

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



985 A

FROM: Transportation and Land Management Agency

SUBMITTAL DATE:
May 30, 2014

SUBJECT: Resolution No. 2014-034 Amending Procedures and Requirements for Consideration of Development Agreements (Residential Projects); All Districts; [\$0]; CEQA Exempt

RECOMMENDED MOTION: That the Board of Supervisors adopt Resolution No. 2014-034 Amending Procedures and Requirements for Consideration of Development Agreements (Residential Projects).

BACKGROUND:

Summary

Development Agreements are a useful tool used by Cities and Counties to facilitate economic development, and the construction of major public facilities. They provide a higher level of certainty to the development project as it moves forward, in exchange for having the project provide significant public benefits over and above those normally required to mitigate its impacts.

Approval of Resolution No. 2014-034 gives the County the ability to enter into a Development Agreement in connection with a qualifying residential project that demonstratively provides extra-ordinary public benefits by constructing major public infrastructure and/or dedication of open space land above and (Continued on Attachment Page)

Juan C. Perez,
Director of Transportation and Land Management

FORM APPROVED COUNTY COUNSEL
BY:
KARIN L. WATTS-BAZAN DATE: 6/2/14
Departmental Concurrence

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ N/A	\$ N/A	\$ N/A	\$	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$	\$	\$	\$	

SOURCE OF FUNDS:	Budget Adjustment:
	For Fiscal Year: 13/14

C.E.O. RECOMMENDATION:

APPROVE

BY:
Tina Grande

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Benoit, seconded by Supervisor Tavaglione and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: July 15, 2014
xc: TLMA

Kecia Harper-Ihem
Clerk of the Board
By:
Deputy

Prev. Agn. Ref.: | District: ALL | Agenda Number: **3-60**

- A-30
- Positions Added
- 4/5 Vote
- Change Order

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: Resolution No. 2014-034 Amending Procedures and Requirements for Consideration of
Development Agreements (Residential Projects); All Districts; [0]; CEQA Exempt**

DATE: May 30, 2014

PAGE: 2 of 2

BACKGROUND:

Summary (continued)

beyond that required to mitigate project impacts, payment of development agreement fees, or any combination of the aforementioned public benefits.

The County's procedures currently allow for commercial or industrial projects to enter into a negotiated development agreement with the County. The following resolution allows the Board of Supervisors the flexibility to consider Development Agreement applications on individual qualifying residential or combined mixed use/residential projects, and to make a determination on a project-by-project basis as to which Development Agreements will provide significant public benefit.

Impact on Citizens and Businesses

Development Agreements are restricted to projects that have been vetted and approved or are going through the public hearing approval process, in which case the Development Agreement is processed concurrently with the project application. The Planning Commission is required to hold hearings to consider and review any development agreement before it is recommended to the Board for consideration. Amending the Procedures and Requirements for Consideration of Development Agreements to allow for their use in connection with residential projects will provide a discretionary tool for the County to consider using on a case-by-case basis, in order to facilitate the construction of additional significant infrastructure and/or acquisition of additional open space, or payment of development agreement fees that can be designated for public facilities or services.

SUPPLEMENTAL:

Additional Fiscal Information

Not applicable.

Contract History and Price Reasonableness

Not applicable.

ATTACHMENTS:

- A. Resolution No. 2014-034

2
3 RESOLUTION NO. 2014 - 034

4 AMENDING PROCEDURES AND REQUIREMENTS FOR THE
5 CONSIDERATION OF DEVELOPMENT AGREEMENTS
6 (RESIDENTIAL PROJECTS)

7
8 WHEREAS, Government Code Section 65864 et seq. authorizes the County to enter into
9 binding development agreements with persons having legal or equitable interests in real property for the
10 development of such property; and,

11 WHEREAS, said provisions of the Government Code authorize the County to establish
12 procedures and requirements for the consideration of development agreements; and,

13 WHEREAS, development agreements can serve to strengthen the public planning process,
14 encourage private participation in comprehensive planning, reduce the economic costs of development,
15 and promote the maximum efficient utilization of resources at the least economic cost to the public; and,

