EXHIBIT A

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Morrison & Foerster
P.O. Box 8130
101 Ygnacio Valley Road, Suite 450
Walnut Creek, California 94596-3570
Attention: R. Clark Morrison

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

DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE COUNTY OF CONTRA COSTA
AND
WINDEMERE RANCH PARTNERS

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THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into as of January 18, 1996 by and between WINDEMERE RANCH PARTNERS, a California limited partnership ("Developer" or "Windemere"), and the COUNTY OF CONTRA COSTA, a political subdivision of the State of California ("County"), pursuant to California Government Code § 65864 et seq. This Agreement supersedes and replaces in its entirety that certain development agreement entered into by and between Developer and County, dated October 2, 1990, which is hereby terminated.

RECITALS

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. Pursuant to California Government Code § 65865, County has adopted procedures and requirements for the consideration of development agreements (County Resolution No. 85/412 and Ordinance No. 92-73). This Development Agreement has been processed, considered and executed in accordance with such procedures and requirements.

C. Developer has a legal interest in certain real property consisting of approximately 2379 acres located in the unincorporated portion of the County, as more particularly described in Exhibit A attached hereto (the "Windemere Site"). The Windemere Site may be expanded pursuant to a land exchange with the United States Department of the Army, in which case the Windemere Site may include up to approximately 2439 acres of land.

D. Developer intends to develop the Windemere Site as a residential planned community of 5,170 dwelling units, together with certain retail, office, community services and other uses (defined more fully in Article 2 below as "Windemere Ranch").

E. County has taken several actions to review and plan for the future development of Windemere Ranch. These include, without limitation, the following:

(1) EIR. On December 22, 1992 (the "First Approval Date"), pursuant to the California Environmental Quality Act, the "CEQA Guidelines" and County's local guidelines promulgated thereunder (hereinafter collectively referred to as "CEQA") and in accordance with the recommendation of County's Zoning Administrator, the Board, by Resolution No. 92/864, certified an environmental impact report regarding Windemere Ranch (the "EIR").

(2) Urban Limit Line Modification. On the First Approval Date, following review by the San Ramon Valley Regional Planning Commission and the County Planning Commission, and recommendation by the County Planning Commission, and after duly noticed public hearing and certification of the EIR, the Board, by Resolution 92/865 (which was approved by a 4/5 vote), approved a minor modification to County's Urban Limit Line to locate certain lands (belonging to the United States Department of the Army and located in the Dougherty Valley) inside the Urban Limit Line (the "Urban Limit Line Modification").

(3) General Plan Amendment. On the First Approval Date, following review by the San Ramon Valley Regional Planning Commission and the County Planning Commission, and recommendation by the County Planning Commission, and after duly noticed public hearing, certification of the EIR and adoption of the Urban Limit Line Modification, the Board, by Resolution 92/866, approved an amendment to the County General Plan (which, together with the Urban Limit Line Modification, is referred to below collectively as the "General Plan Amendment") addressing the Windemere Site and certain real property adjacent to the Windemere Site including (i) approximately 2,708 acres owned by Shapell Industries, Inc. and (ii) approximately 892 acres owned by the United States Department of the Army ("Camp Parks").

(4) Specific Plan. On the First Approval Date, following review by the San Ramon Valley Regional Planning Commission and the County Planning Commission, and recommendation by the County Planning Commission, certification of the EIR, adoption of the General Plan Amendment, and duly noticed public hearing, the Board, by Resolution 92/867, approved a single specific plan for the Windemere Site, the Shapell Site, and Camp Parks (collectively, the "Dougherty Valley"), which specific plan is entitled the "Dougherty Valley Specific Plan" (the "Specific Plan").

(5) Settlement Agreements. County, together with Developer and Shapell, has entered into various agreements to settle litigation brought by certain parties against the County as respondent, and against Developer and Shapell as real parties in interest, relating to County's approval of the General Plan Amendment and Specific Plan and its certification of the EIR (collectively, the "Settlement Agreements"). The Settlement Agreements establish, among other things, certain procedures and standards that will be applied to County's consideration and approval of the "Project Approvals" (defined below). The Settlement Agreements consist of the following:

(a) San Ramon and Danville. That certain agreement entered into by and among County, Developer, Shapell, the City of San Ramon ("San Ramon") and the Town of Danville ("Danville") on May 11, 1994 to settle certain claims brought by San Ramon and Danville as more fully described therein (the "San Ramon Settlement Agreement").

(b) Pleasanton. That certain agreement entered into by and among County, Developer, Shapell and the City of Pleasanton ("Pleasanton") on June 20, 1995 to settle certain claims brought by Pleasanton as more fully described therein (the "Pleasanton Settlement Agreement").

(c) Walnut Creek. That certain agreement entered into by and among County, Developer, Shapell and the City of Walnut Creek ("Walnut Creek") on July 11, 1995 to settle certain claims brought by Walnut Creek as more fully described therein (the "Walnut Creek Settlement Agreement").

(d) East Bay Municipal Utility District. That certain agreement entered into by and among County, Developer, Shapell and East Bay Municipal Utility District ("EBMUD") on September 26, 1995 to settle certain claims brought by EBMUD as more fully described therein (the "EBMUD Settlement Agreement").

(e) Alamo Improvement Association. That certain agreement entered into by and among County, Developer, Shapell and the Alamo Improvement Association ("AIA") on October 12, 1995 to settle certain claims brought by AIA as more fully described therein (the "AIA Settlement Agreement").

