

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

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Attn: Stanley W. Lamport, Esq.

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DEVELOPMENT AGREEMENT

BY AND BETWEEN

SANTA BARBARA COUNTY

AND

VINTAGE COMMUNITIES, INC.; SANTA BARBARA RANCH, LLC;
VINTAGE VINEYARDS, LLC; OSGOOD FARMS, LLC; MATTHEW K. OSGOOD;
DLC RANCH, LLC; TW FAMILY FARM, LLC

(INLAND ENTITLEMENTS)

DEVELOPMENT AGREEMENT

HIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into and executed as of October 21, 2008 (the "Execution Date") by and between Vintage Communities, Inc., Santa Barbara Ranch, LLC, Vintage Vineyards, LLC, Osgood Farms, LLC; Matthew K. Osgood, DLC Ranch, LLC, TW Family Farm, LLC (collectively, "Developer"), and the County of Santa Barbara ("County"), pursuant to California Government Code § 65864 et seq.

RECITALS

This Agreement is made and entered into on the basis of the following facts and understandings of the parties hereto:

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California enacted California Government Code § 65864 et seq. (the "Development Agreement Statute"), which authorizes County to enter into an agreement with any person having a legal or equitable interest in real property regarding the development of such property.

B. This Agreement has been processed, considered and executed in accordance with the Development Agreement Statute.

C. Developer has a legal interest in certain real property consisting of approximately sixty-three (63) acres located outside the coastal zone in unincorporated Santa Barbara County, commonly known as Santa Barbara Ranch, as more particularly described in Exhibit A-1 attached hereto, and as depicted in Exhibit A-2 attached hereto (the "SBR Inland Site"). In addition, Developer has acquired an interest in portions of adjacent land commonly known as Dos Pueblos Ranch and has obtained the participation of the owners of certain portions of Dos Pueblos Ranch collectively described in Exhibit A-3 attached hereto, and as depicted in Exhibit A-4 attached hereto ("DPR Inland Site"). The SBR Inland Site and the DPR Inland Site are collectively referred to as the "Inland Project Site".

D. Developer and County have previously entered into that certain Memorandum of Understanding dated as of December 3, 2002 (the "MOU"), which provides a protocol for the processing of entitlements on portions of the SBR Inland Site. A copy of the MOU is set forth in Exhibit B attached hereto. Nothing in this Agreement shall supercede the MOU, or any amendment thereto, except as expressly set forth herein.

E. Developer intends to develop a residential community of ten (10) new rural estate residences and related improvements on the SBR Inland Site and cause the DPR Inland Site to be developed with forty (40) new rural estate residential lots and one (1) new agricultural lot and related improvements. The foregoing development on the SBR Inland Site and the DPR Inland Site is collectively referred to as the "Inland

Project", as described more fully in the Inland Project Approvals (defined below). Developer intends to cause the one residential lot and related improvements to be developed on Dos Pueblos Ranch land south of Highway 101 that is not in the coastal zone. ("DPR Inland Project"). The Agreement shall not apply to the DPR Coastal Project, except with respect to provisions herein that specifically reference the DPR Coastal Project.

F. This Agreement is intended and was written to provide that Developer will have a full and vested right to develop, use and operate the Inland Project and the Inland Project Site as set forth herein, and the rights and obligations of the parties to the Agreement shall be construed and interpreted in such a manner as shall give full effect to such purpose.

G. County has taken several actions to review and plan for the future development of the Inland Project, which, collectively, are referred to herein as the "Inland Project Approvals", which are set forth in Exhibit C attached hereto.

H. Environmental Impact Report. The environmental impacts of the Inland Project, including the Inland Project Approvals and the Subsequent Inland Project Approvals (defined below), have properly been reviewed and assessed by County pursuant to the California Environmental Quality Act, Public Resources Code Section 21000 et seq.; California Code of Regulations Title 14, Section 15000 et seq. (the "CEQA Guidelines"); and County's local guidelines promulgated thereunder (hereinafter collectively referred to as "CEQA"). On October 21, 2008 pursuant to CEQA and in accordance with the recommendation of the Planning Commission for the County of Santa Barbara (the "Planning Commission"), the County Board of Supervisors certified a final environmental impact report covering the Inland Project (the "EIR"). As required by CEQA, the County adopted written findings and a mitigation monitoring program (the "Mitigation Monitoring Program") prior to approving the Inland Project Approvals.

I. County has determined that the Inland Project presents certain public benefits and opportunities which are advanced by County and Developer entering into this Agreement. The Inland Project Approvals will (i) reduce the overall development potential of legal lots within the Naples townsite, the development of which would result in a density of development that would be incompatible with rural character of the area, (ii) will result in development that is less visible from the Highway 101 corridor than could be achieved under the existing lot configuration on the SBR Inland Site, (iii) allow the County to manage the environmental resources on the Inland Project Site in a manner that could not be achieved if the existing lots on the SBR Inland Site are developed individually, (iv) result in the long term preservation of agricultural land on the Inland Project Site and eliminate potential for further development on the DPR Inland Site that might otherwise result if the existing lots on the SBR Inland Site are developed individually, (v) provide for package sewer treatment of wastewater in lieu of individual septic systems, with water reclamation, in furtherance of groundwater quality and water conservation objectives and (vi) otherwise achieve the goals and purposes for which the Development Agreement Statute was enacted.

J. In exchange for the benefits to County described in the preceding Recital, together with the other public benefits that will result from the development of the Inland Project, Developer will receive by this Agreement specific assurances that it may proceed with the Inland Project in accordance with the Applicable Law (defined below), and therefore desires to enter into this Agreement.

