AGENDA ITEM E-16

# CITY OF LODI
# COUNCIL COMMUNICATION

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**AGENDA TITLE:** Adopt Resolution approving the 2007 Annual Review of the Reynolds Ranch Development Agreement

**MEETING DATE:** November 7,2007

**PREPARED BY:** Community Development Department

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**RECOMMENDED ACTION:** Review the status of the Reynolds Ranch Development Agreement and adopt a Resolution making the determination that the San Joaquin Valley Land Company is in compliance with the 2007 annual review of the Development Agreement as executed on October 6,2006.

**BACKGROUND INFORMATION:** As required by the California Government Code that governs development agreements, this report represents the first annual review to measure the compliance and progress of the development agreement by and between the City of Lodi and the San Joaquin Valley Land Company LLC (hereafter referred to as Landlord). As described in Section 14 of the development agreement, an annual review of the agreement shall occur either within the same month each year as the month in which the agreement is executed or the month immediately thereafter. This agreement was executed on October 6, 2006, and therefore, the annual review is due. The document was reviewed by the Planning Commission on October 24,2007 and found to be in compliance.

**ANALYSIS**

As of the date of this first annual update, the Landlord has not pulled any residential building permits or used any of his housing allocations. Significant engineering and site work has been complete and continues with respect to the office building of Blue Shield of California and the entire supporting infrastructure.

Blue Shield of California has executed and recorded the "transfer of Assignment" for their 20.5 Acre parcel of the 220 Acre Reynolds Ranch Master Plan. Blue Shield closed escrow on the property from San Joaquin Valley Land Company, on June 25, 2007. Their building plans are currently undergoing plan check. Site work has included the finished grading. SPARC approval for the office building was granted on July 16, 2007. Blue Shield is targeting completion of the building on October of 2008. Anticipated move in date is fourth quarter of 2008.

Reynolds Ranch has begun phase one site improvements which provide realignment of the frontage road and the backbone utilities for the majority of the project area including Blue Shield. Phase two includes a detailed development plan and supporting engineering. This work is anticipated to start before the end of the year and commence by the end of 2009. Anticipated ground breaking for the retail portion of Phase two would be the third quarter of 2008.

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APPROVED: _____
Blair King, City Manager

The Landlord has acknowledged the requirement to complete an annual review of this development agreement and has provided evidence to the Community Development Director and/or designated staff to demonstrate good faith compliance with this agreement. Staff and Landlord have developed a matrix to account for the multiple obligations and intend to use this matrix for the life of the DA (See attached).

**FISCAL IMPACT**

This proposed Development Agreement annual review is revenue neutral. Preparation of this report and related efforts are subject to reimbursement by the Landlord in accordance with the City's schedule of fees and billing rates in affect at the time of review.

**FUNDING AVAILABLE:** None required.

Randy Hatch, Community Development Director

Attachments: 1) Reynolds Ranch Development Agreement Compliance Report
2) Planning Commission Recommended Resolution P.C. 07-32

RH/dm/kjc

# DA Annual Progress Report for Reynolds Ranch

| Development Agreement Obligations | 2007 | 2008 | 2009 | 2010 | 2011 |
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| 6. Use of Property. | | | | | |
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| 6.1 Vested Right to Develop. Landowner shall have the vested right to develop the Project in accordance with the terms and conditions of this Agreement, the Project Approvals, the City's existing policies, standards and ordinances (except as expressly modified by this Section 6.1 and Section 8.3) and any amendments to any of them as shall, from time to time, be approved pursuant to this Agreement. Landowner's vested right to develop the Property shall be subject to subsequent approvals; provided however, except as provided in Section 6.3, that any conditions, terms, restrictions and requirements for such subsequent approvals shall not prevent development of the Property for the uses, or reduce the density and intensity of development, or limit the rate or timing of development set forth in this Agreement, so long as Landowner is not in default under this Agreement. Notwithstanding the vested rights granted herein, Landowner agrees that the following obligations, which are presently being developed, shall apply to development of the Property: | | | | | |
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| 6.1.1 Payment of a development fee for a proportionate share of the cost of the Highway 99 overpass at Harney Lane. | | | | | |
| 6.1.2 Payment of Agricultural Land Mitigation fee, as identified in Mitigation Measure 3.7.2, pursuant to the ordinance and/or resolution to be adopted by the City of Lodi. The Parties agree that Landowner may satisfy this obligation through compliance with the obligation set forth in Section 2B of the Settlement Agreement assuming the obligation in Section 2B remains in force and effect. | | | | | |
| 6.1.3 Payment of Electric Capital Improvement Mitigation fee (see Section 6.4.10) pursuant to the ordinance and/or resolution to be adopted by the City of Lodi. The fee for the first 150 Planned Residential Low Density residential units shall be the fee in effect as of the Effective Date of this Agreement. All other residential units, commercial and office development shall pay the fee in effect at the time the fee is collected. | | | | | |
| 6.1.4 Payment of development fee for proporionate share of the costs of the of designing and constructing a water treatment system and/or percolation system for treatment of water acquired from Woodbridge Irrigation District (see Section 6.4.7) pursuant to the ordinance an/or resolution to be adopted by the City of Lodi. | | | | | |
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| With regards to the fees identified in Sections 6.1.1, 6.1.2, 6.1.3, and 6.1.4 and these fees only, Landowner hereby consents to their imposition as conditions of approval on any discretionary or ministerial land use entitlement subsequently granted by the City including bu not limited to issuance of building permits. City agrees that the fees payable by the Landowner pursuant to Sections 6.1.1, 6.1.2, 6.1.3 and 6.1.4 shall be adopted in conformance with applicable law, and shall apply uniformly to all new development on properties within the City that are zoned consistent with the Project Approvals, or apply uniformly to all new development on properties that are similarly situated, whether by geographic location or other distinguishing circumstances. | | | | | |
| Except for the fees identified in this Agreement including but not limited to the Project Approvals, Sections 6.1.1, 6.1.2, 6.1.3, 6.1.4 and 8.3, no other subsequently enacted development or capital fee shall be imposed as a condition of approval on any discretionary or ministerial decision. The Parties acknowledge and agree that the fees applicable to the development pursuant to the Project Approvals and this Agreement may be increased during the term of this Agreement provided that the increased fees are adopted in conformance with applicable law, apply uniformly to all new development on properties within the City that are zoned consistent with the Project Approvals, or apply uniformly to all new development on properties that are similarly situated, whether by geographic location or other distinguishing circumstances. | SJVLC sold a 20.5 acre parcel to Blue Shield of California in June, 2007. It is SJVLC's understanding that the fees as outlined above will be paid pursuant to this Section 6.1, for their respective development. | | | | |
| 6.2. Permitted Uses. The permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, location and maintenance of on--site and off site improvements, location of public utilities and other terms and conditions of development applicable to the Property, shall be those set forth in this Agreement, the Project Approvals and any amendments to this Agreement or the Project Approvals. City acknowledges that the Project Approvals provide for the land uses and approximate acreages for the Property as set forth in Exhibit B-1 and Exhibit B-2. | | | | | |
| | | | | | |
| Landowner acknowledges that the Project Approvals anticipate a mixed-use project that includes office, retail, commercial, residential, public/quasi-public, open space, and park uses as proposed by the Landowner. Landowner and City agree that the mix of land uses proposed, including specifically the office development for Blue Shield and the retail development, are necessary to provide an appropriate mix of land uses to promote economic development, a jobs-housing balance and public welfare for the residents of the projec and the City and that the public benefits required of the Landowner in this Agreement are established at their identified level based upon the existence of that balance. With regards to the property designated in the Project Approvals for office and commercial development, Landowner agrees that during the term of this Agreement Landowner will not request and/or pursue a general plan amendment or zone change to authorize any other type of land use on the office and commercial properties without first obtaining the consent of the City which the City may, in its sole and absolute discretion, withhold. The obligation set forth in this paragraph shall terminate as to the office p | | | | | |
| 6.3. Moratorium, Quotas, Restrictions or Other Growth Limitations. Landowner and City intend that, except as otherwise expressly provided in this Agreement, this Agreement shall vest the Project Approvals against subsequent City resolutions, ordinances and initiatives approved by the City Council or the electorate that directly or indirectly limit the rate, timing, or sequencing of development, or prevent or conflict with the permitted uses, density and intensity of uses or the right to receive public services as set forth in the Project Approvals; provided however, Landowner shall be subject to rules, regulations or policies adopted as a result of changes in federal or state law (as provided in Section 7.3) which are or have been adopted on a uniformly applied, City-wide or area-wide basis, in which case City shall treat Landowner in a uniform, equitable and proportionate manner with all properties, public and private, which are impacted by the changes in federal or state law. | | | | | |
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| 6.3.1 Allocations Under City Growth Management Program | | | | | |
| a. Allocations Required Prior to Map Approval | | | | | |
| Consistent with the City's Growth Management Program, which shall apply to the Project, except as otherwise provided herein, no tentative map for any portion of the Property shall be issued until such time as Landowner has obtained allocations for each residential unit within the area covered by such map, consistent with the Growth Management Ordinance (Ordinance 1521), codified as Section 15.34 of the City of Lodi Municipal Code. | | | | | |
| b.Schedule of Allocation of Residential Units | | | | | |
| The following schedule of residential unit allocations shall apply to the Project. | | | | | |

