

BOARD RESOLUTION FOR WA-ACE EASEMENT EXCHANGE

PRELIMINARY DRAFT
SANTA BARBARA COUNTY

SANTA BARBARA RANCH PROJECT

**RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

IN THE MATTER OF THE SANTA BARBARA) RESOLUTION NO. 08-_____
RANCH PROJECT AND TENTATIVE) Case No. 05AGP-00000-00011
CANCELLATION OR RESCISSION OF)
WILLIAMSON ACT CONTRACT #77AP14)

WITH REFERENCE TO THE FOLLOWING:

- A. **Setting.** The Naples Town site encompasses an 800-acre area on the Gaviota coast, located two miles west of the City of Goleta (Exhibit “1-A”). The Town site has a rich history in both pre-European and Spanish-Mexican Land Grant periods. It also has a history of litigation and disputes over the area’s development potential. This conflict centers around the Original Map of Naples filed by the Naples Improvement Company on July 23, 1888, the Official Map of Naples recorded by the County on October 3, 1995, and intervening legal disputes over lot merger provisions and septic system permit requirements imposed by the County. Further complicating the matter are California Coastal Act and local coastal land use policies that promote the preservation of agriculture, sensitive habitats and visual quality of the Gaviota Coast, while at the same time allowing a single family residence as a principal permitted use on individual legal lots, regardless of size. The intent to develop Naples dates back to June 1887 when John H. Williams purchased 872 acres of Rancho Dos Pueblos and subsequently filed a map with the County that divided the area into over 400 parcels. Williams’ original idea was to make Naples a vacation resort for the wealthy; in the end, this idea failed for lack of convenient train access. William’s widow subsequently sold the property to Herbert G. Wylie in 1917 for oil development and who later in 1948 sold the property to Samuel Mosher for a combination of oil and ranching purposes. The current owners of Dos Pueblos Ranch (“DPR,” Schulte Trust) and Santa Barbara Ranch (“SBR,” Vintage Properties) acquired their respective interests in 1979 and 1998. In the intervening years between the demise of the Williams’ estate and the current owners, numerous deed conveyances and certificate of compliance were recorded which, along with the fee dedications of streets from the Original Map of 1888, translating into 274 legal lots recognized by the County.

- B. **Litigation.** Shortly following certification of the Coastal Land Use Plan (“CLUP”) in 1982, the County adopted antiquated subdivision regulations and instituted an Antiquated Subdivision Overlay (“ASO”) District in the period between 1984 and 1988. These

regulations were based on the County's belief that pre-1893 maps created parcels upon recordation and required that undersized parcels under common ownership be combined to the extent feasible. The County was subsequently sued by the one of the Naples landowners, and in 1994, the California Supreme Court struck down the subdivision regulations pertaining to involuntary merger provisions (*Morehart v. County of Santa Barbara* (1994) 7 Cal.4th 725). In response, the County rescinded these regulations and adopted the Official Map of Naples in their place. The Official Map, adopted by the County in 1995, only recognizes those lots for which the County previously issued a certificate of compliance demonstrating that a division of land complied with state and local laws, or had a deed history establishing the lot as a separate legal parcel. The combined effect of these actions led to further litigation:

- Santa Barbara County Superior Court Case No. 179265, challenging the County's ASO Ordinance, alleging inverse condemnation and seeking monetary damages for alleged violations of civil rights and seeking declaratory relief.
- Santa Barbara County Superior Court Case No. 203256, challenging the action of the County and the California Coastal Commission in adopting and certifying Ordinance No. 4084 which, among other things, regulates private wastewater facilities.
- Threatened and tolled litigation, challenging the County's 1994 rescission of its antiquated subdivision regulations, adoption of the Official Map and determination of parcel validity within the Naples town site.

C. Memorandum of Understanding. At present, the Naples Town site is owned principally by four sets of owners (Exhibit "1-B"): (i) SBR related interests which account for 219 parcels and 485 acres; (ii) DPR related interests which account for 16 parcels and 244 acres; (iii) Makar Properties, LLC, which account for 25 parcels and 57 acres; and (iv) Morehart related interests which account for 13 parcels and 16 acres. In late 2002, the County, the Morehart related interests, and the SBR related interests entered into a Memorandum of Understanding ("MOU") setting forth a protocol and structure for the submission of project applications as a part of a potential global resolution of the pending and threatened litigation described above. Formal application for the project was subsequently filed with the County by Santa Barbara Ranch, LLC (the "Applicant") on November 4, 2003, and accepted as complete on September 3, 2004. The MOU does not create entitlements, rights or approvals, and does not impair the County's ability to enforce its applicable ordinances, resolutions, policies or statutes. However, it does provide a protocol for the County to consider applications for development and conservation at Naples and provides the opportunity for protecting agriculture, preserving open space, restoring sensitive habitats and providing coastal access. While project denial is an option, it would likely lead to development in an ad hoc, fragmented basis, at a much higher density than is achievable through the MOU and possibly compromise the very goals promoted in the CLUP. Most importantly, the MOU preserves the opportunity to comprehensively plan Naples as opposed to a situation where individual lot owners could

seek development permits for single family homes under the current Official Map configuration.

- D. Transfer of Development Rights.** Existing land use and zoning designations for the Naples town site consist primarily of commercial agriculture, with minimum lot size requirements ranging from 10 acres (“U” zone designation for inland lots) to 100 acres (AG-II-100 zone designation for coastal lots) for each parcel. This translates to a hypothetical residential development potential of 14 lots that is far less than the 274 legal lots recognized in the 1995 Official Map of Naples. In short, existing agricultural land use designations and implementing zoning ordinances at Naples do not align with the residential lot densities already in existence. As a means of resolving this conflict, the County’s CLUP contains policy language that is expressly and solely applicable to Naples. Policy 2-13 was adopted in 1982 at the time of the certification of the County’s Local Coastal Program and states: *“The existing town site of Naples is within a designated rural area and is remote from urban services. The County shall discourage residential development of existing lots. The County shall encourage and assist the property owner(s) in transferring development rights from the Naples town site to an appropriate site within a designated urban area which is suitable for residential development. If the County determines that transferring development rights is not feasible, the land use designation of AG-II-100 should be re-evaluated.”* In compliance with Policy 2-13, the Solimar Research Group was commissioned by the County to evaluate the feasibility of transferring development rights at Naples. For a variety of reasons, Solimar concluded that a full extinguishment of development rights is not feasible. While it may be possible to transfer some of the development potential to more suitable urban areas, it would not resolve the underlying conflict in existing agricultural land use designations and legal lot densities. In consideration of these factors, the Board of Supervisors affirmed the Planning Commission’s recommendation and declared on February 5, 2008: (i) only a partial transfer of development potential at Naples/SBR is possible; and (ii) the land use designation of AG-II-100 should be re-evaluated as provided by Policy 2-13 of the County’s CLUP.
- E. Project Proposal.** Under the MOU, two project configurations have been put forth by the Applicant: (i) a 54-unit large lot residential development on SBR known as the “MOU Project;” and (ii) “Alternative 1” which would broaden the project area to encompass the adjacent DPR and allow for the development of 72 large-lot home sites. Alternative 1B is a further refinement of Alternative 1 that results from feedback received in connection with the public review process over the past three years. Specifically, Alternative 1B includes a revised lot configuration on the north side of Hwy 101 entailing: (i) the relocation of fourteen (14) lots into the further reaches of the project site, outside of the public view corridor; and (ii) elimination of one lot overall, resulting in a total unit count of 71 large-lot homes. The baseline development scenario against which the MOU and Alternative project configurations are compared is known as “Grid Development.” This particular scenario assumes that development would generally follow the rectilinear pattern of the existing lots and mapped street locations appearing on the Official Map. Taking into account policy conflicts and environmental constraints, it is estimated that between 114 and 125 Official Map lots within SBR have the potential for residential development. The alternative

development configurations are distinguished from one another relative to: (i) preservation of agricultural and open space through conservation easements; (ii) protection of sensitive environmental features through resource management; (iii) provision of coastal access and related public amenities; and (iv) reduction of overall development potential. Relatively speaking, Alternative 1B represents the least amount of residential development within the Coastal Zone, preserves the most land for agricultural purposes and resolves viewshed impacts to a much greater extent than the other three scenarios. Grid Development, on the other hand, is the most problematic insofar as it would result in incremental and piecemeal development, compromise agricultural and open space preservation goals and preclude the lawful ability to extract public benefits in the form of conservation easements or coastal access for individual lots.