K. The County Board of Supervisors, after conducting a duly noticed public hearing, has found that this Agreement is consistent with the Comprehensive Plan and has conducted all necessary proceedings in accordance with the Development Agreement Statute.

L. On August 20, 2008, following a duly noticed public hearing, the Planning Commission adopted Resolution No. 08-07, recommending that the County Board of Supervisors approve this Agreement. Following County Board of Supervisors certification of the EIR and adoption or approval of the Inland Project Approvals, the County Board of Supervisors at a duly noticed public hearing adopted Ordinance No. 4694, approving and authorizing the execution of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto hereby agree as follows:

AGREEMENT

ARTICLE 1. EFFECTIVE DATE AND TERM

Section 1.01. Effective Date. This Agreement shall become effective upon the date the ordinance approving this Agreement becomes effective (the "Effective Date").

Section 1.02. Term. The term of this Agreement (the "Term") shall commence upon the Effective Date and continue for a period of twenty (20) years and such additional time as provided in Section 6.03 of this Agreement.

ARTICLE 2. OBLIGATIONS OF DEVELOPER

Section 2.01. Obligations of Developer. Developer agrees that development of the Inland Project pursuant to and under the auspices of the Inland Project Approvals and Subsequent Inland Approvals shall proceed in accordance with the conditions of such approvals, subject to the requirements of the MOU. Notwithstanding the foregoing, subject to the requirements of the MOU, Developer shall have no obligation to use or do any construction under an Inland Project Approval or Subsequent Inland Approval, except to the extent required by the conditions of an Inland Project Approval or Subsequent Inland Approval.

Section 2.02. Public Benefits In consideration of the County's obligations set forth in this Agreement and the benefits which accrue to the Developer, the Developer shall provide the following:

- (a) Creek Corridor, Open Space and Watershed Protection. Within sixty (60) days after the execution of this Agreement, or such additional time as the Director of Planning may grant, Developer shall pay the sum of one hundred thousand dollars (\$100,000) to a non-profit conservation organization of Developer's choice to initiate planning to enhance areas of natural, scenic, wildlife, biological, open space, and drainage corridors within Dos Pueblos Creek consistent with ongoing agricultural use on lands within the Dos Pueblos Creek drainage ("Creek Restoration Plan"). The non-profit conservation organization shall be fully independent of the Developer, shall be fully qualified and experienced in conserving open space and/or natural resources, shall use its best faith efforts to complete a Creek Restoration Plan within one (1) year after the Effective Date of this Agreement and the Developer shall offer all reasonable assistance to accomplish this outcome. Prior to commencement of grading or construction of the Inland Project, Developer shall pay the sum of three hundred thousand dollars (\$300,000) to a non-profit conservation organization of Developer's choice to be used to implement the Creek Restoration Plan. The non-profit conservation organization shall use its best faith efforts to fully implement the Creek Restoration Plan within three (3) years of after the Effective Date of this Agreement, and the Developer shall offer all reasonable assistance to accomplish this outcome. Implementation of the Creek Restoration Plan shall be subject to and shall not occur until (i) the approval and permitting of the Creek Restoration Plan by governmental agencies as required by law, (ii) final approval and recordation of an Agricultural Conservation Easement from the California Department of Conservation with respect to the Inland Project Site, (iii) withdrawal of the Notice of Violation issued by the California Department of Fish & Game and the claims asserted in that notice, and (iv) consent of Dos Pueblos Ranch with respect to the activities that occur on Dos Pueblos Ranch. Developer shall condition the payment of the foregoing sums to the non-profit organization to require the non-profit organization to: (i) expend the funds for creek restoration elsewhere on the Gaviota Coast in the event that the Creek Restoration Plan is not implemented within five (5) years of the Effective Date for any reason, (ii) obtain the County's written consent as to the alternative creek restoration project prior to expending said funds, and (iii) complete the alternative creek restoration project with seven (7) years of the Effective Date. The expressed intent of this subsection and the Developer's obligation hereunder is to initiate planning and restoration efforts with the expectation that the Developer's financial contribution will be used to attract other resources to complete the Creek Restoration Plan.

- (b) Cultural Resource Mitigation. Division 13, Chapter 2.6, Section 21083.2 of the California Public Resources Code places limits on the amount of funds required by an applicant to mitigate disturbances to culturally significant resources. In the event that the culturally significant resources are encountered during construction of the Inland Project pursuant to the Inland Project Approvals and required mitigation exceeds the thresholds prescribed in the California Public Resources Code, the Developer agrees to either:
- (i) mitigate all impacts regardless of cost; or (ii) avoid the impact through other means acceptable to the County.

ARTICLE 3. RULES, REGULATIONS AND POLICIES APPLICABLE TO THE INLAND PROJECT

Section 3.01. Vested Right to Develop. Unless otherwise provided by this Agreement, rules, regulations, and official policies governing permitted-uses of the land, governing density, and governing design, improvement, and construction standards and specifications, applicable to development of the Inland Project shall be those rules, regulations, and official policies, as specified in Section 3.02 in force on the Execution Date ("Applicable Law"). This Agreement shall not prevent the County, in subsequent actions applicable to the Inland Project ("Subsequent Inland Approvals") from (i) applying new rules, regulations, and policies which do not conflict with Applicable Law ("Subsequent Applicable Law"), or (ii) denying or conditionally approving any subsequent development project application on the basis of Applicable Law or Subsequent Applicable Law.

