



City of Los Banos

At the Crossroads of California

www.losbanos.org

AGENDA

CITY COUNCIL MEETING

CITY HALL COUNCIL CHAMBERS
520 J Street
Los Banos, California

NOVEMBER 2, 2016

If you require special assistance to attend or participate in this meeting, please call the City Clerk's Office @ (209) 827-7000 at least 48 hours prior to the meeting.

The City of Los Banos complies with the Americans with Disabilities Act (ADA) of 1990.

Si requiere asistencia especial para atender o participar en esta junta por favor llame a la oficina de la Secretaria de la ciudad al (209) 827-7000 a lo menos de 48 horas previas de la junta.

La Ciudad de Los Banos cumple con la Acta de Americanos con Deshabilidad (ADA) de 1990.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the meeting and in the City Clerk's office located at City Hall, 520 J Street, Los Banos, California during normal business hours. In addition, such writings and documents may be posted on the City's website at www.losbanos.org.

Cualquier escritura o los documentos proporcionaron a una mayoría del Ayuntamiento respecto a cualquier artículo en este orden del día será hecho disponible para la inspección pública en la reunión y en la oficina de la Secretaria de la ciudad en City Hall, 520 J Street, Los Banos, California durante horas de oficina normales. Además, tales escrituras y los documentos pueden ser anunciados en el website de la ciudad en www.losbanos.org.

1. CALL TO ORDER. **7:00 PM**
2. PLEDGE OF ALLEGIANCE.
3. ROLL CALL: (City Council Members)
Faria ____, Lewis ____, Silveira ____, Stonegrove ____, Villalta ____
4. CONSIDERATION OF APPROVAL OF AGENDA.
5. PRESENTATIONS.
 - A. Veterans Day Proclamation.

- B. Donation by the Los Banos Firefighters Association to Pink Heals – Cancer Awareness Fundraiser.
- C. PUBLIC FORUM. (Members of the public may address the City Council Members on any item of public interest that is within the jurisdiction of the City Council; includes agenda and non-agenda items. No action will be taken on non-agenda items. Speakers are limited to a five (5) minute presentation. Detailed guidelines are posted on the Council Chamber informational table.)
- D. CONSIDERATION OF APPROVAL OF CONSENT AGENDA. (Items on the Consent Agenda are considered to be routine and will be voted on in one motion unless removed from the Consent Agenda by a City Council Member.)
 - A. Check Register for #201380 – #201644 in the Amount of \$2,857,649.32.
Recommendation: Approve the check register as submitted.
 - B. Minutes for the September 21, 2016 City Council Meeting.
Recommendation: Approve the minutes as submitted.
 - C. Minutes for the October 19, 2016 City Council Meeting.
Recommendation: Approve the minutes as submitted.
 - D. City Council Resolution No. 5799 – Approving an Updated Memorandum of Understanding with the Los Banos Police Dispatchers/Community Services Officers Association Regarding Reporting the Monetary Value of Uniform Expenses.
Recommendation: Adopt the resolution as submitted.
 - E. City Council Resolution No. 5800 – Approving the Coach Vincent Ventura Murillo Memorial, with an Engraved Bench, be Placed a Colorado Ball Park.
Recommendation: Adopt the resolution as submitted.
 - F. City Council Resolution No. 5801 – Approving the Elena Talbott Memorial Rock, with Existing Brass Plaque, be Placed at Elena Talbott Park.
Recommendation: Adopt the resolution as submitted.
- 6. PUBLIC HEARING. (If you challenge the proposed action as described herein in court, you may be limited to raising only those issues you or someone else raised at the public hearing described herein or in written correspondence delivered to the City at, or prior to, the public hearing.)
 - A. Public Hearing – To Receive Public Comment and Consider Final Development Plan #2016-03 and Development Agreement Consistent with the Stonecreek Environmental Impact Report. The Proposed Property Consists of the Subdivision of Approximately 18.6 Acres into 71 Single-family

Residential Lots. The Final Development Plan Consists of Site Design and Conceptual Architecture to Implement the Planned Development Zoning. The Project Site is Located at the Northwest Corner of Ortigalita Road and Pioneer Road, Assessor's Parcel Number 430-060-020.

- 1) City Council Resolution No. 5802 – Approving Final Development Plan #2016-03 for the Villages at Stonecreek IX.
- 2) Ordinance No. 1148 – Approving a Development Agreement between the City of Los Banos and Anderson Homes, a California Corporation for Development of Approximately 18.64 Acres Located at the Northwest Corner of Ortigalita and Pioneer Roads, More Specifically Identified as Assessor's Parcel Number 430-060-020 (Villages at Stonecreek IX).

(First Reading & Introduction)

Recommendation: Receive staff report, open public hearing, receive public comment, adopt the resolution as submitted, waive the first reading and introduce the ordinance as submitted.

- B. Public Hearing – To Receive Public Comment and Consider Amendments to the City Fire Prevention Code Ordinance to Adopt by Reference the California Fire Code 2016 Edition and Local Amendments Thereto.

- 1) Ordinance No. 1149 – Adopting by Reference the 2016 Edition of the California Fire Code by Amendment to Title 4 Chapter 3 of the Los Banos Municipal Code and Adoption of Local Amendments Thereto.

(First Reading & Introduction)

Recommendation: Receive staff report, open public hearing, receive public comment, waive the first reading and introduce the ordinance as submitted.

- C. Public Hearing – To Receive Public Comment and Consider Amendments to the City Building Code Ordinance to Adopt by Reference the California Building Code 2016 Edition and Related 2016 Edition Codes.

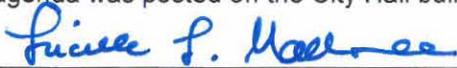
- 1) Ordinance No. 1150 – Adopting by Reference the 2016 Edition of the California Building Code, the 2016 Edition of the California Energy Code, the 2016 Edition of the California Historical Building Code, the 2016 Edition of the California Referenced Standards Code, the 2016 Edition of the California Electrical Code, the 2016 Edition of the California Mechanical Code, the 2016 Edition of the California Administrative Code, the 2016 Edition of the California Existing Building Code, the 2016 Edition of the California Green Building Standards Code, the 2016 of the California Residential Code, the 2016 Edition of the California Plumbing Code; by Amendment to Title 8 Chapter 1 of the Los Banos Municipal Code.

(First Reading & Introduction)

Recommendation: Receive staff report, open public hearing, receive public comment, waive the first reading and introduce the ordinance as submitted.

7. ADVISEMENT OF PUBLIC NOTICES. (Three Reports)
8. CITY MANAGER REPORT.
9. CITY COUNCIL MEMBER REPORTS.
 - A. Deborah Lewis
 - B. Scott Silveira
 - C. Elizabeth Stonegrove
 - D. Tom Faria
 - E. Mayor Mike Villalta
10. ADJOURNMENT.

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing agenda was posted on the City Hall bulletin board not less than 72 hours prior to the meeting.



Lucille L. Mallonee, City Clerk

Dated this 27th day of October 2016



City of
Los Banos
At the Crossroads of California

**PROCLAMATION
RECOGNIZING VETERANS DAY**

WHEREAS, America was founded on the principles of liberty, opportunity, and justice for all; and

WHEREAS, Veterans Day is a day in which we recognize the men and women of our Armed Forces who have valiantly defended our country's values throughout this Nation's history; and

WHEREAS, by answering the call of duty and risking their lives to protect their fellow countrymen, these patriots have inspired us with their courage, compassion, and dedication; and

WHEREAS, universal recognition is given to the celebrated ending of World War I fighting at 11 a.m., November 11, 1918 (the 11th hour of the 11th day of the 11th month); and

WHEREAS, there are currently more than 25 million living American veterans, many of whom put their lives on the line to preserve our freedoms; and

WHEREAS, our proud veterans have given our country an extraordinary legacy of patriotism and honor, and their service represents the highest form of citizenship; and

WHEREAS, in honor of all our proud veterans, the ones that are here today and the ones that have gone before, we invite our community to give a moment of silence in respect and thank you on November 11, 2016.

NOW, THEREFORE, BE IT PROCLAIMED that the Mayor and City Council Members of the City of Los Banos do hereby celebrate the day of November 11th, 2016 as **VETERANS DAY** and encourage all citizens to give thought to the history, valor, and sacrifice of our veterans through appropriate ceremonies and prayers.

In witness whereof, I have hereunto set my hand and caused to be affixed the seal of the City of Los Banos, this 2nd day of November 2016.

APPROVED:

Michael Villalta, Mayor

ATTEST:

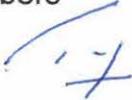
Lucille L. Mallonee, City Clerk



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Tim Marrison, Fire Chief 

DATE: November 2, 2016

SUBJECT: Presentation of donation from Los Banos Firefighters Association to Pink Heals – Cancer Awareness Shirt Sales

TYPE OF REPORT: Agenda Item

Recommendation:

Informational item only, no action to be taken.

Discussion:

There will be a donation presented to Pink Heals as a result of the Los Banos Firefighters Association Cancer Awareness Fundraiser.

CK # 201380 - 201644

11/02/2016

\$2,857,649.32

Bank Reconciliation

Checks by Date

User: sorozco
 Printed: 10/25/2016 - 2:44PM
 Cleared and Not Cleared Checks
 Print Void Checks



City of
Los Banos
At the Crossroads of California

Check No	Check Date	Name	Module	Void	Amount
201382	10/14/2016	Alhambra	AP		24.18
201383	10/14/2016	A & A Portables Inc	AP		111.65
201384	10/14/2016	Accela, Inc.	AP		1,288.00
201385	10/14/2016	Accela, Inc.	AP		59,291.82
201386	10/14/2016	Alert-O-Lite, Inc.	AP		71.42
201387	10/14/2016	All American Plumbing	AP		602.00
201388	10/14/2016	Ameripride Valley Uniform Services Inc.	AP		309.84
201389	10/14/2016	Anthony Gomes	AP		369.02
201390	10/14/2016	Aramark Uniform Ser Inc	AP		709.73
201391	10/14/2016	AT&T	AP		378.42
201392	10/14/2016	AT&T	AP		387.94
201393	10/14/2016	Luis M Avila	AP		2,328.00
201394	10/14/2016	Merced County Sheriff's Office	AP		805.00
201395	10/14/2016	The Bank of New York	AP		441,807.50
201396	10/14/2016	Board of Equalization	AP		768.00
201397	10/14/2016	Borelli Real Estate Service, Inc.	AP		90.00
201398	10/14/2016	BSK Associates	AP		232.00
201399	10/14/2016	Sheri Barnes	AP		600.00
201400	10/14/2016	Ca Dept of Justice	AP		96.00
201401	10/14/2016	California Building Standards Commission	AP		804.60
201402	10/14/2016	California Dairies Inc	AP		295.66
201403	10/14/2016	Cen-Cal Air	AP		1,244.00
201404	10/14/2016	CSJVRMA	AP		261,236.00
201405	10/14/2016	Clark Pest Control Inc	AP		145.00
201406	10/14/2016	Coffee Break Service	AP		208.10
201407	10/14/2016	Cook's Communications Corp.	AP		45.07
201408	10/14/2016	Copy Shipping Solutions	AP		122.96
201409	10/14/2016	CPRS - District V	AP		170.00
201410	10/14/2016	CPS	AP		2,464.25
201411	10/14/2016	CSG Consultants Inc.	AP		12,371.00
201412	10/14/2016	Dept of Conservation	AP		2,380.12
201413	10/14/2016	Edges Electrical Group, LLC	AP		82.02
201414	10/14/2016	Electric Drives Inc	AP		952.54
201415	10/14/2016	Engineering Unlimited Inc	AP		627.90
201416	10/14/2016	ABY MFG Group. Inc.	AP		110.21
201417	10/14/2016	F S Rod Inc	AP		1,240.80
201418	10/14/2016	Fastenal Company	AP		1,188.70
201419	10/14/2016	Fast Track Car Wash	AP		80.50
201420	10/14/2016	Federal Express	AP		5.07
201421	10/14/2016	Ferguson Enterprises Inc DBA Groeniger & Company	AP		1,065.17
201422	10/14/2016	Food 4 Less	AP		77.88
201423	10/14/2016	Galls Inc	AP		40.06
201424	10/14/2016	Hardware Distribution	AP		1,542.21
201425	10/14/2016	Holt of California	AP		51.29

Check No	Check Date	Name	Module	Void	Amount
201426	10/14/2016	Home Depot	AP		2,733.16
201427	10/14/2016	Jinny Lan Huang	AP		500.00
201428	10/14/2016	JB Anderson Land Use Planning	AP		495.00
201429	10/14/2016	Johnnie's Cleaners	AP		71.50
201430	10/14/2016	Los Banos Car Wash Inc	AP		33.00
201431	10/14/2016	Los Banos Express Oil & Lube	AP		118.70
201432	10/14/2016	Lucas Business Systems	AP		314.56
201433	10/14/2016	Marfab Inc	AP		81.38
201434	10/14/2016	Matson Alarm Co Inc	AP		181.00
201435	10/14/2016	Merced Chevrolet Inc.	AP		1,587.42
201436	10/14/2016	Merced College	AP		69.00
201437	10/14/2016	Merced County Regional Waste Management Authority	AP		12,921.36
201438	10/14/2016	Merced Sun Star	AP		986.30
201439	10/14/2016	Merced Truck & Trailer Inc	AP		23.49
201440	10/14/2016	Merced Uniform & Accessories	AP		486.88
201441	10/14/2016	Murphy Austin Adams Schoenfeld LLP	AP		240.00
201442	10/14/2016	New Pig Corporation	AP		526.25
201443	10/14/2016	Normac Inc	AP		928.21
201444	10/14/2016	O'Dell Engineering	AP		2,100.00
201445	10/14/2016	The Office City	AP		73.67
201446	10/14/2016	OSE	AP		1,578.14
201447	10/14/2016	O'Reilly Auto Parts	AP		1,232.18
201448	10/14/2016	PG&E Company	AP		37.48
201449	10/14/2016	Pacific Landscape Supply, Inc.	AP		2,048.75
201450	10/14/2016	Pitney Bowes Inc	AP		67.05
201451	10/14/2016	Praxair Distribution Inc	AP		65.10
201452	10/14/2016	Purchase Power Inc	AP		4,000.00
201453	10/14/2016	Protech Security & Electronics, Inc.	AP		411.00
201454	10/14/2016	Rick's Auto Body	AP		2,988.77
201455	10/14/2016	Ronny's Landscaping	AP		950.00
201456	10/14/2016	Santos Ford Lincoln Mercury, Inc.	AP		80.50
201457	10/14/2016	Save Mart Supermarkets	AP		217.85
201458	10/14/2016	Angel H. Saucedo	AP		630.00
201459	10/14/2016	Sherwin Williams Co	AP		683.21
201460	10/14/2016	Robert & Susan Hansen	AP		1,519.56
201461	10/14/2016	Sorensens True Value	AP		760.50
201462	10/14/2016	Sorensens True Value	AP		66.37
201463	10/14/2016	Stommel, Inc.	AP		95.39
201464	10/14/2016	Stonecreek Properties	AP		44,711.70
201465	10/14/2016	Thomas Ochoa	AP		2,087.42
201466	10/14/2016	Terminix Processing Center	AP		40.00
201467	10/14/2016	Stephanie Pereira	AP		18.88
201468	10/14/2016	Luneida & Robert Teicheira	AP		50.99
201469	10/14/2016	Blanca De La Torre	AP		97.11
201470	10/14/2016	Kirk Simeon	AP		2.93
201471	10/14/2016	Graystone Property Management	AP		94.23
201472	10/14/2016	UC Construction	AP		74.84
201473	10/14/2016	Lauren Nixon	AP		50.97
201474	10/14/2016	Donzell Ankum	AP		50.97
201475	10/14/2016	Francisco Paras	AP		4.83
201476	10/14/2016	John Mendoza	AP		13.73
201477	10/14/2016	Desiree Tolbert Bryant	AP		82.70
201478	10/14/2016	Home Buyers Realty Team	AP		48.09
201479	10/14/2016	Village Asset Group, LLC	AP		82.70
201480	10/14/2016	Joseph Vallejo	AP		19.26
201481	10/14/2016	UC Construction	AP		76.22
201482	10/14/2016	Sergio Bernal	AP		36.57

Check No	Check Date	Name	Module	Void	Amount
201483	10/14/2016	Alfredo De La Torre Cruz	AP	Void	0.05
201484	10/14/2016	UC Construction	AP		77.15
201485	10/14/2016	Ramon Rodriguez	AP		19.26
201486	10/14/2016	Graystone Property Mgmt	AP		19.26
201487	10/14/2016	UC Construction	AP		58.85
201488	10/14/2016	Luis Zepeda	AP		19.26
201489	10/14/2016	Debbie Lowery	AP		27.25
201490	10/14/2016	Ricardo Campos	AP		16.38
201491	10/14/2016	UC Construction	AP		79.46
201492	10/14/2016	UC Construction	AP		78.75
201493	10/14/2016	Francisco Jimenez	AP		21.82
201494	10/14/2016	George Cintas	AP		100.00
201495	10/14/2016	Anel Villegas	AP		500.00
201496	10/14/2016	Walmart	AP		455.94
201497	10/14/2016	Westside Water Conditioning	AP		20.00
201498	10/14/2016	Windecker Inc	AP		7,535.75
201499	10/14/2016	Young's Air Conditioning	AP		2,268.50
201500	10/14/2016	Robert Downey	AP	Void	103.00
201501	10/14/2016	Dept of Housing & Community Development State NSP	AP		16,823.00
201502	10/14/2016	Ford Motor Credit Company LLC	AP		4,420.32
201503	10/14/2016	Surina Gonzales	AP		215.00
201504	10/14/2016	PERS - Public Employees	AP		86,381.68
201505	10/14/2016	Rolfe Construction Company	AP		183,464.95
201506	10/14/2016	Sacramento Regional Public Safety Training Center	AP		121.00
201507	10/14/2016	State Water Resources Control Board	AP		300.00
201528	10/19/2016	Aflac-Customer Service	AP		580.98
201529	10/19/2016	Los Banos Fitness &	AP		518.00
201530	10/19/2016	Los Banos Police Assn	AP		2,112.00
201531	10/19/2016	MassMutual	AP		1,177.07
201532	10/19/2016	MassMutual	AP		4,295.00
201533	10/19/2016	Nationwide Retirement Solutions	AP		1,550.00
201534	10/19/2016	Professional Fire Fighter	AP		630.00
201535	10/19/2016	State Disbursement Unit	AP		1,215.50
201536	10/19/2016	Vantagepoint Transfer Agents - 306797	AP		967.40
201537	10/19/2016	Vantagepoint Transfer Agents - 705827	AP		25.00
201538	10/19/2016	Vantagepoint Transfer Agents - 801838	AP		2,975.00
201539	10/21/2016	Accela, Inc.	AP		45.00
201540	10/21/2016	Advantage Gear, Inc.	AP		827.86
201541	10/21/2016	All American Plumbing	AP		509.00
201542	10/21/2016	Amerigas Propane, LP	AP		275.20
201543	10/21/2016	Ameripride Valley Uniform Services Inc.	AP		107.96
201544	10/21/2016	Anthony Gomes	AP		400.00
201545	10/21/2016	Aramark Uniform Ser Inc	AP		786.12
201546	10/21/2016	AT&T	AP		1,090.80
201547	10/21/2016	AT&T	AP		65.00
201548	10/21/2016	BJ's Consumers Choice	AP		70.00
201549	10/21/2016	Brinks Inc.	AP		527.21
201550	10/21/2016	Bruce's Tire Inc	AP		150.00
201551	10/21/2016	BSK Associates	AP		2,457.45
201552	10/21/2016	Ca Dept of Justice	AP		1,455.00
201553	10/21/2016	California Dairies Inc	AP		147.83
201554	10/21/2016	Central Sanitary Supply	AP		86.62
201555	10/21/2016	Clark Pest Control Inc	AP		93.00
201556	10/21/2016	Comcast	AP		329.95
201557	10/21/2016	Keith Crist	AP		18.52
201558	10/21/2016	CSG Consultants Inc.	AP		67,212.97
201559	10/21/2016	City of Los Banos Utility	AP		32,346.58

Check No	Check Date	Name	Module	Void	Amount
201560	10/21/2016	Custom Locksmith & Alarm Inc.	AP		329.83
201561	10/21/2016	DeVault Electric Products, Inc.	AP		504.48
201562	10/21/2016	Darrell Mello	AP		500.00
201563	10/21/2016	Edges Electrical Group, LLC	AP		250.35
201564	10/21/2016	EMC Planning Group Inc	AP		1,508.18
201565	10/21/2016	Employee Relations, Inc.	AP		50.00
201566	10/21/2016	ABY MFG Group. Inc.	AP		177.39
201567	10/21/2016	Fastenal Company	AP		160.81
201568	10/21/2016	Fast Track Car Wash	AP		49.00
201569	10/21/2016	Federal Express	AP		27.36
201570	10/21/2016	Ferguson Enterprises Inc DBA Groeniger & Company	AP		2,761.66
201571	10/21/2016	Floyd Johnston Construction Co., Inc.	AP		873,727.73
201572	10/21/2016	GCS Environmental Equipment Services	AP		2,945.62
201573	10/21/2016	Galls Inc	AP		334.94
201574	10/21/2016	Gouveia Engineering Inc.	AP		6,841.69
201575	10/21/2016	Greater San Joaquin Umpire Association	AP		700.00
201576	10/21/2016	Halo Branded Solutions Inc.	AP		611.55
201577	10/21/2016	Hoffman Electronic Systems	AP		125.00
201578	10/21/2016	Home Depot	AP		2,870.21
201579	10/21/2016	IIMC	AP		100.00
201580	10/21/2016	InfoSend Inc.	AP		5,543.36
201581	10/21/2016	Calvin Lotz	AP		381.98
201582	10/21/2016	Jerry Witt	AP		3,727.00
201583	10/21/2016	Lexipol LLC	AP		5,400.00
201584	10/21/2016	Lincoln Equipment Inc	AP		166.18
201585	10/21/2016	Wade Allen Gant	AP		595.63
201586	10/21/2016	Los Banos Express Oil & Lube	AP		165.54
201587	10/21/2016	Lucas Business Systems	AP		577.37
201588	10/21/2016	McNamara Sports Inc	AP		380.38
201589	10/21/2016	Merced Chevrolet Inc.	AP		2,089.18
201590	10/21/2016	Merced County Regional Waste Management Authority	AP		4,147.97
201591	10/21/2016	Merced County Regional Waste Management Authority	AP		75,614.47
201592	10/21/2016	Merced County Regional Waste Management Authority	AP		11,850.32
201593	10/21/2016	Merced County Health Dept	AP		86.75
201594	10/21/2016	Merced Truck & Trailer Inc	AP		553.55
201595	10/21/2016	Merced Uniform & Accessories	AP		235.28
201596	10/21/2016	Erandy Merino	AP		350.00
201597	10/21/2016	Napa Auto Parts	AP		1,492.63
201598	10/21/2016	NFPA	AP		1,453.14
201599	10/21/2016	O'Dell Engineering	AP		1,940.00
201600	10/21/2016	The Office City	AP		401.20
201601	10/21/2016	OSE	AP		22.64
201602	10/21/2016	O'Reilly Auto Parts	AP		407.82
201603	10/21/2016	Pacheco Veterinary	AP		592.00
201604	10/21/2016	Provost and Pritchard Engineering, Inc.	AP		9,945.30
201605	10/21/2016	Pro Clean Supply	AP		80.56
201606	10/21/2016	Rick's Auto Body	AP		174.16
201607	10/21/2016	Santos Ford Lincoln Mercury, Inc.	AP		1,106.53
201608	10/21/2016	Save Mart Supermarkets	AP		197.83
201609	10/21/2016	Sherwin Williams Co	AP		466.86
201610	10/21/2016	Fred Silva	AP		186.00
201611	10/21/2016	Frank Silveria	AP		10,652.16
201612	10/21/2016	Snap On Tools	AP		214.92
201613	10/21/2016	Sorensens True Value	AP		285.99
201614	10/21/2016	Sorensens True Value	AP		131.75
201615	10/21/2016	Spriggs Inc.	AP		692.83
201616	10/21/2016	Sprint Solutions, Inc.	AP		759.81

Check No	Check Date	Name	Module	Void	Amount
201617	10/21/2016	Terryberry Company LLC	AP		367.83
201618	10/21/2016	San Luis Plaza	AP		93.62
201619	10/21/2016	San Luis Plaza	AP		51.43
201620	10/21/2016	Verizon Wireless	AP		626.14
201621	10/21/2016	West Publishing Corporation	AP		419.05
201622	10/21/2016	Windecker Inc	AP		12,431.11
201623	10/21/2016	Young's Air Conditioning	AP		198.00
201624	10/21/2016	Allied Waste Services #917	AP		254,173.52
201625	10/21/2016	Justin Caruthers	AP		15.00
201626	10/21/2016	City Clerks Association of California - CCAC	AP		160.00
201627	10/21/2016	Ronald Lee Cloward	AP		375.00
201628	10/21/2016	Donlee Pump Company	AP		15,307.75
201629	10/21/2016	Ford Motor Credit Company LLC	AP		1,307.85
201630	10/21/2016	Mary Lou Gilardi	AP		90.99
201631	10/21/2016	Liebert Cassidy Whitmore	AP		182.00
201632	10/21/2016	Merced County Clerk	AP		50.00
201633	10/21/2016	Merced County LAFCo	AP		2,700.00
201634	10/21/2016	PERS - Public Employees	AP		113,433.33
201635	10/21/2016	Pinnacle Medical Group	AP		218.00
201636	10/21/2016	Provost and Pritchard Engineering, Inc.	AP		18,500.00
201637	10/21/2016	State Water Resources Control Board	AP		90.00
201638	10/21/2016	Tractor Supply Credit Plan	AP		964.60
201639	10/21/2016	Law Offices of William A Vaughn	AP		6,168.25
201640	10/21/2016	Westamerica Bank - Cafeteria Plan	AP		49,273.36
201641	10/25/2016	Los Banos Vet Clinic	AP		5,396.00
201642	10/25/2016	Los Banos Vet Clinic	AP		316.31
201643	10/25/2016	Merced County Auditor Controller	AP		1,717.50
201644	10/25/2016	US Bank Corp Pymt System	AP		18,937.69

Break in check sequence due to the following:

Check #201380 - 201381 (Payroll)

Check #201508 - 201527 (Payroll)

Total Void Check Count:	2
Total Void Check Amount:	103.05
Total Valid Check Count:	241
Total Valid Check Amount:	2,857,649.32
Total Check Count:	243
Total Check Amount:	2,857,752.37

**CITY OF LOS BANOS
CITY COUNCIL MEETING MINUTES
SEPTEMBER 21, 2016**

ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the City Council. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.

CALL TO ORDER: Mayor Villalta called the City Council Meeting to order at the hour of 7:01 PM.

PLEDGE OF ALLEGIANCE: Police Chief Brizzee led the pledge of allegiance.

ROLL CALL – MEMBERS OF THE CITY COUNCIL PRESENT: Council Members Deborah Lewis, Scott Silveira, Elizabeth Stonegrove, Mayor Michael Villalta; Absent: Council Member Faria.

STAFF MEMBERS PRESENT: City Attorney Vaughn, City Clerk/Human Resources Director Mallonee, City Manager Terrazas, Police Chief Brizzee, Finance Director Williams, City Treasurer/Accountant I Brazil, Fire Chief Marrison, Senior Planner Elms, Public Works Director/City Engineer Fachin and Information Technology Director Spalding.

CONSIDERATION OF APPROVAL OF AGENDA: Motion by Silveira, seconded by Stonegrove to approve the City Council Meeting agenda as submitted. The motion carried by the affirmative action of all City Council Members present, Faria absent.

PRESENTATIONS – CERTIFICATES OF RECOGNITION – GIRLS STATE AND BOYS STATE DELEGATES. Mayor Villalta introduced Rick Toscano and Stephanie Bayard who spoke to the history of Boys State and Girls State. The following students were presented certificates of recognition: Kiara Gilardi (Los Banos High School), Kassandra Rameriz (Pacheco High School), Ashly Flores (Dos Palos High School), Juan Ramos (Pacheco High School), Giovanni Mevi (Los Banos High School), Arzan Kermani. Mayor Villalta spoke regarding Tyler Turner who recently passed away in a tragic accident who was last year's Boys State alternate and asked for a moment in silence in his honor.

PRESENTATIONS – CERTIFICATES OF RECOGNITION – VETERAN PARTICIPANTS OF THE CENTRAL VALLEY HONOR FLIGHT TOUR IN WASHINGTON, D.C. Mayor Villalta introduced Rodney Torres who spoke regarding the trip the veterans are taking. The following veterans were presented certificates of recognition: Donald Stowe, Korean War Navy Veteran; Charles Day, War World II Army Veteran; Ralph Steitz, World War II Navy Veteran; Leroy Tucker, World War II Army Veteran; James Murrell, Korean War Air Force Veteran; Eugene Anderson, Korean War Army Veteran.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE CITY COUNCIL MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE. ERIK LIMON, republic Services, spoke to the upcoming fall clean up on September 24, 2016 and what can and cannot be disposed of; LINA CARMO, Valley Crisis Center and Laura McPearson Valley Crisis Center spoke about the upcoming Peace for Families March Against Domestic Violence being held on October 12, 2016; GENEVA BRETT, Los Banos Chamber of Commerce, spoke regarding the Chamber's function, purpose, and a quick history, asking that the Chamber be part of the process when creating a mural policy ordinance for the City. No one else came forward to speak and the public forum was closed.

CONSIDERATION OF APPROVAL OF CONSENT AGENDA. Motion by Lewis, seconded by Stonegrove to approve the consent agenda as follows: Check Register for #200679 – #200920 in the Amount of \$827,551.64; City Council Resolution No. 5793 – Authorizing the City Manager to Award the Bid for the Purchase of One (1) New Half-ton Truck from Merced Chevrolet in the Amount of \$34,615.40; City Council Resolution No. 5794 – Awarding the Bid and Authorizing the City Manager to Execute a Contract to Purchase and Install One (1) 4,000 Gallon Above Ground Blast/Impact Resistant Fuel Storage Tank (AST) Split 1,000/3,000 Gallons with Fuel Management and Gasoline and Diesel Dispensing Systems from Donlee Pump Company in the Amount of \$89,038.76; City Council Resolution No. 5795 – Approving the Acceptance of a First 5 Merced County Mini-Grant to Support a Car Seat Safety and Awareness Training Program for the Community in the Amount of \$3000 and Amending the 2016-2017 Fiscal Year Budget by Increasing the Appropriation Amount for the Expenditures and Revenues in the Amount of \$3000. The motion carried by the affirmative action of all City Council Members present, Faria absent.

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF APPROVAL OF THE VILLAS FINAL DEVELOPMENT PLAN #2016-01, EAST CENTER AREA PLAN AMENDMENT, AND EAST CENTER AREA PLAN MITIGATE NEGATIVE DECLARATION, CONSISTING OF THE SUBDIVISION OF APPROXIMATELY 58.8 ACRES INTO 231 SINGLE-FAMILY RESIDENTIAL LOTS RANGING FROM CUSTOM AND SEMI CUSTOM HOMES TO PRODUCTION HOMES; APPROXIMATELY 51 ACRES OF THE PROJECT SITE WILL BE CONTAINED WITHIN A PRIVATE GATED-COMMUNITY WITH A FOUR (4) ACRE PARK/DETENTION BASIN; LOCATED EAST OF CENTER AVENUE, SOUTH OF THE CRESTHILLS #1 SUBDIVISION, WEST OF CRESTHILLS #2 SUBDIVISION, AND NORTH OF PIONEER ROAD AND THE CITY LIMIT LINE, APNS 431-270-010 AND 431-270-004; CITY COUNCIL RESOLUTION NO. 5796 – APPROVING AN AMENDMENT TO THE VILLAS AREA PLAN ANNEXATION (ANX #2001-05) PREVIOUSLY ADOPTED BY CITY COUNCIL RESOLUTION NO. 4680 ON JANUARY 18, 2006; CITY COUNCIL RESOLUTION NO. 5797 – APPROVING THE VILLAS FINAL DEVELOPMENT PLAN #2016-01. City Attorney Vaughn stated that he lives on

the edge of this proposed project and will be excusing himself from the discussion and the Council Chambers.

Senior Planner Elms presented the staff report, which included a PowerPoint presentation.

Yushin Imura, Project Manager from O'Dell Engineering, presented a visual tour of the project.

There was Council Member and staff discussion regarding another piece of property, the Meza Property and how it is being included in the project, and their current uses being grandfathered in for livestock as long as they continue use, but once they stop they will have to conform to current.

Jeff Roberts, Granville Homes, stated that the Meza property is totally surrounded by the Villa Project, they have a private entrance off of Cardoza and will be maintained in its present state and the visual tour presented only concentrated on the Villa's project.

Mayor Villalta opened the public hearing. JEFF ROBERTS, Granville Homes, Fresno and representative of Stonefield Homes, stated that they support staff's recommendation of approval and also the Planning Commission's approval last month, he spoke to the proposed project in more detail; MARK MILOSEVICH, Los Banos, spoke in opposition of this proposal and talked about the history of the project and the 100-120 feet buffer, how the proposal impacts the existing residents on Bluff Drive negatively; DARRYL LAWRENCE, Los Banos, spoke in opposition to the proposed project and why not run Cardoza Road all the way through like it was told to them back in 2005/2006 and to do what they said they would do back then; ANDREW MEZA, Los Banos, spoke in opposition of the proposed project, how he has been to all the meetings and how his residence will be losing part of his property if the project is approved, how this will truly be an educational impact to the City by an increase in students and schools being impacted. No one else came forward to speak.

There was additional Council Member and staff discussion regarding Condition #18 of Resolution No. 4680, which Senior Planner Elms explained in more detail, at what point in the process was the concept changed and what was the logic, which Jeff Roberts stated that we have a different proposal than what was provided ten years ago, we are proposing a private street instead of a public road. There was Council Member and staff discussion on how back in 2006 things were quite different especially in regards to water, we are not going to have a water shortage in regards to this development with Senior Planner Elms stating that we will have sufficient water supply with this project and Public Works Director/City Engineer Fachin added that the Urban Water Management Plan approved by the City Council does not change with new homes. There was discussion on the number of custom homes in that gated area, number of semi custom, street connectivity to the Hill Project, how the lot line adjustment would happen and that would have to happen with the developer and the property owners.

Motion by Silveira, seconded by Stonegrove to adopt City Council Resolution No. 5796 – Approving an Amendment to the Villas Area Plan Annexation (ANX #2001-05)

Previously Adopted by City Council Resolution No. 4680 on January 18, 2006. The motion carried by the affirmative action of all Council Members present, Faria absent.

Motion by Silveira, seconded by Stonegrove to adopt City Council Resolution No. 5797 – Approving the Villas Final Development Plan #2016-01. The motion carried by the affirmative action of all Council Members present, Faria absent.

City Attorney Vaughn returned to the Council Chambers and his seat at the dais.

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF AMENDING THE SPECIAL EVENTS PERMIT FEE; CITY COUNCIL RESOLUTION NO. 5798 – AMENDING APPLICATION FEES FOR THE ADMINISTRATION AND ISSUANCE OF SPECIAL EVENTS PERMITS. Senior Planner Elms presented the staff report, which included a PowerPoint presentation.

There was Council Member and staff discussion regarding the cost for the events, how long would you need to hold the stakeholder events, wanting to see two City Council Members at the Stakeholder Meetings, how we do not currently charge for the Christmas parade or the May Day parade, consider suspending the permit fees because that would give everyone a level playing field until we figure out a permanent solution, how when we passed this ordinance we talked about charging and the gifting of public funds, would we be safe in waiving the fees for which the City Attorney stated that the idea of city's charging fees for services rendered is not a new concept, laws around gifts of public funds when providing services or property for public use, it's not something Los Banos is unique in recouping the costs of a public event, what is troubling is figuring out who to charge which group what charge, the need to be very careful with the types of events you are subsidizing, for profit vs non profit businesses, have to be very careful when grading groups and events as to waiving fees for community wide events, he has no issue with what is being proposed tonight.

There was additional Council Member and staff discussion regarding the application fee not being an issue, it's the unknown departmental fee is what is of big concern, being sure to not waive the liability issues, needing to balance the cost to support the event, concerned with suspending the departmental service charges, if there would be an exception when a small organization would not have to pay these fees, like if they do not use public streets but are simply walking down the sidewalk for which City Attorney Vaughn stated that this would be just when you want to use city streets or public parks.

Mayor Villalta opened the public hearing. MICHAEL HUGHES, Los Banos VFW, spoke to the fees they have paid for their parades, they have no problem with the application fee but have an issue with the departmental fees because of the unknown costs and would like a fair playing field and others holding parades are paying the same, community events are great events to have in the city, they want a fair price that is the same as everyone else, would be happy to be involved in the Stakeholders Meetings to come up with a solution that is fair for all; KATHY BALLARD, Los Banos, spoke to her logic in the permit fee and supports that for all who have a parade even those who are on the sidewalk, the LB Chamber of Commerce did pay the permit fee but did not pay the departmental fee, most people are nervous about the unknown, thinking \$300 and

then the bill comes in and its \$1,200, very hard for the non-profit organizations, she would like to be part of the Stakeholders Meetings, needs to be completely fair for everybody; GENEVA BRETT, Los Banos, in 2014 before the ordinance was put in affect the Chamber paid \$1,200 and we did pay the permit fee the past two years, she agrees that \$60-120 will not break the bank, she does not personally believe that veterans should pay a fee at all because of all they have done for our country; TOM GIRLADIN, Los Banos, when I moved here in 1985 we were a community that comes together, we need to have more of these events to make the community stronger, everyone should pay the permit fee but absorb all staff costs. No one else came forward the public hearing was closed.

There was Council Member and staff discussion regarding the Stakeholder Meetings being an excellent idea, that grandfathering in should not happen as Council should be the ones making that decision, does need to be fair and equitable.

Motion by Lewis, seconded by Silveira to adopt City Council Resolution No. 5798 – Amending Application Fees for the Administration and Issuance of Special Events Permits. The motion carried by the affirmative action of all Council Members present, Faria absent.

Motion by Lewis, seconded by Silveira to hold Stakeholders Meetings with two Council Members not to exceed one year. The motion carried by the affirmative action of all Council Members present, Faria absent.

CANCELLATION OF THE REGULAR CITY COUNCIL MEETING SCHEDULED FOR WEDNESDAY, OCTOBER 5, 2016 DUE TO COUNCIL MEMBERS ATTENDING THE LEAGUE OF CALIFORNIA CITIES CONFERENCE IN LONG BEACH, CALIFORNIA, OCTOBER 5-7, 2016. (PLEASE NOTE THE NEXT REGULARLY SCHEDULED CITY COUNCIL MEETING IS OCTOBER 19, 2016). Motion by Silveira, seconded by Lewis to cancel the October 5, 2016 City Council Meeting. The motion carried by the affirmative action of all Council Members present, Faria absent.

ADVISEMENT OF PUBLIC NOTICES. (Two Reports) Senior Planner Elms stated that there will be two public hearings held at the September 28, 2016 Planning Commission Meeting: one to consider a Site Plan Review #2016-09 for the construction of a new 4,800 multi-tenant retail building for the Vieira Company, located at 305 Mercey Springs Road, APN 025-133-006 and another to consider Mobile Vendor Permit #2016-03 to allow the operation of a mobile food truck to vend on private property located at 80 West G Street, Suite C, APN 081-190-008, Tacos El Jefe.

CITY MANAGER REPORT. Nothing to report.

CITY COUNCIL MEMBER REPORTS.

ELIZABETH STONEGROVE: Nothing to report

TOM FARIA: Absent

DEBORAH LEWIS: Stated that this past Friday we had a wonderful event at the new Robert M. Falasco Justice Center, the new courthouse is a beautiful structure and very impressed by our state Chief Justice in attendance, very proud to see this new structure in Los Banos and hopefully the new Police Department will be built adjacent to this property soon.

SCOTT SILVEIRA: Congratulations to the Boys and Girl States designees and thanked them for a job well done.

MAYOR MICHAEL VILLALTA: Stated that last week he attended the Chili Cook Off at the New Beginning Church and thanked them for the event, thanked the veterans for the event the other night, this weekend is the OLF Oktoberfest and October 1, 2016 is the Tomato Festival, spoke regarding the mural project and how it will help spruce up downtown and looking forward to developing the mural policy, the new courthouse dedication was phenomenal and how beautiful the building is.

ADJOURNMENT. The meeting was adjourned at 9:21 p.m.

APPROVED:

Tom Faria, Mayor Pro Tem

ATTEST:

Lucille L. Mallonee, City Clerk

**CITY OF LOS BANOS
CITY COUNCIL MEETING MINUTES
OCTOBER 19, 2016**

ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the City Council. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.

CALL TO ORDER: Mayor Villalta called the City Council Meeting to order at the hour of 7:00 PM.

PLEDGE OF ALLEGIANCE: Police Chief Brizzee led the pledge of allegiance.

