



## SAN BENITO COUNTY PLANNING COMMISSION

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Eduardo  
Navarro  
District No. 1

Valerie Eglund  
District No. 2

Robert Eggers  
District No. 3

Robert  
Gibson  
District No. 4

Robert Rodriguez  
District No. 5

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*County Administration Building - Board of Supervisors Chambers, 481 Fourth Street, Hollister,  
California*

### REGULAR MEETING AGENDA June 19, 2019 6:00 PM

**6:00 PM ~ CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**BOARD ANNOUNCEMENTS**

**DEPARTMENT ANNOUNCEMENTS**

**PUBLIC COMMENT**

**The San Benito County Planning Commission welcomes you to this meeting and encourages your participation.**

- If you wish to speak on a matter which does **NOT** appear on the agenda, you may do so during the Public Comment period at the beginning of the meeting. Please complete a Speaker Card and provide to the Clerk prior to the meeting. Except as otherwise provided by law; no action shall be taken on any item NOT appearing on the Agenda or items that have been continued to a future public hearing date. When addressing the Commission, **please state your name for the record**. Please address the Commission as a whole through the Chair. This open forum period is provided to allow members of the public an opportunity to address the Planning Commission on general issues of land use planning and community development. It is not intended for comments on items on the current agenda, any pending items.
- If you wish to speak on an item contained in the Agenda, please complete a Speaker Card identifying the Item(s) and provide it to the Clerk prior to consideration of the item.
- **Each individual speaker will be limited to a three (3) minute presentation.**

**CONSENT AGENDA**

**ACKNOWLEDGEMENT OF PUBLIC HEARING**

**ACKNOWLEDGEMENT OF CERTIFICATE OF POSTING**

- These items will be considered as a whole without discussion unless a particular item is requested

by a member of the Commission, Staff or the public to be removed from the Consent Agenda. Approval of a consent item means approval of the recommended action as specified in the Staff Report.

- If any member of the public wishes to comment on a Consent Agenda Item please fill out a speaker card present it to the Clerk prior to consideration of the Consent Agenda and request the item be removed and considered separately.

## REGULAR AGENDA

### PUBLIC HEARING

1. **PLN190020 The San Benito Hemp Campus (Use Permit and Development Agreement) OWNER/APPLICANT:** Chambers/Pacific Bay Capital Group. **LOCATION:** 7777 Frazier Lake Road and 7800 Lake Road, Hollister, CA 95023, more commonly known as Assessor's Parcel Numbers 013-050-028-000, **REQUEST:** The San Benito Hemp Campus is a proposal to reuse 275,000 square feet of existing structures at a former turkey egg raising facility on a 75-acre agriculturally (AP) zoned parcel south of and adjacent to the Frazier Lake Airport. The property is presently used as an equestrian facility and for storage. The San Benito Hemp Campus facility would provide for hemp cultivation and hemp-derivative manufacturing and oil extraction. The manufacturing processes will include compounding and formulating various hemp (CBD) products. The project includes a proposal to erect 60,000 square feet of "hoop" greenhouses for seed production and cultivation. The San Benito Hemp Campus will process hemp grown elsewhere in the California region as the market will bear. The proposed facility would operate seven days per week, 24 hours/day with two, twelve-hour shifts. Initially, the facility is expected to employ between 50 and 75 employees with potentially 125 employees at full development.

The applicants have also offered to enter into a Development Agreement with the County of San Benito. The Development Agreement will vest the Applicant's rights to conduct hemp related activities, including but not limited to cultivation, testing and distribution and derivative manufacturing and oil extraction and other hemp processing activities in accordance with County Code. The Development Agreement also addresses specific Community Benefits for San Benito County. The Planning Commission will decide on the merits of the **Use Permit** for the reuse of the existing facility, and then make a recommendation to the Board of Supervisors who will take final action on the **Development Agreement** at a future duly noticed Board of Supervisors' Meeting, potentially in July 2019. **ENVIRONMENTAL EVALUATION:** A Negative Declaration has been prepared. **PROJECT STAFF:** Barbara Thompson, County Counsel and Taven M. Kinison Brown, Principal County Planner. (*tkinisonbrown@cosb.us*).

2. **Inclusionary Housing Ordinance Amendments:**
  - a) Conduct public hearing regarding the amending Inclusionary Housing Ordinance regulations in San Benito County to include, but are limited to the following items: 1) Assigning the in-lieu fee to \$61,950 per on-site building permit; 2) Assigning the in-lieu to \$82,600 per off-site building permit and setting the Inclusionary Unit Cost at \$413,000; 3) Updating the Housing Advisory Committee to seven members; 4) Including the term extremely low income; and 5) Removing Sections 21.03.014, 21.03.015, 21.03.16. (Chapter 21.03 of the San Benito County Code);

b) Consider recommending the approval of Housing Advisory Committee By-Laws to the Board of Supervisors; and

c) Consider adoption of resolution recommending that the Board of Supervisors adopt an Ordinance amending Chapter 21.03 of the San Benito County Code relating to Inclusionary Housing land use regulations, making 2035 General Plan consistency findings and determinations, and making appropriate findings and determinations under the California Environmental Quality Act (“CEQA”).

## **DISCUSSION**

## **ADJOURN**

**NOTE:** A copy of this Agenda is published on the County's Web site by the Friday preceding each Commission meeting and may be viewed at [www.cosb.us](http://www.cosb.us). All proposed agenda items with supportive documents are available for viewing at the San Benito County Administration Building, 481 Fourth Street, Hollister, CA between the hours of 8:00 a.m. & 5:00 p.m., Monday through Friday (except holidays.) This is the same packet that the Planning Commission reviews and discusses at the Commission meeting. The project planner's name and email address has been added at the end of each project description. As required by Government Code Section 54957.5 any public record distributed to the Planning Commission less than 72 hours prior to this meeting in connection with any agenda item shall be made available for public inspection at the Planning Department, 2301 Technology Parkway, Hollister, CA 95023. Public records distributed during the meeting will be available for public inspection at the meeting if prepared by the County. If the public record is prepared by some other person and distributed at the meeting it will be made available for public inspection following the meeting at the Planning Department.

**APPEAL NOTICE:** Any person aggrieved by the decision of the Planning Commission may appeal the decision within ten (10) calendar days to the Board of Supervisors. The notice of appeal must be in writing and shall set forth specifically wherein the Planning Commission's decision was inappropriate or unjustified. Appeal forms are available from the Clerk of the Board at the San Benito County Administration Office, 481 Fourth Street, Hollister and the San Benito County Planning Department, 2301 Technology Parkway, Hollister.

**NOTE:** In compliance with the Americans with Disabilities Act (ADA) the Board of Supervisors meeting facility is accessible to persons with disabilities. If you need special assistance to participate in this meeting, please contact the Clerk of the Board's office at (831) 636-4000 at least 48 hours before the meeting to enable the County to make reasonable arrangements to ensure accessibility.



## SAN BENITO COUNTY AGENDA ITEM TRANSMITTAL FORM

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Eduardo Navarro  
District No. 1

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**Item Number: 1.**

**MEETING DATE: 6/19/2019**

**DEPARTMENT: RESOURCE MANAGEMENT AGENCY**

**DEPT HEAD/DIRECTOR: Ray Espinoza**

**AGENDA ITEM PREPARER: Taven M. Kinison Brown and Barbara Thompson**

**SBC DEPT FILE NUMBER:**

**SUBJECT:**

**PLN190020 The San Benito Hemp Campus (Use Permit and Development Agreement)**

**OWNER/APPLICANT:** Chambers/Pacific Bay Capital Group. **LOCATION:** 7777 Frazier Lake Road and 7800 Lake Road, Hollister, CA 95023, more commonly known as Assessor's Parcel Numbers 013-050-028-000, **REQUEST:** The San Benito Hemp Campus is a proposal to reuse 275,000 square feet of existing structures at a former turkey egg raising facility on a 75-acre agriculturally (AP) zoned parcel south of and adjacent to the Frazier Lake Airport. The property is presently used as an equestrian facility and for storage. The San Benito Hemp Campus facility would provide for hemp cultivation and hemp-derivative manufacturing and oil extraction. The manufacturing processes will include compounding and formulating various hemp (CBD) products. The project includes a proposal to erect 60,000 square feet of "hoop" greenhouses for seed production and cultivation. The San Benito Hemp Campus will process hemp grown elsewhere in the California region as the market will bear. The proposed facility would operate seven days per week, 24 hours/day with two, twelve-hour shifts. Initially, the facility is expected to employ between 50 and 75 employees with potentially 125 employees at full development.

The applicants have also offered to enter into a Development Agreement with the County of San Benito. The Development Agreement will vest the Applicant's rights to conduct hemp related activities, including but not limited to cultivation, testing and distribution and derivative manufacturing and oil extraction and other hemp processing activities in accordance with County Code. The Development Agreement also addresses specific Community Benefits for San Benito County. The Planning Commission will decide on the merits of the **Use Permit** for the reuse of the existing facility, and then make a recommendation to the Board of Supervisors who will take

final action on the **Development Agreement** at a future duly noticed Board of Supervisors' Meeting, potentially in July 2019. ENVIRONMENTAL EVALUATION: A Negative Declaration has been prepared. PROJECT STAFF: Barbara Thompson, County Counsel and Taven M. Kinison Brown, Principal County Planner. (*tkinisonbrown@cosb.us*).

**AGENDA SECTION:**

PUBLIC HEARING

**BACKGROUND/SUMMARY:**

Initially constructed as a turkey egg-raising farm for Nicholas Turkey, Inc in 1988, (later purchased by Aviagen Turkeys and then discontinued and cleaned up), this 275,000 square foot agricultural processing plant and property has been used as an equestrian boarding and training facility for many years. RMA records show that the equestrian use of the property was considered consistent with the Agricultural land use and Agricultural Productive zoning designations underlying the property. Building permits were simply applied for the installation of stalls, wash areas and electrical connections as necessary. No particular use permit was required for this facility.

**BUDGETED:**

**SBC BUDGET LINE ITEM NUMBER:**

**CURRENT FY COST:**

**STAFF RECOMMENDATION:**

**STAFF RECOMMENDATION:** Staff recommends that the Planning Commission review the staff report, receive a presentation from staff, take testimony from the applicant and public and then act on the matter by approving the two resolutions.

- The Use Permit Resolution contains the findings and evidence to adopt the (CEQA) negative declaration of no significant environmental impact and approve the Use Permit with conditions of approval, and

- The Development Agreement Resolution also contains the CEQA findings, and the findings and evidence to support the Development Agreement with Pacific Bay Capital Group and the adoption by the Board of Supervisors of an Ordinance to approve the Development Agreement.

**ADDITIONAL PERSONNEL:**

## **ATTACHMENTS:**

### **Description**

Staff Report - San Benito Hemp Campus

Resolution to Approve the Use Permit

Resolution Attachment 1 Site Plans

Resolution Attachment 2 Application Materials

Resolution for the DA Recommendation

Reso for DA Attachment 1 The Draft DA

Reso for the DA Attachment 2 the draft Ordinance

Environmental Documents

### **Upload Date**

6/14/2019

6/14/2019

6/13/2019

6/13/2019

6/14/2019

6/14/2019

6/14/2019

6/13/2019

### **Type**

Staff Report

Resolution

Site Plan

Backup Material

Resolution

Resolution

Resolution

Other

## STAFF REPORT

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### PROJECT DATA:

Application: PLN190020 The San Benito Hemp Campus  
(Use Permit and Development Agreement)  
Public Hearing: June 19, 2019  
Applicant/Owner: Chambers/Pacific Bay Capital Group  
Location: 7800 Lake Road, Hollister, CA 95023  
APN: 013-050-028-000  
General Plan: Agriculture (A),  
Zoning: Agricultural Productive (AP)  
Planner: Taven M. Kinison Brown, Principal Planner

### PROJECT DESCRIPTION

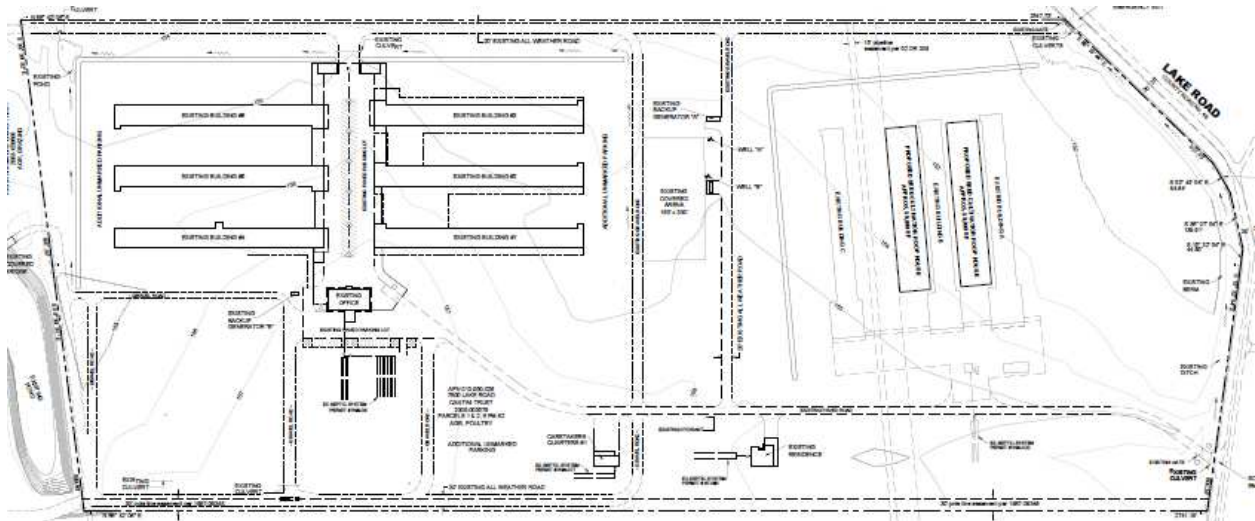
The Use Permit. The San Benito Hemp Campus is a proposal to reuse 275,000 square feet of existing structures at a former turkey raising facility on a 75-acre agriculturally (AP) zoned parcel south of and adjacent to the Frazier Lake Airport in the north county area. The applicants have also offered to enter into a Development Agreement with the County of San Benito. The property is presently used as an equestrian facility and for personal storage for the owner.



The San Benito Hemp Campus facility would provide for hemp cultivation and hemp-derivative manufacturing and oil extraction. The manufacturing processes will include compounding and formulating various hemp (CBD) products. The oil extraction facilities would involve TFE-Freon-based extraction processes. The project includes a proposal to erect 60,000 square feet of “hoop” greenhouses (or more formalized structures) to supplement seed production and cultivation. The San Benito Hemp Campus will process hemp grown elsewhere in the California region as the market will bear. Adjacent properties in the vicinity, not subject to this Use Permit review, will also be used to grow hemp for cultivation and processing at this facility. An emergency generator will provide back-up power. **(Please see Attachment 1 to Exhibit A).**



- (1-5) 25,000 sq ft + manufacturing
- (6) 25,000 sq ft + of Bio Mass Storage
- (7) 50,000 sq ft Extraction Plant
- (8-10) 25,000 sq ft + seed cultivation



The manufacturing areas would be developed in four of the six existing stables totaling 100,000 sf. A 25,000 sf. bio mass storage area would be established in the fifth and sixth existing stable buildings each. The 50,000 sf. area structure would be developed for TFE-Freon-based oil extraction. Seed cultivation areas would be established in the three existing stables located towards Lake Road totaling 75,000 sf. These areas potentially supplemented by two additional 25,000 sf. hoop houses or more formalized structures.





The Development Agreement. The applicants have also offered to enter into a Development Agreement with the County of San Benito. The Development Agreement will vest the Applicant's rights to conduct hemp related activities, including but not limited to cultivation, testing and distribution and derivative manufacturing and oil extraction and other hemp processing activities in accordance with County Code. The Development Agreement also addresses specific Community Benefits for San Benito County.

The Planning Commission will decide on the merits of the **Use Permit** for the reuse of the existing facility, and then make a recommendation on the ordinance to approve a **Development Agreement** to the Board of Supervisors who will take final action on the Development Agreement at a future duly noticed Board of Supervisors' meeting, potentially July 23, 2019.



### **SITE DESCRIPTION**

The project site is located in the middle of a flat agricultural plain and does not involve a scenic vista. The external "old southwest" appearance of the existing structures is not expected to change. The project is not located within the scenic corridor. In light of surrounding land uses, the site does not contain any outstanding scenic qualities that the proposed project would adversely impact.

Physical Configuration – The main structures of the property were constructed in 1988 and since. As shown above, the campus consists of numerous structures. Please see the applicant's prepared materials (**Attachment 1 to Exhibit A**) and the website of the current user. <https://www.gilroygaits.com/facility.html>.



Scenic Highway: No

Seismic: A small portion of the eastern portion of the site, immediately adjacent to Lake Road, is located in the Alquist- Priolo Earthquake Zone for the Calaveras Fault.

Fire Hazard: Located within a Local Responsibility Area, outside of the designated moderate, high and very high fire hazards areas.

Floodplain: Zone X (outside of the 500-year floodplain as depicted on the FEMA floodplain map panel number 06069007D, dated April 6, 20109.

Archaeological Sensitivity: None.

Kit Fox Habitat: Within Impact Fee Area for Habitat Conservation Plan.

Other Endangered or Sensitive Species: None known.

Airport Influence Area: Frazier Lake Airpark

## **ACCESS, WATER, SEWER, UTILITIES AND OPERATIONS**

Access: North of Shore Road, the project site takes access from Frazier Lake Road at the “Gilroy Gaits” monument entrance, approximately 2000 feet east of the monument. The property is bounded on the east by Lake Road. While not subject to this use permit review, the property owner owns several adjacent land holdings including the access parcel to Frazier Lake Road.

Water: The proposed Hemp Campus / product manufacturing site will use two on-site existing wells that have served the property for both the equestrian uses as well as the turkey egg-raising operations. The two wells provide potable water and are identified on sheet 3 of the site plan as “Well A” and “Well B”. There are no outside connections to these wells.

Sewer: The site is currently served by on-site wastewater treatment and disposal systems; no connection to an outside agency is required. Sewage disposal will be serviced by licensed third parties, and service reports submitted to the Division of Environmental Health. Conditions of approval submitted by the Division of Environmental Health will be followed.

### Utilities:

The site is served by electrical and telecommunications infrastructure.

Solid Waste will be addressed in a waste handling and disposal plan prepared to the satisfaction of the Division of Environmental Health.

A Hazardous Materials Business Plan (HMBP) will be completed and submitted to the Division of Environmental Health for review and approval.

Operations – The proposed facility would operate seven days per week, 24 hours/day with two, twelve-hour shifts. Initially, the facility is expected to employ between 50 and 75 employees with potentially 125 employees at full development.

- Vehicle traffic generation would include employee-generated daily trips, along with truck trips relating to the operations.
- Between 25 and 50 truck trips per month would bring hemp and other extraction components, such as TFE-Freon, to the facility.
- Approximately 20 truck trips per month are expected to leave the facility with extracted hemp fiber and hemp products.

## **BACKGROUND**

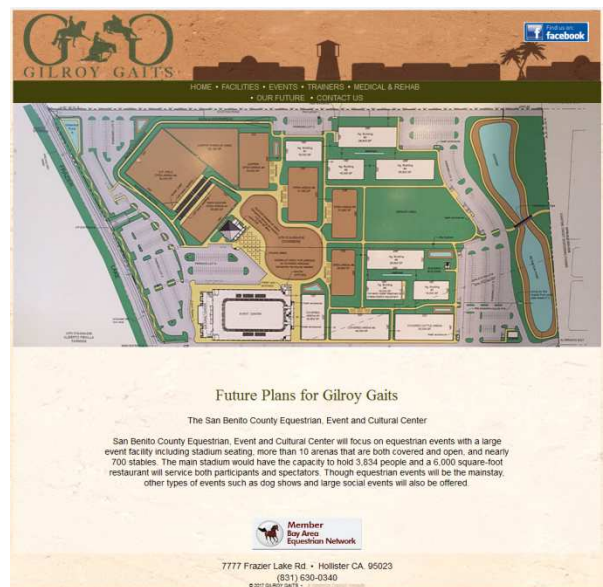
Initially constructed as a turkey egg-raising farm for Nicholas Turkey, Inc in 1988, (later purchased by Aviagen Turkeys and then discontinued and cleaned up), this 275,000 square foot

agricultural processing plant and property has been used as an equestrian boarding and training facility for many years. RMA records show that the equestrian use of the property was considered consistent with the Agricultural land use and Agricultural Productive zoning designations underlying the property. Building permits were simply applied for the installation of stalls, wash areas and electrical connections as necessary. No particular use permit was required for this facility.

San Benito County Equestrian, Event and Cultural Center. However, on the adjacent 93-acre property immediately to the west, where the Gilroy Gaits monument entrance and covered bridge are observed, a major use permit to develop an equestrian show park and event center with supporting ancillary uses was issued by the County July 20, 2011. (Use Permit No. 999-08, Grading Permit No. 08-394, Variance No. 10-30)

Other than the retention pond and covered pedestrian bridge which existed prior to the permit being issued in 2011, no other improvements to the western parcel other than the Gilroy Gaits entrance monument and sign appear to have been made in pursuit of the equestrian show park and event center. To staff, the permit appears to have expired according to Condition # 26:

26. Term of Permit: A use permit shall expire one year from the date of granting said permit unless construction and activities authorized by the permit for use of the subject property in conformance with the permit has commenced, in good faith, within one year of the approval date. If any such use ceases for a period of at least one year, the use permit shall become invalid and a new permit must be obtained prior to continuing said use. [Planning and Building]



**LAND USE PLAN AND ZONING:** The site is designated Agriculture (A) in the County General Plan and as Agricultural Productive (AP) in the Zoning Ordinance.

**General Plan:**

**Agriculture (A) Land Use Description**

The purpose of this designation is to maintain the productivity of agricultural land, especially prime farmland, in the county. This designation is applied to agriculturally productive lands of various types, including crop land, vineyards, and grazing lands. This designation allows agricultural support uses, such as processing, wineries, and other necessary public utility and safety facilities and one principal residential dwelling unit per lot. Secondary dwellings are allowed for relative, caretaker/employee, and farm worker housing. These areas typically have transportation access, but little to no public infrastructure.

**Goal LU-3:**

To ensure the long-term preservation of the agricultural industry, agricultural support services, and rangeland resources by protecting these areas from incompatible urban uses

and allowing farmers to manage their land and operations in an efficient, economically viable manner.

#### LU-3.1

*Agricultural Diversification.* The County shall support existing farms, vineyards, and other agricultural operations and encourage the agricultural industry to continue diversification that includes organic, value-added, small-scale, sustainable, and community-supported agricultural practices throughout the county.

#### **Zoning:**

##### Agricultural Productive (AP)

The intent of the AP district is to provide for areas within the county to be used for agricultural production of any type as set forth in the general plan. (SBCC 25.07.020).

##### Conditional Uses

Conditional uses in an AP district shall be all those uses listed in §§ 25.07.005 and 25.29.106 of the SBCC.

25.07.005 Agricultural processing

#### **ENVIRONMENTAL EVALUATION:**

An Initial Study checklist was prepared for this project by the Applicant, Pacific Bay Capital Group and their environmental consultant, M-Group, with oversight and review by the County Resource Management Agency, in compliance with the California Environmental Quality Act CEQA (**See Exhibit C**). The study concludes that the project will not have a significant impact on the environment. The public review period for the (proposed) Negative Declaration began May 20, 2019 and ended June 10, 2019. The following comments were received and responded to by either the *applicant or staff*:

#### Process Waste Water Remediation (From Bill Morrison June 10, 2019)

- Specifically, what processing chemicals will be used?
  - *Applicant Response: Food grade R134a for extraction. Isopropyl alcohol for cleaning, dawn dish soap.*
- Where will the Material Safety Data Sheets (MSDS) for these chemicals be kept?
  - *Applicant Response: MSDS sheets will be located at all active locations for extraction and cleaning, a copy will be presented to the county for all solvents and cleaners.*
- What will the effluent containment be? That is, how will the post process wastewater that contains chemical residue used in the processing of this product be safely stored prior to remediation?
  - *Applicant Response: Trace amounts of isopropyl alcohol and dawn dish soap will be in the waste water.*
- How, specifically, will this wastewater be remediated?
  - *Applicant Response: Waste water will be remediated by first placing waste water into a tank equipped with Nano bubblers to oxidize any trace heavy metals, next the waste water will be carbon scrubbed and passed through a waste water remediation skid. Finally, the waste water will pass through reverse osmosis for re-use or for landscaping.*
- What regular testing will be done to assure expected results?

- *Applicant Response: Our lab will be equipped with an Agilent 1290 Infinity II LC (liquid chromatography) to take scheduled samples of waste water, our samples will be validated at a third party waste water analytical chromatography laboratory.*
- What will the response be if these chemicals are detected in our water supply?
  - *Applicant Response: If trace amounts of isopropyl alcohol or dawn dish soap are detected we will install a new purification skip or oxidizing tank system. Typically, the waste water skids are designed for process treatment.*

Caltrans District 5, Chris Bjornstad June 10, 2019

- The Council of San Benito County Governments (SBCOG) collects development impact fees to help fund transportation projects of regional significance to address project long-range traffic impacts. Caltrans supports payment of the adopted SBCOG development impact fees by this project to mitigate cumulative impacts per CEQA.
  - *Staff Response: When developed in earlier years, the builder was granted an “agricultural exemption” and paid \$0.00 in impact fees. The applicant now, upon occupancy and reuse of facility structures with an “industrial” use, is obligated to pay the corresponding impact fees. Industrial use impact fees, including those associated with long-range traffic impacts, such as the TIMF (Traffic Impact Mitigation Fee), shall be paid upon occupancy and re-use of structures.*
- The traffic study should include information on existing volumes within the study area, including the State transportation system, and should be based on recent traffic volumes less than two years old. Counts older than two years cannot be used as a baseline. Feel free to contact us for assistance in acquiring the most recent data available.
  - *Staff Response:*
    - *Located 2000 feet east of Frazier Lake Road, 3/4 of a mile from Shore Road, and 2 miles from Hwy 25, the new employees and users of the San Benito Hemp Campus will likely use these well-traveled ways, as well as Lake Road to the east. These are the same arterials and collectors that supported the past 30+ years of the facility as a 275,000 square foot turkey egg-raising facility, and presently a horse boarding and training facility with the associated, trailers, trucks and support vehicles.*
    - *The San Benito County Engineering / Public Works Division also recognizes the “continuation” of activities at this property and has crafted an “active” condition of approval that allows the County Engineering Division to hold the applicant responsible for updated traffic counts and monitoring and to adjust operations if necessary to enhance the movement of vehicles in this region. The condition reads:*
      - *The applicant/developer shall hire a traffic Engineer to monitor the traffic during its operation within 12 months of the permit issuance. The traffic monitoring data shall include but is not limited to the following: turning movements in and out of the project site, daily traffic volumes, parking demands, and any impacts to intersections, roads and/or highway segments. The monitoring data shall be evaluated to determine whether traffic operations are within acceptable limits and shall also determine and/or identify significant traffic impact, if any. A traffic report shall be submitted for review and approval by the County and shall include recommendations for mitigation for any traffic impacts when necessary. Moreover, the applicant will be required to mitigate any traffic impacts identified in said study.*

Potential issues related to Process Wastewater and Traffic Monitoring have been engaged responsibly by the applicant and RMA staff. The short summary is that the wastewaters will be captured in closed systems that will be subject to primary, secondary and tertiary treatments, and will offset the use of fresh potable waters for landscaping purposes. The use of high-tech closed loop systems for processing hemp will capture gasses and liquids and may result in insignificant releases of known household products, such as isopropyl alcohol and dish detergent. And, if such is the case, the applicant has noted in their operations that they would install a new purification skip or oxidizing tank system. And lastly that the operator will use a third party testing regime to assure objectivity and disclosure.

As no new potential impact not already discussed and addressed in the proposed negative declaration has been identified, staff recommends that the Planning Commission adopt a Negative Declaration (of no significant environmental impact). Compliance with Federal, State and Local codes, best management practices and the use of modern state of the art equipment by the applicant are sufficient.

#### **ANALYSIS:**

##### *Reuse of an underutilized facility.*

Staff views this project as an adaptive reuse of an underutilized agricultural production facility. Aside from two 30,000 square foot liner hoop houses (or more formalized structures) to be added between existing structures on the developed property, there will virtually be no new construction, nor the impacts associated with new development and construction. Appropriate access, water supply, septic systems, utilities, hardscapes, offices, manufacturing floor areas, shipping points, and site circulation patterns are all present. The applicant will simply move equipment into existing structures, and likely need electrical or minor interior structural permits to get underway.