Section 3.02. Applicable Law. Applicable Law consists of the rules, regulations and official policies governing permitted uses of the land, governing density and governing design, improvement and construction standards and specifications, in force and effect on the Execution Date. Applicable Law includes (i) those rules, regulations, official policies, standards and specifications set forth in this Agreement, the MOU, and the Inland Project Approvals, (ii) the Naples Town Site District ("NTS") zone designation, as set forth in Exhibit D, with respect to those areas of the Inland Project Site so zoned and the zoning in force and effect on the Execution Date, as set forth in Exhibit E, with respect to those areas of the Inland Project Site not zoned NTS, and (iii) those codes, rules, regulations, official policies, standards and specifications (including County ordinances and resolutions) in force and effect on the Execution Date that establish, govern or pertain to fees, exactions, assessments and taxes applicable to the Inland Project or the Inland Project Site, provided that the amount of any fees applicable to the Inland Project shall be calculated according to fee schedules in effect on the at the time the fee is levied or imposed.

Section 3.03. Limitations on Subsequent Applicable Law. "Subsequent Applicable Law" does not include any ordinance, resolution, rule, regulation, standard, directive, condition or other measure, whether enacted by the County Board of

Supervisors or by initiative, referendum or other means ("County Law"), which prevent development of the Inland Project for the uses and to the density or intensity of development allowed by the Project Approvals or would conflict or be inconsistent with the terms of this Agreement. To the maximum extent permitted by law, County shall prevent any County Law from invalidating or prevailing over all or any part of this Agreement, and County shall cooperate with Developer and shall undertake such actions as may be necessary to ensure that this Agreement remains in full force and effect.

Section 3.04. State and Federal Law. As provided in California Government Code § 65869.5, this Agreement shall not preclude the application to the Inland Project of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in state or federal laws or regulations ("Changes in the Law"). In the event Changes in the Law prevent or preclude compliance with one or more provisions of this Agreement, such provisions of the Agreement shall be modified or suspended, or performance thereof delayed, as may be necessary to comply with Changes in the Law, and County and Developer shall take such action as may be required pursuant to this Agreement including, without limitation, Articles 4 and 5 and Section 10.06 (Enforced Delay; Extension of Time of Performance). Not in limitation of the foregoing, nothing in this Agreement shall preclude County from imposing on Developer any fee specifically mandated and required by state or federal laws and regulations.

Section 3.05. Exempting Fees Imposed by Outside Agencies. The County agrees to exclude Developer from any and all collection agreements regarding fees, including, but not limited to, development impact fees, which other public agencies request the County to impose at County's discretion on the Inland Project or the Inland Project Site after the Effective Date through the Term of this Agreement. This section shall not prohibit the County from imposing on Developer any fee or obligation that is imposed by a regional agency in accordance with state or federal obligations and implemented by the County in cooperation with such regional agency.

ARTICLE 4. PERMITTED USES AND DEVELOPMENT STANDARDS

Section 4.01. Permitted Land Use and Development Standards. The permitted uses of the Inland Project Site; the density and intensity of use of the Inland Project Site; the maximum height, bulk and size of proposed buildings; provisions for reservation or dedication of land for public purposes and the location of public improvements; the general location of public utilities; and other terms and conditions of development applicable to the Inland Project are set forth in (i) the Inland Project Approvals contained in Exhibit "C" and incorporated herein by reference, (ii) Subsequent Inland Approvals at such time as they are approved by County, and (iii) Applicable Law, as defined in Section 3.02.

Section 4.02. Timing of Inland Project Construction and Completion.

- (a) Notwithstanding any provision of this Agreement, County and Developer expressly agree that there is no requirement, other than as set forth in the MOU, that Developer initiate or complete development of the Inland Project or any particular portion or phase of the Inland Project within any particular period of time, and County shall not impose such a requirement on any Inland Project Approval or Subsequent Inland Approval. The parties acknowledge that Developer cannot at this time predict when or the rate at which or the order in which the Inland Project will be developed. Such decisions depend upon numerous factors which are not within the control of Developer, such as market orientation and demand, interest rates, competition and other similar factors.
- (b) In light of the foregoing, the parties agree that Developer shall be able to develop in accordance with Developer's own time schedule as such schedule may exist from time to time; and Developer shall determine which part of the Inland Project to develop first, and at Developer's chosen schedule. In particular, and not in limitation of any of the foregoing, since the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' desire to avoid that result by acknowledging that Developer shall have the right to develop the Inland Project in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment.
- (c) In furtherance of the foregoing, no moratorium or other limitation on Developer's ability to commence construction of the Inland Project in accordance with Applicable Law shall apply to the Inland Project.

Section 4.03. Other Government Permits. At Developer's sole discretion and in accordance with Developer's construction schedule, Developer shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental entities in connection with the development of, or the provision of services to, the Inland Project. County shall cooperate with Developer in its efforts to obtain such permits and approvals and shall, from time to time at the request of Developer, make reasonable efforts to enter into binding agreements with any such entity as may be necessary to ensure the timely availability of such permits and approvals. Developer shall reimburse County all reasonable expense incurred by County as a result of County's compliance with this Section 4.03.

Section 4.04. Developer's Right to Rebuild. County agrees that Developer may renovate or rebuild the Inland Project within the Term of this Agreement should

it become necessary due to natural disaster, changes in seismic requirements, or should the buildings located within the Inland Project become functionally outdated, within Developer's sole discretion, due to changes in technology. Any such renovation or rebuilding shall comply with Applicable Law and Subsequent Applicable Law, as well as the requirements of CEQA and the County's current regulations governing reconstruction set forth in Exhibit F.