ROLL CALL – MEMBERS OF THE CITY COUNCIL PRESENT: Council Members Deborah Lewis, Scott Silveira, Elizabeth Stonegrove, Mayor Michael Villalta; Absent: None.

STAFF MEMBERS PRESENT: City Attorney Vaughn, City Clerk/Human Resources Director Mallonee, City Manager Terrazas, Police Chief Brizzee, Finance Director Williams, City Treasurer/Accountant I Brazil, Fire Chief Marrison, Senior Planner Elms, Public Works Director/City Engineer Fachin and Information Technology Director Spalding.

CONSIDERATION OF APPROVAL OF AGENDA: Motion by Faria, seconded by Lewis to approve the City Council Meeting agenda as submitted. The motion carried by the affirmative action of all City Council Members present.

PRESENTATIONS

PROCLAMATION RECOGNIZING THE WEEK OF OCTOBER 16-22, 2016 AS ALZHEIMER'S AWARENESS MONTH. Mayor Villalta presented the proclamation and Diana Ingram Thurston and Grover Thurston accepted the proclamation; Ms. Thurston spoke regarding alzheimers, the services the local Los Banos group provides and their fundraising efforts.

PROCLAMATION RECOGNIZING ELENA GUTIERREZ, LOS BANOS HIGH SCHOOL STUDENT, FOR ATTENDANCE AT THE STANFORD YOUTH MEDICAL SCIENCE PROGRAM. Mayor Villalta presented the proclamation to Elena Gutierrez. Miss Gutierrez introduced her parents, her vice principal and science teacher, and spoke to her future goals.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE CITY COUNCIL MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE

POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE. CARYN COX, Los Banos, stated that something interesting has happened over the last couple of months, explained how her mother received a water citation because her sprinklers were watering on the wrong day at the wrong time, explaining her situation, how they disputed the claim and attended a hearing to explain how she didn't feel should have been cited, explained what happened during the hearing and how she is disgusted with the process and results; LAURA OLSEN, Los Banos, congratulated the Alzheimers Group for the recognition they received and the great job they did at the fundraiser, spoke to the Domestic Violence Awareness March recently held, the Purple Purse Challenge fundraising efforts starting September 28, 2016 and urged everyone to get involved; BERTHA FARIA, Los Banos Chamber of Commerce, spoke regarding the activities at the Chamber and their new members, looking forward to the new fundraiser being held on October 29, 2016 at the DES Hall – 1st Annual Halloween Party, the recent and upcoming ribbon cuttings for new businesses in town, October 22, 2016 is the historical mural dedication of the Buffalo Soldiers Trail Mural to the 24th Infantry and the 9th Calvary, the Los Banos Arts Council musical event Los Cenzontles on October 22, 2016, Navy Day events and the upcoming Veterans Day Parade and the fundraising events for this being held at Carl's Jr on October 26 and 27, 2016, fresh Holiday Greenery fundraiser sales going on at the Chamber, Chamber Mixer at Century 21 and Hot City BBQ; GENEVA BRETT, Los Banos, representing Los Banos Chamber of Commerce, spoke regarding how the City is talking about creating an ordinance regarding murals and how she would like to be a part of that, she spoke regarding landscaping issue throughout town, citing section LBMC 4-6, the dedication of the Buffalo Soldiers Trail Mural and the history behind the historic event, reminded all about the Veterans Day Parade on November 5, 2016, and how Century 21 sponsoring the next Chamber mixer and invited all to attend; Mayor Villalta spoke regarding the landscaping ordinance and the mural policy. No one else came forward to speak and the public forum was closed.

CONSIDERATION OF APPROVAL OF CONSENT AGENDA. Motion by Lewis, seconded by Faria to approve the consent agenda as follows: Check Register for #200921 – #201379 in the Amount of \$2,488,595.50; First Quarter Investment Report for Fiscal Year 2016/2017; Minutes for the August 3, 2016 City Council Meeting; Minutes for the September 7, 2016 City Council Meeting; City Council Resolution No. 5799 – Accepting the F Street Storm Line as Complete and Authorizing the Filing of a Notice of Completion with the Merced County Recorder; City Council Resolution No. 5800 – Amending the Fiscal Year 2016/2017 Budget by Increasing Appropriations in Funds of the Park Maintenance Technical Services for Additional Parts and Material Costs to Streetscapes, Planters and Parks in the Amount of \$20,000; City Council Resolution No. 5801 – Approving an Amendment to Sec. 5010 of Division 5 – Personnel Benefits of the City's Policy & Procedures Manual as it Pertains to Municipal Clerk Certification Pay; City Council Resolution No. 5802 – Approving the Incorporation of Division 26 – Nepotism and Fraternalization Policy to the City's Policy & Procedures Manual. The motion carried by the affirmative action of all City Council Members present.

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF PRESIDENTIAL ESTATES EAST AREA PLAN TO GUIDE FUTURE DEVELOPMENT;

A GENERAL PLAN AMENDMENT TO RE-DESIGNATE THE PROJECT SITE FROM PROFESSIONAL OFFICE, MEDIUM DENSITY RESIDENTIAL, AND COMMERCIAL TO LOW DENSITY RESIDENTIAL, ANNEXATION AND PREZONE OF APPROXIMATELY 106 ACRES; AND ASSOCIATED MITIGATED NEGATIVE DECLARATION (SCH #2015061056), PROJECT SITE LOCATED NORTH OF PIONEER ROAD, WEST OF MERCY SPRINGS ROAD (SR 165) AND EAST OF ELEVENTH STREET, APNS 026-290-001, 002, 003, 004, 005, 083-120-012, 013, 014, 015, 016, 017, 018, 019, 020, 021, 022, 023, 024, 027 AND 028 (CONTINUED FROM SEPTEMBER 7, 2016); CITY COUNCIL RESOLUTION NO. 5786 – APPROVING MITIGATED NEGATIVE DECLARATION (SCH #2015061056) AND ASSOCIATED MITIGATION MONITORING AND REPORTING PROGRAM FOR THE PRESIDENTIAL ESTATES EAST AREA PLAN AND ANNEXATION #2014-01, GENERAL PLAN AMENDMENT #2015-03, PRE-ZONE #2014-02, AND ASSOCIATED PRE-ANNEXATION DEVELOPMENT AGREEMENTS; CITY COUNCIL RESOLUTION NO. 5787 – APPROVING GENERAL PLAN AMENDMENT #2015-03 FOR PROPERTY LOCATED WITHIN THE PRESIDENTIAL ESTATES EAST AREA PLAN PROJECT, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR’S PARCEL NUMBERS: 026-290-001, 002, 003, 004, AND 005; ORDINANCE NO. 1145 – AMENDING THE ZONING MAP TO PRE-ZONE APPROXIMATELY 106 ACRES LOCATED NORTH OF PIONEER ROAD AND WEST OF MERCY SPRINGS ROAD (SR 165), MERCED COUNTY, CALIFORNIA, FROM COUNTY R-1 (RESIDENTIAL-SINGLE FAMILY) TO CITY R-1 (LOW DENSITY RESIDENTIAL), TO BE ANNEXED INTO THE CITY OF LOS BANOS (SECOND READING & ADOPTION); CITY COUNCIL RESOLUTION NO. 5788 – REQUESTING THE ANNEXATION AND PRE-ZONE OF APPROXIMATELY 106 ACRES FOR THE PRESIDENTIAL ESTATES EAST AREA PLAN AND ANNEXATION; ORDINANCE NO. 1146 – APPROVING A PRE-ANNEXATION DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LOS BANOS AND STONEFIELD COMMUNITIES, INC., FOR THE PROJECT COMMONLY KNOWN AS THE PRESIDENTIAL ESTATES EAST AREA PLAN AND ANNEXATION (FIRST READING & INTRODUCTION); ORDINANCE NO. 1147 – APPROVING A PRE-ANNEXATION DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LOS BANOS AND THE MANUEL M. CARDOZA PROPERTY, FOR THE PROJECT COMMONLY KNOWN AS THE PRESIDENTIAL ESTATES EAST AREA PLAN AND ANNEXATION (FIRST READING & INTRODUCTION). City Attorney Vaughn stated that he lives within 500 feet of this proposed project and will be excusing himself from the discussion and the Council Chambers.

Senior Planner Elms stated that staff is requesting continuation of this item to November 16, 2016 to allow additional time to negotiate the pre-annexation development agreement.

Mayor Villalta opened the public hearing. JEFF ROBERTS, Granville Homes, Fresno, partners with Stonefield Properties, stated that he has been here the past couple of years talking about this project, he is now speaking in opposition to staff as they would like Council to consider and approve City Council Resolution Nos. 5786, 5787, 5788 and Ordinance No. 1145 and spoke to the reasons why they are wanting approval, noting that LAFCO has scheduled a hearing for December 14, 2016 to hear this annexation and any delay could put this into next year, a lot could change and would

like to move forward, he added that they would like to do one development agreement not two (pre development agreement and development agreement) and how they are willing to work with staff on developing just one development agreement to be presented at the November 16, 2016, they would like to see more things in the development agreement and some things changed, he is offering to add an additional condition to the prezone in regards to the need for an additional fire station in the City and they are willing to offer to pay for an additional study for such fire station, the items are all on the agenda for approval and actions would be consistent with the action taken a month ago, there is a lot of work to do before the LAFCO hearing if approved.

There was Council Member and staff discussion regarding frustration with the whole process at this point, we all have concerns and we have been talking about this project for well over a year, it was on the agenda and then changed to add something different than what has been talked about the past years, staff recommending postponing this item to a date certain, why staff is uncomfortable moving forward on all these items and not approving some for which Senior Planner Elms referenced a letter from the City's land use attorney William Abbott stating that the city take no action tonight adding that the City wants all items to be approved all at once, she explained that without a pre-annexation agreement the City cannot condition certain special conditions. Additional discussion regarding LAFCO recently setting the hearing for December 2016, what this means to this project. Jeff Roberts stated that we recognize that there needs to be some comfort level for this project and their comfort level would be higher if we could move forward with some of these items, if we do not stay on track with the LAFCO schedule it could all change in the New Year and Council's consideration would be helpful.

There was additional Council Member and staff discussion regarding when the agenda packet went out the recommendation was correct but discussions after that changed the recommendation, how it is important that we do this correctly and it not being unreasonable to ask for an extension, the letter from the legal counsel William Abbott that states that it was a package deal when presented to the Planning Commission and the Council should consider it the same way, how the city has a system in place with pre-annexation agreements.

Council Member Silveira still a little frustrated that it was on the agenda in the first place as he feels it should not have come to Council and action taken until all issues were resolved and he noted that he will not be at the November 16, 2016 Council Meeting due to a previous commitment.

City Manager Terrazas stated that staff is willing to travel to meet with the developer face to face, speak as often as possible to by telephone conferencing to resolve the issues with the pre-annexation development agreement conditions.

Motion by Lewis, seconded by Faria to continue the above stated public hearing and items related to the Presidential Estates East Area Plan to November 16, 2016 City Council Meeting. The motion carried by the affirmative action of all City Council Members present, Silveira voting No.

City Attorney Vaughn returned to the Council Chambers.

CONSIDERATION OF APPOINTING TWO (2) COUNCIL MEMBERS TO ATTEND SPECIAL EVENTS STAKEHOLDER MEETINGS. Council Member Faria stated that he has always and will continue to recuse himself from this item because his wife is associated with the Los Banos Chamber of Commerce and left his seat at the dais and the Council Chambers.

Senior Planner Elms presented the staff report.

Council Member Silveira nominated Mayor Villalta and himself.

Motion by Silveira, seconded by Stonegrove to designate Mayor Villalta and Council Member Silveira to attend the Special Events Stakeholder Meetings. The motion carried by the affirmative action of all City Council Members present, Faria abstained.

Council Member Faria returned to the Council Chambers and his seat at the dais.

DISCUSSION AND CONSIDERATION OF CHANGING FROM MONTHLY MEETINGS TO QUARTERLY MEETINGS FOR THE LOS BANOS PARKS & RECREATION COMMISSION, ECONOMIC DEVELOPMENT ADVISORY COMMISSION AND LOS BANOS AIRPORT COMMISSION. City Manager Terrazas presented the staff report, noting that the Airport Commission stated at their last meeting that they would like to continue to meet monthly.

There was Council Member and staff discussion regarding the Airport Commission's desire to continue to meet monthly, how their agenda is getting a little busier with the airport relocation, if there is any consideration to combine the Parks & Recreation Commission and the Tree Commission into one and there not being a lot of interest from the Tree Commission to combine with the Parks & Recreation, if the Economic Development Advisory Commission had been having quorums which was stated yes but that during the summer meetings had also been cancelled due to lack of agenda items, what is required to change to quarterly meetings for which the City Attorney stated that the Los Banos Municipal Code states that they are to meet monthly and those meetings need to occur but an ordinance amendment would need to happen to change to quarterly meetings.

There was additional Council Member and staff discussion regarding taking a look at the work load and come back with individual recommendations for each commission, which City Manager Terrazas stated they will do and bring back an ordinance for consideration.

NOTICE AND ANNOUNCEMENT OF VACANCIES ON THE FOLLOWING COMMISSIONS/COMMITTEES: PARKS & RECREATION COMMISSION – FOUR (4) VACANCIES; PLANNING COMMISSION – FOUR (4) VACANCIES; TREE COMMISSION – TWO (2) VACANCIES; ECONOMIC DEVELOPMENT ADVISORY COMMISSION – THREE (3) VACANCIES; AIRPORT ADVISORY COMMISSION –

THREE (3) VACANCIES; MEASURE P COMMITTEE – THREE (3) VACANCIES. City Informational item only, no action to be taken.

ADVISEMENT OF PUBLIC NOTICES (Two Reports). Senior Planner Elms stated that there will be two public hearings held at the October 26, 2016 Planning Commission Meeting: one to consider a CEQA Categorical Exemption and Conditional Use Permit to allow the use of commercial storage container for Zoomys/7Eleven Inc. located at 140 W. Pacheco Boulevard, APN 027-154-019 and another to consider a Mitigated Negative Declaration for the construction of a new 5,690 square foot multi-tenant restaurant building for LRG Investors, LLC located at 1335 W. Pacheco Boulevard, APN 430-010-043.

CITY MANAGER REPORT. Stated that last week he attended the VFW American Legion Monthly meeting which was nice and good company, good folks, appreciate their service and what they do for the community, reminded all about the Veterans Parade on November 5, 2016, the street work being done on October 20, 2016 at the intersection of B Street and Mercey Springs Road, the Hobby Lobby Grand Opening, and how he attended EOC Training last week.

CITY COUNCIL MEMBER REPORTS.

TOM FARIA: Spoke regarding the Grand Opening of Hobby Lobby and how they have really cool stuff, there's a lot going on in Los Banos, events going on at the Los Banos Arts Center, the Veterans Day Parade, Buffalo Soldiers Mural Unveiling, Peace for Family Events with the Choir singing, Alzheimer's Group and the work they do, how great the counselors at LBHS and recombining students for great achievements, wished his baby granddaughter a happy first birthday.

DEBORAH LEWIS: Thanked the City of Los Banos for allowing me to go to the League of California Cities Conference recently, learned a lot with a great wealth of information, congratulated Hobby Lobby on their grand opening, there will be another concert by San Jose State University Choir on November 5, 2016 at New Beginnings Church, how he attended the Peace for Families Event and how it take a lot of courage for men and women to step forward and talk about what they have went through and how this organization helped them, thanked them for all they do.

SCOTT SILVEIRA: Thanked the City for allowing me to go to the League of California Cities Conference in Long Beach and how the sessions were very beneficial and gives you a lot of insight and a very valuable tool, how he went to Paraiso Brewery and how the atmosphere is really cool and the micro brewery is good with a lot to select from, how he's wearing his vote sticker because he voted by mail, encouraged everyone to vote in November, it is important and how this is your chance to give your elected officials your report card and to vote on the many important issues.

ELIZABETH STONEGROVE: Nothing to report

MAYOR MICHAEL VILLALTA: Spoke about the Hobby Lobby's Grand Opening, the Peace for Families March, League of California Cities Conference in Long Beach being

great with many neat ideas, noted that Council Member Lewis is funding the San Jose State University Choir personally and commended her for that, the upcoming Hospital Dinner, Concert, Veterans Parade, how great the Tomato Festival was and then read a prepared statement that he wrote urging all to vote on November 8, 2016.

ADJOURNMENT. The meeting was adjourned at 8:36 p.m.

APPROVED:

Michael Villalta, Mayor Pro Tem

ATTEST:

Lucille L. Mallonee, City Clerk



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Lucy Mallonee, MMC *LM*
City Clerk/Human Resources Director

DATE: November 2, 2016

SUBJECT: Approving an Updated Memorandum of Understanding (MOU) between the City of Los Banos and the Los Banos Police Dispatchers/Community Services Officers Association (LBPDCSOA) Regarding Reporting the Monetary Value of Uniform Expenses

TYPE OF REPORT: Consent Agenda

Recommendation:

That the City Council adopt a resolution as requested by California Public Employees' Retirement System (CalPERS) approving an updated MOU between the City of Los Banos and the LBPDCSOA.

Discussion:

The City was audited by CalPERS in late 2015 and staff has been diligently working with CalPERS staff on the identified audit findings the past several months. One of the findings was that the Agency's written labor agreements did not list the "monetary value" of the uniforms and uniform maintenance provided for its employees. California Code of Regulations Section 571 (b) requires the written labor policy or agreement contain the conditions for payment of, including, but not limited to, eligibility for, and amount of the special compensation.

In order to comply with this findings, staff is requesting that the City Council adopt a resolution approving an updated MOU with the LBPDCSOA. CalPERS is requesting that these changes cover the period of July 1, 2011 to current.

Please note that the City has been correctly reporting uniform expenses to CalPERS for affected employees, the current wording just needs to be expanded to be in compliance with CalPERS regulations.

Staff has also been working the Los Banos Police Officers Association to get this wording added as required by CalPERS and once that agreement has been secured it will be brought to the City Council for approval.

Fiscal Impact:

None

Reviewed by:



Alex Terrazas, City Manager

Attachments:

Resolution

RESOLUTION NO. __

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LOS BANOS APPROVING AN UPDATED MEMORANDUM OF
UNDERSTANDING WITH THE LOS BANOS POLICE
DISPATCHERS/COMMUNITY SERVICES OFFICERS
ASSOCIATION (LBPDCSOA) REGARDING REPORTING THE
MONETARY VALUE OF UNIFORM EXPENSES**

WHEREAS, the City of Los Banos is a public agency located in the County of Merced, State of California; and

WHEREAS, the City of Los Banos is an employer member of the California Public Employees' Retirement System (CalPERS); and

WHEREAS, CalPERS and California Code of Regulations (CCR) 571 (b) requires that written labor agreements list the monetary value of the uniforms and uniform maintenance provided for its employees and also contain the conditions for payment of, including, but not limited to, eligibility for, and amount of, the special compensation; and

WHEREAS, in response to CalPERS audit findings, the City of Los Banos has secured an updated Memorandum of Understanding with the LBPDCSOA that addresses the conditions of reporting uniform allowances retroactive to July 1, 2011 in compliance with CCR Section 571 (b) and the CalPERS audit findings; and

WHEREAS, the City Council of the City of Los Banos has received a request to approve the updated MOU the LBPDCSOA (Exhibit A) regarding reporting the monetary value of uniform expenses, effective retroactively to July 1, 2011.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Los Banos approve the attached MOU with the LBPDCSOA.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 2nd day of November 2016, by Council Member __ who moved for its adoption, which motion was duly seconded by Council Member __, and the Resolution was adopted by the following vote:

AYES: Council Members
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

MEMORANDUM OF UNDERSTANDING

City of Los Banos
and
The Los Banos Police Dispatchers/Community Services Officers Association

June 15, 2016 to June 30, 2018

SECTION I - Preamble

This Memorandum of Understanding (hereinafter referred to as "MOU" is entered into by the City of Los Banos (hereafter referred to as the City) and the Los Banos Police Officers' Association representing the Los Banos Police Dispatchers/Community Services Officers Association (hereafter referred to as the Association). The salaries, hours, fringe benefits and working conditions set forth have been mutually agreed upon by the designated bargaining representatives of the City and the Association. The term will be June 15, 2016, and through June 30, 2018. Employees defined for the purpose of this MOU are full-time Police Dispatchers and full-time Community Services Officers. This MOU is subject to Section 3500-3510 of the Government Code of the State of California otherwise known as the Meyers Miliias Brown ("MMB") Act, the City of Los Banos Municipal Code, and Resolution No. 1719.

SECTION II - No Abrogation of Rights

The parties acknowledge that the City responsibilities and rights and management responsibilities and rights as indicated in the City of Los Banos Personnel Rules and Regulations Resolution and all applicable State or Municipal laws and rights of the City Council are neither abrogated nor made subject to the meet and confer process by the adoption of this MOU.

SECTION III - Past Practices

The parties agree that this MOU supersedes any past practice covered by this Memorandum but does not affect any other written understanding agreed to by the parties not addressed in this MOU.

SECTION IV - No Discrimination

The City and the Association will cooperate in pursuing a policy of no discrimination and affirmative action.

The City and Association further agree that no person employed by or applying for employment will be discriminated against because of race, religion, creed political affiliation, color, national origin, ancestry, age, or sex. The parties further agree to protect the rights of individuals by complying with the provisions of the MMB Act.

Unit employees will have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations including but not limited to wages, hours, and other terms and conditions of employment. Unit employees also will have the right to refuse to join or participate in the activities of the Association and will have the right to represent themselves individually in their employment relations with the City. No employee will be interfered with, intimidated, restrained, coerced, or discriminated against by the City of Los Banos or by any employee organization because of his/her exercise of these rights.

SECTION V - Recognition

A. Recognition

Pursuant to Section 3500-3510 of the Government Code of the State of California, the City recognizes Los Banos Police Officers Association as the exclusive bargaining agent for the Los Banos Police Dispatchers/Community Services Officers Association bargaining unit, which consists of all full-time Police Dispatchers/Community Services Officers.

B. Payroll Deduction

The City will deduct Association membership dues and assessments, the amount to be designated by the Association, and any other mutually agreed upon payroll deductions from the monthly pay of member employees. The dues or other mutually agreed payroll deductions must be authorized in writing by the employee on an authorization card acceptable to the City. The City will remit the deducted dues and other mutually agreed payroll deduction to the Association as soon as reasonably possible after the deduction. The Association will not unreasonably request payroll deductions.

The Association agrees to hold the City harmless and indemnify the City against any claims, causes of action or lawsuits arising out of the deductions or transmittal of such funds to the Association, except the intentional failure of the City to transmit moneys deducted from employees to the Association pursuant to this Article.

- C. During the term of this Agreement, changes to City of Los Banos policies referred to in this MOU that affect wages, hours and terms and conditions of employment will be subject to the meet and confer process as required by law.

SECTION VI - Management Rights

It is understood and agreed that the City retains all of its powers and authority to direct, manage, and control operations to the full extent of the law. The exercise of the foregoing powers, rights, authority, duties, and responsibilities of the City; the adoption of policies, rules, regulations, and practices in furtherance thereof; and the use of

judgment and discretion in connection therewith, will be limited only by the terms of this Agreement, to the extent such specific and express terms are in conformance with law.

SECTION VII - BENEFITS

The City will contribute towards the City sponsored benefit plans during the life of the Memorandum of Understanding as follows:

A. Medical Insurance Benefits

The City will contract with the California Public Employees' Retirement System (CalPERS) for the purpose of providing employees with medical insurance benefits.

The City's maximum monthly contribution for each eligible active employee for the purchase of medical insurance will be equal to the minimum monthly employer contribution required under the Public Employees Medical and Hospital Care Act (PEMHCA).

B. Cafeteria Plan

The City will maintain a Cafeteria Plan, pursuant to Section 125 of the Internal Revenue Code, for the purpose of providing employees with access to various health and welfare benefits. Benefits available through the Cafeteria Plan include, but are not limited to, medical insurance, flexible spending accounts for out-of-pocket medical expenses and dependent care, vision insurance, dental insurance and life insurance benefits. The City agrees to provide a Cafeteria Plan Allowance to all employees eligible to participate in City-sponsored health benefits under Section A of this Article. Any tax consequences resulting from City contributions to the Cafeteria Plan are the sole responsibility of the employee.

1. For employees hired before October 17, 2007, the City will provide, on a monthly basis, a Cafeteria Plan Allowance in the following amount:
 - a. Up to a maximum of the premium for the Blue Shield Access HMO plan for the employee's selected level of coverage (i.e., employee only, employee plus one or employee plus family);
 - b. Minus the PEMHCA contribution specified in Section VII(A);
 - c. Plus the premium for enrollment in the City's life insurance (coverage up to \$50,000), dental insurance and vision insurance plans, up to a maximum of \$85 per month.
2. For employees hired on or after October 17, 2007, the City will provide, on a monthly basis, a Cafeteria Plan Allowance, based on the employee's level of health care coverage, as provided below:

- a. Employee Only: One hundred percent (100%) of the premium for employee only coverage for the plan selected by the employee, up to 100% of the premium for employee only coverage in the Blue Shield Access HMO plan; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to \$50,000), dental insurance and vision insurance plans, up to a maximum of \$85.00 per month.
 - b. Employee Plus One: Ninety percent (90%) of the premium for employee only coverage for the plan selected by the employee, up to 90% of the premium for employee only coverage in the Blue Shield Access HMO plan; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to \$50,000), dental insurance and vision insurance plans, up to a maximum of \$85.00 per month.
 - c. Employee Plus Family: Eighty percent (80%) of the premium for employee only coverage for the plan selected by the employee, up to 80% of the premium for employee only coverage in the Blue Shield Access HMO plan; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to \$50,000), dental insurance and vision insurance plans, up to a maximum of \$85 per month.
3. Employee enrollment in dental, vision and life insurance plans offered by the City is mandatory.
 4. Employees who opt out of medical plans sponsored by the City, and who provide proof of medical coverage in a group plan, will receive a Cafeteria Plan Allowance of \$485 per month, of which part must be used to enroll in mandatory life insurance, dental insurance and vision insurance coverage.
 5. Subject to the City's request, the City and Association shall reopen the issue of payment of Affordable Care Act Excise Tax ("Cadillac Tax"), the Affordable Care Act, and/or its impacts.

C. Sick Leave

The City will provide Sick Leave benefits in accordance with the City of Los Banos Sick Leave Policy, and as amended during the term of this agreement; refer to City of Los Banos Policy & Procedures Manual.

D. Pension Program

1. Pension Formula.

- a. Tier One: Employees hired before January 1, 2011 will receive a CalPERS retirement benefit based on the 2.7% at 55 formula, as set forth in California Government Code section 21354.5, calculated on the single highest year of income.
- b. Tier Two: Employees hired on or after January 1, 2011 will receive a CalPERS retirement benefit based on the 2% at 60 formula, as set forth in California Government Code section 21353, calculated on average income of the three highest years.
- c. Tier Three: Qualifying employees hired on or after January 1, 2013 and considered new members of CalPERS as defined by the Public Employee Pension Reform Act (PEPRA) will receive the 2% at 62 retirement formula, and shall be subject to the provisions of PEPRA, including provisions governing reportable compensation.

E. Retiree Medical

The City will provide access to medical insurance coverage for those employees who retire from employment with the City and who constitute "annuitants" as defined by the PEMHCA.

The City's maximum monthly contribution for each eligible annuitant will be equal to the minimum employer contribution required under the PEMHCA. The provisions of the PEMHCA will govern medical insurance coverage for annuitants.

F. Retiree Longevity Pay

1. Employees hired before October 1, 2002 and who, at the time of retirement, constitute an "annuitant" as defined by the PEMHCA, will receive the following:
 - a. From the date of retirement and until such time the retiree becomes eligible for Medicare, the City will contribute an amount equal to the health premium for the employee's elected health care plan and level of coverage, less the City's minimum monthly employer contribution under PEMHCA.
 - b. Upon attaining Medicare eligibility, the City will contribute an equal to the premium cost for the supplemental Medicare plan offered by CalPERS, less the amount of the City's minimum monthly employer contribution under PEMHCA.

- c. Employees will not be entitled to City payments specified above during employment.
2. Employees hired between October 1, 2002 and October 16, 2007 and who, at the time of retirement, constitute an "annuitant" as defined by the PEMHCA, will receive the following:
 - a. From the date of retirement and until such time that the retiree becomes eligible for Medicare, the City will contribute an amount to cover fifty percent (50%) of the HMO plan for employees with ten (10) years of service, plus an additional five percent (5%) of the cost of the HMO plan for each additional year of service beyond ten (10) years, up to one-hundred percent (100%) of the HMO plan after twenty (20) years of service, less the amount of the City's minimum monthly employer contribution under PEMHCA.
 - b. Upon attaining Medicare eligibility, the City's contribution will equal the cost of fifty percent (50%) of the supplemental Medicare plan offered by CalPERS for employees with ten (10) years of service, plus an additional five percent (5%) of the cost of the supplemental Medicare plan offered by CalPERS for each additional year of service beyond ten (10) years, up to one-hundred percent (100%) of the supplemental Medicare plan offered by CalPERS after twenty (20) years of service, less the amount of the City's minimum monthly employer contribution under PEMHCA.
 - c. Employees will not be entitled to City payments specified above during employment.

G. Health Savings Account

1. For employees hired on or after January 1, 2008, the City will establish a Health Savings Plan to which the City and employees contribute to save, on a tax-deferred basis, money to help pay the cost of healthcare once an individual retires. The Health Savings Plan may be used for health-related expenses as provided under the terms of the Plan. Any tax consequences resulting from City contributions to the Health Savings Plan are the sole responsibility of the employee.
 - a. Participation is mandatory for all employees;
 - b. Starting after an employee has successfully completed his or her initial probationary period, the City will contribute \$50 per month to the employee's Health Savings Plan account. Likewise the employee will contribute \$50 per month to his or her Health Savings Plan account.
 - c. During an employee's initial hire probationary period with the City, neither

the employee nor the City will contribute to the employee's Health Savings Plan account. Upon successful completion of the initial hire probationary period, the City will contribute a lump sum of \$50 per month for each month served in the employee's initial probationary period.

- d. Upon cessation of employment with the City, the City will cease contributions to the individual's Health Savings Plan Account. Employees will have no vested right in City contributions to the Health savings Plan Account.

SECTION VIII - Leave Provisions

A. Vacation

Vacation benefits will be accrued, credited, and used in accordance with the City of Los Banos Vacation Leave Policy, and as amended during the term of this agreement; refer to City of Los Banos Policy & Procedures Manual.

B. Holidays

In lieu of holidays provided under Division 5-D of the City's Personnel Rules, employees performing twenty-four hour shift work will accrue 100 holiday hours per year, at a rate of ten hours per month between July and April. Holiday hours must be used in the month in which they are accrued. Should a scheduling conflict arise such that the holiday cannot be used in the month in which accrued, the holiday can be scheduled for a later date with prior written approval of the Chief or Chief's designee.

For all other employees, holidays will be handled in accordance with provisions of the City of Los Banos Holiday Leave Policy; City of Los Banos Policy Manual, and as amended during the term of this agreement.

SECTION IX - Pay Rates and Practices

A. Salary Adjustments

1. Effective the first full pay period following July 1, 2016, salary schedules shall be increased by two and one half percent (2.5%).
2. Effective the first full pay period following July 1, 2016, the Community service Officer (CSO) salary schedule shall be increased by two percent (2%).
3. Effective the first full pay period following July 1, 2016, Step 6 of the salary schedule will be adjusted to no less than 5% above Step 5 of the salary schedule.

Following the above listed adjustments (a-c), monthly Salary Range for employees in the represented classes will be as follows:

Dispatcher

<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>
\$3,512	\$3,687	\$3,872	\$4,065	\$4,268	\$4,482

Community Services Officer

<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>
\$2,579	\$2,708	\$2,843	\$2,986	\$3,135	\$3,292

B. One Time Payment

Effective the first full pay period following July 1, 2017, all employees in the bargaining unit in paid status and employed by the City during the first full pay period following July 1, 2017, shall receive a one-time payment in the amount of \$1,000.00, by separate check. The one-time payments will be subject to all applicable federal, state and local tax withholdings. The payments will not be included in wages for computations of overtime, pension, benefits, or for any other purpose.

C. Overtime

Overtime pay will continue to be handled in accordance with the guidelines set forth in the City's Overtime Compensation Policy, City Policy Manual Division 5-F, and as amended during the term of this agreement. Employees acknowledge and accept that sub-section 9., b. of Division 5-F, provides that when an employee is working a regularly scheduled shift that is longer than eight (8) hours, the employee is entitled to overtime compensation for only those continuous hours worked in excess of the assigned shift or for all hours worked in excess of forty (40) during an assigned work week.

In keeping with this policy, employees assigned to the 4-10 Work Schedule, will only be entitled to overtime compensation for time worked in excess of the ten (0) hour regular shift. Employees assigned to the traditional eight (8) hour shift would continue to be entitled to overtime for time worked in excess of eight (8) hours.

D. Bilingual Pay:

Bilingual pay will be paid in accordance with the City's Bilingual Pay Policy, City Policy Manual Division 5-L, and as amended during the term of this agreement.

E. Call Back Pay:

Effective the first full pay period following July 1, 2013 or date of first full pay period ratification and approval, whichever is later, call back compensation will be amended as follows:

Employees who are required to report to work during their assigned off duty hours will be entitled to receive a minimum of three (3) hours Call Back Overtime Pay even if the actual time worked is less than three (3) hours; except in the following instances:

1. In the event the off duty time being worked extends into or begin immediately following the employees assigned shift, he/she will be entitled to overtime compensation for only the actual off duty hours worked.
2. In the event the off duty time being worked is in response to a special assignment mutually agreed upon between the employee and the City, the employee will be entitled to overtime compensation for only the actual hours worked.
3. Employees will be entitled to receive the three (3) hour Call Back Overtime Pay only one (1) time during any twenty-four (24) hour period. A twenty-four (24) hour period for the purpose of this benefit is 0001 hours through 2400 hours. In the event an employee is called out several times during a given twenty-four (24) hour period, he or she will only receive three (3) hours compensation if the total hours worked are three (3) or less. If the total hours worked exceeded three (3), the employee will be compensated for the actual hours worked.

The express purpose of Call Back Overtime is to compensate employees who have their normal off duty hours disrupted due to unscheduled call backs, court appearances, and other such job demands. In the event of a disagreement over entitlement to three (3) hour Call Back Overtime Pay, the stated intent of this benefit will be the guiding factor in resolving disputes.

For court appearances, subpoenaed employees may call the court on the day of the required appearance, at or near the required time of appearance listed, to inquire as to whether the appearance time has changed. Employees shall receive a minimum of one (1) hour of Call Back Overtime Pay for one or more calls to the court within the same day. If, upon calling the court, the employee is required to immediately report in person, the call and appearance combined will be subject to the three (3) hour minimum Call Back Overtime Pay. If, upon calling the court, the employee is required to report in person two or more hours later, the employee will be eligible for the one (1) hour minimum Call Back Overtime Pay for the phone call in addition to the three (3) hour minimum Call Back Overtime Pay for the court appearance. Calls are subject to City verification, and employees are required to record the time of the call(s) and the

name(s) of the individual(s) spoken to on their time sheet.

F. Education Incentive - Allowance

In accordance with the City's Educational Incentive Policy; City of Los Banos Policy Manual Division 5-G, qualified employees will be entitled to receive Educational Incentive Pay as follows:

\$75 per month for an AA/AS Degree, or
\$150 per month for a BA/BS Degree, or
\$200 per month for a Master's Degree

G. Certificate Incentive

\$50 per month for completion of Corrections Academy Certificate
\$50 per month for Dispatcher Training Certificate
\$50 per month for Basic Dispatchers Certificate
\$50 per month for Intermediate Dispatchers Certificate
\$50 per month for Advanced Dispatchers Certificate

Not to exceed \$250 per month for any combination of the above.

H. Specialty Pay

Effective November 1, 2007 Dispatchers who conduct field training will receive a salary differential of two and one-half percent (2.5%) for Field Training Dispatchers for time spent training only.

I. Tuition Reimbursement

The City will provide reimbursement for schools, tuition, and specific expenses in accordance with the guidelines set forth in the City of Los Banos Tuition Reimbursement Policy; refer to City of Los Banos Policy Manual.

J. Compensatory Time Off

Employees will be permitted to accumulate up to one hundred twenty (120) hours of Compensatory Time Off. Employees may cash out accrued, unused Compensatory Time in excess of sixteen (16) hours up to a total of eighty (80) hours maximum cash out annually to be paid on June 5th and December 5th. Cash out of Compensatory Time will be paid by separate check upon request.

Compensatory Time will be handled in accordance with provisions outlined in the City's Compensatory Time Off (CTO) Policy, refer to City of Los Banos Policy & Procedures Manual.

K. Training Expenses

Subject to, and following, the approval of all City bargaining units to amend Division 13 of the Los Banos Personnel Rules entitled "Business and Travel Expenses," and adoption of the amended policy by City Council, employees will be provided with per diem funds for approved meals in advance of approved travel for City business, up to approved funding limits.

SECTION X - Miscellaneous

A. Continuation of 4-10 Work Schedule

The 4x10 work schedule in effect as of June 16, 2010 will remain in force. The schedule may be changed by management during the term of the agreement, subject to providing the Association the opportunity to meet and confer over the schedule change, in accordance with the MMB Act.

B. Uniform and Clothing Replacement

The Department will supply, and replace as needed, three (3) sets of the Department-required uniform for Community Service Officers.

C. Uniform Cleaning

The City will pay for cleaning of Community Services Officer uniforms, at City approved cleaners, in accordance with the following guidelines:

- 1) Two (2) shirts and two (2) pants per work week; and
- 2) One (1) item of outerwear and one (1) tie, one (1) time each calendar month.

The City will report to CalPERS the monetary value for providing and maintaining the employee's required uniforms as described above. The City will report the uniform costs on a semi-monthly basis. The uniform purchase and maintenance amount reported to CalPERS will be derived from the City's total calendar year cost for providing the employee's uniforms, not to exceed \$1,000.00 per fiscal year, per employee.

D. Other Benefits

All other benefits not addresses in this MOU will remain in effect.

E. Meet and Confer

The City will offer the Association the opportunity to meet and confer over substantial changes to the Community Service Officer (CSO) job description and compensation in the event the City proposes such changes.

SECTION XI - Provision of the Law

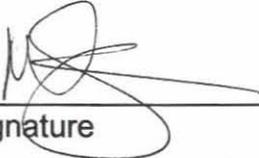
This Memorandum of Understanding is subject to all applicable current and future Federal and State laws, State regulations, the Municipal Code of the City of Los Banos and the Constitution of the State of California.

Should any of the provisions herein contained be rendered or declared invalid by reason of the State or Federal legislation or court action, such invalidations of such part of portions hereof will not invalidate the remaining portions hereof and they will remain in full force and effect, insofar as such remaining portions are severable.

SECTION XII - TERM

The term of this Memorandum of Understanding will commence June 15, 2016, and will expire June 30, 2018, except as otherwise provided in this Memorandum of Understanding.

LOS BANOS POLICE OFFICERS'
ASSOCIATION REPRESENTING
THE LOS BANOS POLICE
DISPATCHERS/COMMUNITY
SERVICES OFFICERS ASSOCIATION



Signature

Name: MURIAM FLORES

Title: DISPATCHER

Date: 10/13/14

CITY OF LOS BANOS



Signature

Name: Alex Terrazas

Title: City Manager

Date: 10/17/2016



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Mark Fachin, P.E., Public Works Director/City Engineer

DATE: November 2, 2016

SUBJECT: Memorial Request from Tonya Crafton and Santos Garcia to place a Bench at Colorado Ball Park in Memory of Coach Vincent Ventura Murillo

TYPE OF REPORT: Consent Agenda

Recommendation:

That the City Council adopt the Resolution approving the memorial request from Tonya Crafton and Santos Garcia to place a bench, at Colorado Ball Park in memory of Coach Vincent Ventura Murillo.

Background:

The City has adopted a Memorial Policy whereby members of the community can commemorate the memory of a family member or friend with a plaque, tree, or bench to be placed in City parks.

Discussion:

Tonya Crafton and Santos Garcia have requested a memorial, consisting of an engraved bench, be placed at Colorado Ball Park in memory of Coach Vincent Ventura Murillo. The memorial bench would be placed on an existing concrete pad, facing the middle field in Colorado Ball Park.

Vincent Ventura Murillo was a coach for the Los Banos Little League and Travel Ball. The friends of Coach Ventura Murillo would like to honor his memory, his love for the sport, and all that he did for the community as a baseball coach, with a bench inscribed "Coach Ventura Murillo. For the Love of Baseball. Gone but Never Forgotten 2016." The inscription on the bench location attachment is an example only.

Due to the lack of a standing Parks & Recreation Commission, this request is being presented directly to the City Council.

Fiscal Impact:

No fiscal impact. All costs associated with the purchase of the memorial bench, and labor to install the bench at Colorado Ball Park will be paid by Tonya Crafton and Santos Garcia.

