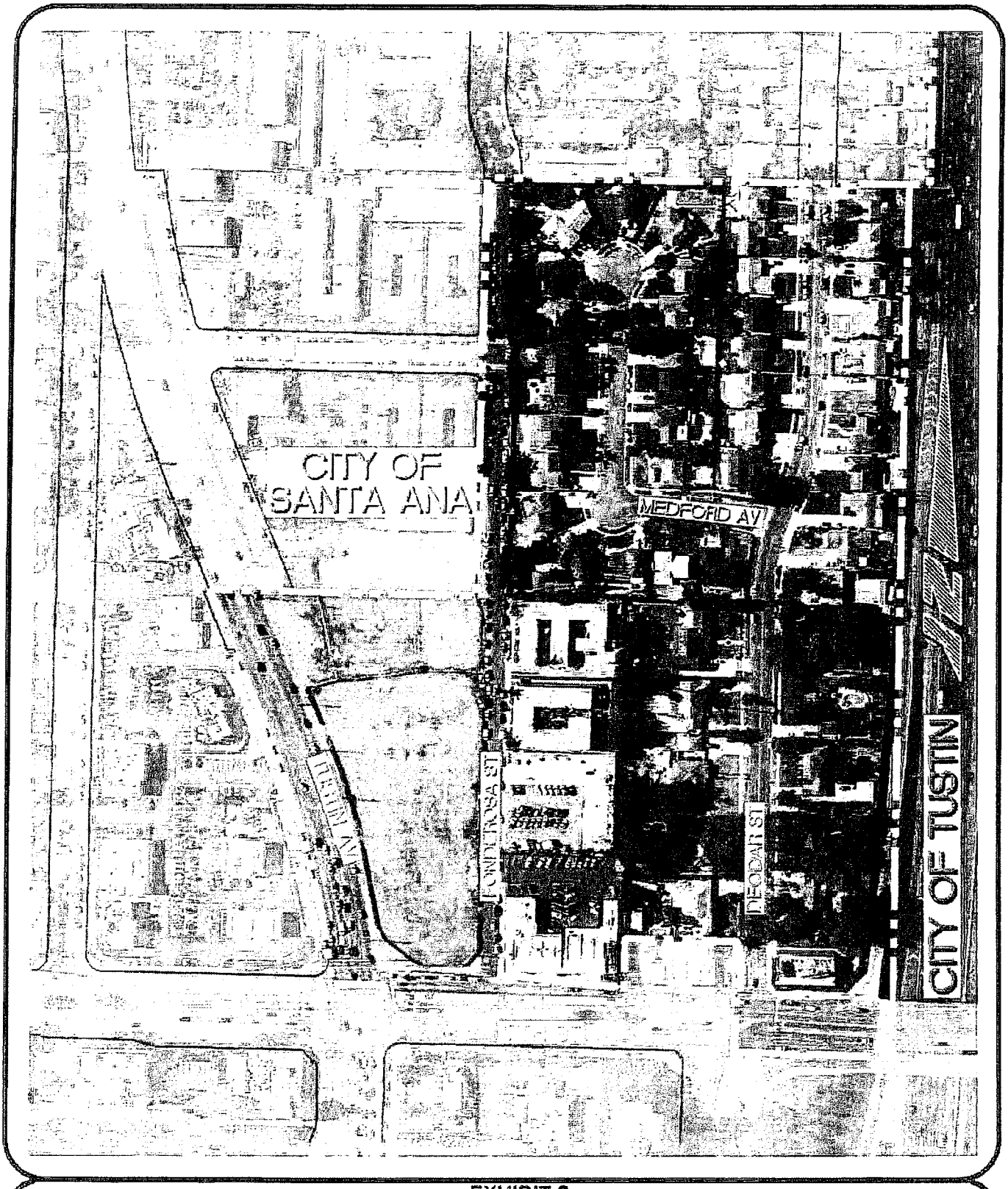


EXHIBIT 2

CITY OF SANTA ANA 17TH STREET ISLAND – VICINITY MAP

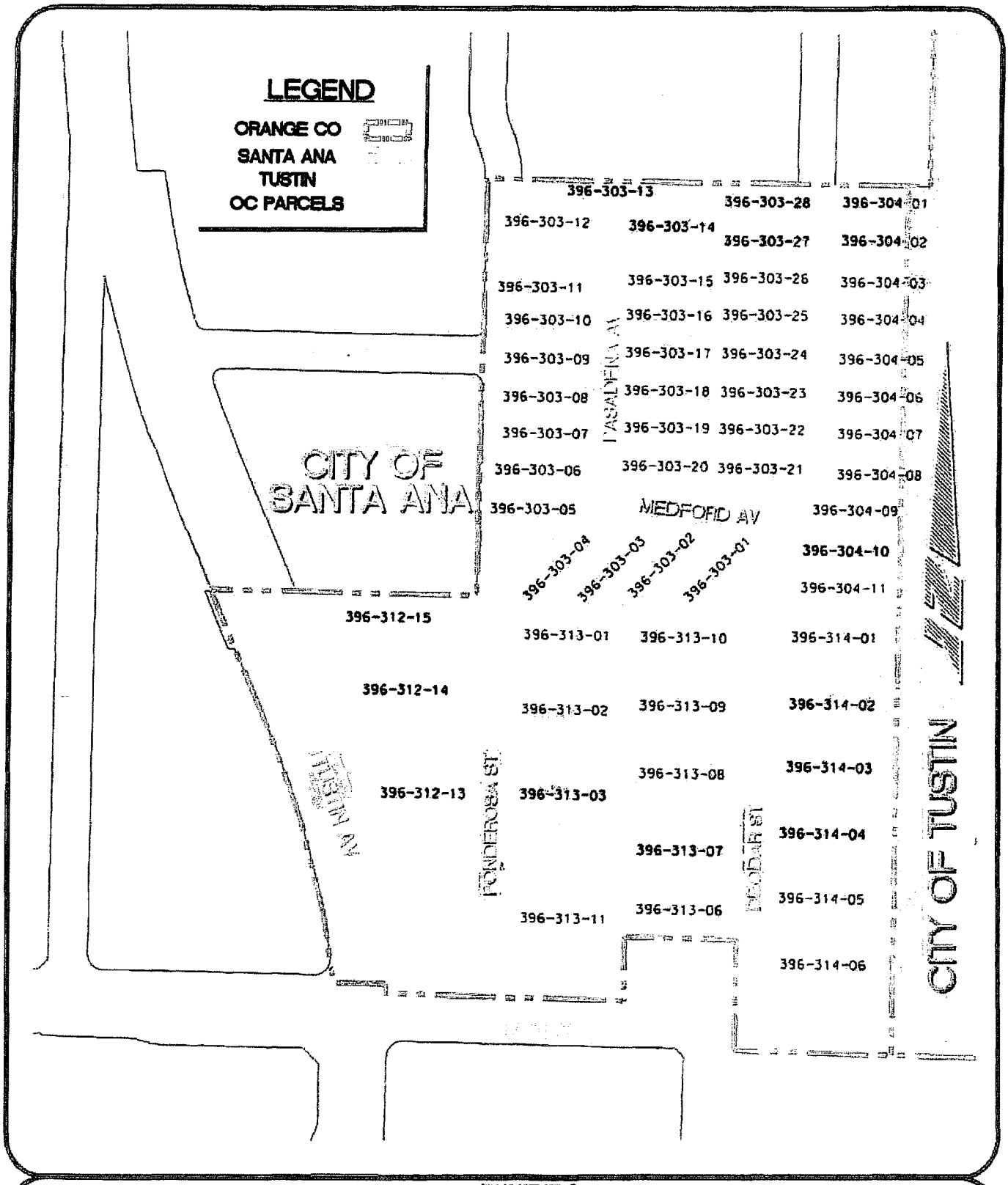


EXHIBIT 3

ASSESSOR'S PARCEL NUMBER MAP

Attachment C

SI
(R)
C: PWA (3)
Kathia Reyes
OCT 11 2019

Return ORIGINAL
Executed Copy to COTC
(M-30/T11)

COPY

SERVICE AGREEMENT BY AND BETWEEN THE CITY OF SANTA ANA AND THE CITY OF TUSTIN REGARDING POTABLE WATER SERVICE FOR VARIOUS PARCELS OF UNINCORPORATED REAL PROPERTY

This Service Agreement ("Agreement") is entered into by and between the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California ("Santa Ana"), and the City of Tustin, a California municipal corporation ("Tustin") (each referred to as "Party" and collectively referred to as the "Parties") on the effective date of the reorganization of "Island Parcels" involving the annexation of the "Island Parcels" to Santa Ana and detachment of same territory from the Municipal Water District of Orange County as specified in Section A below.

RECITALS

A. As provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Gov. Code, §§ 56000 et seq.) and the Orange County Local Agency Formation Commission's ("OC LAFCO") policies and procedures, Santa Ana will submit to OC LAFCO an application to annex 57 parcels and detachment of the same parcels from the Municipal Water District of Orange County. The annexation collectively constitutes an island of unincorporated territory within Santa Ana's sphere of influence with Assessor's Parcel Numbers ("APNs") 396-303-01 to -28, 396-304-01 to -11, 396-312-13, -14, and -15, 396-313-01 to -03, -06 to -11, and 396-314-01 to -06 ("Island Parcels") as shown on Exhibit A.

