

**Proposed Draft Cooperative Agreement  
University of California, Santa Barbara  
and County of Santa Barbara**

THIS COOPERATIVE AGREEMENT (“Cooperative Agreement”) is entered into as of \_\_\_\_\_, 2006, by and among THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, a California public corporation, on behalf of the University of California, Santa Barbara (the “University”) and the COUNTY OF SANTA BARBARA, a political subdivision of the State of California (the “County”), collectively referred to herein as the “Parties”.

**RECITALS**

**WHEREAS**, the University and the County are governmental agencies with adjacent jurisdictions in the Santa Barbara area of California; and

**WHEREAS**, this Cooperative Agreement is entered into by the Parties in furtherance of the University’s proposed faculty and family student housing projects identified in the *North and West Campuses 2006 Long Range Development Plan Amendment* (“2006 LRDP Amendment”) and associated Notice of Impending Development and Coastal Development Permit (the “2006 NOID and CDP”) for which the University has submitted an application to the California Coastal Commission for approval; and

**WHEREAS**, representatives of the Parties to this Cooperative Agreement have participated in a series of meetings designed to address the interests of each party; and

**WHEREAS**, this Cooperative Agreement will fulfill obligations of the Parties under the Memorandum of Understanding Concerning the Ellwood-Devereux Joint Proposal (“MOU”), approved by University, City of Goleta, and County in February 2003, a true copy of which is attached hereto and incorporated herein by this reference as Exhibit 1; and

**WHEREAS**, the Parties recognize the desirability of maintaining and furthering a cooperative relationship which will be supportive of the planning goals and efforts of the University and County, and believe this Cooperative Agreement is one element in establishing such a relationship; and

**WHEREAS**, the County will fulfill its obligations under the Ellwood-Devereux MOU, including providing affirmative public support for the University’s faculty and family student housing projects to the California Coastal Commission for development that is consistent with the University’s 2006 LRDP Amendment and 2006 NOID and CDP; and

**WHEREAS**, the Parties acknowledge the University's proposed faculty and family student housing projects identified in the 2006 LRDP Amendment and 2006 NOID and CDP are part of the University's overall plans and programs to provide affordable housing to its employees and students in close proximity to the Main Campus, that will also reduce traffic and reduce other impacts on the surrounding community; and

**WHEREAS**, the financial or other obligations of the University under this Cooperative Agreement do not take effect unless and until the 2006 LRDP Amendment and 2006 NOID and CDP are finally approved by the California Coastal Commission, the time within which to bring a legal action challenging the Commission's approval has expired, or in the event litigation is commenced, a final adjudication has been reached upholding the 2006 LRDP Amendment and 2006 NOID and CDP in its entirety, and the Coastal Commission has issued its permits to the University for the projects identified in the 2006 NOID and CDP.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, and agreements contained herein, the Parties hereby covenant, promise and agree as follows:

1. PROJECTS

1.1 The North Parcel Faculty Housing complex will provide up to 172 units with a range of housing types and sizes including: 105 three-story townhomes, 58 two-story townhomes, and nine detached single-family homes, all with an architectural color palate compatible with the neighboring community, and coastal access provided through the project with trails linking to the open space to the south.

1.2 The Sierra Madre Family Student Housing complex will provide up to 151 units in six three-story structures along Storke Road and Whittier Drive east of the Ocean Meadows golf course.

1.3 The County agrees to publicly support the University's faculty and family student housing project application pending before the California Coastal Commission as part of the University's 2006 LRDP Amendment and 2006 NOID and CDP. County support shall include the submission of written or verbal statements of affirmative support for said projects to the Coastal Commission and/or Coastal Commission staff.

2. OPEN SPACE AND SENSITIVE HABITAT

2.1 The University will agree to seek approval of its 2006 LRDP Amendment and 2006 NOID and CDP from the California Coastal Commission, a component of which is the *Ellwood-Devereux Coast Open Space and Habitat Management Plan* (Open Space Plan), which designates the West Campus Bluffs and South Parcel as Nature Parks and as permanent open space, and clusters the faculty and family student housing away from the coast, consistent with the Ellwood-Devereux MOU signed by the Parties.