Reviewed by:



Alex Terrazas, City Manager

Attachments:

Resolution
Memorial Application
Bench Location
Memorial Policy

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LOS BANOS APPROVING THE COACH
VINCENT VENTURA MURILLO MEMORIAL,
WITH AN ENGRAVED PARK BENCH, BE
PLACED AT COLORADO BALL PARK**

WHEREAS, the City of Los Banos has adopted a Memorial Policy whereby members of the community can commemorate the memory of a family member or friend with a plaque, tree, or bench to be placed in City parks; and

WHEREAS, Tonya Crafton and Santos Garcia have requested an engraved memorial bench, be placed at Colorado Ball Park in memory of Coach Vincent Ventura Murillo. The bench would be placed on an existing concrete slab facing center field; and

WHEREAS, Vincent Ventura Murillo was a long time baseball coach for Los Banos Little League and Travel Ball. He coached many children over the years and was a great asset to the community; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby approve the Coach Vincent Ventura Murillo Memorial Bench, with inscription, be placed at Colorado Ball Park.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 2nd day of November 2016, by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk



Memorial Application

Make a lasting contribution to the beauty of Los Banos by commemorating the memory of a special person with a plaque, tree or bench. Parks and Recreation will, in all probability, plant a shade tree in a local park within the City of Los Banos upon approval.

Application to purchase a memorial bench:

Name Tonya Crafton & Santos Garcia
 Address 742 Fairmont Dr.
 City, State, Zip Los Banos Ca 93635
 Phone 209-675-1728 Date 9/20/16
 Cell # 209-675-1718 E-Mail garciaaduc@aol.com
 Park requested where bench will be placed. Colorado Baseball Park

Special Instructions We would like to have an engraved memorial bench mounted at the Colorado Baseball Park.

It would be placed on a cement slab that already exists, facing the center field. The 4ft. recycled Plastic seat/back with powdercoated steel frame Champion memorial bench will be a cedar color with black Inlay. The Bench Factory guaranteed it against brakage for 50 years. We would like to do this in memory of Little League and Travel Ball Coach Ventura Murillo. To Honor his dedication to coaching my children for over 6 years and the many other children in this community and for his love of the sport! The engraved Bench would say: Coach Ventura Murillo For The Love of Baseball

411 Madison Ave. Los Banos, CA 93635
 Telephone (209) 827-7056 Fax (209) 827-7069

Gone but Never Forgotten 2016
 Thank you.



In Memory of the Best, the Most Loved

"Waddy"

William Sept Watson



MEMORIAL POLICY

- All individual memorials are limited to a 5" x 7" brass plaque, embedded in a cement base no larger than 12" x 16".
- No metal stands or structures that protrude above grade are allowed.
- Plaque and base are to be in place near or in a proximity of a tree in a public park, as approved by the Public Works Director/City Engineer.
- Requests for additional items i.e. benches, flag poles, etc., shall be approved by the Parks and Recreation Commission and City Council.
- All costs for materials, such as plaque, cement, trees, etc., shall be the responsibility of the person or group making the request.
- All monies shall be paid in advance of installation of memorial.
- All memorials are limited to location approved by the Public Works Director/City Engineer.
- No placement of additional items upon or in proximity to memorial shall be allowed. Such item will be removed and discarded.
- The City Council shall have final say in any deviation from this policy.
- Requests for memorial must be submitted in writing to the Public Works Director/City Engineer, and all necessary documentation shall accompany request.
- The policy shall further be that any variation from the above noted requirements will require Parks and Recreation Commission and City Council approval before the project is undertaken.



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Mark Fachin, P.E., Public Works Director/City Engineer

DATE: November 2, 2016

SUBJECT: Memorial Request from Ray Talbott to place an existing brass plaque within a rock, at Elena Talbott Park in Memory Elena Talbott

TYPE OF REPORT: Consent Agenda

Recommendation:

That the City Council adopt the Resolution approving the memorial request from Ray Talbott to place an existing brass plaque within a new rock, at Elena Talbott Park in memory of Elena Talbott.

Background:

The City has adopted a Memorial Policy whereby members of the community can commemorate the memory of a family member or friend with a plaque, tree, or bench to be placed in City parks.

Discussion:

Ray Talbott has requested a memorial, consisting of an existing brass plaque, to be mounted on a rock, and placed at the Elena Talbott Park in memory of his Mother, Elena Talbott. The 10x12 inch brass plaque was originally located in the Elena Talbott Park, but was removed during the construction of the Child Development Center and park remodel, and was never placed back in the park. Mr. Talbott is requesting the existing brass plaque be attached to the front side of the 9x3 foot rock. The memorial rock would be placed on the grassy area of the back side of the Child Development Center, facing the park.

Talbott Park is named after Elena Talbott. Mrs. Talbott served as Chairwoman of the Los Banos Recreation Commission, of which she was an original member. In 1974, she was named Los Banos Woman of the Year. She was active in the Los Banos Basque Club, San Luis Water District, Los Banos Historical Society, and the Women's Auxiliary to the Woolgrowers. Mrs. Talbott lived in the City for 61 years, and spent many years of service in our community.

Due to the lack of a standing Parks & Recreation Commission, this request is being presented directly to the City Council.

Fiscal Impact:

No fiscal impact. All costs associated with the purchase of the memorial rock have been paid for by Ray Talbott. The original plaque will be used from the previous park dedication.

Reviewed by:



Alex Terrazas, City Manager

Attachments:

Resolution
Memorial Application
Park Plaque Picture
Rock Location
Memorial Policy

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LOS BANOS APPROVING THE ELENA
TALBOTT MEMORIAL ROCK, WITH EXISTING
BRASS PLAQUE, BE PLACED AT ELENA
TALBOTT PARK**

WHEREAS, the City of Los Banos has adopted a Memorial Policy whereby members of the community can commemorate the memory of a family member or friend with a plaque, tree, or bench to be placed in City parks; and

WHEREAS, Ray Talbott has requested a memorial rock, with existing brass plaque, be placed at Elena Talbott Park in memory of Elena Talbott. The existing plaque would be attached to a rock, and placed on the grassy area of the back side of the Child Development Center, facing the park; and

WHEREAS, Talbott Park was named after Elena Talbott; and

WHEREAS, the brass plaque was once located in Talbott Park, but was removed during the park remodel and construction of the Child Development Center, and never returned to its location; and

WHEREAS, Elena Talbott lived in Los Banos for 61 years, serving the community in various clubs and committees, including servings as Chairwoman for the Los Banos Recreation Commission as an original member. In 1974, Mrs. Talbott was named Los Banos Woman of the Year.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby approve the Elena Talbott memorial rock, with brass plaque, be placed at Elena Talbott Park.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 2nd day of November 2016, by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk



Memorial Application

Make a lasting contribution to the beauty of Los Banos by commemorating the memory of a special person with a plaque, tree or bench. Parks and Recreation will, in all probability, plant a shade tree in a local park within the City of Los Banos upon approval.

Application to purchase a memorial bench:

Name RAY TALBOTT

Address 20654 W. Henry Miller Ave.

City, State, Zip LOS BANOS, CA 93635

Phone 209-826-3725 Date OCT 3, 2016

Cell # _____ E-Mail talbott40@gmail.com

Park requested where bench will be placed. TALBOTT PARK

Special Instructions Original plaque inserted in
A ROCK.

ELENA TALBOTT
PARK

DONATED BY
LOS BANOS GARDEN CLUB



ELENA TAUBOTT
PARK
DONATED BY
LOS BAÑOS GARDEN CLUB



MEMORIAL POLICY

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- Requests for additional items i.e. benches, flag poles, etc., shall be approved by the Parks and Recreation Commission and City Council.
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- The policy shall further be that any variation from the above noted requirements will require Parks and Recreation Commission and City Council approval before the project is undertaken.



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor Villalta and City Council Members

FROM: Stacy Souza Elms, Senior Planner 

DATE: November 2, 2016

SUBJECT: Villages at Stonecreek IX Final Development Plan #2016-03 and Development Agreement

TYPE OF REPORT: Public Hearing

Recommendation:

Staff recommends that the City Council open the public hearing, receive public comment, and consider:

1. Adopting a Resolution approving the Villages at Stonecreek IX Final Development Plan #2016-03; and
2. Waive the first reading and introduce an Ordinance authorizing the Mayor to execute a Development Agreement by and between the City of Los Banos and Anderson Homes, Inc., relative to the Villages at Stonecreek IX.

Background:

On November 24, 2003, the Planning Commission recommended approval of the Stonecreek Area Plan (493.3 acres) to the Los Banos City Council and subsequently the City Council approved the Stonecreek Area Plan on April 21, 2004. The Stonecreek Area Plan project included the eventual annexation of 401.1 acres into the City of Los Banos, a General Plan land use amendment consistent with the proposed Area Plan, site pre-zoning, circulation, transportation diagrams, and a layout of proposed infrastructure. Land uses designated in the Stonecreek Area Plan included an office

campus, mixed use (first floor retail and second floor office or residential), commercial, parks, trails, environmental reserve, fire station, elementary school, church, child day care, and several forms of residential housing including multi-family and single family detached lots ranging from 4,500 to 10,000 square feet.

On July 27, 2016 the applicant, Stonecreek Properties, LLC, filed a new project application for the property contained within the Stonecreek Area Plan consisting of Vesting Tentative Tract Map #2016-04 (VTTM #2016-04) to subdivide approximately 18.64 acres into 71 single-family detached residential lots ranging in size from 7,143 square feet to 14,394 square feet.

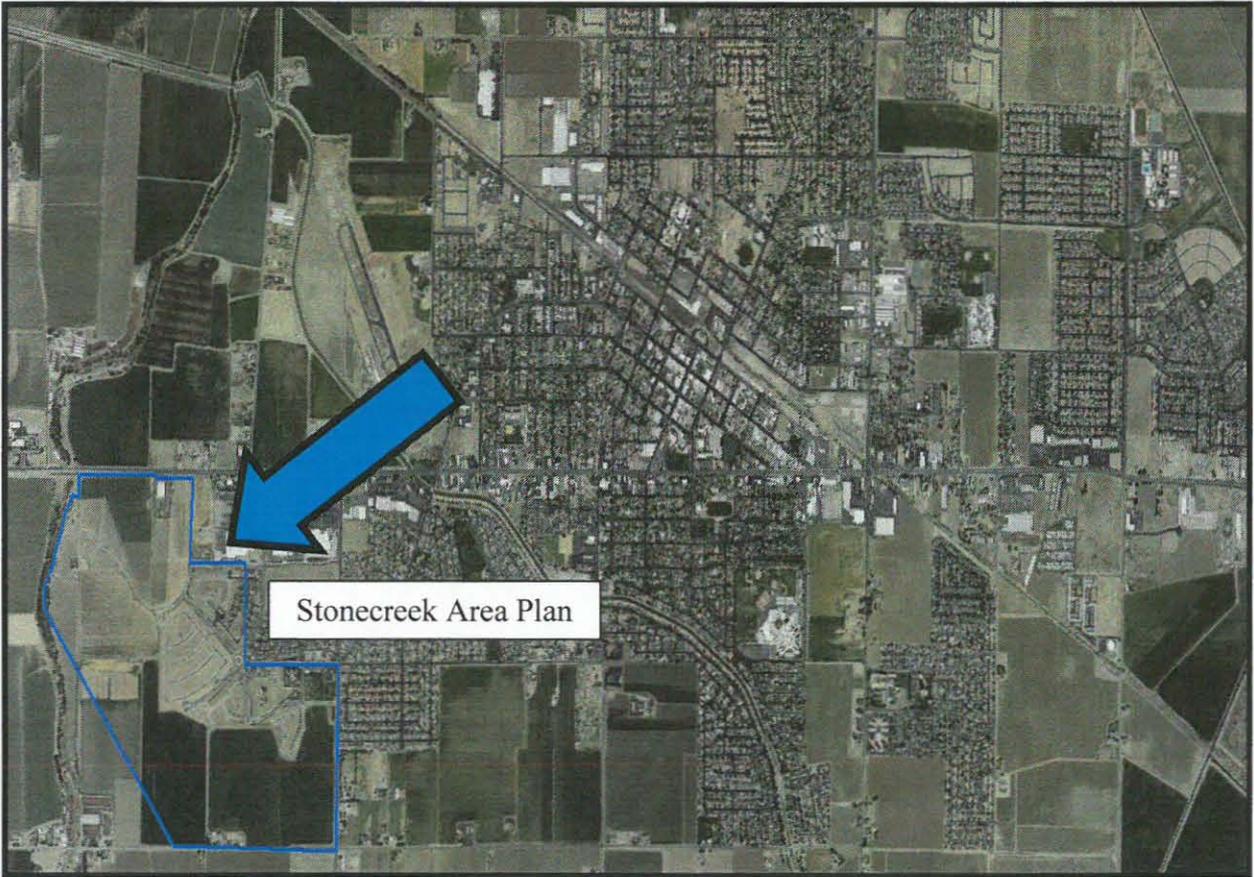
The Los Banos Planning Commission held a public hearing on August 24, 2016 for the purpose of considering the Villages at Stonecreek IX Vesting Tentative Tract Map #2016-04, Final Development Plan #2016-03, and Development Agreement. At the completion of the public hearing, the Planning Commission approved Vesting Tentative Tract Map #2016-04 and recommended approval of Final Development Plan #2016-03 and Development Agreement to the Los Banos City Council. The Los Banos Planning Commission approved the Vesting Tentative Tract Map conditioned upon City Council approval of Final Development Plan #2016-03.

Discussion:

The applicant is seeking approval of Final Development Plan #2016-03 for the Villages at Stonecreek IX Project Site of approximately 18.64 acres setting forth proposed layout, circulation, architecture, street sections, landscape concept, and site features. The Villages IX area covers approximately 3.77 percent of the total Stonecreek Area Plan. The applicant is also seeking approval of a Development Agreement between Stonecreek Properties, LLC and the City of Los Banos setting forth terms for development of the project site.

LOCATION:

The proposed project site is located in the southwestern portion of the City and bounded west of Ortigalita Road, north of Pioneer Road, south and east of Villages IV at Stonecreek. The project site is outlined in yellow on the aerial map below and the Stonecreek Area Plan is outline in blue.



LAND USE:

The project site is currently used for agricultural purposes.

Property	Land Use	Zone	General Plan
Project Site	Undeveloped/Agriculture	PD/R-1	Low Density Residential
North	Undeveloped/Agriculture	PD/R-1	Low Density Residential
East	Residential/Commercial	A-1	Low Density Residential
South	Agriculture	A-1	Civic/Institutional
West	Agriculture	A-1	Low Density Residential

R-1 = Low Density Residential

PD = Planned Development

A-1 = General Agriculture (Merced County)

ENVIRONMENTAL ASSESSMENT:

Pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, it has been determined that this project is within the scope of the Stonecreek Area Plan Program EIR (SCH #2002061015) certified by the Los Banos City Council on April 21, 2004. Staff has determined that the proposed project was adequately described, examined, and evaluated in the EIR, and that no significant new information or changes in the environmental setting have occurred that would result in new or greater significant effects not studied in the EIR. The City determined that the Stonecreek Area Plan could have a significant effect on the environment; however, all potentially significant effects were analyzed adequately in the EIR, and mitigation measures presented in the EIR and proposed as conditions of approval, will reduce potentially significant impacts to a less than significant level. No additional review is necessary under CEQA.

The EIR contemplated a total residential build-out of 1,868 residential units within the Stonecreek Area Plan. The following projects have been approved for 649 units within this Area Plan:

- Villages at Stonecreek IIA & III 287
- Villages at Stonecreek IV 309
- Villages at Stonecreek V 53

The proposed project will bring cumulative residential development within the Stonecreek Area Plan to 720 units. Therefore, the proposed project is within the scope of the development anticipated in the Stonecreek Area Plan. No further environmental documentation is required because the proposed project was contemplated and adequately analyzed in the EIR.

FINAL DEVELOPMENT PLAN ANALYSIS:

Pursuant to Section 9.3-401 of the Los Banos Zoning Code, the purpose of the Planned Development District (P-D) is to provide an integrated neighborhood development which

would otherwise not be possible under traditional “lot-by-lot” zoning. The Planned Development District encourages innovative and creative development by allowing flexibility in land use and design. The District allows the opportunity to provide amenities and conveniences while maintaining a suitable neighborhood environment and permits development based on a high standard of performance and design by creating greater efficiency in land use by providing for flexibility in strict application of the Zoning Code. This is achieved by maximizing open space, preserving natural amenities and creating additional amenities as approved by the City Council.

A Final Development Plan is required for the total project or an approved phase of the project in order for development to occur in the Planned Development district. The Planning Commission is tasked with making a recommendation to the City Council on the proposed Final Development Plan. The City Council by resolution may grant approval of the Final Development Plan subject to conditions, or may deny the request.

Project Design

The Los Banos General Plan, the Stonecreek Area Plan, and the Residential Design Guidelines were used as guiding principles for the design of the Villages IX at Stonecreek Final Development Plan. The intent of the design was to present a range of production homes positioned on larger than standard (6,000 square foot) Low Density Residential lots.

Land Use

The project site is designated as Low Density Residential according to the Los Banos General Plan with a Planned Development overlay according to the Zoning Map. The Villages at Stonecreek IX proposes detached single family residential homes on lot sizes varying from 7,143 square feet to 14,394 square feet. The resulting density will be 3.8 dwelling units per acre (du/ac).

Architecture

The proposed architecture for the project reflects traditional American architectural styles. The Final Development Plan provides a variety in elevation, color scheme, house designs, and setbacks to provide compatibility and consistency with the existing Villages at Stonecreek IV neighborhood. The proposed elevation styles used within the proposed Final Development Plan will be compatible with, and complementary to, the existing residential neighborhood in terms of scale, height, and neighborhood feel. The proposed elevations utilize variations in building style, colors, and materials. Each architectural plan group consists of an elevation of stone or brick used on the base of the homes or for pillars. Each architectural plan group also consists of the use of mock shutters throughout various plans. The proposed designs utilize the front door as a prominent feature of each home while setting garages back from the front façade with minimum 2-car garages.

The Final Development Plan proposes 5 different architectural plan groups each consisting of three distinct elevation styles adding up to a total of 15 different design styles.

Circulation

Ortigalita Road and Pioneer Road have been designed as arterial streets with Class 2 bike paths. Ortigalita Road will have a 90 foot right-of-way and will consist of two travel lanes in both directions, a 6 foot bike lane, a 2.5 foot park strip, 5 foot sidewalk, 3 foot minimum planter area, and masonry wall. This street section will be designed consistently with the approved Villages at Stonecreek IV street section to the north. Pioneer Road will have a 96 foot right-of-way and will consist of two travel lanes in both directions, an 8 foot bike lane, 4.5 foot park strip, 5 foot sidewalk, 3 foot minimum planter area, and masonry wall.

Streets B and G will serve as the main entrances into the subdivision. The typical neighborhood streets within the project site have been designed utilizing 52 foot wide public right-of-way. The street section, which includes curb, gutter, and asphalt, will consist of a 32 foot wide street with a 5 foot park strip and 5 foot sidewalk.

Infrastructure/Services

Water: The City of Los Banos would provide domestic water services by extending an existing 8" line at Badger Flat Road and connecting to an 8" line in the proposed Villages IX at Stonecreek subdivision at Streets B and G. Routine 8-inch distribution lines are proposed to be installed throughout the project site. All existing groundwater wells within the boundary of the map will be required to be abandoned to Merced County Standards. The project is subject to the provisions of the Los Banos Water Master Plan and will conform to its requirements including, but not limited to, payment of water impact fees.

Sewer: The City of Los Banos would provide wastewater service to the project site by connecting to an existing 12" line on Badger Flat Road. Routine 6 inch lines are proposed to be installed throughout the project site. Project build-out has been contemplated in the Wastewater Master Plans and will conform to its requirements including, but not limited to, payment of the wastewater impact fees.

Drainage: The City of Los Banos would provide storm water drain services by designing piping according to City standards and specifications. The existing storm drain basin north of the project site on Badger Flat Road has been sized to accommodate flow from the project area in accordance with the Storm Drain Master Plan.

It should be noted that all City infrastructure has been sized to accommodate this use and will be built in accordance with the City's Utility Master Plans.

DEVELOPMENT AGREEMENT:

A Development Agreement is a legally binding contract between the City and a project developer that delineates the terms and conditions of a proposed development project. A Development Agreement allows a project developer to secure vested rights, and it allows the City to secure certain benefits. Development Agreements are enabled by California Government Code Sections 6584-65869.5.

Development Agreements are commonly used for land use developments which are implemented in phases over a long period of time. Development Agreements provide assurances to both the applicant and the City that the terms of the agreement (conditions of approval) will not change and be in force until the completion of the project, and they are legally binding on each party. This protects the developer from expending energy and money on a project only to have the terms of conditions and standards change before the development can be completed.

Development Agreements in theory have three defining characteristics: 1) they allow greater latitude than other methods of approval to advance local land use policies in sometimes new and creative ways; 2) they allow public agencies greater flexibility in imposing conditions and requirements on proposed projects; and 3) they afford project proponents greater assurance that once approved, their projects can be built.

Development Agreements in Los Banos have been employed as a growth management tool and as a tool to negotiate individual project conditions and requirements that might not otherwise be achievable through regular processing.

City staff is in the preliminary stages of revising our growth management policy for residential development. A provision has been incorporated into the proposed Development Agreement that requires the subject property to follow any future adopted revised growth management policy, but would not apply to the project for one (1) year from the date the new policy is adopted by the City Council.

While it may take years to process and secure the approval of a tentative map, once approved, the tentative map itself is only good for 24 months (or 36 months in those communities that provide an additional 12 months by local ordinance). Thus, unless a final map is filed with the city within this two-year time frame or the tentative map is extended, the tentative map will expire. If the tentative map expires, the process starts all over again; a new tentative map application will have to be prepared, processed and approved.

Once a tentative map expires, it cannot be revived. Instead, a new tentative map must be applied for, processed, and approved. Such re-approval can prove costly from a time and resource perspective. Therefore, because sub-dividers are in the business of creating legal lots in as resource-efficient a manner as possible, they are uniquely interested in keeping their tentative maps alive until such time as they are able to record their final maps and realize the product of their efforts that being saleable lots.

One of the tools for extending the life of a tentative map is through a Development Agreement. A tentative map on property subject to a Development Agreement may be extended for the period of time specified in the Development Agreement. Development Agreements negotiated in Los Banos typically provide that any tentative map within the project area will expire one year after the expiration of the Development Agreement.

Since the development is a negotiated agreement, the city also has the ability to negotiate conditions that might not otherwise be enforceable otherwise.

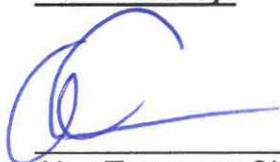
The benefits of the proposed Development Agreement to the City are:

- a) Continuation of the Planned Development known as Stonecreek South.
- b) Formation or annexation of the property to a Community Facilities District created for the purpose of funding public safety.
- c) Formation or annexation of the property to a Landscape and Lighting District created for the purpose of maintaining public landscape areas, signage, and public lighting and traffic signal maintenance.

PUBLIC COMMENT:

A public hearing notice was published and notices were mailed out to property owners within a 300' radius of the project site on October 21, 2016. As of the date of this staff report, no written comments have been received.

Reviewed by:



Alex Terrazas, City Manager

Attachments:

1. Villages at Stonecreek IX Final Development Plan #2016-03
2. Resolution – Final Development Plan #2016-03
 - Exhibit A: CEQA Findings
 - Exhibit B: Findings for Approval
 - Exhibit C: Conditions of Approval
 - Exhibit D: Mitigation Monitoring Plan
3. Ordinance – Development Agreement
 - Exhibit A: Development Agreement
 - Exhibit B: Site Map
 - Exhibit C: Special Conditions and Requirements
 - Exhibit D: VTTM
 - Exhibit E: FDP
4. Public Hearing Notice – October 21, 2016

Village IX



FINAL DEVELOPMENT PLAN

Stonecreek Properties
Los Banos, California
July 2016

Applicant:

Stonecreek Properties
1851 Airway Drive, Suite E
Hollister, CA 95023
(831)630-1853

Engineering/Surveying/Planning/Landscape Architecture



O'Dell Engineering
1165 Scenic Drive, Suite B
Modesto, CA 95350
209.571.1765

Applicant 1

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 Utilities 17

Purpose of This Document

The Village IX Final Development Plan (FDP) will guide development of 18.64 acres in the southwestern part of the City of Los Banos. This FDP presents development of 7,000 S.F. lots and presents a range of attractive production home choices. Sample architectural products are included in this document along with color renderings and elevation views.

The 18.64 acre Final Development Plan proposes 71 residential lots on 52' right-of-way streets. The resulting density will be approximately 3.8 dwelling units per gross acre (du/ac).

The typical number of bedrooms per single-family residence is three to five, with each unit to include an attached two- or three-car garage. Residential product types, as shown in the attached architectural exhibits, will include a mix of single and two-story dwelling units.

Landscape Summary

The developer/home builder, successors and any assigns, shall be responsible for installation, maintenance and replacement of all landscaping materials shown or indicated on the approved site plan or landscape plan on file in the planning department. All landscaping will be installed as delineated on the plan, prior to issuance of certificates of occupancy.

Landscapes within the project will be irrigated by methods that minimize water run-off and conserve water. Irrigation systems will be designed to, at a minimum, meet the State water efficient landscape ordinance and to follow City of Los Banos Municipal Code standards.

MASTER STREET TREE LIST

A master street tree list has been provided on page 14. All trees along public street frontages within the project will be one of the street trees listed in this table. Trees will be varied to improve the urban forest's resilience to insect infestations and climate anomalies. This list was prepared in conjunction with the City of Los Banos Master Tree List. Trees listed in the Master Street Tree List are also appropriate for other landscape areas and though not listed in the project plant species table should be considered as part of the overall list of landscape species.

FREESTANDING LIGHTS

Freestanding lights will be installed as part of this project. Interior street lights will be City standard 25'-30' lights.

SURFACE MATERIALS

Surface materials to be used in this project will consist of two standard typologies. Standard sidewalks will be poured concrete adhering to the City of Los Banos standards and streets will be standard asphalt pavement.

FENCES AND WALLS

Fences and walls installed as part of this project will adhere to a set typology. Wood fences will be 6' high "good neighbor" style fences. Walls will be a 6' masonry wall. Stucco finish in neutral tone with formed cap in a contrasting tones are options. Pilasters will be placed at locations to be shown on landscape plans and will include a decorative facade.



Reference Map

Legend

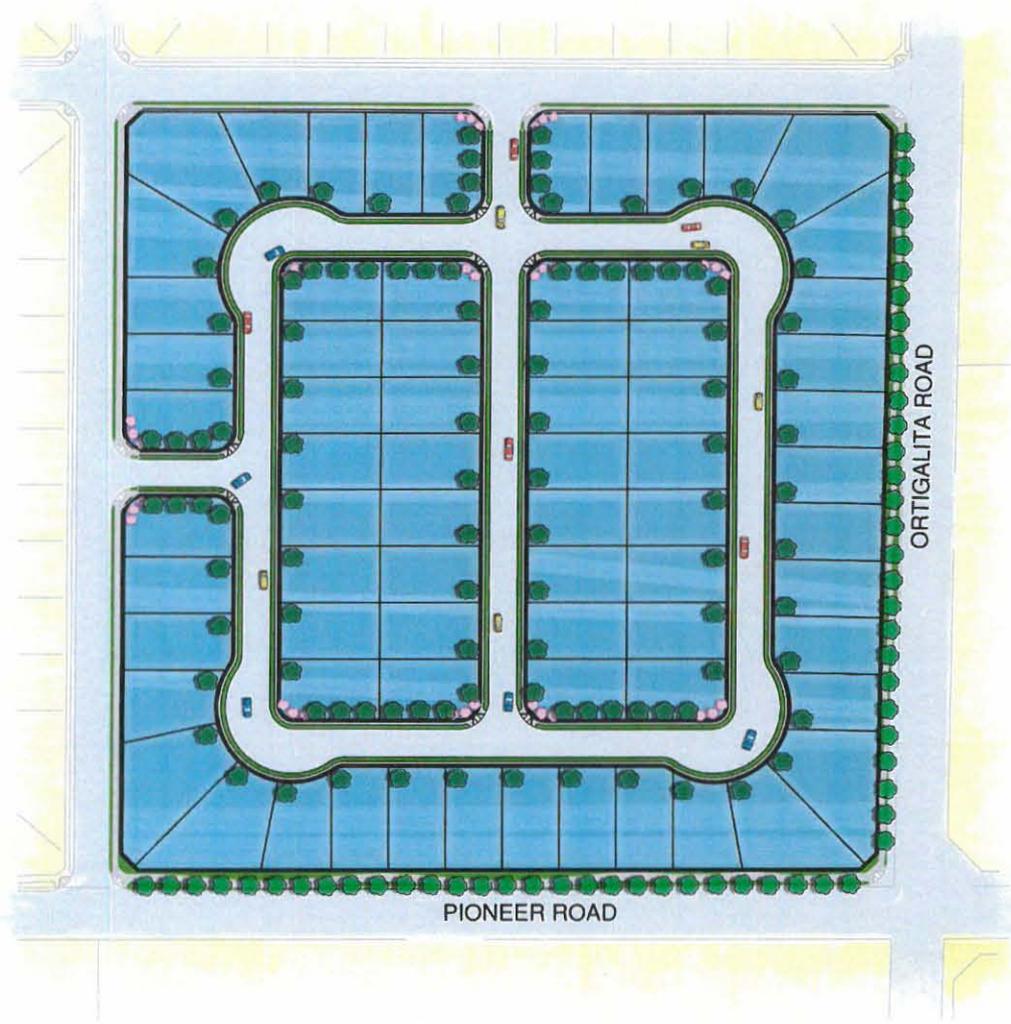
-  Village IX FDP Boundary
-  Village IX FDP Area
-  Photo Location
-  Photo Orientation



Reference Map

Legend

-  Village IX FDP Boundary
-  Photo Location

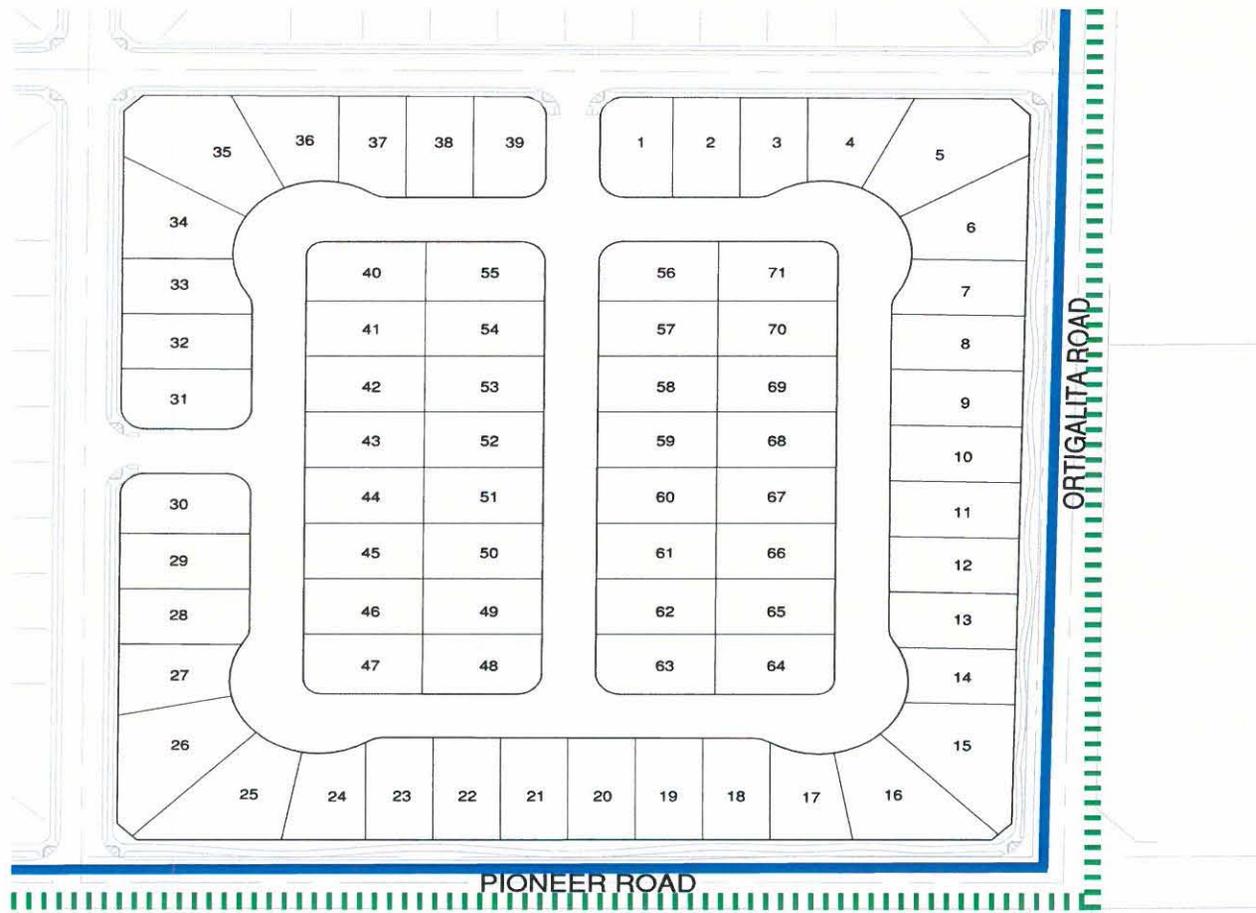


Reference Map

Legend

-  Village IX FDP Boundary
-  7,000+ S.F. Lots





Reference Map

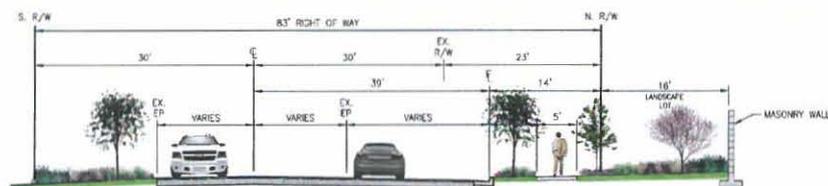
Legend

-  Village IX FDP Plan Boundary
-  Arterial
-  Proposed Class 2 Bike Path

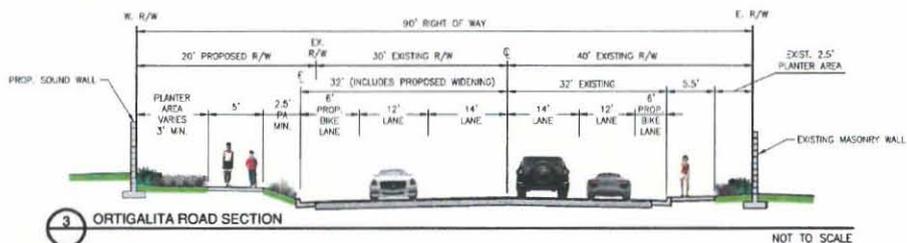




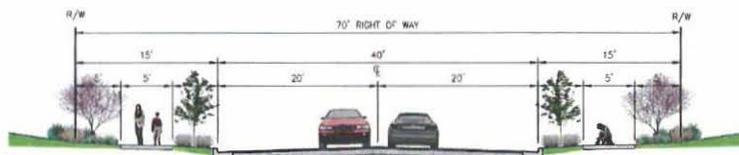
1 TYPICAL 52' RIGHT OF WAY SECTION NOT TO SCALE



2 PIONEER ROAD SECTION NOT TO SCALE



3 ORTIGALITA ROAD SECTION NOT TO SCALE



4 TYPICAL 70' RIGHT OF WAY SECTION NOT TO SCALE



Reference Map

Legend

— Village IX FDP Boundary

Potential Plant Species	Common Name	Scientific Name	Size	Water Use
Shrubs	Yarrow	Achillea 'Moonshine'	1 gal	Low
	California Lilac	Ceanothus sp.	5 gal	Low
	Orchid Rockrose	Cistus x purpureus	5 gal	Low
	Cotoneaster	Cotoneaster sp.	5 gal	Low
	African Iris	Dietes sp.	5 gal	Low
	Grevillea	Grevillea 'Noelii'	5 gal	Low
	Spanish Lavender	Lavandula stoechas	5 gal	Low
	Hairy Awn Muhly	Muhlenbergia capillaris	5 gal	Low
	Dwarf Myrtle	Myrtus communis 'Compacta'	5 gal	Low
	Oleander	Nerium oleander	5 gal	Low
	Little Ollie Olive	Olea europea 'Little Ollie'	5 gal	Low
	Fountain Grass	Pennisetum setaceum	1 gal	Low
	New Zealand Flax	Phormium tenax	5 gal	Low
	Mugo Pine	Pinus mugo	5 gal	Low
	India Hawthorne	Rhaphiolepis indica	5 gal	Low
	Sage	Salvia sp.	5 gal	Low-Mod
	Bush Germander	Teucrium fruticans	5 gal	Low
	Variegated Society Garlic	Tulbaghia v. 'Silver Lace'	1 gal	Low
	Coast Rosemary	Westringia 'Wynabbie Gem'	5 gal	Low
	Groundcovers / Turf	Manzanita	Arctostaphylos 'Emerald Carpet'	1 gal
Myoporum		Myoporum parvifolium	1 gal	Low
Mexican Primrose		Oenothera speciosa 'Siskiyou'	1 gal	Low
	90 / 10 active turf fescue grass blend	Seed/Sod	High	
Potential Street Trees	Common Hackberry	Celtis occidentalis		Low
	Mayton tree	Maytenus boaria		Moderate
	Chinese Pistache	Pistachia chinensis 'Keith Davey'		Low
	Coast Live Oak	Quercus agrifolia	15 Gallon	Very Low
	Cork Oak	Quercus suber		Low
	American Linden	Tilia americana		Moderate
	Lacebark Elm	Ulmus parvifolia 'Allee'		Moderate
	Zelkova	Zelkova serrata 'Green Vase'		Moderate
Potential General Use Trees	California Buckeye	Aesculus californica		Very Low
	Strawberry Tree	Arbutus unedo		Low
	Eastern Redbud	Cercis canadensis		Moderate
	Desert Willow	Chilopsis linearis		Very Low
	Chitalpa	Chitalpa tashkentensis		Moderate
	Australian Willow	Geijera parviflora	15 Gallon	Moderate
	Flowering Cherry	Prunus serrulata		Moderate
	Valley Oak	Quercus lobata		Low
	Crape Myrtle	Lagerstroemia indica ssp.		Low
	Flowering Crabapple	Malus floribunda ssp.		Moderate
	Purple Robe Locust	Robinia pseudoacacia 'Purple Robe'		Low



Landscape Description

Plants selected for use in project streetscapes and other open spaces, will be native or adapted species well suited to the local climate and specific uses. The project area is located on the border of Sunset Western Garden Climate Zones 8-9. Minimum plant stock sizes used for landscape installations will be:

- Street Trees -15 gallon
- Shrubs - 1 gallon
- Groundcover - 1 gallon

All plant stock supplied will be nursery grown material conforming to national nursery standards and will be free of harmful insects. Planting design will follow City of Los Banos standards. Appropriate landscape species and their locations will be determined at the landscape improvement plan stage, however, a sample list of plants that may be used within project landscape areas can be found in the "master plant list".