F. Environmental Review. The environmental review process for the Santa Barbara Ranch Project officially commenced in January 2005 with issuance of a Notice of Preparation and receipt of testimony on issues relevant to the scope of the EIR. This was followed with preparation of a Draft Environmental Impact Report (“DEIR”) that was released for public review on June 30, 2006, and a Revised Draft Environmental Impact Report (“RDEIR”) that was subsequently released on November 13, 2007. At the close of the public comment period on January 23, 2008, a total of 55 written comments letters had been received. An additional 20 individuals commented at the administrative hearing conducted on December 10, 2007. These written and verbal comments were partitioned into approximately 2,300 individual remarks for which written responses were prepared and issued on June 13, 2008, as a component of the Final EIR and certified by the Board of Supervisors on _____, _____. As discussed in Section 11.9 of the FEIR, Alternative 1 has been designated as the environmentally superior alternative. This conclusion accounts for a comparative assessment of environmental impacts, compliance with project objectives and consistency with relevant policies. It also reflects changes in Alternative 1 that incorporate design modifications identified as mitigation measures in the first Draft EIR, as well as recommendations by the Central Board of Architectural Review. As a result, the current configuration of Alternative 1 has moved significantly towards Alternative 4 that was identified as the environmentally superior in the original DEIR. In the final analysis, Alternative 1 offers distinct advantages over all other alternatives: (i) it resolves potential policy and environmental issues that can be anticipated if the DPR owners pursue development on the Naples town site lots within their ownership; and (ii) it addresses agricultural preservation in a more comprehensive manner than any other alternative. These advantages notwithstanding, further improvement in Alternative 1 can be realized through the implementation of Alternative 1B; most notably in regard to agricultural and visual resources. For these reasons, and those articulated in Paragraph E above, the Planning Commission and Board of Supervisors both endorsed approval of Alternative 1B.

G. Cancellation Petition. A distinguishing feature of Alternative 1B is a proposed conservation easement exchange under the authority of Government Code Section 51256 et.seq. (Exhibit “1-C”). Under this statute, the Applicant filed a petition with the County on March 25, 2005 (Case No. 05AGP-00000-00011) to cancel Williamson Act (“WA”) Contract #77AP14 and simultaneously: (i) place the undeveloped balance of DPR north of

Hwy 101 that is presently under contract (“WA Remainder”) into a permanent Agricultural Conservation Easement (“ACE”), along with additional non-contract acres within SBR that are currently unprotected, thereby bringing the total to 2,653 acres of agricultural acreage protected *in perpetuity* (“WA-ACE Easement Exchange”); and (ii) place the WA Remainder in a new contract (“New WA Contract”). Legal descriptions for the land involved in the WA-ACE Easement Exchange are contained in Exhibits “2-A,” “2-B” and “2-C.” The Planning Commission, Agricultural Preserve Advisory Committee and Agricultural Advisory Committee were each asked to render separate opinions on the proposal. Fundamental issues of interest included: (i) continued viability of agricultural land; (ii) comparability of protections afforded under the existing Williamson Act vs. the proposed ACE; (iii) resolution of non-conforming uses and structures; and (iv) overall public benefit that justifies contract cancellation. In the final analysis, the Planning Commission and APAC both found the proposal consistent with Uniform Rules and statutory parameters, while AAC recommended specific measures to protect food safety and minimize land use conflicts that have been incorporated into conditions of approval. The actions of these advisory bodies take into account that the WA-ACE Easement Exchange would: (i) increase the total area of land under protection from 2,566 to 2,653 acres; (ii) increase the quality of land under protection (e.g., prime agriculture) from 517 to 596 acres; (iii) increase the duration of protection from 10 years to perpetuity; (iv) obligate owners to financially support necessary farm infrastructure; and (v) involve the California Rangeland Trust and Land Trust for Santa Barbara County as co-conservators of the land under protection.

H. Valuation Determination. California Government Code Sections 51283(b) and 51283(f) provide that any property owner who receives a financial benefit from an increase in value resulting from a Williamson Act contract cancellation must pay a fee equal to 12.5% of the cancellation valuation. In lieu of paying the fee, and as consideration for the landowner’s participation in the WA-ACE Easement Exchange program, the fee can be satisfied by non-monetary means if: (i) the landowner enters into an agreement with the County to place other land under a agricultural conservation easement, equal or greater in size and quality to the land to be rescinded, simultaneous with the rescission; and (ii) the value of the proposed agricultural conservation easement, as determined pursuant to Section 10260 of the Public Resources Code, is equal to or greater than 12.5 percent of the cancellation valuation of the land subject to the contract to be rescinded. In accordance with these requirements, the County Assessor has determined that the current fair market value of the Williamson Contract land to be rescinded, as though it were free of the contractual restriction, is \$_____, compared to the value of the proposed agricultural conservation easement which is \$_____.

I. Petition Process. As provided in Government Code Section 51284 and 51284.1, the Department of Conservation was provided notice of the Board’s intent to conduct a public hearing and consider the proposed WA-ACE Easement Exchange on October 13, 2008, a minimum of thirty (30) days before the scheduled action. In further compliance with these statutes, notice has been provided to all property owners with land under Williamson Act contract of which any portion is within one mile of the exterior boundary of the property

subject to the cancellation request. General notice of the Santa Barbara Ranch Project and component legislative and quasi-judicial actions (including the WA-ACE Easement Exchange) was provided in the time and manner stipulated in the Santa Barbara County Land Use and Development Code. The Board has considered the whole of the record in arriving at a decision including staff reports, the Final EIR, and all written and public testimony received in connection therewith.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above recitations are true and correct.
2. The following exhibits are attached hereto and incorporated into this Resolution by reference.