(f) Non-Governmental Organizations. That certain agreement entered into on October 12, 1995 by and among County, Developer, Shapell and several non-governmental organizations other than AIA, viz., the Sierra Club, the Greenbelt Alliance, Preserve Area Ridgelands Committee, Save Our Hills and the Mount Diablo Audubon Society to settle certain claims brought by such non-governmental organizations as more fully described therein (the "NGO Settlement Agreement").

(6) P-1 Zoning and Preliminary Development Plan. On December 19, 1995 (the "Second Approval Date"), following the preparation of an addendum to the EIR in accordance with Section 15164 of the CEQA Guidelines (the "Addendum"), the Board's consideration of the Addendum together with the EIR, and a duly noticed public hearing, the Board adopted (i) County Ordinance No. ____, rezoning the Windemere Site to County's "P-1" zoning district, consistent with the General Plan and the Specific Plan (the "Zoning") and (ii) pursuant to Resolution 95/___, approved a Preliminary Development Plan for the Windemere Site consistent with the Zoning (the "Preliminary Development Plan"). The General Plan Amendment, Specific Plan, Zoning, Preliminary Development Plan and this Agreement are sometimes collectively referred to herein as the "Planning Actions."

F. On the Second Approval Date, after a duly noticed public hearing and considering the Dougherty Valley EIR Addendum, and the findings and recommendation of the Zoning Administrator, the Board took the following actions: (1) made findings required by Board Resolution No. 85/412, that the provisions of this Agreement are consistent with the General Plan and the Specific Plan; (2) by Board Resolution No. _____, made the findings required by CEQA; and (3) adopted Ordinance No. _____, approving and authorizing the execution of this Agreement.

G. The parties acknowledge and agree that applications for specific land use approvals, entitlements, permits and agreements (collectively, the "Project Approvals") must be made by Developer and reviewed (in compliance with CEQA) and approved, issued or entered into by County prior to development of the Windemere Site. The Project Approvals may include, without limitation, the following: design review approvals, improvement agreements and similar

agreements relating to Windemere Ranch, use permits, grading permits, building permits, lot line adjustments, sewer and water connection permits, certificates of occupancy, subdivision maps (including tentative, vesting tentative, parcel, vesting parcel, and final subdivision maps), final development plans, rezonings, development agreements, landscaping plans, encroachment permits, resubdivisions, and amendments to the Planning Actions or the Project Approvals.

H. Each party acknowledges that it is entering into this Agreement voluntarily.

NOW, THEREFORE, in consideration of the promises, covenants, and provisions set forth herein, the receipt and adequacy of which consideration is hereby acknowledged, the parties 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, or the date upon which this Agreement is executed by Developer and County, whichever is later (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-five (25) years.

ARTICLE 2. DEFINITIONS

"Addendum" shall have that meaning set forth in Recital E(6) of this Agreement.

"Administrative Amendment" shall have that meaning set forth in Section 5.01(1) of this Agreement.

"Affordable Housing Program" shall have that meaning set forth in Section 3.05 of this Agreement.

"Agreement" shall mean this Development Agreement and any amendments hereto.

"AIA Settlement Agreement" shall have that meaning set forth in Recital E(5)(e) of this Agreement.

"Annual Review" shall have that meaning set forth in Section 8.02 of this Agreement.

"Applicable Law" shall have that meaning set forth in Section 4.02 of this Agreement.

"Board" shall mean the Board of Supervisors of the County of Contra Costa.

"Camp Parks" shall have that meaning set forth in Recital E(3) of this Agreement.

"CEQA" shall have that meaning set forth in Recital E(1) of this Agreement.

"Changes in the Law" shall have that meaning set forth in Section 4.09 of this Agreement.

"Community Development Director" shall mean the Director of the County's Department of Community Development, or his or her designee.

"Country Club Site" shall mean the approximately 618 acres owned by Shapell and located within the Dougherty Valley for which the County approved a general plan amendment, rezoning, preliminary development plan, final development plan, subdivision map and development agreement on December 20, 1994.

"County" shall mean the County of Contra Costa, and shall include, unless otherwise provided, any of the County's agencies, departments, officials, employees or consultants.

"County General Plan" or "General Plan" shall mean the General Plan of the County of Contra Costa.

"County Law" shall have that meaning set forth in Section 4.03 of this Agreement.

"Danville Settlement Agreement" shall have that meaning set forth in Recital E(5)(a) of this Agreement.

"Default Notice" shall have that meaning set forth in Section 8.01 of this Agreement.

"Deficiencies" shall have that meaning set forth in Section 7.02 of this Agreement.

"Developer" shall have that meaning set forth in the preamble, and shall further include, unless otherwise provided, Developer's successors, heirs, assigns, and transferees.

"Development Agreement Statute" shall have that meaning set forth in Recital A of this Agreement.

"Dougherty Valley" shall have that meaning set forth in Recital E(4) of this Agreement.

"EBMUD Settlement Agreement" shall have that meaning set forth in Recital E(5)(d) of this Agreement.

"Effective Date" shall have that meaning set forth in Section 1.01 of this Agreement.

"EIR" shall have that meaning set forth in Recital E(1) of this Agreement.

"Entire Gale Ranch Site" shall have that meaning set forth in Section 6.01 of this Agreement.

"First Approval Date" shall have that meaning set forth in Recital E(1) of this Agreement.

"Foreclosure" shall have that meaning set forth in Section 14.01 of this Agreement.

"Gale Ranch Site" or "Shapell Site" shall mean the approximately 2,090 acres owned by Shapell Industries, Inc., located in the Dougherty Valley, excluding the Country Club Site.

"General Plan Amendment" shall have that meaning set forth in Recital E(3) of this Agreement.

"Growth Management Element" shall mean the Growth Management Element of the General Plan as of the Second Approval Date.

"JEPA" shall have that meaning set forth in Section 3.09 of this Agreement.