16 WHEREAS, the County desires to implement this authorization for development
17 agreements in an efficient and equitable manner by providing for procedures and requirements that
18 balance public and private benefits; and,

19 WHEREAS, there is an immediate need to provide such procedures and requirements for
20 residential projects; and

21 WHEREAS, on February 7, 2012, the Board of Supervisors adopted procedures and
22 requirements for the consideration of development agreements for solar power plant projects; and,

23 WHEREAS, on September 11, 2012, the Board of Supervisors amended said procedures
24 and requirements for the consideration of development agreements to include commercial or industrial
25 projects; and,

26 WHEREAS, this resolution amends said resolution and the adopted procedures and
27 requirements to allow for the consideration of development agreements for residential projects; and
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FORM APPROVED/COUNTY COUNSEL
BY: MARY L. WATSON-BAZAN DATE: 07/15/14

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WHEREAS, the adoption of procedures and requirements for the consideration of such development agreements for residential projects is in the public interest and the public health, safety and general welfare will be promoted thereby; now, therefore,

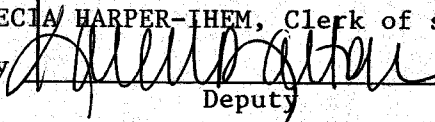
BE IT RESOLVED, FOUND, DETERMINED AND ORDERED by the Board of Supervisors of the County of Riverside, State of California, in regular session assembled on 2014, that is adopts the procedures and requirements for the consideration of development agreements set forth in Exhibit "A" to this resolution, which exhibit is incorporated herein by this reference.

BE IT FURTHER RESOLVED by the Board that this resolution shall be operative and effective immediately.

ROLL CALL:

Ayes:	Jeffries, Tavaglione, Stone, Benoit and Ashley
Nays:	None
Absent:	None

The foregoing is certified to be a true copy of a resolution duly adopted by said Board of Supervisors on the date therein set forth.

KECIA HARPER-IHEM, Clerk of said Board
By 
Deputy

1 EXHIBIT "A"
2 PROCEDURES AND REQUIREMENTS
3 OF THE COUNTY OF RIVERSIDE FOR THE
4 CONSIDERATION OF DEVELOPMENT AGREEMENTS

5 Article 1. AUTHORITY AND APPLICATIONS.

6	Section 101.	Authority and Applicability
7	Section 102.	Qualification as an Applicant
8	Section 103.	Necessary Parties
9	Section 104.	Agents
10	Section 105.	Application Form and Information
11	Section 106.	Standard Form Development Agreement
12	Section 107.	Application Fees
13	Section 108.	Review of Application

14 Section 101. Authority and Applicability. These Procedures and Requirements are
15 adopted pursuant to Article 11, Section 7 of the California Constitution and the California Development
16 Agreement Statutes, (Government Code Section 65864 et seq.). These Procedures and Requirements
17 shall apply only to development agreements for projects involving solar power plants, residential and
18 commercial or industrial projects involving the construction of commercial retail centers, business parks
19 and offices, industrial parks, warehouses and other similar facilities, but may in the future be amended to
20 address other types of projects.

21 Section 102. Qualification as an Applicant. Subject to the requirements of Section 103
22 with respect to necessary parties, any qualified person may file an application to enter into a development
23 agreement. A prospective applicant is a qualified person within the meaning of this section if he has a
24 legal or equitable interest in the real property which is the subject of the development agreement. The
25 Planning Director shall require a prospective applicant to submit proof of his interest in the real property.
26 Such proof shall include a preliminary title report issued by a title company licensed to do business in the
27 State of California evidencing the requisite real property interest and shall also include the statement of
28 the applicant identifying his interest in the real property and identifying any other persons known to him

1 who have any interest in the real property. Before accepting an application, the Planning Director shall
2 obtain the opinion of the County Counsel as to the sufficiency of the real property interest.