Exhibit 1-A: Orientation Maps

Exhibit 1-B: Naples Ownership Map

Exhibit 1-C: WA-ACE Easement Exchange Map

Exhibit 2-A: Legal Description – Existing WA Contract

Exhibit 2-B: Legal Description – Proposed ACE

Exhibit 2-C: Legal Description – New WA Contract

Exhibit 3-A: WA-ACE Easement Exchange Findings

Exhibit 3-B: WA-ACE Easement Exchange Regulatory Parameters and Supporting Facts

Exhibit 4: Rescission Agreement

3. In addition to the findings set forth in Exhibit “3-A,” and pursuant to Government Code Section 51282, the Board expressly finds and declares that the cancellation is in the public interest for the following reasons:
 - a. The WA-ACE Easement Exchange is a critically important element of the Santa Barbara Ranch Project that responds to extraordinary circumstances and allows for a global solution of planning and land use issues at Naples, including the resolution of longstanding disputes and litigation. Since adoption of the CLUP, the County has been steadfast in discouraging residential development at Naples; first through the adoption of regulations that minimize its potential (14 lots allowed by Ordinance compared to 400+ lots alleged by property owners), followed by the adoption of the Official Map that recognized approximately 1/3rd less lots than reflected in the Original Map of 1888. In spite of the unfavorable ruling by the California Supreme Court, the County has continued to discourage development at Naples. This objective is reflected in the MOU process and advent of Alternative 1B that would extinguish Official Map lots on a 3.3:1 basis. For each single family home that is approved, the development rights to 3.3 existing Naples lots would be permanently extinguished. In summary, the Santa Barbara Ranch Project and component WA-ACE Easement Exchange, provide the opportunity for resolving long-standing disputes over potential development of over 80 percent of the Naples town site lots. While transferring development rights might help to further reduce this potential, analysis shows that it would not resolve the underlying

conflict in agricultural land use designations and legal lot densities. Similarly, there is insufficient capacity of proximate non-contracted land which is both available and suitable to accommodate the development sought in connection with the WA-ACE Easement Exchange. Without a global solution such as that represented by Alternative 1B, the outcome would likely lead to development in an ad hoc, fragmented basis, at a much higher density at the expense of goals promoted in the CLUP; namely protecting agriculture, preserving open space, restoring sensitive habitats and providing coastal access.

- b. The WA-ACE Easement Exchange would: (i) increase the total area of land under protection from 2,566 to 2,653 acres; (ii) increase the quality of land under protection (e.g., prime agriculture) from 517 to 596 acres; (iii) increase the duration of protection from 10 years to perpetuity; and (iv) involve the California Rangeland Trust and/or Land Trust for Santa Barbara County as co-conservators of the land under protection. While Agricultural Conservation Easements provide comparable measures of protection to those imposed by Williamson Act Contracts, conditions of approval incorporated into the Rescission Agreement (Exhibit "4") would: (i) obligate the landowners to financially support (through a cooperative or equivalent mechanism) essential farm infrastructure and employ best management practices with regard to all agricultural operations; (ii) institute agricultural thresholds, applicable to lots of less than 100 acres, that obligate landowners to professional farm management in the event of under production; (iii) impose use and development restrictions on farmstead envelopes, limit animal boarding/breeding activities and require landowners to actively engage in agricultural uses as required under the County's Uniform Rules governing Williamson Act Contracts; (iv) empower the County to enforce its land use rules and regulations independent of the ACE agreements; and (v) require that 1,990 acres under the current Williamson Act Contract be placed under a new contract, resulting in redundant agricultural preservation for 75% of the area encompassed by the new ACE. Collectively, these measures provide protection above and beyond the standard ACE or WA, independent of the other, and affirmatively further efforts to sustain agriculture.
- c. The WA-ACE Easement Exchange would create a swath of protected agricultural land from the ocean to the mountains, creating a significant agricultural buffer in close proximity to the western boundaries of both the City of Goleta and existing urban limit line. In addition, as a condition of project approval, the Applicant is required to implement an Open Space and Habitat Management Plan ("OSHMP") in conjunction with entitlement applications for the Santa Barbara Ranch Project which: (i) provides for the conservation, restoration and enhancement of habitat within the project area; (ii) preserves designated open space through conservation easements (or equivalent); (iii) identifies the location of easements on all parcels where lands are to be protected and/or enhanced; (iv) relegates administration of the OSHMP to a third party conservation organization (e.g., Land Trust or other organization), among whose purpose it is to conserve open space and/or natural resources of the conservation easement; and (v) addresses an assortment of conservation/preservation issues identified in the Final EIR and in the County's Naples Town Site Zone District. In exchange for vesting the

project by execution of a Development Agreement, the applicant is also required to: (i) initiate and financially contribute toward restoration of Dos Pueblos Creek; (ii) provide for Native American access to culturally significant sites within the project area; (iii) affirmatively further affordable housing through rehabilitation of substandard farmworker housing or payment of in-lieu fees; (iv) allow for expanded coastal access; and (v) enhance sensitive habitat beyond the requirements of Final EIR mitigation. These benefits would not be possible without a comprehensive approach to development at Naples. With Alternative 1B as the environmentally superior alternative, made possible through the WA-ACE Easement Exchange, the public at large gains from permanent agricultural protections, exactions for coastal access, easements for open space preservation, restoration of sensitive habitats, and fewer environmental impacts than would otherwise result from Grid Development of the Naples Town site in an ad hoc, fragmented basis, at a much higher density.

4. The Board tentatively approves rescission of the Williamson Act Contract (Land Conservation Contract #77AP14) as it applies to the property described in Exhibit "2-A" based on the recitals set forth above, the Williamson Act contract cancellation findings set forth in Exhibit "3-A" and supporting facts set forth in Exhibit "3-B." Furthermore, the Board's tentative approval is subject to, and contingent upon, fulfillment of all conditions set forth below:
 - a. The Applicant and landowner of Dos Pueblos Ranch shall finalize and record ACE documents encumbering the area described in Exhibit "2-B" which: (i) comply with Government Code Section 51256; (ii) incorporate the provisions set forth below; and (iii) are approved by the Department of Conservation and Secretary of Resources.
 - (1) Notwithstanding the early withdrawal provisions of California Public Resources Code Section 10270, the ACE and associated covenants shall be recorded against the property and run in perpetuity regardless of changes in ownership.
 - (2) Subject to approval by the Department of Conservation, the County shall be named as a non-signatory third party beneficiary with the right, but not the obligation, to enforce the ACE with regard to land use, provided, further, that the ACE may not be amended without the County's prior written approval.
 - b. The landowner of Dos Pueblos Ranch shall execute and record a replacement Williamson Act Contract covering the area described in Exhibit "2-C."
 - c. The Applicant and landowner of Dos Pueblos Ranch shall submit the Rescission Agreement attached hereto as Exhibit "4" to the Department of Conservation for its approval pursuant to Government Code Section 51256.1 and record the Agreement upon its approval.
 - d. The Applicant and landowner of Dos Pueblos Ranch shall complete and file all applications with the County as are necessary to undertake the Santa Barbara Ranch Project.

- e. The County's approval of amendments to the Comprehensive Plan (Case No. 03GPA-00000-00005) and Land Use and Development Code (Case Nos. 08ORD-00000-00009 and 03RZN-00000-00005) shall become effective, thereby allowing residential development on WA Contract land to be rescinded as contemplated under the Santa Barbara Ranch Project.
 - f. The Applicant shall evidence that a minimum 100-foot separation is provided between each habitable structure within the new Naples Town Site zone district and the immediately adjacent boundary of any parcel with an agricultural land use or zoning designation.
5. Based on the valuation findings set forth in Paragraph H above, and consistent with applicable statutory provisions, the Board:
- Determines and certifies to the County Auditor that the amount of the cancellation fee which the Applicant shall pay to the County Treasurer as a condition required prior to final cancellation, in an amount equal to or greater than 12.5% percent of the cancellation valuation of the property, which is \$ _____, payable within the time and manner stipulated in Government Code Section 51283
 - Determines and certifies to the County Auditor that the amount of the cancellation fee is equal to or greater than the value of the conservation easement, and therefore, no fee shall be assessed subject to and contingent upon: (i) execution by the Applicant of the Agreement in Exhibit "4;" (ii) approval of the Agreement by the Secretary of Resources; and (iii) approval of the WA-ACE Easement Exchange by the Department of Conservation.
6. The Chair and the Clerk of this Board are hereby authorized and directed to sign and certify all maps, documents and other materials in accordance with this Resolution to reflect the above described action by the Board.
7. A copy of this Resolution shall be forwarded by the Clerk of the Board of Supervisors to the Special Problems Area Committee, the Building Official and the Director of Planning and Development.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this ____ day of _____, 2008, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