# DA Annual Progress Report for Reynolds Ranch

| Development Agreement Obligations | 2007 | 2008 | 2009 | 2010 | 2011 |
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| (i) Initial Allocation: | | | | | |
| As of the Effective Date of this Agreement, the following number of residential units shall be initially allocated to the Project from the City's reserve of unused allocations ("Initial Allocation"): | The allocations granted above have not been used at this time. It is anticipated that they will be used in 2009. | | | | |
| 150 low density units (Planned Residential Low Density) | | | | | |
| 200 high density units. | | | | | |
| Except for the requirement set forth in Section 6.3.1(a) above the Initial Allocation shall be exempt from the provisions of the Growth Management Ordinance and Resolutions 91-170 and 91-171 (timing and point system requirements). | | | | | |
| (ii) Subsequent Annual Allocations: | | | | | |
| As of the Effective Date of this Agreement, Landowner shall be entitled to apply for future annual allocations in three-year increments, and on a rolling basis. Provided that Landowner otherwise complies with the City's Growth Management Program, Landowner shall be entitled to annual allocations ("Annual Allocations") under the Program for seventy-three (73) Planned Residential low density residential units, each year, for eight (8) years after the Effective Date or for the term of this Agreement including any extension thereto granted pursuant to Section 5.2. The total number of Planned Residential low density allocations granted hereunder shall be limited to the number of Planned Residential low density units approved in the Project Approvals. The use of such allocations shall be restricted to the year for which such allocations were made, consistent with the Growth Management Ordinance. | | | | | |
| Landowner is not required to apply for such allocations on an annual basis. Landowner may instead comply with all development plan and related requirements under the Growth Management Ordinance and Resolutions 91-170 and 91-171 every third year, at which time Landowner may apply for allocations for the next three-year period. After the expiration of the year for which an Annual Allocation was issued to Landowner, Landowner may submit a request and be issued by the City another Annual Allocation, such that Landowner may maintain, on a rolling basis, a number of allocations equal to three Annual Allocations. Except for allowing the Landowner this flexibility in terms of the number of years for which Landowner may apply, all requests for Annual Allocations must otherwise comply with the Growth Management Ordinance and Resolutions 91-170 and 91-171. | | | | | |
| The requirement that Landowner apply for Annual Allocations does not alter the vested rights of the Project, specifically as to the General Plan and zoning designation of the Project. | | | | | |
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| (c) Growth Management Ordinance in full force and effect: | | | | | |
| Except where otherwise specifically stated herein, nothing in this section 6.3.1 is intended to modify in any way the City's Growth Management Program, including its exemptions under Section 15.34.040 (e.g., for commercial and industrial projects, and senior citizen housing). | | | | | |
| Section 6.3.2 Future Growth Control Ordinances/Policies, Etc. | | | | | |
| (a) One of the specific purposes of this Agreement is to assure Developer that, during the term of this Agreement no growth-management ordinance, measure, policy, regulation or development moratorium of City adopted by the City Council or by vote of the electorate after the Effective Date of this Agreement will apply to the Property in such a manner so as to the reduce the density of development , modify the permissible uses, or modify the phasing of the development as set forth in the Project Approvals. | | | | | |
| (b) Therefore, the parties hereto agree that, except as otherwise expressly provided in the Project Approvals, Sections 6.1, 6.3.1 or 6.4 or other provision of this Agreement which expressly authorize City to make such pertinent changes, no ordinance, policy, rule, regulation, decision or any other City action, or any initiative or referendum voted on by the public, which would be applicable to the Project and which would affect in any way the rate of development, construction and build out of the Project, or limit the Project's ability to receive any other City service shall be applicable to any portion of the Project during the term of this Agreement, whether such action is by ordinance, enactment, resolution, approval, policy, rule, regulation, decision or other action of City or by public initiative or referendum. | | | | | |
| (c) City, through the exercise of either its police power or its taking power, whether by direct City action or initiative or referendum, shall not establish, enact or impose any additional conditions, dedications, fees or other exactions, policies, standards, laws or regulations, which directly relate to the development of the Project except as provided in Sections 6.1, 6.3.1, or 6.4 herein or other provision of this Agreement which expressly allows City to make such changes. Nothing herein prohibits the Project from being subject to a (i) City-wide bond issue, (ii) City-Wide special or general tax, or (iii) special assessment for the construction or maintenance of a City-wide facility as may be voted on by the electorate or otherwise enacted; provided that such tax, assessment or measure is City-wide in nature, does not discriminate against the land within the Project and does not distinguish between developed and undeveloped parcels. | | | | | |
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| (d) This Agreement shall not be construed to limit the authority of City to charge processing fees for land use approvals, public facilities fees and building permits as they relate to plumbing, mechanical, electric or fire code permits, or other similar permits and entitlements which are in force and effect on a city-wide basis at the time those permits are applied for, except to the extent any such processing regulations would be inconsistent with this Agreement. | | | | | |
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| (e) Notwithstanding subdivision (b), the City may condition or deny a permit, approval, extension, or entitlement if it determines any of the following: | | | | | |
| (1) A failure to do so would place the residents of the Project or the immediate community, or both, in a condition dangerous to their health or safety, or both. | | | | | |
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| (2) The condition or denial is required in order to comply with state or federal law (see Section 7.3). . | | | | | |
| Landowner shall pay a fee based on the proportionate share of the costs of designing and constructing a water treatment system and/or percolation system for treatment of water acquired by the City from the Woodbridge Irrigation District. Landowner shall pay the fee as required under the fee program to be development by the City, but in no event later than when water service connection for each residential, office and commercial unit is provided. | | | | | |
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| 6.4 Additional Conditions. | | | | | |
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# DA Annual Progress Report for Reynolds Ranch

| Development Agreement Obligations | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| 6.4.1 Timing of Dedications and Improvements of Parks Landowner agrees to dedicate park land and complete construction of all the park improvements as described and set forth in the Project Approvals at its sole cost and expense. Landowner shall be entitled to a credit against any applicable Quimby Act fees or land dedication requirments for the value of any improvements constructed or equipment installed with the parks on the Property. The phasing of such improvements shall be in compliance with the Phasing Schedule attached hereto as Exhibit H. | | | | | |
| 6.4.2. Rehabilitation of Fifty Existing Residential Units | | | | | |
| Landowner agrees that within eight years of the Effective Date of this Agreement, Landowner shall either rehabilitate or pay the costs up to a total of $1,250,000 of rehabilitating fifty single-family or multi-family residential units within the area bounded by the Union Pacific railroad tracks, Cherokee Lane, Kettleman Lane and Lockford Street. To satisfy this obligation, Landowner may pay to rehabilitate residential units owned by others or may purchase, rehabilitate and sell or rent said residential units. The City shall have the right to approve the residential units selected for rehabilitation; said approval shall not be unreasonably withheld by the City. | | | | | |
| The improvements required herein to facilitate rehabilitation of residential units may include landscaping, painting, roof repair, replacement of broken windows, sidewalk repairs, non-structural architectural improvements, and demolition and reconstruction of residential units. All work performed pursuant to this section shall be done pursuant to properly issued building permits as required by City of Lodi ordinances. As part of the annual review required pursuant to Section 13, Landowner shall report on work completed during the prior year towards meeting the obligations set forth in this paragraph. | | | | | |
| In the event that Landowner has not satisfied this obligation within eight years from the Effective Date, Landowners shall pay the City twenty-five thousand dollars ($25,000) per residential unit for each of the fifty (50) units that have not been rehabilitated as set forth above. The funds paid shall be placed in a dedicated city fund to be used for housing rehabilitation grants or loans within the area specified hereinabove. | No actual rehabilitation work has been completed as of this date. Several discussions have taken place with City staff and Loel Center representatives in regards to possible rehabilitation and redevelopment projects to meet this condition. Offers have been made to specific property owners to purchase their property, however none of those have resulted in a purchase as of this date. SJVLC fully intends to satisfy this obligation by performance and not paying the fee. | | | | |
| 6.4.3. Payment of Downtown Impact Fee | | | | | |
| Prior to issuance of building permits for any commercial development with the Project, Landowner shall pay a Downtown Impact Fee of sixty cents (0.60) per gross square foot of General Retail Commercial development or four dollars and fifty cents ($4.50) per square foot of "Big Box Retail Use" as defined in the Final EIR for the Reynolds Ranch Project to the City for use by the City as rehabilitation grant or loan funding for businesses within "Downtown" area of Lodi, defined as the area described in the June 1997 Downtown Development Standards and Guidelines plus the Pine Street Corridor extending to Washington Street. The funds provided pursuant to this section may only be used by the City for grants or loans to business owners within the "downtown" area for capital improvements to their properties. The grants or loans provided through this funding shall be made available for disbursement beginning January 1, 2010. City shall administer the grant or loan program and shall be solely responsible for disbursement of funds to recipients. | | | | | |
| As an alternative method to satisfy the obligation set forth in this section, Landowner may provide capital improvements (including, but not limited to enhancements to the building architecture) to a commercial building or commercial buildings owned or rented by Landowner within the Downtown area. In the event that Landowner completes capital improvements to a commercial building or commercial buildings it owns or rents within the Downtown area prior to January 1, 2010, Landowner shall be entitled to a refund of the funds it has paid pursuant to this section up to the lesser of the value capital improvements constructed or the funds paid to date. Landowner shall not be entitled to a credit for architectural, engineering, permit fees or other soft costs related to the capital improvements. | SJVLC has purchased real property including a commercial building within the Downtown area, and anticipates satisfying this condition by improving or redeveloping it. | | | | |
| 6.4.4 | | | | | |
| Payment of Utility Exit Fees The Lodi Electric Utility is a city-owned and operated utility that provides electrical utility services for residential, commercial and industrial customers in Lodi. As the proposed project sites would be annexed to the City of Lodi, the Lodi Electric Utility would provide electrical utility services to the project sites. To the extent that Landowner is assessed "exit fees," also known as "Cost Responsibility Surcharges," by Pacific Gas & Electric for its departing load, Landowner shall pay said fees when they are due. Landowner may, at its option and at its own cost, request a Cost Responsibility Surcharge Exemption from the California Energy Commission for any qualified departing load pursuant to Title 20, California Code of Regulations, Section 1395, et. Seq. Forms for the exemption are available on-line at http://www.energy.ca.gov/exit_fees/documents/2004-02-18_PGE_EXEMP_APPL.PDF City makes no representation that Landowner is eligible for exemptions pursuant to these regulations. | | | | | |
| 6.4.5 | | | | | |
| Maintenance of Specified Public Improvements Landowner agrees to provide or pay for all park, median strip, and other landscaping maintenance and repairs for two years for lands dedicated by the Landowner to the City and accepted by the City. In the event that Landowner chooses to pay the City for the costs of maintenance and repair, the City shall provide an estimate of the annual costs and the Landowner shall pay the full amount within thirty calendar days after the City by U.S. Mail or email, transmits the estimate to the Landowner. If the amount paid to the City exceeds the actual amount incurred by the City plus reasonable staff costs to administer the contract, the City shall, within a reasonable period of time, refund the difference to the Landowner. | | | | | |
| 6.4.6 | | | | | |
| Fire Station Land Dedication and Payment of Construction and Equipment Costs | | | | | |
| 6.4.6.1 | | | | | |
| Fire Station Design and Construction | | | | | |