Decorative 6' Privacy Wall



Good Neighbor Privacy 6' Fence



Standard Brushed Concrete Walks



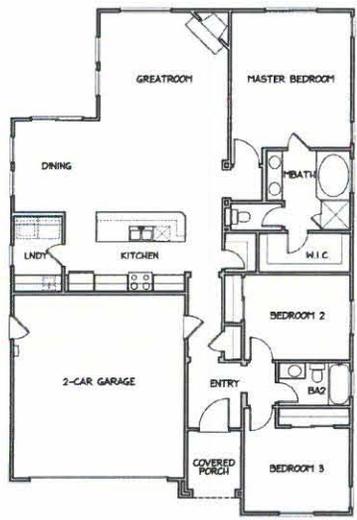
Asphalt Pavement Streets



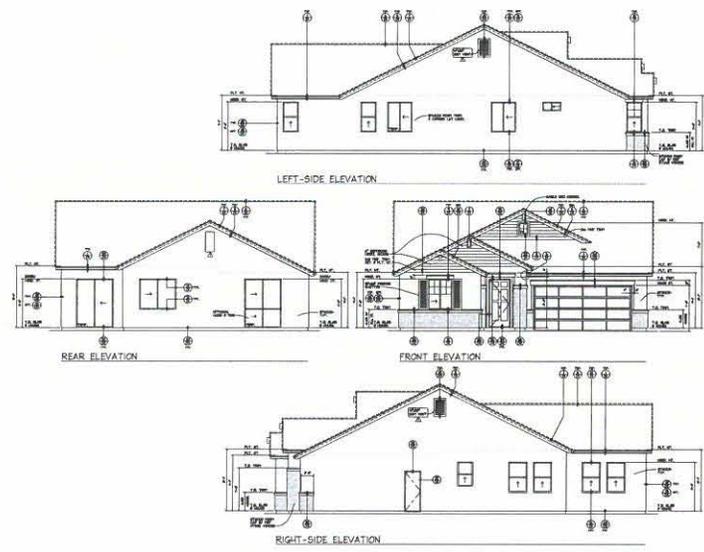
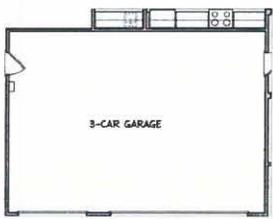
Reference Map

Legend

 Village IX FDP Boundary



1675 Sq. Ft.
 Three Bedrooms
 Two Baths
 Two or Three-Car Garage
 Three-Car Garage Option



Elevation A



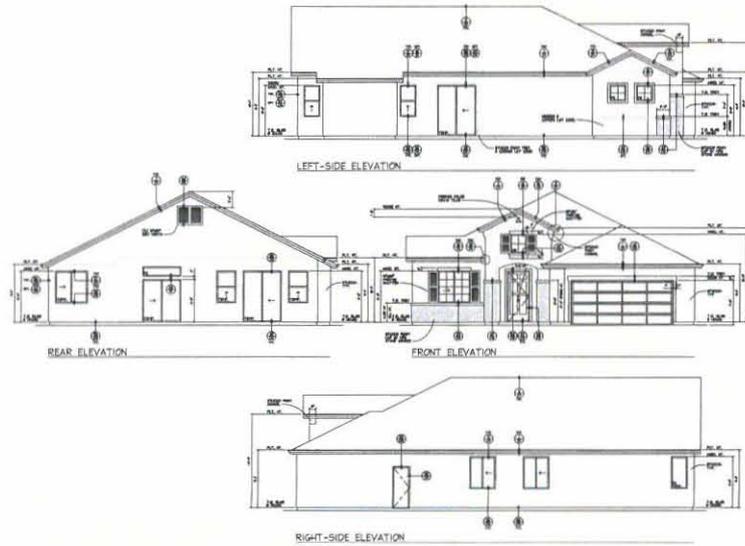
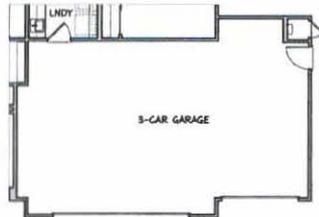
Elevation B



Elevation C

THE CARMEL: 1675 S.F.

TYPICAL MATERIALS: Walls: Stucco Siding • Roof: Concrete barrel tile or Concrete tile • Windows: Vinyl • Doors: Wood • Garage Doors: Metal Roll Up



Elevation A



Elevation C



Elevation D

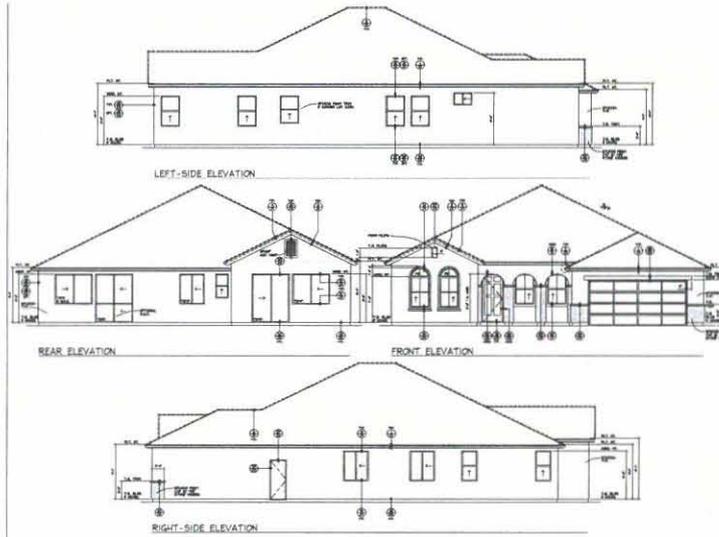
THE MONTEREY: 2016 S.F.

TYPICAL MATERIALS: Walls: Stucco Siding • Roof: Concrete barrel tile or Concrete tile • Windows: Vinyl • Doors: Wood • Garage Doors: Metal Roll Up



2460 Sq. Ft.
 Four Bedrooms
 Three Baths
 Two-Car + Tandem
 Garage

Den Option
 Living Option
 Retreat Option
 Bedroom 5 Option



Elevation A



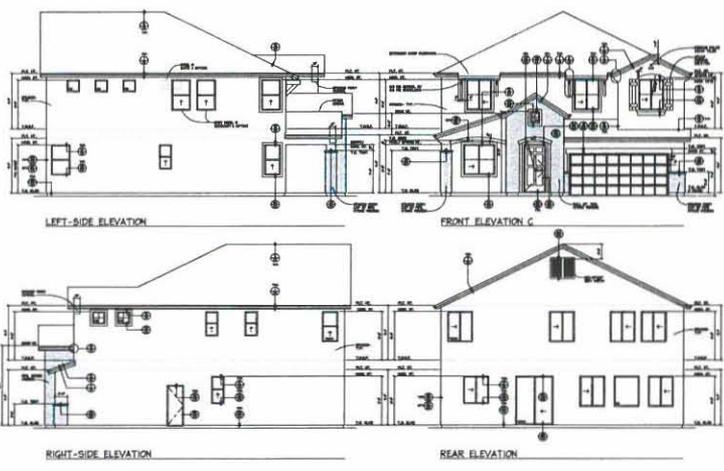
Elevation B



Elevation C

THE BIG SUR: 2460 S.F.

TYPICAL MATERIALS: Walls: Stucco Siding • Roof: Concrete barrel tile or Concrete tile • Windows: Vinyl • Doors: Wood • Garage Doors: Metal Roll Up



Elevation A



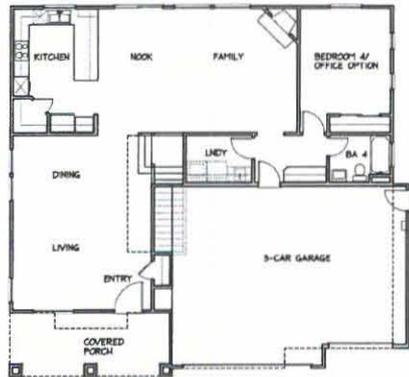
Elevation B



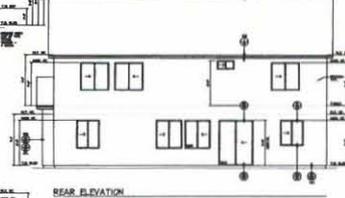
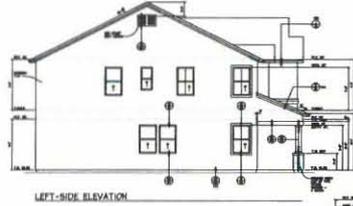
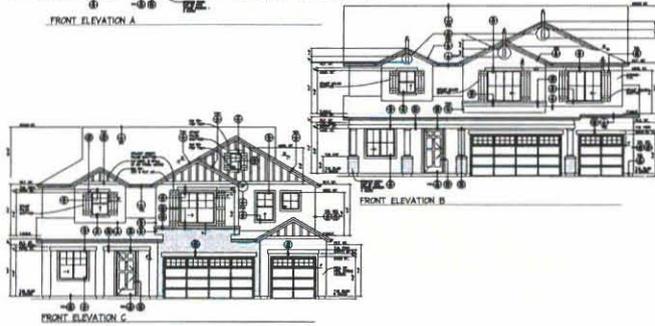
Elevation D

THE BIXBY: 2298 S.F.

TYPICAL MATERIALS: Walls: Stucco Siding • Roof: Concrete barrel tile or Concrete tile • Windows: Vinyl • Doors: Wood • Garage Doors: Metal Roll Up



3363 Sq. Ft.
 Four Bedrooms
 Four Baths
 Three-Car Garage
 Gameroom Closet Option
 Bedroom 5 Option



THE CYPRESS: 3363 S.F.

TYPICAL MATERIALS: Walls: Stucco Siding • Roof: Concrete barrel tile or Concrete tile • Windows: Vinyl • Doors: Wood • Garage Doors: Metal Roll Up



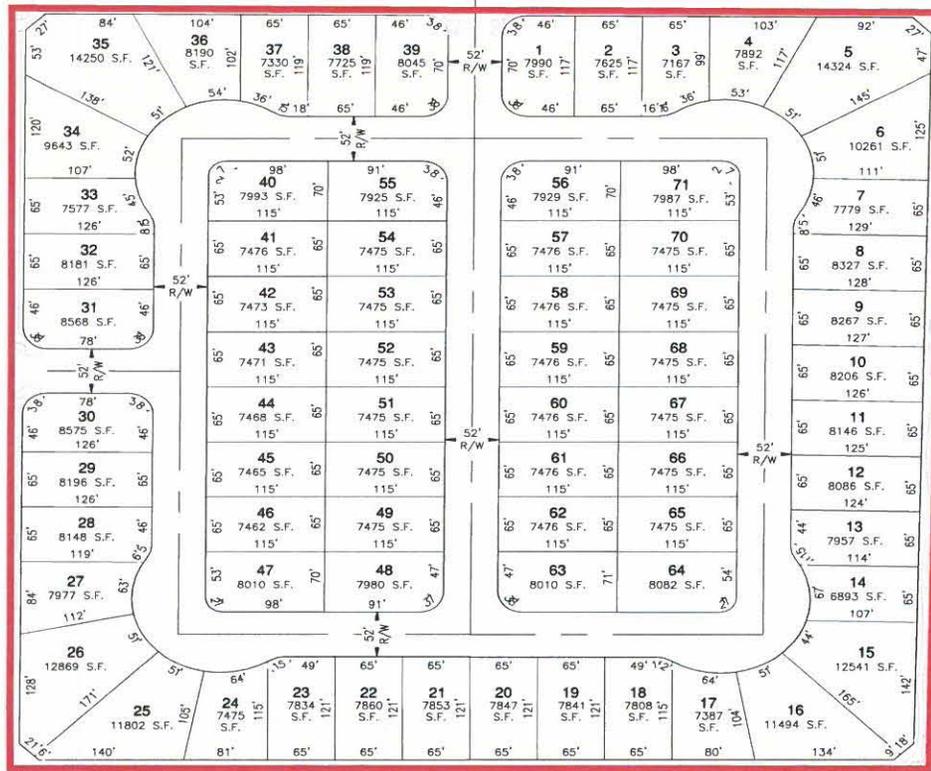
Elevation A



Elevation B



Elevation C



PIONEER ROAD

ORTIGALITA ROAD

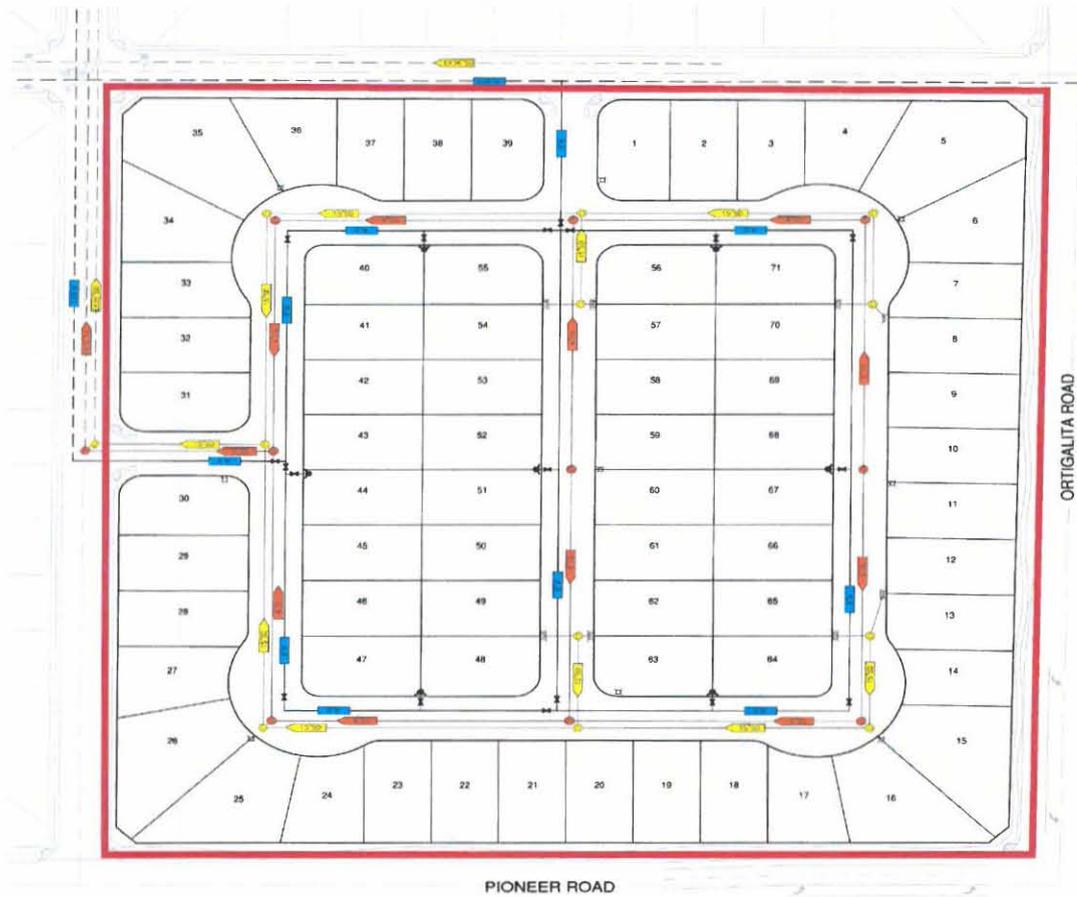


Reference Map

Legend

 Village IX FDP Boundary





Reference Map

Legend

-  Village IX FDP Boundary
-



RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LOS BANOS APPROVING FINAL
DEVELOPMENT PLAN #2016-03 FOR THE
VILLAGES AT STONECREEK IX**

WHEREAS, the Los Banos General Plan was adopted in July 2009, and is the guiding document for land use in the City of Los Banos; and

WHEREAS, the project site is zoned PD (Planned Development), and Title 9, Chapter 3, Article 4 – Planned Development District of the Los Banos Municipal Code (LBMC) outlines the procedure for establishing development standards within PD districts; and

WHEREAS, the Stonecreek Area Plan was adopted by the City of Los Banos City Council on April 21, 2004; and

WHEREAS, the applicant submitted a Final Development Plan in accordance with the Los Banos Zoning Code Sections 9-3.403 and 9-3.407 on July 27, 2016; and

WHEREAS, Pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, the project was evaluated within the context of the Stonecreek Area Plan Program Environmental Impact Report (EIR), certified by the City of Los Banos on April 21, 2004. Staff has determined that the proposed project was adequately described, examined, and evaluated in the EIR, and that no significant new information or changes in the environmental setting have occurred that would result in new or greater significant effects not studied in the EIR ; and

WHEREAS, the Los Banos Planning Commission held a public hearing on August 24, 2016, for the purpose of considering the Project and at the completion of the public hearing, duly considered the evidence presented and recommended approval to the Los Banos City Council; and

WHEREAS, the City Council of the City of Los Banos scheduled and duly noticed a public hearing in accordance with California Government Code Section 65091 by advertisement and notices by mail to property owners within a 300 foot radius of the project boundaries on October 21, 2016 to consider and take testimony regarding these matters on November 2, 2016.

WHEREAS, at the November 2, 2016, City Council meeting the Los Banos City Council heard and considered testimony, if any, of all persons desiring to be heard; reviewed the Project Final Development Plan and staff report; studied the compatibility of the applicant's request with adjacent land uses; has considered the applicant's

request in accordance with the Final Development Plan criteria established in Title 9, Chapter 3, Article 4 of the Los Banos Municipal Code; and

BASED UPON THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, the City Council of the City of Los Banos does hereby make the findings set forth in Exhibit A (CEQA Findings), and Exhibit B (Findings of Approval), attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby approve Final Development Plan #2016-03 for the Villages at Stonecreek IX, located on the northwest corner of Ortigalita and Pioneer Road, more specifically identified as Assessor's Parcel Number: 430-060-020.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 2nd day of November 2016, by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

EXHIBIT A

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS FOR FINAL DEVELOPMENT PLAN #2016-04 – VILLAGES AT STONECREEK IX

Pursuant to the requirements of California Public Resources Code Section 21000 et seq. ("CEQA") and Title 14, California Code of Regulations Section 15000 et seq. (the "CEQA Guidelines"), the City as Lead Agency under CEQA adopts the following findings required by CEQA, along with the facts and evidence upon which each finding is based.

The City of Los Banos City Council hereby finds as follows:

1. Pursuant to CEQA, the CEQA Guidelines, and the City of Los Banos Environmental Quality Guidelines, the project was evaluated within the context of the Stonecreek Area Plan Program Environmental Impact Report (EIR) (SCH #2002061015), certified by the City of Los Banos on April 21, 2004;
2. The EIR was adequately noticed, circulated for public review, considered at public hearings, and duly certified by the Los Banos City Council;
3. The Project will have significant and unavoidable impacts on prime agricultural lands for which no feasible mitigation measures are available, but specific overriding economic, legal, and social benefits of the project outweigh the adverse environmental effects, and a Statement of Overriding Considerations was adopted when the Stonecreek Area Plan EIR was certified;
4. The Project will have significant and unavoidable impacts on air quality and although all feasible mitigation measures that are available have been applied, a significant impact remains; but specific overriding economic, legal, and social benefits of the project outweigh the adverse environmental effects, and a Statement of Overriding Considerations was adopted when the Stonecreek Area Plan EIR was certified;
5. The City determined that the Stonecreek Area Plan could have a significant effect on the environment, however, all potentially significant effects were analyzed adequately in the EIR, and mitigation measures presented in the Stonecreek Area Plan EIR have been included as conditions of project approval, and will reduce potentially significant impacts, other than those on prime farmland and air quality, to a less than significant level;
6. The proposed project was adequately described, examined, and evaluated in the Stonecreek Area Plan EIR.

7. The Stonecreek Area Plan EIR contemplated a build-out of 1,868 residential units within the Stonecreek Area Plan, the proposed project and will bring cumulative residential development within the area plan thus far to 720 units, and therefore, the proposed project is within the development density anticipated in the Stonecreek Area Plan and EIR;
8. No significant new information or changes in the environmental setting have occurred that would result in new or greater significant effects not studied in the EIR;
9. Because there are fewer units the project will have reduced traffic and wastewater generation, and reduced water consumption than was considered in the EIR, and will not result in any new or increased environmental effects not adequately described in the EIR;
10. No further environmental documentation is required because the proposed project was contemplated and adequately analyzed in the EIR;
11. The project was adequately noticed on October 21, 2016, and considered at a public hearing on November 2, 2016;
13. The project will be subject to the applicable mitigation measures presented in the EIR;
14. The City will monitor the implementation of mitigation measures in accordance with the Stonecreek Area Plan Mitigation Monitoring Program; and
15. The EIR and the CEQA findings for the EIR are incorporated herein by reference.

EXHIBIT B

FINDINGS FOR APPROVAL OF FINAL DEVELOPMENT PLAN #2016-03 – VILLAGES AT STONECREEK IX

The City of Los Banos City Council hereby finds as follows:

1. The Los Banos General Plan was adopted by the City in July 2009 and the East Los Banos Area Plan was prepared pursuant to the Los Banos General Plan and adopted by the City on April 21, 2004.
2. The proposed project is consistent with the City of Los Banos General Plan “Low Density Residential” land use designation for the site, and with the revised Stonecreek Area Plan “Planned Development” designation for the site.
3. The project, as conditioned, complies with the provisions of the City’s Zoning Ordinance, and includes a Final Development Plan to implement the Planned Development designation pursuant to the requirements of the Los Banos Municipal Code section 9-3.403 and 9-3.407.
4. The conceptual architectural renderings and schematic building designs, landscape and lighting designs, and other designs presented in the Final Development Plan, as conditioned, substantially conform to the requirements of the City’s Residential Design Guidelines.
5. The proposal will not be detrimental to the health, safety, comfort, or general welfare of the persons residing or working in the City of Los Banos, or injurious to property or improvements in the surrounding neighborhoods or within the City. The project will enhance the surrounding area and offer the surrounding community choices for housing and recreation.
6. The designs of the Final Development Plan, as conditioned, are consistent with the General Plan and Stonecreek Area Plan goals, policies, and programs, and that the project density and development intensity are consistent with the General Plan and Stonecreek Area Plan land use designations for the site.
7. The project will provide adequate pedestrian and bicycle routes within the project, and, as conditioned, to nearby destinations including schools.

EXHIBIT C

CONDITIONS OF APPROVAL FOR FINAL DEVELOPMENT PLAN #2016-03 – VILLAGES AT STONECREEK IX

General:

1. All development shall be consistent with the Final Development Plan, reflecting any conditions of approval or amendments approved by the Los Banos City Council, which includes: the Vesting Tentative Tract Map, the land use type, pedestrian and vehicular access, architectural design, parks, open space, and recreation, public facilities, services, and infrastructure, and phasing plan.
2. Building Master Plans shall be consistent with the Final Development Plan and approved by the Community and Economic Development Department and Building Department prior to issuance of a building permit.

Lighting:

3. All street lighting shall be LED. The streetlights shall meet the illumination standards in the City Street Light standards. After Public Works inspection and approval, all street light electrical boxes shall be slurried per Public Works direction.

Architecture and Physical Design:

4. This project shall be subject to P-D (Planned Development) Design Standards as presented in the Final Development Plan.
5. The monotony of straight building lines shall be alleviated by varying the size of individual buildings, staggering the front yard setbacks, varying exterior building materials and colors, articulating building facades, and utilizing extensive landscaping.
6. The variation in setbacks, unit placement, and materials and colors shall be implemented in a random fashion with no apparent pattern, to avoid monotony.
7. The minimum front yard setback for front-loading garages shall be 20' and side-loading garages shall be 15'. The minimum setback to living areas shall be 15' from the front yard property line. The minimum front yard setback to porches shall be 10'.
8. The minimum side-yard setback for interior lots shall be 5', standard corner lots shall be 10', and reverse corner-lots shall be 15' from the property line.

9. The minimum rear-yard setback shall be 10' for single story units, and 20' for multi-story units.
10. The typical architecture and plot plans set forth in the Final Development Plan are conceptually approved with this application. Plans submitted for building permits shall be consistent with these elevations in terms of style, material, and character.
11. To protect privacy, building placement that offsets side-facing second-story bedroom windows at adjacent houses shall be required.
12. Residential dwelling units shall not exceed 30 feet in height.
13. The developer shall provide entry monumentation and/or landscaping to provide for a neighborhood identity, substantially similar to that shown in the Final Development Plan.
14. If parking for model homes is to be provided in a temporary parking lot, such lot shall be approved by the Community and Economic Development Director as a commercial lot conforming with Los Banos Municipal Code section 9-3.2009, and shall be removed within 60 days of the end of sales, if not intended to serve a permanent use.

Physical Amenities:

15. The developer shall provide the same decorative lighting as provided in Villages at Stonecreek IV (Southbrook) Subdivision throughout the project site.
16. Enhanced pedestrian treatments shall be used at the intersection of Badger Flat Road and Pioneer Road, such as, but not limited to stamped concrete as approved by the Community and Economic Development Director.
17. The developer shall install a six-foot high decorative masonry wall along Ortigalita Road and Pioneer Road within the non-access strip at the rear of private properties.

Landscaping:

18. Landscape plans shall emphasize deciduous shade tree plantings to the south and west of buildings.
19. Landscaping and site design shall substantially conform to the conceptual plans of the Final Development Plan.
20. The developer shall comply with the current development standards for drains, to include all landscaping and related irrigation systems. The applicant

shall comply with the landscaping and irrigation requirements imposed by the Public Works Department.

21. Landscape plans for each residential front yard shall utilize drought tolerant plantings. The developer shall be required to follow local and State mandates regarding water conservation and water efficiency. Once the City adopts a new water efficient landscape ordinance, the developer shall be required to follow the new ordinance requirements. Landscaping shall be installed prior to Certificate of Occupancy.

EXHIBIT D

Stonecreek Area Plan Mitigation Monitoring Program

Introduction

CEQA Guidelines section 15097 requires public agencies to adopt reporting or monitoring programs when they approve projects subject to an environmental impact report or a negative declaration that includes mitigation measures to avoid significant adverse environmental effects. The reporting or monitoring program is to be designed to ensure compliance with conditions of project approval during project implementation in order to avoid significant adverse environmental effects.

The law was passed in response to historic non-implementation of mitigation measures presented in environmental documents and subsequently adopted as conditions of project approval. In addition, monitoring ensures that mitigation measures are implemented and thereby provides a mechanism to evaluate the effectiveness of the mitigation measures.

A definitive set of project conditions would include enough detailed information and enforcement procedures to ensure the measure's compliance. This monitoring program is designed to provide a mechanism to ensure that mitigation measures and subsequent conditions of project approval are implemented.

Monitoring Program

The basis for this monitoring program is the mitigation measures included in the project environmental impact report. These mitigation measures are designed to eliminate or reduce significant adverse environmental effects to less than significant levels. These mitigation measures become conditions of project approval, which the project proponent is required to complete during and after implementation of the proposed project.

The attached list is proposed for monitoring the implementation of the mitigation measures. This monitoring checklist contains all appropriate mitigation measures in the environmental impact report.

Monitoring Program Procedures

The City of Los Banos shall use the attached monitoring list for the proposed project. The monitoring program should be implemented as follows:

1. The Los Banos Planning Department should be responsible for coordination of the monitoring program, including the monitoring list. The Planning Department should be responsible for completing the monitoring list and distributing the list to the responsible individuals or agencies for their use in monitoring the mitigation measures.

2. Each responsible individual or agency will then be responsible for determining whether the mitigation measures contained in the monitoring list have been complied with. Once all mitigation measures have been complied with, the responsible individual or agency should submit a copy of the monitoring list to the Planning Department to be placed in the project file. If the mitigation measure has not been complied with, the monitoring list should not be returned to the Planning Department.
3. The Los Banos Planning Department will review the list to ensure that appropriate mitigation measures included in the monitoring list have been complied with at the appropriate time. Compliance with mitigation measures is required for project approvals.
4. If a responsible individual or agency determines that a non-compliance has occurred, a written notice should be delivered by certified mail to the project proponent within 10 days, with a copy to the Planning Department, describing the non-compliance and requiring compliance within a specified period of time. If non-compliance still exists at the expiration of the specified period, construction may be halted and fines may be imposed at the discretion of the City of Los Banos.

Each mitigation measure requires full or partial implementation at one or more of the following points in the development process:

- o Prior to approval of tentative or final maps;
- o Prior to approval of improvement plans;
- o Prior to approval of revegetation plan for the environmental reserve;
- o Prior to approval of demolition permits;
- o Prior to approval of grading permits;
- o Prior to approval of building permits.

Mitigation Measure Checklist

Prior to approval of tentative or final maps

2. Subject to the review and approval of the City of Los Banos Planning Department, future development within the proposed project shall integrate the following design features:
 - Carefully selected and located trees shall be planted to provide shade for structures and pathways during the hot summer months. Deciduous trees should be favored since they provide shade in the summer and allow sun to reach residences during cold and winter months. This measure should be focused on the southern and western exposures of buildings and pathways.
 - All new buildings shall incorporate the following energy conserving features: increased wall and ceiling insulation (beyond code requirements), super-insulated windows (triple-pane, low e, and/or argon-filled), maximum use of energy efficient lighting including the provision of compact fluorescent bulbs in all fixtures with standard screw bases, Energy Star rated appliances, and solar assisted water heating.
 - Buildings shall be oriented to maximize passive solar cooling and heating when practicable.
 - Gas-fired appliances shall be low NO_x emitting gas fired appliances complying with California NO_x Emission Rule #1121.
 - Natural gas (if provided) and electrical outlets shall be included in the backyard or patio areas of residential units to encourage the use of gas and/or electric barbecues.
 - Electrical outlets shall be installed on the exterior of residential units to encourage use of electrical landscape maintenance equipment.
 - Improvements shall be made or planned to encourage transit use when it becomes available. Appropriate easements shall be reserved to accommodate sheltered loading areas. Examples of improvements include the development of bus turnouts, and pedestrian paths efficiently connecting bus stops to commercial and residential areas. The project proponent shall consult with Merced County Transit to determine a feasible route or routes to serve the proposed project, and include appropriate physical improvements on that route or routes.
 - The applicant shall work with Caltrans to identify an appropriate location for a park and ride/ride share facility.
 - Pedestrian and bicycle access paths (or quiet residential streets) shall be designed and constructed throughout as much of the project area as possible to provide direct and convenient connections to all nearby open space areas, parks, schools, commercial areas, etc. to encourage walking and bicycling. In residential areas, at least one day-lighted cul-de-sac or other pedestrian access should be provided to adjacent arterial and collector streets between each arterial or collector street intersection, preferably located to make efficient connections to crosswalks at intersections and/or leading to schools or shopping areas. In the single-family residential areas, access shall be provided to the adjacent Wal Mart shopping center, Villages residential development, elementary school, park, and linear park.
 - An enhanced bicycle/pedestrian connection (which could be a path or a directly connecting road) shall be provided to connect the proposed project to the adjacent neighborhood to the east at Sandra Street.

- The Linear Park bicycle path shall be constructed to provide a crossing of Pacheco Boulevard by either 1) under-crossing or bridge at Los Banos Creek with a connection to Pacheco Boulevard on the north side, or 2) surface crossing at Badger Flat Road with a signal actuation device and signal phasing developed to reduce conflicts with turning traffic.
- Bicycle racks shall be provided at all commercial and institutional uses.
- Traffic signals shall be programmed to provide an automatic pedestrian walk signal at the beginning of each green light phase.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

15. Prior to recording the final maps and declarations relating to the establishment of a State-certified homeowners' association for residential subdivisions, Covenants, Codes and Restrictions shall be prepared for the subdivision and shall require disclosure to homeowners of potentially sensitive wildlife resources occurring in the vicinity, and habitat protection measures implemented as part of the development.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

22. The City of Los Banos shall not permit construction of uses within *Merced County Airport Land Use Compatibility Plan Zone 3* that are not compatible with Zone C. If the City determines not to relocate the airport, the area plan shall be amended prior to development of these locations to include uses that are compatible with Zone 3. If the airport is not relocated, adoption of the alternative land use plan would eliminate this restriction.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

-
28. No building permits shall be issued for buildings on the portion of the project site south of Cardoza Road and Badger Flat Loop Road, without written evidence from the City of Los Banos Fire Chief that the City of Los Banos Fire Department can serve the development within acceptable response times.

Construction and operation of a fire station within the project site shall be considered adequate evidence and written evidence will not then be required.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, Los Banos Fire Department, State Architect**

Monitoring Notes and Status:

-
29. The Area Plan shall include Class 2 bike lanes or a Class 3 bike route with a wide outside lane on Badger Flat Road and Badger Flat Loop Road. Intersections with Badger Flat Road and Badger Flat Loop Road shall be minimized on the side with the Class 1 bike path. All bicycle facilities should be designed and built in conformance with the Los Banos Commuter Bike Plan.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

Prior to approval of improvement plans

2. Subject to the review and approval of the City of Los Banos Planning Department, future development within the proposed project shall integrate the following design features:
 - Carefully selected and located trees shall be planted to provide shade for structures and pathways during the hot summer months. Deciduous trees should be favored since they provide shade in the summer and allow sun to reach residences during cold and winter months. This measure should be focused on the southern and western exposures of buildings and pathways.
 - All new buildings shall incorporate the following energy conserving features: increased wall and ceiling insulation (beyond code requirements), super-insulated windows (triple-pane, low e, and/or argon-filled), maximum use of energy efficient lighting including the provision of compact fluorescent bulbs in all fixtures with standard screw bases, Energy Star rated appliances, and solar assisted water heating.
 - Buildings shall be oriented to maximize passive solar cooling and heating when practicable.
 - Gas-fired appliances shall be low NO_x emitting gas fired appliances complying with California NO_x Emission Rule #1121.
 - Natural gas (if provided) and electrical outlets shall be included in the backyard or patio areas of residential units to encourage the use of gas and/or electric barbecues.
 - Electrical outlets shall be installed on the exterior of residential units to encourage use of electrical landscape maintenance equipment.
 - Improvements shall be made or planned to encourage transit use when it becomes available. Appropriate easements shall be reserved to accommodate sheltered loading areas. Examples of improvements include the development of bus turnouts, and pedestrian paths efficiently connecting bus stops to commercial and residential areas. The project proponent shall consult with Merced County Transit to determine a feasible route or routes to serve the proposed project, and include appropriate physical improvements on that route or routes.
 - The applicant shall work with Caltrans to identify an appropriate location for a park and ride/ride share facility.
 - Pedestrian and bicycle access paths (or quiet residential streets) shall be designed and constructed throughout as much of the project area as possible to provide direct and convenient connections to all nearby open space areas, parks, schools, commercial areas, etc. to encourage walking and bicycling. In residential areas, at least one day-lighted cul-de-sac or other pedestrian access should be provided to adjacent arterial and collector streets between each arterial or collector street intersection, preferably located to make efficient connections to crosswalks at intersections and/or leading to schools or shopping areas. In the single-family residential areas, access shall be provided to the adjacent Wal Mart shopping center, Villages residential development, elementary school, park, and linear park.
 - An enhanced bicycle/pedestrian connection (which could be a path or a directly connecting road) shall be provided to connect the proposed project to the adjacent neighborhood to the east at Sandra Street.

- The Linear Park bicycle path shall be constructed to provide a crossing of Pacheco Boulevard by either 1) under-crossing or bridge at Los Banos Creek with a connection to Pacheco Boulevard on the north side, or 2) surface crossing at Badger Flat Road with a signal actuation device and signal phasing developed to reduce conflicts with turning traffic.
- Bicycle racks shall be provided at all commercial and institutional uses.
- Traffic signals shall be programmed to provide an automatic pedestrian walk signal at the beginning of each green light phase.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

-
5. Developers of future projects on the project site shall demonstrate the following to the satisfaction of the Public Works Director:
- a. Compliance with the City of Los Banos grading regulations;
 - b. Development of an erosion control plan that will prevent the discharge of sediment into natural creeks/canals;
 - c. Compliance with National Pollution Discharge Elimination System (NPDES) permits administered by the California Regional Water Quality Control Board;
 - d. Development of a plan to meet state water quality standards as determined by the California Regional Water Quality Control Board;
 - e. Development of a plan to employ best management practices (BMPs) that reduce the level of pollutants discharged into natural waterways and wetlands.

These specifications shall be included in the final improvement plans and/or grading plans for each project.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Public Works Department**

Monitoring Notes and Status:

-
14. Subject to the review and approval of the Los Banos Public Services Department, a signage, lighting, and fencing plan shall be prepared for the environmental reserve and open space to outline the number and location of signs, lights, and fences, the language to be included on signs, and a maintenance program for the signs and fences, to prohibit people and dogs from entering the environmental reserve. The fencing shall be designed to complement the natural area. Lighting shall be low in stature and directed away from Los Banos Creek. The plan shall require signs and fences to be installed prior to occupancy.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Public Services Department**

Monitoring Notes and Status:

-
19. The applicant for any development project shall incorporate soil erosion control measures into plans for site preparation and construction activities prior to approval of final improvement plans by the City of Los Banos. These measures shall be monitored for effectiveness by the City of Los Banos. Such measures may include, but not be limited to, the following:
- a. Limit disturbance of soils and vegetation disturbance removal to the minimum area necessary for access and construction;
 - b. Confine all vehicular traffic associated with construction to the right-of-way of designated access roads;
 - c. Adhere to construction schedules designed to avoid periods of heavy precipitation or high winds;
 - d. Ensure that all exposed soil is provided with temporary drainage and soil protection when construction activity is shut down during the winter periods;
 - e. Inform construction personnel prior to construction and periodically during construction activities of environmental concerns, pertinent laws and regulations, and elements of the proposed erosion control measures;
 - f. Compliance with National Pollution Discharge Elimination System (NPDES) permits administered by the California Regional Water Quality Control Board; and
 - g. Development of a plan to employ best management practices that reduce the level of pollutants discharged into natural waterways and wetlands.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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20. Prior to the development of sensitive uses (ie: houses, schools, parks, day care, or other uses in which persons may contact soils), a Phase 1 environmental assessment shall be prepared to determine if soils may contain hazardous materials. If necessary, a remediation plan shall be created and implemented. For schools and day care centers, a Phase 1 environmental assessment shall be required at any location on the project site.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

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23. Subject to the review and approval of the Los Banos Planning Department, residential development plans for the project site shall include sound attenuation meeting the following criteria:
- Along Pioneer Road a sound wall of at least six feet, and up to 11 feet if acceptable to the City, shall be provided;
 - Along the State Highway 152 bypass, a sound wall of at least five feet, and up to 10 feet if acceptable to the City, shall be provided;
 - Along Badger Flat Loop Road, south of Pacheco Boulevard, a sound wall of at least seven feet, and up to 12 feet if acceptable to the City, shall be provided;
 - Along Badger Flat Road west of Cardoza Road, a sound wall of at least five feet, and up to eight feet if acceptable to the City, shall be provided;
 - Along Badger Flat Road between Cardoza Road and Pacheco Boulevard, a sound wall of at least seven feet, and up to 12 feet if acceptable to the City, shall be provided;
 - Along Ortigalita Road between Cardoza Road and Pioneer Road, a sound wall of at least six feet, and up to 10 feet if acceptable to the City, shall be provided.
 - Windows and sliding glass doors in facades of homes with a direct line-of-sight to Badger Flat Road or Badger Flat Loop Road, and within 80 feet of the roadway centerline, shall be sound rated to STC-33, and alternate ventilation provided;

Windows and sliding glass doors with a direct line-of-sight to Ortigalita Road or Pioneer Road, and within 80 feet of the roadway centerline, shall be sound rated to STC-29, and alternate ventilation provided;

- Houses with windows and sliding glass doors with a direct line-of-sight to the State Highway 152 bypass or Cardoza Road shall have alternative ventilation provided; and
- Further noise study shall be required to determine standards for housing within the neighborhood commercial areas with windows or sliding glass doors with a direct line of sight to Pacheco Boulevard.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

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24. Classrooms and school offices shall be located no closer than 80 feet from the center line of Ortigalita Road or Pioneer Road. Windows in school buildings with direct line of sight to Pioneer Road or Ortigalita Road shall be sound-rated to STC 29 and alternate ventilation provided. Playgrounds and fields shall be located behind buildings, out of direct line of sight of Ortigalita Road and Pioneer Road.

o Implementation Complete

Party Responsible for Implementation: **LBUSD**

Party Responsible for Monitoring: **State Architect**

Monitoring Notes and Status:

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29. The Area Plan shall include Class 2 bike lanes or a Class 3 bike route with a wide outside lane on Badger Flat Road and Badger Flat Loop Road. Intersections with Badger Flat Road and Badger Flat Loop Road shall be minimized on the side with the Class 1 bike path. All bicycle facilities should be designed and built in conformance with the Los Banos Commuter Bike Plan.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

30. The project proponent shall secure appropriate encroachment permits from the State Department of Transportation (Caltrans), Merced County, and the City of Los Banos, as applicable, prior to construction of off-site sewer and storm drainage lines. A traffic mitigation plan shall be developed and approved by Caltrans and Merced County Public Works, as appropriate, to maintain peak hour traffic operations at no less than LOS D, and may include limitations on hours and/or days of construction, requirements for flagging and advanced signage, and proposed detours.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department (in cooperation with Caltrans)**

Monitoring Notes and Status:

Prior to approval of revegetation plan for the environmental reserve

6. If revegetation is conducted within the environmental reserve, plantings shall include appropriate locally-obtained native grass, herb, and shrub species, such as arroyo willow (*Salix lasiolepis*), blue elderberry (*Sambucus mexicana*), mule fat (*Baccharis salicifolia*), and native grasses, and shall not include plantings of non-native species. Significant numbers of blue elderberry shall be planted in the environmental reserve to enhance habitat for the valley elderberry longhorn beetle, but in areas no less than 20 feet from the open space and trail area, to reduce potential for future disturbance of beetles by trail and open space users. Trash (pipes, scrap wood, etc.) shall be removed as part of habitat restoration along this section of Los Banos Creek.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

7. Prior to initiation of habitat restoration within 100 feet of the Los Banos Creek banks a survey for blue elderberry plants shall be prepared by a qualified biologist. Prior to construction of improvements that are located within 100 feet of blue elderberry shrubs, consultation with the U.S. Fish and Wildlife Service (USFWS) shall be required to determine whether incidental take authorization is required, and to establish appropriate avoidance and minimization measures to be implemented to ensure that blue elderberry plants, and thus, potential habitat for valley elderberry longhorn beetle, are protected. Avoidance and minimization measures identified by USFWS may include, but not be limited to, measures identified in the *Mitigation Guidelines for the Valley Elderberry Longhorn Beetle* (USFWS 1996).