SALUD CARBAJAL, Chair
Board of Supervisors
County of Santa Barbara

ATTEST:

MICHAEL F. BROWN
Clerk of the Board of Supervisors

By _____
Deputy Clerk

APPROVED AS TO FORM:

DENNIS A. MARSHALL
County Counsel

By _____
Deputy County Counsel

Attachment: Exhibits 1, 2, 3 and 4

EXHIBIT "1-A"
ORIENTATION MAPS
[to be inserted]

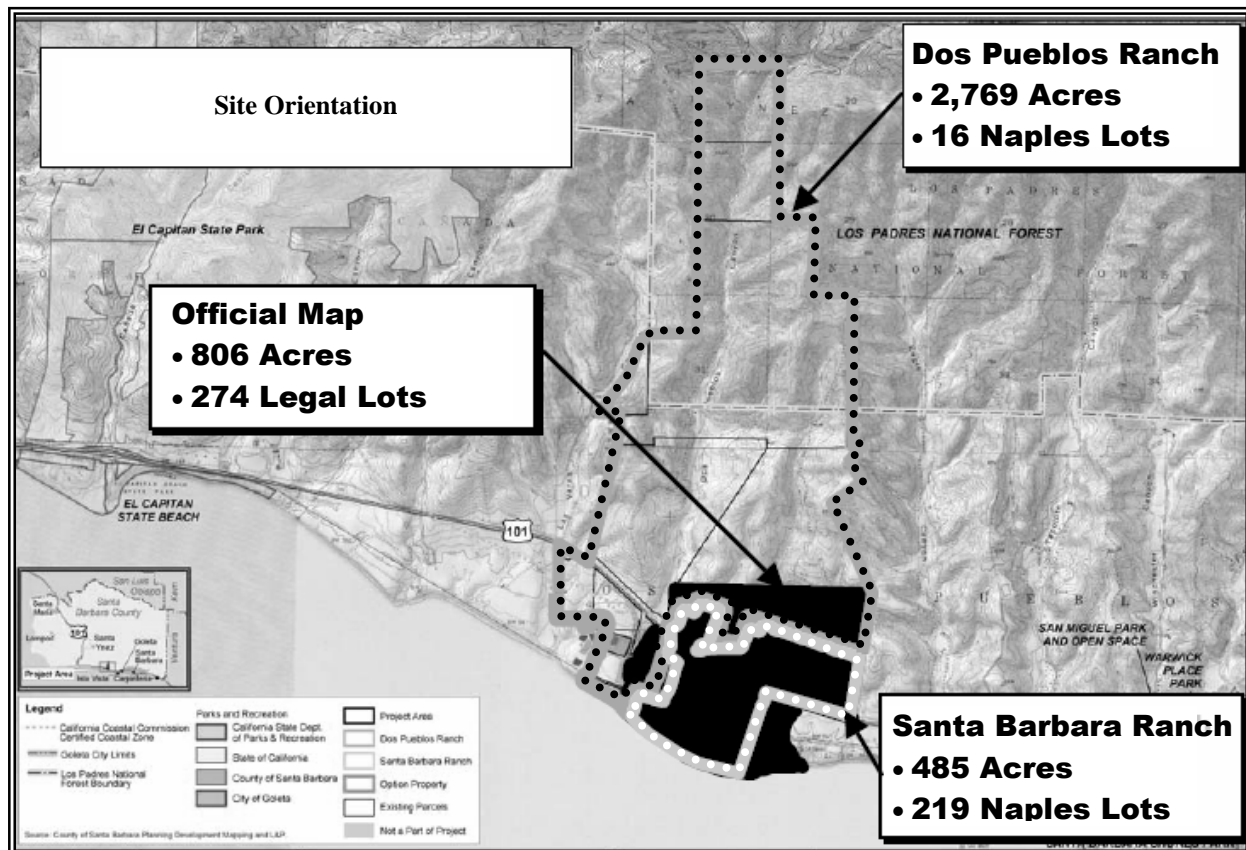
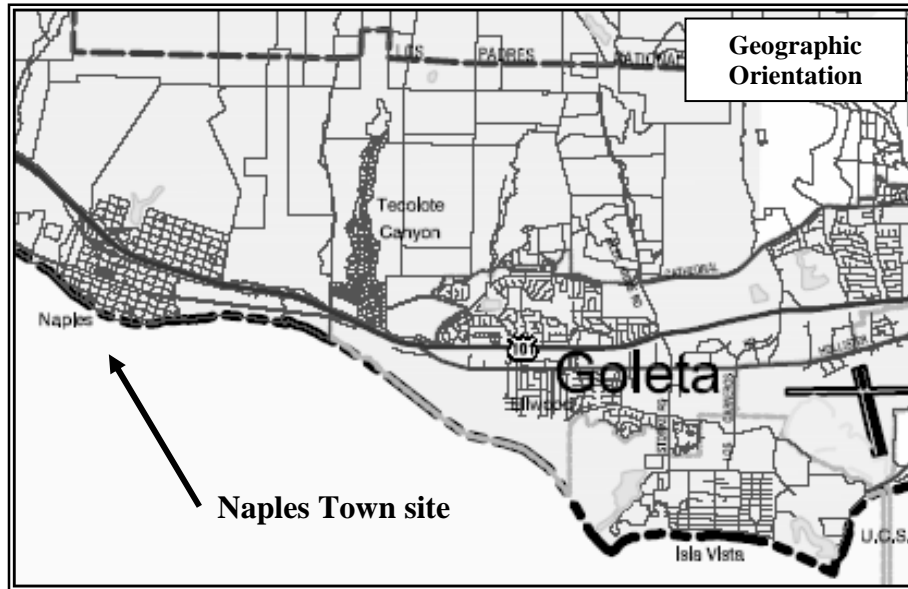


EXHIBIT "1-B"
NAPLES OWNERSHIP MAP
[to be inserted]