# DA Annual Progress Report for Reynolds Ranch

| Development Agreement Obligations | | | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|---|---|
| Not later than December 31, 2008, Landowner shall dedicate, free and clear of encumbrances, one acre of land located at (Parcel No. to be determined when map is completed) for a fire station. Landowner shall contribute two million U.S. dollars ($2,000,000) to the City for design and construction of the fire station and the necessary fixtures and furnishings at the fire station. The amount payable hereunder shall be paid based upon the following schedule of payments: | | | | | | | |
| Payment Due Date | Payment Amount | | | | | | |
| 1. One year after issuance of the first building permit issued pursuant to the Project Approvals or December 31, 2008 whichever is earlier | $ | 500,000.00 | | | | | |
| 2. One year after the first payment due date or December 31, 2009 whichever is earlier | $ | 750,000.00 | | | | | |
| 3. Two years after the first payment due date or December 31, 2010 whichever is earlier | $ | 750,000.00 | | | | | |
| Landowner acknowledges that City will enter into a contract to construct the Fire Station and will incur the full costs of the construction upon execution of the construction contract. As consideration for City's agreement to authorize payment of the design and construction costs in installment payments, Landowner agrees to provide a letter of credit payable to the City, in a form reasonably acceptable to the City Attorney, in an amount sufficient to cover the installment payments due after the first payment is made. City agrees that Landowner may substitute a letter of credit, in a form reasonably acceptable to the City Attorney, for a lesser amount upon payment of each installment payment by the Landowner. Upon delivery of such replacement letter of credit and its approval as to form by the City Attorney the City will release and convey to Landowner the prior letter of credit. | | | | | | | |
| 6.4.6.2 Fire Equipment | | | | | | | |
| Not later than December 31, 2010, Landowner shall pay the City five hundred thousand U.S. dollars ($500,000) as a contribution towards the purchase of fire station apparatus. | | | | | | | |
| 6.4.7 | | | | | | | |
| Water Treatment and/or Percolation Costs | | | | | | | |
| Landowner shall pay a fee based on the proportionate share of the costs of designing and constructing a water treatment system and/or percolation system for treatment of water acquired by the City from the Woodbridge Irrigation District. Landowner shall pay the fee as required under the fee program to be development by the City, but in no event later than when water service connection for each residential, office and commercial unit is provided. | | | | | | | |
| 6.4.8 Public Art on Property | | | | | | | |
| Prior to issuance of a certificate of occupancy for the 151st residential unit on the Property, Landowner shall obtain City approval for and install public art on the retail portion of the Project. The value of the public art installed shall be equal to $60,000 inclusive of design and installation costs, which together shall not exceed $10,000. The public art shall be installed in a place within the Project that is visible from the public right-of-way or from an area or areas that provides public access. Landowner shall provide maintenance of the public art. Landowner shall be eligible to apply for City matching grant for the public art up to a maximum amount of $40,000. The parties agree that any matching grant provided by the City shall be in addition to the $60,000 contribution provided by Landowner pursuant to the section and shall be subject to any and all conditions normally imposed as part of the issuance of a grant by the City. | | | | | | | |
| 6.4.9 Animal Shelter | | | | | | | |
| Not later than one year after issuance of the first building permit for a residential unit, Landowner shall pay to the City fifty thousand U.S. dollars ($50,000) as a contribution towards either (1) the design and construction costs of a new or reconstructed animal shelter or (2) the costs of programs operated at the animal shelter. | | | | | | | |
| 6.4.10 Utility Line Extension | | | | | | | |
| City is preparing a policy pursuant to which property developed will pay the actual costs of capital improvements necessary to extend utility services to a development. Landowner acknowledges that such an extension is necessary to implement the Project Approvals on the Property. Landowner agrees to pay the City, pursuant to the policy to be adopted by the City, the costs of the capital improvements necessary to extend utility services to the Property. The fee for the first 150 Planned Residential Low Density residential units shall be the fee in effect as of the Effective Date of this Agreement. All other residential units, commercial and office development shall pay the fee in effect at the time the fee is collected. | | | | | | | |
| 6.4.11 Implementation of Obligations Arising from Settlement Agreement among San Joaquin Valley Land Company, LLC, Citizens for Open Government and the City of Lodi | | | | | | | |
| Pursuant to a separate agreement ("Settlement Agreement") between the City of Lodi, Landowner and Citizens for Open Government (collectively "Settlement Agreement Parties"), attached hereto as Exhibit I and incorporated herein by reference, the Settlement Agreement Parties agree, effectively immediately, to the rights, requirements, and obligations of sections 3.A, 3.B, and 3.D of the Settlement Agreement, as indicated in Exhibit I. | | | | | | | |
| Pursuant to Settlement Agreement, the Settlement Agreement Parties further agree that all remaining provisions of the Settlement Agreement shall be effective only so long as (i) no litigation is filed to challenge either the certification of the EIR and/or the Project Approvals granted by the City of Lodi, and (ii) no referendum petition is certified for election that would require Ordinance No. 1785, approving this Development Agreement, to be affirmed by the voters. Should said litigation be filed or said referendum petition be certified for election, all remaining provisions of the Settlement Agreement, except those enumerated in the above paragraph, shall no longer be effective or enforceable against the Settlement Parties. | | | | | | | |
| 6.5 Annexation | | | | | | | |
| The ability to proceed with development of the Property pursuant to the Project Approvals shall be contingent upon the annexation of the Property into the City. Pending such annexation, Landowner may, at its own risk, process tentative parcel maps and tentative subdivision maps and improvement or construction plans and City may conditionally approve such tentative maps and/or improvement plans in accordance with the Entitlements, provided City shall not approve any final parcel map or final subdivision map for recordation nor approve the issuance of any grading permit for grading any portion of the Property or building permit for any structure within the Property prior to the annexation of the Property to the City. | | | | | | | |

# DA Annual Progress Report for Reynolds Ranch

| Development Agreement Obligations | 2007 | 2008 | 2009 | 2010 | 2011 |
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| City shall use its best efforts and due diligence to initiate such annexation process, obtain the necessary approvals and consummate the annexation of the Property into the City, including entering into any annexation agreement that may be required in relation thereto, subject to the City's review and approval of the terms thereof. Landowner shall be responsible for the costs reasonably and directly incurred by the City to initiate, process and consummate such annexation, the payment of which shall be due in advance, based on the City's estimate of such cost, and thereafter as and when the City provides an invoice(s) for additional costs incurred by City therefore in excess of such estimate. | | | | | |
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| 7. Applicable Rules, Regulations, Fees and Official Policies. | | | | | |
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| 7.1. Rules Regarding Permitted Uses Except as provided in this Agreement, the City's ordinances, resolutions, rules, regulations and official policies governing the permitted uses of the Property, the density and intensity of use, the rate timing and sequencing of development, the maximum height and size of proposed buildings, and provisions for reservation and dedication of land shall be those in force on the Effective Date of this Agreement. Except as provided in Section 8.2, this Agreement does not vest Landowner's rights to pay development impact fees, exactions and dedications, processing fees, inspection fees, plan checking fees or charges. | | | | | |
| | | | | | |
| 7.2. Rules Regarding Design and Construction. Unless otherwise expressly provided in this Agreement, all other ordinances, resolutions, rules, regulations and official policies governing design, improvement and construction standards and specifications applicable to the Project and to public improvements to be constructed by the Landowner shall be those in force and effect at the time the applicable permit approval is granted. | | | | | |
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| 7.3. Changes in State or Federal Law. This Agreement shall not preclude the application to development of the Property of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or Federal laws or regulations. | | | | | |
| | | | | | |
| 7.4. Uniform Codes Applicable. Unless otherwise expressly provided in this Agreement, the Project shall be constructed in accordance with the provisions of the Uniform Building, Mechanical, Plumbing, Electrical and Fire Codes, City standard construction specifications, and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the time of approval of the appropriate building, grading, encroachment or other construction permits for the Project. If no permits are required for infrastructure improvements, such improvements will be constructed in accordance with the provisions of the Uniform Building, Mechanical, Plumbing, Electrical and Fire Codes, City standard construction specifications, and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the start of construction of such infrastructure. | | | | | |
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| 8. Existing Fees, Newly Enacted Fees, Dedications, Assessments and Taxes. | | | | | |
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| 8.1. Processing Fees and Charges. Landowner shall pay those processing, inspection, and plan check fees and charges required by City under then current regulations for processing applications and requests for permits, approvals and other actions, and monitoring compliance with any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of Landowner hereunder. | | | | | |
| | | | | | |
| 8.2. Existing Fees, Exactions and Dedications Landowner shall be obligated to provide all dedications and exactions and pay all fees as required for the types of development authorized by the Project Approvals as of the Effective Date of this Agreement. With regards any fees applicable to residential development, the Parties agree that the fees shall be payable at the earliest time authorized pursuant to the Government Code Section 66007 as it exists as of the Effective Date of this Agreement. The specific categories of fees payable are listed below. The dedication and exaction obligations and fee amounts payable shall be those obligations and fee amounts applicable as of the date that the Landowner's application for the applicable vesting tentative map is deemed complete. For any development for which the Landowner has not submitted a vesting tentative map, the dedication and exaction obligations and fee amounts payable shall be those obligations and fee amounts applicable as of the date the final discretionary approval for that development is granted by the City. | | | | | |
| | | | | | |
| Standard City Development Impact Fees Payable by the Landowner includes: | | | | | |
| | | | | | |
| 1. Development Impact Fees (Lodi Municipal Code Chapter 15.64) | | | | | |
| 2. San Joaquin County Regional Transportation Impact Fee (Lodi Municipal Code Chapter 15.65 | | | | | |
| 3. County Facilities Fee (Lodi Municipal Code Chapter 15.66) | | | | | |
| 4. San Joaquin County Multi-Species Habitat Conservation and Open Space Development Fee (Lodi Municipal Code Chapter 15.68) | | | | | |
| | | | | | |
| 8.3. New Development Impact Fees, Exactions and Dedications. Landowner agrees to the pay the development fees identified in Section 6.1, including specifically subsections 6.1.1 through 6.1.4, of this Agreement. In addition, Landowner agrees to pay any newly adopted sewer, water or electrical fees adopted in conformance with applicable law, and applied uniformly to new development on all properties within the City that are zoned consistent with the Project Approvals, or applied uniformly to all new development on properties that are similarly situated, whether by geographic location or other distinguishing circumstances. With regards any fees applicable to residential development, the Parties agree that the fees shall be payable at the earliest time authorized pursuant to the Government Code Section 66007 as it exists as of the Effective Date of this Agreement. | | | | | |
| Except as expressly provided herein, Landowner shall not be obligated to pay or provide any development impact fees, connection or mitigation fees, or exactions adopted by City after the Effective Date of this Agreement. Notwithstanding this limitation, Landowner may at its sole discretion elect to pay or provide any fee or exaction adopted after the Effective Date of this Agreement. | | | | | |