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department (in cooperation with United States Fish and Wildlife Service)**

Monitoring Notes and Status:

Prior to approval of demolition permits

4. Prior to issuance of a demolition permit or demolition associated with a building permit, the project proponent shall have an asbestos survey completed by a qualified practitioner in accordance with the regulation of the National Emission Standards for Hazardous Air Pollutants and the San Joaquin Valley Air Pollution Control District. If asbestos is discovered in the structures, a work plan shall be developed and implemented to remove and dispose of the asbestos containing materials in accordance with the established regulations.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

21. Prior to issuance of a demolition permit, the project proponent shall have a lead survey completed by a qualified practitioner in accordance with the applicable regulations. The lead survey shall include an assessment of lead in building materials and in soils adjacent to the structure. If measured lead levels in or adjacent to a structure exceed established thresholds, a work plan shall be developed and implemented to remove and dispose of the lead-containing materials in accordance with the established regulations.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

Prior to approval of grading permits

3. Dust control requirements shall be included in all construction contract specifications. These construction contract specifications shall include the following San Joaquin Valley Unified Air Pollution Control District Regulation VIII, Rule 8020 fugitive dust mitigation requirements for the control of fine particulate matter (PM₁₀) from construction activities.
 - All disturbed areas of a construction site, including storage piles of fill dirt and other bulk materials, which are not being actively utilized for construction purposes for a period of seven calendar days or more, shall be stabilized using one or more of the following approved soil stabilization methods to effectively limit visible dust emissions. Disturbed areas shall be stabilized for the duration of the construction activity or until construction work resumes on the inactive disturbed area.
 - ◊ Where water is used as the dust suppressant, watering shall be applied to effectively limit visible dust emission;
 - ◊ Where a chemical dust stabilizer or suppressant is utilized, the stabilizer or suppressant shall be applied to effectively limit visible dust emissions;
 - ◊ Where planting of trees and vegetative ground cover is utilized, vegetation shall be planted in sufficient density and watered with sufficient frequency to effectively stabilize the disturbed area and limit visible dust emissions; or
 - ◊ Where soil moisture or natural crusting is sufficient to limit visible dust emission, no action is required.
 - All operations shall effectively limit visible dust emissions from on-site unpaved roads and off-site unpaved access roads. Road stabilization shall be maintained for the duration of construction. Where soil moisture is sufficient, no action is required. Traffic speed shall be limited to 15 miles per hour over unpaved surfaces.
 - No person shall undertake any land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill operations, or demolition activities, without utilizing appropriate dust control measures during the land preparation, demolition, excavation or extraction. Appropriate dust control measures may consist of the effective application of water or pre-soaking. Excavation and grading shall be suspended when winds exceed 20 miles per hour.
 - Internal combustion engines shall be maintained in proper operating condition, and idling shall be limited to 10 minutes in duration.
 - All operations shall limit or expeditiously remove the accumulation of mud or dirt from public paved roads, including shoulders, adjacent to the site. Removal activities must comply with local requirements and procedures. Wheel washers shall be used for trucks leaving the project site.
 - The use of dry rotary brushes for removal of deposited mud/dirt carryout from a paved road shall be prohibited, except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. The use of blower devices for removal of deposited mud/dirt carryout from subject paved roads shall be prohibited.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

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5. Developers of future projects on the project site shall demonstrate the following to the satisfaction of the Public Works Director:
- a. Compliance with the City of Los Banos grading regulations;
 - b. Development of an erosion control plan that will prevent the discharge of sediment into natural creeks/canals;
 - c. Compliance with National Pollution Discharge Elimination System (NPDES) permits administered by the California Regional Water Quality Control Board;
 - d. Development of a plan to meet state water quality standards as determined by the California Regional Water Quality Control Board;
 - e. Development of a plan to employ best management practices (BMPs) that reduce the level of pollutants discharged into natural waterways and wetlands.

These specifications shall be included in the final improvement plans and/or grading plans for each project.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Public Works Department**

Monitoring Notes and Status:

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8. Subject to the review of the Los Banos Planning Department, no earlier than 30 days prior to commencement of grading or construction activities on the project site, a field survey shall be conducted by a qualified biologist to determine if active kit fox dens are located on or within 150 meters (approximately 500 feet) of the project site. If an active kit fox den is detected within the survey area, the USFWS will be contacted immediately to determine the best course of action.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: Los Banos Planning Department (in cooperation with United States Fish and Wildlife Service)

Monitoring Notes and Status:

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10. Prior to approval of grading or building permits for development on the project site, if the project site has remained fallow and reverted to grassland vegetation, the following measures shall be required, subject to the review and approval of the Los Banos Planning Department:
- a. A pre-construction survey shall be conducted by a qualified biologist for burrowing owls within 30 days of the on-set of construction according to methods described in the *Staff Report on Burrowing Owl Mitigation* (CDFG 1995).
 - b. If pre-construction surveys undertaken during the breeding season (February through July) locate active nest burrows within or near construction zones, these nests, and an appropriate buffer around them (as determined by a qualified biologist) must remain off-limits to construction until the breeding season is over. The CDFG recommends setbacks from occupied nest burrows of 100 meters where construction will result in the loss of foraging habitat.
 - c. During the non-breeding season (August through January), resident owls may be relocated to alternative habitat. The relocation of resident owls must be according to a relocation plan prepared by a qualified biologist in consultation with the California Department of Fish and Game. Passive relocation is the preferred method of relocation. This plan must provide for the owl's relocation to nearby lands possessing available nesting and foraging habitat.

o Implementation Complete

Party Responsible for Implementation: Applicant

Party Responsible for Monitoring: Los Banos Planning Department (in cooperation with California Department of Fish and Game)

Monitoring Notes and Status:

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11. Prior to approval the grading or building permits for the proposed project, the project applicant shall conduct Swainson's hawk nesting surveys subject to the review and approval of the City of Los Banos Planning Department and the Department of Fish and Game. The surveys shall be conducted according to the recommended *Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley*. Based on the Swainson's hawk survey findings, the biologist shall recommend mitigation to avoid impacts to Swainson's Hawk, if any, and may include but not be limited to, the following mitigation measures recommended in the *Staff Report regarding Mitigation for Impacts to the Swainson's Hawks in the Central Valley of California*:

- a. No intensive new disturbances or other project related activities which may cause nest abandonment or forced fledging, should be initiated within one-quarter mile (buffer zone) of an active nest between March 1 and September 15 or until August 15 if a Management Authorization or Biological Opinion is obtained for the project. The buffer should be increased to one-half mile in nesting areas away from urban development (i.e. in areas where disturbance is not normal occurrence during the nesting season). Nest trees should not be removed unless there is no feasible way of avoiding it. If a nest tree must be removed, a Management Authorization (including conditions to off-set the loss of the nest tree) must be obtained with the tree removal period specified in the Management Authorization, generally October 1 to February 1. If construction or other project related activities that may cause nest abandonment or forced fledging are necessary within the buffer zone, monitoring of the nest site (funded by the project proponent) by a qualified biologist (to determine if the nest is abandoned) should be required. If it is abandoned and if the nestling(s) are still alive, the project sponsor shall fund the recovery and hacking (controlled release of captive reared young) of the nestling(s). Routine disturbances such as agricultural activities, commuter traffic, and routine facility maintenance activities within one-quarter mile of an active nest should not be prohibited.
- b. Hacking as a substitute for avoidance of impacts during the nesting period may be used in unusual circumstances after review and approval of a hacking plan by Environmental Service Division and Wildlife Management Division. Proponents who propose using hacking will be required to fund the full costs of the effort, including any telemetry work specified by the Department.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department (in cooperation with California Department of Fish and Game)**

Monitoring Notes and Status:

- 12. Subject to the review of the City of Los Banos, no more than 30 days prior to commencement of grading or construction activities occurring within 200 feet of trees located on and adjacent to the project site, a tree survey shall be conducted by a qualified biologist to determine if active nest(s) of protected birds are present in the trees. Areas within 200 feet of the construction zone that are not within the control of the applicant shall be visually assessed from the project site. This survey shall be required only if any construction would occur during the nesting and/or breeding season of protected bird species potentially nesting in the tree (generally March 1 through August 1). If active nest(s) are found, clearing and construction within 200 feet of the tree shall be postponed or halted until the nest(s) are vacated and juveniles have fledged and there is no evidence of a second attempt at nesting, at the discretion of the biologist. If construction activities are not scheduled between March 1 and August 1, no further surveys of the tree shall be required.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

16. Due to the possibility that significant buried cultural resources might be found during construction, the following language shall be included in any permits issued for the project site, including, but not limited to grading permits for future development, subject to the review and approval of the Los Banos Planning Department:

If archaeological resources or human remains are discovered during construction, work shall be halted at a minimum of 200 feet from the find and the area shall be staked off. The project developer shall notify a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

17. During initial grading or excavation activities on the former Silva Ranch site (west of the commercial building property along Pacheco Boulevard), the project proponent shall arrange for monitoring by a qualified professional archeologist, and shall submit a certified archeological report describing the monitoring, any resources found, their archeological value, and disposition.

o Implementation Complete

Party Responsible for Implementation: **Applicant (Silva Ranch site only)**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

18. In the event of an accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the City shall ensure that this language is included in all permits in accordance with CEQA Guidelines section 15064.5(e):

If human remains are found during construction there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of Merced County is contacted to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American. The most likely descendent may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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19. The applicant for any development project shall incorporate soil erosion control measures into plans for site preparation and construction activities prior to approval of final improvement plans by the City of Los Banos. These measures shall be monitored for effectiveness by the City of Los Banos. Such measures may include, but not be limited to, the following:
- a. Limit disturbance of soils and vegetation disturbance removal to the minimum area necessary for access and construction;
 - b. Confine all vehicular traffic associated with construction to the right-of-way of designated access roads;
 - c. Adhere to construction schedules designed to avoid periods of heavy precipitation or high winds;
 - d. Ensure that all exposed soil is provided with temporary drainage and soil protection when construction activity is shut down during the winter periods;
 - e. Inform construction personnel prior to construction and periodically during construction activities of environmental concerns, pertinent laws and regulations, and elements of the proposed erosion control measures;

- f. Compliance with National Pollution Discharge Elimination System (NPDES) permits administered by the California Regional Water Quality Control Board; and
- g. Development of a plan to employ best management practices that reduce the level of pollutants discharged into natural waterways and wetlands.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Public Works Department**

Monitoring Notes and Status:

Prior to approval of building permits

2. Subject to the review and approval of the City of Los Banos Planning Department, future development within the proposed project shall integrate the following design features:
 - Carefully selected and located trees shall be planted to provide shade for structures and pathways during the hot summer months. Deciduous trees should be favored since they provide shade in the summer and allow sun to reach residences during cold and winter months. This measure should be focused on the southern and western exposures of buildings and pathways.
 - All new buildings shall incorporate the following energy conserving features: increased wall and ceiling insulation (beyond code requirements), super-insulated windows (triple-pane, low e, and/or argon-filled), maximum use of energy efficient lighting including the provision of compact fluorescent bulbs in all fixtures with standard screw bases, Energy Star rated appliances, and solar assisted water heating.
 - Buildings shall be oriented to maximize passive solar cooling and heating when practicable.
 - Gas-fired appliances shall be low NO_x emitting gas fired appliances complying with California NO_x Emission Rule #1121.
 - Natural gas (if provided) and electrical outlets shall be included in the backyard or patio areas of residential units to encourage the use of gas and/or electric barbecues.
 - Electrical outlets shall be installed on the exterior of residential units to encourage use of electrical landscape maintenance equipment.
 - Improvements shall be made or planned to encourage transit use when it becomes available. Appropriate easements shall be reserved to accommodate sheltered loading areas. Examples of improvements include the development of bus turnouts, and pedestrian paths efficiently connecting bus stops to commercial and residential areas. The project proponent shall consult with Merced County Transit to determine a feasible route or routes to serve the proposed project, and include appropriate physical improvements on that route or routes.
 - The applicant shall work with Caltrans to identify an appropriate location for a park and ride/ride share facility.
 - Pedestrian and bicycle access paths (or quiet residential streets) shall be designed and constructed throughout as much of the project area as possible to provide direct and convenient connections to all nearby open space areas, parks, schools, commercial areas, etc. to encourage walking and bicycling. In residential areas, at least one day-lighted cul-de-sac or other pedestrian access should be provided to adjacent arterial and collector streets between each arterial or collector street intersection, preferably located to make efficient connections to crosswalks at intersections and/or leading to schools or shopping areas. In the single-family residential areas, access shall be provided to the adjacent Wal Mart shopping center, Villages residential development, elementary school, park, and linear park.
 - An enhanced bicycle/pedestrian connection (which could be a path or a directly connecting road) shall be provided to connect the proposed project to the adjacent neighborhood to the east at Sandra Street.

- The Linear Park bicycle path shall be constructed to provide a crossing of Pacheco Boulevard by either 1) under-crossing or bridge at Los Banos Creek with a connection to Pacheco Boulevard on the north side, or 2) surface crossing at Badger Flat Road with a signal actuation device and signal phasing developed to reduce conflicts with turning traffic.
- Bicycle racks shall be provided at all commercial and institutional uses.
- Traffic signals shall be programmed to provide an automatic pedestrian walk signal at the beginning of each green light phase.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

8. Subject to the review of the Los Banos Planning Department, no earlier than 30 days prior to commencement of grading or construction activities on the project site, a field survey shall be conducted by a qualified biologist to determine if active kit fox dens are located on or within 150 meters (approximately 500 feet) of the project site. If an active kit fox den is detected within the survey area, the USFWS will be contacted immediately to determine the best course of action.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department (in cooperation with United States Fish and Wildlife Service)**

Monitoring Notes and Status:

9. Prior to commencement of construction activities and subject to review and approval by the Los Banos Planning Department, the project applicant shall arrange for a qualified biologist to inform workers of the potential presence of San Joaquin kit fox, their protected status, work boundaries, and measures to be implemented to avoid loss of these species during construction activities. Avoidance and minimization measures may include, but not be limited to, measures identified in the *U. S. Fish and Wildlife Service Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance* (USFWS 1999) including the following measures:
- a. Any trench or pit deeper than two feet shall include ramps of either fill or planks to prevent kit fox from becoming trapped in the trench or pit.

- b. Pipes, culverts, and other hollow materials greater than four inches in diameter shall be stored in a manner that will prevent kit foxes from using these materials as temporary refuge. In addition, these materials shall be inspected for kit foxes daily, prior to the onset of construction activities.
- c. During construction activities, all food-related trash items shall be enclosed in sealed containers and regularly removed from the project site to avoid attracting wildlife to the project site, and pets shall not be allowed on the construction site. The proper location of the trash containers shall be subject to the review and approval of the Los Banos Planning Department.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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10. Prior to approval of grading or building permits for development on the project site, if the project site has remained fallow and reverted to grassland vegetation, the following measures shall be required, subject to the review and approval of the Los Banos Planning Department:
- a. A pre-construction survey shall be conducted by a qualified biologist for burrowing owls within 30 days of the on-set of construction according to methods described in the *Staff Report on Burrowing Owl Mitigation* (CDFG 1995).
 - b. If pre-construction surveys undertaken during the breeding season (February through July) locate active nest burrows within or near construction zones, these nests, and an appropriate buffer around them (as determined by a qualified biologist) must remain off-limits to construction until the breeding season is over. The CDFG recommends setbacks from occupied nest burrows of 100 meters where construction will result in the loss of foraging habitat.
 - c. During the non-breeding season (August through January), resident owls may be relocated to alternative habitat. The relocation of resident owls must be according to a relocation plan prepared by a qualified biologist in consultation with the California Department of Fish and Game. Passive relocation is the preferred method of relocation. This plan must provide for the owl's relocation to nearby lands possessing available nesting and foraging habitat.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department (in cooperation with State Department of Fish and Game)**

Monitoring Notes and Status:

11. Prior to approval the grading or building permits for the proposed project, the project applicant shall conduct Swainson's hawk nesting surveys subject to the review and approval of the City of Los Banos Planning Department and the Department of Fish and Game. The surveys shall be conducted according to the recommended *Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley*. Based on the Swainson's hawk survey findings, the biologist shall recommend mitigation to avoid impacts to Swainson's Hawk, if any, and may include but not be limited to, the following mitigation measures recommended in the *Staff Report regarding Mitigation for Impacts to the Swainson's Hawks in the Central Valley of California*:

- a. No intensive new disturbances or other project related activities which may cause nest abandonment or forced fledging, should be initiated within one-quarter mile (buffer zone) of an active nest between March 1 and September 15 or until August 15 if a Management Authorization or Biological Opinion is obtained for the project. The buffer should be increased to one-half mile in nesting areas away from urban development (i.e. in areas where disturbance is not normal occurrence during the nesting season). Nest trees should not be removed unless there is no feasible way of avoiding it. If a nest tree must be removed, a Management Authorization (including conditions to off-set the loss of the nest tree) must be obtained with the tree removal period specified in the Management Authorization, generally October 1 to February 1. If construction or other project related activities that may cause nest abandonment or forced fledging are necessary within the buffer zone, monitoring of the nest site (funded by the project proponent) by a qualified biologist (to determine if the nest is abandoned) should be required. If it is abandoned and if the nestling(s) are still alive, the project sponsor shall fund the recovery and hacking (controlled release of captive reared young) of the nestling(s). Routine disturbances such as agricultural activities, commuter traffic, and routine facility maintenance activities within one-quarter mile of an active nest should not be prohibited.
- b. Hacking as a substitute for avoidance of impacts during the nesting period may be used in unusual circumstances after review and approval of a hacking plan by Environmental Service Division and Wildlife Management Division. Proponents who propose using hacking will be required to fund the full costs of the effort, including any telemetry work specified by the Department.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department (in cooperation with State Department of Fish and Game)**

Monitoring Notes and Status:

12. Subject to the review of the City of Los Banos, no more than 30 days prior to commencement of grading or construction activities occurring within 200 feet of trees located on and adjacent to the project site, a tree survey shall be conducted by a qualified biologist to determine if active nest(s) of protected birds are present in the trees. Areas within 200 feet of the construction zone that are not

within the control of the applicant shall be visually assessed from the project site. This survey shall be required only if any construction would occur during the nesting and/or breeding season of protected bird species potentially nesting in the tree (generally March 1 through August 1). If active nest(s) are found, clearing and construction within 200 feet of the tree shall be postponed or halted until the nest(s) are vacated and juveniles have fledged and there is no evidence of a second attempt at nesting, at the discretion of the biologist. If construction activities are not scheduled between March 1 and August 1, no further surveys of the tree shall be required.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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13. Subject to the review and approval of the Los Banos Planning Department, future development on the project site shall not include buildings and antenna towers exceeding 35 feet. If structures taller than 35 feet are determined to be necessary by the approving agency, those buildings shall be constructed under the following guidelines;
- a. The use of continuously illuminated flood lamps that would attract birds shall be avoided;
 - b. Navigational lights that flash for as short and infrequent an interval as possible (one second on and nine seconds off has been suggested) shall be installed on all tall structures that require lights;
 - c. If feasible, blue navigational lights as opposed to red, shall be used on tall structures;
 - d. All guide wires associated with antenna towers shall be painted a bright color and equipped at intervals with visually obvious objects (e.g. orange painted balls several inches in diameter) in order to increase their visibility during the daylight hours; and
 - e. Substitute measures that can be shown to be equally effective in preventing birds from colliding into structures and wires may be used with the approval of the approving agency.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

25. Subject to the review and approval of the Los Banos Planning Department, development plans for commercial or office buildings along Pacheco Boulevard or Badger Flat Loop Road shall include sound attenuation meeting the following criteria:

- Sound rated windows and alternate ventilation shall be provided; and
- Outdoor uses areas, such as courtyards, shall be located out of direct line of sight of Pacheco Boulevard and Badger Flat Loop Road.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

26. Subject to the review and approval of the City of Los Banos Planning Department, office and commercial development plans for locations adjacent to residential uses shall be reviewed by an acoustical engineer prior to issuance of a building permit. The acoustical engineer shall recommend appropriate mitigation measures, such as buffer zones, noise barriers, and/or enclosures of mechanical equipment to protect residential areas from unacceptable levels of noise.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

27. The following language shall be included on any permits issued at the project site, subject to the review and approval of the City of Los Banos Planning Department. "All construction activities shall be limited to weekdays between 7:00 AM and 7:00 PM, and to Saturdays and City holidays between 9:00 AM and 7:00 PM. No construction is allowed on Sundays."

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

28. No building permits shall be issued for buildings on the portion of the project site south of Cardoza Road and Badger Flat Loop Road, without written evidence from the City of Los Banos Fire Chief that the City of Los Banos Fire Department can serve the development within acceptable response times.

Construction and operation of a fire station within the project site shall be considered adequate evidence and written evidence will not then be required.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

-END-

ORDINANCE # _____

AN UNCODIFIED ORDINANCE OF THE LOS BANOS CITY COUNCIL APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LOS BANOS AND ANDERSON HOMES, A CALIFORNIA CORPORATION FOR DEVELOPMENT OF APPROXIMATELY 18.64 ACRES LOCATED AT THE NORTHWEST CORNER OF ORTIGALITA AND PIONEER ROADS MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 430-060-020. [Villages at Stonecreek IX]

WHEREAS, Government Code § 65864, *et seq.*, authorizes the City of Los Banos to enter into development agreements which will provide certainty, definition and commitment to developers as well as to necessary public improvements required by development;

WHEREAS, Anderson Homes, a California corporation (“Developer”) submitted an application to the City of Los Banos for a Final Development Plan and Vesting Tentative Tract Map for approximately 18.65 acres located at the northwest corner of Ortigalita and Pioneer Roads in the City of Los Banos (APN 430-060-020) (the “Property”); and

WHEREAS, the proposed applications would allow development of the Property, which includes 71 low density detached single family homes as a part of the Stonecreek South Planned Development (the “Project”); and

WHEREAS, in connection with the Project, the Developer and City staff have, in good faith, negotiated a proposed development agreement attached to this Ordinance as **Exhibit A** the terms of which carry out the legislative purpose of Government Code § 65864, *et seq* and will assure the parties to this Agreement of mutually desirable development of the Property. Developer has agreed to provide the following significant public benefits as consideration for this Agreement:

- a. Continuation of the Planned Development known as Stonecreek South.
- b. Formation or annexation of the Property to a Community Facilities District created for the purpose of funding public safety.
- c. Formation or annexation of the Property to a Lighting and Landscaping district created for the purpose of maintaining public landscape areas, signage, and public lighting and traffic signal maintenance.

WHEREAS, in accord with the California Environmental Quality Act (CEQA) and State and City guidelines, City has accepted and previously approved and certified the Stonecreek Area Plan Environmental Impact Report, on April 21, 2004.

WHEREAS, on August 24, 2016, the Planning Commission of the City of Los Banos held a public hearing at which time the Planning Commission reviewed the Development Agreement prepared for the Project and recommended approval by the City Council;

WHEREAS, the City Council of the City of Los Banos scheduled and duly noticed a public hearing in accordance with California Government Code Section 65091 by advertisement and notices by mail to property owners within a 300 foot radius of the project boundaries;

WHEREAS, on November 2, 2016, and on _____, 2016 the City Council held a public hearing at which time interested persons had an opportunity to testify either in support or opposition to the proposed Development Agreement; and

WHEREAS, the City Council, having duly considered this Agreement and having held the noticed public hearing, finds and declares that the provisions of this Agreement are consistent with the maps and text of the City's General Plan.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CITY OF LOS BANOS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct.

SECTION 2. This Ordinance incorporates, and by this reference makes a part hereof, the Development Agreement attached hereto as **Exhibit A**.

SECTION 3. This Ordinance is adopted under the authority of Government Code Section 65864 et seq.

SECTION 4. The City Council hereby finds and determines, as follows:

- (a) The Agreement will provide significant public benefits;
- (b) The Agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan;
- (c) The Agreement is compatible with the uses authorized in, and the general plan designations which will apply to the Property;
- (d) The Agreement is in conformity with public convenience, general welfare and good land use practice;
- (e) The Agreement will not be detrimental to the public health, safety and general welfare; and
- (f) The Agreement will not adversely affect the orderly development of property or the preservation of property values.

SECTION 5. The foregoing findings and determinations are based upon the following:

- (a) The Recitals set forth in this Ordinance, which are deemed true and correct;
- (b) Resolution No. _____, approved by the City Council on November 2, 2016, approving FDP 2016-03, which Resolution and exhibits are incorporated herein by reference as if set forth in full;
- (c) Resolution No. 2016-43, approved by the Planning Commission on August 24, 2016, approving VTTM 2016-04, which Resolution and exhibits are incorporated herein by reference as if set forth in full;
- (d) The City's General Plan;

Introduced by Council Member _____ and seconded by Council Member _____ on the ____ day of _____, 2016.

Passed on the ____ day of _____, 2016 by the following vote:

AYES: Council Members

NOES:

ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

RECORDING REQUESTED BY
AND WHEN RECORDED, MAIL TO:

City of Los Banos
520 J Street
Los Banos, CA 93635
Attn: City Clerk

(Space Above This Line Is for Recorder's Use Only)

This Agreement is recorded at the request and for the benefit of the City of Los Banos and is exempt from the payment of a recording fee pursuant to Government Code §§ 6103 and 27383.

**DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF LOS BANOS AND
ANDERSON HOMES, A CALIFORNIA CORPORATION
RELATIVE TO
VILLAGES AT STONECREEK IX**

(Date)

THIS DOCUMENT, INCLUDING EXHIBITS, TOTALS _____ PAGES.
EACH PAGE IS "BATES STAMPED" SEQUENTIALLY IN THE LOWER RIGHT HAND CORNER.

**DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF LOS BANOS AND
ANDERSON HOMES, A CALIFORNIA CORPORATION
RELATIVE TO
VILLAGES AT STONECREEK IX**

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2016, by and between the CITY OF LOS BANOS, a municipal corporation (“City”), and Anderson Homes, a California corporation (“Developer”), pursuant to the authority of Article 2.5, Chapter 4, Division 1, Title 7 (§ 65864, *et seq.* of the Government Code) relating to Development Agreements. City and Developer are sometimes collectively referred to in this Agreement as the “Parties” and individually as a “Party.”

RECITALS

1. Developer owns has an equitable interest in that certain real property, more particularly described in the legal description attached hereto as **Exhibit “A”** and as depicted on the site map attached hereto as **Exhibit “B”**.

2. In order to encourage investment in, and commitment to, comprehensive planning and public facilities financing, strengthen the public planning process and encourage private implementation of the local general plan, provide certainty in the approval of projects in order to avoid waste of time and resources, and reduce the economic costs of development by providing assurance to property owners that they may proceed with projects consistent with existing land use policies, rules, and regulations, the California Legislature adopted California Government Code sections 65864-65869.5 (the “Development Agreement Statute”) authorizing cities and counties to enter into development agreements with persons or entities having a legal or equitable interest in real property located within their jurisdiction.

3. The parties have, in good faith, negotiated the terms hereinafter set forth which carry out the legislative purpose set forth above and will assure the parties to this Agreement of mutually desirable development of the Subject Property. Developer has agreed to provide the following significant public benefits as consideration for this Agreement:

- a. Continuation of the Planned Development known as Stonecreek South.
- b. Formation or annexation of the Subject Property to a Community Facilities District created for the purpose of funding public safety.
- c. Formation or annexation of the Subject Property to a Lighting and Landscaping district created for the purpose of maintaining public landscape areas, signage, and public lighting and traffic signal maintenance.

4. City, in response to Developer's applications, after public hearings and extensive environmental analysis, has granted the following entitlements (hereinafter the “Entitlements”).

- a. By Planning Commission Resolution No. 2016 - 43 approval of Vesting Tentative Tract Map for Villages at Stonecreek IX (VTTM 2016-04).
- b. By City Council Resolution No. 2016-__ approval of Final Development Plan for Villages at Stonecreek IX (FDP 2016-03)

5. In support of the various Entitlements described in paragraph 4 above, and in accord with the California Environmental Quality Act (CEQA) and State and City guidelines, City has accepted and previously approved and certified the Stonecreek Area Plan Environmental Impact Report, on April 21, 2004.

6. Development of the Subject Property pursuant to the terms and conditions of the various entitlements, the General Plan, and the Stonecreek Area Plan Environmental Impact Report will provide for orderly growth and development consistent with the City's General Plan and other development policies and programs.

7. On August 24, 2016, the City Planning Commission held a public hearing on this Agreement, considered this Agreement, and recommended its adoption to the City Council.

8. On November 2, 2016 and on _____, 2016 the City Council also held a public hearing on this Agreement and considered the Planning Commission recommendations and testimony and information submitted by City Staff, Developer, and members of the public. Having duly considered this Agreement and having held the noticed public hearings, City finds and declares that the provisions of this Agreement are consistent with the Development Agreement Statute, and the maps and text of the City's General Plan.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1

GENERAL PROVISIONS

Section 1.1. The Project. The Project is the Final Development Plan and Vesting Tentative Tract Map for the potential development of approximately 18.64 acres of land located generally in the southwestern quadrant of the City. The Project consists of the subdivision and development of the Subject Property: into 71 low density detached single family homes on approximately 18.64 with an average density of 3.8 units per acre; the entire project area is zoned Planned Development (P-D District).

Section 1.2. Subject Property. The Subject Property consists of approximately 18.64 acres identified as Merced County Assessor's Parcel Number 430-060-020, generally located on the northwest corner of Ortigalita and Pioneer Roads, in the City of Los Banos. The Subject Property is more particularly described in **Exhibit "A"**, attached hereto and incorporated herein by this reference and made a part of this Agreement. The Subject Property was previously designated as a public school site and part of what is known as Villages at Stonecreek IV. It is the parties' intent that to the extent that the Subject Property is part of the Villages at Stonecreek IV

Development Agreement this Agreement shall replace the terms of that Agreement as applied to the Subject Property only.

Section 1.3. Definitions. As used in this Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

(a) **Adopting Ordinance** means Ordinance Number _____ entitled: Development Agreement By and Between the City of Los Banos and Anderson Homes, a California corporation, relative to Villages at Stonecreek IX, dated _____, and effective _____, which approves this Agreement as required by Government Code section 65867.5.

(b) **Assumption Agreement** means an agreement substantially conforming to the model assumption agreement described in **Exhibit "F"** or other agreement in a form approved by the City Attorney, executed by a Landowner with the Developer, expressly assuming various obligations relating to the development of the Project, or portion thereof.

(c) **Certificate of Occupancy** means either a certificate issued after inspections by City authorizing a person or persons in possession of property to dwell or otherwise use a specified building or dwelling unit, or the final inspection if a formal certificate is not issued.

(d) **CEQA** means the California Environmental Quality Act section 21000 *et seq.*, of the Public Resources Code of the State of California.

(e) **City** means the Los Banos City Council, or its designee.

(f) **City Laws** means ordinances, resolutions, rules, regulations, policies, motions, directives, mitigation measures, conditions, standards, specifications, dedications, fees, taxes (including without limitation general, special and excise taxes), assessments, liens, other exactions and impositions, and any other actions having the force of law, that are enacted or adopted by City, or by its electorate through the initiative or referendum process.

(g) **Collective Standards** means this Development Agreement, its Exhibits, the Planning Documents, the City Laws that are operative and in force and effect as of the Effective Date, and the Subsequent Approvals.

(h) **Developer** means Anderson Homes, a California corporation, or successor in interest.

(i) **Director** means the Community and Economic Development Director for the City of Los Banos or designee.

(j) **Effective Date** means the effective date of the Adopting Ordinance.

(k) **Entitlements** shall mean those approvals listed in Recital 4 including any and all conditions of approval and mitigation measures.

(l) **Final Development Plan** means FDP #2016-03 and conditions of approval applicable thereto, attached as **Exhibit "E"**.

(m) **General Plan** means the 2030 General Plan Update of the City, approved July 15, 2009, excluding any amendment after the Effective Date that impairs or restricts Developer's rights set forth in this Agreement, unless such amendment is expressly authorized by this Agreement or is specifically agreed to by Developer.

(n) **Landowner** is a party who has acquired any portion of the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement.

(o) **New City Laws** means City Laws enacted, adopted or implemented by City, or by its electorate through the initiative or referendum process, after the Effective Date.

(p) **Planning Documents** means, and shall be limited to, those approvals set forth in paragraph 4, 5 and 6 of the Recitals.

(q) **Project** means the anticipated development of the Subject Property as specified in Section 1.1 and as provided for in the provisions of this Agreement and all other incorporated exhibits.

(r) **Reserved Powers** shall mean those powers explicitly reserved to the City by this Agreement.

(s) **Subject Property** means the property described in Section 1.2, or the remaining portions thereof after releases from the provisions of this Agreement have been executed as authorized by this Agreement.

(t) **Subsequent Approvals** means that Developer may make application for other land use approvals, actions, agreements, permits and other entitlements that are necessary or desirable in connection with the development of the Project, including without limitations, multiple planned development zoning district approvals, multiple vesting or non-vesting tentative subdivision maps, site plan approvals, use and grading permits, lot line adjustments, sewer and water connections, design review, building permits and certificates of occupancy, including all conditions of approval imposed in connection therewith.

(u) **Tentative Map(s)** shall mean Map #VTTM 2016-04, and conditions of approval applicable thereto, attached as **Exhibit "D"**.

Section 1.4. Exhibits. Exhibits to this Agreement are as follows:

Exhibit "A" Subject Property.

Exhibit "B" Site Map.

Exhibit "C" Special Conditions and Requirements.

Exhibit "D" Vesting Tentative Tract Map VTTM 2016-04 and Conditions of Approval.

Exhibit "E" Final Development Plan FDP 2016-03 and Conditions of Approval.

Exhibit "F" Sample Assumption Agreement.

Exhibit "G" Sample Notice of Termination.

Section 1.5. Incorporation of Exhibits and Recitals. Exhibits A – G and Recitals 1 through 8 are incorporated herein, including all exhibits referred to in said Recitals. In the event of inconsistency between the Recitals and the provisions of Articles 1 through 5, the provisions of Articles 1 through 5 shall prevail.

Section 1.6. Parties to Agreement. The parties to this Agreement are:

(a) **The City of Los Banos.** A municipal corporation exercising general governmental functions and powers. The principal office of the City is located at 520 J Street, Los Banos, California 93635.

(b) **Developer.** Anderson Homes, a California corporation who owns in fee or has an equitable interest in the Subject Property and represents that it has the legal authority to enter into this Agreement. The principal office of Developer is 1851 Airway Drive, Suite E, Hollister, California 95023.

(c) **Landowner.** From time to time, as provided in this Agreement, Developer may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released, shall be subject to the applicable provisions of this Agreement related to such portion of the Subject Property.

Section 1.7. Project is a Private Undertaking. It is agreed among the parties that the Project is a private development and that the City has no interest therein except as authorized in the exercise of its governmental functions.

Section 1.8. Term of Agreement. This Agreement shall commence upon the Effective Date of the Adopting Ordinance approving this Agreement. Upon becoming operative, this Agreement shall continue in force for a period of ten (10) years from the Effective Date unless terminated as provided herein. Following the expiration of the term, or if sooner terminated, this Agreement shall have no force and effect, subject however, to post-termination obligations of Developer or Landowner, if any.

Section 1.9. Priority of Enactment. In the event of conflict between the Development Agreement, the Planning Documents and the City Laws, the parties agree that the following sequence of approvals establishes the relative priority of the approvals, each approval superior to the approvals listed thereafter: (1) the Development Agreement; (2) the Planning Documents; and (3) the City Laws. In the event of a conflict between two or more of the foregoing

documents, the language of that document which is superior in priority as provided above shall govern.

Section 1.10. Vested Rights of Developer. During the term of this Agreement, unless sooner terminated in accordance with the terms hereof, in developing the Subject Property consistent with the Project described herein, Developer is assured, and City agrees, that the development rights, obligations, terms and conditions specified in the Collective Standards are fully vested in the Developer and may not be changed or modified by the City except as may be expressly permitted by, and in accordance with, the terms and conditions of this Agreement, or as expressly consented thereto in writing as provided for in Section 1.13 and 1.14 below, by the Developer, which consent Developer may withhold in its sole and exclusive discretion. Developer shall be obligated to pay only those fees, make only those dedications and improvements, and otherwise be subject to only those conditions/exactions expressly authorized in this Agreement. Except as expressly provided herein and in sections 1.22 and 1.23, City shall not establish, enact, impose or exact any new or additional fees, charges, general taxes, special taxes, conditions, dedications, improvements, and/or other exactions, policies, standards, laws, or regulations which directly or indirectly relate to or affect development or occupancy of the Project or Subject Property.

Section 1.11. Assignment and Assumption. Developer shall have the right to sell, assign, or transfer this Agreement with all the rights, title and interests therein to any person, firm or corporation at any time during the term of this Agreement. The conditions and covenants set forth in this Agreement and incorporated herein shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. Developer shall provide City with a copy of the Assumption Agreement. Express written assumption by such purchaser, assignee or transferee, to the satisfaction of the City Attorney, of the obligations and other terms and conditions of this Agreement with respect to the Subject Property or such portion thereof sold, assigned or transferred, shall relieve the Developer selling, assigning or transferring such interest of such obligations so expressly assumed. Any such assumption of Developer's obligations under this Agreement shall be deemed to be to the satisfaction of the City Attorney if executed in the form of the Assumption Agreement attached hereto as **Exhibit "E"** and incorporated herein by this reference, or such other form as shall be approved by the City Attorney.

Section 1.12. Covenants Running With the Land. Each and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it. Provided however, notwithstanding anything to the contrary above, if any such sale, assignment or transfer relates to a completed residential unit or non-residential building which has been approved by the City for occupancy, this Agreement shall automatically terminate.

Section 1.13. Amendment to Agreement (Developer and City). This Agreement may be amended by mutual consent of the parties in writing, in accordance with the provisions of

Government Code section 65868, provided that: any amendment which relates to the term, permitted uses, density, intensity of use, height and size of proposed buildings, or provisions for reservation and dedication of land shall require a noticed public hearing before the parties may execute an amendment. Unless otherwise provided by law, all other amendments may be approved without a noticed public hearing.

Any amendment entered into between the City and the Developer shall require the signature of each owner of any portion of the Subject Property to the extent the amendment modifies this Agreement as to that other owner's property.

Section 1.14. Amendment to Agreement (Landowner and City). This Agreement may also be amended, subject to the provisions of Government Code section 65868, between a Landowner who has acquired a portion of the Subject Property from Developer and City as to the portions of the Subject Property then owned by Landowner.

Any amendment entered into between the City and a Landowner shall require the signature of each Landowner of any portion of the Subject Property or the Developer to the extent the amendment modifies the Agreement as to that Landowner's or the Developer's property.

Section 1.15. Releases. Developer, and any subsequent Landowner, may free itself from further obligations relating to the sold, assigned, or transferred property, provided that the City Clerk receives a copy of the Assumption Agreement provided for in Section 1.11.

Section 1.16. Notices. Notices, demands, correspondence, and other communication to City and Developer shall be deemed given if dispatched by prepaid first-class mail to the principal offices of the parties as designated in Section 1.6. Notice to the City shall be to the attention of both the City Manager and the Director. Notices to subsequent Landowners shall be required to be given by the City only for those Landowners who have given the City written notice of their address for such notices. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 1.17. Reimbursement for Agreement Expense of City. Developer agrees to reimburse City for reasonable and actual expenses over and above fees paid by Developer as an applicant for costs specifically incurred by City for the preparation of this Agreement, including recording fees, publishing fees, and reasonable staff, City Attorney, Special Counsel, and consultant costs not otherwise included within application fees then due and payable to the City. Such reimbursement shall be paid to the City prior to execution of this Agreement by the City.

Section 1.18. Recordation of Agreement. The City Clerk shall cause a copy of this Agreement to be recorded with the Merced County Recorder not later than ten (10) days following execution of this Agreement by the City. Developer hereby covenants that during the period following execution and the recording of this Agreement by the City, Developer shall not, without prior written approval by the City Attorney, cause or allow to be recorded against the Subject Property any instrument affecting the priority, validity or enforceability of this Agreement.

Section 1.19. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

Section 1.20. Invalidity of Agreement/Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which became effective after the Effective Date, the remaining provisions shall continue in full force and effect.

Section 1.21. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner, challenging this Agreement, the Entitlements or any approval subsequently granted by the City for the development of the Subject Property, the parties and any Landowner agree to cooperate with each other in good faith. City may elect to tender the defense of any lawsuit filed by a third person or entity to Developer and/or Landowner(s) (to the extent the litigation, in part or in whole, seeks to overturn or invalidate this Agreement, the Entitlements or any subsequent approval granted for the Subject Property held by or granted to Developer and/or Landowner), and, in such event, Developer and/or such Landowner(s) shall hold the City harmless from and defend the City from all costs and expenses incurred in the defense of such lawsuit, including, but not limited to, damages, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in such litigation. For purposes of this section only, "City" shall include all employees, consultants and agents acting on behalf of the City. Neither party shall settle any such lawsuit without the consent of the other party. The City may elect to participate in the litigation, in which case the Developer and/or Landowner agree to reimburse the City for its litigation costs and fees, including the retention of outside legal counsel. It is the intent of the Parties that the City's participation not result in unnecessary duplication of legal services, but rather that the City's active involvement in the litigation be limited to supervising the preparation of the administrative record or discovery as applicable, monitoring of litigation, and responsive pleadings regarding issues which, in the sole opinion of the City, involve broader City concerns than those immediately affecting the Landowner and/or Developer. Upon written demand of the City, Developer and/or Landowner shall deposit with the City such sums as may be specified by the City as its estimated litigation costs and fees for the following thirty day period. Both parties shall act in good faith, and shall not unreasonably withhold consent to settle. In the event that the City elects to settle a claim, and Developer refuses to also settle, City at its sole option, may require Developer to post security in a form and amount reasonably acceptable to the City, for the performance of Developer's duties under this section. If the Developer, within 30 days of receiving written notice from City, fails to post this security, the Developer shall settle the claim on terms as previously approved by the City.