3 Section 103. Necessary Parties. All owners of fee simple title to all or any part of the
4 real property which is the subject of a development agreement shall be necessary parties to the
5 development agreement. Also, any person having a legal or equitable interest in such real property who is
6 reasonably necessary to ensure the full implementation and performance of the development agreement
7 throughout its term shall be a necessary party. The Planning Director shall obtain the opinion of the
8 County Counsel as to the necessary parties to a development agreement. Notwithstanding any other
9 provisions of these Procedures and Requirements, no hearing on the development agreement shall be held
10 until and unless all necessary parties have agreed in writing to join in the application for the development
11 agreement. "Necessary parties" and their successors in interest, if any, are referred to herein as "property
12 owner(s)".

13 Section 104. Agents. Any applicant or necessary party may authorize an agent to act
14 on his behalf with respect to an application by submitting written authorization acceptable to the Planning
15 Director.

16 Section 105. Application Form and Information. The Planning Director shall determine
17 the form of the application and may require an applicant to submit any information and supporting data
18 that he considers necessary to process the application.

19 Section 106. Standard Form Development Agreement. The County Counsel, in
20 consultation with the Planning Director, shall prepare one or more standard form development
21 agreements. Separate standard form development agreements may be prepared for different types of
22 development projects. Standard form development agreements shall be consistent with the provisions of
23 the California Development Agreement Statutes and these Procedures and Requirements, and may include
24 any other provisions deemed necessary or convenient to provide for implementation and performance of
25 the development agreement. An application for a development agreement shall include a completed
26 standard form development agreement applicable to the proposed type of development without any
27 revision to the standard form development agreement. A written request for a revision to any provision of
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1 the standard form development agreement may also be submitted. Any such requested revision shall state
2 the exact language of the proposed revised provision and the reasons for the request. All requested
3 revisions shall be considered during review of the application.

4 Section 107. Application Fees. An application shall be accompanied by the
5 application fees required by Ordinance No. 671 and shall be subject to the provisions prescribed therein
6 with respect to payment, accounting, appeals and refund.

7 Section 108. Review of Application. The Planning Director shall endorse on the
8 application the date of receipt, shall review the application, and may reject the application if it is
9 incomplete or inaccurate. If the application is complete, the Planning Director shall accept it for filing.
10 The Planning Director shall determine any additional requirements necessary to complete the
11 development agreement on the basis of the application as filed. After receiving all required information,
12 the Planning Director shall prepare a report and recommendation as to whether or not the proposed
13 development agreement is consistent with the general plan, any applicable specific plan, and the
14 provisions of these Procedures and Requirements.

15 Article 2. REQUIREMENTS.

16	Section 201.	Required Contents
17	Section 202.	Public Benefits in General
18	Section 203.	Public Benefits for Residential Projects
19	Section 204.	Public Benefits for Commercial or Industrial Projects
20	Section 205.	Public Benefits for Solar Power Plant Projects
21	Section 206.	Term of Development Agreement
22	Section 207.	Reservation of Authority
23	Section 208.	Construction Codes

24 Section 201. Required Contents. A development agreement shall include the
25 following:

- 26 (a) A legal description of the property subject to the agreement.
- 27 (b) The duration of the agreement, the permitted uses of the property, the density and
28 intensity of the use, the maximum height and size of proposed buildings, and provisions for the
reservation or dedication of land for public purposes.

1 (c) Conditions, terms, restrictions and requirements for subsequent County
2 discretionary actions, provided that such conditions, terms, restrictions and requirements for
3 subsequent discretionary actions shall not prevent development of the land for the uses and to the
4 density or intensity of development set forth in the agreement.

5 (d) Public benefits in accordance with these Procedures and Requirements.

6 (e) If the development agreement includes a subdivision, as defined in Section 66473.7
7 of the Government Code, the agreement shall provide that any tentative map prepared for the
8 subdivision shall comply with Section 66473.7 of the Government Code.

9 Section 202. Public Benefits in General. As consideration for the significant private
10 benefits conferred on property owners, a development agreement shall provide for significant
11 public benefits in addition to any fees, dedications and public improvements otherwise required
12 through project approval. A development agreement shall include provisions necessary or
13 convenient to secure the performance of all requirements with respect to public benefits during the
14 entire term of the agreement.

15 Section 203. Public Benefits for Residential Projects. [RESERVED] A development
16 agreement for a project that includes residential development shall include provisions requiring the
17 construction of major public infrastructure and/or dedication of open space land above and beyond
18 that required to mitigate project impacts; payment of development agreement fees; or any
19 combination of the aforementioned public benefits.