2.2 As Part of the Open Space Plan component of the 2006 LRDP Amendment, the University proposes to commit up to \$1.46 million dollars in initial improvements to the areas designated as Nature Parks and permanent open space on the West Campus Bluffs and South Parcel, and elsewhere on the North and West Campuses, including coastal access trails and parking, as well as habitat enhancement and restoration that will create new environmentally sensitive habitat area (ESHA) within the Nature Parks. New ESHA will also be created within the Nature Parks with grant and funding from sources other than the University, and from any future mitigation funds the University may provide from as-yet unidentified development projects. It is anticipated that the land area designated as ESHA within the Nature Parks will continue to increase over time until most or all of the Nature Parks are so designated.

2.3 In furtherance of the University's commitment in Sections 2.1 and 2.2 to designate as Nature Parks and preserve as open space the West Campus Bluffs and South Parcel, the County will support the University's application to the California Coastal Commission for approval of the University's 2006 LRDP Amendment and 2006 NOID and CDP. The County acknowledges that if approved by the Coastal Commission, the 2006 LRDP Amendment authorizes the University to implement improvements identified in the Open Space Plan that will protect and enhance natural resources and improve visitor experience. Notwithstanding, the University acknowledges that the County may request the Commission to condition approval of the 2006 LRDP Amendment and 2006 NOID and CDP upon the University's implementation of a mechanism to ensure the protection of the South Parcel Nature Park as open space in perpetuity. Each Party reserves its right to support or challenge such requested condition.

### 3. FUNDING OF IMPROVEMENTS

3.1 Consistent with The Regents of the University of California's Findings certifying the *Faculty and Family Student Housing, Open Space Plan and LRDP Amendment Environmental Impact Report* ("LRDP Amendment EIR"), the University participated in negotiations with the City of Goleta and County to determine the University's "fair share" funding of roadway improvements, pursuant to procedures similar to those described in Government Code 54999 et seq. for contributions to utilities. The University acknowledges that the County has an established mechanism to collect funds from other developers or entities within its jurisdiction that contribute to traffic impacts on the roadways and intersections identified below, and that the County intends to use University "fair share" funding to implement the road or intersection improvements identified below.

3.2 The University's "fair share" commitment of funds identified in Section 3.4 was established through good faith negotiations between the Parties.

3.3 The University "fair share" contribution toward completion of particular road improvement project(s) within the County will serve the University's specific public purposes and mission as an educational and research institution by providing safe, reliable, and expeditious transportation access to the campus, and does not exceed a level that reflects the direct benefits that accrue to the University. University contribution is not a fee.

3.4 For each road segment and intersection identified in the LRDP Amendment EIR, listed below, the Parties agree that the University’s “fair share” commitment toward implementation by the County of the road and intersection improvement projects are as follows, and that implementation of the improvements would increase capacity and/or reduce traffic levels on the identified road segments and/or intersections to acceptable levels of service:

within the County	Total: \$749,193
Los Carneros Road-El Colegio Road intersection	\$ 41,955
El Colegio Road segment, Camino Corto to Stadium Road	\$681,016
Storke Road segment, from El Colegio Road to County limits	\$ 26,222

3.5 Funds identified in Section 3.4 shall be used by the County for improvement projects or programs identified in the LRDP Amendment EIR or with the concurrence of the University, for other projects or programs that are reasonably demonstrated to divert and/or reduce traffic at one or more of the intersections or road segments identified in Section 3.4, above, by amounts equal to or greater than the average daily traffic (ADT) on road segments generated by the University faculty and family student housing projects on those roadways, or by amounts equal to or greater than the peak hour traffic (PHT) at intersections generated by the University housing projects at those intersections, as identified in the LRDP Amendment EIR. To the extent projects or programs other than those identified in the LRDP Amendment EIR are proposed by the County, and concurred with by the University, payment by the University of its fair share towards implementation of said projects will fulfill the University’s mitigation requirement identified in the LRDP Amendment EIR with regard to the intersections and road segments identified in Section 3.4, and nothing in the foregoing would obligate the University to accelerate or supplement its “fair share” funding commitment.