ARTICLE 5. SUBSEQUENT INLAND APPROVALS AND OTHER PERMITS

Section 5.01. Subsequent Inland Approvals Defined: "Subsequent Inland Approvals" means subsequent discretionary or ministerial actions applicable to the Inland Project, including, land use approvals, entitlements, and permits that carry out or implement the Inland Project Approvals. "Subsequent Inland Approvals" expressly includes, but is not limited to: (i) approval of final plans, subdivision maps, engineering details, and related documents necessary to satisfy conditions of project approval and obtain construction permits; (ii) approval and issuance of zoning clearances and land use permits (if any are required) to evidence compliance with conditions of project approval; and (iii) formation of a community services district or other mechanism to fund the operation and maintenance of an on-site waste treatment system or for other purposes as requested by Developer. "Subsequent Inland Approvals" shall not include an application for a new project that does not carry out or implement the Inland Project Approvals even if related to the Inland Project ("Other Application"). This Agreement shall not prevent the County from denying or conditionally approving Other Applications on the basis of the rules, regulations and policies in effect at the time of such denial or conditional approval of the Other Application.

Section 5.02. Processing Approvals for Subsequent Inland Approvals. Upon submission by Developer of all appropriate applications and processing fees for any Subsequent Inland Approval, County shall promptly and diligently commence and complete all steps necessary to act on the Subsequent Inland Approval application including, without limitation, (i) providing at Developer's expense and subject to Developer's request and prior approval, reasonable overtime staff assistance and/or staff consultants for planning and processing of each Subsequent Inland Approval application; (ii) if legally required, providing notice and holding public hearings; and (iii) acting on any such Subsequent Inland Approval application. County shall ensure that adequate staff is available to timely process such Subsequent Inland Approval application.

Section 5.03. County Review of Subsequent Inland Approvals. In accordance with Section 3.01, the County shall apply only Applicable Law and Subsequent Applicable Law in its review of and decision on an application for a Subsequent Inland Approval. The County shall not deny a Subsequent Inland Approval except on grounds provided by Applicable Law and Subsequent Applicable Law. The County shall not (i) deny a Subsequent Inland Approval, if such denial would conflict with the Inland Project Approvals or would prevent development

of the Inland Project Site for the uses and to the density or intensity of development set forth in the Project Approvals or (ii) impose any condition, term, restriction or requirement on a Subsequent Inland Approval that would conflict with the Inland Project Approvals or would prevent development of the Inland Project Site for the uses and to the density or intensity of development set forth in the Project Approvals.

Section 5.04. Financing of Waste Treatment Systems. It is specifically contemplated that Developer will apply for and County shall form a community facilities district or other mechanism to fund the operation and maintenance of an on-site waste treatment facility through assessments on individual residential lots on the Inland Project Site. County shall cooperate in the formation of such community facilities districts or other mechanism in accordance with the preceding section and if the districts determine so, the County shall allow such entity to contract with a private operator to operator and maintain the on-site waste treatment system, as is permitted by Applicable Law or Subsequent Applicable Law. In the event that the County fails or refuses to form such community facilities district or other mechanism to fund the operation and maintenance of the on-site waste treatment facility, Developer may provide for such funding through private assessments imposed by a homeowners association or through other means. Developer shall bear all reasonable costs associated with County's formation of a community facilities district or other funding mechanism.

ARTICLE 6. EXPIRATION OF PERMITS AND APPROVALS

Section 6.01. Life of Subdivision Maps, Development Approvals, and Permits. The term of any tentative subdivision map or any other map, vesting period for any final subdivision map, permit, rezoning or other land use entitlement approved as a Inland Project Approval or Subsequent Inland Approval shall be extended automatically for the duration of this Agreement (including any extensions).

Section 6.02. Expiration on Termination of this Agreement. In the event that this Agreement is terminated prior to the expiration of the Term of the Agreement, the term of any tentative subdivision map or any other map, vesting period for any final subdivision map, permit, rezoning or other land use entitlement approved as a Inland Project Approval or Subsequent Inland Approval shall be the term otherwise applicable to the approval which shall commence to run on the date that the termination of this Agreement takes effect (including any extensions).

Section 6.03. Tolling of Expiration. The term of this Agreement and any tentative subdivision map or any other map, vesting period for any final subdivision map, permit, rezoning or other land use entitlement approved as a Inland Project Approval or Subsequent Inland Approval shall not include any period of time during which a development moratorium is in effect. For purposes of this

Agreement a development moratorium shall be deemed to exist (i) during the period that any action or inaction by County or other public agency that regulates land use, development or the provision of services to the land prevents, prohibits or delays the use of the approval or the construction of the Inland Project or (ii) during the period that any lawsuit is pending concerning this Agreement, any Inland Project Approval or any Subsequent Inland Approval.

ARTICLE 7. AMENDMENTS

Section 7.01. Amendment of Project Approvals. Any Inland Project Approval or Subsequent Inland Approval may, from time to time, be amended or modified in accordance with the terms of the Inland Project Approvals, Subsequent Inland Approvals and Applicable Law.

Section 7.02. Amendment of This Agreement. This Agreement may be amended, or canceled in whole or in part, by mutual consent of Developer and County or their successors in interest to the extent provided in Government Code §65868 and subject to the provisions of Government Code §65867.5. Notice of intention to amend or cancel any portion of this Agreement shall be given in the manner provided by Government Code §65867. No amendment of an Inland Project Approval or Subsequent Inland Approval shall require an amendment to this Agreement. Instead, any such matter automatically shall be deemed to be incorporated into the Inland Project and vested under this Agreement.

ARTICLE 8. ASSIGNMENT, TRANSFER AND NOTICE

Section 8.01. Assignment of Interests, Rights and Obligations. Developer may transfer or assign all or any portion of its interests, rights or obligations under this Agreement, the Inland Project Approvals or Subsequent Inland Approvals to third parties acquiring an interest or estate in the Inland Project or the Inland Project Site or any portion thereof including, without limitation, purchasers or ground lessees of lots, parcels or facilities.