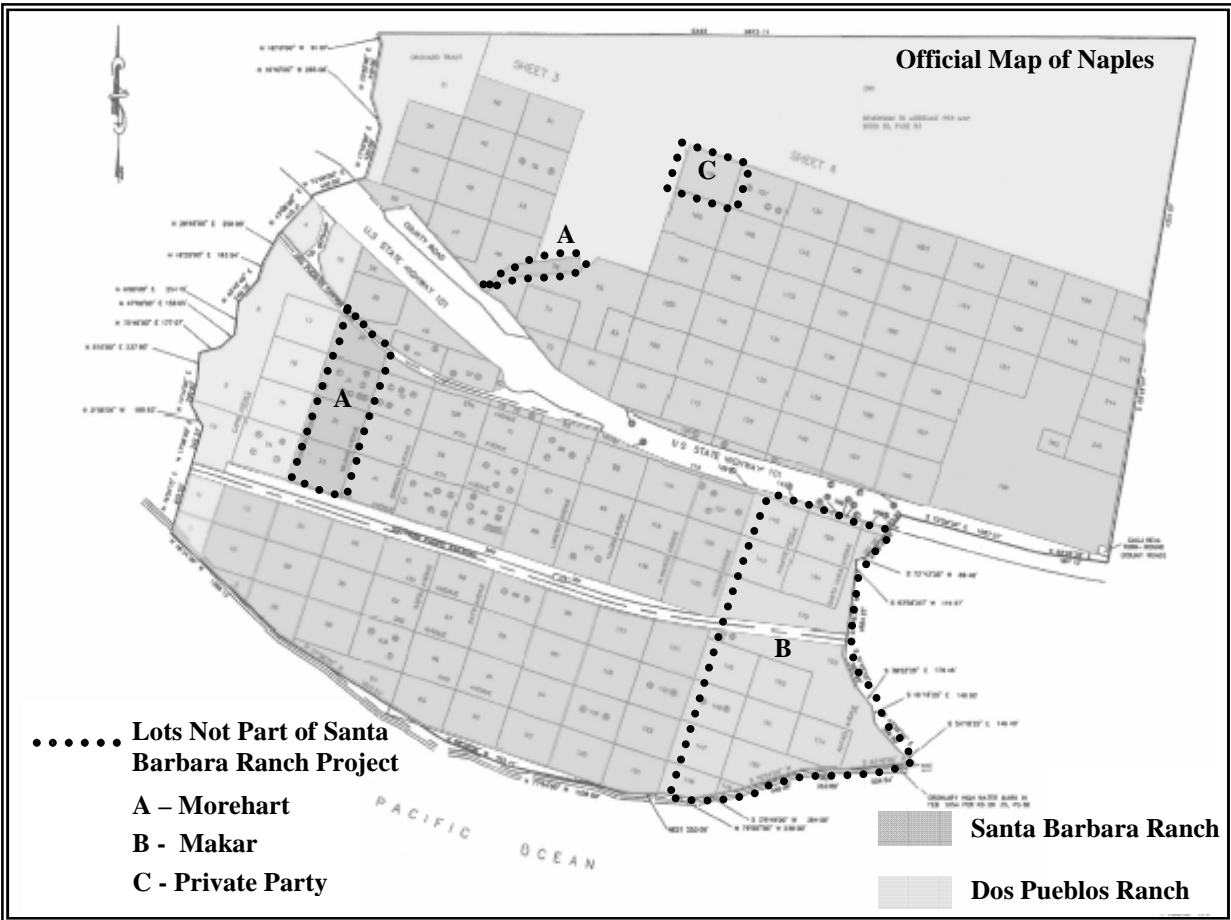


EXHIBIT "1-C"
WA-ACE EASEMENT EXCHANGE MAP

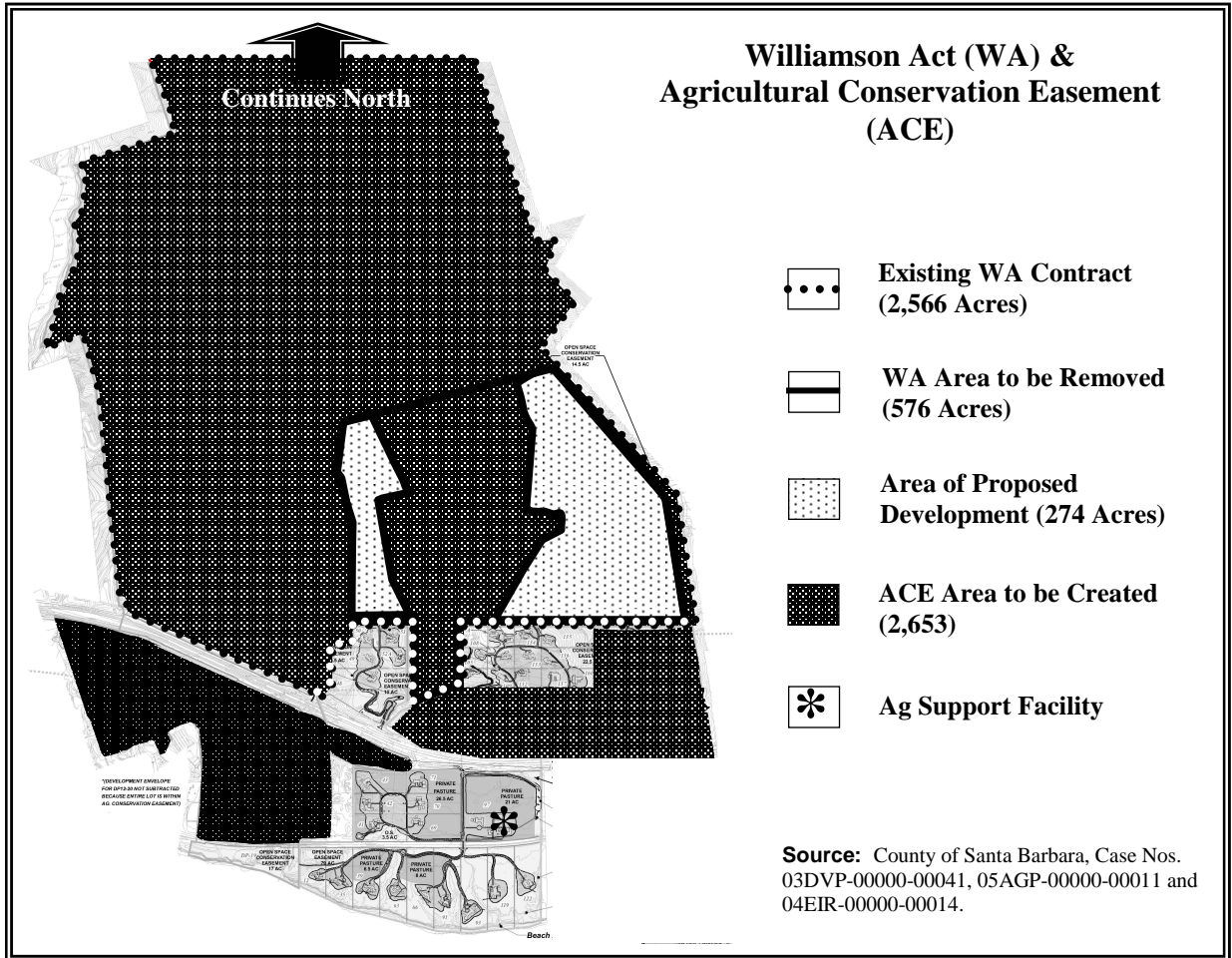


EXHIBIT "2-A"
EXISTING WILLIAMSON CONTRACT AREA (#77AP14)
LEGAL DESCRIPTION
[to be inserted]

EXHIBIT "2-B"
NEW AGRICULTURAL CONSERVATION EASEMENT AREA
LEGAL DESCRIPTION
[to be inserted]

EXHIBIT "2-C"
NEW WILLIAMSON ACT CONTRACT AREA
LEGAL DESCRIPTION
[to be inserted]

EXHIBIT “3-A”
WA-ACE EASEMENT EXCHANGE FINDINGS

*[Findings from Attachment A-3 of the Board Letter, Paragraph D]
[to be inserted]*

EXHIBIT “3-B”
WA-ACE EASEMENT EXCHANGE
Regulatory Parameters and Facts Supporting Findings

[Attachment D-1 of the Board Letter]
[to be inserted]

**EXHIBIT “4”
RESCISSION AGREEMENT**

Pursuant to Sections 6103 and 27383 of the California Government Code, the County of Santa Barbara is not required to pay Santa Barbara County recording fees.