"Judgment" shall have that meaning set forth in Section 7.02 of this Agreement.

"Local TIF Account" shall have that meaning set forth in Section 3.09 of this Agreement.

"Local TIF Funds" shall have that meaning set forth in Section 3.09 of this Agreement.

"Local TIF Program" shall have that meaning set forth in Section 3.09 of this Agreement.

"Mitigation Monitoring Program" shall have that meaning set forth in Section 3.14 of this Agreement.

"Mortgage" and "Mortgagee" shall have the meanings assigned to those terms in Section 14.01 of this Agreement.

"NGO Settlement Agreement" shall have that meaning set forth in Recital E(5)(f) of this Agreement.

"Non-Assuming Transferee" shall have that meaning set forth in Section 13.03 of this Agreement.

"Notice of Compliance" shall have that meaning set forth in Article 15 of this Agreement.

"Off-Site Traffic Improvements" shall have that meaning set forth in Article 3 of this Agreement.

"On-Site Traffic Improvements" shall have that meaning set forth in Article 3 of this Agreement.

"Permit Tracking System" shall have that meaning set forth in Section 3.14 of this Agreement.

"Planning Actions" shall have that meaning set forth in Recital E(6) of this Agreement.

"Planning Commission" shall mean the County's Planning Commission.

"Pleasanton Settlement Agreement" shall have that meaning set forth in Recital E(5)(b) of this Agreement.

"Preliminary Development Plan" shall have that meaning set forth in Recital E(6) of this Agreement.

"Processing Fees" shall have that meaning set forth in Section 3.13 of this Agreement.

"Project Approvals" shall have that meaning set forth in Recital G of this Agreement.

"Project Traffic Improvements" shall have that meaning set forth in Section 3.09 of this Agreement.

"San Ramon Settlement Agreement" shall have that meaning set forth in Recital E(5)(a) of this Agreement.

"Second Approval Date" shall have that meaning set forth in Recital E(6) of this Agreement.

"Settlement Agreements" shall have that meaning set forth in Recital E(5) of this Agreement.

"Shapell Site" or "Gale Ranch Site" shall mean the approximately 2,090 acres owned by Shapell Industries, Inc., located in the Dougherty Valley excluding the Country Club Site.

"Specific Plan" shall have that meaning set forth in Recital E(4) of this Agreement.

"Term" shall have that meaning set forth in Section 1.02 of this Agreement.

"Traffic Impact Fee" shall have that meaning set forth in Section 3.09 of this Agreement.

"Urban Limit Line Modification" shall have that meaning set forth in Recital E(2) of this Agreement.

"Walnut Creek Settlement Agreement" shall have that meaning set forth in Recital E(5)(c) of this Agreement.

"Windemere Ranch" shall mean the Windemere Site and all improvements to be constructed thereon as described in the Planning Actions and (as and when they are adopted or issued) the Project Approvals, and all off-site improvements to be constructed in connection therewith.

"Windemere Site" shall have that meaning set forth in Recital C of this Agreement.

"Zoning" shall have that meaning set forth in Recital E(6) of this Agreement.

ARTICLE 3. OBLIGATIONS OF DEVELOPER AND COUNTY

Section 3.01. Obligations of Developer Generally. The parties acknowledge and agree that County's agreement to perform and abide by the covenants and obligations of County set

forth herein is material consideration for Developer's agreement to perform and abide by the covenants and obligations of Developer set forth herein.

Section 3.02. Obligations of County Generally. The parties acknowledge and agree that Developer's agreement to perform and abide by the covenants and obligations of Developer set forth herein is material consideration for County's agreement to perform and abide by the covenants and obligations of County set forth herein.

Section 3.03. Compliance with Settlement Agreements. The terms and provisions of this Agreement are intended to be consistent with and not to modify, and shall not be deemed to abrogate or limit compliance with or the implementation or enforcement of, the terms and provisions of any of the Settlement Agreements. In the event of any conflict between the terms and provisions of this Agreement and any Settlement Agreement, the terms and provisions of such Settlement Agreement shall prevail to the extent of such conflict. If and to the extent any obligation of any party under any of the Settlement Agreements is terminated for any reason, including, without limitation, any obligation under Section 3.12 (relating to the Interstate 680/Highway 24 Interchange), Section 3.07 (relating to Design Issues), Section 3.10 (relating to the payment of traffic fees to the City of Pleasanton), then such obligation shall not be required to be satisfied hereunder.

Section 3.04. Preliminary Development Plan. Except as otherwise specifically agreed by County, Developer shall comply with all conditions of approval to the Preliminary Development Plan.

Section 3.05. Affordable Housing. Developer shall, in connection with its development of Windemere Ranch, implement the terms and provisions of the Affordable Housing Program as adopted by the Board of Supervisors on March 22, 1994 pursuant to board order (the "Affordable Housing Program"), which requires that a minimum of twenty-five percent (25%) of all dwelling units be developed as affordable to low, very low and moderate income households.

Section 3.06. Designation of Preferred Water Provider. In consequence of the court-sanctioned EBMUD Settlement Agreement, Policy U-1 of the Specific Plan which identifies alternative water suppliers shall be interpreted and applied to Windemere Ranch as follows: Dublin San Ramon Services District is the preferred water provider for the Windemere Site. EBMUD is an alternative water provider, but only pursuant to the terms and conditions set forth in the EBMUD Settlement Agreement.. County staff will support and diligently process an amendment which will incorporate such language into the Specific Plan.