Section 8.02. Transfer Agreements.

- (a) In connection with the transfer or assignment by Developer of all or any portion of the Inland Project or Inland Project Site (other than a transfer or assignment by Developer to an affiliated party, a holder of a mortgage, deed of trust, or similar security interest, or a Non-Assuming Transferee (as defined below)), Developer and the transferee shall enter into a written agreement (a "Transfer Agreement") regarding the respective interests, rights and obligations of Developer and the transferee in and under this Agreement, the Inland Project Approvals, and the Subsequent Inland Approvals. Such Transfer Agreement may (i) release Developer from obligations under the Agreement, the Inland Project Approvals, or the Subsequent Inland Approvals that pertain to that portion of the Inland Project or Inland Project Site being transferred, as described in the Transfer

Agreement, provided that the transferee expressly assumes such obligations, (ii) transfer to the transferee vested rights to improve that portion of the Inland Project or Inland Project Site being transferred and (iii) address any other matter deemed by Developer to be necessary or appropriate in connection with the transfer or assignment.

- (b) Developer shall seek County's prior written consent to any Transfer Agreement, which consent shall not be unreasonably withheld or delayed. Failure by County to respond within forty-five (45) days to any request made by Developer for such consent shall be deemed to be County's approval of the Transfer Agreement in question. County may refuse to give its consent only if, in light of the proposed transferee's reputation and financial resources, such transferee would not in County's reasonable opinion be able to perform the obligations proposed to be assumed by such transferee. Such determination shall be made by the Director of Planning and Development, and is appealable by Developer to the County Board of Supervisors.
- (c) Any Transfer Agreement shall be binding on Developer, County and the transferee. Upon recordation of any Transfer Agreement in the Official Records of Santa Barbara County, Developer shall automatically be released from those obligations assumed by the transferee therein.
- (d) Developer shall be free from any and all liabilities accruing on or after the date of any assignment or transfer with respect to those obligations assumed by a transferee pursuant to a Transfer Agreement. No breach or default hereunder by any person succeeding to any portion of Developer's obligations under this Agreement shall be attributed to Developer, nor may Developer's rights hereunder be canceled or diminished in any way by any breach or default by any such person.

Section 8.03. Nonassuming Transferees. Except as otherwise required by Developer in Developer's sole discretion, the burdens, obligations and duties of Developer under this Agreement shall terminate with respect to, and neither a Transfer Agreement nor County's consent shall be required, in connection with the transfer of any single parcel or multiple parcels in the Inland Project Site to a third party that Developer elects will not assume Developer's obligations under this Agreement. The transferee in such a transaction and its successors ("Non-Assuming Transferees") shall be deemed to have no obligations under this Agreement, but shall continue to benefit from the vested rights provided by this Agreement for the duration of the Term. Nothing in this section shall exempt any property transferred to a Non-Assuming Transferee from payment of applicable fees and assessments or compliance with applicable conditions of approval. Notwithstanding the foregoing, nothing in this Section 8.03 shall terminate a Non-Assuming Transferee's obligation to comply with the Project Approvals, Applicable Law or Subsequent Applicable Law or the terms of this Agreement as it relates to the use or development of the Inland Project.

Section 8.04. Notice of Compliance Generally. Within forty-five (45) days following any written request which Developer may make from time to time;— County shall execute and deliver to Developer (or to any party requested by Developer) a written “Notice of Compliance,” in recordable form, duly executed and acknowledged by County, which certifies that to County’s knowledge:

- (a) This Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications;
- (b) There are no current uncured defaults under this Agreement or specifying the dates and nature of any such default;
- (c) Any other information reasonably requested by Developer. The failure to deliver such a statement within such time shall constitute a conclusive presumption against County that this Agreement is in full force and effect without modification except as may be represented by the Developer and that there are no uncured defaults in the performance of the Developer, except as may be represented by the Developer. Developer shall have the right at Developer’s sole discretion, to record the Notice of Compliance.
- (d) The Director of Planning and Development is authorized to execute a Notice of Compliance. Developer shall pay County’s reasonable cost of providing a Notice of Compliance.

ARTICLE 9. COOPERATION IN THE EVENT OF LEGAL CHALLENGE

Section 9.01. Defense and Cooperation.

- (a) Third Party Litigation. In the event of any administrative, legal or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of any provision of the Agreement or any Inland Project Approval or Subsequent Inland Approval (“Third Party Litigation”), the parties shall cooperate in defending such action or proceeding and shall proceed in accordance with the terms of the Inland Project Approval or Subsequent Inland Approval with respect to defense of such action or proceeding subject to the conditions set forth herein. To the extent Developer is required to indemnify, and offer to defend with counsel jointly selected by Developer and County with counsel jointly selected by Developer and County, the retention of such counsel shall be subject to the terms and conditions of Section 9.01(c).
- (b) Processing During Litigation. The commencement of any Third Party Litigation shall not delay or stop the development, processing or construction of the Inland Project or the processing or approval of any Subsequent Inland Approval or ministerial act, unless the court issues an order enjoining or otherwise preventing the activity. County shall not

stipulate to the issuance of any such order. Notwithstanding the foregoing, Developer shall have no obligation to proceed with the development, processing or construction of the Inland Project or the processing or approval of any Subsequent Inland Approval or ministerial act while Third Party Litigation is pending.