Staff has prepared a draft Resolution for Planning Commission consideration and action on the Conditional Use Permit (**Exhibit A**) that includes findings and evidence to support those findings, and standard and custom conditions of approval. Notable conditions address: Impact Fees; Building codes, standards and fees; Fire Department systems and access; sewage, water, solid waste, hazardous materials; County drainage requirements; traffic monitoring and mitigation, payment of regional impact fees and observing current traffic patterns, an avigation easement to the adjacent Frazier Lake Airport; and concerns of the San Benito County Water District (which have already been addressed though project design);

##### *Development Agreement*

The Development Agreement with Pacific Bay Capital Group (**Attachment 2 to Exhibit B**) is basically a business agreement with the County. When entered into mutually, Development Agreements serve to:

*.... Strengthen the public planning process, to encourage private participation in comprehensive, long range planning and to reduce the economic costs of development by enabling the county and a developer seeking county approval of a development project to enter into a development agreement which vests certain development rights and which requires a developer to provide additional public benefits. The appropriate use of development agreements will reduce uncertainty in the development review process, will promote long-term stability in the land use planning process and will result in significant public gain (SBCC 19.11.001 (b).)*

To be finally negotiated with the Board of Supervisors, a development agreement and draft ordinance (**Attachments 1 and 2 of Exhibit B**) have been prepared for Planning Commission inspection and recommendation that outline the “agreement” to this point in time. In summary:

- **Developer’s Rights and Mutual Obligations:**
  - Developer shall have the **right to develop** (and use) the project site, in accordance with project approvals and provisions of the Development Agreement.
  - Developer **is subject to all rules, federal, state and local regulations**, including the payment of fees and impact fees in effect at the time of the new occupancy and use of structures.
  - Should federal or state laws change, and require modification of local County regulations, the developer will be obligated to comply.
  - **Standard Operating Procedures.** For the safety and security of employees as well as the neighboring community.
  
- **Community Benefits:**
  - **Community Benefit Fees.** Quarterly Gross Annual Receipts. The Developer has agreed to pay 1% of its gross annual receipts.
    - One percent (1%) of gross annual receipts shall be paid on all project activities, but not limited to Cultivation, Manufacturing, Distribution, Laboratory Testing and any other Hemp Activities occurring on site.
  - Should a **future tax** be levied, the developer shall pay the greater amount between either the amount of such tax, or the 1% of gross annual receipts, but not both.
  - **Frazier Lake Road Improvements.** The applicant has agreed to keep and maintain Frazier Lake Road at the intersection of the property and one mile in either direction in good working order and repair.
    - A \$500,000 bond shall be posted as a fallback to the County should the developer not commence with identified repairs and maintenance in a timely manner.
  - **Local Employment Opportunities.** Within two years of approval, the developer is expecting 75-100 work opportunities and a payroll of \$3,000,000 to \$4,000,000 annually.
    - The developer has agreed to make their best effort in hiring local residents.
  - **Reimbursement of Legal and Staff Costs**
  - **Sales and Use Tax.** Developer shall exert in good faith its best efforts to have all sales and use taxes related to its Hemp Activities occur in the County, and direct contractors and subcontractors to do the same.

While the final language of the attached draft Development Agreement with the Pacific Bay Capital Group may be changed and enhanced by the time of Board of Supervisors consideration, expected July 23, 2019, the Development Agreement is evidence of a collaboration and partnership with this business entity for the purpose of additional public gain and benefit, and for a more certain regulatory environment for the developer. As the business grows and is successful, the public benefits grow.

A draft Resolution (**Exhibit B**) has been attached for Planning Commission action recommending approval to the Board of Supervisors. Comments, additions and edits may be offered by the Planning Commission for BOS and applicant consideration, prior to the execution of the Development Agreement.

**STAFF RECOMMENDATION:** Staff recommends that the Planning Commission review the staff report, receive a presentation from staff, take testimony from the applicant and public and then act on the matter by approving the two resolutions.

- The Use Permit Resolution contains the findings and evidence to adopt the (CEQA) negative declaration of no significant environmental impact and approve the Use Permit and conditions of approval, and
- The Development Agreement Resolution also contains the CEQA findings, and the findings and evidence to support the Development Agreement with Pacific Bay Capital Group and the adoption by the Board of Supervisors of an Ordinance to approve the Development Agreement.

**Attachments**

EXHIBIT A: Resolution for Use Permit Approval with:

Attachment1: Applicant’s project materials and plans

EXHIBIT B: Resolution for Recommending Approval of a Development Agreement with:

Attachment1: Draft Development Agreement

Attachment 2: Draft Ordinance

EXHIBIT C: Environmental documentation and proposed Negative Declaration



**BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO**

**A RESOLUTION OF THE SAN )  
BENITO COUNTY PLANNING )  
COMMISSION APPROVING A USE )  
PERMIT FOR THE SAN BENITO )  
HEMP CAMPUS (PLN190020) )  
LOCATED AT “GILROY GAITS,” )  
7800 LAKE ROAD, HOLLISTER, CA. )  
APN 013-050-028. COUNTY FILE )  
NO. PLN190020.**

**Resolution No. 2019-0\_\_**

**WHEREAS**, the Pacific Bay Capital Group filed a use permit application and development agreement request on April 11, 2019, to establish the San Benito Hemp Campus, a hemp and hemp product processing and manufacturing facility, at 7800 Lake Road, Hollister, CA; property owned by the Kevin Chambers Living Trust; and

**WHEREAS**, the subject parcel APN 013-050-028 is south of and adjacent to the Frazier Lake Airport, beginning approximately 2000 feet east of the “Gilroy Gaits” monument entrance off of Frazier Lake Road, and is approximately 77 acres in area; and

**WHEREAS**, upon receipt of the use permit application and development agreement request, County staff distributed the proposal to responsible County and peer agencies for review and comment; and

**WHEREAS**, the subject parcel has a General Plan land use designation of Agricultural (A) and a Zoning designation of Agricultural Productive (AP); and

**WHEREAS**, the existing facility had been developed in the late 1980’s as a 275,000 square foot turkey egg-raising facility under a use permit for agricultural production, and was later converted to an equestrian use facility in keeping with the allowed uses of the General Plan and Zoning Code; and

**WHEREAS**, the use of the property as a hemp and hemp product processing and manufacturing facility is substantially different from the former use of the facility as a turkey egg-raising facility, a new conditional use permit has been required by the County; and

**WHEREAS**, the Planning Commission’s recommendation to the Board of Supervisor on the proposed Development Agreement is addressed in a companion resolution to this resolution; and

**WHEREAS**, the use of the property to process agricultural products conforms to the County of San Benito 2035 General Plan Agricultural (A) land use, and agricultural processing facilities are allowed with a conditional use permit in the Agricultural Processing (AP) zoning designation; and

**WHEREAS**, no unusual circumstances, features of the land, or unexpected issues have arisen that prevent approval of this use permit; and

**WHEREAS**, an Initial Study checklist was prepared for this project by the Applicant's environmental consultant, M-Group, with oversight and review by the County Resource Management Agency, in compliance with the California Environmental Quality Act CEQA; and

**WHEREAS**, the County assessed the potential for any substantial effect on the environment by the project and the Initial Study concluded that the project will not have a significant impact on the environment and was circulated for public review from May 20, 2019 to June 10, 2019; and

**WHEREAS**, potential issues related to process wastewater have been engaged responsibly by the applicant and RMA staff:

- Wastewaters will be captured in closed systems that will be subject to primary, secondary and tertiary treatments, and will offset the use of fresh potable waters for landscaping purposes.
- The use of high-tech closed loop systems for processing hemp will capture gasses and liquids and may result in insignificant releases of known household products, such as isopropyl alcohol and dish detergent. And, if such is the case,
- The applicant would install a new purification skip or oxidizing tank system.
- The operator will use a third party (water) testing regime to assure objectivity and disclosure; and

**WHEREAS**, potential issues related to traffic monitoring have been engaged responsibly by the applicant and RMA staff:

- The applicant, upon occupancy and reuse of facility structures with an "industrial" use, is obligated to pay "Industrial" use impact fees, including those associated with long-range traffic impacts, such as the TIMF (Traffic Impact Mitigation Fee).
- Located 2000 feet east of Frazier Lake Road, 3/4 of a mile from Shore Road, and 2 miles from Hwy 25, the new employees and users of the San Benito Hemp Campus will use these well-traveled ways, as well as Lake Road to the east. These are the same arterials and collectors that supported the past 30+ years of the facility as a 275,000 square foot turkey egg-raising facility, and presently a horse boarding and training facility with the associated, trailers, trucks and support vehicles.
- The San Benito County Engineering / Public Works Division recognizes the "continuation" of activities at this property and has crafted an "active" condition of approval that allows the County Engineering Division to hold the applicant responsible for updated traffic counts and monitoring and to adjust operations if necessary to enhance the movement of vehicles in this region; and

**WHEREAS**, no new potential impact not already discussed and addressed in the proposed negative declaration have been identified; and

**WHEREAS**, compliance with Federal, State and Local codes, best management practices and the use of modern state of the art equipment by the applicant are sufficient to

protect the environment, staff recommends that the Planning Commission adopt a Negative Declaration (of no significant environmental impact); and

**WHEREAS**, on June 19, 2019, the Planning Commission in considering Use Permit PLN190020 as described herein and in the staff report, heard and received all oral and written testimony and evidence that was made, presented, or filed, and all persons present were given an opportunity to hear and be heard with respect to any matter related to the petition; and

**WHEREAS**, at the conclusion of the public testimony, the Planning Commission closed the public hearing, deliberated, and considered the merits of the proposal; and

**WHEREAS**, the Planning Commission of the County of San Benito finds that no enhancements or clarifications are necessary to the California Environmental Quality Act (CEQA) Findings and Evidence, nor to the Use Permit Findings and Evidence.

**NOW THEREFORE BE IT RESOLVED** that based on the evidence in the record, the Planning Commission of the County of San Benito hereby finds as follows:

### **California Environmental Quality Act (CEQA) Finding**

**Finding 1:** The initial study/ negative declaration for the San Benito Hemp Campus - 7800 Lake Road, Hollister, CA, (County File Number PLN190020; Use Permit and Development Agreement) has been prepared in compliance with the provisions of the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the San Benito County Implementing Procedures for the California Environmental Quality Act.

*Evidence:* Materials in the preparation of the initial study and negative declaration are filed in the project record located at the San Benito County Planning Department in file PLN190020. Public review of the initial study was conducted from May 20, 2019 to June 10, 2019.

*Evidence:* Notice of Availability of the proposed Negative Declaration was mailed to interested parties and to property owners within 300 feet of the project site and posted at public locations in the County, including the County of San Benito website ([www.cosb.us](http://www.cosb.us)).

**Finding 2:** The Planning Commission has considered the initial study/ negative declaration together with all comments received from the public review process.

*Evidence:* The Planning Commission considered all evidence regarding this project, including any written and verbal responses from the public hearing June 19, 2019.

**Finding 3:** The initial study/ negative declaration reflects the independent judgment of the Planning Commission.

*Evidence:* The Initial Study checklist was prepared by the Applicant's environmental consultant, M-Group, with oversight and review by the County Resource Management Agency, in compliance with the California Environmental Quality Act CEQA. The Planning Commission considered and reviewed the initial study/ negative declaration and considered public comments and supplemental information prior to action on the negative declaration.

**Finding 4:** The Planning Commission has found that there is no substantial evidence that the proposed project will have a significant effect on the environment.

*Evidence:* After considerations of the initial study/ negative declaration, the Planning Commission found that the project as proposed, with the adoption of the conditions of approval, would not have a significant effect on the environment.

**BE IT FURTHER RESOLVED** by the Planning Commission of the County of San Benito that it hereby finds as follows:

### **Use Permit Findings**

**Finding 1:** That the proposed use is properly located in relation to the General Plan, and the community as a whole and to other land uses, transportation, and service facilities in the vicinity.

*Evidence:* The General Plan Land Use Element designation for the site is Agriculture (A) which allows support uses that directly support agricultural operations. The proposed hemp and hemp product processing and manufacturing facility is an agricultural product processing facility that conforms to this land use designation and to other General Plan provisions.

*Evidence:* The proposal represents the adaptive reuse of 275,000 square feet of existing facilities and will involve a relatively minimal 60,000 square foot addition of hoop house structures internal to building site locations, or the construction of new greenhouses in the same internal locations.

*Evidence:* The location of the existing facility in the relatively “open-sky” location adjacent to the Frazier Lake Airport, presents fewer potential impacts to sensitive users had the facility been located adjacent to urban uses. Additionally, the adjacent residential structures are under the control of the ownership and will be used in support of the hemp facility.

*Evidence:* As San Benito County is rural and configured with a minimum of major travel ways, the options for impacting the few arterial and collector roads, such as Hwy 25 and Frazier Lake Road are few and far between with any new major use or facility that can provide employment in the region. Regardless, new jobs will return to the already-constructed facility. It is in the County’s interest to better use that facility than to allow it to come into disuse. Additionally, work shifts could be staggered to avoid peak travel on Hwy 25 and Frazier Lake Road.

**Finding 2:** That the proposed use, if it complies with the conditions upon which approval is made contingent, will not adversely affect other properties in the vicinity or cause any damage, hazard, or nuisance to persons or property.

*Evidence:* The proposed project will be subject to the California Building Code. County departments and responsible agencies have reviewed the application and recommended conditions of project approval to address possible effects on the vicinity, to protect the general public, and to prevent hazard or nuisance to persons and property. Activity beyond the scope of the proposed use as approved by the County shall require further permit review.

## Conditions of Approval

- 1. Indemnification:** APPLICANT shall defend, indemnify, and hold San Benito County, its agents, officers, and/or employees (hereinafter “COUNTY”) free and harmless from any and all suits, fees, claims, demands, causes of action, proceedings (hereinafter collectively referred to as “Legal Action”), costs, losses, damages, liabilities and expenses (including, but not limited to, an award of attorneys’ fees, expert witness fees, and court costs) incurred by COUNTY arising (directly or indirectly) or resulting from the review, processing, consideration, or approval of APPLICANT’S Project or action taken by COUNTY thereon, including Legal Actions based on the negligence of COUNTY. APPLICANT will reimburse COUNTY for any damages, costs, or fees awarded pursuant to any settlement, default judgment, or other judgment taken against the County, whether the result of Applicant’s decision not to defend Legal Action or otherwise. COUNTY retains its discretion to direct counsel regarding whether to defend, settle, appeal, or take other action regarding any Legal Action. APPLICANT shall defend COUNTY’S actions with competent legal counsel of APPLICANT’S choice without charge to COUNTY, subject to COUNTY approval, which shall not be unreasonably withheld. Nothing contained in the foregoing, however, shall be construed to limit the discretion of COUNTY, in the interest of the public welfare, to settle, defend, or appeal, or to decline settlement or to terminate or forego defense or appeal of a Legal Action. Furthermore, in no event shall COUNTY have any obligation or liability to APPLICANT in connection with COUNTY’S defense or prosecution of litigation related to the Project (including, but not limited to, the outcome thereof) or in the event COUNTY elects not to prosecute a case or defend litigation brought against it. If either COUNTY or APPLICANT determines in good faith that common counsel presents a bona fide conflict of interest, then COUNTY may employ separate counsel to represent or defend the COUNTY, and APPLICANT shall pay the reasonable attorneys’ fees and costs of such counsel within thirty (30) days of receiving an itemized billing statement or statements. [Planning]
- 2. Successors in Interest:** The conditions of approval are binding on all successors in interest of Applicant, whether succession is by agreement, operation of law, or other means, including but not limited to all future owners utilizing this use permit. [Planning]
- 3.** Applicant shall comply with all terms set forth in the **final executed Development Agreement** with Pacific Bay Capital Group. Those terms are and shall be incorporated as conditions on the use permit. [Planning, County Counsel]
- 4. Agreement with All Conditions of Approval:** Prior to or upon approval by the Planning Commission, Applicant shall sign the statement below certifying that Applicant is in agreement with all conditions of approval. [Planning]

I certify that I understand and agree to comply with all Conditions of Approval imposed by the Planning Commission, or Board of Supervisors as applicable, on this Permit.

Applicant Signature: \_\_\_\_\_

Date: \_\_\_\_\_

- 5. Conformity with Plan:** The development and use of the site shall conform substantially to the proposed project description, site plan, and conditions of approval and Development

PLN190020 // 7800 Lake Road, Hollister, CA // Pacific Bay Capital Group

Agreement as approved by the Planning Commission and County Board of Supervisors. **(EXHIBITS A and B to the Planning Commission Staff Report of June 19, 2019)** Approved plans and specifications shall not be changed, modified or altered without written authorization from the Planning Department. All work shall be in accordance with the approved plans and with San Benito County Code. [Planning]

6. **Term of Use Permit**, if no investment or actions are taken on the property to actualize and implement this Use Permit, this Use Permit will expire in three (3) years.
7. **Compliance Documentation**: The applicant shall submit a summary response in writing to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. [Planning]
8. **Notice of Determination (California Fish & Wildlife Fees)**: The subdivider shall file the Notice of Determination, provided by the County RMA, with the County Clerk within five (5) days of approval of the conditional use permit. California Department of Fish and Wildlife fee of \$2,404.75 (\$2,354.75 + \$50.00 County Clerk Processing Fee) - Fish & Wildlife Code section 711.4(d) must be submitted with the filing. A copy of the filed notice shall be submitted to the County RMA. Should the Notice not be filed and the fee not paid within five (5) days, the application is subject to action described in Public Resource Code section 21167 and the Project is not operative, vested, or final until the Notice is filed and the fee is paid (Public Resources Code section 21089(b)). [RMA]
9. **Lighting**: The owner/applicant shall meet exterior lighting design requirements by complying with SBCC §19.31: Development Lighting. [Planning]
10. **Cultural Resources**: If, at any time in the preparation for or process of excavation or otherwise disturbing the ground, discovery occurs of any human remains of any age, or any significant artifact or other evidence of an archeological site, the applicant or builder shall:
  - a. Cease and desist from further excavation and disturbances within two hundred feet of the discovery or in any nearby area reasonably suspected to overlie adjacent remains.
  - b. Arrange for staking completely around the area of discovery by visible stakes no more than ten feet apart, forming a circle having a radius of not less than one hundred feet from the point of discovery; provided, however, that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking. Said staking shall not include flags or other devices which may attract vandals.
  - c. Notify the Sheriff-Coroner of the discovery if human and/or questionable remains have been discovered. The Resource Management Agency Director shall also be notified.
  - d. Subject to the legal process, grant all duly authorized representatives of the Coroner and the Resource Management Agency Director permission to enter onto the property and to take all actions consistent with Chapter 19.05 of the San Benito County Code and consistent with §7050.5 of the Health and Human Safety Code and Chapter 10 (from §27460 on) of Part 3 of Division 2 of Title 3 of the Government Code. [Planning]

**11. Impact fees.** When developed in earlier years, the builder was granted an “agricultural exemption” and paid \$0.00 in impact fees. The applicant now, upon occupancy and reuse of facility structures with “industrial” uses, is obligated to pay the corresponding impact fees.

Industrial use impact fees, including those associated with long-range traffic impacts, such as the TIMF (Traffic Impact Mitigation Fee), shall be paid upon occupancy and re-use of structures. An **ESTIMATE** of these “industrial use” impact fees (as of June 13, 2019) assessed for the whole of the project is below. Actual fees will be calculated and collected on a structure-to-structure basis as the applicant phases in the new use on the property.

<b>INDUSTRIAL</b>	<b>SQUARE FT OF BLDGS</b>	<b>Rate PER SQ FT</b>	<b>COST PER SQ FT</b>
Traffic impact fee per 1,000	275	\$2,941.4300	\$808,893.25
Road Maintenance	275,000	\$0.0510	\$14,025.00
Schools	275,000	\$0.4200	\$115,500.00
Fire Protection	275,000	\$0.3200	\$88,000.00
Law Enforcement	275,000	\$0.1320	\$36,300.00
Detention Facilities Impact fee	275,000	\$0.2260	\$62,150.00
Habitat Impact Fee	275,000	\$0.0000	\$0.00
Parks & Recreation	275,000	\$0.0000	\$0.00
Library Impact fee	275,000	\$0.0000	\$0.00
Information Technology Impact fee	275,000	\$0.0230	\$6,325.00
General Government Impact fee	275,000	\$0.2260	\$62,150.00
SBHS IMPACT FEE	275,000	\$1.4000	\$385,000.00
		Total	\$1,578,343.25

When proposed for construction, new hoop houses or additional greenhouses will be assessed industrial impact fees as well. (Planning)

**Building Division**

**12.** The following represent standard conditions of approval from the Building Division, received from Gary Lepori on June 6, 2019:

- a. All plan check, permit, impact or any other fees shall be paid PRIOR to any construction, repair, replacement, remodel, addition, or change of use or occupancy.
- b. ALL impact fees shall be paid in addition to any regular fees, deposits, in lieu fees, etc., for any development, subdivision, construction or improvement, including traffic, parks and recreation, school fees, etc.
- c. If this Conditional Use Permit and development agreement conflicts with any county code or fee, the most restrictive interpretation that benefits the county shall prevail.

PLN190020 // 7800 Lake Road, Hollister, CA // Pacific Bay Capital Group

- d. If any intention of this development agreement is meant to supersede any county code or fee, it shall be specifically addressed by code section and county document as doing so.
- e. Any construction or operation that damages or impacts the roadway shall be ground and overlaid with new asphalt from curb to curb, or pavement edge to pavement edge, completely across both lanes of the street, to the satisfaction of the county engineer, and to county specifications

### **Fire Department**

- 13.** These are the preliminary requirements for the manufacturing facility. The green houses if any may require sprinklers also. (Correspondence received from Charlie Bedolla, Battalion Chief/Fire Marshal Hollister Fire Department, June 5, 2019)
- a. Commercial Sprinkler system
  - b. Holding tanks for sprinkler system
  - c. Full notification monitored alarm system with sensors
  - d. Install Fire Hydrants
  - e. 26 foot fire access road, paved (360) the facility
  - f. Make notification with Environmental Health for a Hazardous Materials Business Plan
  - g. Make Contact with Monterey Region Air Quality Control
  - h. Knox box and Knox box key switches as needed.
  - i. Fire extinguishers located every 50 feet
  - j. Full lit up exit signs with bug-eye lighting.
- 14. Fire Code:** The project, including driveway details, shall meet the standards set forth in the latest adopted editions of the California Fire Code, California Building Code, San Benito County Ordinances 822 and 823, Public Resources Codes 4290 and 4291 and all other related codes as they apply to a project of this type and size. [Fire, Public Works]

### **Division of Environmental Health**

- 15.** The following comments were received from Darryl Wang of the Division of Environmental Health on May 8, 2019.
- a. **Sewage Disposal:**
    - i. The proposed project appears to be a commercial business. All existing septic systems shall be serviced by a licensed third party septic tank pumping/servicing company and those reports shall be submitted to this department for review.
    - ii. All existing septic systems designed for residential/SFD use shall be approved for commercial use by a licensed civil engineer (or equivalent) knowledgeable in designing onsite waste water treatment systems.
    - iii. Any proposed septic systems shall be designed by a licensed civil engineer (or equivalent) knowledgeable in designing onsite waste water treatment systems. Note, the septic system shall meet the current Tier 1



conditions as stipulated by the Regional Water Quality Control Board (system requirements are subject to change upon approval of San Benito County's LAMP by the RWQCB).

iv. Note, a dual leach field system with a diversion valve is required for all commercial septic systems.

**b. Water:**

i. What is the source of potable water for this project?

ii. If the source is a well, how many connections does it have?

**c. Solid Waste:**

i. What types of solid waste materials will be generated by this project (exclude general garbage and trash)?

ii. Where and how will solid waste materials generated by this project be stored until removed for disposal?

iii. Provide name and contact number of Disposal Company that will remove all solid waste materials.

**d. Hazardous Materials:**

i. A Hazardous Materials Business Plan (HMBP) must be completed and submitted to this department.

**Engineering Services Division / Public Works:**

16. The following comments were received from Miguel Sanchez of the Engineering Services Division on June 7, 2019. "Public Works has reviewed the 2nd submittal of the proposed San Benito Hemp Campus. The following comments are factors which will need to be accounted for in subsequent submittals for this project. New comments are in bold."

**a. County Drainage Requirements:**

i. As a condition of approval, the applicant shall comply with County Drainage Standards and shall submit the overall drainage scheme of the existing site. Included in this will be the details for any existing, detention ponds and other drainage facilities or structures. Drainage calculations shall also be submitted to show that the proposed drainage facilities will be capable of handling the total runoff due to the impermeable surfaces existing on the site. (PW acknowledges as "Satisfied")

**b. Traffic Study**

i. The applicant/developer shall contribute towards maintenance of Frazier Lake Road by providing a minimum 2" AC overlay from the center point of the property driveway to one (1) mile in each direction on Frazier Lake Road, within one (1) year from the approval of the use permit and to provide further maintenance thereafter upon determination for the maintenance need by the County.

ii. The applicant/developer shall hire a traffic Engineer to monitor the traffic during its operation within 12 months of the permit issuance. The traffic monitoring data shall include but is not limited to the following: turning movements in and out of the project site, daily traffic volumes,

parking demands, and any impacts to intersections, roads and/or highway segments. The monitoring data shall be evaluated to determine whether traffic operations are within acceptable limits and shall also determine and/or identify significant traffic impact, if any. A traffic report shall be submitted for review and approval by the County and shall include recommendations for mitigation for any traffic impacts when necessary. Moreover, the applicant will be required to mitigate any traffic impacts identified in said study.

**Caltrans:**

17. The following comments were received from Chris Bjornstad, Transportation Planner with Caltrans District 5) on June 10, 2019
- a. The Council of San Benito County Governments (SBCOG) collects development impact fees to help fund transportation projects of regional significance to address project long-range traffic impacts. Caltrans supports payment of the adopted SBCOG development impact fees by this project to mitigate cumulative impacts per CEQA.
  - b. The traffic study should include information on existing volumes within the study area, including the State transportation system, and should be based on recent traffic volumes less than two years old. Counts older than two years cannot be used as a baseline. Feel free to contact us for assistance in acquiring the most recent data available.

**San Benito County Airport Land Use Commission (ALUC)**

18. The following comments were received from Veronica Lezama of the Frazier Lake Airport ALUC, on May 21, 2019
- a. Under Policy 4.2.1.4 of the Comprehensive Land Use Plan, the County of San Benito shall obtain avigation easements for any development within the AIA under County jurisdiction. The property owner shall grant an avigation easement to the County of San Benito similar in form to Exhibit 1, Sample Avigation Easement, on page 7-2 of the 2001 Airport Comprehensive Land Use Plan for Frazier Lake Airpark.

**San Benito County Water District**

19. Upon reviewing the "Notice of Proposed Negative Declaration", SBCWD has noted a couple areas of concern. They are as follows:
- a. Section VII.e - In regards to wastewater disposal, the high groundwater conditions prevalent in the area may impact on-site disposal due to increased waste production.
  - b. Section VII.e - At buildout, 125 employees and visitors, delivery, and miscellaneous people will be more than 1600 gal/day and exceed current treatment capacity.
  - c. Section X.a - Project may affect groundwater quality due to nitrogen loading.
  - d. Section X.d - Project will be subject to flooding during heavy rain events. For example, the area the property is located in flooded in 1995 due to heavy rains.

- e. Cumulative impacts to water supplies, wastewater treatment, and water resources will need to be assessed. Technical memorandums for reviewing water and wastewater options at the subject property will need to be prepared to address flow and supply requirements for development at the property. These memorandums will need to consider maximized recycled water use, protection of the County's groundwater resources, and potential water quality issues or detail the treatment options and costs. Additional data is needed regarding treatment options, construction costs, and operation and maintenance costs to determine feasibility. In addition, if removal of sodium and chloride or TDS is required, it is expensive and energy intensive. The waste product or brine will need to be trucked off-site to a proper disposal facility which will also have cumulative impacts related to the project. The additional energy consumption and trucking will contribute to environmental and traffic impacts that were not addressed.
- f. If there any questions, feel free to contact the SBCWD engineering department at 831-637-8218 or by email at [engineering@sbcwd.com](mailto:engineering@sbcwd.com).

**PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO THIS 19<sup>TH</sup> DAY OF JUNE 2019 BY THE FOLLOWING VOTE:**

AYES:

NOES:

ABSENT:

ABSTAIN:

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**Robert Rodriguez**, Chair  
San Benito County Planning Commission

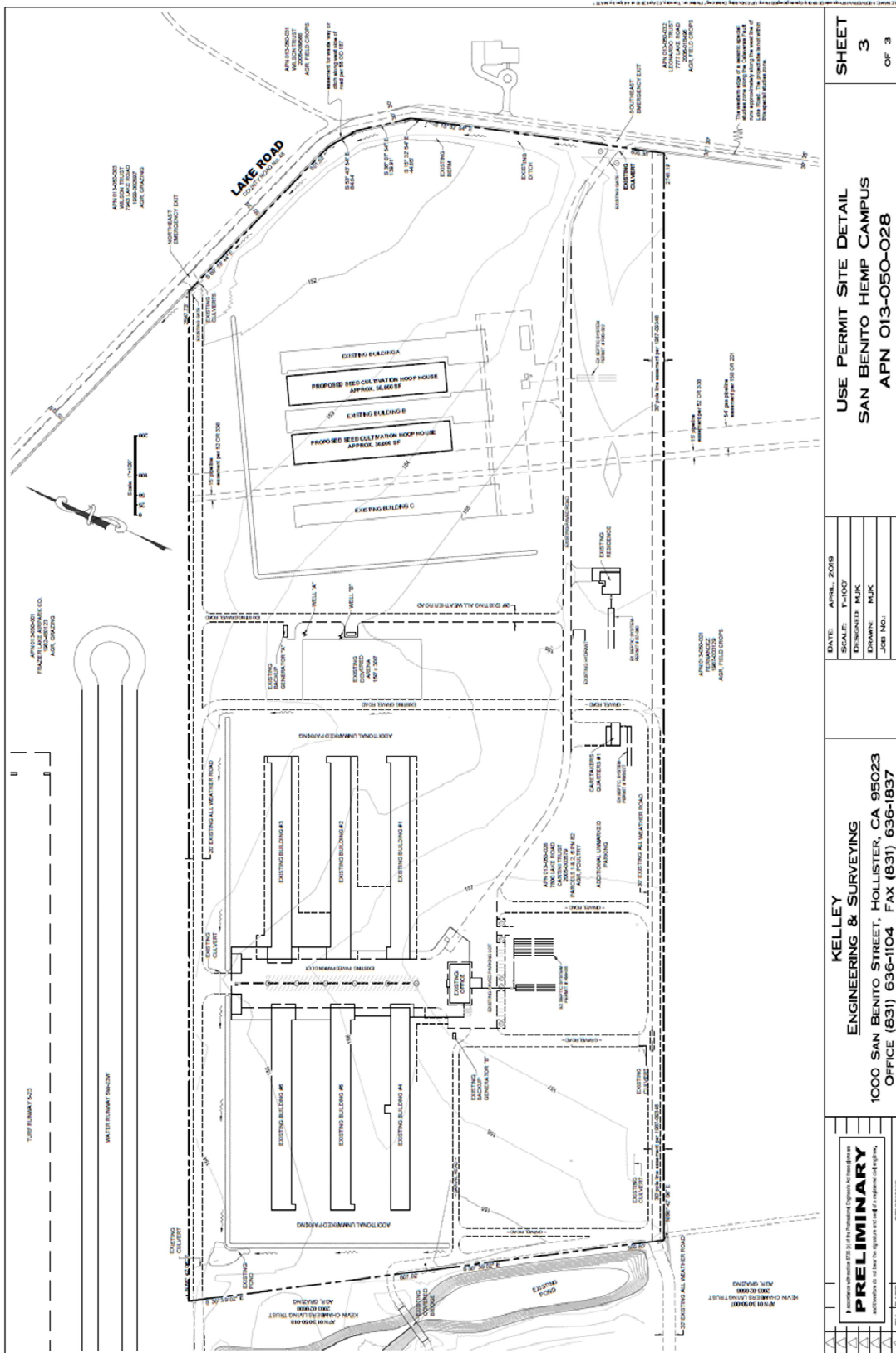
***ATTEST:***

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**Taven M. Kinison Brown**, Principal Planner  
Resource Management Agency San Benito County

# Attachment 1

## Applicant's Project Materials and Plans



# San Benito Hemp Campus 7777 Frazier Lake Road San Benito County, California

**Project Information:**

Project Name: San Benito Hemp Campus  
7777 Frazier Lake Road

Applicant: Pacific Bay Capitol Group, LLC  
8 N San Pedro St., Ste 200  
San Jose, CA 95113  
Contact: Skip Spiering  
phone: (408) 836-9290  
e-mail: skipspiering@yahoo.com

Owner: Kevin Chambers Living Trust  
7800 Lake Road  
Hollister, CA 95023  
(650) 854-4880

Engineer: Kelley Engineering & Surveying  
400 Park Center Dr., Ste #4  
Hollister, CA 95023  
(831) 636-1104  
e-mail: matt@kelley-engineering.com

Scale: as noted  
Date Map Prepared: April 2019  
Assessor's Parcel Number: 013-050-028  
Zoning: AP  
General Plan: AP  
Ex Land Use: Equine Bording  
Property Area: 77 acres  
Project Area: 77 acres

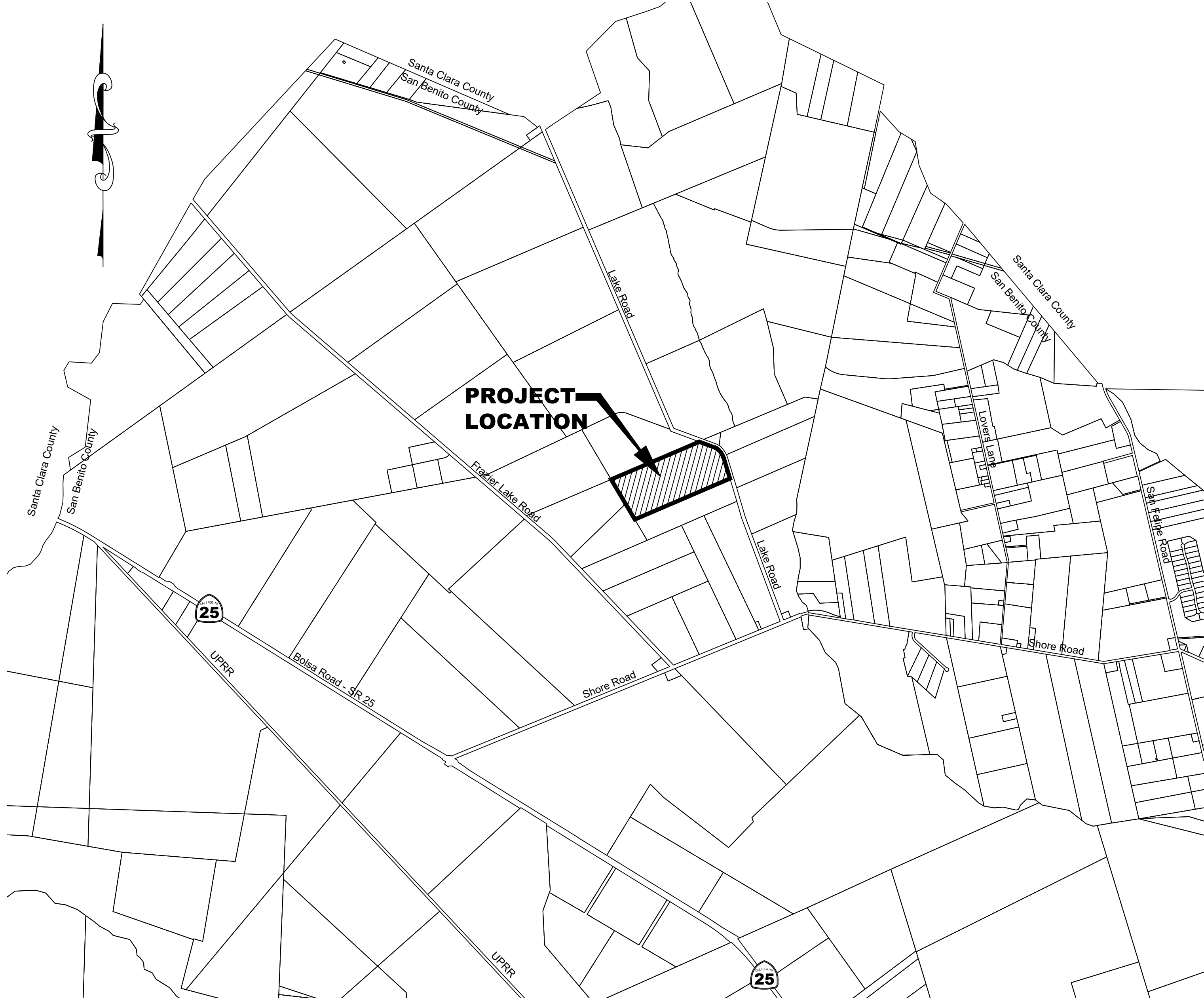
**Notes:**

**BOUNDARY NOTE:** The property lines depicted hereon are based on record information only and do not constitute a survey of the land. Said record information provided by Title Report prepared by Chicago Title Company, Title Number 09-97101044-JO dated 7/13/2009.

**UTILITY NOTE:** The types, locations, sizes and/or depths of existing underground utilities as shown on this plan are approximate and were obtained from sources of varying reliability. Only actual excavation will reveal the types, extent, sizes, locations and depths of such underground utilities. A reasonable effort has been made to locate and delineate all known underground utilities. However, the engineer can assume no responsibility for the completeness or accuracy of its delineation of such underground utilities which may be encountered, shown or not shown on this plan.

**FLOOD ZONE:** This Project lies entirely within Zone X, areas determined to be outside the 0.2% annual chance floodplain according to FIRM 06069C0075D, 4/16/2009.

**SEISMIC ZONE:** No portions of this project are within any Seismic Special Studies Zone according to the State of California Special Studies Zone Map, San Felipe Quadrangle, dated January 1, 1982. The western limit of a Special Studies Zone along the Calaveras Fault lies immediately east of the property.



**Vicinity Map**  
scale 1" = 2000'

**Sheet Index:**

1. Cover Sheet & Notes
2. Site Plan - Existing Conditions
3. Building Area Detail - Proposed Conditions

<p>In accordance with section 6735 (a) of the Professional Engineer's Act these plans are</p> <p style="font-size: 1.2em; font-weight: bold;">PRELIMINARY</p> <p>and therefore do not bear the signature and seal of a registered civil engineer.</p>						
<table border="1" style="width: 100%;"> <thead> <tr> <th style="width: 10%;">BY</th> <th style="width: 10%;">DATE</th> <th style="width: 80%;">REVISIONS</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	BY	DATE	REVISIONS			
BY	DATE	REVISIONS				

**KELLEY  
ENGINEERING & SURVEYING**

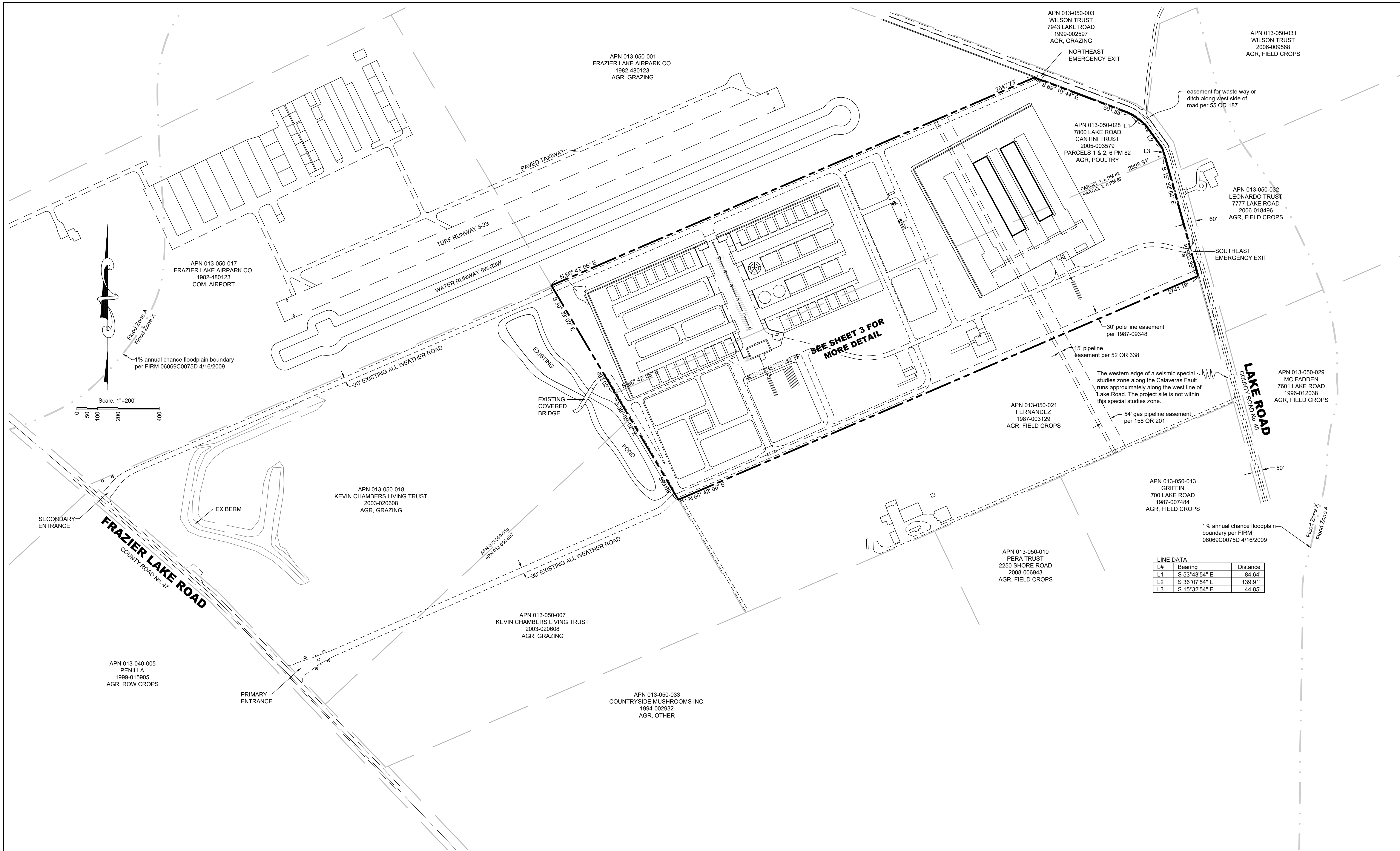
1000 SAN BENITO STREET, HOLLISTER, CA 95023  
OFFICE (831) 636-1104 FAX (831) 636-1837

DATE:	APRIL 2019
SCALE:	AS NOTED
DESIGNED:	MJK
DRAWN:	MJK
JOB NO.:	

**USE PERMIT COVER SHEET  
SAN BENITO HEMP CAMPUS  
APN 013-050-028**

**SHEET  
1  
OF 3**

\* FILE NAME: I:\SERVER\013\Proposals\013\Site\_Spiering\dwg\SB\_Hemp\_LP\_01\_Cover.dwg \* Plotted on: Thursday, 04 April 2019 at 10:06am by: MATT \*



LINE DATA

L#	Bearing	Distance
L1	S 53°43'54" E	84.64'
L2	S 36°07'54" E	139.91'
L3	S 15°32'54" E	44.85'

In accordance with section 6735 (a) of the Professional Engineer's Act these plans are  
**PRELIMINARY**  
 and therefore do not bear the signature and seal of a registered civil engineer.

BY	DATE	REVISIONS

**KELLEY  
ENGINEERING & SURVEYING**

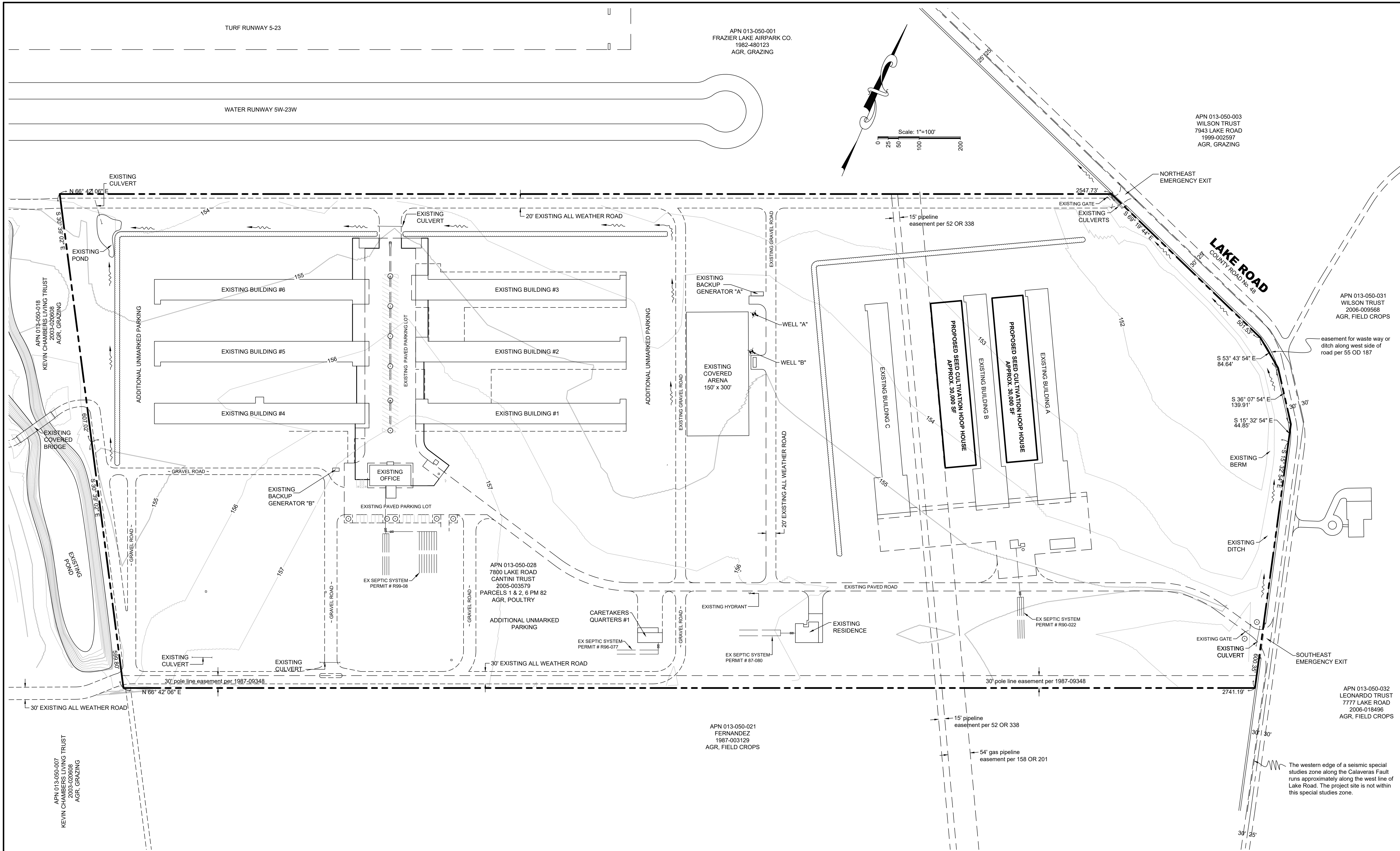
1000 SAN BENITO STREET, HOLLISTER, CA 95023  
 OFFICE (831) 636-1104 FAX (831) 636-1837

DATE:	APRIL, 2019
SCALE:	1"=200'
DESIGNED:	MJK
DRAWN:	MJK
JOB NO.:	

**USE PERMIT SITE PLAN  
SAN BENITO HEMP CAMPUS  
APN 013-050-028**

**SHEET  
2  
OF 3**

\* FILE NAME: I:\SERVER\01\Proposals\013\Site\_Spelling\dwg\SB\_Hemp\_LP\_02\_Site.dwg \* Plotted on: Tuesday, 02 April 2019 at 4:37 pm by: MATT.



In accordance with section 6735 (a) of the Professional Engineer's Act these plans are  
**PRELIMINARY**  
 and therefore do not bear the signature and seal of a registered civil engineer.

BY	DATE	REVISIONS

**KELLEY  
 ENGINEERING & SURVEYING**

1000 SAN BENITO STREET, HOLLISTER, CA 95023  
 OFFICE (831) 636-1104 FAX (831) 636-1837

DATE:	APRIL, 2019
SCALE:	1"=100'
DESIGNED:	MJK
DRAWN:	MJK
JOB NO.:	

**USE PERMIT SITE DETAIL  
 SAN BENITO HEMP CAMPUS  
 APN 013-050-028**

**SHEET  
 3  
 OF 3**

FILE NAME: I:\SERVER\01\Proposals\018\Site\_Spelling\dwg\SB Hemp\_LP\_03\Building\_Detail.dwg, Plotted on: Tuesday, 02 April 2019 at 4:41 pm by: MATT



## COUNTY OF SAN BENITO RESOURCE MANAGEMENT AGENCY

PLANNING  
DEPARTMENT

2301 Technology Parkway  
Hollister, CA 95023

Phone : ( 831)637-5313  
E-mail: sbcplan@cosb.us

### PROJECT APPLICATION

This application is for (check all that apply)  
If request is not listed, please describe here:

<input type="checkbox"/>	Accessory Dwelling Unit	<input type="checkbox"/>	Appeal: Staff Decision
<input type="checkbox"/>	Appeal: Planning Commission	<input type="checkbox"/>	Building Site Review
<input type="checkbox"/>	Certificate of Compliance	<input type="checkbox"/>	C-District Review
<input type="checkbox"/>	Design Review	<input type="checkbox"/>	General Plan Amendment
<input type="checkbox"/>	Hillside Design Review	<input type="checkbox"/>	Lot Line Adjustment
<input type="checkbox"/>	M-District review	<input type="checkbox"/>	Major Subdivision (5-50) Lots
<input type="checkbox"/>	Major Subdivision 51 or more lots	<input type="checkbox"/>	Minor Subdivision (No sewer/water)
<input type="checkbox"/>	Minor Subdivision (Sewer/Water)	<input type="checkbox"/>	Permit Extension
<input type="checkbox"/>	Preliminary Review Letter	<input type="checkbox"/>	Scenic Highway Review
<input type="checkbox"/>	Senior Dwelling Unit	<input type="checkbox"/>	Temporary Use Permit
<input type="checkbox"/>	Special Plan Review	<input type="checkbox"/>	Specific Plan
<input type="checkbox"/>	Use Permit	<input type="checkbox"/>	Use Permit Amendment
<input type="checkbox"/>	Use Permit Renewal	<input type="checkbox"/>	Sign Permit
<input type="checkbox"/>	Variance	<input type="checkbox"/>	Zone Change

1. Owner(s) Name: KEVIN CHAMBERS

Address: 100 ANSEL LAKE City: MENLO PARK State: CA.

Telephone: 650-245-1780 Zip Code: 94028

2. Applicant's/ Agent's Name: PACIFIC BAY CAPITAL GROUP, LLC /SKIP SPIERING

Address: 8 N. SAN PEDRO ST. City: SAN JOSE State: CA

Telephone: 408 836 9290 Zip Code: 95113

3. Property Address and Nearest Cross Street:

7800 LAKE ROAD - GILROY GATES

4. Assessor's Parcel Number: 013-050-028

5. Current Zoning: AP General Plan Designation: \_\_\_\_\_

6. Property area (acres or square feet) 75 acres



**7. Describe the proposed project:**

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**8. REZONING OR AMENDMENT ONLY:** The applicant wishes to amend Section \_\_\_\_\_ of the San Benito County Code, from a \_\_\_\_\_ Zoning District to a \_\_\_\_\_ Zoning District or some other classification.

**9. GENERAL PLAN AMENDMENT ONLY: Describe the proposed amendment**

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**10. SUBDIVISION INFORMATION ONLY:**

Existing Number of Lots \_\_\_\_\_ Proposed Number of Lots \_\_\_\_\_  
Existing Lot Size(s) \_\_\_\_\_ Proposed Lot Sizes \_\_\_\_\_

**11. LOT LINE ADJUSTMENT INFORMATION ONLY:**

What is the purpose of the adjustment:

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Number of Parcels included in Adjustment \_\_\_\_\_

Will the adjustment relocate a building area? \_\_\_\_\_

Existing Parcel Sizes: \_\_\_\_\_

Proposed Parcel Sizes: \_\_\_\_\_

Are all parcels under same ownership? \_\_\_\_\_

**12. VARIANCES ONLY: Describe the Variance request**

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Describe any exceptional or extraordinary circumstances applying to the property involved that qualifies the property or project for a Variance:

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**13. Residential Construction: Check all that Apply**

Single Family Dwelling \_\_\_\_\_ Multi-Family Dwelling \_\_\_\_\_ Addition \_\_\_\_\_ Accessory Dwelling \_\_\_\_\_

Attached \_\_\_\_\_ Detached \_\_\_\_\_

Existing Square footage \_\_\_\_\_

No of covered parking spaces \_\_\_\_\_

Proposed Square Footage \_\_\_\_\_

No. of uncovered parking spaces \_\_\_\_\_

# Exhibit A

## Description of Project:

The proposed San Benito Hemp Campus facility would include hemp cultivation and hemp-derivative manufacturing and oil extraction. The extraction and manufacturing areas (subject to the use permit requirements) would utilize a number of existing structures totaling approximately 275,000 square feet. The manufacturing processes will include the compounding and formulating various hemp (CBD) products. The proposed oil extraction facilities would involve ethanol-based extraction processes. Some structures will also be used for seed production and cultivation. The project also includes 60,000 square feet of seasonal greenhouses. The project includes the use of an emergency generator. The site and buildings were previously used for a turkey raising facility and is currently used as an equestrian facility. Most of the agricultural cultivation activities associated with this operation are expected to occur between the proposed facility and Frazer Lake Road, and northeast of the across Lake Road and are a permitted use.

The proposed facility would operate seven days per week, 24 hours/day with two, twelve-hour shifts. Initially, the facility is expected to employ between 50 and 75 employees with as many as 125 employees at full development. Vehicle traffic generation would include employee-generated daily trips, along with truck trips relating to the operations. Between 25 and 50 truck trips per month would bring hemp and other extraction components, such as ethanol to the facility while approximately 20 truck trips per month leaving the facility with extracted hemp fiber.

**14. Commercial or Industrial Development:**

No. of employees \_\_\_\_\_  
No. of existing parking spaces \_\_\_\_\_ No. of proposed parking spaces \_\_\_\_\_  
No. of Loading Spaces \_\_\_\_\_ Hours of Operation: \_\_\_\_\_  
Any hazardous materials manufactured or used on site? \_\_\_\_\_  
If yes, what types? \_\_\_\_\_

15. Will grading or filling be required: YES \_\_\_\_\_ NO  If yes, list cubic yards \_\_\_\_\_

16. Will the project require development on slopes greater than 20%? YES \_\_\_\_\_ NO

17. Will any trees be removed? YES \_\_\_\_\_ NO

If yes, list number, size and type \_\_\_\_\_

18. How will water be supplied: Wells  Mutual System \_\_\_\_\_

19. How will wastewater be removed from the site: Septic Tank  Mutual System \_\_\_\_\_

20. Is the property currently used for Agricultural purposes: YES  NO \_\_\_\_\_

21. Is this land under Williamson Act Contract: YES \_\_\_\_\_ NO

**AFFIDAVIT**

I hereby consent to and make application for the above referenced land use action(s) and certify that the information and exhibits submitted herewith are true and correct to the best of my knowledge. I further acknowledge that the burden to justify approval of this request is mine alone, and that neither the County staff nor the County officials are under any obligation to support or approve the requests contained herein.

Attached Affidavit  
Owner Signature \_\_\_\_\_ Date \_\_\_\_\_

Mye Spring  
Applicant/Agent Signature \_\_\_\_\_ Date 4/8/19

If there are multiple property owners, please attach a consent letter for each owner.

**PLANNING DIVISION USE ONLY**

Date Submitted: \_\_\_\_\_ Expiration of 30-day review Period: \_\_\_\_\_  
Date of Environmental Determination: \_\_\_\_\_ ND MND EIR EXEMPT CLASS: \_\_\_\_\_  
Fault Zone: \_\_\_\_\_ Fire Hazard Severity: \_\_\_\_\_  
Habitat Conservation Fee Area: \_\_\_\_\_ Flood Zone: \_\_\_\_\_ Culturally Sensitive: \_\_\_\_\_  
HOA Approval Required: \_\_\_\_\_ Planner Assigned \_\_\_\_\_

**AFFIDAVIT**

The undersigned owner hereby consent to the making of the application for the above referenced land use action(s). The undersigned owner hereby acknowledges that the burden to justify approval of this request is applicant's alone, and that neither the County staff nor the County officials are under any obligation to support or approve the requests contained in such application. Owner makes no warranty, representation or guarantee as to the content, accuracy, timeliness or completeness of any of the information contained in the application or which may hereafter be provided by applicant. The foregoing constitutes solely a consent for applicant to submit the foregoing application. Nothing contained in the application or in any approval of the land use action(s) requested therein shall bind owner and such application shall not encumber or change any land use or other rights respecting the property which is the subject of the application, until both such application is granted and applicant or his assignee acquires fee title to the property which is the subject of the application.