Section 3.07. Design Issues. Paragraphs 2, 3(a) and 3(b) of the NGO Settlement Agreement require certain actions to be taken with respect to the design of Windemere Ranch, including participation in the development of a design program for the "Village Center" of the Dougherty Valley; provision of approximately eighty (80) acres of additional open space (provided that such reconfiguration is physically feasible and permitted by law); and relocation of the high school site proposed for the Dougherty Valley. Any obligation of Developer or County under such provisions of the NGO Settlement Agreement shall be satisfied in connection with any tentative map covering the area of the Windemere Site affected by such obligation, which

tentative map will be approved together with any necessary general plan amendment, specific plan amendment or rezoning.

Section 3.08. Coordination of On-Site Improvements.

County shall require that access or right-of-way for those certain road improvements described on Exhibit B, attached hereto and incorporated herein by reference, as roadway segments W-1 and W-2, be offered for dedication as and at the times provided in the conditions of approval of Shapell's preliminary development plan for the Gale Ranch Site (as approved by the Board on the Second Approval Date pursuant to Res. ____) and the conditions of approval for the preliminary development plan for the Country Club Site (as approved by the Board on December 20, 1994 pursuant to Res. 94-649.); provided, however, that if Developer's project generates the need for access or right-of-way for roadway segments W-1 and/or W-2 over the Shapell Site prior to the time such access or right-of-way is required for Shapell's project, then County shall ensure that the provision of such access or right-of-way is subject to the following:

In order to accommodate Developer's development schedule, Developer may elect to assume responsibility for constructing, without reimbursement from Shapell, roadway segments W-1 and/or W-2 in which case Shapell shall dedicate or offer to dedicate, as required by County, the necessary right-of-way to County upon satisfaction of the following conditions: (i) Shapell will have reasonably reviewed and approved Bollinger Canyon Road's horizontal and vertical alignment, grading and improvement plans; (ii) Developer shall have provided to Shapell improvement agreements deemed acceptable by County and executed by all parties, together with completion and payments bonds so that the improvements shall be duly completed and no liens shall remain on Shapell's property; and (iii) Developer shall have procured a policy of Comprehensive General Liability Insurance in an amount and from an insurance company reasonably satisfactory to County naming Shapell as an additional insured. Shapell shall have the right but not the obligation reasonably to designate the source of cut/fill dirt from the Gale Ranch Site which shall be used to the extent needed for roadway segments W-1 and/or W-2.

Section 3.09. Danville/San Ramon/County Traffic Mitigation.

(1) Certain traffic improvements within the County, San Ramon and Danville are or may be required to accommodate development under the Specific Plan (the "Project Traffic Improvements"). The Project Traffic Improvements include (i) the on-site traffic improvements described in the Specific Plan as the "Internal Circulation System" (the "On-Site Traffic Improvements"), (ii) the off-site traffic improvements described on Exhibit C-1, attached hereto and incorporated herein by reference (the "Initial Project Traffic Improvements") and (iii) certain additional off-site traffic improvements described on Exhibit C-2, attached hereto and incorporated herein by reference (the "Additional Project Traffic Improvements"). The Initial Project Traffic Improvements and the Additional Project Traffic Improvements are sometimes referred to collectively below as the "Off-Site Traffic Improvements."

(2) Subject to the provisions of Section 3.08 above, Developer shall be responsible for the construction of those On-Site Traffic Improvements made necessary by Windemere Ranch.

(3) Developer shall pay to County a per-unit traffic impact fee (the "Traffic Impact Fee") in the amount necessary, but no more than the amount necessary, to fund Developer's fair share of the cost of construction of the Off-Site Traffic Improvements; provided, however, that Developer shall have responsibility for constructing roadway segment W-3 as shown on attached Exhibit B and Shapell shall have responsibility for constructing roadway segments S-1 and S-2 as shown on attached Exhibit B. In calculating Developer's and Shapell's respective obligations for the construction and/or funding of the Off-Site Traffic Improvements, the costs of roadway segments S-1, S-2 and W-3 shall be deducted from the aggregate total cost of the Off-Site Traffic Improvements and not considered in making such calculations. The amount of the Traffic Impact Fee shall be determined as set forth in subsection (4) below, and shall apply to residential units developed on the Windemere Site. The Traffic Impact Fee applicable to a residential unit shall be paid when the building permit for such unit is issued.

(4) The amount of the Traffic Impact Fee shall be determined within six (6) months following County's approval of this Agreement, but no later than the date upon which the County first approves a tentative subdivision map showing individual residential lots for any portion of the Dougherty Valley (other than for the Country Club Site), in the following manner: County, Developer, Shapell and, as required by the San Ramon Settlement Agreement, representatives of Danville and San Ramon, shall meet and confer in good faith to determine (i) the estimated reasonable cost of the Off-Site Traffic Improvements and (ii) the respective proportions of such cost that fairly should be borne by Windemere and Shapell (taking into account, among other things, development planned for the Country Club Site and the fees being paid by Shapell with respect thereto) and other projects or parties, if any, contributing to the need for such improvements and to whom the Traffic Impact Fee will apply. In making such determinations and establishing the amount of the Traffic Impact Fee, it shall be recognized that (a) Developer's pro rata contribution to the traffic improvements described on Exhibit C-3, attached hereto and incorporated herein by reference, shall be no more than is specified in, and shall be paid as described in, Exhibit C-3; and (b) Developer and Shapell shall, taken together, be responsible for the entire cost of the Initial Project Traffic Improvements as set forth in the San Ramon Settlement Agreement (although each shall be responsible only for its fair share of the cost of such improvements). The costs and proportions so determined and agreed-upon by County and Developer shall be reflected, as appropriate, in the Traffic Impact Fee. The amount of the Traffic Impact Fee shall be adjusted annually in accordance with the construction cost index published in the Engineering News Record.