Section 1.22. Fees. Developer shall be subject to all fees currently adopted by the City, including scheduled or periodic increases as provided for in the adopting ordinances or resolutions ("Current Fees"). Developer shall pay, without protest or without challenge, Current Fees in effect at the time of the issuance of a requested permit or entitlement.

In addition, Developer agrees to pay any new fees adopted by the City, or the recalculation of existing fees (“New Fees”) in effect at the time of the issuance of a requested building permit. Developer shall retain the right to challenge the New Fees as permitted by law.

Section 1.23. Reserved Powers. Notwithstanding any other provision of this Agreement, including Sections 2.1 and 2.2, and without limitation as to any other requirements or exceptions contained in this Agreement, the City shall retain the authority to take the following actions and apply the same to the Subject Property:

(a) The authority of the City Council to adopt regulations to protect the City and its citizens from an immediate adverse risk to health and safety. This shall include, but not be limited to, lack of sufficient sewer and/or water facilities, but not school facilities.

(b) Adopt or increase utility charges in accordance with applicable laws and regulations; and

(c) As set forth in Section 1.22, increase and apply Current Fees, and adopt and apply New Fees.

(d) Adopt revised subdivision, building design (residential and non-residential), and development improvement standards, provided, however, no such revised standards shall apply to the Project earlier than the 366th day following the date the City Council adopts the revised standard.

(e) Land use regulations, ordinances, policies, programs, resolutions or fees adopted or undertaken by City in order to comply with state or federal laws, or regulations, provided that in the event that such state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provision or provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

(f) City land use regulations, ordinances, policies, programs or resolutions adopted after the Effective Date, which are in conflict with the City Laws, but the application of which to the development of the Subject Property has been consented to in writing by the Developer and/or the applicable Landowner by later separate document, which consent Developer and/or Landowner may withhold in their sole and exclusive discretion.

(g) Adopt a revised growth management policy for residential development, provided, however, no such revised policy shall apply to the Project earlier than the 366th day following the date the City Council adopts the revised policy.

Section 1.24. Waiver of Claims. Developer waives, as to the Subject Property only, any and all existing claims that may have against the City, its agents, employees and consultants arising out of the adoption and/or application of development requirements and standards, impact

fees, the adoption of this Agreement or approval of the Entitlements and all of the proceedings, acts or determinations made prior thereto.

Section 1.25. Availability of Facilities. Notwithstanding any other provision set forth in this Agreement to the contrary, nothing in this Agreement is intended or shall be interpreted to require City to guarantee or reserve to or for the benefit of Developer or the Property any utility capacity, service, or facilities that may be needed to serve the Project, whether domestic or reclaimed water service, sanitary sewer transmission or wastewater treatment capacity, downstream drainage capacity, or otherwise, and City shall have the right to limit or restrict Development of the Project if and to the extent that City reasonably determines that inadequate utility capacity exists to adequately serve the Project at the time Development is scheduled to commence. Notwithstanding the foregoing, City covenants to provide utility services to the Project on a non-discriminatory basis (i.e., on the same terms and conditions that City undertakes to provide such services to other similarly situated new developments in the City of Los Banos as and when service connections are provided and service commences).

ARTICLE 2

PROJECT DEVELOPMENT

Section 2.1. Vested Right to Develop. Developer shall have the vested right to develop the Subject Property in accordance with the terms and provisions of this Agreement.

To the extent that Developer, prior to execution of this Agreement, possesses vested rights under the authority of the Subdivision Map Act or common law, Developer expressly waives any and all rights thereto, and agrees that any claim to a vested right is defined solely by the Development Agreement.

Section 2.2. Permitted Uses and Development Standards. The permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation and dedication of land or payment of fees in lieu of dedication for public purposes, the construction, installation and extension of public improvements, development guidelines, policies and standards, implementation program for processing of subsequent entitlements and other conditions of development for the Subject Property shall be those set forth in the Collective Standards. The parties hereto intend that the Collective Standards shall serve as the definitive and controlling document for all subsequent actions, discretionary or ministerial, relating to the development and occupancy of the Project.

Section 2.3. Amendments. Modifications to the Tentative Map may be approved in accordance with the provisions of the Subdivision Map Act and local ordinance and shall not require an amendment to this Agreement.

Section 2.4. No Conflicting Enactments. Except as provided for as a Reserved Power or as otherwise provided for in this Agreement, neither the City nor any agency of the City, shall enact, adopt or implement any New City Law that: (a) is in conflict with the Collective Standards; (b) relates to the rate, timing or sequencing of the development or construction of the

Subject Property on all or any part of the Subject Property that is in conflict with this Agreement, or any amendments thereto; or (c) reduces the development rights provided by the Collective Standards. Without limiting the foregoing general statement, and for all purposes pursuant to this Agreement generally, and this Section specifically, any New City Law shall be deemed to conflict with this Agreement if, either with specific reference to this Subject Property or as part of a general enactment that directly or indirectly applies to this Subject Property, it would or could:

(a) Limit or reduce the density or intensity of the Project development granted by the Collective Standards or otherwise require any reduction in the height, number, size or square footage of lots, structures or buildings;

(b) Expand or increase Developer's obligations under the Collective Standards with respect to the provision of parking spaces, streets, roadways and/or any other public or private improvements or structures;

(c) Directly limit public services or facilities otherwise available (e.g., water, drainage, sewer or sewage treatment capacity) to, within or available for use by the Project unless such limitation applies on an equitable basis to other similarly situated properties;

(d) Limit or control in any manner the timing or phasing of the construction/development of the Project allowed by the Collective Standards;

(e) Limit the location of buildings, structures, grading or other improvements relating to the development of the Project in a manner which is inconsistent with or more restrictive than the Collective Standards;

(f) Limit the processing of applications for or procurement of Subsequent Approvals;

(g) Establish, enact or increase in any manner applicable to the Project, or impose against the Project, any fees, taxes (including, without limitation, general, special, and excise taxes), assessments, liens or other financial obligations other than: (i) those specifically permitted by this Agreement; and (ii) any City-wide taxes and assessments; or

(h) Initiate, support or establish any assessment district or other public financing mechanism that would include or otherwise burden or effect the Project or the Subject Property that has not been established prior to the Effective Date.

Clauses (a) through (h) above are intended as examples, and not as a comprehensive or exclusive list, of New City Laws that would or could conflict with the Collective Standards, and therefore with this Agreement. Except as otherwise provided in Section 1.23, all City actions applying any City Law to the development of the Project shall be consistent with this Agreement.

Section 2.5. Changes to City Laws. Only the following changes to the City Laws shall apply to the development of the Subject Property:

(a) Land use regulations, ordinances, policies, programs, resolutions or fees adopted or undertaken by City in order to comply with state or federal laws, or regulations, provided that in the event that such state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provision or provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

(b) City land use regulations, ordinances, policies, programs, resolutions or fees adopted after the Effective Date, that are not in conflict with the terms and conditions for development of the Subject Property established by this Agreement or otherwise applicable Existing Land Use Regulations and which do not impose additional burdens on the Project and/or the Subject Property.

(c) City land use regulations, ordinances, policies, programs, resolutions or fees adopted after the Effective Date, which are in conflict with the Existing Land Use Regulations, but the application of which to the development of the Subject Property has been consented to in writing by the Developer and/or the applicable Landowner by later separate document, which consent Developer and/or Landowner may withhold in their sole and exclusive discretion.

Section 2.6. Further Reviews. Developer acknowledges that the City Laws contemplate further reviews of elements of the Project by the City and Subsequent Approvals. These reviews include review of final map(s), improvement plans and building permit applications. Nothing in this Section 2.6 shall be deemed to limit or expand the legal authority of City with respect to such reviews or Subsequent Approvals.

Section 2.7. Application, Processing and Inspection Fees. Application fees, processing fees, and inspection fees that are revised during the term of this Agreement shall apply to the development pursuant to this Agreement, provided that such revised fees apply generally to similar private projects or works within City and are in compliance with State and Federal law.

Section 2.8. Timing of Development. The parties acknowledge that the most efficient and economic development of the Subject 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 Developer. Accordingly, the timing, sequencing, and phasing of the development is solely the responsibility of Developer and, except as may be expressly set forth in this Development Agreement and the conditions of approval of the Tentative Map or final Development Plan, the City Council shall not impose, by ordinance, resolution, or otherwise, any restrictions on the timing, sequencing or phasing of any construction activity within the Subject Property.

Section 2.9. Obligation and Rights of Mortgage Lenders. The holder of any mortgage, deed of trust or other security instrument with respect to the Subject Property, or any portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but, in the event said holder takes title to the Subject Property through foreclosure of a mortgage or a deed of trust, or deed-in-lieu of such foreclosure, said holder shall be bound by all of the terms and conditions of this Agreement which pertain to the Subject Property or such portion thereof in which it holds an interest. Any such holder who comes into possession of the Subject Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Subject Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Subject Property, or such portion thereof, which accrue prior and subsequent to the time such holder comes into possession. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Subject Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

Section 2.10. Automatic Extension of the Approved Tentative Map. Pursuant to Government Code §66452.6(a) the life of the Tentative Map is automatically extended by a period of time equal to the Term of this Agreement. In the event this Agreement is cancelled, the map shall continue in effect for twelve (12) months from the date of cancellation or the expiration date, whichever comes later. Thereafter, the Tentative Map approval shall be considered to have expired as provided for in Government Code §66452.6(d). In the event that the Agreement is cancelled, the subdivider may exercise all rights allowed by the Subdivision Map Act with respect to the extension of the Tentative Map. As long as this Agreement is not cancelled, it is the intent of the Developer to waive any and all rights and claims to extend the Tentative Map as might otherwise be permitted by Government Code §66452.6(a), as a result of conditions of approval, which require the subdivider to construct specified offsite improvements.

ARTICLE 3

DEFAULT

Section 3.1. General Provisions. Subject to extensions of time by mutual consent in writing, failure or delay by either party or Landowner not released from this Agreement to perform any term or provision of this Agreement, shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party or Landowner not less than sixty (60) days notice in writing specifying the nature of the alleged default and the manner in which said default may be cured. During any such sixty (60) day period, the party or Landowner charged shall not be considered in default for purposes of termination or institution of legal proceedings.

After notice and expiration of the sixty (60) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Agreement may, at his option, institute legal proceedings pursuant to this Agreement or give notice of its intent to terminate this Agreement pursuant to California Government Code section 65868 and any regulations of the City implementing said Government

Code section. Following notice of intent to terminate, or prior to instituting legal proceedings, the matter shall be scheduled for consideration and review in the manner set forth in Government Code sections 65865, 65867, and 65868 and City regulations implementing said sections by the City within thirty (30) calendar days.

Following consideration of the evidence presented in said review before the City and an additional 30-day period to cure, either party alleging the default by the other party or Landowner may institute legal proceedings or may give written notice of termination of this Agreement to the other party; provided, however, a Landowner may only give such notice with respect to such portion of the Subject Property in which Landowner owns an interest.

Section 3.2. Annual Compliance Review. City shall review this Agreement once during every twelve (12) month period following the Effective Date for compliance with the terms of this Agreement as provided in Government Code section 65865.1. Developer shall pay City a reasonable fee in an amount City may reasonably establish from time to time to cover the actual and necessary costs for the annual review. City's failure to timely provide or conduct an annual review shall not constitute a Default hereunder by City.

During each annual review by City, Developer is required to demonstrate good faith compliance with the terms of the Agreement. Developer agrees to furnish such evidence of good faith compliance as City, in the reasonable exercise of its discretion, may require, upon thirty (30) days prior written notice from the City.

Such periodic review shall be conducted by the Director and shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code section 65865.1. If the Director finds that Developer has so complied, the annual review shall be concluded.

If the Director finds that the Developer has not complied, the City Council of City shall conduct a duly noticed hearing and shall determine, on the basis of substantial evidence, whether or not Developer has, for the period under review, complied with the terms of this Agreement. If the City Council finds that Landowner has so complied, the annual review shall be concluded. If the City Council finds, on the basis of substantial evidence, that Developer has not so complied, written notice shall be sent to Developer by first class mail of the City Council's finding of non-compliance, and Developer shall be given at least ten (10) days to cure any noncompliance that relates to the payment of money and thirty (30) days to cure any other type of noncompliance. If a cure not relating to the payment of money cannot be completed within thirty (30) days for reasons which are beyond the control of Developer, Developer must commence the cure within such thirty (30) days and diligently pursue such cure to completion. If Landowner fails to cure such noncompliance within the time(s) set forth above, such failure shall be considered to be a Default and City shall be entitled to exercise the remedies set forth in this Article 3.

The annual review procedures set forth in this Section 3.2 shall not be the exclusive means for City to identify a Default by Landowner or limit City's rights or remedies for any such Default.

Section 3.3. Developer Default Limited to Property/Entity; Separate Obligations of Owners. Except as specified herein in Section 3.1, no default hereunder in performance of a covenant or obligation with respect to a particular portion of the Subject Property shall constitute a default applicable to any other portion of the Subject Property, and any remedy arising by reason of such default shall be applicable solely to the portion of Subject Property where the default has occurred. Similarly, the obligations of the Developer and Landowners shall be severable and no default hereunder in performance of a covenant or obligation by any one of them shall constitute a default applicable to any other owner who is not affiliated with such defaulting owner, and any remedy arising by reason of such default shall be solely applicable to the defaulting owner and the portion of the Subject Property owned thereby.

Section 3.4. Default by City. In the event City does not accept, review, approve or issue necessary development permits or entitlements for use in a timely fashion as defined by this Agreement, or as otherwise provided in this Agreement, or the City otherwise defaults under the terms of this Agreement, Developer and/or Landowner may give written notice thereof to the City and if not cured within sixty (60) days following receipt of such notice, Developer shall have all rights and remedies provided herein or under applicable law, including without limitation the right to pursue actions for mandamus, specific performance, or injunctive or declaratory relief to enforce this Agreement. Notwithstanding the foregoing sentence, the City, Developer and Landowner each waives any and all rights to seek monetary damages from any other party as a result of any breach or alleged breach of such other party's obligations hereunder. In the event City is in default under the terms of this Agreement, any resulting delays in Developer's performance caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.5. Cumulative Remedies of Parties/Waiver of Right to Damages. In addition to any other rights or remedies, City, Developer and any Landowner may institute legal or equitable proceedings to cure, correct or remedy any default, to specifically enforce any covenant or agreement herein, to enjoin any threatened or attempted violation of the provisions of this Agreement. Notwithstanding the foregoing sentence, the City, Developer and Landowner each waives any and all rights to seek monetary damages from the other party as a result of any breach or alleged breach of such other party's obligations hereunder.

Section 3.6. Enforced Delay, Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by either party or Landowner hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, State or federal laws, regulations, decisions or orders which conflict with this Agreement, or judicial or other governmental agency decisions or orders, directing the City, or which have the effect of requiring the City, to take actions or refrain from taking actions which conflict with the obligations under this Agreement. Any and all extensions of the time of performance shall be limited to thirty-six (36) months. This section 3.6 shall not apply to the twenty-four (24) month term within which this Agreement is required to take effect.

ARTICLE 4

TERMINATION

Section 4.1. Termination Upon Completion of Development. This Agreement shall terminate upon the expiration of the term or when the Subject Property has been fully developed and all of the Developer's obligations in connection therewith are satisfied. Upon termination of this Agreement, the City shall record a notice of such termination in substantially the form attached hereto as **Exhibit "F"**. This Agreement shall automatically terminate and be of no further force or effect as to any single-family residence, any other residential dwelling unit(s), or any non-residential building, and the lot or parcel upon which such residence or building is located, when it has been approved by the City for occupancy.

Section 4.2. Effect of Termination on Developer Obligations. Termination of this Agreement as to the Developer of the Subject Property or any portion thereof shall not affect any of the Developer's obligations to comply with the City general plan and the terms and conditions of any applicable zoning, or subdivision map or other land use entitlements approved with respect to the Subject Property, any other covenants or any other development requirements specified in this Agreement to continue after the termination of this Agreement, or obligations to pay assessments, liens, fees, or taxes.

Section 4.3. Effect of Termination on City. Upon any termination of this Agreement, as provided for under the terms and conditions of this Agreement, as to the Developer of the Subject Property, or any portion thereof, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the Subject Property affected by such termination (provided vesting of entitlements, conditions or fees applicable to the Subject Property shall be governed by planning and zoning law) and the City shall no longer be limited, by this Agreement, to make any changes or modifications to such entitlements, conditions or fees applicable to such property.

ARTICLE 5

STANDARD TERMS AND CONDITIONS

Section 5.1. Venue. Venue for all legal proceedings shall be in the Superior Court for the County of Merced.

Section 5.2. Waiver. A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

Section 5.3. Completeness of Instrument. This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made express or implied.

Section 5.4. Supersedes Prior Agreements. It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written or oral, between the parties hereto.

Section 5.5. Captions. The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 5.6. Number and Gender. In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

Section 5.7. Mandatory and Permissive. "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

Section 5.8. Term Includes Extensions. All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

Section 5.9. Successors and Assigns. All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

Section 5.10. Modification. No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification is in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

Section 5.11. Counterparts. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

Section 5.12. Other Documents. The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

Section 5.13. Partial Invalidity. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 5.14. Controlling Law. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

Section 5.15. Time Is of the Essence. Time is of the essence of this Agreement and each covenant and term a condition herein.

Section 5.16. Authority. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

Section 5.17. Document Preparation. This Agreement will not be construed against the party preparing it, but will be construed as if prepared by all parties.

Section 5.18. Advice of Legal Counsel. Each party acknowledges that it has reviewed this agreement with its own legal counsel, and based up on the advice of that counsel, and freely entered into this Agreement.

Section 5.19. Estoppel Certificate. Within thirty (30) days following any written request which either party may make from time to time, and upon payment of a fee to the City to reimburse the City for its reasonable expenses associated herewith, the other party to this Agreement shall execute and deliver to the requesting party a statement certifying that:

(a) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications; and

(b) there are not current uncured defaults under this Agreement or specifying the date, nature of any default and manner of cure.

This certificate may be executed by the City Manager, or his or her designee.

Section 5.20. Attorneys Fees and Costs. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

Section 5.21. Consent/Subordination. Unless waived in writing by the City Attorney, Developer shall furnish proof satisfactory to the City, prior to approval of the Agreement, that all persons possessing a legal interest in the property have consented to the recording of this Agreement. Unless waived in writing by the City Attorney, the City shall require subordination by all lenders of record as a condition precedent to the City approval of the Agreement. The City shall have no duty to subordinate its interest in this Agreement.

IN WITNESS WHEREOF, this Agreement was executed by the parties thereto on the dates set forth below.

CITY OF LOS BANOS
a municipal corporation

By: _____
Michael Villalta
Mayor

Dated _____

ATTEST:

Lucille L. Mallonee
City Clerk

Dated _____

APPROVED AS TO FORM:

William A. Vaughn
City Attorney

Dated _____

ANDERSON HOMES,
a California corporation

By: _____
Larry W. Anderson
President

Dated _____

SIGNATURES MUST BE NOTARIZED

EXHIBIT A

Legal Description

LEGAL DESCRIPTION

Real property in the City of Los Banos, County of Merced, State of California, described as follows:

BEING A PORTION OF SECTION 21, TOWNSHIP 10 SOUTH, RANGE 10 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

ALSO BEING A PORTION OF THE PARCEL MAP OF MS 02057, FILED JUNE 2, 2003, IN BOOK 93 OF PARCEL MAPS AT PAGES 47-48, SAID COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF PARCEL 2, AS SHOWN ON SAID PARCEL MAP (93 PM 47-48); DISTANT THEREON NORTH 89°58'30" EAST, 277.49 FEET FROM THE SOUTHWESTERLY CORNER OF SAID PARCEL 2 (93 P.M. 47-48); THENCE, FROM SAID POINT OF BEGINNING AND LEAVING SAID LINE (93 P.M. 47-48), THE FOLLOWING COURSES; NORTH 00°17'55" EAST, 926.14 FEET AND SOUTH 89°40'11" EAST, 894.27 FEET TO EASTERLY LINE OF SAID PARCEL 2 (93 P.M. 47-48); THENCE, ALONG SAID EASTERLY AND SOUTHERLY LINES (93 P.M. 47-48), THE FOLLOWING COURSES; SOUTH 01°03'42" WEST, 920.75 FEET AND SOUTH 89°58'30" WEST, 882.03 FEET TO SAID POINT OF BEGINNING.

APN: 430-060-020

EXHIBIT B

Map



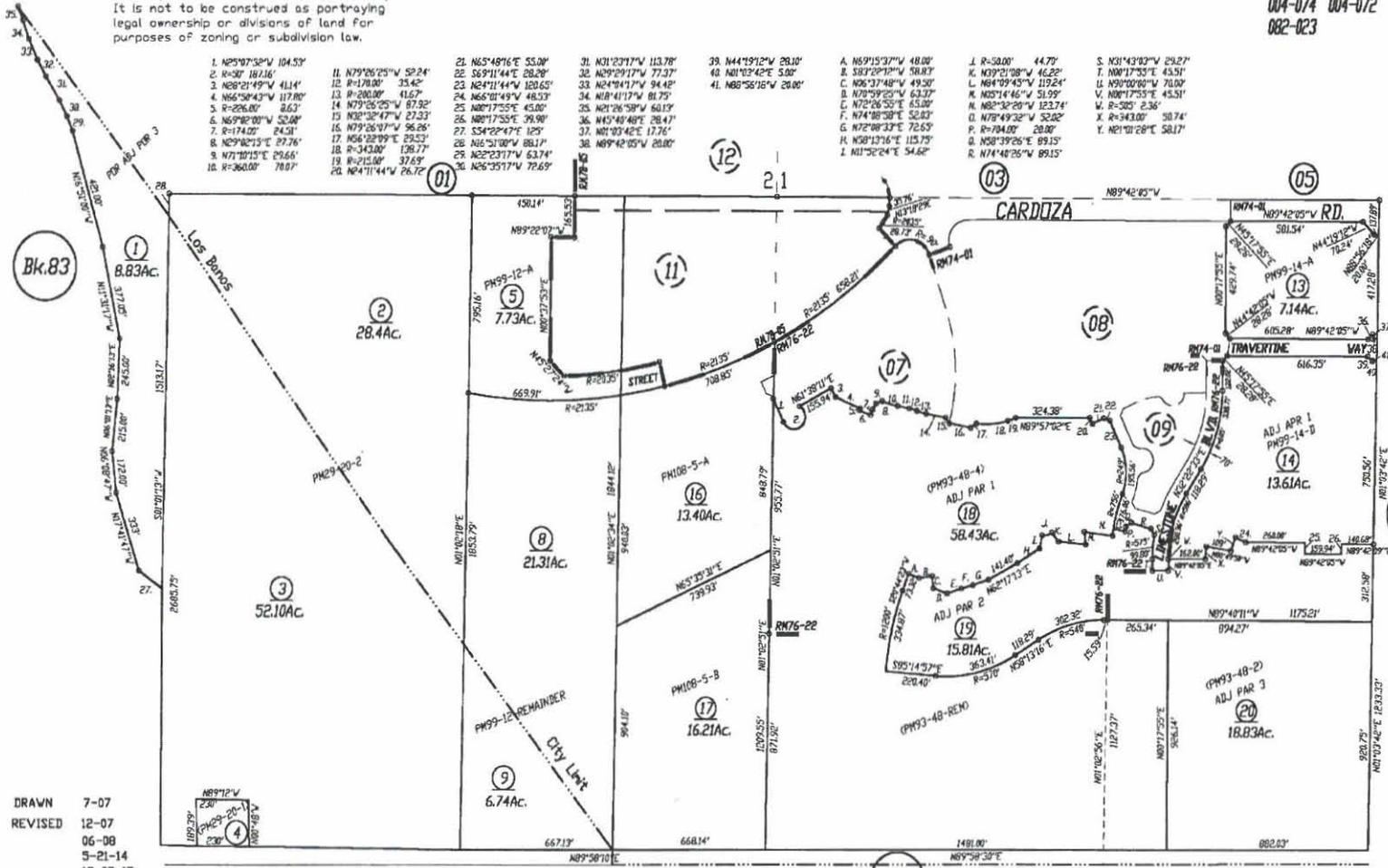
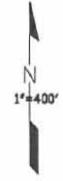
PDR S1/2 SEC. 21, T.10S., R.10E., M.D.B.&M.

Tax Rate Area 004-068 430-06
004-074 004-072
082-023

-NOTE-

This map is for Assessment purposes only. It is not to be construed as portraying legal ownership or divisions of land for purposes of zoning or subdivision law.

- | | | | | | | | |
|------------------------|------------------------|------------------------|-------------------------|------------------------|------------------------|------------------------|-----------------------|
| 1. N89°07'52"W 104.53' | 11. N79°26'25"W 59.24' | 21. N65°48'16"E 55.00' | 31. N31°23'17"W 113.78' | 39. N44°19'12"W 26.10' | A. N69°15'37"W 48.00' | J. R=30.00' 44.70' | S. N31°43'03"W 24.27' |
| 2. R=30' 187.16' | 12. R=178.00' 35.42' | 22. S69°11'44"E 28.20' | 32. N29°29'17"W 77.37' | 40. N01°03'42"E 5.80' | B. S87°29'17"W 58.87' | K. N39°21'08"W 46.25' | T. N00°17'53"E 45.51' |
| 3. N82°21'49"W 41.14' | 13. R=200.00' 41.67' | 23. N2°11'44"W 123.55' | 33. N2°41'17"W 94.42' | 41. N82°55'15"W 20.00' | C. N02°37'48"W 49.30' | L. N61°09'45"W 119.24' | U. N09°02'00"W 78.00' |
| 4. N66°58'43"W 117.80' | 14. N79°26'25"W 87.92' | 24. N66°01'49"W 48.53' | 34. N01°41'17"W 81.75' | | D. N78°59'25"W 63.07' | M. N05°14'46"W 51.99' | V. N00°17'53"E 45.51' |
| 5. R=226.00' 2.63' | 15. N79°26'25"W 52.00' | 25. N00°17'55"E 45.00' | 35. N21°26'58"W 60.13' | | E. N72°26'55"E 65.00' | N. N82°32'20"W 123.74' | W. R=500' 2.36' |
| 6. N69°02'00"W 52.00' | 16. N79°26'25"W 96.26' | 26. N00°17'55"E 39.90' | 36. N15°48'48"E 26.41' | | F. N74°18'38"E 52.83' | O. N78°49'32"W 52.20' | X. R=343.00' 50.74' |
| 7. R=174.00' 24.31' | 17. N66°02'09"E 29.53' | 27. S54°22'47"E 129' | 37. N01°03'42"E 17.76' | | G. N72°08'32"E 72.59' | P. R=194.00' 28.80' | Y. N21°01'28"E 58.17' |
| 8. N29°02'03"E 27.76' | 18. R=343.00' 138.77' | 28. N02°51'00"W 88.17' | 38. N89°42'05"W 25.00' | | H. N58°13'16"E 115.75' | Q. N50°29'25"E 89.15' | |
| 9. N71°09'15"E 29.66' | 19. R=215.00' 37.69' | 29. N23°23'17"W 63.74' | | | I. N11°26'24"E 54.62' | R. N14°48'25"W 89.15' | |
| 10. R=360.00' 78.07' | 20. N24°11'44"W 26.72' | 30. N26°35'17"W 79.69' | | | | | |



DRAWN 7-07
REVISED 12-07
06-08
5-21-14
12-03-15

Villages IV Southbrook Phase 1B At Stonecreek, R.M. Vol. 76, Pg. 22
Villages IIA PHASE 2 At Stonecreek, R.M. Vol.78, Pg.5

NOTE-Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles

Assessor's Map Bk#30 Pg.06
County of Merced, Calif
2007

EXHIBIT C

SPECIAL CONDITIONS AND REQUIREMENTS

1. **Participation in a Community Facilities District.** Prior to the recordation of a Final Map the Developer shall form or annex the Subject Property to a community facilities district created for the purposes of funding public safety, as authorized by Government Code section 53313(a) and (b). The form, terms and conditions and the tax rate for the formation of the Mello-Roos district, or in the alternative the annexation of the Subject Property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. District formation or annexation shall be at the sole cost of the Developer.
 2. **Participation in a Lighting and Landscaping District.** Prior to approval of any final or parcel map, the Developer shall form or annex the Subject Property to a Lighting and Landscaping District created for purposes of maintaining public landscape areas, signage and public lighting including a share of traffic signal maintenance costs as authorized pursuant to the Landscape and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code, and Article XIID of the California Constitution. The form, terms and conditions and the tax rate for the formation of the Lighting and Landscaping District, or in the alternative the annexation of the Subject Property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. It is the intent of the parties that the assessment of the Subject Property will be apportioned to each parcel in proportion to the special benefit it receives. District formation or annexation shall be at the sole cost of the Developer.
-

EXHIBIT D
VTTM 2016-04

EXHIBIT E

FDP 2016-03



Village IX



FINAL DEVELOPMENT PLAN

Stonecreek Properties
Los Banos, California
July 2016

Applicant:

Stonecreek Properties
1851 Airway Drive, Suite E
Hollister, CA 95023
(831)630-1853

Engineering/Surveying/Planning/Landscape Architecture



O'Dell Engineering
1165 Scenic Drive, Suite B
Modesto, CA 95350
209.571.1765

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Purpose of This Document

The Village IX Final Development Plan (FDP) will guide development of 18.64 acres in the southwestern part of the City of Los Banos. This FDP presents development of 7,000 S.F. lots and presents a range of attractive production home choices. Sample architectural products are included in this document along with color renderings and elevation views.

The 18.64 acre Final Development Plan proposes 71 residential lots on 52' right-of-way streets. The resulting density will be approximately 3.8 dwelling units per gross acre (du/ac).

The typical number of bedrooms per single-family residence is three to five, with each unit to include an attached two- or three-car garage. Residential product types, as shown in the attached architectural exhibits, will include a mix of single and two-story dwelling units.

Landscape Summary

The developer/home builder, successors and any assigns, shall be responsible for installation, maintenance and replacement of all landscaping materials shown or indicated on the approved site plan or landscape plan on file in the planning department. All landscaping will be installed as delineated on the plan, prior to issuance of certificates of occupancy.

Landscapes within the project will be irrigated by methods that minimize water run-off and conserve water. Irrigation systems will be designed to, at a minimum, meet the State water efficient landscape ordinance and to follow City of Los Banos Municipal Code standards.

MASTER STREET TREE LIST

A master street tree list has been provided on page 14. All trees along public street frontages within the project will be one of the street trees listed in this table. Trees will be varied to improve the urban forest's resilience to insect infestations and climate anomalies. This list was prepared in conjunction with the City of Los Banos Master Tree List. Trees listed in the Master Street Tree List are also appropriate for other landscape areas and though not listed in the project plant species table should be considered as part of the overall list of landscape species.

FREESTANDING LIGHTS

Freestanding lights will be installed as part of this project. Interior street lights will be City standard 25'-30' lights.

SURFACE MATERIALS

Surface materials to be used in this project will consist of two standard typologies. Standard sidewalks will be poured concrete adhering to the City of Los Banos standards and streets will be standard asphalt pavement.

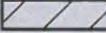
FENCES AND WALLS

Fences and walls installed as part of this project will adhere to a set typology. Wood fences will be 6' high "good neighbor" style fences. Walls will be a 6' masonry wall. Stucco finish in neutral tone with formed cap in a contrasting tones are options. Pilasters will be placed at locations to be shown on landscape plans and will include a decorative facade.



Reference Map

Legend

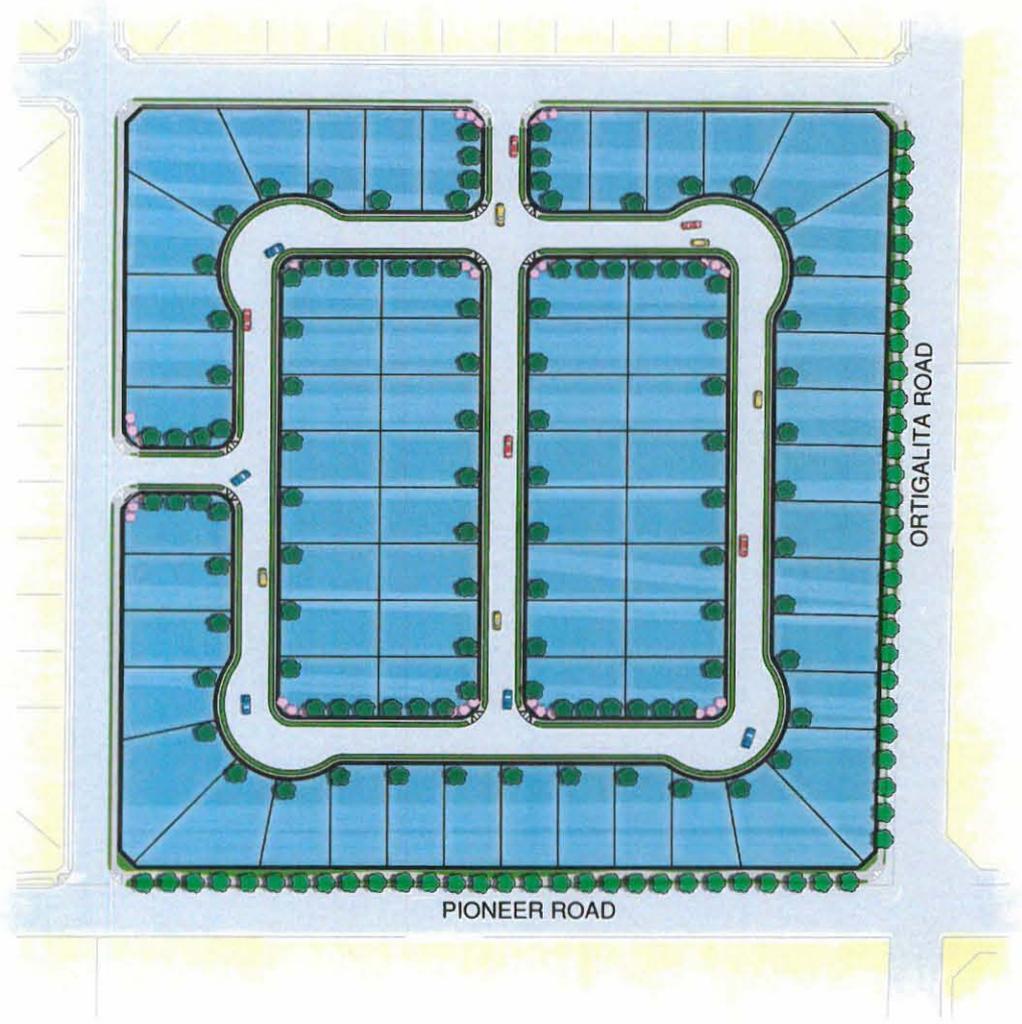
-  Village IX FDP Boundary
-  Village IX FDP Area
-  Photo Location
-  Photo Orientation



Reference Map

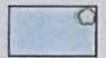
Legend

-  Village IX FDP Boundary
-  Photo Location

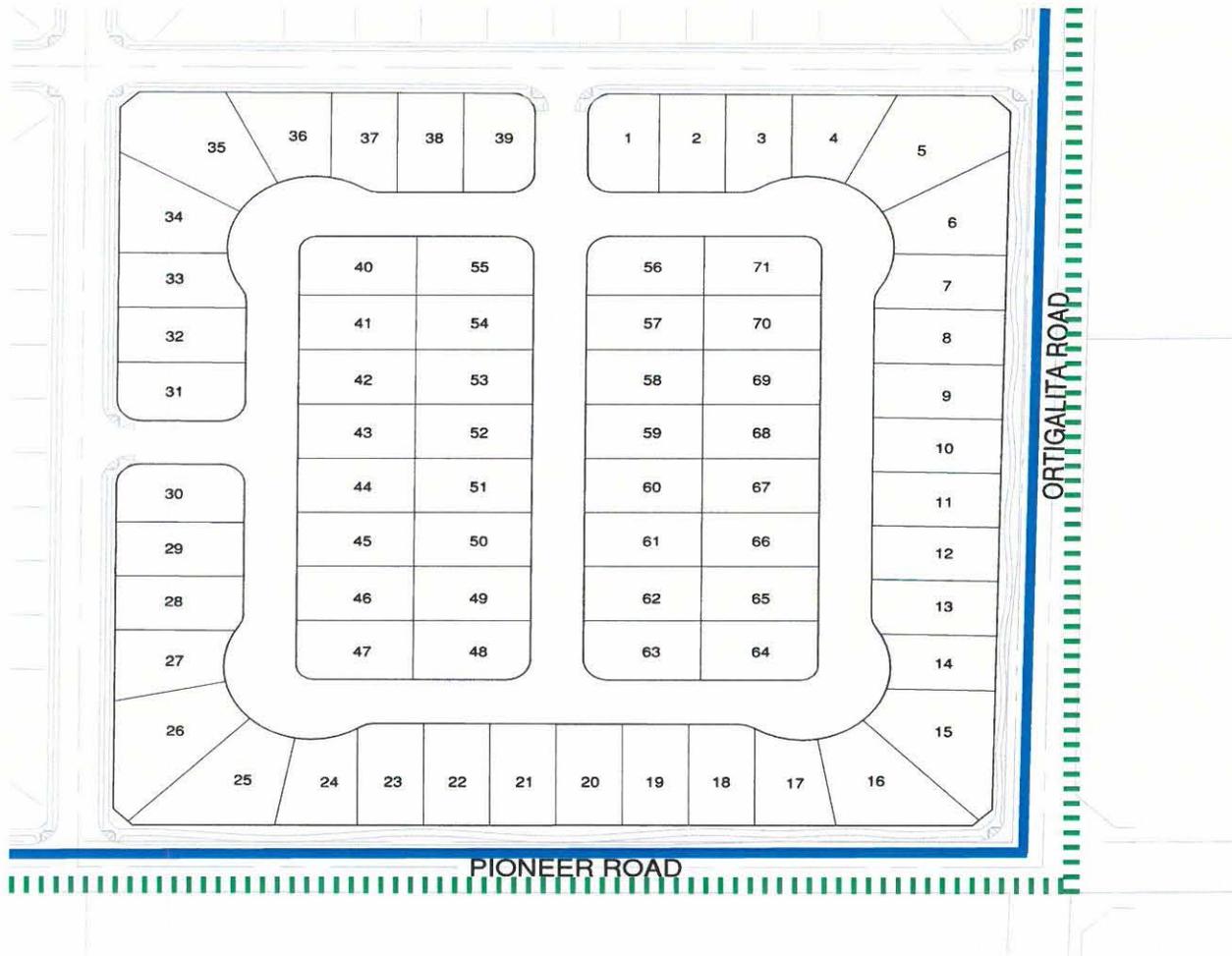


Reference Map

Legend

-  Village IX FDP Boundary
-  7,000+ S.F. Lots



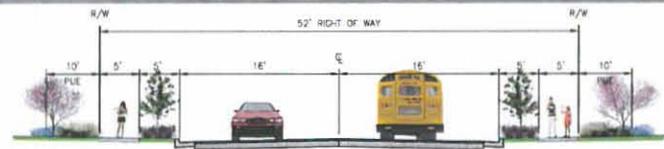


Reference Map

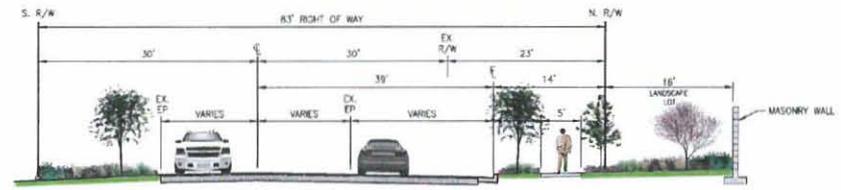
Legend

-  Village IX FDP Plan Boundary
-  Arterial
-  Proposed Class 2 Bike Path

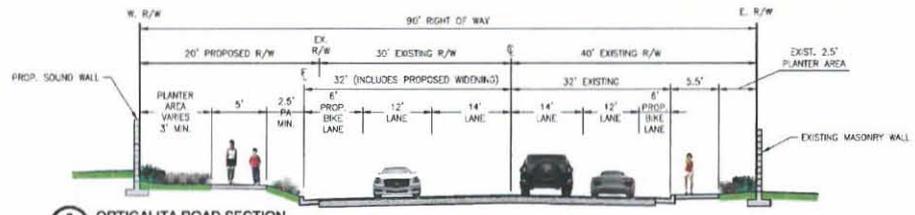




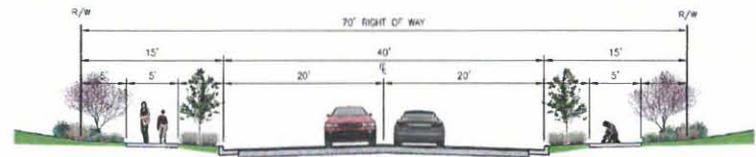
1 TYPICAL 52' RIGHT OF WAY SECTION NOT TO SCALE



2 PIONEER ROAD SECTION NOT TO SCALE



3 ORTIGALITA ROAD SECTION NOT TO SCALE



4 TYPICAL 70' RIGHT OF WAY SECTION NOT TO SCALE



Reference Map

Legend

— Village IX FDP Boundary

Potential Plant Species	Common Name	Scientific Name	Size	Water Use
Shrubs	Yarrow	Achillea 'Moonshine'	1 gal	Low
	California Lilac	Ceanothus sp.	5 gal	Low
	Orchid Rockrose	Cistus x purpureus	5 gal	Low
	Cotoneaster	Cotoneaster sp.	5 gal	Low
	African Iris	Dietes sp.	5 gal	Low
	Grevillea	Grevillea 'Noelii'	5 gal	Low
	Spanish Lavender	Lavandula stoechas	5 gal	Low
	Hairy Awn Muhly	Muhlenbergia capillaris	5 gal	Low
	Dwarf Myrtle	Myrtus communis 'Compacta'	5 gal	Low
	Oleander	Nerium oleander	5 gal	Low
	Little Ollie Olive	Olea europea 'Little Ollie'	5 gal	Low
	Fountain Grass	Pennisetum setaceum	1 gal	Low
	New Zealand Flax	Phormium tenax	5 gal	Low
	Mugo Pine	Pinus mugo	5 gal	Low
	India Hawthorne	Rhaphiolepis indica	5 gal	Low
	Sage	Salvia sp.	5 gal	Low-Mod
	Bush Germander	Teucrium fruticans	5 gal	Low
	Variegated Society Garlic	Tulbaghia v. 'Silver Lace'	1 gal	Low
	Coast Rosemary	Westringia 'Wynyabbie Gem'	5 gal	Low
	Groundcovers / Turf	Manzanita	Arctostaphylos 'Emerald Carpet'	1 gal
Myoporum		Myoporum parvifolium	1 gal	Low
Mexican Primrose		Oenothera speciosa 'Siskiyou'	1 gal	Low
	90 / 10 active turf fescue grass blend	Seed/Sod	High	
Potential Street Trees	Common Hackberry	Celtis occidentalis		Low
	Mayton tree	Maytenus boaria		Moderate
	Chinese Pistache	Pistachia chinensis 'Keith Davey'		Low
	Coast Live Oak	Quercus agrifolia	15 Gallon	Very Low
	Cork Oak	Quercus suber		Low
	American Linden	Tilia americana		Moderate
	Lacebark Elm	Ulmus parvifolia 'Allee'		Moderate
Potential General Use Trees	Zelkova	Zelkova serrata 'Green Vase'		Moderate
	California Buckeye	Aesculus californica		Very Low
	Strawberry Tree	Arbutus unedo		Low
	Eastern Redbud	Cercis canadensis		Moderate
	Desert Willow	Chilopsis linearis		Very Low
	Chitalpa	Chitalpa tashkentensis		Moderate
	Australian Willow	Geijera parviflora	15 Gallon	Moderate
	Flowering Cherry	Prunus serrulata		Moderate
	Valley Oak	Quercus lobata		Low
	Crape Myrtle	Lagerstroemia indica ssp.		Low
Flowering Crabapple	Malus floribunda ssp.		Moderate	
Purple Robe Locust	Robinia pseudoacacia 'Purple Robe'		Low	



Landscape Description

Plants selected for use in project streetscapes and other open spaces, will be native or adapted species well suited to the local climate and specific uses. The project area is located on the border of Sunset Western Garden Climate Zones 8-9. Minimum plant stock sizes used for landscape installations will be:

- Street Trees -15 gallon
- Shrubs - 1 gallon
- Groundcover - 1 gallon

All plant stock supplied will be nursery grown material conforming to national nursery standards and will be free of harmful insects. Planting design will follow City of Los Banos standards. Appropriate landscape species and their locations will be determined at the landscape improvement plan stage, however, a sample list of plants that may be used within project landscape areas can be found in the "master plant list".