20 Section 204. Public Benefits for Commercial or Industrial Projects. A development
21 agreement for a project that includes commercial or industrial development involving the
22 construction of commercial retail centers, business parks and offices, industrial parks, warehouses
23 and other similar facilities shall include provisions requiring the development of significant
24 employment sites or provisions which will result in the County receiving other significant public
25 benefits including, but not limited to, the construction of major public infrastructure above and
26 beyond that required to mitigate project impacts.

1 Section 205. Public Benefits for Solar Power Plant Projects. A development
2 agreement for a project that includes a solar power plant shall include provisions generally
3 consistent with the requirements of Board of Supervisors Policy B-29.

4 Section 206. Term of Development Agreement. The term of a development
5 agreement shall be subject to the following provisions.

6 (a) Residential Projects. ~~[RESERVED]~~ Unless the Board of Supervisors determines
7 that a longer or shorter term is appropriate based on special circumstances applicable to the
8 project, the term of a development agreement for a project that consists of entirely residential
9 development shall be thirty (30) years from the date of recordation of the development agreement.

10 (b) Commercial or Industrial Projects. Unless the Board of Supervisors determines
11 that a longer or shorter term is appropriate based on special circumstances applicable to the
12 project, the term of a development agreement for a project that consists of entirely commercial or
13 industrial development shall be twenty (20) years from the date of recordation of the development
14 agreement.

15 (c) Solar Power Plant Projects. Unless the Board of Supervisors determines that a
16 longer or shorter term is appropriate based on special circumstances applicable to the project, the
17 term of a development agreement for a project involving a solar power plant shall be 30 years
18 from the date of recordation of the development agreement.

19 Section 207. Reservation of Authority. Unless otherwise provided by these
20 Procedures and Requirements or the development agreement, the rules, regulations, and official policies
21 governing permitted uses of the land, governing density, and governing design, improvement, and
22 construction standards and specifications, applicable to development of the property subject to a
23 development agreement, shall be those rules, regulations, and official policies in force at the time of
24 recordation of the agreement ("existing rules"). A development agreement shall not, however, prevent the
25 County from doing any of the following:

1 (a) Applying to subsequent development approvals new rules, regulations, and policies
2 (“new rules”) that do not conflict with those existing rules applicable to the property as set forth
3 herein;

4 (b) Denying or conditionally approving subsequent development projects on the basis
5 of the existing rules or on the basis of the new rules that do not conflict with the existing rules;

6 (c) Imposing subsequently adopted development exactions that are applied uniformly
7 to similar development unless such exactions would physically prevent development of the
8 property for the uses and at the density or intensity set forth in the development agreement; or

9 (d) Imposing regulations that may be in conflict with the development agreement,
10 but which are reasonably necessary to protect the public health and safety.

11 Section 208. Construction Codes. A development agreement shall acknowledge the
12 possibility of changes in the building, plumbing, mechanical, electrical, fire and grading codes applicable
13 in the County during the term of the agreement and shall provide that any amendments to such codes
14 relating to construction, fire or grading standards and specifications shall apply to the project subject to
15 the development agreement.

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17 Article 3. NOTICE AND HEARING.

18	Section 301.	Duty to Give Notice
19	Section 302.	Form, Time and Manner of Notice
20	Section 303.	Failure to Receive Notice
21	Section 304.	Rules Governing Hearing
22	Section 305.	Errors in Proceedings

23 Section 301. Duty to Give Notice. The Planning Director shall give notice of the
24 Planning Commission hearing to consider adoption of a development agreement, and the Clerk of the
25 Board shall give notice of the Board of Supervisors hearing to consider adoption of a development
26 agreement.

27 Section 302. Form, Time and Manner of Notice. Notice of hearing to consider adoption
28 of a development agreement shall be governed by the provisions of state law (Sections 65090, 65091, and

1 65867) and County Ordinance No. 348 (Sections 1.06 and 1.11 inclusive), as such statutes and ordinances
2 now exist or may hereafter be amended. Notice of hearing to consider adoption of a development
3 agreement shall be in addition to any other notice required by law for other actions to be considered
4 concurrently with the development agreement.