- (c) Retention of Defense Counsel. Developer shall indemnify, and offer to defend with counsel jointly selected by Developer and County ("County Defense Counsel") and hold harmless County and its officers, employees and agents from and against any and all losses, liabilities, fines, penalties, costs, claims, demands, damages, injuries or judgments arising out of, or resulting from, County's approval of this Agreement or either party's performance pursuant to this Agreement. County Defense Counsel will not disclose to Developer any information confidential to the County, gained during such defense, in any future proceedings where County may be adverse to Developer or Counsel Defense Counsel, including quasi-judicial, administrative proceedings. County further irrevocably agrees not to assert that County Defense Counsel's representation of the County in litigation subject to this Section 9.01(c) is a conflict of interest in any future quasi-judicial, administrative proceeding, where County is a permitting agency, not related to the Inland Project and hereby irrevocably waives any actual or potential conflict of interest under such circumstances. If this Agreement is adjudicated or determined to be invalid or unenforceable, County agrees, subject to all legal requirements, to consider modifications to this Agreement to render it valid and enforceable to the extent permitted by applicable law.
- (d) Survival of Defense and Cooperation Provisions. The parties agree that this Section 9.01 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this section, which shall survive such invalidation, nullification or setting aside.

Section 9.02. Cure; Reapproval.

- (a) If, as a result of any administrative, legal or equitable action or other proceeding as described in Section 9.01, all or any portion of this Agreement, Inland Project Approvals, or Subsequent Inland Approvals are set aside or otherwise made ineffective by any judgment (a "Judgment") in such action or proceeding (based on procedural, substantive or other deficiencies, hereinafter "Deficiencies"), consistent with the terms of the Judgment, the parties shall use their respective best efforts to sustain and reenact or readopt this Agreement, Inland Project Approvals, and/or Subsequent Inland Approvals and DPR Inland Project to the extent necessary to cure the Deficiencies, as follows, unless the Parties mutually agree in writing to act otherwise:

- (i) If any Judgment requires reconsideration or consideration by County of this Agreement, any part of the DPR Inland Project, any Inland Project Approval, or Subsequent Inland Approval, then the County shall consider or reconsider that matter in a manner consistent with the intent of this Agreement. If any such Judgment invalidates or otherwise makes ineffective all or any portion of this Agreement, the DPR Inland Project, the Inland Project Approval, or the Subsequent Inland Approval, then the Parties shall cooperate and shall cure any Deficiencies identified in the Judgment or upon which the Judgment is based in a manner consistent with the intent of this Agreement. County shall then readopt or reenact this Agreement, the DPR Inland Project, the Inland Project the Approval, Subsequent Inland Approval, or any portion thereof, to which the Deficiencies related, consistent with the procedures and time tables set forth in Section 5.6 of the MOU, which shall be deemed to apply to reconsideration or consideration of this Agreement, the DPR Inland Project, the Inland Project Approvals and Subsequent Inland Approvals. Notwithstanding the foregoing, the first public hearing before the Planning Commission, or before the Board of Supervisors if no Planning Commission hearing is required, shall occur no later than six (6) months after the matter is remitted to County.
- (ii) Acting in a manner consistent with the intent of this Agreement includes, but is not limited to, recognizing that the Parties intend that Developer may receive approval for the development of fifty (50) residential lots and related improvements on the Inland Project Site and one (1) residential lot and related improvements on Dos Pueblos Ranch constituting the DPR Inland Project, in substantially the form and location set forth in the Inland Project Approvals or Subsequent Inland Approvals and approvals for the DPR Inland Project and adopting such ordinances, resolutions, and other enactments, as are necessary to readopt or reenact all or any portion of this Agreement, Inland Project Approvals, and/or Subsequent Inland Approvals and approvals for the DPR Inland Project without contravening the Judgment.
- (iii) In the event of a conflict between the provisions of this Section 9.02 and following language in Section 3 of the MOU, the provisions of this Section shall prevail: "The County cannot and does not prejudge or make any commitments regarding ultimate approval of the project application which shall be processed in accordance with all applicable ordinances, resolutions, policies and statutes. Nothing herein shall be deemed to be waiver or infringement of the County's police power nor shall any part or all of this MOU be construed on the part of the County as an obligation to grant any permits, entitlements or approvals."
- (b) The parties agree that this Section 9.02 shall constitute a separate agreement entered into concurrently, and that if any other provision of this Agreement,

or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this section, which shall survive such invalidation, nullification or setting aside.

ARTICLE 10. DEFAULT; REMEDIES; TERMINATION

Section 10.01. Defaults. Any failure by either party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other party (unless such period is extended by mutual written consent), shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence ("Default Notice") shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such thirty (30)-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such thirty (30)-day period. Upon the occurrence of a default under this Agreement, the non-defaulting party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured, then no default shall exist and the noticing party shall take no further action.

Section 10.02. Termination By County. If County elects to consider terminating this Agreement due to a material default of Developer, then County shall give a notice of intent to terminate this Agreement and the matter shall be scheduled for consideration and review by the County Board of Supervisors at a duly noticed and conducted public hearing. Developer shall have the right to offer written and oral evidence prior to or at the time of said public hearings. If the County Board of Supervisors determines that a material default has occurred and is continuing, and elects to terminate this Agreement, such determination shall be set forth in written findings and shall be based on substantial evidence in the record. County shall give written notice of termination of this Agreement to Developer by certified mail and this Agreement shall thereby be terminated sixty (60) days thereafter.

Section 10.03. Termination by Developer. Developer may voluntarily and unilaterally reject and relinquish any rights to or in the Inland Approvals any time prior to the use of any of the Inland Project Approvals or Subsequent Project Approvals and by so doing terminate this Agreement.

Section 10.04. Periodic Review.