Decorative 6' Privacy Wall



Good Neighbor Privacy 6' Fence



Standard Brushed Concrete Walks



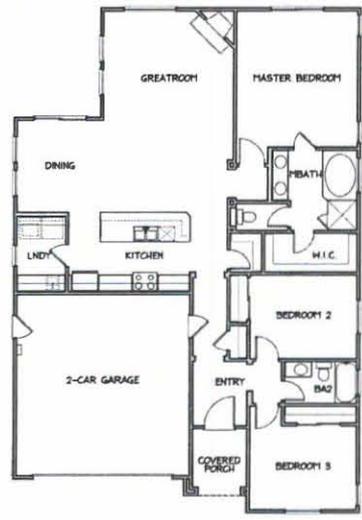
Asphalt Pavement Streets



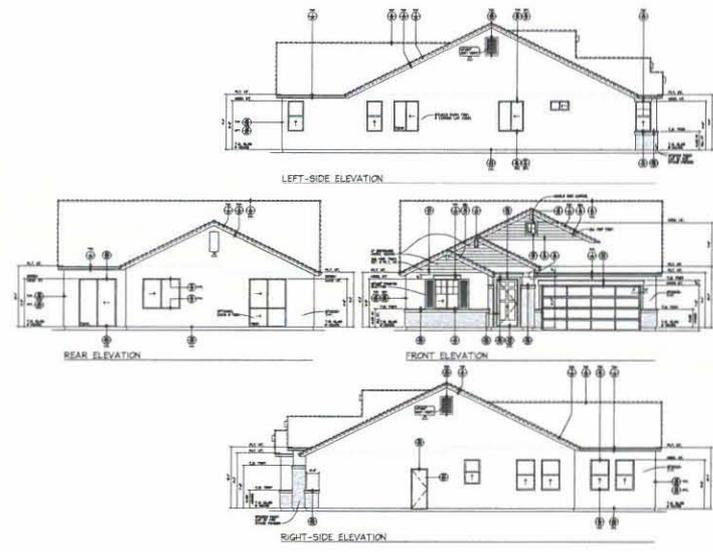
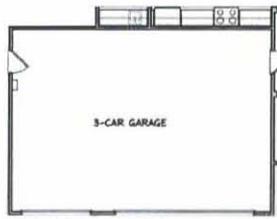
Reference Map

Legend

 Village IX FDP Boundary



1675 Sq. Ft.
 Three Bedrooms
 Two Baths
 Two or Three-Car Garage
 Three-Car Garage Option



Elevation A



Elevation B



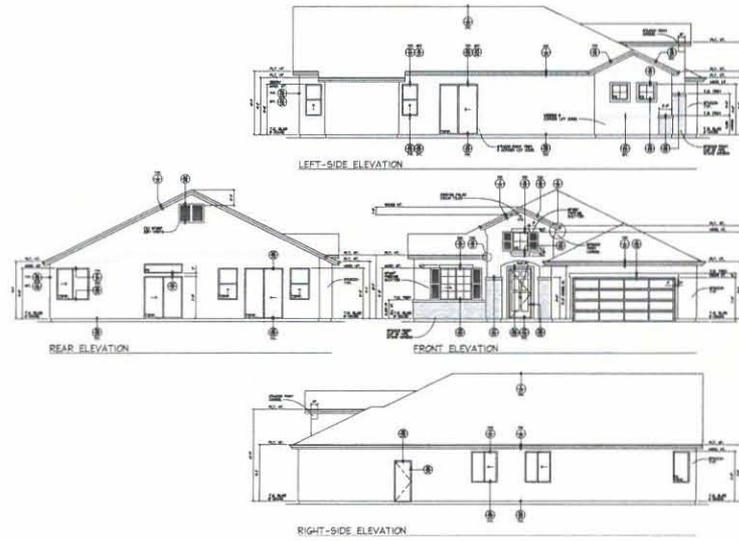
Elevation C

THE CARMEL: 1675 S.F.

TYPICAL MATERIALS: Walls: Stucco Siding • Roof: Concrete barrel tile or Concrete tile • Windows: Vinyl • Doors: Wood • Garage Doors: Metal Roll Up



2016 Sq. Ft.
Four Bedrooms
Two Baths
Two or Three-Car Garage
Den Option
Three-Car Garage Option



THE MONTEREY: 2016 S.F.

TYPICAL MATERIALS: Walls: Stucco Siding • Roof: Concrete barrel tile or Concrete tile • Windows: Vinyl • Doors: Wood • Garage Doors: Metal Roll Up



Elevation A



Elevation C



Elevation D



2460 Sq. Ft.
 Four Bedrooms
 Three Baths
 Two-Car + Tandem
 Garage

Den Option
 Living Option
 Retreat Option
 Bedroom 5 Option



THE BIG SUR: 2460 S.F.

TYPICAL MATERIALS: Walls: Stucco Siding • Roof: Concrete barrel tile or Concrete tile • Windows: Vinyl • Doors: Wood • Garage Doors: Metal Roll Up



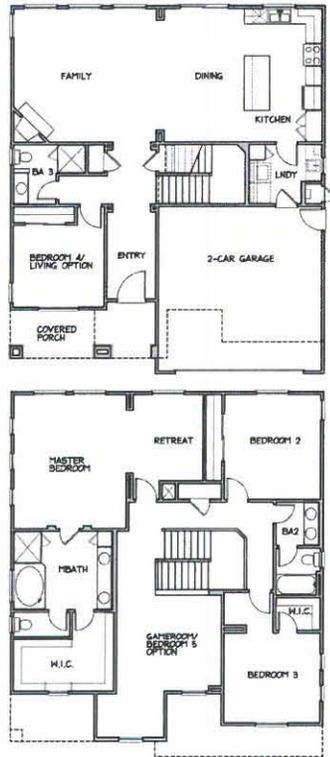
Elevation A



Elevation B

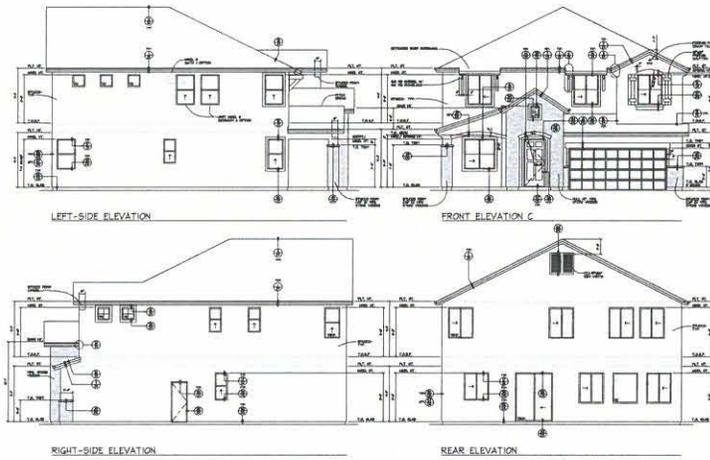
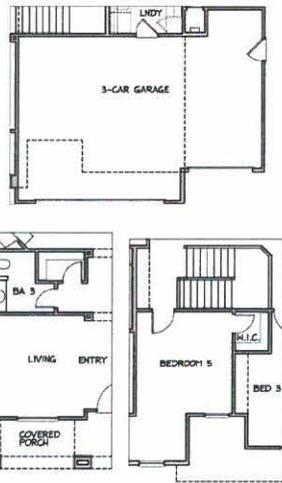


Elevation C



2698 Sq. Ft.
 Four Bedrooms
 Three Baths
 Two-Car Garage
 Sitting Area (Elevations A & D)

Three-Car Garage Option
 Living Option
 Bedroom 5 Option



Elevation A



Elevation B



Elevation D

THE BIXBY: 2298 S.F.

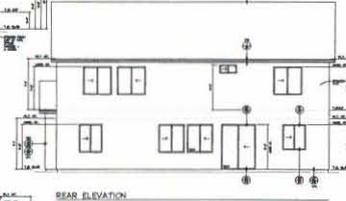
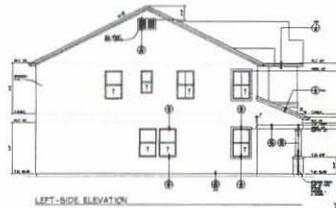
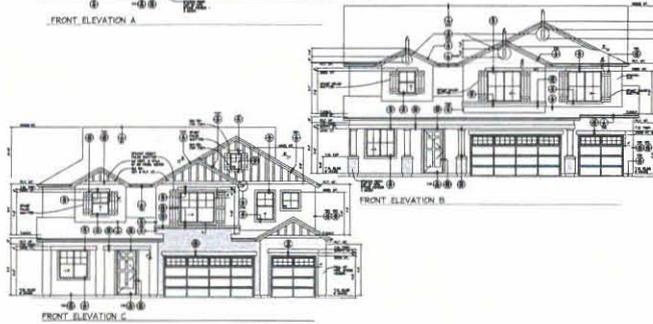
TYPICAL MATERIALS: Walls: Stucco Siding • Roof: Concrete barrel tile or Concrete tile • Windows: Vinyl • Doors: Wood • Garage Doors: Metal Roll Up



3363 Sq. Ft.
 Four Bedrooms
 Four Baths
 Three-Car Garage
 Gameroom Closet Option
 Bedroom 5 Option



THE CYPRESS: 3363 S.F.



Elevation A

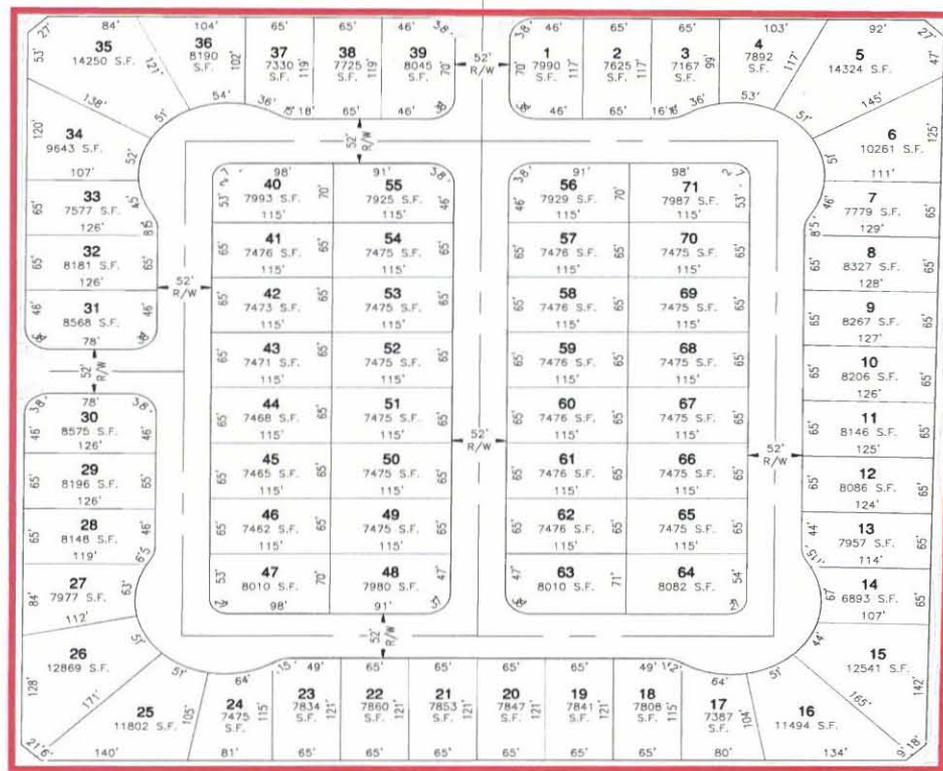


Elevation B



Elevation C

TYPICAL MATERIALS: Walls: Stucco Siding • Roof: Concrete barrel tile or Concrete tile • Windows: Vinyl • Doors: Wood • Garage Doors: Metal Roll Up



PIONEER ROAD

ORTIGALITA ROAD

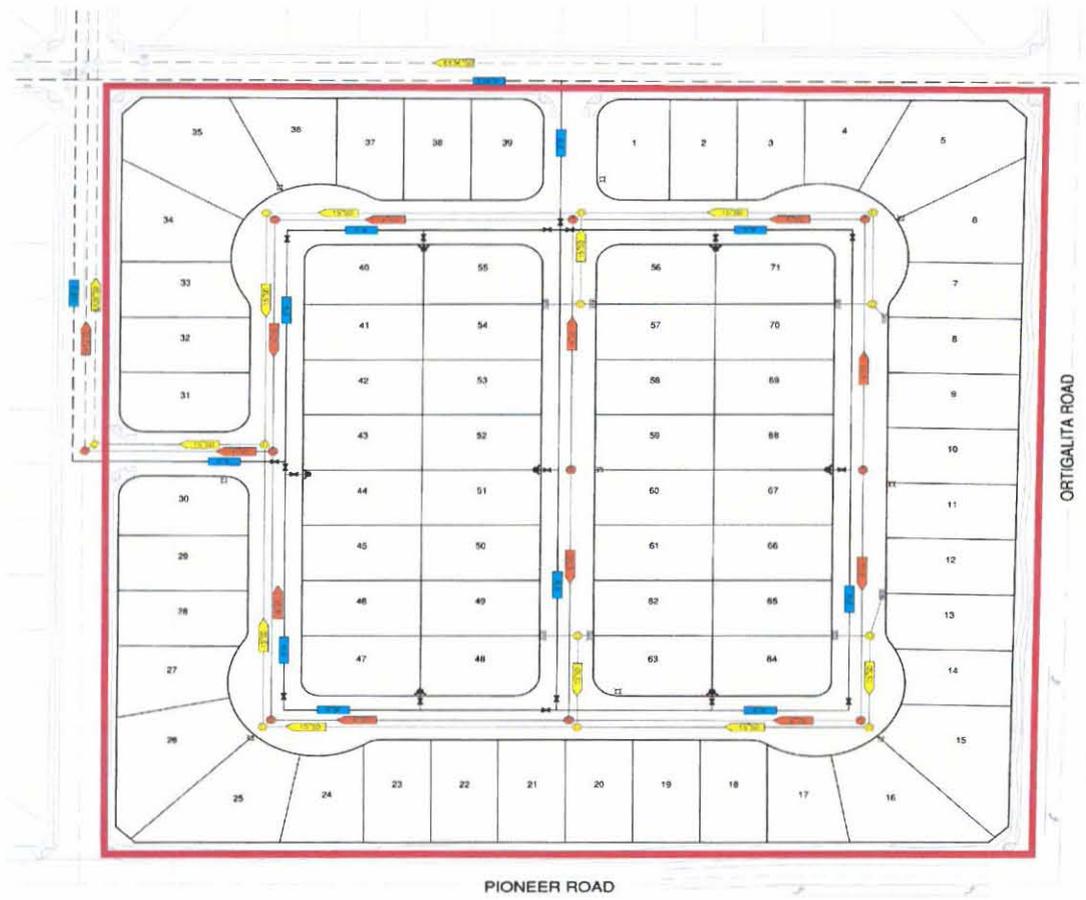


Reference Map

Legend

 Village IX FDP Boundary





Reference Map

Legend

-  Village IX FDP Boundary
-  8" W Water Line
-  6" SS Sanitary Sewer
-  15" SD Storm Drain



EXHIBIT F

[SAMPLE FORM]

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter "this Agreement") is entered into this _____ day of _____, 20__, by and between _____ (hereinafter called "Owner") and, _____ (hereinafter "Assignee").

RECITALS

A. On _____, 20__, the City of Los Banos and Owner entered into that certain agreement entitled "Development Agreement," approved by Ordinance _____ (hereinafter "Agreement"), relative to the development known as the _____ (hereinafter "Subject Property").

B. Owner entered into a purchase and sale agreement whereby a portion of the Subject Property will be sold to Assignee, which portion of the Subject Property is identified and described in **Exhibit "A,"** attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel(s)").

C. Owner desires to assign all of its interests, rights and obligations under the Agreement with respect to the Assigned Parcel(s).

D. Assignee desires to assume all Owner's rights and obligations under the Agreement with respect to the Assigned Parcel(s).

NOW, THEREFORE, Owner and Assignee hereby agree as follows:

1. Owner hereby assigns, effective as of Owner's conveyance of the Assigned Parcel(s) to Assignee, all of the rights, interest, burdens and obligations of Owner under the Agreement with respect to the Assigned Parcel(s). Owner retains all the rights, interest, burdens and obligations under the Agreement with respect to all other property within the Subject Property owned thereby.

2. Assignee hereby assumes all of the burdens and obligations of Owner under the Agreement, and agrees to observe and fully perform all of the duties and obligations of Owner under the Agreement, and to be subject to all the terms and conditions thereof, with respect to the Assigned Parcel(s), it being the express intention of both Owner and Assignee that, upon the execution of this Agreement and conveyance of the Assigned Parcel(s) to Assignee, Assignee shall be come substituted for Owner as the "Developer" under the Agreement with respect to the Assigned Parcel(s).

3. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ASSIGNOR / OWNER

By: _____

By: _____

ASSIGNEE

By: _____

By: _____

SIGNATURES MUST BE NOTARIZED

EXHIBIT G

[SAMPLE FORM]

NOTICE OF TERMINATION

THIS NOTICE OF TERMINATION (hereinafter "this Notice") is given this day of _____, 20__, by the City of Los Banos (hereinafter called "City") for the benefit of _____, (hereinafter "Owner").

1. On _____, 20__, the City of Los Banos and _____ entered into that certain agreement entitled "Development Agreement," approved by Ordinance _____ (hereinafter "Agreement"), relative to the development known as the _____ (hereinafter "Subject Property").

2. Owner has fully performed all its duties with respect to that portion of the Subject Property, which portion of the Subject Property is identified and described in **Exhibit "A,"** attached hereto and incorporated herein by this reference (hereinafter the "Released Property").

3. Pursuant to Section of the Development Agreement, the Development Agreement is no longer in effect with respect to the Released Property.

CITY OF LOS BANOS

By: _____
City Manager or Designee

SIGNATURES MUST BE NOTARIZED

LANDOWNER'S CONSENT
[APNs 430-060-020]

I/We, the undersigned am/are the landowner(s) of record of APN 430-060-020 of that property described in Exhibit A to this Development Agreement by and between the City of Los Banos and Anderson Homes, a California corporation, relative to the project known as Villages at Stonecreek IX. I/We hereby consent to all the terms and conditions of said Agreement and agree that my/our property as described herein shall be bound by all of the terms and conditions of said agreement.

Landowner and each person executing this Consent on behalf of Landowner hereby represents and warrants to City as follows: (i) that Landowner is the owner of the fee simple title to the Property; (ii) if Landowner or any co-owner comprising Landowner is a legal entity that such entity is duly formed and existing and is authorized to do business in the State of California; (iii) if Landowner or any co-owner comprising Landowner is a natural person that such natural person has the legal right and capacity to execute this Consent; (iv) that all actions required to be taken by all persons and entities comprising Landowner to enter into this Consent have been taken and that Landowner has the legal authority to enter into this Consent; (v) that Developer's entering into and performing its obligations set forth in this Agreement will not result in a violation of any obligation, contractual or otherwise, that Landowner or any person or entity comprising Landowner has to any third party; (vi) that neither Landowner nor any co-owner comprising Landowner is the subject of any voluntary or involuntary petition; and (vii) that Landowner has no actual knowledge of any pending or threatened claims of any person or entity affecting the validity of any of the representations and warranties set forth in clauses (i)- (vi), inclusive, or affecting Developer's authority or ability to enter into or perform any of its obligations set forth in this Agreement.

Dated:

Arthur W. Dunkley, Co-trustee of the
Arthur W. and Anne L. Dunkley Marital
Property Trust UDT 12/04/87

Dated:

Anne L. Dunkley, Co-trustee of the
Arthur W. and Anne L. Dunkley Marital
Property Trust UDT 12/04/87

Dated:

Rosalyn M. Simon, Trustee of the
Rosalyn M. Simon Revocable Trust
UDT 10/24/06

SIGNATURES MUST BE NOTARIZED



City of
Los Banos
At the Crossroads of California

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: October 21, 2016
Re: Notice of Public Hearing
Proposal: Villages IX at Stonecreek Final Development Plan #2016-03

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos City Council to consider Final Development Plan #2016-03 and Development Agreement consistent with the Stonecreek Environmental Impact Report (EIR). The proposed project consists of the subdivision of approximately 18.6 acres into 71 single-family residential lots. The Final Development Plan consists of site design and conceptual architecture to implement the Planned Development zoning. The project site is located at the northwest corner of Ortigalita Road and Pioneer Road; more specifically identified as Assessor's Parcel Number: 430-060-020.

The Los Banos Planning Commission held a public hearing on August 24, 2016 for the purpose of considering the Villages IX at Stonecreek Vesting Tentative Tract Map #2016-04 and Final Development Plan #2016-03. At the completion of the public hearing, the Planning Commission duly considered all evidence presented and approved Vesting Tentative Tract Map #2016-04 and recommended approval of Final Development Plan #2016-03 and Development Agreement to the Los Banos City Council.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the City Council on Wednesday, November 2, 2016 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Stacy Souza Elms, Senior Planner at City Hall or at (209) 827-7000, Ext. 133.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described Project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

Additional information may be obtained from the Community & Economic Development Department at 520 J Street, Los Banos, California. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 827-7000. Notification at least 72 hours prior to the public hearing will enable the City to make reasonable arrangements to allow participation at this hearing

THE CITY OF LOS BANOS

Stacy Souza Elms
Senior Planner



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor and City Council Members

FROM: Mason Hurley, Assistant Fire Chief 

DATE: November 2, 2016

SUBJECT: Introduction of an Ordinance Adopting the 2016 California Fire Code

TYPE OF REPORT: Public Hearing

Recommendation:

Waiving of the first reading and introduction of an ordinance to the City Council of the City of Los Banos, adopting by reference the 2016 Edition of part 9 (California Fire Code) of the California Building Standards Code.

Discussion:

The request is to adopt the 2016 edition of the California Code of Regulations, Title 24, Part 9, also referred to as the California Fire Code, with local amendments. The 2016 California Fire Code incorporates, by adoption, the 2015 edition of the International Fire Code of the International Code Council, with California amendments. A local City or County may make more restrictive standards necessary for local conditions.

Part 9 (The California Fire Code) is the official triennial compilation and publication of the adoptions, amendments, and repeal of administrative regulations to the California Code of Regulations, Title 24, also referred to as the California Building Standards Code. The California Building Standards Code is published every three years by order of the California legislature, with supplements published in intervening years. The California legislature delegated authority to various state agencies, boards, commissions and departments to create building regulations to implement the state statutes. These building regulations or standards have the same force of law, and take effect 180 days after their publication.

Attached is the proposed Ordinance that identifies the language and numbering necessary for adoption of the 2016 California Fire Code and the local amendments that have been identified as enhancements desirable for the safety of the citizens and preservation of property.

Fiscal Impact:

There will be no fiscal impact on the City of Los Banos for adopting the proposed Ordinance.

Reviewed by:



Alex Terrazas,
City Manager

Attachments:

Proposed Ordinance

**CITY OF LOS BANOS
NOTICE OF PUBLIC HEARING**

TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF ADOPTION BY
REFERENCE THE 2016 EDITION OF THE CALIFORNIA FIRE CODE AND LOCAL
AMENDMENTS TO THE CITY OF LOS BANOS' FIRE PREVENTION CODE
ORDINANCE

WHERE: City Council Chambers
520 J Street
Los Banos, California

WHEN: November 2, 2016
7:00 PM

Notice is hereby given that the City of Los Banos will conduct a Public Hearing to receive public comment and consider amendments to the City Fire Prevention Code Ordinance by adoption by reference the California Fire Code 2016 Edition and local amendments thereto.

Title 4, Chapter 3 Fire Prevention Code, of the City of Los Banos Municipal Code, incorporates the California Fire Code plus locally adopted amendments to the code and is known as the Fire Prevention Code of the City of Los Banos. The Los Banos City Council will consider an ordinance adopting the 2016 California Fire Code with local amendments.

The Public Hearing will be held at the regular meeting of the Los Banos City Council on Wednesday, November 2, 2016 at 7:00 p.m. in the Council Chambers at Los Banos City Hall located at 520 J Street, or as near as possible thereafter, at which time and place interested persons may appear and be heard thereon. Questions regarding the above-referenced item may be directed to Mason Hurley, Assistant Fire Chief, Main Fire Station, 333 7th Street or at (209) 827-7025. Copies of the primary code and also copies of the secondary codes, if any, being considered for adoption, are on file with the City Clerk, and are open for public inspection.

All interested persons will be given an opportunity to comment on this item at the Public Hearing. In addition, written comments may be submitted to the City Council at or prior to the hearing, mailed to 333 7th Street, Los Banos, CA 93635, Attention: Mason Hurley, Assistant Fire Chief. Please reference hearing title and date of hearing in any correspondence. If no comments are received prior to or on the above date, it will be assumed that no comments are being offered. Please note that if you challenge the City's final decision on the above matter in court, you may be limited to raising only those factual and legal issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. In light of the foregoing, all interested members of the public are encouraged to voice their concerns regarding the above matter either in person at the hearing or in writing through correspondence addressed to the City Council and submitted to the City Council at or prior to the date of the above hearing.

It is the intention of the City to comply with the Americans with Disabilities Act (ADA). If you require special assistance beyond what is normally provided, the City will attempt to

accommodate you in every reasonable manner. Please contact the City Clerk's Office at (209) 827-7000 at least 48 hours prior to the meeting to inform us of your particular needs.

THE CITY OF LOS BANOS
MASON HURLEY
ASSISTANT FIRE CHIEF

ORDINANCE NO. _____
AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF LOS BANOS ADOPTING BY REFERENCE THE 2016 EDITION OF
THE CALIFORNIA FIRE CODE BY AMENDMENT TO TITLE 4 CHAPTER 3 OF THE
LOS BANOS MUNICIPAL CODE AND ADOPTION OF LOCAL AMENDMENTS
THERE TO.

THE CITY COUNCIL OF THE CITY OF LOS BANOS MAKES THE
FOLLOWING FINDINGS:

WHEREAS, the California Building Standards Code, Title 24, which incorporates the California Fire Code, is adopted every three years by order of the California Legislature with supplements published in intervening years; and

WHEREAS, pursuant to California Government Code Section 50022.1 et seq. the City of Los Banos ("City") may adopt by reference the 2016 California Fire Code, based on the International Fire Code, 2015 Edition, with errata, published by International Code Council (ICC), as adopted by the State of California pursuant to Title 24, Part 9 of the California Code of Regulations; and

WHEREAS, the City Council of the City of Los Banos has previously adopted the "California Fire Code, 2013 Edition," including the appendix, which was prepared by the International Conference of Building Officials and Western Fire Chiefs Association, with certain amendments as the Fire Code of the City; and

WHEREAS, after due consideration, the City Council of the City of Los Banos hereby finds that it desires to adopt the most recent version of the California Fire Code as the City's Fire Prevention Code, with certain amendments to provide further safety protections to the citizens of the City of Los Banos; and

WHEREAS, California Health & Safety Code Section 18941.5 provides that if a city makes an express finding that building standards that are more restrictive than those standards provided in the international codes are reasonably necessary because of local climatic, geological, or topographical conditions, a city may establish more restrictive building standards; and

WHEREAS, the City Council of the City of Los Banos hereby finds the amendments to the "California Fire Code, 2016 Edition," are reasonably necessary to provide sufficient and effective protection of life, health, and property in consideration of the local climatic, geologic and topographic conditions as stated below; and

A. During winter months, the San Joaquin Valley experiences thick fog that is a danger to emergency personnel responding to fires and other emergencies and delays response time of emergency vehicles by two to three minutes the normal response time. Fire engines and

trucks must greatly reduce their speed in the fog to compensate for appropriate braking distances because of the weight of the vehicles; and

B. Merced County is located within an area with potential seismic activity. After a large seismic event, the potential for multiple fires occurring simultaneously will tax available firefighting resources. Built-in fire protection will assist in extinguishing or controlling fires in larger structures, which will increase the availability of firefighting resources after seismic activity; and

C. The City of Los Banos to a great extent lies on a level plain, as a result, heavy rains have historically threatened flooding throughout the City, which can cause delays for emergency response, or in some situations, make it impossible for responders to get to certain areas of the City. Flooding is both a climatic and topographic problem; and

D. The City of Los Banos is located in an area subject to a climatic condition of high winds. This environment is conducive to rapidly spreading fires; control of such fires requires rapid response. Obstacles generated by a strong wind, such as fallen trees, streetlights and utility poles, may greatly impact the response time to reach an incident scene; and

E. Due to the topographical conditions of sprawling development separated by two congested state highways, it is prudent to rely on measures to allow for rapid access and entry to an incident scene.

THE CITY COUNCIL OF THE CITY OF LOS BANOS DOES ORDAIN AS FOLLOWS:

Section 1. Section 4-3.01 of Title 4, Chapter 3 of the Los Banos Municipal Code is hereby retitled and amended to read as follows:

Sec. 4-3.01 Adoption of the California Fire Code 2016 Edition.

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire, hazardous materials or explosion, that certain Code known as the 2016 California Fire Code (Part 9 of Title 24 of the California Code of Regulations), as published by the International Code Council, together with all Appendices and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Fire Prevention Code of the City of Los Banos.

Section 2. Section 4-3.07 of Title 4, Chapter 3 of the Los Banos Municipal Code is hereby retitled and amended to read as follows:

Sec. 4-3.07 Amendments to the California Fire Code 2016 Edition.

The California Fire Code is hereby amended as follows:

Amendment No. 1

Chapter 1: Section [A] 102.8 Subjects not regulated by this code.

Section [A] 102.8, Chapter 1 of the California Fire Code, 2016 Edition is amended to read as follows:

Section [A] 102.8. **Subjects not regulated by this code.** Where no applicable standards or requirements are set forth in this code, or contained within other laws, codes, regulations, ordinances or bylaws adopted by the jurisdiction, compliance with applicable standards of the National Fire Protection Association or other nationally recognized fire safety standards as are approved shall be deemed as prima facie evidence of compliance with the intent of this Code. Nothing herein shall derogate from the power of the Fire Chief to determine compliance with codes or standards for those activities or installations within the Fire Chief's jurisdiction or responsibility.

EXCEPTION: Recognized standards shall not include any standard which attempts to regulate local authority as to minimum daily staffing levels and incident response levels. These standards include, but are not limited to NFPA 1710 & 1720.

Amendment No. 2

Chapter 1: [A] Section 104.1 General.

Section [A] 104.1 of the 2016 Edition of the California Fire Code is hereby amended to add Section 104.1.1 as follows:

Section 104.1.1 **Permits, Fire Suppression, and Inspection Recovery of Costs.** The Fire Department shall recover cost that reasonably constitute the cost of fire suppression, inspections, clean-up of chemical spills, the cost of suppression chemicals, material and/or equipment used to mitigate the hazard. Cost recovery against a property owner and/or other responsible person when the act is a result of that person's willful negligence and/or negligence, violation of federal or state statute, or local ordinance.

Amendment No. 3

Chapter 1: [A] Section 104.10.1 Assistance from other agencies.

Section [A] 104.10.1, Chapter 1 of the California Fire Code, 2016 Edition, is amended to read as follows:

Section 104.10.1. **Assistance from other agencies.** The Fire Chief, Fire Chief Officers and the fire investigation team who have been designated by the Fire Chief shall have the powers of a police officer in performing their duties under this code.

Police and other enforcement agencies shall have authority to render necessary assistance in the investigation of fires when requested to do so.

Amendment No. 4

Chapter 1: [A] Section 105 Permits

Section [A] 105.6 of the 2016 Edition of the California Fire Code is hereby amended to read as follows:

Section 105.6. The requirements of this section shall be subject to the permits specified in the California Fire Code as adopted and amended. Permits, Inspections, and Plan review fees may be provided by resolution by the City Council or as provided by the California Building Code and/or California Fire Code and/or Reference to the Building Standards. All required plans and permits shall be submitted to the Fire Department for review and approval prior to issuance of any permits required by this section and/or required by the City.

Amendment No. 5

Chapter 5: Section 506

Section 506.1 of the 2016 Edition of the California Fire Code is hereby amended to add Section 506.1(a) to read as follows:

When access to or within a structure or an area is unduly difficult because of secure openings, where immediate access is necessary for life saving or fire fighting purposes, or where an automatic fire suppression and/or standpipe system is installed, or where an automatic alarm system is installed, or where a gate or cross arm impedes ingress through a fire lane, or where the area or building is protected by a locked gate, a key box or a security padlock shall be installed in an accessible location unless otherwise authorized by the Chief. The approved City of Los Banos Fire Department key box shall be a "Knox Box." The Knox Box and security padlock shall be obtained through the City of Los Banos Fire Department. The key boxes shall contain, but not be limited to the following items as designated by the Chief: (i) labeled keys to locked points of egress, whether interior or exterior; (ii) labeled keys to locked mechanical rooms; (iii) labeled keys to any gate or secured areas not installed with a Knox Box or Security Padlock; (iv) labeled keys to any other areas that may be required by the Chief; (v) a list with the names and telephone numbers for the emergency contact persons; (vi) floor plan of the interior building showing locations of shut offs; decals shall be installed/displayed as required by the Chief.

When hazardous materials as defined in Chapter 27 of the California Fire Code are stored or dispensed or other conditions exist on the premises where information is necessary for life saving or fire fighting purposes as determined by the Fire Chief, a Document Storage Box shall be installed in an accessible location unless otherwise authorized by the Chief. The approved City of Los Banos Fire Department document storage box shall be a "Knox

Document Storage Cabinet". The "Knox Document Storage Cabinet" shall be obtained through the City of Los Banos Fire Department. The box shall contain, but not be limited to the following items as designated by the Chief: (i) blueprints; (ii) floor plans; (iii) MSDS hazardous materials information; (iv) any other emergency response related items as required by the Chief.

Amendment No. 6

Chapter 9: Section 903 AUTOMATIC SPRINKLER SYSTEMS Automatic Fire Extinguishing Systems

Section 903.2 of the 2016 Edition of the California Fire Code is hereby amended to add Sections 903.2(a) through (m) to read as follows:

(a) Notwithstanding any less restrictive provision of Section 903, an automatic sprinkler system shall be provided in the locations described in Sections 903.2.1 through 903.2.12 where the fire area exceeds 5,000 square feet unless the specific section requires an automatic sprinkler system for a fire area of less than 5,000 square feet which in that case the more restrictive provision shall apply.

(b) (i) In the case of a remodel of an existing building or structure an automatic sprinkler system shall be provided in the locations described in Sections 903.2.1 through 903.2.12 where the fire area exceeds 5,000 square feet, unless the specific section requires an automatic sprinkler system for a fire area of less than 5,000 square feet which in that case the more restrictive provision shall apply, and the total construction cost for the remodel exceeds \$100,000 as determined by the City.

(ii) In the case of an addition to an existing building or structure an automatic sprinkler system shall be provided in the locations described in Sections 903.2.1 through 903.2.12 where the fire area exceeds 5,000 square feet or the addition causes the fire area to exceed 5,000 square feet, unless the specific section requires an automatic sprinkler system for a fire area of less than 5,000 square feet, which in that case the more restrictive provision shall apply.

(iii) In the case of a change in the type of use or occupancy an automatic sprinkler system shall be provided in the locations described in Sections 903.2.1 through 903.2.12 where the fire area exceeds 5,000 square feet unless the specific section requires an automatic sprinkler system for a fire area of less than 5,000 square feet which in that case the more restrictive provision shall apply.

(c) Fire Control Room. An approved fire control room shall be provided for all buildings protected by an automatic fire extinguishing system. Said room shall contain all system control valves, fire alarm control panels, HVAC duct detector test and reset switches and other fire equipment required by the chief. Fire control rooms shall be located within the building at a location approved by the chief, and shall be provided with a means to access

the room directly from the exterior. Durable signage shall be provided on the exterior side of the access door to identify the "Fire Control Room".

(d) When residential units require the installation of a NFPA 13D system, the systems water supply will be configured in accordance with the City of Los Banos Improvement Standards.

(e) When residential units require the installation of a NFPA 13D system, the system will be a "Stand Alone" wet pipe system.

(f) When residential units require the installation of a NFPA 13D system, the system riser must be located within an exterior wall, with access to the system riser through an exterior access panel door.

(g) When residential units require the installation of a NFPA 13D system, a waterflow alarm is required to be installed on the exterior of the dwelling in the area of the Master Bedroom window. This waterflow alarm will activate anytime the water flow switch is activated.

(h) When residential units require the installation of a NFPA 13D system, all pendent sprinkler heads within the living areas will be Concealed pendent sprinklers, flat plate 4.9 K-factor heads.

(i) When residential units require the installation of a NFPA 13D system, an inspector test/drain valve must be located on the system at the furthest point of the system from the riser. The inspector's test connections shall contain an orifice equal to or smaller than the smallest sprinkler installed in the system. This valve must be accessible to the home occupant and located behind a metal door cover. A sign attached to the front of the door must state "Fire Sprinkler Test/Drain."