5 Section 303. Failure to Receive Notice. The failure of any person to receive notice
6 given pursuant to these Procedures and Requirements shall not affect the authority of the County to enter
7 into a development agreement.

8 Section 304. Rules Governing Hearing. The public hearing shall to the maximum
9 extent possible be conducted in accordance with the procedural standards set forth in Government Code
10 Section 65804 for the conduct of zoning hearings. Each person interested in the matter shall be given an
11 opportunity to be heard. The applicant shall have the burden of proof on all issues at the public hearing
12 on a proposed development agreement.

13 Section 305. Inapplicability of Formal Rules of Evidence or Procedures. The
14 following provisions of Section 65010 of the Government Code shall apply to all proceedings concerning
15 development agreements under these Procedures and Requirements. Formal rules of evidence or
16 procedure applicable in judicial actions and proceedings shall not apply in any proceeding concerning a
17 proposed development agreement. No action, inaction, or recommendation by the County or the Board of
18 Supervisors or County administrative agencies or officials on a proposed development agreement shall be
19 held invalid or set aside by any court on the ground of the improper admission or rejection of evidence or
20 by reason of any error, irregularity, informality, neglect, or omission (hereinafter, "error") as to any matter
21 pertaining to petitions, applications, notices, findings, records, hearings, reports, recommendations,
22 appeals, or any matters of procedure, unless the court finds that the error was prejudicial and that the party
23 complaining or appealing suffered substantial injury from that error and that a different result would have
24 been probable if the error had not occurred. There shall be no presumption that the error was prejudicial
25 or that injury was done if an error is shown.

26
27 Article 4. REVIEW, FINDINGS AND DECISION

28 Section 401. Hearing and Recommendation by Planning Commission

1	Section 402.	Fast Track Projects
2	Section 403.	Hearing and Decision by the Board of Supervisors
3	Section 404.	Approval of Development Agreement
4	Section 405.	Execution by Property Owner(s)
5	Section 406.	Execution by County

6 Section 401. Hearing and Recommendation by Planning Commission. Except as
7 otherwise provided under Section 402 for Fast Track Projects, all development agreements shall be
8 considered at a public hearing before the Planning Commission. At the conclusion of the hearing, the
9 Planning Commission shall make a written recommendation to the Board of Supervisors. The Planning
10 Commission shall include therein its reasons for making the recommendation and a determination as to
whether or not the proposed development agreement:

- 11 (a) Is consistent with the general plan and any applicable specific plan;
- 12 (b) Is consistent with public health, safety, and general welfare and;
- 13 (c) Will provide significant public benefits.

14 Section 402. Fast Track Projects. A development project which has been designated as
15 a fast track project by majority vote of the Board of Supervisors or by the Assistant County Executive
16 Officer/Economic Development Agency (“EDA Director”) in accordance with the provisions of Board of
17 Supervisors Policy A-32, as now adopted or hereafter amended, may include a proposed development
18 agreement. Notwithstanding any other provision of these Procedures and Requirements, the Board of
19 Supervisors hereby deems it appropriate and necessary to reserve to itself the functions of the planning
20 agency with respect to hearing any development agreement included in the fast track project.
21 Notwithstanding Section 401 or any other provision of these Procedures and Requirements, no hearing
22 before the Planning Commission shall be required with respect to any development agreement included in
23 a fast track project. A development agreement included in a fast track project shall be subject to the
24 procedures set forth in Section 18.26a of Ordinance No. 348 and shall remain subject to all provisions of
25 these Procedures and Requirements except the requirement for hearing before the Planning Commission.

26 Section 403. Hearing and Decision by the Board of Supervisors. Upon receipt of the
27 recommendation of the Planning Commission, the Clerk of the Board of Supervisors shall set the
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1 proposed development agreement for hearing by the Board. After the Board completes its public hearing
2 it may approve, modify, or disapprove, the recommendation of the Planning Commission. A
3 development agreement shall not be approved unless the Board finds that the provisions of the agreement
4 are:

- 5 (a) Consistent with the general plan and any applicable specific plan;
- 6 (b) Consistent with the public health, safety, and general welfare; and
- 7 (c) Provide significant public benefits.