B. Santa Ana is presently without the necessary water system infrastructure to directly provide Potable Water Services to the Island Parcels, but contemplates and fully intends to ensure that the Island Parcels receive adequate Potable Water Service consistent with the level of service contemplated by Santa Ana subsequent to the Annexation, including installation and completion of all necessary water system infrastructure and performance of all customer service functions ("Potable Water Service") following Santa Ana's annexation of the Island Parcels.

C. Tustin maintains and operates water lines and facilities that provide Potable Water Services to all developed Island Parcels.

D. Santa Ana and Tustin desire to enter into this Agreement, whereby Tustin will provide Potable Water Service to the Island Parcels. Tustin will to provide water service to the Island Parcels until such time Santa Ana has completed water system infrastructure to serve the entire Island Parcels.

E. This Agreement constitutes a service agreement in which "[t]wo or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider." (Gov. Code, § 56133(e)(1)).

F. Under Government Code, section 56133 and OC LAFCO's "Policy & Procedures for the Review and/or Processing of Out-Of-Area Agreements by the Executive Officer (Gov't Code §56133)," this Agreement is not an out-of-area service agreement requiring OC LAFCO's review and approval because: (1) Santa Ana and Tustin are both public agencies; and (2) upon annexation, Santa Ana will have the exclusive authority to provide Potable Water Services to the Island Parcels. However, Santa Ana has found that such activities can be more efficiently and more conveniently performed by Tustin pursuant to this Agreement at this time.

G. This Agreement will in no way adversely impact water services to current customers of Santa Ana or Tustin, will not induce growth, and will not result in the duplication of services in the territory of either city.

H. This Agreement serves the public interest, economy, and general welfare.

TERMS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants as well as for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. CONSENT FOR AND PROVISION OF SERVICES

1.1. Santa Ana's Consent for Service. Except as provided in Section 1.2, Santa Ana consents to Tustin's provision of Potable Water Service to the Island Parcels, upon Santa Ana's annexation of the Island Parcels.

1.2. Following the annexation, in the event that Santa Ana has or creates the infrastructure and the capacity to provide Potable Water Service to the Island Parcels, any new development or redevelopment within the Island Parcels shall be served by Santa Ana.

1.3. Tustin's Provision of Service.

1.3.1. Provision of Service. Tustin agrees to provide Potable Water Service to the Island Parcels in a manner and at a level consistent with Tustin's provision of services to its remaining service area, subject only to a changeover as set forth in Section 2 of this Agreement.

1.3.2. Applicable Law. Tustin's provision of the Potable Water Service shall comply with applicable local, state, or federal statutes, regulations, rules, or policies.

2. TERMINATION

Santa Ana's Capacity for Service. If, at any time during the course of this Agreement, Santa Ana determines that it has the infrastructure and capacity to economically and conveniently provide Potable Water Service to the Island Parcels in a manner and at a level consistent with Santa Ana's service to the remainder of its service area, then Santa Ana will send written notice to Tustin and OC LAFCO of such determination. The notice shall provide reasonable terms, conditions, and times for accomplishing the changeover from Tustin to Santa Ana as the provider of Potable Water Service; provided, however, that cooperation with the notice shall be at no cost to Tustin. Tustin will work in good faith with Santa Ana to reasonably comply with the notice. This Agreement shall terminate when the changeover is accomplished. When this Agreement is terminated for any reason, any costs reasonably required to disconnect, transfer, cap, abandon, and/or otherwise cease Potable Water Service by Tustin will be reimbursed by Santa Ana within ninety (90) days of delivery of written request for such reimbursement. The manner of cessation of Tustin Potable Water Service shall be in compliance with all then-current Tustin standards and requirements.

3. EFFECTIVE DATE OF AGREEMENT

The effective date of this Agreement is the date this Agreement is executed by both Parties as it appears on the Signatures page of this Agreement referred to as Effective Date.

4. SCOPE OF AGREEMENT

Nothing contained in this Agreement shall be construed as representing the establishment of any precedent or the formation of any policy by Santa Ana to generally allow Tustin to provide Potable Water Service within Santa Ana's jurisdiction or by Tustin to provide Potable Water Service within Santa Ana's jurisdiction on the terms and conditions contained herein or on any terms and conditions whatsoever.

5. INDEMNIFICATION

The Parties shall indemnify and hold harmless each other and their officers, employees, and agents, against any and all claims, liabilities, expenses, attorney's fees or damages, for injury or death of any person, or damage to property, or interference with use of property ("Claims"), to the extent the Claims arise from the negligence or willful misconduct of the indemnifying Party or to the extent any Claim arises in connection with the indemnifying Party's negligent performance of this Agreement.

6. MISCELLANEOUS PROVISIONS

6.1. Changes to Agreement. All of the terms, conditions and provisions hereof shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns, provided, however, that no assignment of this Agreement shall be made without the prior written consent of the Parties to the Agreement, which consent may not be unreasonably withheld, conditioned or delayed.

6.2. Performance. Whenever performance is required of any Party hereunder, that Party shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, or damage to work in progress by reason of fire or other casualty or cause beyond the reasonable control of a party (acts by the performing Party causing the situation to be beyond reasonable control excepted), then the time for performance as herein specified shall be appropriately extended by the amount of the delay actually so caused.

6.3. Severability. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person or circumstance, by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other person or circumstance and the same shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

6.4. Form of Notice. Any notice to any Party shall be in writing and given by delivering the same to such party in person or by sending the same by registered or certified mail, return receipt requested, with postage prepaid to the party's mailing address. The respective mailing addresses of the Parties thereto are, until changed as hereinafter provided, the following:

To Santa Ana:	Fuad Sweiss, PE, PLS Executive Director Public Works Agency 20 Civic Center Plaza Santa Ana, Ca. 92702
With copy to:	Clerk of the Council 20 Civic Center Plaza Santa Ana, Ca. 92702
To Tustin:	Douglas Stack Director of Public Works/City Engineer 300 Centennial Way Tustin, Ca. 92780
To OC LAFCO:	Carolyn Emery 2677 North Main St Suite 1050 Santa Ana, Ca 92705

6.5. Change of Address. Any Party may change its mailing address at any time by giving written notice of such change to the other Party in the manner provided herein at least ten days prior to the date such change is considered effective.

6.6. Effective Date of Notice. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal delivery is effective or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

6.7. Content of Notice. Every notice (other than the giving or withholding of consent, approval, or satisfaction under this Agreement, but including requests therefore) given to a Party or other person shall comply with the following requirements. Each notice shall state:

6.7.1. The paragraph of this Agreement pursuant to which the notice is given; and

6.7.2. The period of time within which the recipient of the notice must respond or if no response is required, a statement to that effect.

6.7.3. Each request for consent or approval shall contain reasonably sufficient data or documentation to enable the recipient to make an informed decision.

6.8. Entire Agreement. This writing constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all oral or written representations or written agreements that may have been entered into between the Parties. This Agreement may be cancelled, changed, modified or amended in whole or in part only by a written and recorded instrument executed by the Parties (or their respective successors and assigns).

6.9. Governing Law. This Agreement shall be governed by the laws of the State of California. Any legal action concerning or arising out of this Agreement shall be filed in a court of the State of California having jurisdiction of the subject matter, and venue shall be in the County of Orange, State of California.

6.10. Counterparts. This Agreement may be executed by the parties in one or more counterparts, each of which when so executed and delivered shall be deemed to be an original, but all such parts shall together constitute one and the same instrument.

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

Signatures and OC LAFCO certification on the next pages.

SIGNATURES

In witness thereof, the Parties here to have executed this Agreement on 12 17 2019 which is the Effective Date.
Month Day Year

CITY OF SANTA ANA,
a California municipal corporation

By: _____
KRISTINE RIDGE,
CITY MANAGER

Attest:

By: _____
DAISY GOMEZ, MMC
CLERK OF THE COUNCIL

Approved as to Form:

By: _____
SONIA CARVALHO,
CITY ATTORNEY

CITY OF TUSTIN,
a California municipal corporation

By: _____
CITY MANAGER

Attest:

By: _____
ERICA N. YASUDA,
CITY CLERK

Approved as to Form:

WOODRUFF, SPRADLIN & SMART, APC.