Owner Signature



Date

4/9/19

**BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO**

A RESOLUTION OF THE SAN BENITO COUNTY )  
PLANNING COMMISSION RECOMMENDING )  
THAT THE BOARD OF SUPERVISORS APPROVE )  
THE PACIFIC BAY CAPITAL GROUP )  
DEVELOPMENT AGREEMENT ON BEHALF OF )  
THE SAN BENITO HEMP CAMPUS EFFORT, )  
LOCATED AT "GILROY GAITS," 7800 LAKE )  
ROAD, HOLLISTER, CA. APN 013-050-028. )  
COUNTY FILE NO. PLN190020. )  
\_\_\_\_\_ )

Resolution No. 2019-\_\_\_\_

**WHEREAS**, the Pacific Bay Capital Group, LLC filed an application for a use permit and Development Agreement between itself and the County of San Benito to establish the San Benito Hemp Campus, a hemp and hemp product processing and manufacturing facility, at 7800 Lake Road, Hollister, CA; property owned by the Kevin Chambers Living Trust; and

**WHEREAS**, the Planning Director/RMA director, acting through staff, completed an initial review of the application to determine if the application was appropriately made, and determined that sufficient information and data was submitted to analyze the application under Chapter 19.11 Development Agreements, including a development review deposit to be used to pay for the application and processing fee; and

**WHEREAS**, the subject property of the requested Development Agreement has a General Plan Designation of Agricultural, and Zoning Designation of Agricultural Productive; and

**WHEREAS**, the existing facility had been developed in the late 1980's as a 275,000 square foot turkey egg-raising facility under a use permit for agricultural production, and was later converted to an equestrian use facility in keeping with the allowed uses of the General Plan and Zoning Code; and

**WHEREAS**, the County assessed the potential for any substantial effect on the environment for the project consistent with the requirements of the California Environmental Quality Act (CEQA) by preparing an Initial Study/Negative Declaration; and

**WHEREAS**, the Planning Commission of the County of San Benito reviewed the proposed Development Agreement (**Attachment 1 to Exhibit B**) at a duly noticed public hearing held at the Planning Commission's regularly scheduled meeting on June 19, 2019; and

**WHEREAS**, at the June 19, 2019 Planning Commission hearing the Planning Commission considered a draft Ordinance (**Attachment 2 to Exhibit B**) for eventual Board of

Supervisors' action, that included the findings necessary to grant a Development Agreement under County Code; and

**WHEREAS**, the Planning Commission hereby incorporates and affirms the Findings necessary of Section 19.11 of the County Code to grant a Development Agreement under County Code, (See Below); and

**WHEREAS**, on June 19, 2019, the Planning Commission heard and received all oral and written testimony and evidence that was made, presented, or filed, and all persons present at the hearing were given an opportunity to hear and be heard with respect to any matter related to the Development Agreement with Pacific Bay Capital Group, LLC; and

**WHEREAS**, at the conclusion of the public testimony, the Planning Commission closed the public hearing, deliberated, and considered the merits of the proposal.

**NOW THEREFORE BE IT RESOLVED** that based on the evidence in the record, the Planning Commission of the County of San Benito hereby finds that the proposed Development Agreement was studied in the negative declaration prepared for this Project. Further, the County further makes the follow CEQA findings on the basis of substantial evidence in light of the whole record:

#### **California Environmental Quality Act (CEQA) - Findings**

**Finding 1:** That the initial study/Negative Declaration for Development Agreement and Conditional Use Permit has been prepared in compliance with the provisions of the California Environmental Quality Act, the State CEQA Guidelines and the San Benito County Implementing Procedures for the California Environmental Quality Act.

*Evidence:* All provisions including both State and County environmental guidelines and policies for the preparation of an initial study/negative declaration have been followed. The environmental documents in the preparation of the initial study/negative declaration are filed in the project record located at the San Benito County Planning Department in the project file, PLN190020.

*Evidence:* Materials considered in the preparation of the initial study and negative declaration are filed in the project record located at the San Benito County Planning Department in file PLN190020. Public review of the initial study was conducted from May 20, 2019 to June 10, 2019.

*Evidence:* Notice of Availability of the proposed Negative Declaration was mailed to interested parties and to property owners within 300 feet of the project site and posted at public locations in the County, including the County of San Benito Website ([www.cosb.us](http://www.cosb.us)).

**Finding 2:** That the Planning Commission has considered the negative declaration together with all comments received from the public review process.

*Evidence:* The initial study and proposed negative declaration were presented to the Planning Commission at its meeting of June 19, 2019, and all members of the public present at the

meeting were invited to provide comments. Further the Planning Commission has reviewed all comments received by the Department. The Planning Commission considered the proposed negative declaration and all comments received at the meeting.

**Finding 3:** The negative declaration reflects the independent judgment of the Planning Commission.

*Evidence:* The Initial Study checklist was prepared by the Applicant's environmental consultant, M-Group, with oversight and review by the County Resource Management Agency, in compliance with the California Environmental Quality Act CEQA.

*Evidence:* The Planning Commission considered and reviewed the initial study/ negative declaration and considered public comments and supplemental information prior to action on the negative declaration. The this resolution, and the staff recommendation reflect the Planning Commission's independent evaluation of the project.

**Finding 4:** That the Planning Commission has found that there is no substantial evidence in the project record that the proposed project, including approval of this Development Agreement, will have a significant effect on the environment, or that it will have any significant effects that would need mitigation to reduce them to less than significant.

*Evidence:* Staff report and the project record for the conditional use permit and the development agreement. The Planning Commission considered all the evidence prior to adoption of the negative declaration. The Planning Commission determined all effects of the project are less than significant.

**BE IT FURTHER RESOLVED** by the Planning Commission of the County of San Benito that it hereby finds as follows:

### **Development Agreement - Findings**

**Finding 1:** Development Agreement application was filed with the Director of Planning, in accordance with County Code section 19.11.007, in that:

*Evidence:* The complete application included all the required content under County Code section 19.11.007(b), including, without limitation, sufficient documentation to facilitate CEQA review; and the required fee deposit to facility review by San Benito County. The application is on file at the San Benito County Resource Management Agency, Building and Planning Division.

**Finding 2:** The Development Agreement is consistent with the General Plan and any applicable specific or area plans, and the remaining portions of the County Code:

*Evidence:* For all the reasons set forth in this Resolution and the staff report for the project, incorporated herein by reference.

**Finding 3:** The Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the zoning district in which the real property is located:

*Evidence:* As part of its approval of the conditional use permit on June 19, 2019, the Planning Commission made determinations regarding the compatibility of the Project with the uses authorized in, and the regulations prescribed for, the applicable zoning, including making all the necessary conditional use permit findings.

**Finding 4:** The Development Agreement is consistent with public health; safety and general welfare and good land use practice, in that:

*Evidence:* The Development Agreement is complementary to public health, safety and general welfare and good land use practices. Among other things, it provides for public benefits beyond those benefits that would be forthcoming through conditions of development project approvals as set forth herein.

*Evidence:* The Project was prepared in accordance with the County's Zoning Code and relevant policies in the County's 2035 General Plan Update. In addition, the Project will provide employment opportunities for County residents. The Project will also contribute 1% of gross receipts to the general County benefit, as well as improve a significant portion of Frazier Lake Road.

**Finding 5:** The Development Agreement will not adversely affect the orderly development of the surrounding community, in that:

*Evidence:* In approving the project, the Planning Commission made the conditional use permit findings necessary for approval, including that (A) That the proposed use is properly located in relation to the general plan and to the community as a whole and to other land uses, transportation and service facilities in the vicinity; and (B) That the proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other properties in the vicinity or cause any damage, hazard or nuisance to persons or property.

**Finding 6:** The development project associated with the Development Agreement should be encouraged in order to meet important economic, social, environmental or planning goals of San Benito County, in that:

*Evidence:* With regard to planning goals, the Project was prepared in accordance with General Plan policies, which support agricultural uses and economic development. With regard to economic and social goals, the Development Agreement also facilitates goals of San Benito County to provide for more employment opportunities and generate sales tax revenue, and imposes obligations on the Developer to pay Community Benefits, including 1% gross receipts, which the County would not otherwise be entitled to.

**Finding 7:** The subject development project and the Development Agreement are consistent with Chapter 19.11, in that:



***Evidence:** The purpose of Chapter 19.11: Development Agreements is to strengthen the public planning process, to encourage private participation in comprehensive, long range planning and to reduce the economic costs of development by enabling the county and a developer seeking county approval of a development project to enter into a development agreement which vests certain development rights and which requires a developer to provide additional public benefits. The appropriate use of development agreements will reduce uncertainty in the development review process, will promote long-term stability in the land use planning process and will result in significant public gain.*

**BE IT FURTHER RESOLVED** by the Planning Commission of the County of San Benito that based on the foregoing findings and evidence in the record, that the Planning Commission recommends that:

- A. The Board of Supervisors approve the Draft Ordinance (as may be amended by the BOS) for approval of the Development Agreement, subject to the findings and evidences therein and subject to the conditions of approval imposed on the Conditional Use Permit for this project.

**PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO THIS 19<sup>th</sup> DAY OF JUNE 2019 BY THE FOLLOWING VOTE:**

AYES:

NOES:

ABSENT:

ABSTAIN:

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Robert Rodriguez, Chair  
San Benito County Planning Commission

***ATTEST:***

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**Taven M. Kinison Brown**, Principal Planner  
Resource Management Agency San Benito County

## **DEVELOPMENT AGREEMENT WITH PACIFIC BAY CAPITAL GROUP**

This Agreement ("**Development Agreement**") is entered into and effective as of \_\_\_\_\_, 2019 ("**the Effective Date**") by and between the County of San Benito, a political division of the State of California ("**COUNTY**") and Pacific Bay Capital Group, LLC, a California Limited Liability Company ("**DEVELOPER** or "**Pacific Bay**").

### **RECITALS**

#### **A. Nature and Purpose of Development Agreements**

The Legislature enacted Government Code Sections 65864 et seq. ("**Development Agreement Statute**") in response to the lack of certainty in the approval of development projects, which can result in a waste of resources, and discourage investment in and commitment to planning that would maximize the efficient utilization of resources. The Development Agreement Statute is designed to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development.

Pursuant to the Development Agreement Statute which authorizes the COUNTY to enter into a property development agreement with any person having legal or equitable interest in real property, the COUNTY adopted the Development Agreement Ordinance, Chapter 19.11 of the San Benito County Code (hereafter "**Code**"), establishing procedures and requirements under which the COUNTY may enter into a Development Agreements in order to establish certain development rights in such property. This Development Agreement has been processed in accordance with those procedures.

#### **B. Government Code and County Code Required Elements:**

##### **1. Description of Property.**

All that certain land, improvements, easements, and appurtenances related thereto situated in the unincorporated area of the County of San Benito, State of California, described as 7800 Lake Road, CA 95023, more commonly known as Assessor's Parcel Number 013-050-028, the legal description and a map of which is set forth in Exhibit A" and incorporated herein by this reference. (hereinafter "**Property**" or "**Project Site**"),

##### **2. Developer's Interest in Real Property.**

DEVELOPER, name and address which is set forth herein, has a legal or equitable interest in the "**Property**". DEVELOPER represents that it will assure through separate instruments that all persons or entities holding legal or equitable interests in the Project Site shall be bound by this Development Agreement.

DEVELOPER warrants that the Property is currently owned and operated as a commercial horse facility with peripheral field crop farming uses. DEVELOPER is in the process of acquiring the Property from its current ownership.

### **3. Project**

DEVELOPER proposes to develop the Property to include any cultivation generally allowed by the San Benito County Code and for the following hemp activities to be done through a conditional use permit: a commercial/industrial hemp production facility, which will include but not be limited to cultivation, nursery/starters/transplanting, manufacturing, compounding and formulating, laboratory testing, processing of hemp related food products and other hemp items, and distribution and transportation activities within the Property, and to other retailers off-site (collectively, the "Project").

### **4. Environmental Review**

This project has been reviewed pursuant to a Negative Declaration.

### **5. Project Approvals**

To ensure that the COUNTY remains responsive and accountable to its residents while pursuing the benefits of this development agreement, the COUNTY accepts the restraints on its police powers contained in this Agreement only to the extent and for the duration required to achieve the COUNTY's objectives and to offset such restraints, seeks public benefits from the DEVELOPER that go beyond those obtained by traditional County controls and conditions imposed on development project applications.

The San Benito County Board of Supervisors (hereinafter "BOARD") has found that, among other things, this Development Agreement is consistent with its General Plan and has been reviewed and evaluated in accordance with the Development Agreement Statute and Chapter 19.11.

"Project Approvals" are defined in Section 1.1(o) below. They include this Development Agreement together with a conditional use permit which is required to allow manufacturing/processing of hemp on the Project Site. ("Use Permit"). Both the Development Agreement and the Use Permit must remain in effect in order for the DEVELOPER to continue operating under the Use Permit at the Project site. If there are any inconsistencies between the Project Approvals and this Development Agreement, this Development Agreement shall govern.

### **6. Planning Commission Hearing and Recommendations**

On June 19, 2019, the San Benito County Planning Commission (hereinafter "PLANNING COMMISSION") voted to approve the Use Permit. Additionally, the PLANNING COMMISSION, which is the body designated by the County of San Benito as the planning agency for purposes of development agreement review pursuant to Government Code Section 65867, held a duly noticed public hearing and adopted a resolution recommending that the BOARD approve the Development Agreement. Following the public hearing, the PLANNING COMMISSION, determined that the Project, the Initial Project Approvals, and the Agreement are, as a whole and taken in their entirety, consistent with the COUNTY's General Plan and the Zoning Code.

## **7. Board Hearing and Findings**

On July 23, 2019, the BOARD, having receiving the PLANNING COMMISSIONS's recommendations, held a duly noticed hearing and passed an ordinance approving this Development Agreement ("Enacting Ordinance"), and authorizing the Chairman of the BOARD to execute this Agreement, and finding that the Agreement is consistent with the General Plan and Zoning Code in accordance with Government Code section 65867.5. The BOARD further determined that the Project as defined herein required no further analysis under CEQA based on the Negative Declaration approved for the Project. The Board further found that this Development Agreement is fair, just, reasonable, and best serves the public health, safety and welfare of its citizens. A copy of the ordinance is attached as **Exhibit B, Attachment 2 to the June 19, 2019 PC Report**).

## **8. Intent of Parties**

COUNTY and DEVELOPER have, in good faith, negotiated the terms and conditions of this Development Agreement, and have determined that use of a development agreement is appropriate for development of the PROJECT in accordance with the Project Approvals. COUNTY desires to enter into this Development Agreement because it will eliminate uncertainty in planning and provide for the orderly development of the Project, ensure the maximum efficient utilization of resources within the COUNTY, and otherwise achieve the goals and purposes of the Development Agreement Statute. In exchange for these benefits to the COUNTY, together with the other public benefits derived from development of the PROJECT, DEVELOPER desires to enter into this Development Agreement to receive the assurance that it may proceed with development of the Project in accordance with the Project Approvals, as set forth more fully below. The Parties intend through this Agreement to allow DEVELOPER to develop and operate the PROJECT in accordance with the terms of this Agreement. It is noted that the COUNTY is in the process of developing its policies, rules and regulations for the commercial cultivation of industrial hemp within the jurisdictional boundaries of the County.

**NOW, THEREFORE**, with reference to the foregoing recitals which are incorporated herein and made a part of this Development Agreement, and in consideration of the mutual promises, obligations and covenants contained herein and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, DEVELOPER and COUNTY agree as follows:

## **AGREEMENT**

### **ARTICLE I**

#### **DEFINITION OF TERMS**

##### **Section 1.1 DEFINITIONS**

As used in this Development Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this section unless the context otherwise requires:

(a) **"CEQA"** means the California Environmental Quality Act, Public Resources Code Section 21000 and following.

(b) **"COUNTY"** shall mean the County of San Benito, and when applicable, shall its Boards, Commissions, agents, officers and employees.

(c) **"Cultivation"** means any activity involving the propagation, planting, growing, and harvesting.

(d) **"Days"** mean calendar days. If the last day to perform an act under this Development Agreement is a Saturday, Sunday or legal holiday of the State of California, said act may be performed on the next succeeding calendar day that is not a Saturday, Sunday or legal holiday of the State of California and in which the offices of COUNTY are open to the public for business.

(e) **"Effective Date"** means the date upon which the ordinance adopting the Development Agreement takes effect (e.g. the date first written above). The Development Agreement shall not be effective and shall not be recorded until DEVELOPER closes its purchase on the subject property and becomes owner of record.

(f) **"Existing Rules"** means the Rules, Regulations and Official Policies and processes in effect on the Effective Date, including without limitation, the requirements in the San Benito County Code for approval of development agreements by the PLANNING COMMISSION and BOARD.

(g) **"Gross Receipts"** means total revenue received or receivable by the DEVELOPER from any Hemp Activity on the Site or from operation of the Project on the Site, including: all sales; the total amount of compensation received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit whether or not such act or service is done as part of or in connection with the sale of materials, goods, wares, or merchandise; and gains realized from trading in stocks or bonds, interest discounts, rents, royalties, fees, commissions, dividends, or other remunerations, however designated. Included in "gross receipts" shall be all receipts, cash, credits, and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

1. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;

2. Such part of the sale price of property returned by purchasers upon rescission of a contract of sale as is refunded either in cash or by credit;

3. Receipts of refundable deposits in any Hemp Activity, except that such deposits when forfeited and taken into income of the business shall not be excluded.

4. Revenue generated from professional consulting services providing the knowledge and experience of the Developer to other individuals. Examples of consulting services may include farming consulting, pest control advisory consulting and other services that are designed to enhance production of other hemp growers.

The intent of this definition is to ensure that in calculating the payments required under Article 4 of this Agreement, all sales and revenue generated from Project or through the Project are captured. This definition shall therefore be given the broadest possible interpretation consistent with this intent.

**(h) "Hemp"** means a crop that is limited to types of the plant *Cannabis sativa L.* having no more than three-tenths of 1 percent (0.3%) tetrahydrocannabinol ("THC") contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.

**(i) "Hemp Activities"** shall mean all activities related to the hemp plant, including but not limited to possession, cultivation, nursery/starters/transplanting (in or out of greenhouses), manufacturing, compounding and formulating, laboratory testing, processing of hemp related food products and other hemp items, storing, packaging, labeling, transportation, delivery, dispensing, or sale of hemp or hemp related products, distribution and transportation activities within the Property and to other retailers off-site, and all other hemp related activities even not expressly identified above; however the recital herein shall not be construed to allow any activity not expressly permitted by the San Benito County Code.

**(j) "Non-Payment Penalty"** has the meaning set forth in Section 5.2 of this Agreement.

**(k) "Manufacture"** means to produce, prepare, propagate, or compound, or otherwise blend, extract, or infuse hemp and/or a hemp product either directly or indirectly, or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

**(l) "Notice of Non-Payment Penalty"** has the meaning set forth in Section 5.2 of this Agreement.

**(m) "Party" or "Parties"** means and includes COUNTY and DEVELOPER.

**(n) Permitted Uses**

The subject property may be used for the Project and for any other use as authorized under Chapter 25.07 of the San Benito County, California Code of Ordinances (the "County Code"), subject to DEVELOPER obtaining the proper permits and approvals. Although currently, the County Code does not specifically identify industrial hemp facilities as allowed uses in any zoning district, such uses are similar to other listed uses, and therefore, industrial hemp facilities may be

allowed uses in the same zoning districts in which such similar uses are allowed under Chapter 25.07 of the County Code, subject to the PLANNING COMMISSION’s determination as to similarity and approval of a conditional use permit. The sale or distribution of hemp and hemp products to the public (consumer end-user) from the Project Site is absolutely prohibited at this time.

(o) **“Processing”** shall mean all activities related to processing cultivated hemp, including but not limited to, drying, curing, grading, and trimming of hemp.

(p) **“Project Approvals”** means any and all land use, environmental and building approvals, permits and entitlements required for the development of the Project on the Project Site, and processed concurrently with this Agreement in accordance with the Existing Rules.

(q) **“Regulatory Fees”** mean charges owed by the DEVELOPER to the COUNTY for the COUNTY’s costs incurred in processing applications related to the Project, administering its hemp-related ordinance with regard to the Project, and monitoring legal compliance of the PROJECT on the Site, including, but not limited to building and safety-related inspections by the COUNTY, consistent with fees that may be established uniformly throughout the County of San Benito.

(r) **“Rules, Regulations and Official Policies”** means the COUNTY rules, regulations, ordinances, resolutions, laws, general plan, zoning, and official policies governing development, design, density and intensity of use, permitted uses, growth management, environmental review, construction and building standards, and design criteria.

(s) **“Site”** or **“Project Site”** has the meaning as set forth in the Recitals, above.

**Section 1.2. Exhibits.** The following “Exhibits” are attached to and incorporated into this Agreement:

Exhibit “A”:	Legal Description and Map
Exhibit “B”:	Ordinance
Exhibit “C”:	Reserved
Exhibit “D”	Reserved
Exhibit “E”	Assignment and Assumption Agreement
Exhibit “F”	Conditions of Approval

**ARTICLE 2**

**DEVELOPMENT OF THE PROPERTY**

**Section 2.1. Right to Develop.**

During the Term, DEVELOPER shall have the right to develop the Project on the Site, consistent with California and Federal Law, this Agreement, the Use Permit, Additional County Approvals if any, the San Benito County Code, and other state licenses which may be issued for the site.

**Section 2.2. Permitted Uses and Operational Requirements.**

DEVELOPER shall be permitted to develop, construct, and use the Site to carry out the PROJECT, including Hemp Cultivation, Hemp Manufacturing, and Hemp Distribution business activities (except in-County end-user distribution), consistent with Local, State and Federal Laws, this Agreement, the Use Permit, Additional County Approvals, the San Benito County Code, and any additional permits/licenses which may be issued for the site. Any expansion of the site or use of the Site for any purpose other than set forth in the Conditional Use Permit (except for those uses which may lawfully be done without a conditional use permit), shall require modification/amendment of the Conditional Use Permit.

**Section 2.3. Additional Entitlements, Approvals, and Permits.**

Successful implementation of the PROJECT may require the DEVELOPER to obtain additional approvals and permits from the COUNTY and other local and state agencies. In connection with the consideration and issuance of any such Additional County Approval which is not ministerial in nature, the COUNTY reserves its discretion under the police power to approve, conditionally approve, or deny the issuance of each County Additional Approval. COUNTY shall comply with CEQA in the administration of all Additional County Approvals.

**Section 2.4. Conditional Use Permit.** Pursuant to San Benito County Code, DEVELOPER shall not engage in the permitted uses set forth above pertaining to the Project on the Site without first obtaining and maintain any applicable Conditional Use Permit (s) as may be required by the Code.

**Section 2.5: Density or Intensity of Uses**

The Property is currently zoned agriculture productive (“AP”) pursuant to Chapter 25.07 of the County Code. For property located in the AP zoning district, the minimum building site is 5 acres and the maximum building height is 35 feet. Minimum setbacks for front yard is 25 feet, for side yard, the set back is 20% of the lot width (minimum eight feet and maximum 32 feet) and for rear yards, the set back is 20% of lot (not less than 20 feet, maximum required, 35 feet). The Parties agree that the Property is currently developed with improvements that meet the AP zoning district requirements. No buildings except those currently in existence on the Property will be constructed, except through a modification of the CUP if required for such construction. The Parties acknowledge that Commercial Greenhouses require a conditional use permit. The construction of “Hoop Houses” will be regulated by any County Code and state law currently in effect when the hoop house is constructed. To the extent Hemp or Hemp Products are grown or produced on site are “hot” (exceed .3% THC), Developer shall be allowed to remediate, or deliver such product to a California State licensed cannabis facility, so long as allowed by California law and so long as it is derived from strains and farming methods consistent with growing Hemp. Cannabis, as defined by state law, shall not be allowed to be grown on-site without the prior approval of San Benito County and compliance with San Benito County Code.



## ARTICLE 3

### DEVELOPER'S VESTED RIGHTS AND MUTUAL OBLIGATIONS

#### Section 3.1 Vested Elements

DEVELOPER shall have the right to develop the Project Site for the PROJECT in accordance with the Project Approvals and the provisions of this Development Agreement pursuant to the Existing Rules (collectively "**Vested Rights**"), subject to Section above.

The permitted use(s) of the SUBJECT PROPERTY, the maximum height of the proposed buildings, and the other terms and conditions of development applicable to the SUBJECT PROPERTY are referred to as vested elements of this AGREEMENT ("VESTED ELEMENTS") and are set forth in the following documents and approvals:

- (1) The DEVELOPMENT APPROVALS (e.g. the Conditional Use Permit); and
- (2) This AGREEMENT.

For purposes of this AGREEMENT, VESTED ELEMENTS are vested in order to provide assurance to DEVELOPER that the PROJECT can be built on the SUBJECT PROPERTY in conformance with the DEVELOPMENT APPROVALS granted by the COUNTY as described in this AGREEMENT, subject to the limitations and provisions of this AGREEMENT.

#### Section 3.2 Application of New Rules

(1) Development of the PROPERTY shall be subject to all standards and requirements in the GENERAL PLAN, the San Benito County Code, including but not limited to the Zoning Code, and other rules, regulations, ordinances and official policies of COUNTY applicable to the ability to develop the PROJECT on the PROPERTY, and the payment of any fees including but not limited to impact fees, **in effect at the time at the time of development and reuse of the structures**, except as otherwise provided in the VESTED ELEMENTS described herein.

(2) This SECTION shall not preclude the application to development of the PROJECT or the PROPERTY of changes in COUNTY laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or Federal laws or regulations. In the event State or Federal laws or regulations enacted after the EFFECTIVE DATE of this AGREEMENT (or action by any governmental jurisdiction other than the COUNTY) prevent or preclude compliance with one or more provisions of this AGREEMENT or require changes in plans, maps or permits approved by the COUNTY, this AGREEMENT shall be modified, extended or suspended as may be necessary to comply with such State or Federal law or regulation or the regulation of such other governmental jurisdiction.

(3) This SECTION shall not be construed to limit the authority or obligation of COUNTY to hold necessary public hearings or to limit the discretion of COUNTY or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements of use which require the exercise of discretion by COUNTY any of its officers or officials, provided that subsequent discretionary actions shall not be in conflict with the VESTED ELEMENTS.

(4) Notwithstanding anything herein to the contrary, all applications for approvals, permits and entitlements shall be subject to the development and processing fees, impact fees, taxes, and charges which are in force and effect at the time the application therefor is filed.

(5) Nothing herein shall be construed to limit the authority of COUNTY to adopt and apply codes, ordinances, regulations, and policies which have the legal effect of protecting persons or property from dangerous or hazardous conditions which create a substantial physical risk. This subsection to protect and recognize the authority of COUNTY to deal with endangerments not adequately addressed at the time of the adoption of this AGREEMENT.

(6) Codes, ordinances, and regulations relating to construction standards or permits (for example, building and fire codes) and design and construction standards for road and storm drainage facilities, shall apply as of the time of grant of each applicable construction permit.

### **Section 3.3 Standard Operating Procedures**

During the term of this Agreement, DEVELOPER shall lawfully operate in accordance with all Federal, State and local laws. DEVELOPER will employ exemplary operating procedures to comply with such laws. DEVELOPER's facility will employ all industry "best practices" safety and security measures for the safety and security of its employees, as well as other individuals in its neighboring community.

### **Section 3.4 Nature of Vested Rights**

DEVELOPER is being granted vested rights which are limited in the sense that: (i) in the event the permitted hemp activities allowed by this PROJECT is found to be illegal pursuant to Federal or California State law; or (2) if the Use Permit is revoked (both as discussed in further detail below), DEVELOPER shall have no further rights to operate such activities, and shall be required to cease all operations, provided DEVELOPER shall have thirty (30) days to wind down business operations if no health or safety risk is present, and if such wind down period is consistent with federal and state law.

## **ARTICLE 4**

### **COMMUNITY BENEFITS**

**Section 4.1. Intent.** The Parties acknowledge and agree that this Agreement confers substantial private benefits on the DEVELOPER that will place burdens on COUNTY infrastructure, services, and neighborhoods and that the private benefits provided to the developer should be balanced with commensurate public benefits for the community ("Community Benefits").