After recording, return to:
County of Santa Barbara
Planning and Development Department
Attn: Director of Development
123 Anapamu Street
Santa Barbara, California 93101

(Space Above This Line Reserved For Recorder's Use)

WILLIAMSON CONTRACT RESCISSION 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**

AND

DOS PUEBLOS RANCH [TO BE INSERTED]

WILLIAMSON ACT CONTRACT RESCISSION AGREEMENT

THIS WILLIAMSON ACT CONTRACT RESCISSION AGREEMENT (the “Agreement”) is entered into and executed as of _____, _____ (“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, owners of Santa Barbara Ranch (“SBR Owner”), , owners of Dos Pueblos Ranch (“DPR Owner”) and the County of Santa Barbara (“County”), pursuant to California Government Code § 51256 et seq. The SBR and DPR Owners are hereinafter collectively referred to as the “Landowners”, including all heirs, lessees, successors and assigns thereto as to ownership of the property described in Exhibit “A.”

RECITALS

WHEREAS, on March 25, 2005, the SBR Owner filed a petition with the County (Case No. 05AGP-00000-00011) to cancel Williamson Act (“WA”) Contract #77AP14 and simultaneously: (i) place the undeveloped balance of DPR north of Hwy 101 that is presently under contract (“WA Remainder”) into a permanent Agricultural Conservation Easement (“ACE”), along with additional non-contract acres within SBR that are currently unprotected, thereby bringing the total to 2,653 acres of agricultural acreage protected in perpetuity (“WA-ACE Easement Exchange”); and (ii) place the WA Remainder in a new contract (“New WA Contract”).

WHEREAS, on October 13, 2008, the County Board of Supervisors held a duly noticed public hearing to consider the petition for tentative rescission, and following the receipt of public testimony, adopted Resolution No. 08-_____ on _____, 2008, (including its incorporated exhibits) which tentatively approved rescission of Williamson Act Contract #77AP14 comprising approximately 2,566 acres described in Exhibit “2-A” of the Resolution, based on the recitals and cancellation findings, including findings under Government Code section 51282, set in that Resolution; and

WHEREAS, as part of Resolution No. 08-_____, the County established various conditions of final rescission of Williamson Act Contract #77AP14 as follows:

- a. The Landowners shall finalize and record ACE documents encumbering the area described in Exhibit “2-B” of Resolution No. 08-_____ which: (i) comply with Government Code Section 51256; (ii) incorporate the provisions set forth below; and (iii) are approved by the Department of Conservation and Secretary of Resources.
 - (1) Notwithstanding the early withdrawal provisions of California Public Resources Code Section 10270, the ACE and associated covenants shall be recorded against the property and run in perpetuity regardless of changes in ownership.
 - (2) Subject to approval by the Department of Conservation, the County shall be named as a non-signatory third party beneficiary with the right, but not the obligation, to enforce the ACE with regard to land use, provided, further, that the ACE may not be amended without the County’s prior written approval.
- b. The DRP Owner shall execute and record a replacement WA Contract covering the area described in Exhibit “2-C” of Resolution No. 08-_____.

- c. The Landowners owners shall obtain approval of this Rescission Agreement from Department of Conservation and County shall record the document upon obtaining such approval.
- d. The Landowners shall complete and file all applications with the County as are necessary to undertake the Santa Barbara Ranch Project.
- e. The County's approval of amendments to the Comprehensive Plan (Case No. 03GPA-00000-00005) and Land Use and Development Code (Case Nos. 08ORD-00000-00009 and 03RZN-00000-00005) shall become effective, thereby allowing residential development on WA Contract land to be rescinded as contemplated under the Santa Barbara Ranch Project.
- f. The SBR Owner shall evidence that a minimum 100-foot separation is provided between each habitable structure within the new Naples Town Site zone district and the immediately adjacent boundary of any parcel with an agricultural land use or zoning designation.

WHEREAS, this Agreement is entered into pursuant to Government Code section 51256, which provides in part: "Notwithstanding any other provision of this chapter, a city or county, upon petition by a landowner, may enter into an agreement with the landowner to rescind a contract in accordance with the contract cancellation provisions of Section 51282 in order to simultaneously place other land within that city, the county, or the county where the contract is rescinded under an agricultural conservation easement,"

WHEREAS, the property to be encumbered with an ACE is described in Exhibit "2-B" of Resolution No. 08-____. The precise terms of the ACE documents have been generally negotiated, but the fine details of the language remains to be determined. The County has requested that certain language be incorporated into the ACE documents as set forth in Exhibit "B" hereto. In the event that the Department of Conservation, Secretary of Resources or easement holder find this language unacceptable, the provisions of Exhibit "B" shall apply and bind the Landowners independent of the ACE.

WHEREAS, the evidence set forth in Resolution No. 08-____ establishes that the WA-ACE Easement Exchange meets the criteria of Government Code section 51256, and the Board of Supervisors has found that:

- 1. The proposed agricultural conservation easement is consistent with the criteria set forth in Section 10251 of the Public Resources Code, which, in turn, provides that Applicants for an agricultural conservation easement or fee acquisition grant shall meet all of the following eligibility criteria:
 - (a) The parcel proposed for conservation is expected to continue to be used for, and is large enough to sustain, commercial agricultural production. The land is also in an area that possesses the necessary market, infrastructure, and agricultural support services, and the surrounding parcel sizes and land uses will support long-term commercial agricultural production.
 - (b) The county has a general plan that demonstrates a long-term commitment to agricultural land conservation. This commitment is reflected in the goals, objectives,

policies, and implementation measures of the plan, as they relate to the area of the county where the easement acquisition is proposed.

- (c) Without conservation, the land proposed for protection is likely to be converted to nonagricultural use in the foreseeable future.
2. The proposed agricultural conservation easement has been evaluated pursuant to the selection criteria in Section 10252 of the Public Resources Code, and particularly subdivisions (a), (c), (e), (f), and (h), and the proposed easement will make a beneficial contribution to the conservation of agricultural land in its area.
3. The land proposed to be placed under an agricultural conservation easement is of equal size or larger than the land subject to the contract to be rescinded, and is equally or more suitable for agricultural use than the land subject to the contract to be rescinded, taking into consideration the soil quality and water availability of the land, adjacent land uses, and any agricultural support infrastructure.
4. The value of the proposed agricultural conservation easement, as determined pursuant to Section 10260 of the Public Resources Code, is equal to or greater than 12.5 percent of the cancellation valuation of the land subject to the contract to be rescinded, pursuant to subdivision (a) of Section 51283, as determined in a cancellation valuation dated _____, _____, 2008, and easement appraisals for the land to be encumbered with an ACE dated _____, 2008.

Therefore, the parties mutually agree as follows:

1. Pursuant to Resolution No. 08-_____, the County agrees to and does: (i) enter into this Williamson Act Contract Rescission Agreement with the Landowners to rescind WA Contract #77AP14 and, upon approval of this Agreement and supporting documentation by the Secretary of Resources pursuant to Government Code section 51256.1, authorize and distribute WA cancellation fees for the simultaneous placement of agricultural conservation easements on the easement properties subject to certain conditions and contingencies. Modifications may be made to the form of the ACE documents so long as the easement properties, and the easements, continue to meet the criteria of Government Code section 51256 as determined by the Department of Conservation.

2. All of the provisions contained in this Agreement, including Exhibit "B" hereto, shall be binding upon the Landowners and all other persons acquiring all or a portion of the area encumbered by the ACE, 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 property, as appropriate, runs with the land and is binding upon the owner of all or a portion of the property described in Exhibit "A" and each successive owner during its ownership of such property.