- (a) Initiation of Review. The Developer shall contact the Director to initiate the required periodic review no later than sixty (60) days before the expiration of each twelve (12) month period after the execution of this Agreement.

- (b) Conducting the Periodic Review. Throughout the Term of this Agreement, at least ~~once every twelve (12)~~ months following the execution of this Agreement, County shall review the extent of good-faith compliance by Developer with the terms of this Agreement. This review (the "Periodic Review") shall be conducted by the Director of Planning and Development or his/her designee and shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code Section 65865.1.
- (c) Notice. At least ten (10) days prior to the Periodic Review, and in the manner prescribed in Section 12.09 of this Agreement, County shall deposit in the mail to Developer a copy of any staff reports and documents to be used or relied upon in conducting the review and, to the extent practical, related exhibits concerning Developer's performance hereunder. Developer shall be permitted an opportunity to respond to County's evaluation of Developer's performance, either orally at a public hearing or in a written statement, at Developer's election. Such response shall be made to the Director of Planning and Development.
- (d) Good Faith Compliance. During the Periodic Review, the Director of Planning and Development shall review Developer's good-faith compliance with the terms of this Agreement. At the conclusion of the Periodic Review, the Director of Planning and Development shall make written findings and determinations, on the basis of substantial evidence, as to whether or not Developer has complied in good faith with the terms and conditions of this Agreement. If the Director of Planning determines that Developer or its successor-in-interest has not complied with the terms and conditions of the Agreement, such finding shall be based on substantial evidence. The decision of the Director of Planning and Development shall be appealable to the County Board of Supervisors. If the Director of Planning and Development finds and determines that Developer has not complied with such terms and conditions, the Director of Planning and Development may recommend to the County Board of Supervisors that it terminate or modify this Agreement by giving notice of its intention to do so. The costs incurred by County in connection with the Periodic Review process described herein shall be borne by Developer.
- (e) Failure to Properly Conduct Periodic Review. If County fails, during any calendar year, to either (i) conduct the Periodic Review or (ii) notify Developer in writing of County's determination, pursuant to a Periodic Review, as to Developer's compliance with the terms of this Agreement and such failure remains uncured as of December 31 of any year during the term of this Agreement, such failure shall be conclusively deemed an approval by County of Developer's compliance with the terms of this Agreement. Such a failure does not preclude the County from conducting future periodic

reviews or from finding in subsequent years that the Developer has not demonstrated good faith compliance with this agreement.

- (f) Written Notice of Compliance. With respect to any year for which Developer has been determined or deemed to have complied with this Agreement, County shall, within sixty (60) days following request by Developer, provide Developer with a written notice of compliance, in recordable form, duly executed and acknowledged by County. Developer shall have the right, in Developer's sole discretion, to record such notice of compliance.
- (g) Payment of Reasonable Costs. Appropriate fees to cover the County's costs to conduct the periodic reviews shall be collected from Developer, provided that the amount of the fees shall not exceed the reasonable cost of conducting the review.

Section 10.05. Default by County or Developer. In the event County or Developer defaults under the terms of this Agreement, the non-defaulting party shall have all rights and remedies provided herein or under law.

Section 10.06. Enforced Delay; Extension of Time of Performance. In addition to specific provisions of this Agreement, neither party shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities (including new or supplemental environmental regulations), enactment of conflicting state or federal laws or regulations, judicial decisions, or similar basis for excused performance which is not within the reasonable control of the party to be excused. Litigation attacking the validity of this Agreement or any of the Inland Project Approvals or Subsequent Inland Approvals, or any permit, ordinance, entitlement or other action of a governmental agency other than County necessary for the development of the Project pursuant to this Agreement, or Developer's inability to obtain materials, power or public facilities to the Project, shall be deemed to create an excusable delay as to Developer. Upon the request of either party hereto, an extension of time for the performance of any obligation whose performance has been so prevented or delayed will be memorialized in writing. The term of any such extension shall be equal to the period of the excusable delay, or longer, as may be mutually agreed upon.

Section 10.07. Legal Action. Either party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, recover damages for any default, enforce by specific performance the obligations and rights of the parties hereto, or to obtain any remedies consistent with the purpose of this Agreement.

Section 10.08. California Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

Section 10.09. Resolution of Disputes. With regard to any dispute involving development of the Inland Project, the resolution of which is not provided for by this Agreement or Applicable Law, Developer shall, at County's request, meet with County. The parties to any such meetings shall attempt in good faith to resolve any such disputes. Nothing in this Section 10.09 shall in any way be interpreted as requiring that Developer and County and/or County's designee reach agreement with regard to those matters being addressed, nor shall the outcome of these meetings be binding in any way on County or Developer unless expressly agreed to by the parties to such meetings.

Section 10.10. Attorneys' Fees. In any legal action or other proceeding brought by either party to enforce or interpret a provision of this Agreement, the prevailing party is entitled to reasonable attorneys' fees and any other costs incurred in that proceeding in addition to any other relief to which it is entitled.

ARTICLE 11. NO AGENCY, JOINT VENTURE OR PARTNERSHIP

It is specifically understood and agreed to by and between the parties hereto that: (i) the subject development is a private development; (ii) County has no interest or responsibilities for, or duty to, third parties concerning any improvements until such time, and only until such time, that County accepts the same pursuant to the provisions of this Agreement or in connection with the various Inland Project Approvals or Subsequent Inland Approvals; (iii) Developer shall have full power over and exclusive control of the Inland Project herein described, subject only to the limitations and obligations of Developer under this Agreement, the Inland Project Approvals, Subsequent Inland Approvals, and Applicable Law; and (iv) County and Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership between County and Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between County and Developer.