**Section 4.2. Community Benefits Fees.** In addition to DEVELOPER's obligation to compensate COUNTY through its Regulatory Fees (such as Application, Permit and Impact Fees), DEVELOPER shall be obligated to provide Community Benefits as follows, which shall collectively be referred to as "Community Benefit Fees":

**A. Quarterly Gross Annual Receipts/Community Benefit Fees**

1. In exchange for the COUNTY's approval of this Agreement, DEVELOPER has agreed to pay the COUNTY one percent (1%) of its "gross annual receipts" each year;

2. Payments shall be made on a quarterly basis, following the conclusion of each fiscal year quarter; Quarterly Payments shall be received by the COUNTY Treasurer Tax Collector by January 20<sup>th</sup>, April 20<sup>th</sup>, July 20<sup>th</sup>, and October 20<sup>th</sup> of each year.

3. The money shall to be used in the COUNTY's discretion to advance the general interests of the COUNTY.

4. Any alteration of the amount of the percentage of gross annual receipts shall be by mutual agreement only.

5. Amounts owed shall begin accruing immediately upon the effective date of this Development Agreement, and the first payment shall occur the quarter immediately following the effective date of this Development Agreement.

6. One Percent (1%) of Gross Annual Receipts shall be paid on all Project Activities, including but not limited to Cultivation, Manufacturing, Distribution, Laboratory testing, and any other Hemp Activities occurring on site.

**B. Possible Future Tax.**

Should a tax be enacted by the People of the San Benito County, DEVELOPER shall pay the greater amount between either (a) the amount of such tax, or (b) the 1% of gross annual receipts specified above, but DEVELOPER shall not be required to pay both the tax and the 1% gross annual receipts.

**Section 4.3 Frazier Lake Road Improvements.**

DEVELOPER agrees to keep and maintain Frazier Lake Road at the intersection of the Property driveway and Frazier Lake Road in good working order and repair, which shall include, at minimum the following maintenance and repairs:

1) The applicant/developer shall contribute towards maintenance of Frazier Lake Road by providing a minimum 2" AC overlay from the center point of the property driveway to one(1) mile in each direction on Frazier Lake Road, within one (1) year from the approval of the use permit; and,

2) Applicant shall be further required to maintain that portion of Frazier Lake Road at the same level of maintenance as will exist on the road after the 2" AC overlay;

3) Upon a determination, made in the reasonable discretion of the County, for the need for further maintenance of the Road, the County shall specify in writing the maintenance needed (pothole repairs, chip seal, slurry seal or further overlay work), the County shall specify the work needed, and Developer shall complete such work within 90 days of receipt of such written notice.

DEVELOPER's obligations under this Section shall be limited to that portion of Frazier Lake Road that is within one (1) mile in each direction on Frazier Lake Road from the center point of the Property driveway and Frazier Lake Road. DEVELOPER's works of maintenance and repair of Frazier Lake Road shall be approved by the COUNTY, and such approval shall not be unreasonably withheld or delayed of proposed works of repair and maintenance that are consistent with COUNTY specifications for Frazier Lake Road and state law. COUNTY may request DEVELOPER to follow procedures and policies established for other DEVELOPERS who are working on or within the COUNTY right of way.

#### **Section 4.4 Bond.**

Additionally, upon execution of this Development Agreement by County, DEVELOPER shall post a bond for maintenance and repair of Frazier Lake Road in the amount of Five Hundred Thousand Dollars (\$500,000.00) (the "Road Bond"). The COUNTY shall be the beneficiary of such Bond. The Bond shall only be accessible by the COUNTY in the event that the COUNTY provides written notice to DEVELOPER that Frazier Lake Road requires repair and DEVELOPER does not commence the repairs within one hundred eighty (180) days of the receipt of such written request from the COUNTY.

#### **Section 4.5 Local Employment Opportunities.**

DEVELOPER agrees that, no later than two years from the effective date of this agreement, the Project will provide 75-100 county work opportunities in compliance with Chapter 19.11.002 of the County Code. Total estimated payroll for the PROJECT is estimated to be three to four million dollars annually. DEVELOPER agrees that it will use its best efforts to offer job opportunities for the PROJECT first to qualified individuals with a primary place of residence in the County of San Benito. In the event that a qualified COUNTY resident cannot be located for a job opportunity for the Project for more than six (6) weeks, DEVELOPER may offer the job opportunity to an out of county resident. A report regarding verification of effort will be provided to the BOARD, or its designee, twice a year. This should include a review of the total number of applicants, number of in-county and total hires, efforts at outreach, and a summary of the required training for "qualified candidate(s)".

#### **Section 4.6 Reimbursement of Legal and Staff Costs**

In order to expedite consideration of the DEVELOPER's proposal, DEVELOPER has agreed to and shall pay for the staff's time spent preparing and processing documents including the Use Permit and Development Agreement; drafting notices, staff reports, resolutions and ordinances; and appearing at COUNTY meetings he/she would not ordinarily attend (e.g. special BOARD meetings, Planning Commission meetings, community meetings, etc.) at County's hourly

established rates. DEVELOPER understands that these amounts shall be due and owing regardless of whether the PROJECT is ultimately approved. DEVELOPER further understands that this obligation will be retroactive to the date of the filing of the conditional use permit application once this Development Agreement becomes effective.

#### **Section 4.7 Sales and Use Tax**

Developer shall exert in good faith its best efforts to have all sales and use tax related to its Hemp Activities occur in the County, and also use its best efforts to direct any of its contractors and subcontractors to have sales and use tax occur in the unincorporated area of the County. Developer and its contractors and subcontractors (collectively for purposes of this section, “Developer”), shall establish a business location or locations and sales tax permits, and take other reasonable steps, in an effort to maximize receipt of sales and use tax revenues for County. Developer shall include in any contract for construction language ensuring that County will receive the benefit of any sales or use tax generated by the Project to the fullest extent legally permitted. Jobsite shall be stated in any contracts and all subcontracts as San Benito County, California. Developer shall direct its contractors and subcontractors to establish a place of business within the unincorporated area of the County and to obtain a sales tax construction sub-permit for the project site. Developer, which may enter into joint venture, or other relationship with contractor, supplier, or designer, will establish a place of business and sales tax permit within the unincorporated area of San Benito County and shall take first possession there of any goods on which sales or use taxes are applicable. Developer shall self-assess use tax on all items purchased for the Project from out of state suppliers that are subject to use tax. All requests for bids, procurement contracts, bid documents, and any other agreement whereby California Sales or Use Tax may be incurred shall state that sales or resale occurs in San Benito County, California. The principal negotiations for sale/resales of such goods are to be carried on in San Benito County. Alternately, any entity which may sell goods on which sales taxes are applicable may establish its own place of business within unincorporated San Benito County where delivery is ultimately made to Developer. The principal negotiations for all such sales to Developer are to be carried on in San Benito County.

### **ARTICLE V**

#### **RECORDKEEPING, REPORTING, AND PROCESSING**

##### **Section 5.1 Record Keeping**

DEVELOPER will maintain records for all hemp activities on site. DEVELOPER will comply with all records-keeping responsibilities that are set forth in the County Code, as may be amended, and such other records as may be specified by the COUNTY in writing, including complete and up-to-date records regarding all “hemp activities” on site, including but not limited to those records related to hemp cultivated, produced, manufactured, harvested, stored, or packaged at DEVELOPER’s facility. DEVELOPER shall also keep such records as may be reasonably requested by the COUNTY in order to verify DEVELOPER’s compliance with the terms of this Development Agreement. County may inspect and photocopy records upon 48 hours prior written notice as it deems necessary and prudent in its sole judgment, to determine compliance with local laws, the Conditional Use Permit, and this Agreement.

## **Section 5.2. Penalty.**

If DEVELOPER fails to make a payment concerning Community Benefits Fees, as required by this Agreement, the COUNTY may impose a “Non-Payment Penalty.” A Non- Payment Penalty of ten percent (10%) shall be applied to all past due Community Benefits Fees. The COUNTY shall deliver to DEVELOPER a “Notice of Non-Payment Penalty.” Payment of the Non- Payment Penalty shall be in a single installment due on or before a date fifteen (15) days following delivery of the Non-Payment Penalty. The Non-Payment Penalty is due and shall be collected if the Community Benefit Fees are not received by the County Treasurer Tax Collector by 5:00 p.m. on the first business date following the dates set forth in paragraph 4.2A above,

## **Section 5.3. Interest on Unpaid Non-Performance Penalty.**

If DEVELOPER fails to pay the Non-Performance Penalty after County has delivered the Notice of Non-Performance Penalty, then, in addition to the principal amount of the Non-performance Penalty, DEVELOPER shall pay COUNTY interest at the rate of eighteen percent (18%) per annum, computed on the principal amount of the Non-Performance Penalty and the amount of GROSS RECEIPTS not paid, from a date fifteen (15) days following delivery of the Notice of Non-performance Penalty until such amounts due are paid, or the interest rate allowed by law, whichever is less. This shall be in addition to the Penalty amount set forth in Section 5.2.

## **Section 5.4 Audits**

Notwithstanding anything to the contrary herein, DEVELOPER agrees that COUNTY may audit, at County’s sole expense, the DEVELOPER’s finances up to four times per year, and take all other reasonable steps to insure the DEVELOPER is accurately reporting its gross revenue to the COUNTY including but not limited to reviewing DEVELOPER’s revenue records and statements, electronic transfer records and returns, and the DEVELOPER’s tax records, statements, filings and returns. In addition to the COUNTY’s right to audit, the DEVELOPER shall provide to the County all gross receipts records on a quarterly basis, with the understanding that DEVELOPER’s tax records shall be available for viewing and copying only on project premises or at another mutually agreeable location, and shall remain confidential and shall not be disclosed by the COUNTY to the greatest extent allowed by law, except as may be necessary to enforce this Agreement. DEVELOPER shall provide all information, data, and records as may reasonably be requested by COUNTY in its audit process.

In the event that any audit show underpayment to COUNTY of the 1% gross annual receipts by more than three percent (3%) of the amount owed, the costs of such audits and staff time shall be reimbursed by DEVELOPER within thirty days of County’s invoice of those costs.

## **ARTICLE VI**

### **OPERATING STANDARDS**

#### **Section 6.1 Legality of Use**

In the event DEVELOPER 's land use in general or this Project in particular is found to be illegal pursuant to Federal and California State law, this Development Agreement shall be of no further force or effect and all illegal operations shall immediately cease. If DEVELOPER chooses to appeal that determination, it may continue to operate pending conclusion of the appeal unless, in the reasonable opinion of the CAO or his or her designee, there will be an unacceptable health or safety risk to the general public as a result.

#### **Section 6.2 Quality Control and Testing**

DEVELOPER will utilize quality control measures and testing to ensure only the highest quality of hemp and infused products will be produced and that the concentration of delta 9 tetrahydrocannabinol (THC) is no greater than .3%, or such other standard as may be developed by the State of California for hemp productions. DEVELOPER will inspect the product to insure its identity and quantity, and will have a third party testing lab approved by the COUNTY, perform testing of random samples prior to distribution. Inspection and testing will be conducted by the approved testing lab on-site or off-site. Testing standards and procedures shall be in accordance with applicable State law and regulations.

#### **Section 6.3 Regulatory Permit and Conditional Use Permit Conditions of Approval**

DEVELOPER shall comply with all conditions of approval of any Use or Regulatory Permit approved by the COUNTY for the Project, which are deemed by the Parties to be incorporated herein by reference.

#### **Section 6.4 Conditions for Operation of Hemp Facility**

Any party to this Agreement, or successor in interest thereto, shall not operate a hemp facility or conduct “hemp activities” unless:

- a) The Conditional Use Permit described in Recital B herein is in full force and effect, the conditions of approval of which are attached as Exhibit F and incorporated hereby by this reference;
- b) It is the holder of any and all valid regulatory permits issued by the County in accordance with the County Code (“Additional County Approvals”); and
- c) At such time as the State of California requires hemp facilities and businesses to hold a valid license or permit issued by the State of California, it also holds such license or permit, unless, however, such State issued permit or license is not required by the State of

California for the type of hemp facility or business operation that is the subject of this Agreement.

**Section 6.5 Operations Effect on Adjoining Property Owners**

DEVELOPER shall take every reasonable step to make the operation of its activities at the Project Site as "seamless" as possible to neighbors, adjoining property owners and the community, including taking the following steps: saving / conserving electrical energy; avoiding the emission of sound, odor, light, dust, fertilizer and other airborne particulates beyond the applicant's boundaries; implementing adequate fire prevention measures; installing and maintaining an adequate security system; developing a working relationship with the COUNTY Sheriff's department which will allow any criminal conduct involving the Project site to be immediately dealt with; and taking necessary steps to insure the general public is not allowed onsite access.

**ARTICLE VII**

**APPLICATION**

**Section 7.1 Developer's Application for Project Approvals.**

In connection with development of the Project on the Project site, DEVELOPER shall be obligated to obtain any and all Project Approvals required under the Existing Rules, as well as any approvals that may be required by other governmental or quasi-governmental agencies having jurisdiction over the implementation of any aspect of the Project, if any. DEVELOPER shall apply for all such approvals in a timely manner.

**Section 7.2 Reserved**

**Section 7.3 Cooperation to Obtain Other Governmental or Quasi-Governmental Approvals.**

COUNTY shall cooperate in good faith with DEVELOPER in DEVELOPER's efforts to obtain approvals required by other governmental and quasi-governmental agencies for the development of the Project, if any, in order to serve the purposes of this Development Agreement and to limit to the extent possible the imposition of additional fees, dedications or exactions by or through such agencies; provided, however, in no event shall the obligations herein require COUNTY to incur out of pocket costs or restrict the County's reasonable discretionary authority.

**Section 7.4 Execution and Delivery of Other Documents.**

Each party shall execute and deliver any and all additional documents and instruments, and perform such further acts, as may be reasonably necessary or proper to achieve the purposes of this Development Agreement.



## ARTICLE VIII

### TERM OF THIS DEVELOPMENT AGREEMENT AND EXTENSIONS

#### Section 8.1 Duration of Agreement.

After approval by the PLANNING COMMISSION and BOARD, the term of this Development Agreement shall commence on the Effective Date and shall continue for a period of fifteen (15) full calendar years, unless sooner terminated as provided in this Development Agreement ("**Term**"). Following the expiration of the term, this Development Agreement shall be deemed terminated and of no further force and effect unless extended by mutual agreement. The parties may extend this agreement by mutual agreement if allowed pursuant to County Code.

## ARTICLE IX

### PERIODIC REVIEW; DEFAULT

#### Section 9.1 Periodic Review Required by Development Agreement Statute.

**A.** Pursuant to Government Code Section 65865.1, the County Board of Supervisors, or its designee, will, at least every twelve (12) months during the term of this Development Agreement, review whether there has been good faith compliance with the terms of this Development Agreement by DEVELOPER ("Periodic Review"). The Periodic Review shall be limited in scope to an inquiry of whether the DEVELOPER or any successor in interest has complied in good faith with the terms of the Development Agreement. COUNTY's failure to timely initiate the Periodic Review is not deemed to be a waiver of the right to do so at a later date. Accordingly, DEVELOPER is not deemed to be in compliance with this Development Agreement by virtue of such failure to timely initiate review.

#### **(B) Staff Reports.**

COUNTY shall deposit in the mail to DEVELOPER a copy of all staff reports and, to the extent practical, related exhibits concerning contract performance at least ten (10) days prior to any Periodic Review.

#### **(C) Determination of Compliance or Non-Compliance.**

The BOARD, or its designee, shall make a reasonable determination of compliance or non-compliance with the terms of this Development Agreement by DEVELOPER.

**ARTICLE X**  
**TERMINATION**

**Section 10.1 Termination by Expiration.**

This Development Agreement shall terminate upon the expiration of the term or as otherwise provided in this Development Agreement.

**Section 10.2 Amendment or Cancellation because of Conflict with State or Federal Laws.**

In the event that state or federal laws or regulations enacted after the Effective Date of this Agreement prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the COUNTY , the parties shall meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such federal or state law or regulation. Any such amendment or suspension of the Agreement shall be subject to approval by the BOARD in accordance with San Benito County Code. DEVELOPER shall comply with all federal, state and local laws related to hemp cultivation and hemp activities, as currently exist or at such time they are established and effective.

**Section 10.3 Termination Due to Default.**

If the defaulting party has not cured the default or is not diligently curing the default in a manner and time frame agreed upon by the parties, the complaining party may at its option, terminate this Development Agreement in accordance with applicable law. The complaining party shall give written notice of its intent to terminate this Development Agreement due to default by the defaulting party ("**Notice of Intent to Terminate**") pursuant to Government Code Section 65868. Within thirty (30) days of receipt of a Notice of Intent to Terminate, termination procedures shall be commenced. Notwithstanding the foregoing a termination of this Development Agreement pursuant to this section is effective to terminate the obligations of the complaining party only if a default has occurred and such default as determined by an arbitrator, authorizes the complaining party to terminate its obligations under this Development Agreement.

**Section 10.4 Termination by Mutual Consent.**

This Development Agreement may be terminated or modified by mutual consent of the parties in the manner provided in Government Code Section 65868.

**Section 10.5 Revocation**

If DEVELOPER's Use Permit is revoked, this Development Agreement shall be of no further force or effect and all operations shall immediately cease. The COUNTY appreciates that revocation of the Use Permit is a drastic measure which may put DEVELOPER out of business. On the other hand, DEVELOPER appreciates that the COUNTY is empowered to abate public nuisances for good reason, and that the COUNTY does not intend to forego its right to do so. Accordingly, the parties agree that the COUNTY may revoke DEVELOPER's Use Permit upon the breach of a condition to the permit or for other "good cause" as that term is defined in O'Hagan v.

Board of Zoning Adjustment (1971) 19 Cal.App.3d 151, 96 Cal.Rptr. 484, subject to the following: (a) before initiating revocation proceedings the COUNTY must provide written notice to DEVELOPER of its belief that one or more conditions have been breached or that a nuisance exists on the property, and invite DEVELOPER to meet with COUNTY staff to discuss in good faith whether there is a breach or nuisance and, if so, how to cure the breach or abate the nuisance; (b) assuming there is a breach or nuisance, the DEVELOPER and COUNTY shall agree upon a time and manner in which to cure the breach or abate the nuisance or, if they cannot come to agreement, the PLANNING COMMISSION shall determine whether there is a breach or nuisance, and if so, decide the time and manner in which to cure the breach or abate the nuisance, which decision shall be reasonable in scope and direction. During pendency of the process, the DEVELOPER shall be allowed to continue its operations unless the CAO or his or her designee reasonably determines that there will be an unacceptable health or safety risk to the general public as a result.

### **Section 10.6 Procedure**

Upon termination of this Development Agreement, the DEVELOPER shall cause a notice of such termination to be duly recorded in the official records of COUNTY, after such notice has been approved as to form and content by COUNTY.

## **ARTICLE XI**

### **LEGAL ACTION**

#### **Section 11.1 Dispute Resolution Process.**

If a dispute arises related to the interpretation or enforcement of, or compliance with, the terms and provisions of this Development Agreement ("Dispute"), COUNTY and DEVELOPER shall first attempt to resolve it through informal discussions. In the event a dispute cannot be resolved in this manner within twenty-one (21) days, COUNTY and DEVELOPER shall endeavor to settle the dispute by mediation which, except as otherwise mutually agreed upon in writing by the parties, shall be conducted under the then current Center for Public Resources Model Procedures for Mediation of Business Disputes by a neutral third party selected from the Center for Public Resources Panels of Neutrals. In the event that an applicable statute of limitations would run during the dispute resolution process, COUNTY and DEVELOPER shall agree in writing to toll such statute of limitations for such periods as may reasonably be necessary to complete the dispute resolution process, but in no event shall such statute of limitations be tolled for more than ninety (90) days.

#### **Section 11.2 Arbitration**

(a) Either COUNTY or DEVELOPER may initiate arbitration with respect to a Dispute by filing a written demand for arbitration at any time following completion of the informal dispute resolution and mediation processes described above; provided however, that mediation may continue after the commencement of arbitration, if COUNTY and DEVELOPER so desire. Unless otherwise agreed to by COUNTY and OWNER, the mediator shall be disqualified from serving as the arbitrator in the case. The provisions of this Section may be enforced by any court of competent jurisdiction, and the prevailing party shall be entitled to an award of all costs, fees, and expenses,

including attorneys' fees, to be paid by the non-prevailing party. Any Dispute arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, not resolved by the mediation process set forth above, shall be determined by arbitration to be held in San Benito County before one arbitrator. Neither party may request an arbitration hearing in conformity with this Section until after the completion of informal dispute resolution and mediation processes are complete; provided, however, that mediation may continue after the commencement of arbitration if COUNTY and OWNER so mutually desire. The arbitration shall be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures, which rules shall govern the commencement of arbitration and the selection of the arbitrator among other things. Judgment on the arbitration award may be entered in the San Benito County Superior Court or any court having jurisdiction. This Section shall not preclude COUNTY or OWNER from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The costs and fees of arbitration (including those fees and expenses set forth in JAMS' fee schedule in effect at the time of commencement of the arbitration) shall be borne equally by COUNTY and OWNER, and each side shall be responsible for its own attorney(s) and expert(s) witness fees. However, the arbitrator may award attorney's fees to the prevailing party upon conclusion of the arbitration process.

(b) The dispute resolution process described under the Sections above shall be undertaken in good faith. A mediator or arbitrator other than JAMS may be mutually agreed upon by COUNTY and OWNER in writing. By agreeing to this dispute resolution process, neither COUNTY nor OWNER hereby loses or waives its right to assert the operation of any applicable statute of limitations as an affirmative defense. Any arbitration award shall be final and binding upon COUNTY and OWNER and each shall accept such decision and award as binding and conclusive and shall abide thereby and neither party may commence civil litigation as a means of resolving a Dispute except for an action to obtain equitable relief.

In Arbitration, the parties agree that remedies to enforce the terms of this Agreement shall be limited to actions for mandamus, specific performance, declaratory relief, injunctive relief or other equitable relief. In no event shall the COUNTY be liable for monetary damages or for payment of any restitution for any breach or violation of this Agreement.

### **Section 11.3 Venue of Legal Proceedings Between the Parties.**

All legal or equitable actions or proceedings in which DEVELOPER and the COUNTY are adverse parties shall be filed and maintained in the Superior Court of San Benito County. No party to such action or proceeding may seek a change of venue to another superior court unless such a change in venue is required by law.

## **Article XII**

### **IDEMNIFICATION**

#### **Section 12.1 Developer Indemnification Requirement**

DEVELOPER hereby agrees to and shall indemnify, save, hold harmless, and, if requested by the COUNTY, defend the COUNTY from any claim, action, or proceeding brought by a third party (i)

to challenge, attack, set aside, void, or annul this Agreement or any Project Approvals issued by COUNTY, and (ii) for claims, costs, and liability for any damages, personal injury, or death, which may arise in connection with the Project or this Agreement, including but not limited to those arising directly or indirectly from the negotiation, formation, execution, enforcement, or termination of this Agreement.

Nothing in this Section shall be construed to mean that DEVELOPER shall hold the COUNTY harmless and/or defend it from any claims arising from, or alleged to arise from, the negligent acts, negligent failure to act, or intentional acts on the part of the COUNTY, except indemnification and defense arising directly or indirectly or resulting from the review, processing, consideration, or approval of DEVELOPER'S Project or action taken by COUNTY thereon, which shall **include** those based on the negligence of COUNTY.

COUNTY shall provide Developer with notice of the pendency of such action or proceeding and may, in its discretion, request that DEVELOPER defend such action or proceeding. It being understood that the Project is a private undertaking, the parties agree that it is DEVELOPER'S primary responsibility to defend any Legal Challenge, as defined herein. In this event, Developers shall engage the services of competent counsel at their sole cost and expense ("**Defense Counsel**"), subject to COUNTY'S reasonable approval, to defend the parties' interests in any Legal Challenge; provided, however, that nothing in this Section shall preclude County Counsel's involvement in the Legal Challenge to defend COUNTY'S interest therein. Furthermore, in the event that COUNTY determines, in its sole and absolute discretion, that separate counsel is necessary to serve the interests of the COUNTY, COUNTY may retain special counsel, for which DEVELOPER shall pay all actual legal fees and costs related thereto. If COUNTY retains special counsel in accordance with this Section, County shall direct special counsel to cooperate with Defense Counsel to the extent feasible and to use diligent and good faith efforts to avoid duplication with the efforts of Defense Counsel; such efforts may include, for example, the filing of joint briefs and other papers. Defense Counsel, County Counsel, and COUNTY'S special counsel, if any, shall consult with each other and act in good faith in considering any settlement or compromise of any Legal Challenge.

Nothing contained in this Agreement, however, shall be construed to limit the discretion of COUNTY, in the interest of the public welfare, to settle, defend, or appeal, or to decline settlement or to terminate or forego defense or appeal of a legal action. In no event shall COUNTY be required to continue with a legal challenge, although COUNTY shall have the right to do so, in the event DEVELOPER fails to pay any amounts owing to COUNTY pursuant to this Agreement or fails to undertake indemnification and defense in a legal action. In no event shall COUNTY have any obligation or liability to Developer in connection with COUNTY'S defense or prosecution of litigation related to the Project (including, but not limited to, the outcome thereof) or in the event COUNTY elects not to prosecute a case or defend litigation brought against it.

With the exception noted above regarding the County's discretion to settle litigation in which it is involved, the County agrees that it shall reasonably cooperate with DEVELOPER in the defense of any matter in which DEVELOPER is defending, indemnifying, and/or holding the County harmless..

## **Section 12.2. Deposit in the Event of Challenge**

In the event any claim, action, or proceeding as described above is filed by a third party against the COUNTY, DEVELOPER shall, within 10 days of being notified of the filing, make an initial deposit with the COUNTY in the amount of \$5,000, from which actual costs and expenses shall be billed and deducted for purposes of defraying the costs and/or expenses involved in the COUNTY's cooperation in the defense, including, but not limited to, depositions, testimony, and other assistance provided to DEVELOPER or DEVELOPER's counsel. If during the litigation process actual costs or expenses incurred reach 80 percent of the amount on deposit, DEVELOPER shall deposit additional funds to bring the balance up to the amount of \$5,000, or up to \$20,000 if Conflict Counsel has been retained. There is no limit to the number of supplemental deposits that may be required during the course of litigation. At the sole discretion of DEVELOPER the amount of the initial or any supplemental deposit may exceed the minimum amounts specified herein. Additionally, the cost for collection and duplication of records, including the reasonable costs of staff time necessary to collect, review, and/or duplicate such records in connection with the preparation of any administrative record or otherwise in relation to litigation, shall be paid by DEVELOPER. Upon DEVELOPER's initial \$5,000.00 deposit to cover the COUNTY's costs and expenses pursuant to this section, DEVELOPER shall have the right to a monthly, itemized accounting of such expenses, which COUNTY shall provide upon DEVELOPER's request within 15 working days of such request, but no sooner than 30 days after DEVELOPER's initial deposit. It is understood that DEVELOPER's duty to indemnify and hold harmless includes the duty to defend as set forth in California Civil Code Section 2778. Further, in the event that any legal challenge is filed as a result of the PROJECT processed under this AGREEMENT, the total amount of the Deposit shall be increased to such sum then reasonably determined by COUNTY, within 30 days of the County's request for an increased Deposit.

## **SECTION 12.3 Failure to Indemnify.**

The DEVELOPER's failure to indemnify the COUNTY, when required by this Agreement, shall constitute a material breach of this Agreement and of any applicable Conditional Use Permit, and Additional County Approvals, which shall entitle the COUNTY to all remedies available under law, including, but not limited to, specific performance and damages. Failure to indemnify shall constitute grounds upon which the COUNTY may rescind its approval of any entitlement, permit, or license related to the Project, or any portion thereof, and a waiver of DEVELOPER's right to file a claim, action, or proceeding against the COUNTY and COUNTY's elected and appointed boards, commissions, legislative bodies, officials, employees, and representatives based upon the COUNTY's rescission or revocation of any applicable Conditional Use Permit and Additional COUNTY Approvals, or County's failure to defend any claim, action, or proceeding based upon DEVELOPER's failure to indemnify the County or upon the exercise of the County's discretion as set forth herein.

## **Section 12.4 Survival of Indemnification.**

The indemnification obligation set forth in this section shall survive the termination of this Development Agreement.