3. The County has the right, but not the obligation, to enforce the provisions of this Agreement; in particular, the use and development restrictions described in Exhibit "B." If the Landowners, or any of them, fail to perform any obligation under this Agreement, or fails to cure the default within thirty (30) days after the County has notified the Landowner in writing, or if the default cannot be cured within

thirty (30) days, fails to commence to cure within 30 days and thereafter diligently pursue such cure, the County shall have the right to bring an action at law or in equity compel performance by the Landowner of its obligations under this Agreement and/or for damages including, but not limited to, recovery of all costs incurred by the County in connection with enforcement of this Agreement in a reasonable sum fixed by the Court.

This Agreement shall become effective upon its approval by the Secretary of Resources and shall be recorded with the Office of the Recorder of Santa Barbara County, California.

“COUNTY”:

COUNTY OF SANTA BARBARA

Date: _____

By: _____

Salud Carbajal
Chair, County Board of Supervisors

ATTEST:

By: _____

Michael F. Brown
Clerk of the Board

APPROVED AS TO FORM:

DENNIS A. MARSHALL
County Counsel

By _____

Deputy County Counsel

“LANDOWNERS”

SANTA BARBARA RANCH

DOS PUEBLOS RANCH

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

On _____, 2008 before me, _____ (here insert name of the officer), Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature of Notary Public

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

On _____, 2008 before me, _____ (here insert name of the officer), Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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) ss:
COUNTY OF _____)

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Signature of Notary Public

EXHIBIT "A"
LEGAL DESCRIPTION FOR AREAS ENCUMBERED BY ACE
[to be inserted]

EXHIBIT “B”
AGRICULTURAL CONDITIONS, COVENANTS AND RESTRICTIONS

PART ONE: GENERAL PROVISIONS

1. Uses and improvements located within the Agricultural Conservation Easement (“ACE”) shall: (i) conform to the land use limitations specified in the County’s Uniform Rules (subject to the provisions of Part One, Paragraph 2 herein); (ii) be governed by the terms and conditions of zoning applicable to the property as set forth in Land Use and Development Code of Santa Barbara County; and (iii) comply with the use limitations substantially in conformance with provisions of Part Two herein. Furthermore, each landowner shall have an affirmative obligation to actively engage in commercial agricultural production as the principal use of the property within the ACE including grazing and/or cultivate agriculture.

2. Farmstead Envelopes define areas within the ACE that may be occupied, in whole or in part, by buildings and structures that are permitted by the underlying agricultural zone designation. Uses and improvements located outside of Farmstead Envelopes shall be restricted to allowable agricultural uses and improvements as: (i) defined in Part Two, Paragraphs 1(b), (c) and (d) herein; and (ii) permitted by the underlying agricultural zone designation. Within Farmstead Envelopes, allowable residential uses shall be: (i) restricted to those defined in Part Two, Paragraph 1(a)(1) herein; and (ii) confined to a maximum footprint of two acres (“Residential Building Site”). The balance of areas within each Farmstead Envelope shall be restricted to allowable agricultural and accessory uses and improvements as defined in Part Two, Paragraphs 1(a)(2), (b), (c), (d) and (e).

3. All owners within the ACE shall be required to: (i) financially support (through a cooperative or equivalent mechanism) essential infrastructure including storage facilities, farm equipment, water distribution systems and agricultural employee housing; and (ii) employ best management practices with regard to all agricultural operations. As used herein, the term “best management practices” means and includes a practice or combination of practices that are determined to be the most effective manner of developing, operating and sustaining agricultural uses (as such term is defined in Part Two, Paragraph 1(b) herein).

4. As an optional measure, individual owners (on their own accord or in cooperation with others) may retain a professional manager to assist the owners in their respective operations as well as coordinate crop production, access and maintenance of support infrastructure. Financial support of land trust administration, maintenance of agricultural infrastructure and professional agricultural management (if exercised) shall be accomplished by parcel assessments, CC&R levies or comparable secured obligations. In the event that an individual owner fails to meet the minimum requirements specified in Table 1 below, then the option to employ a professional manager shall become compulsory for so long as the owner fails to comply; the owners shall cooperate with the professional manager hired by an individual owner, although the required production value on each parcel would remain the same. For purposes of evidencing compliance with the minimum requirements specified in Table 1, each landowner shall maintain records of annual productive acreage and production value, and make this information available to the ACE easement holder and County upon request.

**Table 1
Minimum Agricultural Production Thresholds**

Column 1	Column 2	Column 3	Column 4
Lot Identification (ACE Maps)	Gross Lot Area (Acres)	Average Annual Production Value (Crops)	Minimum Productive Acreage Per Parcel (Acres)
North of Hwy 101			
DP-11	2,003	Not Applicable	Not Applicable
SBR-185	182	Not Applicable	Not Applicable
South of Hwy 101			
DP-10C	289	Not Applicable	Not Applicable
DP-12	20.63	\$10,315	10.50
DP-13	40.55	\$20,275	20.00
DP-14	35.72	\$17,860	18.00
DP-15	34.63	\$17,315	17.50
DP-16	16.98	\$15,000	8.00
DP-17	31.68	\$15,840	15.84
DP-18	3.00	\$1,500	n.a.
DP-20	15.02	\$15,000	7.50

Source: County of Santa Barbara, Case Nos. 03DVP-00000-00041 and 05AGP-00000-00011; L&P Consultants, Agents for Applicant, 2006.

Minimum Requirement: To comply with the requirements of this Table 1, the owners of all lots of 20 acres or less (i.e., DP-16, DP-18 and DP-20) must achieve both of the following: (i) the Minimum Productive Acreage listed in Column 4; and (ii) the Average Annual Production Value listed in Column 3. For all other lots listed in Column 1, the individual owners of such lots must meet one of the thresholds listed in either Column 3 or 4 for the corresponding lot.

1. Compliance with the minimum requirement for “Average Annual Production Value” is based on gross product value, averaged over at least three of the previous five years.

2. Compliance with “Minimum Productive Acreage” listed in Column 4 requires that corresponding acreages must be fully planted in commercial agricultural production (with allowances for fallow periods, change of crops or production method).

3. Exceptions to the requirements of this Table 1 may be granted by the Trustee of the ACE where it can be demonstrated, at the sole discretion of the Trustee, that compliance cannot be reasonably achieved due to terrain, sensitive resources or other similar constraints.

5. Each landowner, as to the respective property they own, shall: (i) obtain, if required, the appropriate permits necessary to remedy the non-conforming condition, use and improvement of all existing dwellings located on lands contained within the ACE in compliance application provisions of the Land Use and Development Code of Santa Barbara County; (ii) limit the occupancy of employee and farm labor housing to persons retained by the underlying landowner(s) to perform agricultural services for property within the ACE; (iii) obtain a Certificate of Compliance for the remainder parcel (Lot DP-11) concurrent with the Tentative Vesting Tract Map (Case No. 08TRM-00000-00006/TM 14,755); and (iv) forego all further subdivision and development of the property encompassed within the ACE except as expressly authorized by the Board of Supervisors in conjunction with its approval of the Santa Barbara Ranch Project (Case No. 03DVP-00000-00041, et. al.).