3.6 The University’s “fair share” commitment of funds will be deposited to an interest-bearing Roadway Improvement Projects Account to be established by the University on a proportionate basis (based on 323 units) at the initial sale or initial beneficial occupancy of each completed faculty/staff unit, and the initial beneficial occupancy of each completed student unit as shown in the following table:

	Faculty/Staff/Student Unit
County Share	\$2,319

Within 10 days of receiving notification from the County of intent to implement improvements to roadways or intersections identified in Section 3.4 in a manner consistent with Section 3.5 of this Agreement, the University will transmit a maximum of fifteen percent (15%) of the University’s total fair share of funding for the specified improvement project(s) as identified in Section 3.4 to the County for costs associated with the engineering design and/or right of way acquisition of said improvements. If a notice to proceed with construction of said improvements is not issued by the County within 18 months of receipt of funds for design and/or right of way acquisition of said improvements, County shall reimburse the University Roadway Improvement Projects Account for the total amount withdrawn, plus the amount of interest that would

otherwise have accrued for funds in the Roadway Improvement Projects Account had the funds not been withdrawn from the Account by the County. All remaining funds for construction of said improvements shall be transmitted to the County within 10 days of receipt by the University of the County's notice of intent to proceed with construction on the particular road and intersection improvement project(s). Interest earned by funds in the University Roadway Improvement Projects Account, equal to the University's Short Term Investment Pool (STIP) net yield for all Santa Barbara campus funds, will be retained by the University. The University will provide the County with an annual statement of transaction activity in the Roadway Improvement Projects Account following the close of each July-June fiscal year, until such time that all funds are distributed to the County and the Account balance is zero.

3.7 Implementation of the University's faculty and family student housing projects may be phased over several years, therefore the University's "fair share" funding commitment to each road improvement project will also be adjusted based on the cumulative change in the Engineering News Record Construction Cost Index when payments to the Roadway Improvement Projects Account are made. The cumulative change in the Engineering News Record Construction Cost Index shall be determined by dividing the most recently published monthly Engineering News Record Construction Cost Index by the monthly Engineering News Record Construction Cost Index effective at the time the agreement is executed.

#### 4. PERMIT ISSUANCE

Implementation of the University's faculty and family student housing project application pending before the California Coastal Commission as part of the University's 2006 LRDP Amendment and 2006 NOID and CDP will require primary access and/or emergency access from various County streets and roads, including Storke Road—see Exhibit 2, or other locations as yet unidentified. The University's project will also require primary utilities from various locations within County streets and roads or other locations. The University's project also includes coastal access trails from various locations within the County. The County will provide timely ministerial issuance of any encroachment permits or other related permits or authorizations required for the construction of street frontage, utilities, or coastal access trails improvements—including median improvements and acceleration and deceleration lanes on Storke Road—to accommodate such University development, upon receipt by the County of appropriately completed planning documents and processing applications from the University. Said application shall include street improvement plans identifying all proposed improvements within County road Right of Way. The University intends to enter into a separate agreement to provide an entry road and a coastal access bike path/emergency access way from Storke Road across University property to a proposed 32-unit housing development located on the Ocean Meadows Golf Course (Ocean Meadows Residences), adjacent to the University's family student housing project. If this private development is approved by the County and California Coastal Commission and construction of this private development proceeds in advance of the University's family student housing project and the developer of the Ocean Meadows Residences constructs the access road from Storke Road to the private development, then the County will provide to the developer of the Ocean Meadows Residences timely ministerial issuance of any

encroachment permits or other related permits or authorizations required for the construction of street frontage, utilities, or coastal access improvements—including median improvements and acceleration and deceleration lanes on Storke Road—to accommodate such development of the entry road and coastal access bike path/emergency access way across University property to the private development, upon receipt by the County of appropriately completed planning documents and processing applications from the developer of the Ocean Meadows Residences.

5. MISCELLANEOUS PROVISIONS

The Parties agree that if the Projects referenced in Section 1 of this Cooperative Agreement are modified in any material manner that the terms of this Cooperative Agreement shall be subject to revision at the request of any party hereto.

6. COUNTERPARTS

This Cooperative Agreement may be executed in any number of counterparts, each of which shall constitute a signed original for all purposes.

7. BINDING

The Parties intend that this Cooperative Agreement, and each and every provision hereof, shall be binding and enforceable as to each party in accordance with all of the terms and conditions contained herein.