## ARTICLE XIII

### Assignment and Assumption

#### Section 13.1 Assignment and Assumption

A. Subject to compliance with this Article, an DEVELOPER may sell, assign or transfer (collectively, “*Assignment*”) in whole or in part the Property to any individual or entity at any time during the Term of this Agreement. Said DEVELOPER shall seek COUNTY’s prior written consent to any Assignment, which consent shall not be unreasonably withheld or delayed. Assignment shall be permitted only with respect to the entire agreement, (ii) subject to prior written disclosure to COUNTY of all parties, terms, and conditions related thereto, and (iii) evidenced by documentation reasonably acceptable to COUNTY (including without limitation, an assumption of all the obligations of DEVELOPER under this Agreement and an agreement to be subject to all conditions and restrictions the DEVELOPER is subject.)

B. COUNTY may refuse to give its consent to a requested Assignment only if, in light of the following factors: (a) financial strength and capability of the proposed Subsequent Owner to perform the obligations of this Agreement; and (b) the proposed Subsequent Owner’s experience and expertise in planning, financing, development, ownership, and operation of similar projects; such Subsequent Owner would not be able to perform the obligations hereunder proposed to be assumed by such Subsequent Owner. Such determination shall be made by the RMA Director, and the RMA Director’s decision is appealable by DEVELOPER to the Board, which shall also evaluate the decision based on the criteria specified above.

C. Prior to COUNTY’s consideration of any such proposed assignment, DEVELOPER and the proposed Assignee shall submit to COUNTY, for its review and approval: (i) reliable evidence of the proposed Assignee’s qualifications as COUNTY may reasonably request, including but not limited to documentation of the proposed Assignee’s professional knowledge, experience, and financial ability to develop projects that are of similar scope and nature to the Project and to satisfactorily complete the obligations of DEVELOPER under this AGREEMENT, and (ii) all other legal documents proposed to effect any such assignment and by which the proposed Assignee shall expressly assume all of the obligations of DEVELOPER under this Agreement and agree to be subject to all conditions and restrictions to which DEVELOPER is subject.

D. In the absence of specific written agreement by COUNTY, no such assignment to an Assignee shall be deemed to relieve DEVELOPER from any obligations under this Agreement.

E. The COUNTY ADMINISTRATIVE OFFICER, or his/her designee, and COUNTY COUNSEL, or his/her designee, shall be authorized to grant approval for such assignment.

F. Without limiting the generality of the foregoing, COUNTY’s consent to any such Assignee shall not be deemed to have been unreasonably withheld in the event that such Assignee does not provide reasonably satisfactory evidence of its professional knowledge, experience, and financial ability to develop projects that are of similar scope and nature the Project and to satisfactorily complete the obligations of DEVELOPER under this Agreement.

G. Express written assumption by a proposed individual or entity of the obligations and other terms and conditions of this Agreement with respect to that portion (or all) of the Property thereof Assigned, shall relieve the applicable Owner of such obligations so expressly assumed.

H. The Assignment and Assumption Agreement shall be substantially in the form attached as Exhibit E to this Agreement (“*Assignment and Assumption Agreement*”), shall be recordable and shall be approved as to form by County Counsel. Said agreement shall provide for the proposed Subsequent Owner to contractually assume and be bound by all of the applicable Owner’s obligations under this Agreement with respect to the Property which are Assigned to the proposed Subsequent Owner. The applicable Owner shall ensure that such Assignment and Assumption Agreement is recorded by the County Recorder in the official records of San Benito County within ten (10) days of receipt after COUNTY executes the required Consent to Assignment, or as promptly thereafter as feasible. Subject to COUNTY’s consent of such Assignment pursuant to this Article 13, upon recordation of said Assignment and Assumption Agreement, the applicable DEVELOPER shall automatically be released from those obligations expressly assumed by the Subsequent OWNER/DEVELOPER at issue.

### **13.2 Subcontracts, Subleases, Licenses or Other Use of the Property**

DEVELOPER may enter leases, subleases, licenses, memorandum of understandings, joint ventures, joint corporate ownership, sale of its ownership interests, formation or reformation of corporate or governance structures, or other transfer of ownership and interest in the Property or in its corporate interests (“Future Operator”), without requesting formal assignment and assumption of the Development Agreement as specified above. However, any use of the Property, no matter under what ownership or by any Future Operator shall be subject to the terms of this Development Agreement, and such Future Operator shall be subject to the same terms and requirements as the “Developer” specified herein and under Developer’s Conditional Use Permit. Developer shall ensure that any contract or other transfer of the interests specified above incorporates in full the obligations to comply with this Development Agreement and the Conditions of Approval of the Use Permit, with such Future Operator assuming the on-going responsibilities of Developer, including the payment of Gross Receipts. Developer shall not enter into any such agreements without first notifying San Benito County, and providing the name and contact information of any such Operators. Developer shall also provide basic information regarding its relationship to Future Operator and provide sufficient information to enable the County to determine the Future Operator has been informed about and will comply with this Development Agreement and the Conditional Use Permit. DEVELOPER shall, at all times, be responsible for the negligent acts, omissions, and/or errors of such Future Operators for their failure to comply with the terms of this Development Agreement and all Conditions of Approval. COUNTY may require all such FUTURE OPERATORS to enter into an agreement with the County similar to this Development Agreement (but without recordation), including authorization of the County to audit records of the FUTURE OPERATOR.



**Section 13.3 Foreclosure or Sale in Lieu of Foreclosure.**

In accordance with the provisions of Government Code section 65868.5, this AGREEMENT shall inure to the benefit of and be binding upon those successors in interest of the DEVELOPER of the SUBJECT PROPERTY who are lenders or purchasers through foreclosure or sale in lieu of foreclosure who meet the County's approval process for a Subsequent Owner(s)/Assignee(s).

**ARTICLE XIV**

**GENERAL PROVISIONS**

**Section 14.1 Incorporation of Recitals.**

The Recitals above are incorporated herein, including all exhibits referred to in said Recitals.

**Section 14.2 Independent Contractors.**

Each party is an independent contractor and shall be solely responsible for the employment, acts, omissions, control and directing of its employees. Except as expressly set forth herein, nothing contained in this Development Agreement shall authorize or empower any party to assume or create any obligation whatsoever, express or implied, on behalf of any other party or to bind any other party or to make any representation warranty or commitment on behalf of any other party.

**Section 14.3 Invalidity of Development Agreement and Severability of Provisions.**

If this Development Agreement in its entirety is determined by a state court to be invalid or unenforceable, this Development Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Development Agreement shall be determined by a court to be invalid and unenforceable, it shall be replaced with the valid provision that most closely reflects the intent of the parties, the remaining provisions shall continue in full force and effect.

**Section 14.4 Modifications.**

This Development Agreement may be modified from time to time by mutual consent of the parties in writing, in accordance with the Development Agreement Statute. In the event the parties modify this Development Agreement, the County Clerk of the Board shall cause notice of such action to be duly recorded in the official records of COUNTY within forty-five (45) days of such action.

**Section 14.5 Project is a Private Undertaking.**

The Parties agree that the Project is a private development and that COUNTY has no interest therein, except as authorized in the exercise of its governmental functions. COUNTY shall not for any purpose be considered an agent of DEVELOPER or the Project. COUNTY has no interest in or responsibilities for or duty to third parties concerning any improvements constructed in connection with the Project site. DEVELOPER shall have full power over and exclusive control of the development of the Project Site subject only to the limitations and obligations of DEVELOPER under this Development Agreement and the Project Approvals. Nothing in this

Development Agreement is intended or shall be construed to create or reflect any form of partnership or joint venture between the parties.

**Section 14.6 Covenants Running with the Land.**

All of the terms and conditions contained in this Development Agreement are binding upon the parties and their respective heirs, successors and assigns, representatives, lessees and all other persons acquiring all or any portion of the Project site, whether by operation of law or in any manner whatsoever, during their ownership of the Project site, or any portion thereof. All of the terms and conditions of this Development Agreement constitute covenants running with the land, pursuant to California law (including Civil Code Section 1468). Nothing herein is intended to permit DEVELOPER to transfer the Project Site to another operator without the COUNTY 's prior written consent.

**Section 14.7 Recordation of Development Agreement.**

Within ten (10) days of the Effective Date, the Clerk of the Board shall cause this Development Agreement to be duly recorded in the official records of San Benito County.

**Section 14.8 Notices**

Any notice required under this Development Agreement shall be in writing and personally delivered, or sent by certified mail (return receipt requested and postage prepaid), overnight delivery, or facsimile (with a hard copy sent within one (1) business day) to the following:

To: COUNTY

County of San Benito  
Attn: CAO  
481 Fourth Street, 1<sup>st</sup> Floor  
Hollister, CA 95023

With a copy to:

San Benito County:  
Attn: County Counsel  
481 Fourth St., 2<sup>nd</sup> Floor  
Hollister, CA 95023  
(831) 636-4044 (fax)  
[bthompson@cosb.us](mailto:bthompson@cosb.us)

To DEVELOPER :  
DEVELOPER:  
Pacific Bay Capital Group  
8 N. San Pedro St. , Suite 200  
San Jose, CA 95100

Any party may change its address for notice by giving the other party written notice of such change in the manner set forth above.

Notices to Subsequent Landowners shall be given by COUNTY as required above only for those Subsequent Landowners who have given County written notice of their addresses for the purpose of receiving such notices. Any party may change its mailing address/facsimile at any time by giving written notice of such change to the other party in the manner provided herein at least ten (10) days prior to the date such change is effected. All notices under this Agreement shall be deemed given, received, made or communicated on the earlier of the date personal delivery is effected or on the delivery date or attempted delivery date shown on the return receipt, air bill or facsimile.

#### **Section 14.9 Prevailing Wage.**

DEVELOPER shall be solely responsible for determining whether construction of any or all of the improvements required in connection with the Project trigger the obligation to pay prevailing wages under California or federal law. In the event and to the extent that the payment of prevailing wages is required, DEVELOPER shall use diligent good faith efforts to ensure full compliance with those requirements. DEVELOPER shall defend, indemnify and hold harmless COUNTY, its agents, employees, officers and officials from any liability, loss, debts, costs or damages sought by a third party for a failure to pay prevailing wages in connection with the Project. The indemnification obligation set forth in this section shall survive the termination of this Development Agreement.

#### **Section 14.10 Applicable Law.**

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

#### **Section 14.11 Third Party Beneficiaries.**

This Development Agreement is made and entered into for the sole protection and benefit of DEVELOPER and the COUNTY. No other person shall have any right of action based upon any provision in this Development Agreement.

#### **Section 14.12 No Discrimination Permitted.**

DEVELOPER shall not discriminate in any way against any person on the basis of race, color, national origin, sex, marital status, sexual orientation, age, creed, religion, or condition of physical disability, or on any other basis prohibited by state or federal law, in connection with or related to the performance of this Agreement.

#### **Section 14.13 Effect of Waiver.**

No waiver by a party of any provision of this Development Agreement shall be considered a waiver of any other provision or any subsequent breach of the same or other provision, including the time for performance of any such provision. The exercise by a party of any right or remedy

provided in this Development Agreement or provided by law shall not prevent the exercise by that party of any other remedy provided in this Development Agreement or under the law.

**Section 14.14 Construction.**

The provisions of this Development Agreement and the attached exhibits shall be construed as a whole according to their common meaning and not strictly for or against any party, and in a manner that shall achieve the purposes of this Development Agreement. Wherever required by the context, the masculine gender shall include the feminine or neuter genders, and vice versa.

**Section 14.15 Entire Agreement**

This Development Agreement constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations and agreements whether oral or written. Any oral representations or modifications concerning this Development Agreement shall be of no force or effect unless contained in a subsequent written modification signed by both parties.

**Section 14.16 Counterparts.**

This Development Agreement and any and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.

**Section 14.17 Captions.**

The caption headings provided are for convenience only and shall not affect the construction of this Development Agreement.

**Section 14.18 Authority to Execute.**

Each party hereto expressly warrants and represents that it has the authority to execute this Agreement on behalf of its entity and warrants and represents that it has the authority to bind its entity to the performance of its obligations hereunder.

**Section 14.19 Irrevocable Offer**

The parties recognize that this agreement will be approved by the Board of Supervisors after the Planning Commission's approval of the Conditional Use Permit. Since this agreement will not be fully approved and executed by the COUNTY prior to approval or other action on DEVELOPER's project, DEVELOPER irrevocably agrees to hold DEVELOPER's offer to enter into this agreement until the agreement is approved and fully executed by COUNTY. This obligation shall expire December 1, 2019.

**Section 14.20 Closing Date**

As noted above, this Agreement does not become effective until DEVELOPER closes its purchase on the subject property and becomes owner of record, and provide notice of the same to County. The effective date shall be **five (5) days after notice to County**. Developer shall provide notice of this closing date, which shall not occur later than December 31, 2019.

**IN WITNESS WHEREOF**, the COUNTY and the DEVELOPER have executed this Development Agreement in San Benito County, California, on the date first written above.

COUNTY

By: \_\_\_\_\_

Mark Medina, Chair

DEVELOPER

Pacific Bay Capital Group, LLC, a California Limited Liability Company

By: \_\_\_\_\_

Its: President

EXHIBIT "A"

EXHIBIT "B"

EXHIBIT "C"

RESERVED



EXHIBIT “D”

RESERVED

EXHIBIT "E"

ASSIGNMENT AND ASSUMPTION AGREEMENT

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

San Benito County  
Attn: San Benito County Clerk  
440 Fifth St., Room 206  
County Courthouse  
Hollister, CA 95023

WITH A COPY TO:  
County Counsel's Office  
Attn: County Counsel  
481 Fourth St., 2<sup>nd</sup> Floor  
Hollister, CA 95023

WITH A COPY TO:  
NAME  
ADDRESS  
ADDRESS

AND TO:  
NAME  
ADDRESS  
ADDRESS

RECORDING FEE EXEMPT PURSUANT TO GOVERNMENT CODE SECTION 27383

**ASSIGNMENT AND ASSUMPTION AGREEMENT  
(Development Agreement By and Among the County of San Benito  
and Pacific Bay Capital Group)**

This Assignment and Assumption Agreement (Development Agreement By and Among the County of San Benito and Pacific Bay Capital Group) ("Assumption and Assumption Agreement") is made and entered into effective as of DATE, by and between NAME , a \_\_\_\_\_ limited liability company ("Assignor"), and NAME ("Assignee").

A. Pacific Bay Capital Group, LLC and the County of San Benito ("County") entered into that certain Development Agreement, dated as of \_\_\_\_\_ and recorded as Instrument No. \_\_\_\_\_ on DATE ("Development Agreement"), relating to certain real property in located in unincorporated San Benito County, State of California

(“Property”). The Property is more particularly described in the Development Agreement. All capitalized terms used herein shall have the definitions given to them in the Development Agreement unless otherwise expressly stated herein.

B. The Development Agreement provides for development of the Project (as that term is defined therein) on the Property, as more particularly described in the Development Agreement.

C. Assignor desires to assign to Assignee all of Assignor's rights and obligations as an “DEVELOPER” under the Development Agreement with respect to the Property in whole or in part (collectively, “Assigned Interests”) and Assignee desires to assume from Assignor the Assigned Interests.

NOW, THEREFORE, in consideration of the promises and the mutual agreements and covenants set forth herein and intending to be legally bound hereby, Assignor and Assignee do hereby agree as follows:

1. Assignment. Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Assigned Interests.

2. Assumption. Assignee hereby assumes from Assignor all of Assignor's right, title and interest in and to the Assigned Interests relating to the period from and after the effective date of this Assignment and Assumption Agreement, and agrees to perform all of Assignor's obligations as “DEVELOPER” under the Development Agreement with respect to the Assigned Interests relating to the period from and after the effective date of this Assignment and Assumption Agreement.

3. Consent; Release. The County has consented to such assignment and assumption pursuant to the Consent set forth in attached Exhibit A.

4. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation shall not affect the validity or enforceability of the offending term or provision in any other situation.

5. Successors and Assigns. This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their permitted successors and assigns.

6. Applicable Law. This Agreement shall be governed by, and constructed in accordance with, the laws of the State of California, applicable to contracts executed in and to be performed entirely within that state, and without regard to the conflict of laws provisions thereof.

7. Counterparts. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, Assignor and Assignee have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

ASSIGNOR:  
NAME

By: \_\_\_\_\_  
Name:  
Title:

ASSIGNEE:  
NAME  
a California limited liability company

By: \_\_\_\_\_  
Name:  
Title

\*\*\* SIGNATURES MUST BE NOTARIZED

EXHIBIT A

**CONSENT TO ASSIGNMENT AND  
ASSUMPTION**

The COUNTY OF SAN BENITO, a political subdivision of the State of California (the “County”), hereby consents to the Assignment and Assumption Agreement by and between NAME , as Assignor, and NAME , a \_\_\_\_\_ limited liability company , as Assignee (the “Assignment”), to which this Consent to Assignment and Assumption is attached as Exhibit A, and releases Assignor from its obligations under the Development Agreement that are expressly assumed by Assignee as set forth in said Assignment and Assumption Agreement relating to the period from and after the effective date of the Assignment, so long as the parties to said Assignment and Assumption Agreement have expressly and with specificity set forth therein assumed each and every right and obligation that comprise the Assigned Interests.

COUNTY OF SAN BENITO, a political subdivision of the State of California

\_\_\_\_\_  
Director, San Benito County Resource Management Agency  
Date: \_\_\_\_\_

APPROVED AS TO FORM:  
San Benito County Counsel's Office

\_\_\_\_\_  
Name County Counsel  
Date: \_\_\_\_\_

EXHIBIT "F"  
CONDITIONS OF APPROVAL

**BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO**

AN ORDINANCE OF THE SAN BENITO COUNTY )  
BOARD OF SUPERVISORS TO APPROVE THE )  
DEVELOPMENT AGREEMENT WITH PACIFIC BAY )  
CAPITAL GROUP, LLC. )  
)  
)  
)

ORDINANCE NO. \_\_\_\_\_

**The Board of Supervisors of the County of San Benito, State of California, does ordain as follows:**

**SECTION 1.**

- A. The Pacific Bay Capital Group, a California limited liability corporation (“Pacific Bay”) have an equitable interest in the parcel identified as 013-050-028 ("Project Site") which is described in and shown on the attached **Attachment 1**, which is incorporated herein by reference; and
- B. The County of San Benito (“County”) and Pacific Bay hereby desire to enter into a Development Agreement (“Agreement”), attached hereto and incorporated herein by reference as **Attachment 2**, pursuant to the Development Agreement Statute and the County Development Agreement Procedures. Development of the Project Site shall be governed by the terms of the Development Agreement. The Project Site is subject to the Development Agreement and all other County Approvals. To the extent any conflict may exist between the provisions reflected in County Code, Title 19, Chapter 19.11 and the provisions reflected in the Development Agreement, the Board ordains for purposes of this agreement, that the provisions in Development Agreement prevail and amends Chapter 19.11 accordingly; and
- C. Pursuant to Article 4 of the Agreement, Pacific Bay agrees to pay County “Community Benefits” which will benefit the County as contemplated by the Development Agreement Ordinance, including payment of 1% of Gross Receipts received at the project site, a sum to which the County would not otherwise be due.

**SECTION 2. Findings**

- A. The Development Agreement application was filed with the Resource Management Agency, in accordance with County Code section 19.11.007. The complete application included all the required content under County Code section 19.11.007(b), including, without limitation, the sufficient documentation to facilitate CEQA review; and the required fee deposit to facility review by San Benito County. The application is on file at the San Benito County Resource Management Agency, Building and Planning Division (File PLN190020).
- B. The Development Agreement is consistent with the General Plan and the remaining portions of the County Code, for the reasons set forth in **Resolution No. 2019-\_\_\_**, incorporated herein by reference, and this Ordinance.
- C. The Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the applicable zoning of the Project Site.

The Development Agreement is consistent with public health; safety and general welfare and good land use practice. Among other things, it provides for public benefits beyond those benefits that would be forthcoming through conditions of development project approvals as set forth herein. Specifically, the Development Agreement will provide for 1% of the Gross Receipts of the project be forwarded to the County as a Community Benefit. In addition, the Project includes the development of employment/work opportunities and maintenance of a County road.

- D. The Development Agreement will not adversely affect the orderly development of the surrounding community. In approving the conditional use permit for the project, the Planning Commission made the relevant conditional use permit findings, specifically: (1) that the proposed use is properly located in relation to the general plan and to the community as a whole and to other land uses, transportation and service facilities in the vicinity; and 2) that the proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other properties in the vicinity or cause any damage, hazard or nuisance to persons or property.
- E. The project associated with the Development Agreement should be encouraged in order to meet important economic, social, environmental or planning goals of San Benito County. With regard to planning goals, the Project was prepared in accordance with the zoning code and related General Plan policies. With regard to economic and social goals, the Development Agreement also will help to satisfy goals of San Benito County to provide for more employment opportunities, generate general fund revenue for purposes which may include without limit road improvement, sheriff's expenses, and services to the general public, and also will generate sales tax revenue, and impose obligations on the Development Project to improve County Frazier Lake Road.
- F. The project and Development Agreement are consistent with Chapter 19.11. The purpose of Chapter 19.11: Development Agreements is to strengthen the public planning process, to encourage private participation in comprehensive, long range planning and to reduce the economic costs of development by enabling the county and a developer seeking county approval of a development project to enter into a development agreement which vests certain development rights and which requires a developer to provide additional public benefits. The appropriate use of development agreements will reduce uncertainty in the development review process, will promote long-term stability in the land use planning process and will result in significant public gain.

### **SECTION 3. General Provisions**

- A. Severability: If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have enacted this ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.
- B. Captions: The titles and headings to the sections hereunder are not part of this ordinance and shall have no effect upon the construction or interpretation of any part hereof.
- C. Effective Date and Codification: This ordinance shall not be codified. This ordinance shall take effect thirty (30) days after its adoption. The effective date of the Development Agreement



shall be the effective date of this Ordinance, so long as the Development Agreement has been signed by the Developer and County pursuant to section 19.11.008(D) of the San Benito County Code, and assuming that the Developer has taken title to the Property. If not, the effective date shall be five (5) days from the Developer acquiring title to the Property and providing notice to the County of the same.

- D. Publication: Within ten (10) days after its adoption, this ordinance shall be published pursuant to California Government Code 6061 in its entirety in a newspaper of general circulation which is printed, published and circulated within the County of San Benito, State of California.
- E. No Duty of Care: This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the County, or any officer or employee thereof, a mandatory duty of care towards persons or property within the County or outside of the County so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

PASSED AND ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO THIS 23th DAY OF JULY, 2019 BY THE FOLLOWING VOTE:

AYES: SUPERVISORS:  
 NOES: SUPERVISORS:  
 ABSENT: SUPERVISORS:  
 ABSTAIN: SUPERVISORS:

By: \_\_\_\_\_  
Mark Medina, Chair

**ATTEST:**  
Janet Slibsager, Clerk of the Board

**APPROVED AS TO LEGAL FORM**  
Barbara Thompson, County Counsel

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Attachment 1 to the Ordinance**

Legal description for subject property, Assessor's Parcel Number

**Attachment 2 to the Ordinance**

THE DEVELOPMENT AGREEMENT BY THE COUNTY OF SAN BENITO  
AND THE PACIFIC BAY CAPITAL GROUP



**Notice of Availability for Public Review  
A Proposed Negative Declaration for the San Benito Hemp Campus**

To:  Interested Individuals  
 San Benito County Clerk

From: San Benito County Planning Department  
2301 Technology Parkway  
Hollister, CA 95023

**Contact Person:** Taven M. Kinison Brown, Principal County Planner ([tkinisonbrown@cosb.us](mailto:tkinisonbrown@cosb.us)) 831-637-5313

**Project File No.:** PLN190020

**Project Applicant:** Pacific Bay Capital Group, LLC

**Project Location:** The Gilroy Gaits Equestrian Facility at 7777 Frazier Lake Road, San Benito County, California

**Project Description:** The San Benito Hemp Campus Use Permit is a proposal to reuse 275,000 square feet of existing structures at a former turkey raising facility on a 75-acre agriculturally (AP) zoned parcel south of and adjacent to the Frazier Lake Airport. The applicants have also offered to enter into a Development Agreement with the County of San Benito. The property is presently used as a 200-horse equestrian facility and for storage of the owner's car collection.

The San Benito Hemp Campus facility would provide for hemp cultivation and hemp-derivative manufacturing and oil extraction. The manufacturing processes will include compounding and formulating various hemp (CBD) products. The oil extraction facilities would involve ethanol-based extraction processes. The project includes a proposal to erect 60,000 square feet of "hoop" greenhouses for seed production and cultivation. An emergency generator will provide back-up power to the campus.

The San Benito Hemp Campus will process hemp grown elsewhere in the California region as the market will bear. Adjacent properties in the vicinity, not subject to this Use Permit review, will be used to grow hemp for cultivation and processing at this facility as well.

The proposed facility would operate seven days per week, 24 hours/day with two, twelve-hour shifts. Initially, the facility is expected to employ between 50 and 75 employees with potentially 125 employees at full development. Vehicle traffic generation would include employee-generated daily trips, along with truck trips relating to the operations. Between 25 and 50 truck trips per month would bring hemp and other extraction components, such as ethanol to the facility while approximately 20 truck trips per month leaving the facility with extracted hemp fiber.

An Initial Study has been prepared for the above-described project and the intent is to adopt a Negative Declaration. The (proposed) Negative Declaration finds that the project will not have a significant effect on the environment.

The public review period for the (proposed) Negative Declaration begins May 20, 2019 and ends June 10, 2019. A public hearing on the project is scheduled before the San Benito County Planning Commission on June 19, 2019. The public hearing will occur in the Board Chambers at 481 Fourth Street, Hollister, at 6:00 pm.

The project's Initial Study, proposed Negative Declaration and the documents referenced in the Initial Study and Negative Declaration are available for review at the County Planning Department at the above address. Comments may be addressed to the contact person noted above. Written comments are preferred. Please reference the project file number in all communications.

Signature

Title

Date

*Taven M. Kinison Brown, Principal Planner*      *5/20/2019*

### Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613  
For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH # INFORMATION ONLY  
NOT SENT TO C.H.