8 The decision of the Board shall be final.

9 Section 404. Approval of Development Agreement. A development agreement is a
10 legislative act that shall be approved by ordinance and is subject to referendum. The ordinance shall refer
11 to and incorporate by reference the text of the development agreement.

12 Section 405. Execution by Property Owner(s). Prior to close of the Board of
13 Supervisors hearing on a development agreement, all property owner(s) shall execute the agreement. The
14 executed agreement shall be accompanied by a current title report, in a form satisfactory to the County,
15 issued by a title company licensed to do business in the State of California confirming the ownership
16 interest of all property owner(s) to the satisfaction of the County. The executed agreement shall also be
17 accompanied by a statement by each property owner, in a form satisfactory to the County, identifying his
18 interest in the real property and identifying any other persons known to him who have any interest in the
19 real property. The County may require that the evidence of title required by this section be further
20 updated prior to execution by the County.

21 Section 406. Execution by County. Within ten days after the ordinance approving a
22 development agreement takes effect, the Chairman of the Board shall execute the agreement on behalf of
23 the County.

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26 Article 5. RECORDATION.

- 27 Section 501. Recordation of Agreement
- 28 Section 502. Recordation of Amendment or Cancellation

1 Section 503. Recordation of Modification or Termination
2 Section 504. Effect of Recordation

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4 Section 501. Recordation of Agreement. Within ten days after the County executes a
5 development agreement, the Clerk of the Board of Supervisors shall record with the County Recorder a
6 copy of the agreement, which shall describe the land subject thereto.

7 Section 502. Recordation of Amendment or Cancellation. If the parties to the
8 agreement or their successors in interest amend or cancel the agreement as provided in Article 6 of these
9 Procedures and Requirements and Government Code Section 65868, the Clerk of the Board of
10 Supervisors shall record notice of such action with the County Recorder.

11 Section 503. Recordation of Modification or Termination. If the County terminates or
12 modifies the agreement as provided in Article 8 of these Procedures and Requirements and Government
13 Code Section 65865.1, the Clerk of the Board of Supervisors shall record notice of such action with the
14 County Recorder.

15 Section 504. Effect of Recordation. From and after the time of the recordation
16 required by this Article, notice shall be imparted as provided by the recording laws of the State of
17 California. The burdens of the agreement shall be binding upon, and the benefits of the agreement shall
18 inure to, all successors in interest to the parties to the agreement.

19 Article 6. AMENDMENT OR CANCELLATION.

20 Section 601. Who May Propose
21 Section 602. Procedure
22 Section 603. Mutual Consent

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24 Section 601. Who May Propose. Any party, or successor in interest, to a development
25 agreement may propose an amendment or cancellation, in whole or in part, of the agreement.

26 Section 602. Procedure. The procedure for proposing, reviewing, hearing and
27 adopting an amendment or cancellation, in whole or in part, of a development agreement shall be the
28 same as the procedure for entering into the development agreement in the first instance; provided,

1 however, that the special procedures for Fast Track Projects set forth in Section 402 of these Procedures
2 and Requirements shall not apply to any amendment or cancellation. In addition, if the County initiates a
3 proposed amendment or cancellation of the agreement, it shall first give written notice by mail to all
4 parties, or their successors in interest, of its intention to initiate such proceedings not less than thirty days
5 prior to giving the public notice of any hearing to consider the amendment or cancellation.

6 Section 603. Mutual Consent. Any amendment or cancellation shall be by mutual
7 consent of the parties or their successors in interest except as provided in Article 8 of these Procedures
8 and Requirements and Government Code Section 65865.1.