By: _____
DAVID E. KENDIG,
CITY ATTORNEY

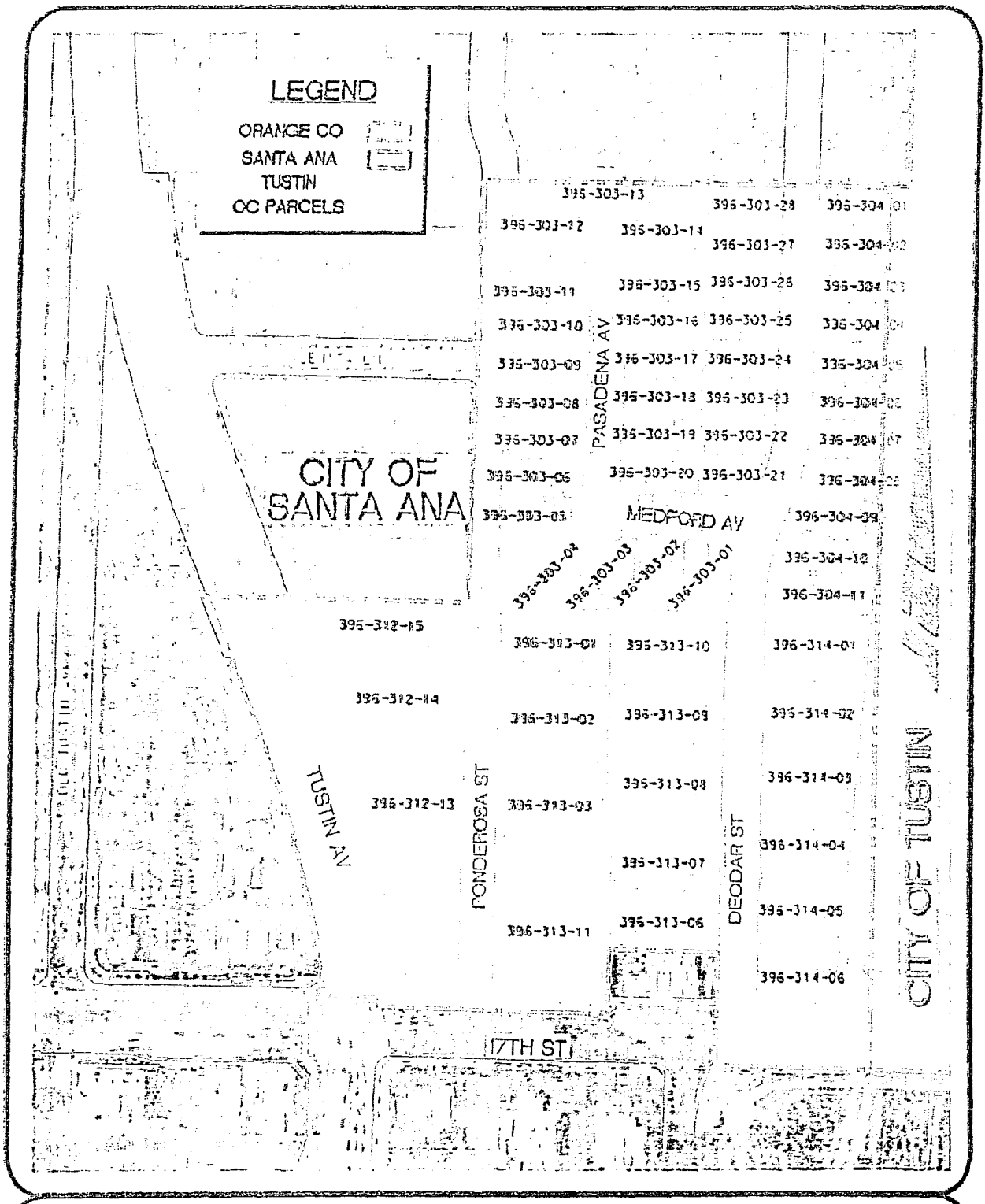
CERTIFICATION

Based upon the recitals and the terms of this Agreement, I find that Tustin's provision of Potable Water Services outside its jurisdictional boundary to the Island Parcels does not constitute a contract or agreement requiring OC LAFCO approval under Government Code section 56133.

By: _____
CAROLYN EMERY,
EXECUTIVE OFFICER
OC LAFCO

Return ORIGINAL
Executed Copy to COTC
(M-30/T11)

EXHIBIT A



ASSESSOR'S PARCEL NUMBER MAP

Attachment D

RO 19-07

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF ORANGE COUNTY, CALIFORNIA MAKING RESPONSIBLE AGENCY FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND APPROVING THE "REORGANIZATION OF THE 17TH STREET AND TUSTIN UNINCORPORATED ISLAND TO THE CITY OF SANTA ANA AND MUNICIPAL WATER DISTRICT OF ORANGE COUNTY (RO 19-07)"

November 13, 2019

On motion of Commissioner Davert, duly seconded and carried, the following resolution was adopted:

WHEREAS, the proposed change of reorganization, designated as "Reorganization of the 17th Street and Tustin Unincorporated Island to the City of Santa Ana and Municipal Water District of Orange County (RO 19-07)," was hereto filed with and accepted for filing on November 13, 2019 by the Executive Officer of the Local Agency Formation Commission of Orange County ("OC LAFCO") pursuant to Title 5, Division 3, commencing with Section 56000 et seq. of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658 set November 13, 2019 as the hearing date of this proposal; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56665 has reviewed this proposal and prepared a report including her recommendations therein and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, the proposal consists of the annexation of approximately 24.79 acres to the City of Santa Ana and detachment of the same territory from the Municipal Water District of Orange County; and

WHEREAS, the County of Orange served as "lead agency" for the environmental review, analysis, and approval of a "Chick-fil-A/In-N-Out 17th and Tustin"

development and the proposed reorganization pursuant to the requirements of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) and the State CEQA Guidelines (14 Cal. Code Regs., § 15000 et seq.) ("CEQA"); and

WHEREAS, pursuant to CEQA, on September 3, 2019, the County of Orange adopted a Mitigated Negative Declaration (SCH#2019079044) ("MND") for the "Chick-fil-A/In-N-Out 17th and Tustin" development. The MND explicitly identified the reorganization in the project description and included the reorganization as a possible future contemplated action by OC LAFCO; and

WHEREAS, OC LAFCO has been asked to approve the "Reorganization of the 17th Street and Tustin Unincorporated Island to the City of Santa Ana and Municipal Water District of Orange County (RO 19-07)"; and

WHEREAS, OC LAFCO has limited approval and implementing authority over the development site and, thus, is a "responsible agency" for the proposed reorganization pursuant to the requirements of CEQA; and

WHEREAS, OC LAFCO, at its agendized public meeting on November 13, 2019, independently reviewed and considered the MND prepared by the County of Orange, and other related documents in the record before it; and

WHEREAS, all of the procedures of CEQA have been met, and the Mitigated Negative Declaration prepared in connection with the reorganization, is sufficiently detailed so that all of the potential effects of the proposal on the environment and measures necessary to avoid or substantially lessen such effects have been evaluated in accordance with CEQA; and

WHEREAS, as contained herein, OC LAFCO has endeavored in good faith to set forth the basis for its decision on the proposal; and

WHEREAS, this Commission called for and held a public hearing on the proposal on November 13, 2019, and at the hearing, this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

WHEREAS, all of the findings and conclusions made by OC LAFCO pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole and not based solely on the information provided in this Resolution; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, the Commission of OC LAFCO does hereby resolve as follows:

Section 1. Compliance with the Environmental Quality Act.

As the decision-making body for OC LAFCO, and in OC LAFCO's limited role as a "responsible agency" under CEQA, the Commission has reviewed and considered the information contained in the MND and all supporting documents incorporated by reference as though set forth fully herein. Based on this review, the Commission finds that, as to those potential environmental impacts within the Commission's powers and authorities as the "responsible agency", the MND and supporting environmental documentation contain a complete, objective, and accurate reporting of those potential impacts, and that these findings reflect the independent judgement and analysis of the Commission.

Section 2. Findings on Environmental Impacts.

The Commission concurs with the County of Orange's environmental findings regarding the proposed reorganization, and adopts these findings, attached hereto as "Exhibit A," as though fully set forth herein. The Commission finds that there is no substantial evidence in the administrative record supporting a fair argument that the reorganization proposal may result in significant environmental impacts.

Section 3. OC LAFCO Findings.