Project Title: San Benito Hemp Campus

Lead Agency: San Benito County Resource Management Agency - Planning

Contact Person: Taven M. Kinison Brown

Mailing Address: 2301 Technology Parkway

Phone: 831-637-5313

City: Hollister

Zip: 95023

County: San Benito County

Project Location: County: San Benito County

City/Nearest Community: Hollister, CA

Cross Streets: Frazier Lake Road/ Shore Road

Zip Code: 95023

Longitude/Latitude (degrees, minutes and seconds): \_\_\_\_\_ ° \_\_\_\_\_ ' \_\_\_\_\_ " N / \_\_\_\_\_ ° \_\_\_\_\_ ' \_\_\_\_\_ " W Total Acres: 75 acres

Assessor's Parcel No.: 013-050-028

Section: \_\_\_\_\_ Twp.: \_\_\_\_\_ Range: \_\_\_\_\_ Base: \_\_\_\_\_

Within 2 Miles: State Hwy #: 25

Waterways: None

Airports: Frazier Lake Airpark

Railways: Union Pacific

Schools: None

#### Document Type:

- |   |  |                                    |  |
|---|--|------------------------------------|--|
| CEQA: <input type="checkbox"/> NOP          | <input type="checkbox"/> Draft EIR                 | NEPA: <input type="checkbox"/> NOI | Other: <input type="checkbox"/> Joint Document |
| <input type="checkbox"/> Early Cons         | <input type="checkbox"/> Supplement/Subsequent EIR | <input type="checkbox"/> EA        | <input type="checkbox"/> Final Document        |
| <input checked="" type="checkbox"/> Neg Dec | (Prior SCH No.) _____                              | <input type="checkbox"/> Draft EIS | <input type="checkbox"/> Other: _____          |
| <input type="checkbox"/> Mit Neg Dec        | Other: _____                                       | <input type="checkbox"/> FONSI     |  |

#### Local Action Type:

- |   |   |  |   |
|---|---|--|---|
| <input type="checkbox"/> General Plan Update    | <input type="checkbox"/> Specific Plan            | <input type="checkbox"/> Rezone                            | <input type="checkbox"/> Annexation                   |
| <input type="checkbox"/> General Plan Amendment | <input type="checkbox"/> Master Plan              | <input type="checkbox"/> Prezone                           | <input type="checkbox"/> Redevelopment                |
| <input type="checkbox"/> General Plan Element   | <input type="checkbox"/> Planned Unit Development | <input checked="" type="checkbox"/> Use Permit             | <input type="checkbox"/> Coastal Permit               |
| <input type="checkbox"/> Community Plan         | <input type="checkbox"/> Site Plan                | <input type="checkbox"/> Land Division (Subdivision, etc.) | <input type="checkbox"/> Other: <u>Dev. Agreement</u> |

#### Development Type:

- |  |  |
|--|--|
| <input type="checkbox"/> Residential: Units _____ Acres _____  | <input type="checkbox"/> Transportation: Type _____            |
| <input type="checkbox"/> Office: Sq.ft. _____ Acres _____ Employees _____                                  | <input type="checkbox"/> Mining: Mineral _____                 |
| <input type="checkbox"/> Commercial: Sq.ft. _____ Acres _____ Employees _____                              | <input type="checkbox"/> Power: Type _____ MW _____            |
| <input checked="" type="checkbox"/> Industrial: Sq.ft. <u>275,000</u> Acres <u>75</u> Employees <u>125</u> | <input type="checkbox"/> Waste Treatment: Type _____ MGD _____ |
| <input type="checkbox"/> Educational: _____  | <input type="checkbox"/> Hazardous Waste: Type _____           |
| <input type="checkbox"/> Recreational: _____   | <input type="checkbox"/> Other: _____                          |
| <input type="checkbox"/> Water Facilities: Type _____ MGD _____  |  |

#### Project Issues Discussed in Document:

- |  |  |  |  |
|--|--|--|--|
| <input checked="" type="checkbox"/> Aesthetic/Visual         | <input type="checkbox"/> Fiscal                                | <input type="checkbox"/> Recreation/Parks                | <input type="checkbox"/> Vegetation                          |
| <input checked="" type="checkbox"/> Agricultural Land        | <input type="checkbox"/> Flood Plain/Flooding                  | <input type="checkbox"/> Schools/Universities            | <input type="checkbox"/> Water Quality                       |
| <input checked="" type="checkbox"/> Air Quality              | <input checked="" type="checkbox"/> Forest Land/Fire Hazard    | <input checked="" type="checkbox"/> Septic Systems       | <input checked="" type="checkbox"/> Water Supply/Groundwater |
| <input checked="" type="checkbox"/> Archeological/Historical | <input checked="" type="checkbox"/> Geologic/Seismic           | <input type="checkbox"/> Sewer Capacity                  | <input type="checkbox"/> Wetland/Riparian                    |
| <input checked="" type="checkbox"/> Biological Resources     | <input type="checkbox"/> Minerals                              | <input type="checkbox"/> Soil Erosion/Compaction/Grading | <input type="checkbox"/> Growth Inducement                   |
| <input type="checkbox"/> Coastal Zone                        | <input checked="" type="checkbox"/> Noise                      | <input type="checkbox"/> Solid Waste                     | <input checked="" type="checkbox"/> Land Use                 |
| <input type="checkbox"/> Drainage/Absorption                 | <input checked="" type="checkbox"/> Population/Housing Balance | <input checked="" type="checkbox"/> Toxic/Hazardous      | <input type="checkbox"/> Cumulative Effects                  |
| <input checked="" type="checkbox"/> Economic/Jobs            | <input checked="" type="checkbox"/> Public Services/Facilities | <input checked="" type="checkbox"/> Traffic/Circulation  | <input type="checkbox"/> Other: _____                        |

#### Present Land Use/Zoning/General Plan Designation:

A 275,000 square foot, 200-Horse Equestrian Facility. General Plan=Agriculture; Zoning=Agricultural Productive

#### Project Description: (please use a separate page if necessary)

The San Benito Hemp Campus Use Permit is a proposal to reuse 275,000 square feet of existing structures at a former turkey raising facility on a 75-acre agriculturally (AP) zoned parcel south of and adjacent to the Frazier Lake Airport. The San Benito Hemp Campus facility would provide for hemp cultivation and hemp-derivative manufacturing and oil extraction. The manufacturing processes will include compounding and formulating various hemp (CBD) products. The oil extraction facilities would involve ethanol-based extraction processes. The project includes a proposal to erect 60,000 square feet of "hoop" greenhouses for seed production and cultivation. An emergency generator will provide back-up power to the campus. The proposed facility would operate seven days per week, 24 hours/day with two, twelve-hour shifts. 125 Employees.

Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

**Reviewing Agencies Checklist** *THIS PROJECT WAS NOT REQUIRED TO BE SENT TO THE*

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with and "X". *STATE CLEARINGHOUSE*  
 If you have already sent your document to the agency please denote that with an "S".

- |  |  |
|--|--|
| <input type="checkbox"/> Air Resources Board                         | <input type="checkbox"/> Office of Historic Preservation                     |
| <input type="checkbox"/> Boating & Waterways, Department of          | <input type="checkbox"/> Office of Public School Construction                |
| <input type="checkbox"/> California Emergency Management Agency      | <input type="checkbox"/> Parks & Recreation, Department of                   |
| <input type="checkbox"/> California Highway Patrol                   | <input type="checkbox"/> Pesticide Regulation, Department of                 |
| <input type="checkbox"/> Caltrans District # _____                   | <input type="checkbox"/> Public Utilities Commission                         |
| <input type="checkbox"/> Caltrans Division of Aeronautics            | <input type="checkbox"/> Regional WQCB # _____                               |
| <input type="checkbox"/> Caltrans Planning                           | <input type="checkbox"/> Resources Agency                                    |
| <input type="checkbox"/> Central Valley Flood Protection Board       | <input type="checkbox"/> Resources Recycling and Recovery, Department of     |
| <input type="checkbox"/> Coachella Valley Mtns. Conservancy          | <input type="checkbox"/> S.F. Bay Conservation & Development Comm.           |
| <input type="checkbox"/> Coastal Commission                          | <input type="checkbox"/> San Gabriel & Lower L.A. Rivers & Mtns. Conservancy |
| <input type="checkbox"/> Colorado River Board                        | <input type="checkbox"/> San Joaquin River Conservancy                       |
| <input type="checkbox"/> Conservation, Department of                 | <input type="checkbox"/> Santa Monica Mtns. Conservancy                      |
| <input type="checkbox"/> Corrections, Department of                  | <input type="checkbox"/> State Lands Commission                              |
| <input type="checkbox"/> Delta Protection Commission                 | <input type="checkbox"/> SWRCB: Clean Water Grants                           |
| <input type="checkbox"/> Education, Department of                    | <input type="checkbox"/> SWRCB: Water Quality                                |
| <input type="checkbox"/> Energy Commission                           | <input type="checkbox"/> SWRCB: Water Rights                                 |
| <input type="checkbox"/> Fish & Game Region # _____                  | <input type="checkbox"/> Tahoe Regional Planning Agency                      |
| <input type="checkbox"/> Food & Agriculture, Department of           | <input type="checkbox"/> Toxic Substances Control, Department of             |
| <input type="checkbox"/> Forestry and Fire Protection, Department of | <input type="checkbox"/> Water Resources, Department of                      |
| <input type="checkbox"/> General Services, Department of             |  |
| <input type="checkbox"/> Health Services, Department of              | <input type="checkbox"/> Other: _____  |
| <input type="checkbox"/> Housing & Community Development             | <input type="checkbox"/> Other: _____  |
| <input type="checkbox"/> Native American Heritage Commission         |  |

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**Local Public Review Period (to be filled in by lead agency)**

Starting Date May 20, 2019 Ending Date June 10, 2019

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**Lead Agency (Complete if applicable):**

Consulting Firm: <u>M-Group US</u>	Applicant: <u>Pacific Bay Capital Group, LLC</u>
Address: <u>307 Orchard City Dr, Suite 100</u>	Address: <u>8 N. San Pedro St, Unit 200</u>
City/State/Zip: <u>Campbell, CA 95008</u>	City/State/Zip: <u>San Jose, CA 95110</u>
Contact: <u>Geoff Bradley, AICP</u>	Phone: <u>(408) 836-9290</u>
Phone: <u>408.340.5642</u>	

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**Signature of Lead Agency Representative:** Tawn M. K. Jensen Brown **Date:** 5/20/2019

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.



# San Benito County Resource Management Agency

Public Works / Planning & Building / Parks / Integrated Waste

2301 Technology Pkwy • Hollister CA 95023 • (831) 637-5313 • Fax (831) 636-4176

## SAN BENITO COUNTY NOTICE OF PROPOSED NEGATIVE DECLARATION

**TO:** Responsible agencies, Trustee agencies, other County Departments, and interested parties

**FROM:** San Benito County Planning Department

This notice is to inform you that an Initial Study and proposed Negative Declaration have been prepared by the applicant (Pacific Bay Capital Group, LLC and M-Group.us) with oversight and review by the San Benito County Planning Department. The Planning Department intends to recommend filing a Negative Declaration for the project identified below. The public review period for the Initial Study is from **May 20, 2019** to **June 10, 2019**. The document is available for review at the address listed below. Comments may be addressed to Principal County Planner, Taven M. Kinison Brown. Written comments are preferred. Please use the project file number in all communication.

- 1. Project title and/or file number:** San Benito Hemp Campus  
PLN190020
- 2. Lead agency name and address:** San Benito County Planning Department  
2301 Technology Parkway, Hollister, CA 95023
- 3. Contact Person and phone number:** Taven M. Kinison Brown  
831-637-5313
- 4. Project Location:** 7777 Frazier Lake Road, San Benito County, California
- 5. Project Sponsor's Name and Address:** Pacific Bay Capital Group, LLC  
8 N. San Pedro St, Unit 200  
San Jose, CA 95110
- 6. General Plan Designation:** Agriculture
- 7. Zoning:** Agricultural Productive (AP)
- 8. Description of Project:** The proposed San Benito Hemp Campus facility would include hemp cultivation and hemp-derivative manufacturing and oil extraction. The extraction and manufacturing areas (subject to the use permit requirements) would utilize a number of existing structures totaling approximately 275,000 square feet. The manufacturing processes will include the compounding and formulating various hemp (CBD) products. The proposed hemp oil extraction facilities would involve a "closed-system" ethanol-based extraction processes and would not require water as part of the process. The project is estimated to use approximately 15,000 gallons of ethanol each month operation. The project includes a proposal to erect 60,000 square feet of "hoop" greenhouses for seed production and cultivation. The project includes the use of an emergency generator. The site and buildings were previously used for a turkey raising facility and is currently used as an equestrian facility. Most of the agricultural cultivation activities associated with this operation are expected to occur between the proposed facility and Frazer Lake Road, and northeast of the across Lake Road and are a permitted use. The proposed facility would operate seven days per week, 24 hours/day in three shifts and is expected to employ about 125 employees once the facility is in full operation. Between 25 and 50 truck trips per month would bring hemp and other extraction components, such as ethanol to the facility while approximately 20 truck trips per month leaving the facility with extracted hemp products.



**9. Surrounding Land Uses and Setting:** Agriculture, private airport, and low density residential.

**Seismic Zone:** A small portion of the eastern portion of the site, immediately adjacent to Lake Road, is located in the Alquist-Priolo Earthquake Zone for the Calaveras Fault.

**Fire Hazard:** Located within a Local Responsibility Area, outside of the designated moderate, high, and very high fire hazard areas.

**Floodplain:** Zone X (outside the 500-year floodplain) as depicted on the FEMA floodplain map panel number 060690070D, dated April 16, 2009.

**Archaeological Sensitivity:** None.

**Habitat Conservation Area:** Within Habitat Conservation Plan Fee area.

**Landslide:** Not adjacent to hillside area, onsite slopes are generally less than 2%.

**Soils:**  
Ww2 - Willows Soil, Eroded (55% of site)  
Pa - Pacheco Silt Loam (35 % of site)  
Pc - Pacheco Loam (8% of site)  
GuE - Gullied Land (2% of site)

**10. Planning and Zoning:** The General Plan Land Use Designation for the site is Agriculture. According to the General Plan the intent of this designation is as follows: "This designation is applied especially to those lands, which are identified as being prime agricultural lands but also includes agriculturally productive lands of any type, including grazing lands." The project will comply with the applicable goals, policies, and programs contained in the adopted County General Plan. The site is zoned Agricultural Productive. The purpose of the Agricultural Productive (AP) is Zoning District (from the County Code Section 25.07.003) is as follows: "The intent of the AP district is to provide for areas within the county to be used for agricultural production of any type as set forth in the general plan." San Benito County Code Section 25.07.005 describes the conditional uses allowed in the zoning district, specifically Subsection (V) lists "Agricultural processing" and Subsection (B) lists "Commercial greenhouses and mushroom growing facilities" as conditionally permitted uses. The planting and harvesting of crops associated with this operation are a permitted use in the Agricultural Productive Zoning District.

**11. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement):** In addition to permits and approvals for County-level departments and agencies, the following outside organizations may also use this document in their permitting actions: Central Coast Regional Water Quality Control Board, Monterey Bay Air Pollution Control District, San Benito County Water District.


**Environmental factors potentially affected:** The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" or "Less Than Significant with Mitigation," as indicated by the checklist on the following pages.

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Aesthetics                | <input type="checkbox"/> Agriculture/Forestry Resources | <input type="checkbox"/> Air Quality                        |
| <input type="checkbox"/> Biological Resources      | <input type="checkbox"/> Cultural Resources             | <input type="checkbox"/> Energy                             |
| <input type="checkbox"/> Geology/Soils             | <input type="checkbox"/> Greenhouse Gas Emissions       | <input type="checkbox"/> Hazards/Hazardous Materials        |
| <input type="checkbox"/> Hydrology/Water Quality   | <input type="checkbox"/> Land Use/Planning              | <input type="checkbox"/> Mineral Resources                  |
| <input type="checkbox"/> Noise                     | <input type="checkbox"/> Population/Housing             | <input type="checkbox"/> Public Services                    |
| <input type="checkbox"/> Recreation                | <input type="checkbox"/> Transportation                 | <input type="checkbox"/> Tribal Cultural Resources          |
| <input type="checkbox"/> Utilities/Service Systems | <input type="checkbox"/> Wildfire                       | <input type="checkbox"/> Mandatory Findings of Significance |

**Determination.**

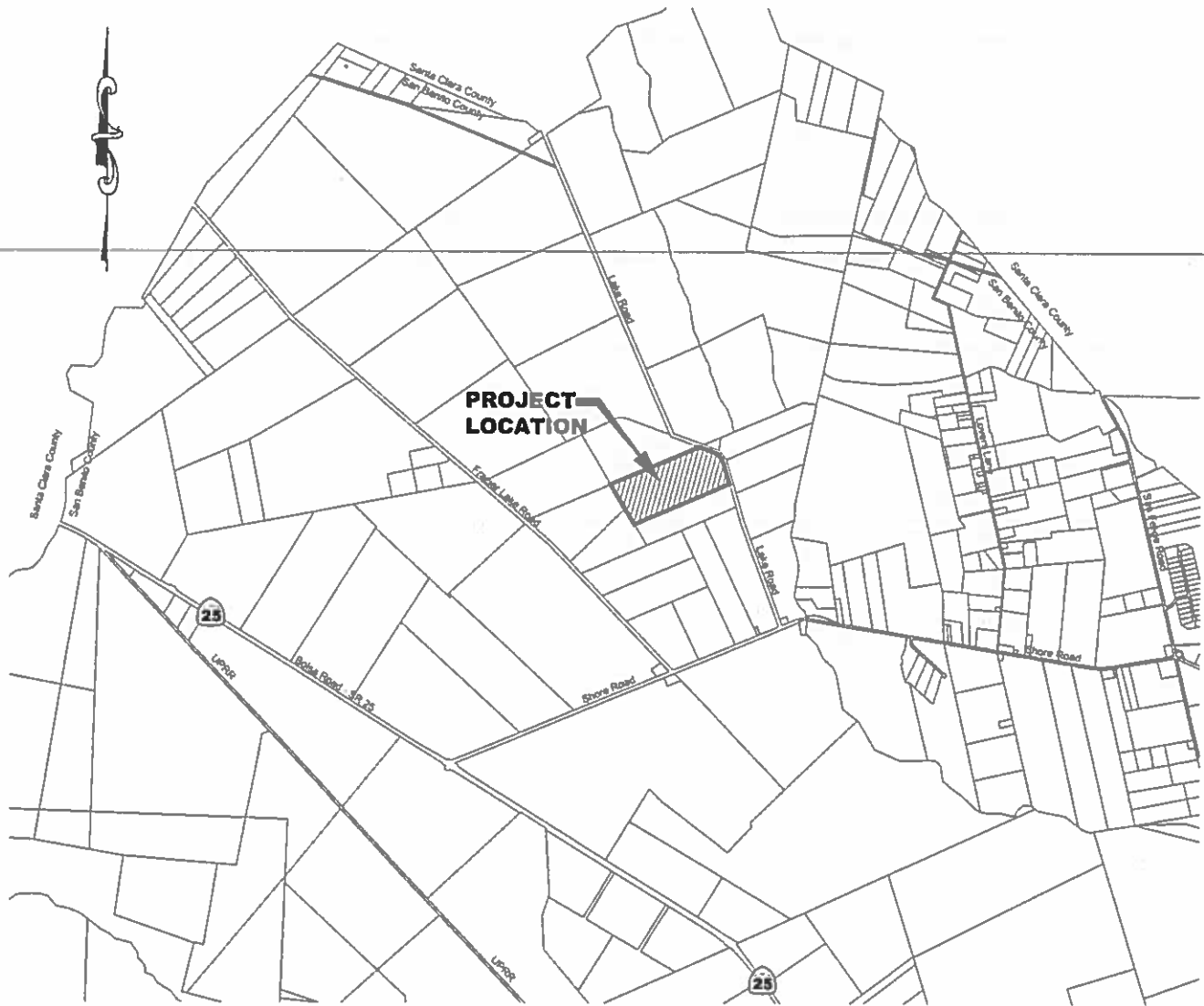
On the basis of this initial evaluation:

- I find that the proposed project qualifies for an exemption to CEQA pursuant to Section 15061(b)(3).
- I find that the proposed project COULD NOT have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
- I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- I find that the proposed project **MAY** have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards and (b) have been avoided or mitigated pursuant to that earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

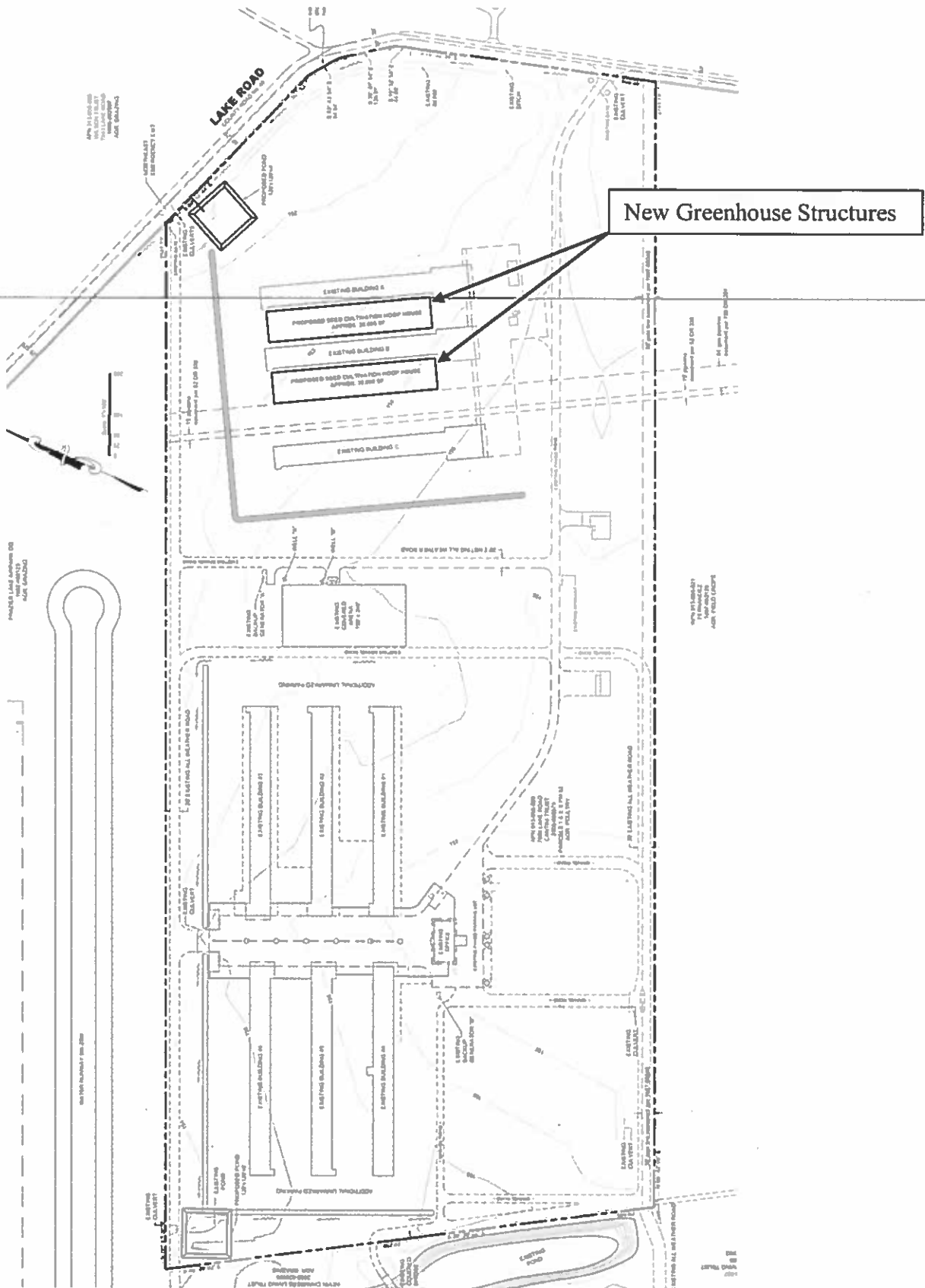
  
 Signature  
 Taven M. Kinison Brown, Principal County Planner  
 San Benito County Department of Planning and Building Inspection Services

  
 Date

**Figure 1 Vicinity Map**



**Figure 2 Site Plan**



**Evaluation of Environmental Impacts:**

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant with Mitigation" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the earlier analyses discussed in Section XVII at the end of the checklist.
- 6) Potential project impacts can be reduced or mitigated in three different ways. The first is to modify the design or character of the project to reduce or eliminate an impact. The second are the provisions of required governmental program that require the implementation of permits or approvals with reduce or eliminate an impact. The third is the crafting of a specific mitigation measure to create a customized provision to mitigate project impacts.

**I. AESTHETICS –**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) In nonurbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?				
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Response:**

- a. Less Than significant - The proposed project is located in the middle of a flat agricultural plain and does not involve a scenic vista. The external appearance of the existing structures is not expected to change. Also, the proposed project is not located within a scenic corridor identified in the County General Plan, specifically State Highways 101, 129 and 146. In light of surrounding land uses discussed above, the site does not contain any outstanding scenic qualities that the proposed project could adversely impact.

- b. No Impact - The proposed project is not located along a state designated scenic highway corridor and does not contain any scenic resources.
- c. Less Than significant - The project is not in an urbanized area. The proposed project will not change the existing visual character and quality of the site and its surrounding area. The visual makeup of the surrounding area consists of agricultural and grazing lands with associated buildings and residences and a small private airport. The reuse of the existing buildings as well as the construction of additional structures will not alter the existing rural-agricultural character of the area.
- d. Less Than significant - The proposed project involves the reuse of existing buildings and is not expected to introduce noticeable new sources of light and glare. Any future additional on-site lighting will comply with the requirements in affect at the time of building permit submittal. The current developed condition of the site and the County Code requirements in Chapter 19.31 (Development Lighting) will prevent any new sources of light or glare.

**II. AGRICULTURE AND FORESTRY RESOURCES -**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which due to their location or nature, could result in conversion of farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

**Response:**

- a, b. No Impact - The proposed project is the reuse of an existing agricultural production complex in a rural agricultural area. While the site contains quality agricultural soils, the site had already been substantially developed. Furthermore, the site is also not under a Williamson Act contract.
- c, d. No Impact - The proposed project does not contain, and is not located in or adjacent to, an area designated as forest land. As a result, the proposed project will not impact forestry resources of convert forest land to non-forest use.

- e. Less Than Significant - The proposed project is surrounded by lands considered to be Farmland of Local Importance, Prime Farmland, Unique Farmland, and Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency. The proposed reuse of the site would not, in and of itself, result in the conversion of farmland or forest lands to some other type of use. To the extent that this project could encourage other agricultural processing facilities in the area, those changes could result in converting other agricultural lands to non-agricultural uses. However, any future proposed projects would be reviewed under separate environmental documents.

**III. AIR QUALITY –**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Response:**

- a. Less Than Significant - The proposed project is the reuse of existing on-site facilities that would not have the potential to conflict or obstruct the Air Quality Management Plan. If the proposed project requires the issuance of a permit from the Monterey Bay Air Pollution Control District, the compliance with the provisions of that permit would ensure compliance with applicable air quality plan and would minimize or prevent the release of problematic air quality pollutants.
- b. Less Than Significant - The proposed project is the reuse of existing on-site facilities that would not have the potential to conflict or obstruct the Air Quality Management Plan. To evaluate the proposed project, air quality emissions were modeled using the approved CalEEMod model to evaluate both the construction and operational emissions. Since the majority of the facilities onsite are existing, construction emissions are the result from the construction/erection of 60,000 square feet of hoop-house greenhouses. As indicated in Table III-1, the construction of these facilities would have a negligible impact to air quality.

**TABLE III-1 Construction Criteria Pollutant Emissions**

Criteria Pollutant	Threshold of Significance	Projected Construction Emissions
Particulate Matter, 10 micrometers or less	82 lbs/day	1.2 lbs/day
<i>Source: CalEEMod Version 2016.3.2, run date: 5/9/2019; Monterey Bay Unified Air Pollution Control District CEQA Air Quality Guidelines 2008, page 5-3</i>		

The majority of the potential air quality emissions will result from the operation of the facility. Note that the CBD oil extraction process involves a “closed” system that does not release pollutants into the air. Table III-2 indicates the anticipated operational emissions of the criteria pollutants are all below the MPAPCD’s significance thresholds.

**TABLE III-2 - Operational Critical Pollutant Emissions**

Criteria Pollutant	Thresholds of Significance	Projected Operational Emissions
Reactive Organic Gases	137 lbs/day	-
Oxides of Nitrogen	137 lbs/day	23.5 lbs/day
Particulate Matter, 10 micrometers or less	82 lbs/day	11.8 lbs/day
Carbon Monoxide	550 lbs/day	52.9 lbs/day
Sulfur Dioxide	150 lbs/day	0.2 lbs/day

*Source: CalEEMod Version 2016.3.2, run date: 5/9/2019; Monterey Bay Unified Air Pollution Control District CEQA Air Quality Guidelines 2008, page 5-6*

- c. **Less Than Significant** - The proposed project is located in a rural agricultural area. The closest potentially sensitive uses are farm residences located over 500 feet south and east of the site. This distance, combined with the project’s lack of significant air pollution emissions, will minimize impacts to any potentially sensitive uses. The control of air pollutants is regulated by the standard requirements of the Monterey Unified Air Pollution Control District.
- d. **Less Than Significant** - The proposed project is located in a rural agricultural area. The closest potentially sensitive uses are farm residences located over 500 feet south and east of the site. This distance, combined with the project’s lack of significant air pollution emissions, will minimize impacts to any potentially sensitive uses. Previous uses of the facility include the production or keeping of large numbers of farm animals (turkeys and horses) that generate substantial amounts of objectionable animal-related odors. Any odors from the proposed project are expected to be minimal.

**IV. BIOLOGICAL RESOURCES –**

Would the project:

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>



**Response:**

- a-e. No Impact - The proposed project involves the reuse of a previously developed site. The site is located adjacent to the Frazier Lake Airpark which could create a localized barrier to the movement of wildlife species in some directions. The site does not contain sensitive or significant biologic resources, watercourses or wetlands. The reuse of the site will not conflict with local policies or ordinances adopted to protect biologic resources.
- f. Less Than Significant Impact - The proposed project is not located in an adopted area covered by a Habitat Conservation Plan. However, all of unincorporated San Benito County is in the future HCP study area as described in Chapter 19.19 (Habitat Conservation Plan Study Area). The purpose of the fee is to finance the development and implementation of a habitat conservation plan. Fees are collected prior to the issuance of a building permit and, if applicable, prior to the recordation of a final map. If building permits are required for this project, payment of the Habitat Conservation Mitigation Fee will be required. As a result, this project will also not conflict with other approved local conservation plan, regional or state habitat conservation plan and any impacts will be less than significant.

**V. CULTURAL RESOURCES –**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Response:**

- a, b. No Impact - The project involves the reuse of a previously developed site. The use of the site is not expected to result in any ground disturbance which could impact archeological and historic resources. The site is not been identified as containing historic resources or known or probable archaeological resources, as shown on San Benito County Sensitivity Maps, Prehistoric Cultural Resources. The inadvertent discovery of any archeologic resources would be addressed through the provisions of County Ordinance 610.
- c. No Impact - The project involves the reuse of a previously developed site. The use of the site is not expected to result in any ground disturbance which could disturb any unknown human remains. There are also no records indicating that the human remains have been interred or discovered on the project site. If human remains are discovered onsite, the provisions of Chapter 19.05 (Archeologic Site Review) will apply.