(j) When residential units require the installation of a NFPA 13D system, a single upright "pilot" head will be installed at the highest point within the attic area. These heads shall be Intermediate-rated sprinklers. Multiple high peaked roof assemblies and/or area separation walls may require additional pilot heads.

(k) When residential units require the installation of a NFPA 13D system, fire sprinkler piping located in unheated attic spaces shall be completely covered with insulation per the NFPA 13D ANNEX A recommendations.

(l) When residential units require the installation of a NFPA 13D system, complete coverage must be provided within the enclosed garage area.

(m) Locking Devices Fire Department Connections. Every building equipped with a fire sprinkler system shall be required to install lockable type devices on Fire Department Connection. Said device shall be approved by the Fire Department (Knox Fire Department Connection).

EXCEPTIONS:

1. Where the California Fire Code and/or California Building are more restrictive, the most restrictive occupancy requirements will be followed.
2. Area separation walls, the extent and location of such wall shall provide a complete separation or division to limit the floor area to 5,000 square feet. Separation shall be of Four-hour fire-resistive construction. Four-hour separation walls shall be constructed in accordance with the current California Building Code.

Amendment No. 7

Chapter 9: Section 904 ALTERNATIVE AUTOMATIC FIRE EXTINGUISHING SYSTEMS Installation of fixed Fire Protection Systems

Section 904 of the 2016 Edition of the California Fire Code is hereby amended to add Section 904(a) to read as follows:

- (a) All fire extinguishing system required in this code and/or the California Building code shall be installed in accordance with the requirements of this Section, and the National Fire Protection Association standards and/or Factory Mutual Engineering.

Amendment No. 8

Chapter 9: Section 906 PORTABLE FIRE EXTINGUISHERS

Section 906.1 of the 2016 Edition of the California Fire Code is hereby amended to add Section 906.1(a) as follows:

- (a) The minimum approved portable fire extinguisher size for all occupancies shall be, 2-A: 10-B: C rated. Unless more restrictive by code.

Amendment No. 9

Chapter 9: Section 907 FIRE ALARM AND DETECTION SYSTEMS Sprinkler System Supervision

Section 907.1 of the 2016 Edition of the California Fire Code is hereby amended to add Sections 907.1(a) through (f) to read as follows.

- (a) All automatic sprinkler systems shall be supervised by an approved central station, proprietary or remote station service or a local alarm which will give an audible signal at a constantly attended location. All automatic fire sprinkler systems installed in Group R Division 1 occupancies as outlined in the 2016 California Building Code are required to be monitored by an approved central alarm monitoring station.

(b) Supervisory signal service alarms. Flow switches and/or tamper switches shall be installed on all fire sprinkler system to include gate valves, post indicator valves.

(c) Annunciator Panel. Annunciator panel means any arrangement of luminaries that indicate a fire condition by location or zone and is activated by a water flow or detection of the products of combustion.

(d) Equipment. Every building equipped with a fire alarm system activated by smoke detectors, rate of heat rise detection, water flow alarms, tamper switches, or pull station shall be equipped with an annunciator panel located within the Fire Control Room.

(e) When required in Section 907.1 (a) the fire alarm systems will meet the following occupancy requirements:

1. Strip malls & structures with multiple occupancies – All suites located within a structure equipped with a fire sprinkler system will be required to have a minimum of one (1) audio/visual notification device and one (1) manual pull station located in the area designated by the Los Banos Fire Department.

2. Suites or areas 5000 square feet or greater – All suites or areas 5000 square feet or greater, located within a building equipped with a fire sprinkler system are required to install a full occupant notification fire alarm system. This system will include an approved manual, combination automatic and manual or automatic fire alarm system in accordance with the provisions of this code and NFPA 72.

(f) Anytime an HVAC is required to be equipped with an automatic smoke detector as per the Uniform Mechanical Code, said smoke detector is required to have a remote test/reset switch located within the Fire Control Room.

Amendment No. 10

Chapter 28: Section 2803 LUMBER YARDS AND WOOD WORKING FACILITIES Wood Products, Pallet Storage and Use.

Section 2803.1 of the 2016 Edition of the California Fire Code is hereby amended to add Sections 2803.1.1 through 2803.1.5 to read as follows.

2803.1.1 Pallets and Palletized Packing boxes. Required permit to store pallets and or palletized items in excess of 30,000 board feet.

2803.1.2 Piles. Pallets shall be piled with due regard to the stability of piles and in no case higher than 12 feet in height. Where pallets are piled next to a property line the distance from the property line shall not be less than one half of the height of the pile and in no case less than five feet.

2803.1.3 Driveways. Driveways between and around storage piles shall be a minimum of 20 feet wide. And maintained free from accumulation of rubbish, weeds, equipment and materials. Driveways shall be so spaced that a maximum grid system unit of 50 feet by 50 feet is produced. Note exception: Modification of the driveways, clearance or widths required by this section shall be increased or decreased when, in the opinion of the Fire Chief, Clearances of widths are not adequate to provide fire apparatus access.

2803.1.4 Storage. Pallet storage, operating under permit, shall be surrounded with a suitable chain link fence of at least 6 feet in height.

2803.1.5 Fire Protection. An approved water supply and fire hydrants capable of supplying the required fire flows shall be provided to within 150 feet of all portions of the storage piles.

Amendment No. 11

Chapter 56: Section 5608 EXPLOSIVES AND FIREWORKS Fireworks and Pyrotechnic Special Effects Material (Definitions)

Section 5608 of the 2016 Edition of the California Fire Code is hereby amended to add Sub Section 5608.2 through 5608.5 to read as follows.

5608.2 **Fireworks - Purpose.** It is the intent of the City to reasonably regulate the sale, use, display, and discharge of dangerous and safe and sane fireworks within the City to protect the public health, safety, and general welfare.

5608.2.1. **Definitions.** For the purposes of this section, unless otherwise apparent from the context, certain words and phrases used in this section are defined as follows.

A. "Dangerous fireworks" means any fireworks specified as such in the State Fireworks Law, Section 12505 and 12561 of the Health and Safety Code of the State Of California, and such other fireworks as may be determined to be dangerous by the state fire marshal.

B. "Safe and Sane Fireworks" as defined in Section 12529 of the Health and Safety Code the State of California, means any fireworks, which do not come within the definition of "dangerous fireworks" or "exempt fireworks".

C. "Eligible Organization" means an organization which has met all of the following criteria for a continuous period of not less than two full years preceding submittal of an application for permit required by this section 16 (and which continues to do so thereafter).

1. Internal Revenue Code Sections 501 (c) 3, 4, 6, 7, 8, 10, 19, 23, or 26, Section 501 (d), Section 501 (e);

2. The organization must be headquartered within and clearly affiliated or identified with the City of Los Banos;
3. The organization must be one which provides direct and regular community services and benefits to the citizens of the City of Los Banos;
4. The organization must hold its regularly scheduled meeting within the City of Los Banos; and
5. Has a minimum membership of ten (10) members continuously.

D. "Fireworks Stand" means any building, counter, or other structure of a temporary nature used in the sale or offering for sale of Safe and Sane fireworks pursuant to a permit duly issued.

5608.2.2. Possession, Sale, Use, Display, Discharge of Dangerous Fireworks.

A. It shall be unlawful to possess, sell, use, display, or discharge within the City of Los Banos "dangerous fireworks" except as permitted by the provisions of this Section.

B. It shall be unlawful for any person having lawful possession or control of private property, including but not limited to an owner, renter, lessee, to permit any person to possess, sell, use, display, or discharge within the City of Los Banos "dangerous fireworks" except as permitted by the provisions of this Section.

5608.2.3. Possession, Sale, Or Use Of Safe and Sane Fireworks. It shall be unlawful to possess, sell, use, display, or discharge within the City of Los Banos "safe and sane fireworks" except as permitted by the provisions of this Section.

5608.2.4. Permit for Sale of Safe and Sane Fireworks. It shall be unlawful for any person to possess, store, to offer for sale, or sell safe and sane fireworks within the City of Los Banos without a valid permit from the fire department. The fire chief shall have the authority to adopt reasonable rules and regulations for the granting of permits for the sale of safe and sane fireworks by eligible organizations. The fire chief shall also have the authority to adopt reasonable rules and regulations for the safe operation of firework stands.

5608.2.5. Application for Permit to Sell Safe and Sane Fireworks. Permits to sell safe and sane fireworks shall be issued by the fire department as follows:

A. All applications for permits shall be in writing and delivered to the fire chief on forms supplied by the fire department, and shall include all documentation and proof required by the rules and regulations established by the state fire marshal and the fire chief. All application materials must be complete to be accepted by the fire department.

B. Applications may be filed beginning the first business day of August of each year up to and including 5 p.m. the last working day in September of the same year or at other dates and times as determined by the fire chief. No application shall be received after 5 p.m.

C. Applications shall be signed by a bona fide officer of the non-profit organization wherein the officer, on behalf of the organization and its agent, shall agree to abide by all state laws, all administrative regulations, all city ordinances, all rules and regulations promulgated by the fire chief and the terms and conditions of the permit.

D. Applications shall identify the name of the organization, the organization charter or mission statement, the address of the principal meeting place and mailing address, number of members, the purpose of the organization and the date it came into existence.

E. Application fees: the applicant shall pay a non-refundable twenty-five \$25.00 dollar fee. The fee is required to be paid at the time application is submitted.

F. Permit Fee: \$250.00 paid prior to permit issuance.

G. Except as provided in subsection (H), the maximum number of permits which may be issued and the maximum number of "safe and sane fireworks" stands that will be permitted pursuant to this section 16 during any one calendar year shall not exceed one permit for each five thousand (5,000) residents of the City of Los Banos, or fraction thereof, based on the State of California Census Estimate. The official Census Estimate shall be the latest estimate published before the end of the filing period.

H. Exempt Permit: in addition to the maximum number of permits set forth in subsection (G) herein, the Fire Chief may at the direction of the City Manager, issue one additional permit ("exempt permit") to an eligible organization, as defined in Section 5608.2.1, for the sale of safe and sane fireworks pursuant to the following provisions:

- 1) The City Manager in his or her sole discretion may waive the requirement that the organization receiving the exempt permit has met the criteria for a continuous period of not less than two years prior to submittal of an application for a permit as set forth in Section 5608.2.1C;
- 2) The organization receiving the exempt permit shall dedicate to the satisfaction of the City Manager all of the proceeds from the sale of safe and sane fireworks to sponsoring or contributing to a public fireworks display in celebration of the Fourth of July in the City of Los Banos;
- 3) The organization receiving the exempt permit shall be subject to and agree to all other conditions of approval deemed necessary by the City as a prerequisite to issuing the permit.

5608.2.6. Issuance of Permits. Only eligible organizations that have submitted a timely and complete application accepted by the fire chief and that have been drawn from a pool of accepted applications will be permitted to sell safe and sane fireworks.

A. If the number of accepted applications exceeds the maximum number of permits which may be issued in a calendar year; accepted applicants for a permit will be selected by lot on the first working day of October at 1 p.m. at Fire Station One or at another time and location as determined by the fire chief. Successful and unsuccessful applicants will be notified by mail.

B. By April 1, each successful applicant shall provide to the fire chief; a site plan with the location of the fireworks stand; a written letter from the property owner indicating permission to sell safe and sane fireworks on the site; the permit fee; proof of insurance, one million dollars public liability, property damage, and product liability insurance policies with riders attached to the policies designating the City of Los Banos as an additional insured. Applicants that do not submit the required information by the April 1 deadline shall not be issued a permit.

C. Permits will be effective only when delivered by the fire department after the final inspection of the fireworks stand shows compliance with all the requirements established by the fire chief or this section for the operation of a fireworks stand.

D. A permit entitles the holder of the permit to one fireworks stand, which shall operate on the location identified on the permit.

E. Two or more qualified applicants may be issued a permit as a joint venture.

F. Permits issued pursuant to this section are valid only during the calendar year issued.

G. Permits issued pursuant to this section are not transferable.

5608.2.7. Fireworks Stands. When all application requirements have been completed, fees have been paid and the stand location has been approved, the fire department shall authorize the erection of the stand. The stand shall be inspected and approved by the fire chief or his/her designee, prior to the sale of any fireworks from said stand. The sale of fireworks from any other building or structure is prohibited. Temporary fireworks stands shall be subject to the following provisions:

A. Fireworks stands shall be located only upon property that is zoned for commercial or industrial uses.

B. Fireworks stands shall be located on improved property, i.e. paved, cement parking lots.

C. Fireworks stands shall be 35 feet from the public right-of-way and 35 feet away from existing structures.

D. No smoking signs shall be posted on all four sides and inside the fireworks stand indicating "No Smoking within 35 feet".

E. Fireworks stands shall not interfere with normal traffic patterns in private parking lots.

F. Fireworks stands shall be constructed of substantial material to provide security and safe sales operation.

G. Permits to sell safe and sane fireworks shall be posted in a conspicuous location within the interior portion of the fireworks stand.

H. A sign shall be affixed to the front of the exterior portion of the fireworks stand in letters at least six inch in height, identifying the name of the nonprofit organization to which the permit to sell safe and sane fireworks was issued.

I. No electrical service shall be allowed in or within 25 feet of the firework stand, to include fuel powered generators or similar equipment.

J. Fireworks stands shall have two working, currently serviced, two and one-half gallon water extinguishers. Extinguishers shall be readily accessible.

K. During hours of non operation fireworks shall be stored in an enclosed locked cargo container on site, in a location approved by the fire chief. The storage container shall have placards on all four sides and have signage posted indicating "No Smoking" within 35 feet.

L. Wholesale storage of safe and sane fireworks importer/distributors is not allowed in the city.

M. The fireworks stand shall be removed from the temporary location and all unsold stock and accompanying litter shall be removed from the location by five p.m., on July 5th. Failure to dismantle and/or remove any fireworks stand may result in the removal of the fireworks stand by the fire department or designee at the sole expense of the holder of the permit.

5608.2.8. Regulations.

A. Fireworks stands may be operated only from the hours of 8 a.m. to 8 p.m.

B. No safe and sane fireworks shall be sold before 12 noon on the twenty-eighth (28th) day of June or later than 8 p.m. on the fourth (4th) day of July.

C. It shall be unlawful to sell fireworks to persons under the age of 18 years old.

D. It shall be unlawful for the permitted organization to permit any person other than the permitted organization to operate the fireworks stand for which the permit is issued or to otherwise participate in the profits of the operation of such stand.

E. It shall be unlawful for the permitted organization to permit any person other than the individuals who are members of the permitted organization, their spouses or adult children, or volunteers whom no compensation is paid, to sell or otherwise participate in the sale of safe and sane fireworks at such stand.

F. No one under the age of 16 years old shall be allowed in the fireworks stand at any time.

G. Each organization which receives a permit must have at least two of its members attend an operator safety seminar provided by the fireworks company.

5608.2.9. Revocation of Permits

A. Any violation of this section or other city ordinances or policies, or the terms and conditions of the permit, or state laws or administrative regulation, or safety rules of the fire department, shall be grounds for the immediate revocation of the permit. All officers and members of the organization shall be responsible for compliance with all of the provisions of this section.

B. The fire chief or his designee shall be authorized to suspend immediately and without notice or formal hearing the permit of any holder of a permit which violates any rule, regulation or ordinance while operating or preparing to operate a fireworks stand during or immediately preceding any period of sale. If the fire chief or his designee establishes that a violation has occurred too late to suspend the permit during the period of sale, he shall have power to suspend the holder of the permit from applying for future permits.

C. The decision of the fire chief or his designee to suspend the permit shall be subject to review by the city manager, forthwith. In view of the limited sales period each year, for suspensions affecting the sale period, such hearing shall be held at the earliest possible time that the holder of the permit, city manager or his designee, and the representative of the fire chief can schedule a meeting for such review. For suspensions after the sale period the hearing shall be within one month after the request for hearing, which request must be made within fifteen days after notice of the suspension. The city manager or his designee is authorized to set aside the suspension, or to modify the suspension by limiting its effect to only one or more days, or by setting aside the forfeiture for future years. The decision of the city manager or his designee shall be final.

5608.2.10. Seizure of Fireworks

The fire chief or the designee thereof, shall seize, take, remove, or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored, or held in violation of this section.

5608.2.11. **Restrictions.**

A. It is unlawful for individuals under eighteen years of age to sell, purchase, or possess, "safe and sane fireworks."

B. It is unlawful for individuals under eighteen years of age to discharge, explode, fire, or set off any "safe and sane fireworks" unless such minor does so under the direct supervision of a person over 18 years of age and during the hours and on the days permitted by this section.

C. It shall be unlawful to discharge any "safe and sane fireworks" except from the first day of July to the fourth day of July during the hours of 9:00 a.m. to 10:00 p.m.

D. It shall be unlawful to ignite or otherwise use any "safe and sane fireworks," or permit the discharge thereof, upon, over, or onto the property of another without his/her consent.

E. It shall be unlawful for any person having the care, custody, or control of a minor (under 18 years old) to permit such minor to discharge, explode, fire, or set off any "dangerous fireworks," at any time, or to permit such minor to discharge or set off any "safe and sane fireworks" unless such minor does so under the direct supervision of a person over 18 years of age and during the hours and on the days permitted by this section.

F. It shall be unlawful to discharge any "safe and sane fireworks" except on private property and as otherwise provided in this section. No fireworks shall be discharged on public, semipublic, or private open areas such as parking lots, vacant properties, or in a public street or right-of-way, or in public parks.

Exception: It shall be lawful to discharge Safe and Sane Fireworks in the public street only if street closure has been approved by the City Council for a block party. The applicant shall provide a site plan with the Street Closure application indicating the location in the street where Safe and Sane Fireworks are to be discharged. Said location shall be approved by the Fire Department.

G. Person or persons in violation of this section will be caused for immediate seizure of fireworks and citation. Improper use of fireworks or unsafe use of fireworks or use of fireworks in an area considered hazardous by the fire chief or designee shall cause immediate seizure of fireworks and citation.

5608.2.12. **Permit for Public Displays of Fireworks.** Public Display of fireworks, as defined in the State Fireworks Law, Section 12500 et seq of the Health and Safety Code, may be conducted subject to all the terms and provisions therein contained provided that a permit therefore has been granted by the fire chief. Such public displays, in addition, shall be subject to all rules and regulations contained in the Fire Code.

The fire chief shall have authority to adopt reasonable rules and regulations for the granting of permits for those activities contained in Section 12640 of the Health and Safety Code of the state of California, including supervised public displays of fireworks by a jurisdiction, fair association, amusement park, other organization, or for the use of fireworks by artisans in pursuit of their trade. Each such use or display shall be handled by a licensed pyrotechnic operator as defined by Section 12527 of the Health and Safety Code of the state of California, and shall be of such character and so located, discharged or fired as in the opinion of the fire chief or his designee, after proper investigation, will not be hazardous or endanger any person.

5608.2.13. Penalties for Violations. Any person violating any provision of this section shall be guilty of a misdemeanor and shall be subject to criminal prosecution, civil remedies, administrative fines and penalties, and any other remedies available to the city for enforcement of this code.

5608.2.14. Concurrent Authorities. This section is not the exclusive regulation for the fireworks within the City of Los Banos. This section shall supplement and be in addition to the other regulatory codes, statutes, regulations, and ordinances heretofore and hereinafter enacted by the City of Los Banos, the State of California, or any other legal entity or agency having jurisdiction.

Any provisions of the City of Los Banos in conflict herewith are hereby repealed. This section supersedes any conflicting provisions of the Uniform Fire Code and Uniform Building Code.

5608.3. Administrative Enforcement for Fireworks - Purpose and Scope

A. This Section provides for the imposition, enforcement, collection, and administrative review of all administrative fines, related to: (1) the possession, use, storage, sale and/or display of those fireworks classified as “dangerous fireworks” in California Health and Safety Code Sections 12500, *et seq.*, with the exception of a pyrotechnic licensee when operating pursuant to that license; and (2) the sale, use, and/or display of “safe and sane fireworks” as defined in California Health and Safety Code Sections 12500 *et seq.* on or at dates, times and/or locations other than those permitted by this Section.

B. The issuance of citations imposing administrative fines may be performed at the discretion of the officials of the city authorized hereunder; and the issuance of a citation to any person constitutes but one remedy to redress violations of this code by any person. By adopting this Section, the city does not intend to limit its authority to employ any other remedy, civil or criminal, to redress any violation of this code or state law by any person.

C. The imposition of fines related to “dangerous fireworks” under this Section shall be limited to persons who possess, sell, use and/or display, or the seizure of, 25 pounds or less (gross weight) of such dangerous fireworks.

D. Fines collected pursuant to this Section related to “dangerous fireworks” shall not be subject to Health and Safety Code Section 12706. However, the city shall provide cost reimbursement to the State Fire Marshal for the transportation and disposal of “dangerous fireworks” seized by the city where applicable. These costs will be included in any administrative fines imposed under this Section.

5608.4. Enforcement Procedures and Fines

Administrative enforcement including the amount of administrative fine for this Section shall be pursuant to the procedures set forth in Chapter 11 of Title 4 of the Los Banos Municipal Code.

5608.5. Manufacturing of Fireworks

The manufacturing of fireworks within the City is prohibited, except under special permit as required by local and state regulations.

Amendment No. 12

Chapter 57: Section 5704 STORAGE

Section 5704.1 of the 2016 Edition of the California Fire Code is hereby amended to add Sections 5704.2.9.6(a) through (b) to read as follows.

(a) Restricted Location and Fire Protection. The storage of flammable or combustible liquids in above ground tanks shall be restricted to those areas of the City as follows. Planned Industrial District (PM) and General Industrial (M) except as provided by use permits in the General Commercial District (C2) and Highway Commercial District (HC). All existing nonconforming tanks, which substantially comply with or are made to comply with the requirements of this code, may remain in use.

(b) Location of Bulk Plants or Terminals. The construction of new bulk plants and/or terminals for the storage of flammable, combustible, or hazardous liquids shall be restricted to those areas of the City in the Planned Industrial District (PM) and General Industrial District (M). All existing nonconforming bulk plants for the storage of flammable or combustible liquids, which substantially comply, with the requirements of this code may continue use.

Amendment No. 13

Chapter 61: Section 6101 LIQUEFIED PETROLEUM GASES

Section 6101.1 of the 2016 Edition of the California Fire Code is hereby amended to add Section 6101.1(a) to read as follows.

(a) Restricted Location and Installation. The storage of Liquefied Petroleum gas in above ground storage tanks shall be restricted to those areas of the city as follows. Planned Industrial District (PM) and General Industrial (M) except as provided by use permit in the General Commercial District (C2) and Highway Commercial District (HC). All existing nonconforming facility, which substantially comply with or are made to comply with the requirements of this code, may remain in use.

Section 3. The City Council finds that the changes made to the uniform codes are enacted to mitigate the threats posed to public peace, health and safety from earthquakes and fire. In this regard, the recitals set forth in this Ordinance are incorporated herein by reference a findings.

Section 4. To the extent that the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior city ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with the respect to the subject matter thereof and such inconsistent or conflicting provisions of prior ordinances, motions, resolutions, rules or regulations are hereby repealed.

Section 5. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

Section 6. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in this Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, and aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by _____ and seconded by _____ on the 2nd day of November, 2016.

Passed on the _____ day of _____, 201____, by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

APPROVED:

MAYOR – City of Los Banos

ATTEST:

CITY CLERK – City of Los Banos



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor and City Council Members

FROM: Mason Hurley, Assistant Fire Chief 

DATE: November 2, 2016

SUBJECT: Introduction of an Ordinance Adopting the 2016 California Building Standards Code

TYPE OF REPORT: Public Hearing

Recommendation:

Waiving of the first reading and introduction of an ordinance to the City Council of the City of Los Banos, adopting by reference the 2016 Edition of the California Building Standards Code

Discussion:

The California Building Standards Code (California Code of Regulations, Title 24, Parts 1, 2, 2.5, 3, 4, 5, 6, 7, 8, 9, 10, 11, & 12) is published in its entirety every three years and is applicable to all buildings that submit an application for a building permit during its effective period. The Building Standards Code incorporates all of the regulations applicable to all disciplines of the construction industry including the Building, Electrical, Mechanical, and Plumbing Codes.

The California Building Standard Codes are based on model codes written by the International Code Council, the National Fire Protection Association, and the International Association of Plumbing and Mechanical Officials. The publication of code updates by these organizations triggers State consideration, amendment, and adoption of an updated set of codes to be used by jurisdictions within the state. Each triennial

edition of the California Building Standards Code becomes effective 180 days after its publication date of July 1. Therefore, the 2016 Building Standards Codes go into effect on January 1, 2017 and all building permit submittals after January 1, 2017 will be subject to the Codes.

Local Amendment

The California Health and Safety Code enables local jurisdictions to modify the California Building Standards Code and adopt different or more restrictive requirements with the caveat that:

- The local modifications must be substantially equivalent to, or more stringent than, building standards published in the California Building Standards Code; and
- The local jurisdiction is required to make specific or express findings that such changes are reasonably necessary because of local geological, climatic, or topographic conditions.

Staff is not recommending the adoption of any new local amendments to the Building Code.

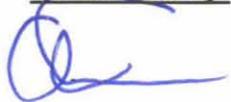
Synopsis

Title 8, Building Codes, of the City of Los Banos Municipal Code, incorporates the Building Standards Code plus locally adopted amendments to the codes and is known as the Building Codes of the City of Los Banos. The Building Code of the City of Los Banos applies to the construction of any building or structure in the city on public or private land except for structures constructed in the public right of way. The proposed ordinance adopts all parts of the 2106 California Standards Building Code with the exception of Part 9. Part 9 is the California Fire Code that is adopted by separate ordinance.

Fiscal Impact:

There will be no fiscal impact on the City of Los Banos for adopting the proposed Ordinance.

Reviewed by:



Alex Terrazas,
City Manager

Attachments:

Proposed Ordinance

**CITY OF LOS BANOS
NOTICE OF PUBLIC HEARING**

TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF ADOPTION BY
REFERENCE THE 2016 EDITION OF THE CALIFORNIA BUILDING STANDARDS
CODE AND RELATED 2016 EDITION CODES TO THE CITY OF LOS BANOS'
BUILDING CODE ORDINANCE

WHERE: City Council Chambers
520 J Street
Los Banos, California

WHEN: November 2, 2016
7:00 PM

Notice is hereby given that the City of Los Banos will conduct a Public Hearing to receive public comment and consider amendments to the City Building Code Ordinance by adoption by reference the California Building Code 2016 Edition and related 2016 Edition Codes.

Title 8, Chapter 1, Building Codes, of the City of Los Banos Municipal Code, incorporates the California Building Code plus locally adopted amendments to the codes and is known as the Building Codes of the City of Los Banos. The Los Banos City Council will consider an ordinance, which if adopted will substantially revise Title 8 chapter 1 of the Los Banos Municipal Code as it relates to the California Building Code by adoption by reference the California Building Standards Code 2016 Edition; the California Building Code 2016 Edition; the California Energy Code 2016 Edition; the California Historical Building Code 2016 Edition; the California Referenced Standards Code 2016 Edition; the California Electrical Code 2016 Edition; the California Mechanical Code 2016 Edition; the California Administrative Code 2016 Edition; the California Existing Building Code 2016 Edition; the California Green Building Standards Code 2016 Edition; and the California Residential Code 2016 Edition; California Plumbing Code 2016 Edition.

The Public Hearing will be held at the regular meeting of the Los Banos City Council on Wednesday, November 2, 2016 at 7:00 p.m. in the Council Chambers at Los Banos City Hall located at 520 J Street, or as near as possible thereafter, at which time and place interested persons may appear and be heard thereon. Questions regarding the above-referenced item may be directed to Mason Hurley, Assistant Fire Chief, Main Fire Station, 333 7th Street or at (209) 827-7025. Copies of the primary code and also copies of the secondary codes, if any, being considered for adoption, are on file with the City Clerk, and are open for public inspection.

All interested persons will be given an opportunity to comment on this item at the Public Hearing. In addition, written comments may be submitted to the City Council at or prior to the hearing, mailed to 333 7th Street, Los Banos, CA 93635, Attention: Mason Hurley, Assistant Fire Chief. Please reference hearing title and date of hearing in any correspondence. If no comments are received prior to or on the above date, it will be assumed that no comments are being offered. Please note that if you challenge the City's final decision on the above matter in court, you may be limited to raising only those factual and legal issues you or someone else raised at the public hearing

described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. In light of the foregoing, all interested members of the public are encouraged to voice their concerns regarding the above matter either in person at the hearing or in writing through correspondence addressed to the City Council and submitted to the City Council at or prior to the date of the above hearing.

It is the intention of the City to comply with the Americans with Disabilities Act (ADA). If you require special assistance beyond what is normally provided, the City will attempt to accommodate you in every reasonable manner. Please contact the City Clerk's Office at (209) 827-7000 at least 48 hours prior to the meeting to inform us of your particular needs.

THE CITY OF LOS BANOS
MASON HURLEY
ASSISTANT FIRE CHIEF

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS BANOS, ADOPTING BY REFERENCE THE 2016 EDITION OF THE CALIFORNIA BUILDING CODE, THE 2016 EDITION OF THE CALIFORNIA ENERGY CODE, THE 2016 EDITION OF THE CALIFORNIA HISTORICAL BUILDING CODE, THE 2016 EDITION OF THE CALIFORNIA REFERENCED STANDARDS CODE, THE 2016 EDITION OF THE CALIFORNIA ELECTRICAL CODE, THE 2016 EDITION OF THE CALIFORNIA MECHANICAL CODE, THE 2016 EDITION OF THE CALIFORNIA ADMINISTRATIVE CODE, THE 2016 EDITION OF THE CALIFORNIA EXISTING BUILDING CODE, THE 2016 EDITION OF THE CALIFORNIA GREEN BUILDING STANDARDS CODE, THE 2016 EDITION OF THE CALIFORNIA RESIDENTIAL CODE, THE 2016 EDITION OF THE CALIFORNIA PLUMBING CODE; BY AMENDMENT TO TITLE 8 CHAPTER 1 OF THE LOS BANOS MUNICIPAL CODE.

THE CITY COUNCIL OF THE CITY OF LOS BANOS MAKES THE FOLLOWING FINDINGS:

WHEREAS, California Health & Safety Code Section 18938 provides that the building standards contained in the California Building Code, 2016 Edition, and incorporates, by adoption, the 2015 Edition of the International Building Code of the International Code Council with the California amendments, shall apply to all occupancies throughout the state and shall become effective 180 days after publication in the California Buildings Standards Code by the California Building Standards Commission; and

WHEREAS, the City Council of the City of Los Banos has previously adopted the “Uniform Building Code, 2013 Edition,” including the appendix, which was prepared by the International Conference of Building Officials and Western Fire Chief’s Association, with certain amendments as the Building Code of the City; and

WHEREAS, after due consideration, the City Council of the City of Los Banos hereby finds that it desires to adopt the most recent version of the California Building Code as the City’s Building Code, with certain amendments to provide further safety protections to the citizens of the City of Los Banos; and

WHEREAS, California Health & Safety Code Section 18941.5 provides that if a city makes an express finding that building standards that are more restrictive than those standards provided in the international codes are reasonably necessary because of local climatic, geological, or topographical conditions, a city may establish more restrictive building standards; and

WHEREAS, the City Council of the City of Los Banos hereby finds the amendments to the “California Building Code, 2016 Edition,” are reasonably necessary to provide sufficient and effective protection of life, health, and property in consideration of the local climatic, geologic and topographic conditions as stated below; and

A. During winter months, the San Joaquin Valley experiences thick fog, heavy rains and extreme wind conditions that in past experience has caused structural damage within the City.

B. Merced County is located within an area with potential seismic activity. The proposed amendments will increase the ability of the structural components to sustain their functionality.

C. The City of Los Banos to a great extent lies on a level plain, as a result, heavy rains have historically threatened flooding throughout the City, which can cause delays for emergency response, or in some situations, make it impossible for responders to get to certain areas of the City. Flooding is both a climatic and topographic problem.

D. The City of Los Banos is located in an area subject to a climatic condition of high winds. This environment is conducive to rapidly spreading fires; control of such fires requires rapid response. Obstacles generated by a strong wind, such as fallen trees, streetlights and utility poles, may greatly impact the response time to reach an incident scene; and

E. Due to the topographical conditions of sprawling development separated by two congested state highways, it is prudent to rely on measures to allow for rapid access and entry to an incident scene.

THE CITY COUNCIL OF THE CITY OF LOS BANOS DOES ORDAIN AS FOLLOWS:

Section 1. Section 8-1.01 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.01 Adoption of the California Building Code 2016 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Building Code, 2016 Edition, Volumes 1 & 2 (Part 2 of Title 24 of the California Code of Regulations), based on the 2015 International Building Code as published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Building Code of the City of Los Banos.

Section 2. Section 8-1.04 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.04 Adoption of the California Energy Code 2016 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Energy Code, 2016 Edition (Part 6 of Title 24 of the California Code of Regulations), published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Energy Code of the City of Los Banos.

Section 3. Section 8-1.05 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.05 Adoption of California Historical Building Code 2016 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Historical Building Code, 2016 Edition (Part 8 of Title 24 of the California Code of Regulations), as published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Historical Building Code of the City of Los Banos.

Section 4. Section 8-1.06 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.06 Adoption of California Referenced Standards Code 2016 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Referenced Standards Code, 2016 Edition (Part 12 of Title 24 of the California Code of Regulations, published by the International Code Council together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and

deletions set forth in this chapter, and said Code shall be known as the Referenced Standards Code of the City of Los Banos.

Section 5. Section 8-1.07 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.07 Adoption of California Electrical Code 2016 Edition.

For the purpose of prescribing regulations governing the installation, erection, construction, enlargement, alteration, repair, maintenance and inspection of electrical facilities within the City, the California Electrical Code, 2016 Edition (Part 3 of Title 24 of the California Code of Regulations), including appendix, based on the 2015 National Electrical Code as published by the National Fire Protection Association, together with its Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter, and said Code shall be known as the Electrical Code of the City of Los Banos.

Section 6. Section 8-1.09 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.09 Adoption of California Mechanical Code 2016 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Mechanical Code, 2016 Edition (Part 4 of Title 24 of the California Code of Regulations), including appendix, based on the 2105 Uniform Mechanical Code as published by the International Association of Plumbing and Mechanical Officials, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Mechanical Code of the City of Los Banos.

Section 7. Section 8-1.10 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.10 Adoption of the California Administrative Code 2016 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Administrative Code, 2016 Edition (Part 1 of Title 24 of the California Code of Regulations), as published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and

deletions set forth in this chapter, and said Code shall be known as the Administrative Code of the City of Los Banos.

Section 8. Section 8-1.11 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.11 Adoption of the California Existing Building Code 2016 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Existing Building Code, 2016 Edition (Part 10 of Title 24 of the California Code of Regulations), based on the 2015 International Existing Building Codes published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Existing Building Code of the City of Los Banos.

Section 9. Section 8-1.12 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.12 Adoption of the California Green Building Standards Code 2016 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Green Building Standards Code, 2016 Edition (Part 11 of the Title 24 of the California Code of Regulations), as published by the California Buildings Standards Commission, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Green Building Standards Code of the City of Los Banos.

Section 10. Section 8-1.13 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.13 Adoption of the California Residential Code 2016 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, that certain Code designated as the "California Residential Code, 2016 Edition (Part 2.5 of Title 24 of the California Code of Regulations), based on the 2015 International Residential Code and as published by the International Code Council, together with all Appendices, and subsequent additions and editions

thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Residential Code of the City of Los Banos.

Section 11. Section 8-1.15 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.15 Adoption of the California Plumbing Code 2016 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Plumbing Code, 2016 Edition (Part 5 of Title 24 of the California Code of Regulations), including appendix, based on the 2015 Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials, , one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Plumbing Code of the City of Los Banos.

Section 12. Section 8-1.18 of Title 8, Chapter 1 of the Los Banos Municipal Code is retitled and amended to read as follows:

Sec. 8-1.18 Amendments to the California Plumbing Code 2016 Edition.

The following amendments, additions, and deletions are made to the California Plumbing Code 2016 Edition, as adopted by this Chapter.

A. Amendment: Section 504 Water Heater Prohibited Locations

Section 504.1 of the California Plumbing Code is hereby amended to add Section 504.1(3) to read as follows:

(3) Prohibited Locations: No water heater which depends on the combustion of fuel for heat shall be installed in any room designed to be used for sleeping purposes, or in any garage, bathroom, or clothes closet, or in any closet or other confined space opening in any bath or bathroom.

B. Amendment: Section 507 Water Heater Protection From Damage

Section 507.13 (1) of the California Plumbing Code is hereby amended to read as follows:

Section 507.13 (1) Protection from Damage:

- (a) Water heaters generating a glow, spark, or flame capable of igniting flammable vapors may be installed in a residential garage constructed on or before August 4, 1973,

provided the pilots and burners, or heating elements and switches, are at least eighteen (18") inches above the floor level.

- (b) Where such water heaters installed within a garage are enclosed in a separate, approved compartment having access only from outside of the garage, such water heaters may be installed at floor level provided the required combustion air is also taken from the exterior of the garage. Fuel burning water heaters having sealed combustion chambers need not be elevated.
- (c) All water heaters installed in areas where they may be subjected to mechanical damage shall be suitably guarded against such damage by being installed behind adequate barriers or by being elevated or located out of the normal path of a vehicle using and such garage."

Section 13 The City Council finds that the changes made to the uniform codes are enacted to mitigate the threats posed to public peace, health and safety from earthquakes and fire. In this regard, the recitals set forth in this Ordinance are incorporated herein by reference a findings.

Section 14. To the extent that the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior city ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with the respect to the subject matter thereof and such inconsistent or conflicting provisions of prior ordinances, motions, resolutions, rules or regulations are hereby repealed.

Section 15. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

Section 16. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in this Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, and aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by Council _____ and seconded by Council _____
on the 2nd day of November, 2016.

Passed on the _____ day of _____, 201____, by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

APPROVED:

MAYOR – City of Los Banos

ATTEST:

CITY CLERK – City of Los Banos



City of
Los Banos
At the Crossroads of California

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: October 28, 2016, 2016

Re: Notice of Public Hearing

Proposal: San Luis Estates Vesting Tentative Tract Map #2015-03

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider the San Luis Estates Mitigated Negative Declaration (SCH #2016101002) and associated Vesting Tentative Tract Map #2015-03. The proposed project consists of the subdivision of approximately 5.5 acres into 25 single-family residential lots ranging from 6,000 square feet to 9,519 square feet. The project site is located on the south side of San Luis Street between Jeffrey Road and Miller Lane; more specifically identified as Assessor's Parcel Number: 428-121-012.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Planning Commission on Wednesday, November 9, 2016 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Stacy Souza Elms, Senior Planner at City Hall or at (209) 827-7000, Ext. 133.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described Project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

Additional information may be obtained from the Community & Economic Development Department at 520 J Street, Los Banos, California. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 827-7000. Notification at least 72 hours prior to the public hearing will enable the City to make reasonable arrangements to allow participation at this hearing

THE CITY OF LOS BANOS

Stacy Souza Elms
Senior Planner



City of
Los Banos
At the Crossroads of California

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT

Date: October 28, 2016

Regarding: Notice of Public Hearing

Proposal: Site Plan Review #2016-11 – Kagome, Inc.

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider Site Plan Review #2016-11 and CEQA Exemption for the addition of a new 55,180 square foot warehouse building for Kagome, Inc. The project site located within the General Industrial zoning district at 333 Johnson Road; more specifically identified as Assessor's Parcel Number: 081-110-005.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Planning Commission on Wednesday, November 9, 2016 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Stacy Souza Elms, Senior Planner at City Hall or at (209) 827-7000, Ext. 133.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described Project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

Additional information may be obtained from the Community & Economic Development Department at 520 J Street, Los Banos, California. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 827-7000. Notification at least 72 hours prior to the public hearing will enable the City to make reasonable arrangements to allow participation at this hearing

THE CITY OF LOS BANOS

Stacy Souza Elms
Senior Planner



City of
Los Banos
At the Crossroads of California

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: October 28, 2016

Regarding: Notice of Public Hearing

Proposal: Personal, Medical, and Commercial Use of Marijuana Ordinance

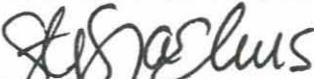
NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider and make a recommendation to the Los Banos City Council to amend Article 35, of Title 9, Chapter 3 of the Los Banos Municipal Code to regulate the personal, medical, and commercial use of marijuana in the City of Los Banos.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Los Banos Planning Commission on Wednesday, November 9, 2016 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Stacy Souza Elms, Senior Planner, at City Hall or at (209) 827-7000, Ext.133.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described Project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

Additional information may be obtained from the Community & Economic Development Department at 520 J Street, Los Banos, California. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 827-7000. Notification at least 72 hours prior to the public hearing will enable the City to make reasonable arrangements to allow participation at this hearing

THE CITY OF LOS BANOS


Stacy Souza Elms
Senior Planner