The 17th Street and Tustin Unincorporated Island is currently within the City of Santa Ana's Sphere of Influence and is assigned the following distinctive short-form designation, "Reorganization of the 17th Street and Tustin Unincorporated Island to the City of Santa Ana and Municipal Water District of Orange County." The proposal consists of the annexation of approximately 24.79 acres located east of Tustin Avenue and north of 17th Street and the detachment of the subject territory from the Municipal Water District of Orange County. (See Vicinity Map attached as "Exhibit B")

Section 4. Approval of the "Reorganization of the 17th Street and Tustin Unincorporated Island to the City of Santa Ana and Municipal Water District of Orange County (RO 19-07)" Conditions of Approval:

a) The annexation of the 17th Street and Tustin Unincorporated Island consisting of approximately 24.79 acres to the City of Santa Ana.

b) Detachment of the subject territory from the Municipal Water District of Orange County.

c) The Cooperative Agreement executed by the County of Orange and the City of Santa Ana ("Exhibit C").

d) The City of Santa Ana shall provide the OC LAFCO Executive Officer with an executed copy of the Water Agreement executed by the Cities of Santa Ana and Tustin in substantially the same form as the draft agreement attached as "Exhibit D" prior to the recordation of the Certificate of Completion for the proposed reorganization.

e) The sphere of influence for the Municipal Water District of Orange County is hereby amended to exclude the subject territory. The Statement of Determinations and amended sphere of influence map are shown as "Exhibit E."

f) Upon annexation of the territory to the City, all right, title, and interest of the County, including the underlying fee title where owned by the County in any and all sidewalks, trails, landscaped areas, street lights, open space, signals, shall vest in the City of Santa Ana, except for those properties to be retained by the County and specifically listed by these conditions.

g) Upon annexation of the territory, the City of Santa Ana shall be the owner of, and responsible for, all of the following property owned by the County at the time of annexation: public roads, adjacent slopes, street lights, traffic signals, mitigation sites that have not been accepted by regulatory agencies but exist or are located in public right-of-way and were constructed or installed as part of a road construction project within the annexed area and storm drains within street right-of-way and appurtenant slopes, medians and adjacent property. City of Santa Ana shall also be responsible for the ongoing mitigation, but not the ownership of, mitigation sites that were installed on other County property, such as flood control property that were installed as a condition of road construction projects in or associated with the road projects in the annexed area and mitigation site that is annexed to the City of Santa Ana.

h) Upon the effective date of annexation, the City of Santa Ana shall do the following: (1) assume ownership and maintenance responsibilities for all drainage devices, storm drains and culverts, appurtenant facilities (except regional OCFCD flood control facilities for which OCFCD has a recorded flood control easement or ownership interest), site drainage, and all master plan storm drain facilities that are within the annexation area and are currently operated and maintained by the County of Orange; (2) accept and adopt the County of Orange Master Plan of Drainage (MPD), if any, which is in effect for the annexation area. Orange County Public Works Department/Planning & Development Services/Subdivision & Infrastructures should be contacted to provide any MPD which may be in

effect for the annexation area. Deviations from the MPD shall be submitted to the Manager of Flood Control Division, Orange County Public Works Department for review to ensure that such deviations will not result in diversions between watersheds and/or will not result in adverse impacts to OCFCD's flood control facilities; (3) administer flood zoning and Federal Emergency Management Agency floodplain regulations within the annexation area; (4) coordinate development within the annexation area that is adjacent to any existing flood control facilities for which OCFCD has a recorded flood control easement or owns fee interest, by submitting maps and proposals to the Manager of Flood Control Division, Orange County Public Works Department, for review and comment. If such facilities are in need of improvement to provide the required flood control and/or erosion protection for the development, require the developer to enter into an agreement with OCFCD for the design, review, construction, acceptance, and maintenance of such necessary flood control improvements, and; (5) for development proposals that are adjacent to regional drainage courses which are not owned or maintained by OCFCD, but are in need of improvements to provide the required flood control and/or erosion protection for the development, required the developer to enter into an agreement with OCFCD for the design, review, construction, acceptance, and maintenance of proposed regional flood control facilities.

i) Payment by the applicant of State Board of Equalization fees is a condition of approval.

j) As a condition of approval, the applicant agrees to defend, hold harmless and indemnify OC LAFCO and/or its agents, officers and employees from any claim, action or proceeding against OC LAFCO and/or its agents, officers and employees to attack, set aside, void or annul the approval of OC LAFCO concerning this proposal or any action relating to or arising out of such approval.

k) The effective date shall be the date of recordation.

Section 5. Notice of Determination.

The Commission directs staff to file a Notice of Determination with the Orange County Clerk's Office within five working days of adoption of this Resolution.

Section 6. Conducting Authority.

The Commission shall authorize conducting authority proceedings to be waived in accordance with Government Code Section 56375.3.

Section 7. Mail Copy of Resolution.

The Executive Officer is hereby authorized and directed to mail copies of this resolution as provided in Section 56882 of the Government Code Section.

Section 8. Custodian of Records.

The documents and materials that constitute the record of proceedings on which this Resolution and the above findings have been based are located at the offices of OC LAFCO. The custodian for these records is OC LAFCO, and is located at 2677 North Main Street, Suite 1050, Santa Ana, California 92705.

PASSED, APPROVED AND ADOPTED, by the Commissioners of the Local Agency Formation Commission of Orange County this 13th day of November 2019.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of November 2019.

Cheryl Brothers
Chair of the Orange County
Local Agency Formation Commission

By: _____
Cheryl Brothers

Resolution (19-07)

EXHIBIT A

NOTICE OF DETERMINATION

TO:	☐ Clerk of the Board of Supervisors or ☒ County Clerk County of: Orange Address: 12 Civic Center Plaza, Santa Ana, CA 92701	FROM:	Orange County Local Agency Formation Commission (Responsible Agency) Address: 2677 N. Main St., Suite 1050 Santa Ana, CA 92705 Contact: Luis Tapia Phone: 714-640-5100

TO:	☒ Office of Planning and Research P. O. Box 3044 Sacramento, CA 95812-3044	Lead Agency: County of Orange Address: 300 North Flower Street Santa Ana, CA 92703
	☐ 1400 Tenth Street (overnight or hand delivery) Sacramento, CA 95814	Contact: Kevin Shannon Phone: 714-667-1632

SUBJECT: Filing of Notice of Determination in Compliance with Section 21108 or 21152 of the Public Resources Code.

Project Title: Reorganization of the 17th Street and Tustin Unincorporated Island and Municipal Water District of Orange County (RO 19-07)		
State Clearinghouse Number (If submitted to SCH): 2019079044	Applicant: City of Santa Ana Contact Person: Vince C. Fregoso, AICP 20 Civic Center Santa Ana, CA 92701	Telephone Number: (714) 667-2713
Specific Project Location – Identify street address and cross street or attach a map showing project site (preferably a USGS 15' or 7 ½' topographical map identified by quadrangle name): See attached vicinity map.		
General Project Location (City and/or County): The 17th Street and Tustin Unincorporated Island is substantially surrounded by the City of Santa Ana and it is to the northeast portion of the City's sphere of influence. The subject territory is located in the County of Orange.		
Project Description: The proposed reorganization consists of: (1) the annexation of approximately 24.79 acres to the City of Santa Ana and (2) detachment of the same territory from the Municipal Water District of Orange County.		
Identify the person or entity undertaking the project, including any private applicant, any other person undertaking an activity that receives financial assistance from the Public Agency as part of the project, and any person receiving a lease, permit, license, certificate, or other entitlement of use from the Public Agency as part of the project. The Orange County Local Agency Formation Commission, as a responsible agency. 2677 North Main Street Suite 1050, Santa Ana, CA 92705		

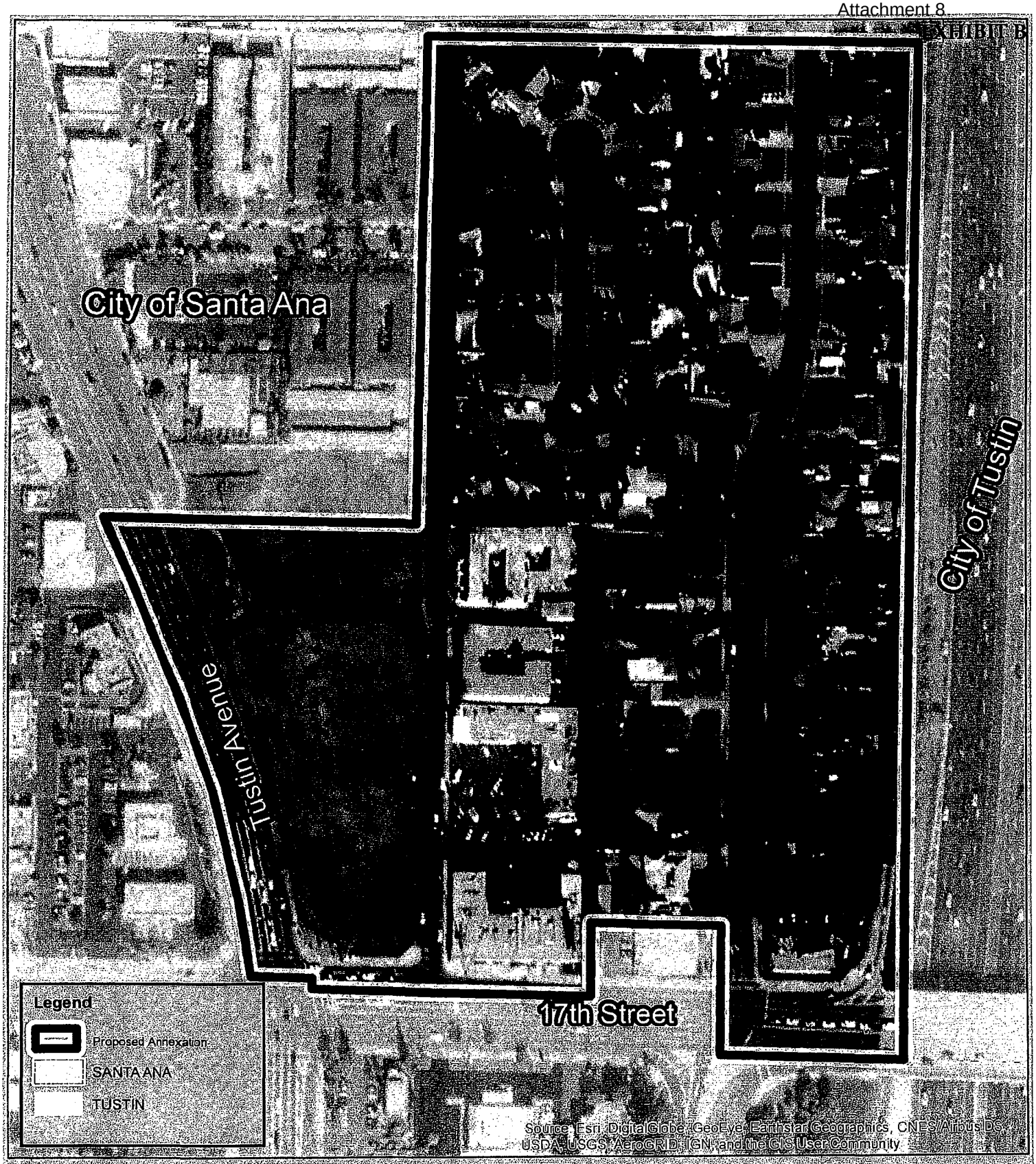
This is to advise that the (☐ Lead Agency or ☒ Responsible Agency) has approved the above described project on November 13, 2019 and has made the following determinations regarding the above described project:

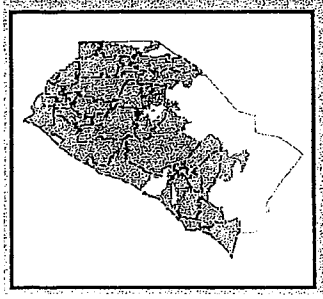
EXHIBIT A

1. ☐	The project will have a significant effect on the environment.	
☒	The project will NOT have a significant effect on the environment	
2. ☐	An Environmental Impact Report was prepared and certified for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.	
☐	A Negative Declaration was prepared for this project pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.	
☒	A Mitigated Negative Declaration was previously prepared and adopted for this project by the Lead Agency pursuant to the provisions of CEQA and reflects the independent judgment of the Lead Agency.	
3. ☒	Mitigation measures were made a condition of the Lead Agency's approval of the project.	
☐	Mitigation measures were NOT made a condition of the approval of the project.	
4. ☒	A Mitigation Monitoring or Reporting Plan was adopted by the Lead Agency for this project.	
☐	A Mitigation Monitoring or Reporting Plan was NOT adopted for this project.	
5. ☐	A Statement of Overriding Considerations was adopted for this project.	
☒	A Statement of Overriding Considerations was NOT adopted for this project	
6. ☒	Findings were made pursuant to the provisions of CEQA.	
☐	Findings were NOT made pursuant to the provisions of CEQA.	
	This certifies that the location and custodian of the documents which comprise the record of proceedings for the Final EIR (with comments and responses) or Negative Declaration are available to the general public at the following location(s):	
	Custodian:	Location: County of Orange 300 N. Flower Street, 1st Floor Santa Ana, CA 92702 Orange County Local Agency Formation Commission 2677 North Main Street Suite 1050 Santa Ana, CA 92705

Date: _____	_____ **Signature:**
Date Received for Filing: _____	_____ **Title:**

Authority cited: Sections 21083, Public Recourse Code.
Reference Section 21000-21174, Public Resources Code.





Reorganization of 17th Street and Tustin Unincorporated Island to the City of Santa Ana and Municipal Water District of Orange County (RO 19-07)

Vicinity Map

N
W
E
S

0 0.08 Miles

ORANGE COUNTY LAFCO EST. 1963

EXHIBIT C A-2019-156

Return ORIGINAL
Executed Copy to COTC
(M-30/T11)

INSURANCE NOT REQUIRED
WORK MAY PROCEED
CLERK OF COUNCIL
DATE: SEP 0 5 2019

O: PBA (1)
Vince Fregoso

COOPERATIVE AGREEMENT BETWEEN THE CITY OF SANTA ANA AND THE COUNTY OF ORANGE FOR THE REORGANIZATION OF THE 17TH AND TUSTIN UNINCORPORATED ISLAND TO THE CITY OF SANTA ANA AND MUNICIPAL WATER DISTRICT OF ORANGE COUNTY (RO19-07)

THIS COOPERATIVE AGREEMENT ("Agreement"), dated September 3, 2019, between the CITY OF SANTA ANA ("CITY"), a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California, and the COUNTY OF ORANGE ("COUNTY"), a political subdivision of the State of California, (collectively referred to as the "PARTIES" herein) is based on the following:

RECITALS

A. The City is in the process of annexing an unincorporated County island consisting of approximately 25 acres and referred to as the 17th and Tustin Unincorporated Island ("Annexation Area") and detachment of the Annexation Area from the Municipal Water District of Orange County. The Annexation Area is described in **Exhibit 1** and depicted in **Exhibit 2.**

B. The Annexation Area more specifically includes 57 parcels in the COUNTY bearing Assessor's Parcel Numbers ("APNs") 396-303-01 to 396-303-28, 396-304-01 to 396-304-11, 396-312-13 to 396-312-15, 396-313-01 to 396-313-03, 396-313-06 to 396-313-11, and 396-314-01 to 396-314-06, as depicted on **Exhibit 3.**

C. Among the individual parcels in the Annexation Area, the John C. Hall Trust UAD is the fee title holder of three parcels with APN Nos. 396-312-13 to 396-312-15, which parcels are currently under COUNTY review, application number PA160055, for discretionary permits for development. There may be additional ministerial permit applications to be submitted to the County, and County shall continue to retain all planning, building, safety, and inspection authority until the point of occupancy (collectively the discretionary and ministerial permits are the "Development Project").

EXHIBIT 2

EXHIBIT C

D. The CITY and COUNTY are public entities possessing the common power to conduct and evaluate applications for discretionary and ministerial permits for development, including, but not limited to, subdivision maps, conditional use permits, grading permits and building permits, and approvals related to the implementation, planning, and development of real property ("Development Approvals").

E. The CITY intends, by way of this Agreement and pursuant to California Government Code section 51300 et seq. to contract with the COUNTY for the performance of all Development Approvals for the Development Project. Subject to this Agreement, and as limited to the Development Project alone, the COUNTY will assume the authority for the Development Approvals.

F. In the event of a "jurisdictional change" as defined in California Revenue and Taxation Code section 99, prior to the effective date of any jurisdictional change, the affected agencies of such change shall negotiate the amount of property tax revenues to be exchanged.

G. The Parties have met and negotiated both a property tax exchange and other consideration, all of which is conditional upon the CITY'S annexation of the Annexation Area becoming final and effective.

AGREEMENT

NOW, THEREFORE, based on the foregoing and in consideration of the Parties' mutual agreements and promises hereinafter set forth, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. CITY'S ANNEXATION APPLICATION

Within 90 days of the execution of this Agreement, the CITY will file an application for and diligently pursue annexation of the Annexation Area with the Orange County Local Agency Formation Commission (OCLAFCO).

EXHIBIT C

2. PROPERTY TAX EXCHANGE

Upon annexation of the Annexation Area and assumption of services by the CITY becoming final and complete, the COUNTY and CITY agree to an exchange of property taxes generated within the Annexation Area as follows:

a. The COUNTY shall receive 41.4715 percent and the CITY shall receive 58.5285 percent of the COUNTY's share of the 1 percent basic levy of property tax from the annexation, with the re-allocation taking effect after OCLAFCO approval of the annexation. These proportional shares shall remain as the allocation of tax revenues between the CITY and the COUNTY for the annexations for all future years unless the CITY and COUNTY agree by written Resolution to adjust the allocation proportions.

b. The CITY shall receive a one-time compensation of $711,814 to construct betterments in the Annexation Area, including Street Improvements ($397,314), Storm Drain Improvements ($187,500), and General Construction Costs ($127,000).

c. As the CITY contracts with the Orange County Fire Authority, the Structural Fire Fund shall remain unchanged.

3. PERFORMANCE OF DEVELOPMENT APPROVALS

For the Development Project alone, the CITY hereby conveys to the COUNTY authority and responsibility for the Development Approvals, as defined above and pursuant to Government Code section 51300, et seq. County shall have such authority and responsibility for the Development Project through issuance of the Certificates of Occupancy. The County shall exercise the Development Approvals in substantial compliance with: (I) conditions imposed by any State or local agency; and (II) legally enforceable restrictions and limitations on development of the Property.

4. DISSOLUTION OF ANNEXATION AREA

Except with respect to matters addressed in Sections 5 and 6 herein, the COUNTY shall dissolve the Annexation Area, with the CITY to assume the services for the area, and the CITY to receive a transfer of the one-time compensation amount specified in paragraph 2.b herein at the time of dissolution.