(5) County shall enter into such agreements with San Ramon and Danville as may be necessary or appropriate to establish a joint exercise of powers agreement (the "JEPA") or some other program or mechanism to provide for (i) the collection of traffic impact fees from development projects in San Ramon, Danville and Contra Costa County and within the boundary of the JEPA or other program or mechanism that will contribute to the need for the Additional Project Traffic Improvements, which fees shall be in amounts consistent with the determinations made under Subsection (4) above, (ii) the establishment of an account or accounts (the "Local TIF Account") to hold Traffic Impact Fees collected from Developer and Shapell, and traffic impact fees collected from the developers of other projects that will contribute to the need for the Additional Project Traffic Improvements (collectively, the "Local TIF Funds"); and (iii) the

transfer to San Ramon, Danville and County of Local TIF Funds attributable to the Off-Site Traffic Improvements to be developed within those jurisdictions (the "Local TIF Program").

(6) The timing of when an Off-Site Traffic Improvement is needed will be determined by Measure C (1988) and any conditions of approval for subdivision maps. If the Local TIF Program has not received sufficient developer fees to fund such an improvement when it is needed, then Developer may be required to fund the difference, or construct the improvement, to ensure the improvement is built on time. In such case, Developer shall enter into a reimbursement agreement with County to credit or reimburse Developer the eligible construction costs that were advanced to build the project. Any credit so provided shall be applied in full against the Traffic Impact Fee for each residential unit that receives a building permit following completion of the Off-Site Traffic Improvement by Developer (rather than *pro rata* against the Traffic Impact Fee for all remaining residential units in the Project) until such time as the full credit has been provided.

(7) County shall establish and implement a mechanism to reimburse Developer, and shall reimburse Developer, that portion of the costs to be incurred by Developer in connection with the funding or construction of the On-Site Traffic Improvements and the Off-Site Traffic Improvements that represents the extent to which such traffic improvements will serve traffic generated by projects that are developed pursuant to general plan amendments approved on or after the Effective Date.

(8) To the extent that any Project Traffic Improvement funded or constructed by Developer is included on a project list under any Measure C Action Plan or CMP Deficiency Plan, and provided such transportation improvement has sufficient priority under such Action Plan or Deficiency Plan, Developer shall receive a credit against, or reimbursement from, any traffic fee imposed upon Developer under Section 3.09(11) or Section 3.12 of this Agreement.

(9) Some portion of the Traffic Impact Fee may be allocated to and collected from commercial development (on a per-square-foot basis) to occur as a part of Windemere Ranch; provided, however, that the total amount of Traffic Impact Fee to be collected from residential development to occur as a part of Windemere Ranch (as determined above) shall be reduced by the amount of funds to be so collected from commercial development.

(10) County shall make its final determination of compliance with the standards of the Growth Management Element of the General Plan relating to traffic in conjunction with the review and approval of tentative subdivision maps.

(11) County shall not impose on Developer any fee or other obligation with respect to roads or traffic impacts other than as specifically set forth in this Agreement, Section 4.4 of the San Ramon Settlement Agreement (relating to assurance of compliance with traffic service objectives), Paragraph 1 of the Walnut Creek Settlement Agreement or Paragraph 1 of the Pleasanton Settlement Agreement (relating to Developer's payment of fees to Pleasanton). Notwithstanding the foregoing, nothing in this Agreement shall prevent the County from (i) applying to Windemere Ranch any subregional traffic impact fee required by Measure C (1988) and adopted and applied consistently and on a uniform basis throughout the Tri-Valley subregion

by each of the seven jurisdictions that are now signatories to the Tri-Valley Transportation Council joint powers agreement which is adopted prior to the vesting date of any tentative map (provided, however, that County shall provide to Developer a credit against any such fee for traffic improvements constructed and/or funded by Developer under this Agreement or the San Ramon Settlement Agreement), (ii) imposing on Windemere Ranch reasonable requirements for the funding or construction of additional minor traffic improvements made necessary by Windemere Ranch and identified through CEQA review of individual tentative map applications for Windemere Ranch, or (iii) imposing on the Windemere Ranch a subregional traffic fee developed by the JEPA identified in Section 3.09(5) to satisfy Measure C requirements and for the sole purpose of funding a fair share contribution of the Alcosta ramp realignment project at I-680 and the auxiliary lanes project on I-680 between Bollinger Canyon Road and Diablo Road.

Section 3.10. Pleasanton Traffic Mitigation. Separate and apart from the Traffic Impact Fee, Developer shall pay to County $150 for each residential unit developed pursuant to the Project Approvals ("Pleasanton Traffic Fees"). The Pleasanton Traffic Fees will be collected by County upon its issuance of the building permit for each such unit and delivered to Pleasanton for the mitigation of traffic impacts on roadways located in its jurisdiction. If for any reason San Ramon assumes the responsibility for issuing building permits for the Project (although the parties anticipate that County will retain responsibility for the issuance of building permits notwithstanding the municipal annexation of any portion of Windemere Ranch), San Ramon shall collect and deliver the Pleasanton Traffic Fees as set forth above. As provided in Paragraph 5(b) of the Pleasanton Settlement Agreement, Developer's obligations pursuant to this Section 3.10 and Paragraph 1 of the Pleasanton Settlement Agreement shall cease in the event that Pleasanton files any legal action challenging any use or approval or any modification to any use or approval relating to the Dougherty Valley.