# DA Annual Progress Report for Reynolds Ranch

| Development Agreement Obligations | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| 8.4. Fee Reductions To the extent that any fees payable pursuant to the requirements of Sections 8.1 are reduced after the operative date for determining the fee has occurred, the Landowner shall pay the reduced fee amount. | | | | | |
| 9. Community Facilities District. Formation of a Community Facilities District for Public Improvements and Services. | | | | | |
| 9.1. Inclusion in a Community Facilities District. Landowner agrees to cooperate in the formation of a Community Facilities District pursuant to Government Code Section 53311 et seq. to be formed by the City. The boundaries of the area of Community Facilities District shall be contiguous with the boundaries of the Property excluding the portion of land zoned for commercial or office development. Landowner agrees not to protest said district formation and agrees to vote in favor of levying a special tax on the Property in an amount not to exceed $600 per year per residential dwelling unit as adjusted herein. The special tax shall be initiated for all residential dwelling units for which a building permit is issued, and shall commence to be levied beginning the subsequent fiscal year after the building permit is issued. Landowner acknowledges that the 2007-2008 special tax rate for the units in the Project will be $600 per dwelling unit and that the special tax shall increase each year by 2% in perpetuity. A vote by Landowner against the levying of the special tax or a vote to repeal or amend the special tax shall constitute an event of default under this Agreement. | SJVLC has been cooperating per this Section 9.1 in the formation of the CFD and inclusion of the Reynolds Ranch parcels as described within the DA. | | | | |
| 9.2. Use of Community Facilities District Revenues Landowner and City agree that the improvements and services that may be provided with the special tax levied pursuant to Section 9.1 may be used for the following improvements and services: | | | | | |
| a. Police protection and criminal justice services; | | | | | |
| b. Fire protection, suppression, paramedic and ambulance services; | | | | | |
| c. Recreation and library program services; | | | | | |
| d. Operation and maintenance of museums and cultural facilities; | | | | | |
| e. Maintenance of park, parkways and open space areas dedicated to the City; | | | | | |
| f. Flood and storm protection services; | | | | | |
| g. Improvement, rehabilitation or maintenance of any real or personal property that has been contaminated by hazardous substances; | | | | | |
| h. Purchase, construction, expansion, improvement, or rehabilitation or any real or tangible property with useful life of more than five years; and, | | | | | |
| i. Design, engineering, acquisition or construction of public facilities with a useful life of more that five years including: | | | | | |
| 1. Local park, recreation, parkway and open-space facilities, | | | | | |
| 2. Libraries, | | | | | |
| 3. Childcare facilities, | | | | | |
| 4. Water transmission and distribution facilities, natural gas, telephone, energy and cable television lines, and | | | | | |
| 5. Government facilities. | | | | | |
| Landowner and City agree that Property does not presently receive any of these services from the City and that all of these services are new services. | | | | | |
| 9.3. Community Facilities District for Residential Property - Financing. In addition to the funding provided as part of the Community Facilities District identified in Section 9.1, City acknowledges that Landowner may desire to finance the acquisition or construction of a portion of the improvements described in Section 8.2 through the Community Facilities District. The costs associated with the items identified in Section 8.2 shall be in addition to the annual cost imposed to comply with Section 9.1. The following provisions shall apply to any to the extent that the Landowner desires to fund any of the improvements set forth in Section 8.2 through the Community Facilities District: | | | | | |
| 9.3.1 Issuance of Bonds. City and Landowner agree that, with the consent of Landowner, and to the extent permitted by law, City and Landowner shall use their best efforts to cause bonds to be issued in amounts sufficient to achieve the purposes of this Section. | | | | | |
| 9.3.2 Payment Prior to Issuance of Bonds. Nothing in this Agreement shall be construed to preclude the payment by an owner of any of the parcels to be included within the CFD of a cash amount equivalent to its proportionate share of costs for the improvements identified in Section 8.2, or any portion thereof, prior to the issuance of bonds. | | | | | |
| 9.3.3 Private Financing. Nothing in this Agreement shall be construed to limit Landowner's option to install the improvements through the use of private financing. | | | | | |
| 9.3.4 Acquisition and Payment. City agrees that it shall use its best efforts to allow and facilitate monthly acquisition o completed improvements or completed portions thereof, and monthly payment of appropriate amounts for such improvements to the person or entity constructing improvements or portions thereof, provided City shall only be obligated to use CFD bond or tax proceeds for such acquisitions. | | | | | |
| 10. Processing of Subsequent Development Applications and Building Permits Subject to Landowner's compliance with the City's application requirements including, specifically, submission of required information and payment of appropriate fees, and assuming Landowner is not in default under the terms and conditions of this Agreement, the City shall process Landowner's subsequent development applications and building permit requests in an expeditious manner. In addition, City agrees that upon payment of any required City fees or costs, City will designate or retain, as necessary, appropriate personnel and consultants to process Landowner's development applications and building permit requests City approvals in an expeditious manner. | No action has been taken as of this date relative to this Section 9.3 by SJVLC. | | | | |

**RESOLUTION NO. P.C. 07-32**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI DETERMINING THAT THE SAN JOAQUIN VALLEY LAND COMPANY LLC IS IN COMPLIANCE WITH THE DEVELOPMENT AGREEMENT EXECUTED ON OCTOBER 6,2006 FOR THE REYNOLDS RANCH PROJECT, APPROVING THE OCTOBER 2007 REYNOLDS RANCH COMPLIANCE REPORT AND RECOMMENDATION TO THE CITY COUNCIL TO REVIEW AND ACCEPT THE SAME.**

**WHEREAS,** the City of Lodi entered into a Development Agreement on October 6, 2006 with San Joaquin Valley Land Company LLC (Project Applicant), the purpose of which is to describe the mutual entitlement obligations entered into between the City and the Project Applicant for the Reynolds Ranch Project; and

**WHEREAS,** as described in Section **14** of the Development Agreement, an annual review of the Agreement shall occur either within the same month each year as the month in which the Agreement is executed or the month immediately thereafter; and

**WHEREAS,** this first annual review to measure the compliance and progress of the development agreement by and between the City of Lodi and the San Joaquin Valley Land Company LLC is required by California Government Code section 65865.1; and

**WHEREAS,** the Planning Commission of the City of Lodi has heretofore held a duly noticed public meeting, as required by the Development Agreement; and

**WHEREAS,** the project proponent is San Joaquin Valley Land Company, LLC; and

**WHEREAS,** all legal prerequisites to the adoption of this Resolution have occurred; and

**WHEREAS,** the property has a General Plan designation of PR, Planned Residential; GC, Neighborhood/Community Commercial; O, Office and is zoned PD, Planned Development; and

**WHEREAS,** the property is located within the southeast portion of the City's Planning Area lying south of Hamey Lane and west of State Route 99. Specifically, the project is bounded by Harney Lane to the north, State Route 99 to the east, and the Union Pacific Railroad (UPRR) to the west. The project' s southern boundary lies approximately 650 feet to the north of Scottsdale Road; and

**WHEREAS,** the Development Agreement vests certain rights of development including issuance of growth management allocations and will impose certain obligations all as specified in the Development Agreement; and

**WHEREAS,** all legal prerequisites to the approval of this annual review have occurred: and

**WHEREAS,** a matrix of the progress of all the obligations required by the Development Agreement has been prepared and updated as attached (the 2007 Reynolds Ranch Compliance Report).