8. AMENDMENT

Neither this Cooperative Agreement nor any term, provision or condition hereof may be amended and no obligation, duty or liability of any party hereto may be released, discharged or waived except in a writing signed by each party hereto.

9. GOVERNING LAW

This Cooperative Agreement shall be construed and interpreted in accordance with, and governed and enforced in all respects by, the laws of the State of California. The exclusive venue of any suit or action hereunder shall be Santa Barbara County, and any such suit or action shall be commenced and prosecuted only in the California State Courts.

10. NO THIRD PARTY BENEFICIARIES

Nothing in this Cooperative Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Cooperative Agreement on any person other than the Parties hereto, nor is anything in this Cooperative Agreement intended to relieve or discharge any obligation of any third person to any party hereto or give any third person any right of subrogation or action over or against any party to this Cooperative Agreement; provided,

however, nothing in the foregoing is intended to limit any third party's right to bring an action under the applicable provisions of CEQA or the Coastal Act.

11. NO ASSIGNMENT

No party to this Cooperative Agreement shall assign any of its respective rights or delegate any of its respective obligations under this Cooperative Agreement without the prior written consent of all Parties hereto.

12. ENTIRE AGREEMENT

This Cooperative Agreement and its Exhibits constitute the entire agreement between the Parties hereto as to the matters referred to in this Cooperative Agreement and its Exhibits. This Cooperative Agreement and its Exhibits specifically supersede any prior written or oral agreement between the Parties with respect to the subject matter hereof.

13. CONSTRUCTION

The language in all parts of this Cooperative Agreement shall be construed as a whole in accordance with its fair meaning and without regard to California Civil Code section 1654, or similar statutes.

14. AUTHORITY AND CAPACITY

Each party to this Cooperative Agreement represents and warrants that it is authorized and has the capacity to enter into this Cooperative Agreement and each signatory to this Cooperative Agreement is authorized and has the capacity to sign this Cooperative Agreement.

15. TERM AND EFFECTIVE DATE

This Cooperative Agreement shall only become effective upon execution of this Cooperative Agreement by all Parties hereto.

16. TIME OF THE ESSENCE

Time shall be of the essence in the performance and/or satisfaction of this Cooperative Agreement and/or each individual term, promise, provision, obligation, sentence, clause or paragraph hereof.

17. DEFAULT

The failure of any party to timely satisfy any obligation, promise, agreement, provision, term, sentence, or clause or paragraph of this Cooperative Agreement shall constitute a substantial breach of this Cooperative Agreement and a default thereunder.

18. REMEDIES

In the event of the breach and/or default by any party to this Cooperative Agreement of any obligation specified in this Cooperative Agreement, the other Parties shall be entitled, in accordance with applicable law, to sue for and recover all damages which may result from such breach or default. In addition, in the event of any such breach or default, the other Parties shall also, in accordance with applicable law, be entitled to sue for and obtain injunctive, mandate and any other equitable relief to ensure that the breaching or defaulting party satisfies and complies with this Cooperative Agreement, and/or each and every individual term, provision, obligation, clause, sentence and/or paragraph thereof.

19. WAIVER

The waiver by any party of any breach or violation of any term, covenant, provision or condition of this Cooperative Agreement shall not be deemed a waiver of such term, covenant, provision or condition, or of any subsequent breach or violation of the same, or of any other term, covenant, provision or condition.



IN WITNESS WHEREOF, the Parties have executed this Cooperative Agreement as of the date first above written.

THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA, a California public  
Corporation, on behalf of the University of  
California, Santa Barbara

APPROVED AS TO FORM:

\_\_\_\_\_  
[Name]  
[Title]

\_\_\_\_\_  
[Name]  
[Title]

APPROVED AS TO FORM:

COUNTY COUNSEL FOR THE  
COUNTY OF SANTA BARBARA

COUNTY OF SANTA BARBARA  
a political subdivision of the  
State of California

\_\_\_\_\_  
[Name]  
[Title]

\_\_\_\_\_  
[Name]  
[Title]

EXHIBIT 1

MEMORANDUM OF UNDERSTANDING

EXHIBIT 2

UCSB PLANNED FRONTAGE IMPROVEMENTS  
AT STORKE ROAD