Section 3.11. Dublin Traffic Mitigation. County and Developer shall work with the City of Dublin to establish a mutually acceptable fee to account for the cost of mitigating the traffic-related impacts of the Project on roadways located in the City of Dublin net of the cost of mitigating the traffic-related impacts of development projected to occur within the City of Dublin (including, without limitation, the East Dublin project) on the On-Site and Off-Site Traffic Improvements, if any. Such fee, if any, will be collected by County upon its issuance of the building permit for each residential unit in the Project and delivered to Dublin for the mitigation of traffic impacts on roadways in its jurisdiction. If for any reason San Ramon assumes the responsibility for issuing building permits for the Project (although the parties anticipate that County will retain responsibility for the issuance of building permits notwithstanding the municipal annexation of any portion of Windemere Ranch), San Ramon shall collect and deliver the such traffic fees as set forth above. If County, Developer and the City Dublin are unable to arrive at a mutually acceptable fee within six (6) months following the Effective Date, then County and Developer may themselves determine the amount of such fee; provided, however, that such six-month period shall be extended for a period of time equal to the period of any undue delay caused by Developer or County in establishing the amount of such fee. Any fee imposed on the Project pursuant to this Section 3.11 shall be approved by the Board of Supervisors and, except as otherwise agreed by County and Developer, remain fixed throughout the term of this Agreement; provided, however, that such fee may be subject to escalation in accordance with the

"Construction Cost Index" published in Engineering News Record. If any regional traffic fee is established and required to be paid by Developer under Section 3.09(11) of this Agreement, and such regional traffic fee provides funding for those improvements in Dublin included in calculating the amount of the traffic fee to be paid to Dublin as set forth above then, with respect to any residential unit upon which such regional traffic fee is imposed, Developer shall be relieved of its obligation to pay such portion of the fee described in this Section 3.11 that is attributable to those improvements in Dublin that are funded by such regional fee.

Section 3.12. Walnut Creek Traffic Mitigation. Notwithstanding any other provision contained herein, all future tentative subdivision maps covering the Windemere Site shall be subject to all standards and requirements adopted by the County pursuant to Measure C (1988), including but not limited to the Tri-Valley Action Plan or fees adopted thereunder, and all standards and requirements adopted pursuant to Title 7, Division 1, Chapter 2.5 of the Government Code (Section 65080 et seq.), including but not limited to all congestion management plans and deficiency plans adopted thereunder, provided that such standards and requirements are designed to mitigate congestion on the Interstate 680/Highway 24 interchange or streets within Walnut Creek, are applied to all other major residential projects within the member jurisdictions of SWAT, TRANSPAC and TRANSPLAN, and are imposed by the County or City only to the extent of the project's impacts on the interchange or streets within Walnut Creek. Neither the foregoing provision nor any other provision of this Agreement (other than the section of this Agreement relating to traffic-based reductions in permitted development (Section 4.01)) shall limit the authority of the County to apply the standards and requirements described above adopted pursuant to Measure C (1988), including, but not limited to, any Action Plan or fees.

Section 3.13. Processing Fees. Fees charged by County which solely represent the reasonable costs to County for County staff time and resources spent reviewing and processing Project Approvals are referred to in this Agreement as "Processing Fees." County may charge Developer any applicable Processing Fee that is operative and in force and effect on a Countywide basis at the time such Processing Fee ordinarily is collected.

Section 3.14. Mitigation Monitoring Program. Developer shall fund development and operation of a system (the "Permit Tracking System") to monitor compliance with the requirements of the San Ramon Settlement Agreement regarding the provision of certain capital facilities, compliance with mitigation measures and compliance with project conditions, through the payment of a fee not to exceed $100 per residential unit developed on the Windemere Site, payable at recordation of the final map encompassing such unit. Developer shall, at the time services are performed, pay the County staff costs of carrying out the County's Mitigation Monitoring Program, as adopted by the Board on the First Approval Date, and as it may be amended for the purposes of compliance with CEQA (the "Mitigation Monitoring Program"), which are attributable to development of the Windemere Site, on a time and materials basis, and shall pay the reasonable costs of consultants as necessary to implement the Mitigation Monitoring Program.

Section 3.15. Other Financing Requirements.

(1) County and Developer shall cooperate in (i) the formation, as soon as reasonably practicable but in any event prior to the filing of the first final subdivision map for any portion of the Dougherty Valley, of a County Service Area or other financing entity to receive certain funds and provide certain services, including the operation and maintenance of facilities and infrastructure, as described in Section 3.3 of the San Ramon Settlement Agreement and (ii) the establishment, as soon as reasonably practicable but in any event prior to the filing of the first final subdivision map for any portion of the Dougherty Valley, of a mechanism adequate to fund the provision of such services as described in Section 3.3 of the San Ramon Settlement Agreement.

(2) As described in Section 3.4 of the San Ramon Settlement Agreement, to ensure that the Community Center, Senior Center, Library, and Police Substation described in the Specific Plan will be constructed on a timely basis and made available to Dougherty Valley residents at the appropriate time, County shall (except to the extent some other method for the financing or provision of such facilities is requested or established by Developer or Shapell, as appropriate) assess against residential units to be developed in the Dougherty Valley a fee, special tax or assessment in an amount sufficient to fund Developer's and Shapell's obligation to contribute to the cost of such facilities. Funds so collected will be held in a separate account and made available to Developer or Shapell, as appropriate, for the construction of such facilities. The precise form, timing and amount of such fee, tax or assessment shall be in accordance with the terms and provisions of Exhibit D, attached hereto.

ARTICLE 4. STANDARDS, LAWS AND PROCEDURES GOVERNING WINDEMERE RANCH

Section 4.01. Permitted Uses.

(1) In General. The permitted uses of the Windemere Site; the density and intensity of use of the Windemere 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 location of public utilities; and other terms and conditions of development applicable to Windemere Ranch, shall be as set forth in the Planning Actions and, as and when they are adopted or issued, the Project Approvals.