NOW THEREFORE, based upon the evidence within the staff report and project file the Planning Commission hereby finds:

1. The annual review of the Development Agreement as required by Government Code section 65865.1 is categorically exempt according to the California Environmental Quality Act, Article 19 15321 Class 21 (a) (2). The project is classified as an "Enforcement Action by Regulatory Agencies" because it is the "adoption of an administrative decision or order enforcing...the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." The development agreement annual review falls into this exemption. No significant impacts are anticipated and no mitigation measures are required.

2. The developer has acknowledged the requirement to complete an annual review of this development agreement and has provided evidence to the Community Development Director and/or designated staff to demonstrate good faith compliance with this agreement.

3. Blue Shield of California has executed and recorded the "transfer of Assignment" for their 20.5 Acre parcel of the 220 Acre Reynolds Ranch Master Plan. The Site Plan and Architecture Review Committee (SPARC) approved the Blue Shield building on July 16, 2007.

4. Reynolds Ranch has begun phase one site improvements which provide realignment of the frontage road and the backbone utilities for the majority of the project area including Blue Shield.

5. The public meeting by the Planning Commission was duly advertised and held on October 10, 2007 in a manner prescribed by law.

6. The Development Agreement as implemented in its first year does not conflict with adopted plans or policies of the General Plan and complies with the Zoning Ordinance.

7. The parcels subject to the provisions of this annual update of the Development Agreement continue to be physically suitable for the development of the proposed project.

a. The proposed design and improvement of the site continue to be consistent with all applicable standards adopted by the City in that the project, as conditioned, will conform to adopted standards and improvements mandated by the City of Lodi Public Works Department Standards and Specifications, Zoning Ordinance as well as all other applicable standards.

9. The design of the project and type of improvements are not likely to cause serious public health problems in that all public improvements will be built per City standards and all private improvements will be built per the Uniform Building Code.

**NOW, THEREFORE, BE IT DETERMINED AND RESOLVED** by the Planning Commission of the City of Lodi that it recommends that the City Council find that the Developer is in compliance with the October 2007 annual review of Development Agreement for the Reynolds Ranch Project and approve the October 2007 Reynolds Ranch Compliance Report.

Dated: October 24,2007

I hereby certify that Resolution No. 07-32 was adopted by the Planning Commission of the City of Lodi at a regular meeting held on October 24,2007 by the following vote:

**AYES:** Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

**ATTEST:** _____

**Secretary, Planning Commission**

RESOLUTION NO. 2007-21***6***

A RESOLUTION OF THE LODI CITY COUNCIL DETERMINING THAT THE SAN JOAQUIN VALLEY LAND COMPANY LLC IS IN COMPLIANCE WITH THE DEVELOPMENT AGREEMENT EXECUTED ON OCTOBER 6, 2006, FOR THE REYNOLDS RANCH PROJECT AND APPROVING THE OCTOBER 2007 REYNOLDS RANCH COMPLIANCE REPORT

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WHEREAS, the City of Lodi entered into a Development Agreement on October ***6,*** 2006 with San Joaquin Valley Land Company LLC (Project Applicant), the purpose of which is to describe the mutual entitlement obligations entered into between the City and the Project Applicant for the Reynolds Ranch Project; and

WHEREAS, as described in Section 14 of the Development Agreement, an annual review of the Agreement shall occur either within the same month each year as the month in which the Agreement is executed or the month immediately thereafter; and

WHEREAS, this first annual review to measure the compliance and progress of the development agreement by and between the City of Lodi and the San Joaquin Valley Land Company LLC is required by California Government Code Section 65865.1; and

WHEREAS, the project proponent is San Joaquin Valley Land Company, LLC; and

WHEREAS, the property is located within the southeast portion of the City's Planning Area lying south of Harney Lane and west of State Route 99. Specifically, the project is bounded by Harney Lane to the north, State Route 99 to the east, and the Union Pacific Railroad (UPRR) to the west. The project's southern boundary lies approximately 650 feet to the north of Scottsdale Road; and

WHEREAS, the Development Agreement vests certain rights of development including issuance of growth management allocations and will impose certain obligations all as specified in the Development Agreement; and

WHEREAS, a matrix of the progress of all the obligations required by the Development Agreement has been prepared and updated as attached (the 2007 Reynolds Ranch Compliance Report); and

WHEREAS, the City Council of the City of Lodi has heretofore held a duly noticed public meeting, as required by the Development Agreement; and

WHEREAS, all legal prerequisites to the approval of this annual review have occurred; and

WHEREAS, the Planning Commission held a duly noticed public meeting on October 24, 2007, reviewed the 2007 Annual Review and Reynolds Ranch Compliance Report, and recommended to the City Council to review and accept the same.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby finds as follows:

1. That the City of Lodi entered into a Development Agreement on October 6, 2006, with San Joaquin Valley Land Company LLC (Project Applicant), for the purpose of delineating the mutual entitlement obligations entered into between the City and the Project Applicant for the Reynolds Ranch Project; and

2. That said Development Agreement requires an annual review and the 2007 annual review has been conducted at the City Council meeting held November 7, 2007; and

3. That the Lodi City Council hereby determines that the San Joaquin Valley Land Company LLC is in compliance with the Development Agreement and hereby approves the 2007 Annual Review and Reynolds Ranch Compliance Report.

Dated: November 7, 2007

==========

I hereby certify that Resolution 2007-216 was passed and adopted by the Lodi City Council in a regular meeting held on November 7, 2007, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Hitchcock, Katzakian, Mounce, and Mayor Johnson

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

Jennifer M. Perrin

JENNIFER M. PERRIN
Deputy City Clerk

# DA Annual Progress Report for Reynolds Ranch

| Development Agreement Obligations | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| 6. Use of Property. | | | | | |
| 6.1 Vested Right to Develop. Landowner shall have the vested right to develop the Project in accordance with the terms and conditions of this Agreement, the Project Approvals, the City's existing policies, standards and ordinances (except as expressly modified by this Section 6.1 and Section 6.3) and any amendments to any of them as shall, from time to time, be approved pursuant to this Agreement. Landowner's vested right to develop the Property shall be subject to subsequent approvals; provided however, except as provided in Section 6.3, that any conditions, terms, restrictions and requirements for such subsequent approvals shall not prevent development of the Property for the uses, or reduce the density and intensity of development, or limit the rate or timing of development set forth in this Agreement, so long as Landowner is not in default under this Agreement. Notwithstanding the vested rights granted herein, Landowner agrees that the following obligations, which are presently being developed, shall apply to development of the Property: | | | | | |
| 6.1.1 Payment of a development fee for a proportionate share of the cost of the Highway 99 overpass at Harney Lane. | | | | | |
| 6.1.2 Payment of Agricultural Land Mitigation fee, as identified in Mitigation Measure 3.7.2, pursuant to the ordinance and/or resolution to be adopted by the City of Lodi. The Parties agree that Landowner may satisfy this obligation through compliance with the obligation set forth in Section 2B of the Settlement Agreement assuming the obligation in Section 2B remains in force and effect. | | | | | |
| 6.1.3 Payment of Electric Capital Improvement Mitigation fee (see Section 6.4.10) pursuant to the ordinance and/or resolution to be adopted by the City of Lodi. The fee for the first 150 Planned Residential Low Density residential units shall be the fee in effect as of the Effective Date of this Agreement. All other residential units, commercial and office development shall pay the fee in effect at the time the fee is collected. | | | | | |
| 6.1.4 Payment of development fee for proporionate share of the costs of the of designing and constructing a water treatment system and/or percolation system for treatment of water acquired from Woodbridge Irrigation District (see Section 6.4.7) pursuant to the ordinance an/or resolution to be adopted by the City of Lodi. | | | | | |
| With regards to the fees identified in Sections 6.1.1, 6.1.2, 6.1.3, and 6.1.4 and these fees only, Landowner hereby consents to their imposition as conditions of approval on any discretionary or ministerial land use entitlement subsequently granted by the City including bu not limited to issuance of building permits. City agrees that the fees payable by the Landowner pursuant to Sections 6.1.1, 6.1.2, 6.1.3 and 6.1.4 shall be adopted in conformance with applicable law, and shall apply uniformly to all new development on properties within the City that are zoned consistent with the Project Approvals, or apply uniformly to all new development on properties that are similarly situated, whether by geographic location or other distinguishing circumstances. | | | | | |
| Except for the fees identified in this Agreement including but not limited to the Project Approvals, Sections 6.1.1, 6.1.2, 6.1.3, 6.1.4 and 8.3, no other subsequently enacted development or capital fee shall be imposed as a condition of approval on any discretionary or ministerial decision. The Parties acknowledge and agree that the fees applicable to the development pursuant to the Project Approvals and this Agreement may be increased during the term of this Agreement provided that the increased fees are adopted in conformance with applicable law, apply uniformly to all new development on properties within the City that are zoned consistent with the Project Approvals, or apply uniformly to all new development on properties that are similarly situated, whether by geographic location or other distinguishing circumstances. | SJVLC sold a 20.5 acre parcel to Blue Shield of California in June, 2007. It is SJVLC's understanding that the fees as outlined above will be paid pursuant to this Section 6.1, for their respective development. | | | | |
| 6.2. Permitted Uses. The permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, location and maintenance of on–site and off site improvements, location of public utilities and other terms and conditions of development applicable to the Property, shall be those set forth in this Agreement, the Project Approvals and any amendments to this Agreement or the Project Approvals. City acknowledges that the Project Approvals provide for the land uses and approximate acreages for the Property as set forth in Exhibit B-1 and Exhibit B-2. | | | | | |
| Landowner acknowledges that the Project Approvals anticipate a mixed-use project that includes office, retail, commercial, residential, public/quasi-public, open space, and park uses as proposed by the Landowner. Landowner and City agree that the mix of land uses proposed, including specifically the office development for Blue Shield and the retail development, are necessary to provide an appropriate mix of land uses to promote economic development, a jobs-housing balance and public welfare for the residents of the projec and the City and that the public benefits required of the Landowner in this Agreement are established at their identified level based upon the existence of that balance. With regards to the property designated in the Project Approvals for office and commercial development, Landowner agrees that during the term of this Agreement Landowner will not request and/or pursue a general plan amendment or zone change to authorize any other type of land use on the office and commercial properties without first obtaining the consent of the City which the City may, in its sole and absolute discretion, withhold. The obligation set forth in this paragraph shall terminate as to the office p | | | | | |
| 6.3. Moratorium, Quotas, Restrictions or Other Growth Limitations. Landowner and City intend that, except as otherwise expressly provided in this Agreement, this Agreement shall vest the Project Approvals against subsequent City resolutions, ordinances and initiatives approved by the City Council or the electorate that directly or indirectly limit the rate, timing, or sequencing of development, or prevent or conflict with the permitted uses, density and intensity of uses or the right to receive public services as set forth in the Project Approvals; provided however, Landowner shall be subject to rules, regulations or policies adopted as a result of changes in federal or state law (as provided in Section 7.3) which are or have been adopted on a uniformly applied, City-wide or area-wide basis, in which case City shall treat Landowner in a uniform, equitable and proportionate manner with all properties, public and private, which are impacted by the changes in federal or state law. | | | | | |
| 6.3.1 Allocations Under City Growth Management Program | | | | | |
| a. Allocations Required Prior to Map Approval | | | | | |
| Consistent with the City's Growth Management Program, which shall apply to the Project, except as otherwise provided herein, no tentative map for any portion of the Property shall be issued until such time as Landowner has obtained allocations for each residential unit within the area covered by such map, consistent with the Growth Management Ordinance (Ordinance 1521), codified as Section 15.34 of the City of Lodi Municipal Code. | | | | | |
| b.Schedule of Allocation of Residential Units | | | | | |
| The following schedule of residential unit allocations shall apply to the Project. | | | | | |