PART TWO: PERMITTED USES AND PRACTICES

1. Uses of areas contained within the ACE shall be confined to agricultural, ranching, farming and residential uses associated with the permitted uses of the property, and such other related uses as are described herein. The following uses and practices, if in accordance with federal, state and county laws and ordinances, and to the extent not inconsistent with the purpose of the ACE, are specifically permitted:

(a) Residential Use. To allow the landowner and/or its caretaker and/or lessee/sublessee to reside on the property in structures approved for residential use, as specified herein:

(1) Within the 2-Acre Residential Building Site:

(i) Accessory structures allowed for each single family residence permitted herein shall be located within the development envelope, and are limited to a single, separate guest house or artist studio; and such incidental residential accessory structures as are permitted for a single agricultural parcel by the county zoning ordinance.

(ii) Residential development envelopes may be modified or relocated with prior approval of the ACE easement holder, provided that development shall be designed, located and constructed so as not substantially to interfere with, impair or otherwise burden the Conservation Values.

(iii) Landowner's bona fide employees or employees of tenant(s), sharecrop tenant(s) or other farm employees, which may include paid family members or owners, may reside on the property in employee housing structures or as a part of improvements associated with the agricultural use of the property, as provided for in the County Land Use and Development Code.

(iv) All uses specified in Paragraphs (b), (c), (d) and (e) below.

(2) Within the Farmstead Envelope, Outside the 2-Acre Residential Building Site:

(i) Incidental residential accessory structures as are permitted for a single agricultural parcel by the County Land Use and Development Code.

(ii) All uses specified in Paragraphs (b), (c), (d) and (e) below.

(b) Engage in Agricultural Uses. To engage in any and all agricultural uses of the property within the areas expressly designated for agriculture use in the ACE in accordance with sound, generally accepted agricultural management practices, except as specifically prohibited. The term "agricultural uses" shall be defined as breeding, raising, pasturing, and grazing livestock of every nature and description for the production of food and fiber; breeding, raising and boarding horses, bees, poultry and other fowl; planting, raising, harvesting and producing agricultural, aquacultural, horticultural and forestry crops and products of every nature and description; and the processing, storage, and sale, including direct retail sale to the public, of crops and products harvested and produced on the property. Such agricultural uses shall not result in significant soil degradation, significant pollution or degradation of any surface or subsurface waters or significant impairment of open space vistas, and shall be consistent with the purpose of the ACE.

(c) Animal Boarding and Breeding Activities.

(1) Incidental Use. Incidental animal boarding and/or breeding facilities, whether for commercial or personal use, may be permitted as compatible uses and improvements of the property subject to the following limitations:

(i) Only one incidental boarding and/or breeding facility may be located on each legal lot comprising the property, and the legal lot on which the animal boarding and/or breeding facilities are located must be a minimum of 20 acres.

(ii) Such use must be genuinely incidental to the principal permitted uses of the property.

(iii) Any facilities required for personal or commercial boarding/breeding use shall be counted toward the maximum area of the designated Farmstead Envelop of the legal lot on which the facilities are located, provided, however, that the boarding/breeding facilities may be remotely sited from the Residential Building Site.

(iv) Any facilities required for incidental commercial boarding/breeding use shall be limited to 3% of the legal lot or 2 acres, whichever is less, provided at least 50% of the parcel is devoted to the principal agricultural operation.

(v) When required, a conditional use permit for the boarding and/or breeding facilities shall be obtained pursuant to the County Land Use and Development Code.

(2) Principal Use. Notwithstanding Paragraph (c)(1) above, animal boarding and/or breeding facilities may occupy the property as principal permitted uses subject to the following limitations:

(1) The legal lot on which the animal boarding and/or breeding facilities are located must be a minimum of 100 acres.

(2) A minimum of 20 acres of irrigated pasture must be maintained for each legal lot on which the animal boarding and/or breeding facilities are located.

(3) Such facilities shall not produce traffic volumes detrimental to the commercial agricultural productivity of the area.

(4) The total area of land covered by all permanent improvements devoted to animal boarding and/or breeding facilities, excluding the Residential Building Site, shall not exceed 20% of the legal lot or 20 acres, whichever is less. As used herein, the term “permanent improvements” include any object affixed to the ground, landscaping, buildings, and structures, such as stables and exercise rings.

(5) Such facilities adhere to the following compatibility guidelines:

(i) The use will not significantly compromise the long-term productive agricultural capability of the property or on other contracted lands in agricultural preserves.

(ii) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the property or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the property may be deemed compatible if they relate directly to the production of commercial agricultural products on the property or neighboring lands, including activities such as harvesting, processing, or shipping.

(iii) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

(6) When required, a conditional use permit for the boarding and/or breeding facilities shall be obtained pursuant to the County Land Use and Development Code.

(d) Additional Agricultural Structures, Grading and Improvements. To allow additional structures accessory to the agricultural uses of the property, including the enlargement of existing structures that are reasonably necessary for the agricultural uses of the property, and new buildings or other structures and improvements, including water wells, pump houses, barns, animal shelters, service sheds, vehicle and equipment repair facilities and loading docks, to be used solely for agricultural purposes, including the processing or sale of farm products predominantly grown or raised on the property or on other land owned or leased by landowner in the vicinity of the property. Agricultural structures shall not be used for human habitation. Agricultural grading to prepare land for planting of crops and to control erosion, in accordance with sound, generally accepted agricultural management practices, is permitted without prior approval, provided such grading does not alter the general topography or natural drainage of the property. However, structures visible from a public road, or over ten thousand (10,000) square feet may be built only with the advance written permission of the ACE easement holder, which permission shall be conditioned upon landowner's showing that the proposed structure shall be designed, located and constructed so as not substantially to interfere with, impair or otherwise burden public views and the Conservation Values.

(e) Existing Structures. To use structures identified in the Baseline Conditions Report as existing at the time that report is prepared. Existing structures on the property may be repaired, reasonably enlarged and replaced at their current location without further permission of the easement holder, provided that such repair, enlargement, or replacement does not substantially interfere with, impair or otherwise burden the conservation values.

2. County Regulations. The provisions of the ACE as to use and occupancy of the property and the construction or reconstruction of buildings, facilities and all other structures located thereon is expressly subject to construction and zoning regulations of the County, and no approval granted by the landowner or ACE easement holder, or any other understanding as to permitted uses and improvements under the ACE, shall relieve the landowner from obtaining all necessary land use and building approvals from the County in accordance with regulations in effect at the time application is made for such approval.

PART THREE: PERMITTED DEVELOPMENT

1. New Development. Subject and contingent upon obtaining all request approvals from the County in accordance with the Land Use and Development Code, and subject to the provisions of Part One, Paragraph 2, and Part Two herein, new development within the ACE shall be limited to the structures listed in Table 2 below.

2. Existing Improvements. Subject to and contingent upon fulfilling the requirements of Part One, Paragraph 5 herein, and overall adherence to the County’s non-conforming use and structure provisions as set forth in the Land Use and Development Code, existing structures within the ACE may be retained within designated Farmstead Envelopes.

Lot #	Structure Description	Lot Area (Acres)	Development Envelop (Acres)
DP-10C	None	289	n.a.
DP-11	Single Family Home, Guest House and Garage	2,003	2.00
DP-12	Ranch Office, Horse Barn, Single Family Home, Guest House and Garage	21	4.25
DP-13	Single Family Home, Guest House and Garage	41	3.33
DP-14	None	36	3.75
DP-15	Single Family Home and Garage	35	2.00
DP-16	Single Family Home, Guest House and Garage	17	1.00+/-
DP-17	None	32	n.a.
DP-18	None	3	n.a.
DP-20	Single Family Home, Guest House and Garage	15	2.00
SBR-185	Single Family Home, Guest House and Garage	182	3.75