(2) Exceptions. Not in limitation of the foregoing, the permitted uses, density and intensity of use of the Windemere Site shall include 5,170 residential units at the densities provided for in the Specific Plan and 369,200 square feet of commercial space (exclusive of any community college uses), subject to the following limitations:

a. All development of the Windemere Site shall be consistent with the General Plan, including the Growth Management Element thereof, as it existed on the Second Approval Date. County may modify the permitted uses of the Windemere Site to the extent necessary to attain such consistency, provided no other method of attaining such consistency is feasible.

b. The parties acknowledge and agree that the terms and provisions of the Settlement Agreements include certain conditions to and limitations on the development of Windemere Ranch. All development of Windemere Ranch shall be consistent with such conditions and limitations. County may limit the development of the Windemere Site to attain consistency with such conditions and limitations if no other method of attaining such consistency is feasible.

c. Subject to Section 4.05 of this Agreement, County may modify the permitted uses of the Windemere Site to the extent necessary to satisfy County's obligations under CEQA and (as provided in Section 4.09 below) other State and federal laws, provided no other method of satisfying such obligations is feasible.

d. Except to the extent otherwise specifically required by state or federal law, no modification of the permitted uses of the Windemere Site shall occur with respect to any portion of the Windemere Site with respect to which County has approved a tentative or vesting tentative subdivision map.

Section 4.02. Applicable Law. The rules, regulations, official policies, standards and specifications applicable to Windemere Ranch (the "Applicable Law") shall be those in force and effect on the Second Approval Date including, without limitation, the Planning Actions. Applicable Law shall also include the Project Approvals as and when they are adopted or issued from time to time.

Section 4.03. No Conflicting Enactments. Except as otherwise specifically set forth herein or agreed to by Developer, County shall not apply to Windemere Ranch any ordinance, resolution, rule, regulation, standard, directive, condition or other measure (each individually, a "County Law") that is in conflict with Applicable Law (including this Agreement) or that reduces the development rights provided by this Agreement. Without limiting the generality of the foregoing, any County Law shall be deemed to conflict with Applicable Law (including this Agreement) or reduce the development rights provided hereby if it would accomplish any of the following results, either by specific reference to Windemere Ranch or as part of a general enactment which applies to or affects Windemere Ranch:

a. except as otherwise specifically provided in Section 4.01(2) above, reduce the number of residential units permitted to be developed on the Windemere Site to fewer than 5,170 units, or revise the densities permitted by the Specific Plan;

b. except as otherwise specifically provided in Section 4.01(2) above, reduce the square footage of commercial development permitted to be developed on the Windemere Site to fewer than 369,200 square feet (exclusive of community college uses);

c. except as otherwise specifically provided in Section 4.01(2) above, limit or reduce the density or intensity of Windemere Ranch, or any part thereof, otherwise require any reduction in the square footage or number of proposed buildings or other improvements or revise the densities permitted by the Specific Plan;

EXHIBIT B

Responsibilities For Certain Traffic Improvements

d. except as otherwise specifically provided in Section 4.01(2) above, change any land use designation or permitted use of the Windemere Site;

e. except as otherwise specifically provided in Section 4.01(2) above, limit or control the location of buildings, structures, grading, or other improvements of Windemere Ranch in a manner that is inconsistent with or more restrictive than the limitations included in the Planning Actions or (as and when they are issued) the Project Approvals;

f. except as otherwise specifically provided in Section 4.01(2) above, limit or control the availability of public utilities, services or facilities or any privileges or rights to public utilities, services, or facilities (for example, water rights, water connections or sewage capacity rights, sewer connections, etc.) for Windemere Ranch;

g. except as otherwise specifically provided in Section 4.01(2) above, limit or control the rate, timing, phasing or sequencing of the approval, development or construction of all or any part of Windemere Ranch;

h. apply to Windemere Ranch any County Law otherwise allowed by this Agreement that is not uniformly applied on a County-wide basis to all substantially similar types of development projects and project sites;

i. require the issuance of additional permits or approvals by County other than those required by Applicable Law;

j. establish, enact, increase, or impose against Windemere Ranch any fees, taxes (including without limitation general, special and excise taxes), assessments, liens or other monetary obligations other than (i) those specifically permitted by this Agreement (including Traffic Impact Fees, Processing Fees, fees to fund the Mitigation Monitoring Program and financial obligations associated with the financing of the construction, operation and maintenance of facilities and infrastructure, and the provision of services, as set forth in Article 3 above) and made necessary by Windemere Ranch and (ii) any County-wide taxes and assessments;

k. establish, enact, increase or impose against Windemere Ranch any rules, regulations, policies or standards that were not in effect on the Second Approval Date, or otherwise impose against Windemere Ranch any condition, dedication or other exaction not specifically authorized by Applicable Law and (except as authorized by the Settlement Agreements or required by the conditions to the Preliminary Development Plan) not made necessary by Windemere Ranch; or

l. limit the processing or issuance of Project Approvals or applications for Project Approvals.

None of the Settlement Agreements shall be considered a conflicting enactment for the purposes of this Agreement.

Section 4.04. Uniform Codes. Notwithstanding anything to the contrary contained in this Agreement, County may apply to Windemere Ranch, at any time during the Term, then-current

Uniform Building Code and other uniform construction codes, and County's then-current design and construction standards for road and storm drainage facilities, provided that any such uniform code or standard shall apply to Windemere Ranch only to the extent that such code or standard has been adopted by County and is in effect on a County-wide basis.

Section 4.05. CEQA. County's environmental review of Project Approvals pursuant to CEQA shall utilize the EIR and the Addendum to the fullest extent permitted by law.