EXHIBIT C

5. OPEN CODE ENFORCEMENT CASES

The COUNTY commits to making its best effort to close open code enforcement and building safety/planning cases prior to the date of annexation, with the understanding that CITY agrees that COUNTY shall be entitled to charge, receive and retain all code enforcement fine amounts, which shall be the COUNTY's sole consideration for all services performed in closing the open cases. For code enforcement cases that still remain open on the date of annexation, the COUNTY will administer the cases to completion, using COUNTY ordinances and code enforcement procedures.

6. PERMITS AND PLAN CHECKS

CITY agrees that COUNTY shall be entitled to charge, receive and retain all customary fees for the Development Project through issuance of the Certificates of Occupancy, including planning application, building permit fees, grading fees, and inspection fees. The fees shall be the COUNTY's sole consideration for all services performed in closing the Development Project.

7. ANNEXATION FEES

CITY shall request that OCLAFCO allow the annexation to be processed under the "Small Island Annexation Program" so that OCLAFCO fees and map and legal fees are waived for the CITY.

8. DEEDS

COUNTY and CITY agree to execute, in recordable form, such documents as may be required to complete the annexation. In addition, if any transfer of ownership of real property that would not automatically result from the annexation is necessary to carry out the objectives of this Agreement, the COUNTY will execute, in recordable form, such deeds or other documents as may be required to accomplish those objectives.

EXHIBIT C

9. TERM OF AGREEMENT

This Agreement shall commence upon the execution of all necessary signatures, and except for the authority granted to COUNTY for the Development Approvals, this Agreement shall continue in full force and effect with respect to the Property until annexation of the Property by the City has been completed to the satisfaction of both parties.

10. ENTIRE AGREEMENT

This Agreement sets forth and contains the entire understanding and agreement of the Parties, and all oral or written representations, understandings or agreements are expressly stated in this Agreement. No testimony or evidence of any such representations, understandings, or covenants shall be admissible in any proceeding or any kind or nature to interpret or determine the terms or conditions of this Agreement.

11. SEVERABILITY

If any term, provision, covenant, or condition of this Agreement is ruled invalid, void, or unenforceable by a court of competent jurisdiction, this Agreement shall nonetheless remain in full force and effect as to all remaining terms, provisions, covenants, and conditions.

12. INTERPRETATION AND GOVERNING LAW

This Agreement and any related dispute shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed according to its plain language and fair and common meaning to achieve the objectives and purposes of the Parties.

13. INDEMNIFICATION

Each party agrees to indemnify, defend with counsel approved in writing by the other party, and hold the other party, and their officials, officers, employees and agents free and harmless from any claim, loss, damage, or injury to property or persons, including wrongful death, in any manner arising out of or incident to any negligent act, omission or willful misconduct of the agreeing party, their respective officers, employees

or agents, arising out of or in connection with the execution or performance of this Agreement, including without limitation the payment of attorney fees.

14. SECTION HEADINGS

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

15. WAIVER

The failure of a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure of a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of that Party's right to demand and require, at any time, the other Party's strict compliance with the terms of this Agreement

16. NO THIRD PARTY BENEFICIARIES

The Parties expressly acknowledge and agree that they do not intend, by their execution of this Agreement, to benefit any person or entities not signatory to this Agreement. No person or entity not a signatory to this Agreement will have any rights or causes of action against the CITY or COUNTY, or any combination thereof, arising out of or due to CITY'S or COUNTY'S entry into this Agreement.

17. SUCCESSORS IN INTEREST

The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement.

18. COUNTERPARTS

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

EXHIBIT C

19. JURISDICTION AND VENUE

Any action at law or in equity arising under this Agreement or brought by any Party for the purpose of enforcing, construing, or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Orange, State of California. The Parties waive all provisions of law providing for the filing, removal or change or venue to any other court.

20. FURTHER ACTIONS AND INSTRUMENTS

Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated by this Agreement to achieve the objectives of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record instruments and writing. The Parties shall also take any action that may be reasonably necessary under the terms of this Agreement to carry out the intent and to achieve the objectives of this Agreement

21. AMENDMENTS

This Agreement may be amended only by written consent of the parties specifically approving the amendment. The Parties shall cooperate in good faith with respect to any amendment proposed in order to clarify that intent and application of this Agreement.

22. AUTHORITY TO EXECUTE

Any person or persons executing this Agreement on behalf of the City and County warrants and represents that he or she has the authority to execute this Agreement on behalf of his or her agency and to bind that Agency to the performance of its obligations pursuant to this Agreement.

23. NOTICE

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and shall be deemed served when delivered personally or on

EXHIBIT C

the third business day after deposit in the United States mail, postage prepaid, first class mail, addressed as follows.

All notices, demands, requests or approvals to CITY shall be addressed to:

City of Santa Ana
20 Civic Center Plaza
Santa Ana, CA 90702
Attn: Clerk of the Council

All notices, demands, requests or approvals to COUNTY shall be addressed to:

Robin Stieler, Clerk of the Board
County of Orange
333 W. Santa Ana Blvd
Santa Ana, CA 92701

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set forth below:

CITY OF SANTA ANA

By: _____
Kristine Ridge
City Manager

Date: ___ ___

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM
Sonia R. Carvalho, City Attorney

By: _____
John M. Funk
Assistant City Attorney

Return ORIGINAL
Executed Copy to COTC
(M-30/T11)

EXHIBIT C

COUNTY OF ORANGE

By: _____

LISA A. BARTLETT
Chairwoman of the Board of Supervisors
County of Orange, California

Date: 9/24/19

SIGNED AND CERTIFIED THAT A COPY OF THIS AGREEMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD PER G.C. SEC. 25103, RESO 79-1535
ATTEST:

_____
Robin Stieler
Clerk of the Board
Orange County, California

APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By: _____

Date: 9-17-19

Return ORIGINAL
Executed Copy to COTC
(M-30/T11)

EXHIBIT C

COOPERATIVE AGREEMENT
BETWEEN THE CITY OF SANTA ANA AND THE COUNTY OF ORANGE FOR THE REORGANIZATION OF THE 17TH AND TUSTIN UNINCORPORATED ISLAND TO THE CITY OF SANTA ANA

The 17th and Tustin Island annexation area is described as approximately 25 acres of unincorporated territory generally located near where the SR-55 Costa Mesa Freeway intersects 17th street, lying to the north of 17th Street, to the east of Tustin Avenue, to the south of Catalina Avenue, and west of SR-55 Costa Mesa Freeway.

Included in the annexation is unincorporated public right of way as follows:

- 17th Street from Tustin Avenue to SR-55 Costa Mesa Freeway
- Tustin Avenue from 17th Street to the north line produced of APN 396-312-15
- Ponderosa Street from 17th Street to the north line produced of APN 396-303-12
- Deodar Street from 17th Street to the north line produced of APN 396-303-12
- Medford Street from Deodar Street to Pasadena Street
- Pasadena Street from Medford Street to the north end of the cul-de-sac

The above described annexation area is depicted in Exhibit 2.

The area includes the private property parcels with Assessor's Parcel Numbers ("APNs") as shown in Exhibit 3.