# DA Annual Progress Report for Reynolds Ranch

| Development Agreement Obligations | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| (i) Initial Allocation: | | | | | |
| As of the Effective Date of this Agreement, the following number of residential units shall be initially allocated to the Project from the City's reserve of unused allocations ("Initial Allocation"): | The allocations granted above have not been used at this time. It is anticipated that they will be used in 2009. | | | | |
| 150 low density units (Planned Residential Low Density) | | | | | |
| 200 high density units. | | | | | |
| Except for the requirement set forth in Section 6.3.1(a) above the Initial Allocation shall be exempt from the provisions of the Growth Management Ordinance and Resolutions 91-170 and 91-171 (timing and point system requirements). | | | | | |
| (ii) Subsequent Annual Allocations: | | | | | |
| As of the Effective Date of this Agreement, Landowner shall be entitled to apply for future annual allocations in three-year increments, and on a rolling basis. Provided that Landowner otherwise complies with the City's Growth Management Program, Landowner shall be entitled to annual allocations ("Annual Allocations") under the Program for seventy-three (73) Planned Residential low density residential units, each year, for eight (8) years after the Effective Date or for the term of this Agreement including any extension thereto granted pursuant to Section 5.2. The total number of Planned Residential low density allocations granted hereunder shall be limited to the number of Planned Residential low density units approved in the Project Approvals. The use of such allocations shall be restricted to the year for which such allocations were made, consistent with the Growth Management Ordinance. | | | | | |
| Landowner is not required to apply for such allocations on an annual basis. Landowner may instead comply with all development plan and related requirements under the Growth Management Ordinance and Resolutions 91-170 and 91-171 every third year, at which time Landowner may apply for allocations for the next three-year period. After the expiration of the year for which an Annual Allocation was issued to Landowner, Landowner may submit a request and be issued by the City another Annual Allocation, such that Landowner may maintain, on a rolling basis, a number of allocations equal to three Annual Allocations. Except for allowing the Landowner this flexibility in terms of the number of years for which Landowner may apply, all requests for Annual Allocations must otherwise comply with the Growth Management Ordinance and Resolutions 91-170 and 91-171. | | | | | |
| The requirement that Landowner apply for Annual Allocations does not alter the vested rights of the Project, specifically as to the General Plan and zoning designation of the Project. | | | | | |
| (c) Growth Management Ordinance in full force and effect: | | | | | |
| Except where otherwise specifically stated herein, nothing in this section 6.3.1 is intended to modify in any way the City's Growth Management Program, including its exemptions under Section 15.34.040 (e.g., for commercial and industrial projects, and senior citizen housing). | | | | | |
| Section 6.3.2 Future Growth Control Ordinances/Policies, Etc. | | | | | |
| (a) One of the specific purposes of this Agreement is to assure Developer that, during the term of this Agreement no growth-management ordinance, measure, policy, regulation or development moratorium of City adopted by the City Council or by vote of the electorate after the Effective Date of this Agreement will apply to the Property in such a manner so as to the reduce the density of development , modify the permissible uses, or modify the phasing of the development as set forth in the Project Approvals. | | | | | |
| (b) Therefore, the parties hereto agree that, except as otherwise expressly provided in the Project Approvals, Sections 6.1, 6.3.1 or 6.4 or other provision of this Agreement which expressly authorize City to make such pertinent changes, no ordinance, policy, rule, regulation, decision or any other City action, or any initiative or referendum voted on by the public, which would be applicable to the Project and which would affect in any way the rate of development, construction and build out of the Project, or limit the Project's ability to receive any other City service shall be applicable to any portion of the Project during the term of this Agreement, whether such action is by ordinance, enactment, resolution, approval, policy, rule, regulation, decision or other action of City or by public initiative or referendum. | | | | | |
| (c) City, through the exercise of either its police power or its taking power, whether by direct City action or initiative or referendum, shall not establish, enact or impose any additional conditions, dedications, fees or other exactions, policies, standards, laws or regulations, which directly relate to the development of the Project except as provided in Sections 6.1, 6.3.1, or 6.4 herein or other provision of this Agreement which expressly allows City to make such changes. Nothing herein prohibits the Project from being subject to a (i) City-wide bond issue, (ii) City-Wide special or general tax, or (iii) special assessment for the construction or maintenance of a City-wide facility as may be voted on by the electorate or otherwise enacted; provided that such tax, assessment or measure is City-wide in nature, does not discriminate against the land within the Project and does not distinguish between developed and undeveloped parcels. | | | | | |
| (d) This Agreement shall not be construed to limit the authority of City to charge processing fees for land use approvals, public facilities fees and building permits as they relate to plumbing, mechanical, electric or fire code permits, or other similar permits and entitlements which are in force and effect on a city-wide basis at the time those permits are applied for, except to the extent any such processing regulations would be inconsistent with this Agreement. | | | | | |
| (e) Notwithstanding subdivision (b), the City may condition or deny a permit, approval, extension, or entitlement if it determines any of the following: | | | | | |
| (1) A failure to do so would place the residents of the Project or the immediate community, or both, in a condition dangerous to their health or safety, or both. | | | | | |
| (2) The condition or denial is required in order to comply with state or federal law (see Section 7.3). . | | | | | |
| Landowner shall pay a fee based on the proportionate share of the costs of designing and constructing a water treatment system and/or percolation system for treatment of water acquired by the City from the Woodbridge Irrigation District. Landowner shall pay the fee as required under the fee program to be development by the City, but in no event later than when water service connection for each residential, office and commercial unit is provided. | | | | | |
| 6.4 Additional Conditions. | | | | | |