ARTICLE 12. MISCELLANEOUS

Section 12.01. Incorporation of Recitals and Introductory Paragraph. The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

Section 12.02. Enforceability. County and Developer agree that unless this Agreement is amended or terminated pursuant to the provisions of this Agreement, this Agreement shall be enforceable by any party hereto notwithstanding any change enacted or adopted after the Effective Date (whether by ordinance, resolution, initiative, or any other means) in any applicable general plan, specific plan, zoning ordinance, subdivision ordinance, or any other land use ordinance or building ordinance, resolution or other rule, regulation or policy

adopted by County that changes, alters or amends the Applicable Law as provided by California Government Code Section 65866.

Section 12.03. Findings. County hereby finds and determines that execution of this Agreement furthers public health, safety and general welfare and that the provisions of this Agreement are consistent with the Comprehensive Plan.

Section 12.04. Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the parties.

Section 12.05. Other Necessary Acts. Each party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to carry out the Inland Project Approvals, Subsequent Inland Approvals and this Agreement and to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.

Section 12.06. Construction. Each reference in this Agreement to this Agreement or any of the Inland Project Approvals or Subsequent Inland Approvals shall be deemed to refer to the Agreement, Inland Project Approval or Subsequent Inland Approval as it may be amended from time to time, whether or not the particular reference refers to such possible amendment. This Agreement has been reviewed and revised by legal counsel for both County and Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

Section 12.07. Other Miscellaneous Terms. The singular shall include the plural; the masculine gender shall include the feminine; "shall" is mandatory; "may" is permissive. If there is more than one signer of this Agreement, the signer obligations are joint and several.

Section 12.08. Covenants Running with the Land. All of the provisions contained in this Agreement shall be binding upon the parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or a portion of the Inland Project, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, Civil Code Section 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Inland Project, as appropriate, runs with the Inland Project Site and is binding upon the owner of all or a portion of the Inland Project Site and each successive owner during its ownership of such property.

Section 12.09. Notices. Any notice or communication required hereunder between County or Developer must be in writing, and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express or other similar courier promising overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any party hereto may at any time, by giving ten (10) days written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below:

If to County, to: County Executive Officer
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

With Copies to: County Counsel
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

If to Developer, to: Santa Barbara Ranch
Attn: Matt Osgood
18401 Von Karman Ave., Suite #350
Irvine, CA 92612

With Copies to: Stanley W. Lamport
Cox, Castle & Nicholson LLP
2049 Century Park East, Suite 2800
Los Angeles, CA 90067

Section 12.10. Entire Agreement, Counterparts And Exhibits. This Agreement is executed in two (2) duplicate counterparts, each of which is deemed to be an original. This Agreement consists of [] pages and [] exhibits which constitute in full, the final and exclusive understanding and agreement of the parties and supersedes all negotiations or previous agreements of the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate authorities of County and the Developer. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

- (a) Exhibit A-1: Legal Description of SBR Inland Site
- (b) Exhibit A-2: Depiction of SBR Inland Site
- (c) Exhibit A-3: Legal Description of DPR Inland Site
- (d) Exhibit A-4: Depiction of DPR Inland Site
- (e) Exhibit B: MOU
- (f) Exhibit C: Inland Project Approvals
- (g) Exhibit D: Applicable Provisions of the NTS
- (h) Exhibit E: Applicable Zoning Provisions for Inland Project Site not zoned NTS
- (i) Exhibit F: Reconstruction Regulations

Section 12.11. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of County, Developer, and their respective successors and assigns, and no other person or entity shall have any right of action based upon any provision of this Agreement.

Section 12.12. Negation of Agency. County and Developer acknowledge that, in entering into and performing under the agreement, each is acting as an independent entity and not as an agent of the other in any respect. Nothing contained herein or in any document executed in connection herewith shall be construed as making County and Developer joint venturers, partners, or employer/employee.

Section 12.13. Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of the waiver is sought.

Section 12.14. Paragraph Headings. The paragraph headings and section labels contained in this Agreement are for convenience and identification only and shall not be deemed to limit or define the contents to which they relate.

Section 12.15. Recordation Of Development Agreement. Pursuant to California Government Code § 65868.5, no later than ten (10) days after County enters into this Agreement, the County Clerk shall record an executed copy of this Agreement in the Official Records of the County of Santa Barbara.

IN WITNESS WHEREOF, this Agreement has been entered into by and between Developer and County as of the day and year first above written.

[Signatures appear on next page.]

"COUNTY":

COUNTY OF SANTA BARBARA

Date: 10/21/08

By: [Signature]
Salud Carbajal
Chair, County Board of Supervisors

ATTEST:
By: [Signature]
Michael F. Brown
Clerk of the Board

APPROVED AS TO FORM:

By: [Signature]
County Counsel

"DEVELOPER":

NAME OF ENTITY,
a limited liability company
Vintage Communities, Inc.

By: [Signature]
Name: Matthew Osgood
Title: Managing Member

Santa Barbara Ranch, LLC
By: [Signature]
Name: Matthew Osgood
Title: Managing Member

"DEVELOPER":

NAME OF ENTITY,

a _____ limited liability company

Vineyard Vineyards, LLC

By: _____

Name: Matthew Osgood

Title: Managing Member

Osgood Farms, LLC

By: _____

Name: Matthew Osgood

Title: Managing Member

Matthew V. Osgood

By: _____

Name: Matthew Osgood

Title: Managing Member

DLP Ranch, LLC

By: _____

Name: Matthew Osgood

Title: Managing Member

Tx Family Farm, LLC

By: _____

Name: Matthew Osgood

Title: Managing Member

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____