9 Article 7. REVIEW.

10	Section 701.	Annual Review
11	Section 702.	Special Review
12	Section 703.	Procedure

13 Section 701. Annual Review. The Transportation and Land Management Agency
14 (“TLMA”) Director, in consultation with the County Executive Officer and the County Counsel, shall
15 review a development agreement annually in order to determine the good faith compliance of the property
16 owner(s) with the terms of the agreement. On or before the annual review date set forth in the agreement,
17 the property owner(s) shall submit an annual monitoring report, in a form specified by the TLMA
18 Director providing all information necessary to evaluate such good faith compliance as determined by the
19 TLMA Director. The property owner(s) shall pay the annual review and administration fee set forth in
20 Ordinance No. 671 prior to submission of the annual monitoring report. Any development agreement
21 may include provisions requiring prepayment, or securing payment, of the annual review and
22 administration fee.

23 Section 702. Special Review. The Board of Supervisors may order a special review
24 of good faith compliance of all property owner(s) with a development agreement at any time. The TLMA
25 Director, in consultation with the County Executive Officer and the County Counsel, shall conduct such
26 special reviews. The property owner(s) shall provide all information required to conduct such special
27 review.
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1 Section 703. Procedure.

2 (a) During either an annual review or a special review, the property owner(s) shall be
3 required to demonstrate good faith compliance with the terms of the agreement. The burden of
4 proof on this issue shall be on the property owner(s).

5 (b) Upon completion of an annual review or a special review, the TLMA Director shall
6 submit a report to the Board of Supervisors setting forth the evidence concerning good faith
7 compliance by the property owner(s) with the terms of the agreement and his recommended
8 finding on that issue.

9 (c) If the Board of Supervisors finds on the basis of substantial evidence that there has
10 been good faith compliance by the property owner(s) with the terms and conditions of the
11 agreement, the review shall be concluded.

12 (d) If the Board of Supervisors makes a preliminary finding on the basis of substantial
13 evidence that there has not been good faith compliance by the property owner(s) with the terms or
14 conditions of the agreement, the Board may modify or terminate the agreement as provided in
15 Article 8 of these Procedures and Requirements.

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17 Article 8. MODIFICATION OR TERMINATION.

18 Section 801. Notice
19 Section 802. Hearing

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21 Section 801. Notice. If, upon a preliminary finding under Section 703(d) above, the
22 Board of Supervisors decides to proceed with modification or termination of the agreement, the County
23 shall give at least ten days written notice to the property owner(s) of its intention to do so. The notice
24 shall contain:

- 25 (a) The time and place of hearing;
- 26 (b) A statement as to whether or not the County proposes to modify or terminate the
27 development agreement; and,
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1 (c) Such other information as is reasonably necessary to inform the property owner(s)
2 of the nature of the proceeding.

3 Section 802. Hearing. At the time and place set for the hearing on modification or
4 termination, the property owner(s) shall be given an opportunity to be heard and shall be entitled to
5 present written and oral evidence. The property owner(s) shall be required to demonstrate good faith
6 compliance with the terms and conditions of the agreement. The burden of proof on this issue shall be on
7 the property owner(s). If the Board of Supervisors finds, based upon substantial evidence, that there has
8 not been good faith compliance by the property owner(s) with the terms or conditions of the agreement,
9 the Board may terminate or modify the agreement and impose such conditions as are reasonably
10 necessary to protect the interests of the County. The decision of the Board is final.

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12 Article 9. CHANGES IN STATE OR FEDERAL LAW.

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14 Section 901. Effect of Changes in State or Federal Law on Development Agreement.

15 In the event that state or federal laws or regulations, enacted after a development agreement has been
16 entered into, prevent or preclude compliance with one or more provisions of the development agreement,
17 such provisions of the agreement shall be modified or suspended as may be necessary to comply with
18 such state or federal laws or regulations.

19
20 Article 10. ARCHIVE COPY OF DEVELOPMENT AGREEMENT.

21
22 Section 1001. Archive Copy. The Clerk of the Board of Supervisors shall maintain
23 an archive copy of all development agreements, including all incorporated exhibits. The archive copy
24 shall include all subsequent approvals granted pursuant to the development agreement and a record of
25 each annual or special review conducted on the development agreement. The Planning Director shall
26 provide the Clerk of the Board with copies of all exhibits incorporated in all development agreements
27 including copies of all subsequent approvals granted pursuant to such development agreements.

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G:\Property\KWATTSBA/Resolution No. 2013 - /Development Agreement Procedures and Requirements - Residential

10/15/13