# DA Annual Progress Report for Reynolds Ranch

| Development Agreement Obligations | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| 6.4.1 Timing of Dedications and Improvements of Parks Landowner agrees to dedicate park land and complete construction of all the park improvements as described and set forth in the Project Approvals at its sole cost and expense. Landowner shall be entitled to a credit against any applicable Quimby Act fees or land dedication requirments for the value of any improvements constructed or equipmen installed with the parks on the Property. The phasing of such improvements shall be in compliance with the Phasing Schedule attached hereto as Exhibit H. | | | | | |
| 6.4.2. Rehabilitation of Fifty Existing Residential Units | | | | | |
| Landowner agrees that within eight years of the Effective Date of this Agreement, Landowner shall either rehabilitate or pay the costs up to a total of $1,250,000 of rehabilitating fifty single-family or multi-family residential units within the area bounded by the Union Pacific railroad tracks, Cherokee Lane, Kettleman Lane and Lockford Street. To satisfy this obligation, Landowner may pay to rehabilitate residential units owned by others or may purchase, rehabilitate and sell or rent said residential units. The City shall have the right to approve the residential units selected for rehabilitation; said approval shall not be unreasonably withheld by the City. | | | | | |
| The improvements required herein to facilitate rehabilitation of residential units may include landscaping, painting, roof repair, replacement of broken windows, sidewalk repairs, non-structural architectural improvements, and demolition and reconstruction of residential units. All work performed pursuant to this section shall be done pursuant to properly issued building permits as required by City of Lodi ordinances. As part of the annual review required pursuant to Section 13, Landowner shall report on work completed during the prior year towards meeting the obligations set forth in this paragraph. | | | | | |
| In the event that Landowner has not satisfied this obligation within eight years from the Effective Date, Landowners shall pay the City twenty-five thousand dollars ($25,000) per residential unit for each of the fifty (50) units that have not been rehabilitated as set forth above. The funds paid shall be placed in a dedicated city fund to be used for housing rehabilitation grants or loans within the area specified hereinabove. | No actual rehabilitation work has been completed as of this date. Several discussions have taken place with City staff and Loel Center representatives in regards to possible rehabilitation and redevelopment projects to meet this condition. Offers have been made to specific property owners to purchase their property, however none of those have resulted in a purchase as of this date. SJVLC fully intends to satisfy this obligation by performance and not paying the fee. | | | | |
| 6.4.3. Payment of Downtown Impact Fee | | | | | |
| Prior to issuance of building permits for any commercial development with the Project, Landowner shall pay a Downtown Impact Fee of sixty cents (0.60) per gross square foot of General Retail Commercial development or four dollars and fifty cents ($4.50) per square foot of "Big Box Retail Use" as defined in the Final EIR for the Reynolds Ranch Project to the City for use by the City as rehabilitation grant or loan funding for businesses within "Downtown" area of Lodi, defined as the area described in the June 1997 Downtown Development Standards and Guidelines plus the Pine Street Corridor extending to Washington Street. The funds provided pursuant to this section may only be used by the City for grants or loans to business owners within the "downtown" area for capital improvements to their properties. The grants or loans provided through this funding shall be made available for disbursement beginning January 1, 2010. City shall administer the grant or loan program and shall be solely responsible for disbursement of funds to recipients. | | | | | |
| As an alternative method to satisfy the obligation set forth in this section, Landowner may provide capital improvements (including, but no limited to enhancements to the building architecture) to a commercial building or commercial buildings owned or rented by Landowner within the Downtown area. In the event that Landowner completes capital improvements to a commercial building or commercial buildings it owns or rents within the Downtown area prior to January 1, 2010, Landowner shall be entitled to a refund of the funds it has paid pursuant to this section up to the lesser of the value capital improvements constructed or the funds paid to date. Landowner shall not be entitled to a credit for architectural, engineering, permit fees or other soft costs related to the capital improvements. | SJVLC has purchased real property including a commercial building within the Downtown area, and anticipates satisfying this condition by improving or redeveloping it. | | | | |
| 6.4.4 | | | | | |
| Payment of Utility Exit Fees The Lodi Electric Utility is a city-owned and operated utility that provides electrical utility services for residential, commercial and industrial customers in Lodi. As the proposed project sites would be annexed to the City of Lodi, the Lodi Electric Utility would provide electrical utility services to the project sites. To the extent that Landowner is assessed "exit fees," also knowr as "Cost Responsibility Surcharges," by Pacific Gas & Electric for its departing load, Landowner shall pay said fees when they are due. Landowner may, at its option and at its own cost, request a Cost Responsibility Surcharge Exemption from the California Energy Commission for any qualified departing load pursuant to Title 20, California Code of Regulations, Section 1395, et. Seq. Forms for the exemption are available on-line at http://www.energy.ca.gov/exit_fees/documents/2004-02-18_PGE_EXEMP_APPL.PDF City makes no representation that Landowner is eligible for exemptions pursuant to these regulations. | | | | | |
| 6.4.5 | | | | | |
| Maintenance of Specified Public Improvements Landowner agrees to provide or pay for all park, median strip, and other landscaping maintenance and repairs for two years for lands dedicated by the Landowner to the City and accepted by the City. In the event that Landowner chooses to pay the City for the costs of maintenance and repair, the City shall provide an estimate of the annual costs and the Landowner shall pay the full amount within thirty calendar days after the City by U.S. Mail or email, transmits the estimate to the Landowner. If the amount paid to the City exceeds the actual amount incurred by the City plus reasonable staff costs to administer the contract, the City shall, within a reasonable period of time, refund the difference to the Landowner. | | | | | |
| 6.4.6 | | | | | |
| Fire Station Land Dedication and Payment of Construction and Equipment Costs | | | | | |
| 6.4.6.1 | | | | | |
| Fire Station Design and Construction | | | | | |

# DA Annual Progress Report for Reynolds Ranch

| Development Agreement Obligations | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|---|---|---|---|---|
| Not later than December 31, 2008, Landowner shall dedicate, free and clear of encumbrances, one acre of land located at (Parcel No. to be determined when map is completed) for a fire station. Landowner shall contribute two million U.S. dollars ($2,000,000) to the City for design and construction of the fire station and the necessary fixtures and furnishings at the fire station. The amount payable hereunder shall be paid based upon the following schedule of payments: | | | | | |
| Payment Due Date — Payment Amount | | | | | |
| 1. One year after issuance of the first building permit issued pursuant to the Project Approvals or December 31, 2008 whichever is earlier — $ 500,000.00 | | | | | |
| 2. One year after the first payment due date or December 31, 2009 whichever is earlier — $ 750,000.00 | | | | | |
| 3. Two years after the first payment due date or December 31, 2010 whichever is earlier — $ 750,000.00 | | | | | |
| Landowner acknowledges that City will enter into a contract to construct the Fire Station and will incur the full costs of the construction upon execution of the construction contract. As consideration for City's agreement to authorize payment of the design and construction costs in installment payments, Landowner agrees to provide a letter of credit payable to the City, in a form reasonably acceptable to the City Attorney, in an amount sufficient to cover the installment payments due after the first payment is made. City agrees that Landowner may substitute a letter of credit, in a form reasonably acceptable to the City Attorney, for a lesser amount upon payment of each installment payment by the Landowner. Upon delivery of such replacement letter of credit and its approval as to form by the City Attorney the City will release and convey to Landowner the prior letter of credit. | | | | | |
| 6.4.6.2 Fire Equipment | | | | | |
| Not later than December 31, 2010, Landowner shall pay the City five hundred thousand U.S. dollars ($500,000) as a contribution towards the purchase of fire station apparatus. | | | | | |
| 6.4.7 | | | | | |
| Water Treatment and/or Percolation Costs | | | | | |
| Landowner shall pay a fee based on the proportionate share of the costs of designing and constructing a water treatment system and/or percolation system for treatment of water acquired by the City from the Woodbridge Irrigation District. Landowner shall pay the fee as required under the fee program to be development by the City, but in no event later than when water service connection for each residential, office and commercial unit is provided. | | | | | |
| 6.4.8 Public Art on Property | | | | | |
| Prior to issuance of a certificate of occupancy for the 151st residential unit on the Property, Landowner shall obtain City approval for and install public art on the retail portion of the Project. The value of the public art installed shall be equal to $60,000 inclusive of design and installation costs, which together shall not exceed $10,000. The public art shall be installed in a place within the Project that is visible from the public right-of-way or from an area or areas that provides public access. Landowner shall provide maintenance of the public art. Landowner shall be eligible to apply for City matching grant for the public art up to a maximum amount of $40,000. The parties agree that any matching grant provided by the City shall be in addition to the $60,000 contribution provided by Landowner pursuant to the section and shall be subject to any and all conditions normally imposed as part of the issuance of a grant by the City. | | | | | |
| 6.4.9 Animal Shelter | | | | | |
| Not later than one year after issuance of the first building permit for a residential unit, Landowner shall pay to the City fifty thousand U.S. dollars ($50,000) as a contribution towards either (1) the design and construction costs of a new or reconstructed animal shelter or (2) the costs of programs operated at the animal shelter. | | | | | |
| 6.4.10 Utility Line Extension | | | | | |
| City is preparing a policy pursuant to which property developed will pay the actual costs of capital improvements necessary to extend utility services to a development. Landowner acknowledges that such an extension is necessary to implement the Project Approvals on the Property. Landowner agrees to pay the City, pursuant to the policy to be adopted by the City, the costs of the capital improvements necessary to extend utility services to the Property. The fee for the first 150 Planned Residential Low Density residential units shall be the fee in effect as of the Effective Date of this Agreement. All other residential units, commercial and office development shall pay the fee in effect at the time the fee is collected. | | | | | |
| 6.4.11 Implementation of Obligations Arising from Settlement Agreement among San Joaquin Valley Land Company, LLC, Citizens for Open Government and the City of Lodi | | | | | |
| Pursuant to a separate agreement ("Settlement Agreement") between the City of Lodi, Landowner and Citizens for Open Government (collectively "Settlement Agreement Parties"), attached hereto as Exhibit I and incorporated herein by reference, the Settlement Agreement Parties agree, effectively immediately, to the rights, requirements, and obligations of sections 3.A, 3.B, and 3.D of the Settlement Agreement, as indicated in Exhibit I. | | | | | |
| Pursuant to Settlement Agreement, the Settlement Agreement Parties further agree that all remaining provisions of the Settlement Agreement shall be effective only so long as (i) no litigation is filed to challenge either the certification of the EIR and/or the Project Approvals granted by the City of Lodi, and (ii) no referendum petition is certified for election that would require Ordinance No. 1785, approving this Development Agreement, to be affirmed by the voters. Should said litigation be filed or said referendum petition be certified for election, all remaining provisions of the Settlement Agreement, except those enumerated in the above paragraph, shall no longer be effective or enforceable against the Settlement Parties. | | | | | |
| 6.5 Annexation | | | | | |
| The ability to proceed with development of the Property pursuant to the Project Approvals shall be contingent upon the annexation of the Property into the City. Pending such annexation, Landowner may, at its own risk, process tentative parcel maps and tentative subdivision maps and improvement or construction plans and City may conditionally approve such tentative maps and/or improvement plans in accordance with the Entitlements, provided City shall not approve any final parcel map or final subdivision map for recordation nor approve the issuance of any grading permit for grading any portion of the Property or building permit for any structure within the Property prior to the annexation of the Property to the City. | | | | | |