Section 4.06. Moratoria and Restrictions and Limitations on the Rate or Timing of Development. In the event a County Law is enacted (whether by action of the Board or otherwise, or by initiative, referendum, issuance of a Project Approval or other means) which relates to the growth rate, timing, phasing or sequencing of new development or construction in County or, more particularly, development and construction of all or any part of Windemere Ranch, such County Law shall not apply to Windemere Ranch, or any portion thereof. County Laws made inoperative by this provision include, but are not limited to, those that were not in force and effect on the Second Approval Date and that tie development or construction to the availability of public services and/or facilities (for example, the presence of a specified traffic level of service or water or sewer availability).

Section 4.07. Further Assurances.

a. County shall not support, adopt or enact any County Law, or take any other action which would violate the express or implied provisions, conditions, spirit or intent of any of the Planning Actions or the Project Approvals.

b. Developer reserves the right to challenge in court any County Law that would, in Developer's opinion, conflict with Applicable Law (including this Agreement) or reduce the development rights provided by this Agreement.

c. County shall take any and all actions as may be necessary or appropriate to ensure that the vested rights provided by this Agreement can be enjoyed by Developer including, without limitation, any actions as may be necessary or appropriate to ensure the availability of public services and facilities to serve Windemere Ranch as development occurs.

d. Should any initiative, referendum, or other measure be enacted, and any failure of to apply such measure by County to the Windemere Ranch be legally challenged, Developer agrees to fully defend the County against such challenge, including providing all necessary legal services, bearing all costs therefor, and otherwise holding the County harmless from all costs and expenses of such legal challenge and litigation.

Section 4.08. Life of Subdivision Maps, Development Approvals, and Permits. The term of any subdivision map or and other permit approved as a Project Approval shall automatically be extended as provided under California Government Code § 66452.6(a) or California Government Code § 65863.9. Notwithstanding the foregoing, the vested rights associated with any vesting tentative map (but not the term of such tentative map) shall terminate upon the expiration of the Term of this Agreement.

Section 4.09. State and Federal Law. As provided in California Government Code § 65869.5, this Agreement shall not preclude the application to Windemere Ranch 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, Article 6 (Cooperation-Implementation) and Section 8.03 (Excusable Delays; 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 4.10. Timing of Project Construction and Completion.

a. Notwithstanding Sections 84-66.1406(1) and 84-66.1602 of the County Code, there is no requirement that Developer initiate or complete development of Windemere Ranch or any particular phase of Windemere Ranch within any particular period of time, and County shall not impose such a requirement on any Project Approval. The parties acknowledge that Developer cannot at this time predict when or the rate at which or the order in which phases 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 and except as set forth in subsection (c) below, 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 Windemere Site 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 Windemere Ranch in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment.

c. Nothing in this Agreement shall exempt Developer from completing work required by a subdivision agreement, road improvement agreement or similar agreement in accordance with the terms thereof.

Section 4.11. Developer Review of Infrastructure Plans. Developer shall have the right to review and comment on plans for any infrastructure improvement (including, without limitation, streets, roads, trails and detention basins) to be constructed on the Windemere Site by any private party.

ARTICLE 5. AMENDMENT

Section 5.01. Amendment of Planning Actions and Project Approvals. To the extent permitted by state and federal law, any Planning Action (other than this Agreement) or Project Approval may, from time to time, be amended or modified in the following manner:

(1) Administrative Amendments. Upon the written request of Developer for an amendment or modification to a Planning Action (other than this Agreement) or Project Approval, the Community Development Director or his/her designee shall determine: (i) whether the requested amendment or modification is minor when considered in light of Windemere Ranch as a whole; and (ii) whether the requested amendment or modification is consistent with Applicable Law (other than that portion of Applicable Law sought to be amended). If the Community Development Director or his/her designee finds that the proposed amendment or modification is both minor and consistent with Applicable Law (other than that portion of Applicable Law sought to be amended), the amendment shall be determined to be an "Administrative Amendment" and the Community Development Director or his designee may, except to the extent otherwise required by law, approve the Administrative Amendment without notice and public hearing. For the purpose of this Article 5, lot line adjustments, changes in trail alignments, substitutions of comparable landscaping for any landscaping shown on any final development plan or landscape plan, variations in the location of lots or homesites that do not substantially alter the design concepts of Windemere Ranch, and variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of Windemere Ranch, shall be treated as Administrative Amendments.

(2) Non-Administrative Amendments. Any request of Developer for an amendment or modification to a Planning Action (other than this Agreement) or Project Approval which is determined not to be an Administrative Amendment as set forth above shall be subject to review, consideration and action pursuant to Applicable Law (other than subsection (1) above). Nothing in this section 5.01 shall limit any obligations of the County under the San Ramon Settlement Agreement to submit any amendment or modification of a Planning Action or Project Approval to the "Dougherty Valley Oversight Committee," established under the San Ramon Settlement Agreement, for its review and comment or to submit or provide any documentation required by any Settlement Agreement in accordance with the terms of such Settlement Agreement.

Section 5.02. Amendment Of This Agreement. This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the parties hereto or their successors in interest, as follows:

(1) Insubstantial Amendments. Paragraph G of County's "Procedures and Requirements for the Consideration of Development Agreements" (adopted by Board Resolution No. 85/412) permits a development agreement to establish an alternative procedure for the processing of "insubstantial amendments" to such an agreement. Pursuant to said Paragraph G, any amendment to this Agreement which does not relate to (i) the Term of this Agreement, (ii) permitted uses of the Windemere Site, (iii) provisions for the reservation or dedication of land, (iv) conditions, terms, restrictions or requirements for subsequent discretionary actions, (v) the