EXHIBIT 1

EXHIBIT C

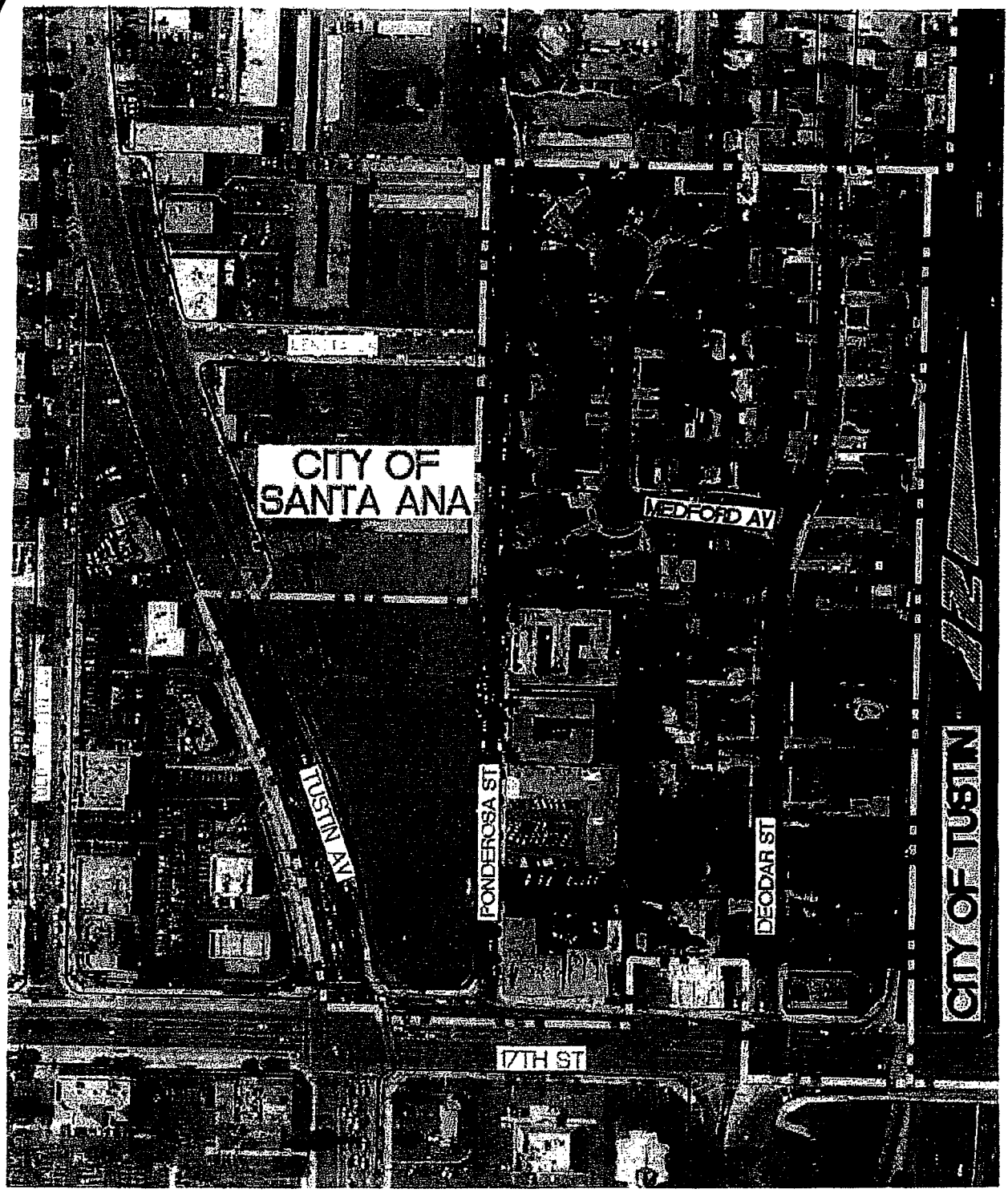


EXHIBIT 2

CITY OF SANTA ANA 17TH STREET ISLAND - VICINITY MAP

EXHIBIT C

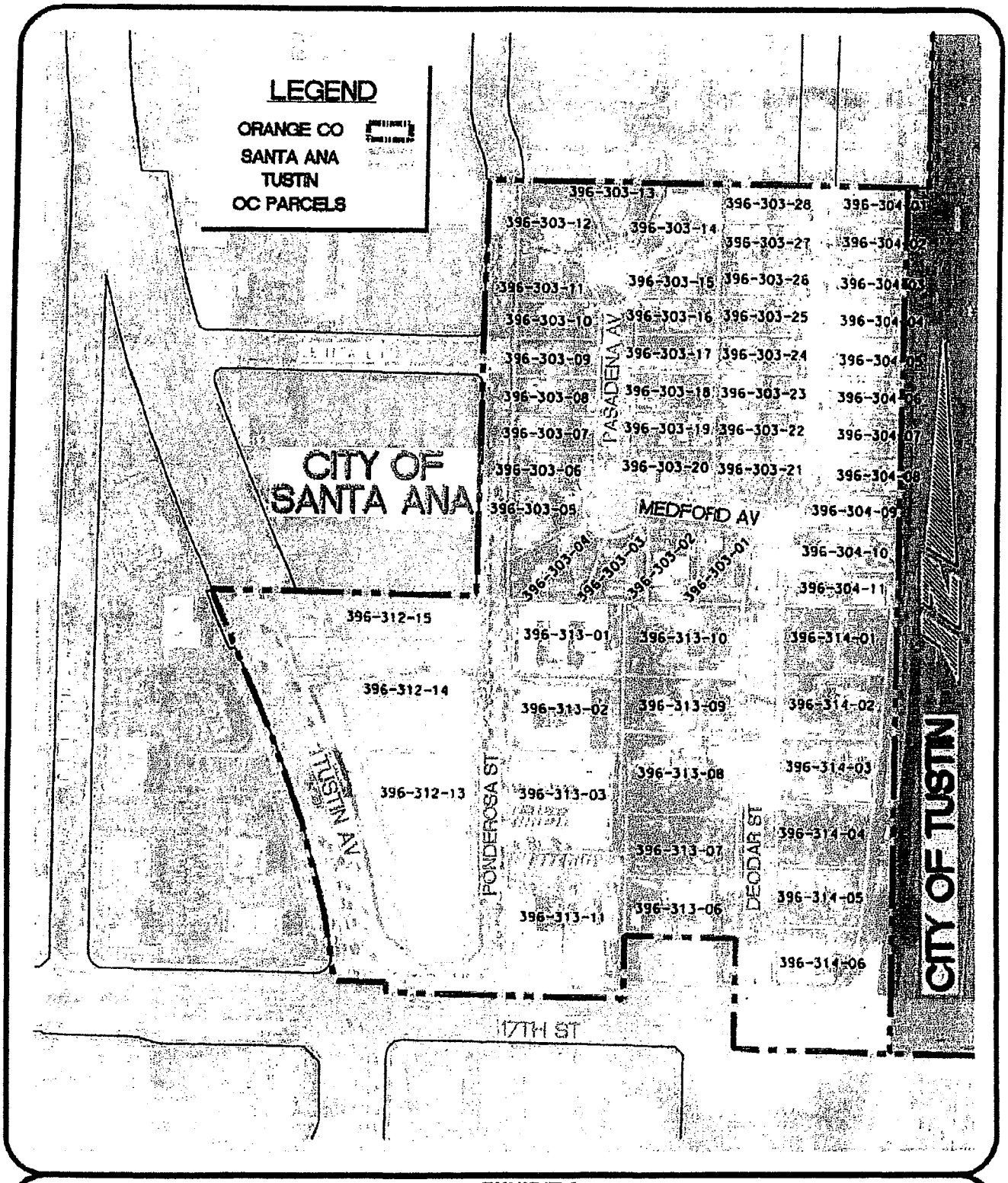


EXHIBIT 3
ASSESSOR'S PARCEL NUMBER MAP

EXHIBIT D

SERVICE AGREEMENT BY AND BETWEEN THE CITY OF SANTA ANA AND THE CITY OF TUSTIN REGARDING POTABLE WATER SERVICE FOR VARIOUS PARCELS OF UNINCORPORATED REAL PROPERTY

This Service Agreement ("Agreement") is entered into by and between the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California ("Santa Ana"), and the City of Tustin, a California municipal corporation ("Tustin") (each referred to as "Party" and collectively referred to as the "Parties") on the effective date of the reorganization of "Island Parcels" involving the annexation of the "Island Parcels" to Santa Ana and detachment of same territory from the Municipal Water District of Orange County as specified in Section A below.

RECITALS

A. As provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Gov. Code, §§ 56000 et seq.) and the Orange County Local Agency Formation Commission's ("OC LAFCO") policies and procedures, Santa Ana will submit to OC LAFCO an application to annex 57 parcels and detachment of the same parcels from the Municipal Water District of Orange County. The annexation collectively constitutes an island of unincorporated territory within Santa Ana's sphere of influence with Assessor's Parcel Numbers ("APNs") 396-303-01 to -28, 396-304-01 to -11, 396-312-13, -14, and -15, 396-313-01 to -03, -06 to -11, and 396-314-01 to -06 ("Island Parcels") as shown on Exhibit A.

B. Santa Ana is presently without the necessary water system infrastructure to directly provide Potable Water Services to the Island Parcels, but contemplates and fully intends to ensure that the Island Parcels receive adequate Potable Water Service consistent with the level of service contemplated by Santa Ana subsequent to the Annexation, including installation and completion of all necessary water system infrastructure and performance of all customer service functions ("Potable Water Service") following Santa Ana's annexation of the Island Parcels.

C. Tustin maintains and operates water lines and facilities that provide Potable Water Services to all developed Island Parcels.

D. Santa Ana and Tustin desire to enter into this Agreement, whereby Tustin will provide Potable Water Service to the Island Parcels. Tustin will provide water service to the Island Parcels until such time Santa Ana has completed water system infrastructure to serve the entire Island Parcels.

E. This Agreement constitutes a service agreement in which "[t]wo or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider." (Gov. Code, § 56133(e)(1)).

F. Under Government Code, section 56133 and OC LAFCO's "Policy & Procedures for the Review and/or Processing of Out-Of-Area Agreements by the Executive Officer (Gov't Code §56133)," this Agreement is not an out-of-area service agreement requiring OC LAFCO's review and approval because: (1) Santa Ana and Tustin are both public agencies; and (2) upon annexation, Santa Ana will have the exclusive authority to provide Potable Water Services to the Island Parcels. However, Santa Ana has found that such activities can be more efficiently and more conveniently performed by Tustin pursuant to this Agreement at this time.

G. This Agreement will in no way adversely impact water services to current customers of Santa Ana or Tustin, will not induce growth, and will not result in the duplication of services in the territory of either city.

H. This Agreement serves the public interest, economy, and general welfare.

TERMS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants as well as for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. CONSENT FOR AND PROVISION OF SERVICES

1.1. Santa Ana's Consent for Service. Except as provided in Section 1.2, Santa Ana consents to Tustin's provision of Potable Water Service to the Island Parcels, upon Santa Ana's annexation of the Island Parcels.