# DA Annual Progress Report for Reynolds Ranch

| Development Agreement Obligations | 2007 | 2008 | 2009 | 2010 | 2011 |
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| City shall use its best efforts and due diligence to initiate such annexation process, obtain the necessary approvals and consummate the annexation of the Property into the City, including entering into any annexation agreement that may be required in relation thereto, subject to the City's review and approval of the terms thereof. Landowner shall be responsible for the costs reasonably and directly incurred by the City to initiate, process and consummate such annexation, the payment of which shall be due in advance, based on the City's estimate of such cost, and thereafter as and when the City provides an invoice(s) for additional costs incurred by City therefore in excess of such estimate. | | | | | |
| 7. Applicable Rules, Regulations, Fees and Official Policies. | | | | | |
| 7.1. Rules Regarding Permitted Uses Except as provided in this Agreement, the City's ordinances, resolutions, rules, regulations and official policies governing the permitted uses of the Property, the density and intensity of use, the rate timing and sequencing of development, the maximum height and size of proposed buildings, and provisions for reservation and dedication of land shall be those in force on the Effective Date of this Agreement. Except as provided in Section 8.2, this Agreement does not vest Landowner's rights to pay development impact fees, exactions and dedications, processing fees, inspection fees, plan checking fees or charges. | | | | | |
| 7.2. Rules Regarding Design and Construction. Unless otherwise expressly provided in this Agreement, all other ordinances, resolutions, rules, regulations and official policies governing design, improvement and construction standards and specifications applicable to the Project and to public improvements to be constructed by the Landowner shall be those in force and effect at the time the applicable permit approval is granted. | | | | | |
| 7.3. Changes in State or Federal Law. This Agreement shall not preclude the application to development of the Property of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or Federal laws or regulations. | | | | | |
| 7.4. Uniform Codes Applicable. Unless otherwise expressly provided in this Agreement, the Project shall be constructed in accordance with the provisions of the Uniform Building, Mechanical, Plumbing, Electrical and Fire Codes, City standard construction specifications, and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the time of approval of the appropriate building, grading, encroachment or other construction permits for the Project. If no permits are required for infrastructure improvements, such improvements will be constructed in accordance with the provisions of the Uniform Building, Mechanical, Plumbing, Electrical and Fire Codes, City standard construction specifications, and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the start of construction of such infrastructure. | | | | | |
| 8. Existing Fees, Newly Enacted Fees, Dedications, Assessments and Taxes. | | | | | |
| 8.1. Processing Fees and Charges. Landowner shall pay those processing, inspection, and plan check fees and charges required by City under then current regulations for processing applications and requests for permits, approvals and other actions, and monitoring compliance with any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of Landowner hereunder. | | | | | |
| 8.2. Existing Fees, Exactions and Dedications Landowner shall be obligated to provide all dedications and exactions and pay all fees as required for the types of development authorized by the Project Approvals as of the Effective Date of this Agreement. With regards any fees applicable to residential development, the Parties agree that the fees shall be payable at the earliest time authorized pursuant to the Government Code Section 66007 as it exists as of the Effective Date of this Agreement. The specific categories of fees payable are listed below. The dedication and exaction obligations and fee amounts payable shall be those obligations and fee amounts applicable as of the date that the Landowner's application for the applicable vesting tentative map is deemed complete. For any development for which the Landowner has not submitted a vesting tentative map, the dedication and exaction obligations and fee amounts payable shall be those obligations and fee amounts applicable as of the date the final discretionary approval for that development is granted by the City. | | | | | |
| Standard City Development Impact Fees Payable by the Landowner includes: | | | | | |
| 1. Development Impact Fees (Lodi Municipal Code Chapter 15.64) | | | | | |
| 2. San Joaquin County Regional Transportation Impact Fee (Lodi Municipal Code Chapter 15.65 | | | | | |
| 3. County Facilities Fee (Lodi Municipal Code Chapter 15.66) | | | | | |
| 4. San Joaquin County Multi-Species Habitat Conservation and Open Space Development Fee (Lodi Municipal Code Chapter 15.68) | | | | | |
| 8.3. New Development Impact Fees, Exactions and Dedications. Landowner agrees to the pay the development fees identified in Section 6.1, including specifically subsections 6.1.1 through 6.1.4, of this Agreement. In addition, Landowner agrees to pay any newly adopted sewer, water or electrical fees adopted in conformance with applicable law, and applied uniformly to new development on all properties within the City that are zoned consistent with the Project Approvals, or applied uniformly to all new development on properties that are similarly situated, whether by geographic location or other distinguishing circumstances. With regards any fees applicable to residential development, the Parties agree that the fees shall be payable at the earliest time authorized pursuant to the Government Code Section 66007 as it exists as of the Effective Date of this Agreement. | | | | | |
| Except as expressly provided herein, Landowner shall not be obligated to pay or provide any development impact fees, connection or mitigation fees, or exactions adopted by City after the Effective Date of this Agreement. Notwithstanding this limitation, Landowner may at its sole discretion elect to pay or provide any fee or exaction adopted after the Effective Date of this Agreement. | | | | | |

# DA Annual Progress Report for Reynolds Ranch

| Development Agreement Obligations | 2007 | 2008 | 2009 | 2010 | 2011 |
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| 8.4. Fee Reductions To the extent that any fees payable pursuant to the requirements of Sections 8.1 are reduced after the operative date for determining the fee has occurred, the Landowner shall pay the reduced fee amount. | | | | | |
| 9. Community Facilities District. Formation of a Community Facilities District for Public Improvements and Services. | | | | | |
| 9.1. Inclusion in a Community Facilities District. Landowner agrees to cooperate in the formation of a Community Facilities District pursuant to Government Code Section 53311 et seq. to be formed by the City. The boundaries of the area of Community Facilities District shall be contiguous with the boundaries of the Property excluding the portion of land zoned for commercial or office development. Landowner agrees not to protest said district formation and agrees to vote in favor of levying a special tax on the Property in an amount not to exceed $600 per year per residential dwelling unit as adjusted herein. The special tax shall be initiated for all residential dwelling units for which a building permit is issued, and shall commence to be levied beginning the subsequent fiscal year after the building permit is issued. Landowner acknowledges that the 2007-2008 special tax rate for the units in the Project will be $600 per dwelling unit and that the special tax shall increase each year by 2% in perpetuity. A vote by Landowner against the levying of the special tax or a vote to repeal or amend the special tax shall constitute an event of default under this Agreement. | SJVLC has been cooperating per this Section 9.1 in the formation of the CFD and inclusion of the Reynolds Ranch parcels as described within the DA. | | | | |
| 9.2. Use of Community Facilities District Revenues Landowner and City agree that the improvements and services that may be provided with the special tax levied pursuant to Section 9.1 may be used for the following improvements and services: | | | | | |
| a. Police protection and criminal justice services; | | | | | |
| b. Fire protection, suppression, paramedic and ambulance services; | | | | | |
| c. Recreation and library program services; | | | | | |
| d. Operation and maintenance of museums and cultural facilities; | | | | | |
| e. Maintenance of park, parkways and open space areas dedicated to the City; | | | | | |
| f. Flood and storm protection services; | | | | | |
| g. Improvement, rehabilitation or maintenance of any real or personal property that has been contaminated by hazardous substances; | | | | | |
| h. Purchase, construction, expansion, improvement, or rehabilitation or any real or tangible property with useful life of more than five years; and, | | | | | |
| i. Design, engineering, acquisition or construction of public facilities with a useful life of more that five years including: | | | | | |
| 1. Local park, recreation, parkway and open-space facilities, | | | | | |
| 2. Libraries, | | | | | |
| 3. Childcare facilities, | | | | | |
| 4. Water transmission and distribution facilities, natural gas, telephone, energy and cable television lines, and | | | | | |
| 5. Government facilities. | | | | | |
| Landowner and City agree that Property does not presently receive any of these services from the City and that all of these services are new services. | | | | | |
| 9.3. Community Facilities District for Residential Property - Financing. In addition to the funding provided as part of the Community Facilities District identified in Section 9.1, City acknowledges that Landowner may desire to finance the acquisition or construction of a portion of the improvements described in Section 8.2 through the Community Facilities District. The costs associated with the items identified in Section 8.2 shall be in addition to the annual cost imposed to comply with Section 9.1. The following provisions shall apply to any to the extent that the Landowner desires to fund any of the improvements set forth in Section 8.2 through the Community Facilities District: | | | | | |
| 9.3.1 Issuance of Bonds. City and Landowner agree that, with the consent of Landowner, and to the extent permitted by law, City and Landowner shall use their best efforts to cause bonds to be issued in amounts sufficient to achieve the purposes of this Section. | | | | | |
| 9.3.2 Payment Prior to Issuance of Bonds. Nothing in this Agreement shall be construed to preclude the payment by an owner of any of the parcels to be included within the CFD of a cash amount equivalent to its proportionate share of costs for the improvements identified in Section 8.2, or any portion thereof, prior to the issuance of bonds. | | | | | |
| 9.3.3 Private Financing. Nothing in this Agreement shall be construed to limit Landowner's option to install the improvements through the use of private financing. | | | | | |
| 9.3.4 Acquisition and Payment. City agrees that it shall use its best efforts to allow and facilitate monthly acquisition o completed improvements or completed portions thereof, and monthly payment of appropriate amounts for such improvements to the person or entity constructing improvements or portions thereof, provided City shall only be obligated to use CFD bond or tax proceeds for such acquisitions. | | | | | |
| 10. Processing of Subsequent Development Applications and Building Permits Subject to Landowner's compliance with the City's application requirements including, specifically, submission of required information and payment of appropriate fees, and assuming Landowner is not in default under the terms and conditions of this Agreement, the City shall process Landowner's subsequent development applications and building permit requests in an expeditious manner. In addition, City agrees that upon payment of any required City fees or costs, City will designate or retain, as necessary, appropriate personnel and consultants to process Landowner's development applications and building permit requests City approvals in an expeditious manner. | No action has been taken as of this date relative to this Section 9.3 by SJVLC. | | | | |