1.2. Following the annexation, in the event that Santa Ana has or creates the infrastructure and the capacity to provide Potable Water Service to the Island Parcels, any new development or redevelopment within the Island Parcels shall be served by Santa Ana.

1.3. Tustin's Provision of Service.

1.3.1. Provision of Service. Tustin agrees to provide Potable Water Service to the Island Parcels in a manner and at a level consistent with Tustin's provision of services to its remaining service area, subject only to a changeover as set forth in Section 2 of this Agreement.

1.3.2. Applicable Law. Tustin's provision of the Potable Water Service shall comply with applicable local, state, or federal statutes, regulations, rules, or policies.

2. TERMINATION

Santa Ana's Capacity for Service. If, at any time during the course of this Agreement, Santa Ana determines that it has the infrastructure and capacity to economically and conveniently provide Potable Water Service to the Island Parcels in a manner and at a level consistent with Santa Ana's service to the remainder of its service area, then Santa Ana will send written notice to Tustin and OC LAFCO of such determination. The notice shall provide reasonable terms, conditions, and times for accomplishing the changeover from Tustin to Santa Ana as the provider of Potable Water Service; provided, however, that cooperation with the notice shall be at no cost to Tustin. Tustin will work in good faith with Santa Ana to reasonably comply with the notice. This Agreement shall terminate when the changeover is accomplished. When this Agreement is terminated for any reason, any costs reasonably required to disconnect, transfer, cap, abandon, and/or otherwise cease Potable Water Service by Tustin will be reimbursed by Santa Ana within ninety (90) days of delivery of written request for such reimbursement. The manner of cessation of Tustin Potable Water Service shall be in compliance with all then-current Tustin standards and requirements.

3. EFFECTIVE DATE OF AGREEMENT

The effective date of this Agreement is the date this Agreement is executed by both Parties as it appears on the Signatures page of this Agreement referred to as Effective Date.

4. SCOPE OF AGREEMENT

Nothing contained in this Agreement shall be construed as representing the establishment of any precedent or the formation of any policy by Santa Ana to generally allow Tustin to provide Potable Water Service within Santa Ana's jurisdiction or by Tustin to provide Potable Water Service within Santa Ana's jurisdiction on the terms and conditions contained herein or on any terms and conditions whatsoever.

5. INDEMNIFICATION

The Parties shall indemnify and hold harmless each other and their officers, employees, and agents, against any and all claims, liabilities, expenses, attorney's fees or damages, for injury or death of any person, or damage to property, or interference with use of property Claims, to the extent the Claims arise from the negligence or willful misconduct of the indemnifying Party or to the extent any Claim arises in connection with the indemnifying Party's negligent performance of this Agreement.

6. MISCELLANEOUS PROVISIONS

6.1. Changes to Agreement. All of the terms, conditions and provisions hereof shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns, provided, however, that no assignment of this Agreement shall be made without the prior written consent of the Parties to the Agreement, which consent may not be unreasonably withheld, conditioned or delayed.

EXHIBIT D

6.2. Performance. Whenever performance is required of any Party hereunder, that Party shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, or damage to work in progress by reason of fire or other casualty or cause beyond the reasonable control of a party (acts by the performing Party causing the situation to be beyond reasonable control excepted), then the time for performance as herein specified shall be appropriately extended by the amount of the delay actually so caused.

6.3. Severability. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person or circumstance, by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other person or circumstance and the same shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

6.4. Form of Notice. Any notice to any Party shall be in writing and given by delivering the same to such party in person or by sending the same by registered or certified mail, return receipt requested, with postage prepaid to the party's mailing address. The respective mailing addresses of the Parties thereto are, until changed as hereinafter provided, the following:

To Santa Ana:	Fuad Sweiss, PE, PLS Executive Director Public Works Agency 20 Civic Center Plaza Santa Ana, Ca. 92702
With copy to:	Clerk of the Council 20 Civic Center Plaza Santa Ana, Ca. 92702
To Tustin:	Douglas Stack Director of Public Works/City Engineer 300 Centennial Way Tustin, Ca. 92780
To OC LAFCO:	Carolyn Emery 2677 North Main St Suite 1050 Santa Ana, Ca 92705

6.5. Change of Address. Any Party may change its mailing address at any time by giving written notice of such change to the other Party in the manner provided herein at least ten days prior to the date such change is considered effective.

EXHIBIT D

6.6. Effective Date of Notice. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal delivery is effective or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.

6.7. Content of Notice. Every notice (other than the giving or withholding of consent, approval, or satisfaction under this Agreement, but including requests therefore) given to a Party or other person shall comply with the following requirements. Each notice shall state:

6.7.1. The paragraph of this Agreement pursuant to which the notice is given; and

6.7.2. The period of time within which the recipient of the notice must respond or if no response is required, a statement to that effect.

6.7.3. Each request for consent or approval shall contain reasonably sufficient data or documentation to enable the recipient to make an informed decision.

6.8. Entire Agreement. This writing constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all oral or written representations or written agreements that may have been entered into between the Parties. This Agreement may be cancelled, changed, modified or amended in whole or in part only by a written and recorded instrument executed by the Parties (or their respective successors and assigns).

6.9. Governing Law. This Agreement shall be governed by the laws of the State of California. Any legal action concerning or arising out of this Agreement shall be filed in a court of the State of California having jurisdiction of the subject matter, and venue shall be in the County of Orange, State of California.

6.10. Counterparts. This Agreement may be executed by the parties in one or more counterparts, each of which when so executed and delivered shall be deemed to be an original, but all such parts shall together constitute one and the same instrument.

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

EXHIBIT D

Signatures and OC LAFCO certification on the next pages.

SIGNATURES

In witness thereof, the Parties here to have executed this Agreement on _____ which is the Effective Date.
Month Day Year

CITY OF SANTA ANA,
a California municipal corporation

By: _____
KRISTINE RIDGE,
CITY MANAGER

Attest:

By: _____
NORMA MITRE-RAMIREZ,
ACTING CITY CLERK

Approved as to Form:

By: _____
SONIA CARVALHO,
CITY ATTORNEY

CITY OF TUSTIN,
a California municipal corporation

By: _____
MATHEW S. WEST,
ACTING CITY MANAGER

Attest:

By: _____
ERICA N. YASUDA,
CITY CLERK

Approved as to Form:

WOODRUFF, SPRADLIN & SMART, APC.

By: _____
DAVID E. KENDIG,
CITY ATTORNEY

CERTIFICATION

Based upon the recitals and the terms of this Agreement, I find that Tustin's provision of Potable Water Services outside its jurisdictional boundary to the Island Parcels does not constitute a contract or agreement requiring OC LAFCO approval under Government Code section 56133.

By: _____
CAROLYN EMERY,
EXECUTIVE OFFICER
OC LAFCO

EXHIBIT E

STATEMENT OF DETERMINATIONS FOR THE REORGANIZATION OF THE 17TH STREET AND TUSTIN UNINCORPORATED ISLAND TO THE CITY OF SANTA ANA AND MUNICIPAL WATER DISTRICT OF ORANGE COUNTY (RO 19-07) SPHERE OF INFLUENCE AMENDMENT

Government Code Section 56425

1. The present and planned land uses in the area, including agriculture and open-space lands.

   The current County zoning designations include Single-Family Residence (R1), Multi-Family Dwelling (R2) and Local Business (C1 and 100-C-1-100). The proposed land use designation of the island by the City of Santa Ana are Single-Family Residence (R1), Two-Family Residence (R2), Community Commercial (C1) and Arterial Commercial (C5). The subject territory does not include agricultural lands or open space areas.

2. The present and probable need for public facilities and services in the area.

   Currently the City of Santa Ana and the City of Tustin provide sewer and water service respectively to the developed parcels within the 17th Street and Tustin Unincorporated Island. Upon annexation of the 17th Street and Tustin Unincorporated Island, the City of Santa Ana and the City of Tustin will provide retail water and wastewater service, respectively, to all of the parcels within the island. The City of Tustin will enter into a water agreement with the City of Santa Ana to provide the retail water service to the subject territory.

3. The present capacity of public facilities and the adequacy of public services which the agency provides or is authorized to provide.

   The amendment to the Municipal Water District of Orange County's (MWDOC) sphere of influence is consistent with the annexation of the 17th Street and Tustin Unincorporated Island to the City of Santa Ana. MWDOC is a member agency of the Metropolitan Water District of Southern California (MWD) and was formed to provide wholesale water service to those areas of Orange County not covered by an MWD member agency. The City of Santa Ana is an MWD city member agency, and because the service boundaries of MWD member agencies cannot overlap, the

EXHIBIT E

reorganization requires a concurrent detachment and sphere amendment of the same territory from MWDOC.

4. The existence of any social or economic communities of interest in the area.

   There are no existing social or economic communities of interest in the area.

5. The present and probable need for public sewer, municipal and industrial water or structural fire protection facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

   There are no disadvantaged unincorporated communities within or adjacent to the subject territory.