**VI. ENERGY –**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Response:**

- a, b. Less Than Significant - The project proposes to reuse an existing facility. While the project may result in an incremental increase in energy use, the small scale of the facility prevents any significant impact. In addition, any building permits associated with the conversion of the facility to the intended use will be required to comply with current energy requirements that are a component of statewide and local energy plans.

**VII. GEOLOGY AND SOIL –**

Would the project:

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving a:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to the Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the uniform building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Response:**

- a.i. Less Than Significant - The closest known fault, the Calaveras fault is on the adjacent land across Lake Road. However, the Alquist-Priolo Special Study Zone is located along the eastern edge of the site adjacent to Lake Road in an area where no existing structures are located and where no new buildings are proposed.
- a.ii. Less Than Significant - The project involves the reuse of a previously developed site. Given the close proximity to the Calaveras and other faults in the region, the site will experience seismic ground shaking during a seismic event. The proposed project site could be exposed to strong seismic ground shaking. However, any impacts are expected to be less than significant,
- a.iii. Less Than Significant - The project involves the reuse of a previously developed site. Given the close proximity to the Calaveras and other faults in the region, the site will experience seismic ground shaking during a seismic event. Depending on the nature of the event and the depth to groundwater, liquefaction or other ground failure could occur. The potential for seismic-related ground failure, including liquefaction is considered to be low for this site. Geological fault study SH-10984-SA, prepared by Earth Systems Pacific stated that "Previous studies in the vicinity indicated that the soils in the area of the site could potentially

liquefy during a major earthquake. Some potentially liquefiable zones of wet sandy soil were encountered in our borings. However, based on Ishihara (1995) if liquefaction was to occur at the site, it should have a minor effect on the planned improvements due to the depths of the potentially liquefiable materials and the consistency of the overlying soils.”

- a.iv. **No Impact** - The project site is located on a level valley floor and is not in a close proximity to an area which could generate a landslide.
- b. **No Impact** - The project will re-use an existing facility in a level area on the valley floor, in a setting where top soil erosion is not expected to be a concern. Any future development will be required to comply with standard erosion control requirements.
- c, d. **No Impact** - The site is located in a relatively flat valley floor area which does not contain a geological unit ~~or soil that is unstable or would potentially become unstable, or highly expansive soils. Any new future~~ structures would be required to comply with any geotechnical engineering recommendations as part of the building permit process. Therefore, no impacts relating to substantial soil erosion, on-or off-site landslide, lateral spreading, subsidence, liquefaction or collapse are expected to occur.
- e. **Less Than Significant** - The proposed project is already served by four existing onsite wastewater treatment systems and a potable water system. According to the Environmental Protection Agency, the sanitary (toilet and faucet only) wastewater generation for industrial uses is typically about 13 gallons per person per day. At build-out, the project proposes to have as many as 125 employees and visitors on the 77-acres site. The property is currently served by four different septic systems. Two of the systems serve the agricultural production buildings while the other two systems serve the two existing caretaker/office buildings. The treatment capacity of the two main systems is more than 1,600 gallons per day (capable of meeting the wastewater treatment needs of 125 employees and visitors). This figure does not include the systems for the existing caretaker/office buildings. According to the available records, all systems are functioning normally. Because the existing onsite wastewater treatment system was designed to accommodate a larger number of employees and visitors, no significant impacts are anticipated.
- f. **No Impact** - The site is underlain by alluvial soils and does not contain any paleontological resources or site or any unique geological features. The use of the site is not expected to result in any ground disturbance which could impact archeological and historic resources. The inadvertent discovery of any paleontological resources would be addressed through the provisions of County Ordinance 610.

**VIII. GREENHOUSE GAS EMISSIONS –**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with any applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Response:**

- a, b. **Less Than Significant** - The proposed project involves the production hemp-related project and will involve the use of electricity, motor vehicles, and could involve industrial processes with could generate small amounts of greenhouse gases. As indicated under the air quality discussion, the project will not violate air quality criteria or generate large amounts of criteria pollutants. However, the small scale of the facility and the requirements to comply with existing standards and programs will keep emissions to a less than significant level.

**IX. HAZARDS AND HAZARDOUS MATERIALS –**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Response:**

- a. Less Than Significant - The proposed project could result in the routine transport, use, or disposal of hazardous materials used in the extraction and manufacture of hemp-related products. However, these materials are expected to be in limited amounts and will be required to comply with all existing regulations relating to their transport, use, and eventual disposal.
- b. Less Than Significant - The proposed project will involve industrial processes that could result in an operational upset or accident. However, the site is located in a remote rural location and the materials being used are in limited amounts and relatively benign in isolated settings.
- c. No Impact - There are no schools located within one quarter mile of the proposed project site.
- d. No Impact - According to the Department of Toxic Substances Control Envirostor website, the project site does not contain and is not adjacent to hazardous material location.
- e. Less Than Significant - The project proposes to use an existing facility that is adjacent to the Frazier Lake Airpark. In this location, the project does not conflict with flight operations and the requirements of the Frazier Lake Air Park Comprehensive Land Use Plan (FLACLUP). The project is located within the Traffic Pattern Zone, the FLACLUP describes the following for this zone: “The potential for aircraft accidents is relatively low and the need for land use restrictions are minimal.” The close proximity to the site means that aircraft conducting “touch and goes” or needed to return to the runway will, in most circumstances, not need to fly over the site.

- f. No Impact - The proposed project is not altering the existing road network and is not located in a place that would impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.
- g. No Impact - The site is within a non-wildland/non-urban area according to the California Department of Forestry. The site is not within a wildland fire area. Nothing in the proposed project would expose people or structures to a significant risk of loss, injury, or death involving wildland fires.

**X. HYDROLOGY AND WATER QUALITY –**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, in a manner which would:				
i) Result in substantial erosion or siltation on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) In a flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Response:**

- a. Less Than Significant - The project site contains existing wastewater treatment and disposal systems and the project is not proposing a new system. The existing system is described in the Geology and Soils section. The proposed project would not violate any water quality standards or waste discharge standards.
- b. Less Than Significant - The proposed project will utilize existing wells to serve the property and supported the previous agricultural uses. Comments of a previous project provided by the San Benito County Water District indicated the properties in the project vicinity have elevated groundwater levels. Therefore, the potential for substantially depleting groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering the local groundwater table levels are considered to be unlikely.
- c. Less Than Significant - The project involves the utilization of an existing agricultural facility that will not change or alter the existing drainage pattern. The Conceptual Drainage Plan proposes two 1,400 square foot detention basins. These will be located on the east and west side of the property to collect design event runoff prior to it leaving the site. The locations of the basin are depicted on Figure 2. The final drainage plan will comply with all applicable County standards.

- d. Less Than Significant - The project is not in an area that is susceptible to seiche, tsunami, or mudflow. However, the site is located in one of the more distant portions of the Dam Inundation area for the Anderson Valley Reservoir. According to the 2009 study, workers on site would have at least four hours advance notice before the arrival of any floodwaters. This would provide sufficient time to safely shut down and evacuate the facility.
- e. Less Than Significant - The project involves the reuse of an existing site and will not conflict with, or obstruct, the implementation of a water quality control plan or sustainable groundwater management plan.

**XI. LAND USE AND PLANNING –**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Response:**

- a. No Impact - The proposed project involves the reuse of an existing site that is not located in an area containing an established community that could be divided.
- b. No Impact - The proposed project involves the reuse of an existing rural agricultural-related facility. The project is designate for Agriculture on the General Plan Land Use Plan and zoned for Agricultural Productive on the County Zoning Map. As a result, the project does not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect.

**XII. MINERAL RESOURCES –**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Response:**

- a, b. No Impact - The project consists of the reuse of an existing facility in agricultural area that does not contain important mineral resources.

**XIII. NOISE –**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Generate excessive groundborne vibration or groundborne noise	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**XIII. NOISE –**

Would the project:

Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
--------------------------------	---------------------------------------	------------------------------	-----------

levels?

- |   |                          |                          |                                     |                          |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

**Response:**

- a. Less Than Significant - The proposed project may generate additional noise that would incrementally add to ambient noise levels in the project vicinity. However, the noise generated by the adjacent airpark would continue to dominate the ambient noise environment. The lack of noise sensitive uses nearby also prevents any significant impacts.
- b. Less Than Significant - The reuse of the existing buildings will not generate excessive groundbourne vibration or groundbourne noise levels. If additional buildings are constructed in the future, short-term construction activities could result in groundborne vibrations, but because the nearest off-site structures would be located in excess of 25 feet from the onsite construction, the vibrations would not be a significant impact.
- c. Less Than Significant - The reuse of the existing facility will expose workers to aircraft noise from the adjacent Frazier Lake Airpark. The 2020 Noise Contours indicated that the project site would experience noise levels between 65 and 70 dB. According to the Comprehensive Land Use Plan for the Airpark, these noise levels are considered to be acceptable for agricultural and industrial land uses. In addition, previous studies prepared for the site indicated that noise levels from the operation of the airpark would not expose workers on-site to excessive aircraft-related noise levels.

**XIV. POPULATION AND HOUSING –**

Would the project:

Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
--------------------------------	---------------------------------------	------------------------------	-----------

- |   |                          |                          |                                     |                                     |
|---|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension or roads or other infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| b) Displace substantial numbers of existing people or housing necessitating the construction of replacement housing elsewhere?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

**Response:**

- a. Less Than Significant - The proposed project involves the reuse of an existing facility and does not involve the construction of new homes. As a result, it is not expected to substantially induce population growth in the area. While the project will employ additional people, the project is small enough that it would not inducing substantial new development in the area. Therefore, given that this proposal does not describe the creation of a housing or industrial development, any impact would be less than significant impact.
- b. No Impact - The proposed project involves the reuse of an existing facility and will not displace any existing housing.

**XV. PUBLIC SERVICES –**

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Response:**

- a, b, e. Less Than Significant - The proposed project will result in the potential incremental increase in the demand for sheriff, fire services, or other governmental services. However, no new facilities would be needed result of this project. The project site would continue to financially contribute to the costs of these services through existing property, use, and sales taxes.
- c, d. No Impact - The proposed project involves the reuse of an existing facility and will not increase the demands on schools and parks. No new educational or recreational facilities will need to be constructed as a result of this project.

**XVI. RECREATION –**

Would the Project:

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require the construction or expansion of recreational facilities, or include recreational facilities, which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Response:**

- a, b. No Impact - The project will not affect any existing recreational facilities and will not increase the need for additional or expanded recreational facilities.

**XVII. TRANSPORTATION/TRAFFIC –**

Would the project

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance of safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict or be inconsistent with CEQA Guidelines Section 5064.3(b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Substantially increase hazards due to a design feature (e.g. sharp curves, or dangerous intersections) or incompatible uses (e.g., farm	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



**XVII. TRANSPORTATION/TRAFFIC –**

Would the project	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
equipment)?				
d) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Response:**

- a. **No Impact** - The proposed project is located in a rural area and conforms with all applicable transportation and safety-related plans and policies.
- b. **Less Than Significant** – The proposed project is the reuse of an existing facility in a rural environment. Frazier Lake Road, the primary access point to the facility, currently operates at an acceptable level of service. The operation of the new facility will not change the current operating conditions. The previously approved use of the site, a two hundred-stall horse facility, resulted in approximately 176 vehicle trips (88 round trips) per day with three daily horse trailer trips. In contrast the proposed project could have as many as 125 employees which could result in about 250 vehicle trips (125 round trips) per day with about six round-trip truck trips per day on average. These calculations assume that all employees will be driving individually. According to the 2035 County General Plan, the existing and proposed average daily traffic volumes are about 3,500 trips per day on Frazer Lake Road. In comparison, the General Plan LOS “D” threshold is approximately 14,300 daily trips. Shore Road, which runs between Highways 25 and 156 has similar low traffic volumes. Recent changes to the CEQA Guidelines, Section 15064.3(b)(1) provides criteria on how to address Vehicle Miles Traveled (VMT) for land use projects. However, neither the State nor San Benito County had adopted standards for calculating vehicle miles traveled. As a result, this document has been prepared using the County’s existing evaluation criteria.
- c. **No Impact** - The project involves the reuse of an existing facility and will not create substantial road safety hazards due to a design feature or incompatible uses.
- d. **No Impact** - The proposed project has multiple access points onto both Frazier Lake Road and Lake Road. These multiple connections to the area’s road network provide adequate emergency access.

**XVIII. TRIBAL CULTURAL RESOURCES**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Cause substantial damage to a listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause substantial damage to a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

A significant tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe.

**Response:**

- a, b. No Impact – The project involves the reuse of an existing facility on a previously developed site that is not known to contain any tribal cultural resources.

**XIX. UTILITIES AND SERVICE SYSTEMS –**

Would the project:

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<del>b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?</del>	<del><input type="checkbox"/></del>	<del><input type="checkbox"/></del>	<del><input type="checkbox"/></del>	<del><input checked="" type="checkbox"/></del>
c) Result in determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Response:**

- a. No Impact - The site is currently served by on-site wastewater treatment and disposal systems, not connection to an outside agency is required. The site is already served by the existing electrical or telecommunications infrastructure. No addition facilities are required to support the proposed project.
- b. No Impact - The project involves the reuse of an existing facility that is served by onsite water wells.
- c. No Impact - The project is served through an existing onsite wastewater treatment and disposal system.
- d, e. Less than significant - The project is required to comply with all federal, state, and local statutes and regulations related to solid waste. The John Smith Landfill is the primary site for solid waste disposal for San Benito County and has sufficient capacity to accommodate the project's solid waste disposal needs.

**XX. WILDFIRE –**

If located in/near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XX. WILDFIRE –**

If located in/near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
--------------------------------	---------------------------------------	------------------------------	-----------

temporary or ongoing impacts to the environment?

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

**Response:**

all. No Impact – The site is within a non-wildland/non-urban area and according to the California Department of Forestry is not within a wildland fire area. Nothing in the proposed project would expose people or structures to a significant risk of loss, injury, or death involving wildland fires.

**XXI. MANDATORY FINDINGS OF SIGNIFICANCE –**

Does the Project:

Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
--------------------------------	---------------------------------------	------------------------------	-----------

- |   |                          |                          |                                     |                                     |
|---|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| b) Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| c) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

**Response:**

- a. No Impact - The project involves the reuse of an existing facility on a developed site containing no biologic resources.
- b, c. Less Than Significant - The project involves the reuse of an existing facility on a developed site. As a result, there could be possible unknown or unforeseeable impact on human beings at some point in the future. The project is consistent with the City's General Plan (the long-range plan for the including the goals, policies and programs set forth therein) and the zoning requirements. While the project is minor and therefore not significant, it is part of the cumulative modification of the environment.

## XXII. LIST OF REFERENCES

1. San Benito County General Plan
  - a. Land Use Element
  - b. Transportation Element
  - c. Noise Element
  - d. Open Space and Conservation Element
  - e. Scenic Roads and Highways Element
  - f. Seismic Safety/Safety Element  
<https://m-group.box.com/s/q6zpmkhf92v62r5aemaaeo06iac34giq>
  - g. Housing Element  
<https://m-group.box.com/s/6dqa7r1oen7f6pfyn2p35wzh5umv3mtk>
  - h. Environmental Resources and Constraints Inventory  
<https://m-group.box.com/s/on2ys843ero181kestxq7fjr0uc2qswj>
2. San Benito County Ordinances
  - a. Zoning Ordinance  
<https://m-group.box.com/s/hu37247nvb57lhrj4vo304k2m7t3z3tm>
  - b. Grading Ordinance  
<https://m-group.box.com/s/tbbv3xugip1mnoknwgedyhdeeahvn2il>
3. Soil Survey for San Benito County, 021-000-009, 1969, US Dept. of Agriculture, SCS  
<https://m-group.box.com/s/tcaxb5bhalj8aslitbcvmrclb3rz7345>
4. Air Quality Management Plan, Monterey Bay Unified Air Pollution Control District  
<https://m-group.box.com/s/nvmypzidg0ackej47nlzb6l86oqp8x8>
5. Water Quality Control Plan for the Central Coastal Basin, California Regional Water Quality Control Board, Central Coast Region, September 1994  
<https://m-group.box.com/s/x71b8byn9oulin95zin30kxdpaeudhm4>
6. Project Description  
<https://m-group.box.com/s/8tfd2ayb8ynnreehpwn64am36cqk4xc1>
7. Maps
  - a. General Plan Land Use Map, San Benito County  
<https://m-group.box.com/s/lrck8yw82is0udvwjy1jlpqrb5u37s23>
  - b. Zoning Map, San Benito County  
<https://m-group.box.com/s/5liktdzxqzriehhypjlx2gklqfognpqqp>
  - c. Landslide Hazard Identification Maps: Relative Susceptibility Map  
<https://m-group.box.com/s/1qiuhz0ggaqton2t0zfx69b02yr7odw4>
  - d. Alquist-Priolo Fault Hazard Maps, 1986  
<https://m-group.box.com/s/qp2nd03gs4bsffbd0uoayrhpvorkwc86>
  - e. Fire Hazard Severity Zones in State Responsibility Areas  
<https://m-group.box.com/s/hpjsb4nsu7u26ts35tjp2fx9rbpdz6g1>

- f. FEMA Flood Insurance Rate Map dated September 27, 1991  
<https://m-group.box.com/s/99w4d85esuy221feplp93ucw8yofcsos>
  - h. San Benito County Application Project Plan Set  
<https://m-group.box.com/s/lk5c1dxrixvf13r7io8ff7ob0cfw2o57>
  - i. U.S.G.S. San Felipe Quadrangle  
<https://m-group.box.com/s/n5a92s5n38dgq4bovb4k6axf0w6b6kua>
  - j. San Benito County Important Farmland 2009 Map, California Department of Conservation, Office of Land Conservation, Farmland Mapping and Monitoring Program <https://m-group.box.com/s/qvi0g7pain0o1kke014a5naq2x8azdz2>
- 
- 8. CEQA Air Quality Guidelines, Monterey Bay Unified Air Pollution Control District  
<https://m-group.box.com/s/2gplsnbbarv24s3192hk03q34kryyts4>
  - 9. California Scenic Highway Mapping System, California Department of Transportation  
<https://m-group.box.com/s/vvvfu8tlvmkzpwjs5490t1qh1hfysptl>
  - 10. Web Soil Survey, National Cooperative Soil Survey, Natural Resources Conservation Service <https://m-group.box.com/s/y8q9fdonyanu8doa6lj48p04bjeh9l6>
  - 11. National Wetlands Inventory, Fish and Wildlife Service [IV.a-e]  
<https://m-group.box.com/s/km1izl4l5uc4zu9c1wcyo3262emlx3en>
  - 12. Geological fault study SH-10984-SA, prepared by Earth Systems Pacific  
<https://m-group.box.com/s/ql118givuk6e1lvqfl9e26gl200iqtsy>
  - 13. Anderson Dam EAP 2009, Flood Inundation Maps, Santa Clara Valley Water District  
<https://m-group.box.com/s/wvyjmgo9jphrvvw21zsun7oopeb0hvf>
  - 14. Comprehensive Land Use Plan-Frazer Lake Airpark, San Benito County Airport Land Use Commission, November 15, 2001  
<https://m-group.box.com/s/6dsg0afid54q2co9kpnkrsri9ilf7tob>
  - 15. 2020 Aircraft Noise Contours, prepared by Walter Windus PE, February 5, 2001  
<https://m-group.box.com/s/kjst5037ydgjqfw11nwoy1veh5e461l>
  - 16. Septic System Analysis, prepared by Kelley Engineering & Surveying, May 13, 2019  
<https://m-group.box.com/s/10jrsh1b2dh4hkxy56g8buwurrj9lxs>
  - 17. US EPA, Onsite Wastewater Treatment Systems Manual, February 2002  
<https://m-group.box.com/s/3175dxwwrb10byhnhzchxpvgoa9pupxve>
  - 18. Conceptual Drainage Plan, prepared by Kelley Engineering & Surveying, May 2019  
<https://m-group.box.com/s/lj84qdn5xm61i0nty16f2zijptmapvqi>

### XXIII. Figures

- 1. Vicinity Map
- 2. Site Plan



# SAN BENITO COUNTY AGENDA ITEM TRANSMITTAL FORM

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Eduardo Navarro  
District No. 1

Valerie Eglund  
District No. 2

Robert Eggers  
District No. 3

Robert Gibson  
District No. 4

Robert Rodriguez  
District No. 5

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**Item Number: 2.**

**MEETING DATE: 6/19/2019**

**DEPARTMENT: RESOURCE MANAGEMENT AGENCY**

**DEPT HEAD/DIRECTOR: Ray Espinosa**

**AGENDA ITEM PREPARER: Jamila Saqqa and Dulce Alonso**

**SBC DEPT FILE NUMBER:**

**SUBJECT:**

**Inclusionary Housing Ordinance Amendments:**

a) Conduct public hearing regarding the amending Inclusionary Housing Ordinance regulations in San Benito County to include, but are limited to the following items: 1) Assigning the in-lieu fee to \$61,950 per on-site building permit; 2) Assigning the in-lieu to \$82,600 per off-site building permit and setting the Inclusionary Unit Cost at \$413,000; 3) Updating the Housing Advisory Committee to seven members; 4) Including the term extremely low income; and 5) Removing Sections 21.03.014, 21.03.015, 21.03.16. (Chapter 21.03 of the San Benito County Code);

b) Consider recommending the approval of Housing Advisory Committee By-Laws to the Board of Supervisors; and

c) Consider adoption of resolution recommending that the Board of Supervisors adopt an Ordinance amending Chapter 21.03 of the San Benito County Code relating to Inclusionary Housing land use regulations, making 2035 General Plan consistency findings and determinations, and making appropriate findings and determinations under the California Environmental Quality Act ("CEQA").

**AGENDA SECTION:**

PUBLIC HEARING

**BACKGROUND/SUMMARY:**

In 2016 the Board of Supervisors reestablished an Inclusionary Housing Ordinance, Ch. 21.03, which set specific percentages for inclusionary housing based on the number of units. At the time of approval an in lieu payment for the inclusionary housing was not determined and a study to establish an appropriate payment was expected.

With the need for an amendment to include the addition of the in-lieu payments Staff determined it would be appropriate to make further edits to clarify sections of the ordinance as stated in the Staff Recommendation. Please see the attached Staff Report for analysis of these edits.

**BUDGETED:**

**SBC BUDGET LINE ITEM NUMBER:**

**CURRENT FY COST:**

**STAFF RECOMMENDATION:**

- a) Conduct public hearing regarding the amending Inclusionary Housing Ordinance regulations in San Benito County to include, but are limited to the following items: 1) Assigning the in-lieu fee to \$61,950 per on-site building permit; 2) Assigning the in-lieu to \$82,600 per off-site building permit and setting the Unit Cost at \$413,000; 3) Updating the Housing Advisory Committee to seven members; 4) including the term extremely low income; and 5) Removing sections 21.03.014, 21.03.015, 21.03.16. (Chapter 21.03 of the San Benito County Code);
- b) Consider recommending the approve of Housing Advisory Committee By-Laws to the Board of Supervisors; and
- c) Consider adoption of resolution recommending that the Board of Supervisors adopt an Ordinance amending Chapter 21.03 of the San Benito County Code relating to Inclusionary Housing land use regulations, making 2035 General Plan consistency findings and determinations, and making appropriate findings and determinations under the California Environmental Quality Act (“CEQA”).

**ADDITIONAL PERSONNEL:**

**ATTACHMENTS:**

Description	Upload Date	Type
Staff Report	6/13/2019	Staff Report
Attachment A. Affordable Housing Ordinance	6/13/2019	Ordinance

Attachment B. Resolution Ch. 21.03	6/13/2019	Resolution
Attachment C. Housing Advisory Committee (HAC) Procedures for the Transaction of Business	6/10/2019	Other
Attachment D. Gruen & Gruen June 2018 Final Report	6/10/2019	Backup Material
Attachment E. In Lieu Fee Payment Analysis	6/10/2019	Other
Attachment F. California State Income Limits 2019	6/10/2019	Other
Attachment G. Notice of Public Hearing	6/10/2019	Other



# STAFF REPORT

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## REPORT INFORMATION

Date of Hearing: June 19, 2019  
Project Coordinator: Jamila Saqqa

## BACKGROUND/SUMMARY

In 2016 the Board of Supervisors reestablished an Inclusionary Housing Ordinance, Ch. 21.03, which set specific percentages for inclusionary housing based on the number of units. At the time of approval an in lieu payment for the inclusionary housing was not determined and a study to establish an appropriate payment was expected. In mid-2017 San Benito County contracted with Gruen & Gruen Associates to complete an affordable gap analysis to determine an appropriate payment. The final report was provided in June 2018.

With the need for an amendment to include the addition of the in-lieu payments Staff determined it would be appropriate to make further edits to clarify sections of the ordinance. The major amendments to the ordinance include, but are limited to the following items: 1) Assigning the in-lieu payment to \$61,950 per on-site building permit, 2) Assigning the in-lieu to \$82,600 per off-site building permit, 3) Updating the Housing Advisory Committee to seven members, 4) including the term extremely low income, and 5) Removing sections 21.03.014, 21.03.015, 21.03.16.

## STAFF ANALYSIS

### Affordable Gap Analysis Assumptions

The Gruen & Gruen report completed an affordable gap analysis related to single family home use. This particular affordable gap analysis reviews the current market price for a single family unit and compares the difference to an affordable price based on the specific income levels of very low, low, and moderate income.

The Gruen & Gruen report established specific assumptions to assess an in-lieu payment. Reviewing several of the in-lieu payment assumptions Staff believed not all of Gruen & Gruen's price assumptions matched the intention of the Affordable Housing Ordinance. One of the assumptions was the appropriate family size per housing unit. Gruen & Gruen indicated a two bedroom home would house three individuals, a three bedroom home would house five individuals, and a four bedroom home would house seven individuals. Staff recommends following the State Housing & Community Development guidelines, which states with no federal assistance a household size is set to the number of bedrooms plus one. Adjusting the assumption to follow the current State Housing & Community Development guidelines adjusts the maximum income levels allowed per housing unit. Second to determine the specific housing

price Gruen & Gruen established specific loan assumptions. Adjustments made to their assumptions calculate the affordable housing pricing with a 30 year fixed rate of 6% APR, property tax rate of 1.25, a mortgage no more than 35% of income for moderate income and 30% for low to very low. Additionally Gruen & Gruen did not include the average affordable gap for extremely low income. Staff recommends adding the extremely low price calculation because even though builders are not expected to provide housing for the extremely low income group San Benito County must still follow the Regional Housing Need Allocation (RHNA) and could use potential future in lieu payments towards the construction of extremely low units.

### In Lieu Payment Determination

To define the housing affordability gap Gruen & Gruen first determined the affordable list prices for a three bedroom and a four bedroom unit for the income levels extremely low, very low, low, and moderate. Once the list price was calculated for each income level Gruen & Gruen determined the average affordable price. When determining the average Gruen & Gruen deleted the list prices for extremely low units, but Staff recommends including the average and used the average in the current determination.

The next step in the methodology is to subtract the average affordable price per income level by the current average market rate price. This step provides the actual average expense gap between the market rate unit and the affordable price unit. Once a gap is determined for each income level an average is computed. The final average provides the actual average affordable gap.

### On-Site Payment Per Building Unit

In the affordable gap analysis Gruen & Gruen determined the current average market rate price is \$613,500. Using the staff recommend sales price assumptions and updated Housing & Community Development State Income Limits the average price gap for all income levels (extremely low, very low, low, and moderate) is \$413,000. The on-site payment is determined by multiplying the average affordable gap by the on-site minimum requirement of fifteen percent. The average affordable housing gap, \$413,000, multiplied by the on-site requirement of fifteen percent establishes an on-site in lieu payment of \$61,950 per building unit.

### Off-Site Payment Per Building Unit

In the affordable gap analysis Gruen & Gruen determined the current average market rate price is \$613,500. Using the staff recommend sales price assumptions and updated Housing & Community Development State Income Limits the average price gap for all income levels (extremely low, very low, low, and moderate) is \$413,000. The off-site payment is determined by multiplying the average affordable gap by the off-site minimum requirement of twenty percent. The average affordable housing gap, \$413,000, multiplied by the off-site requirement of twenty percent establishes an on-site in lieu payment of \$82,600 per building unit.

### Housing Advisory Committee

The Affordable Housing Ordinance set to establish a Housing Advisory Committee and By-laws. One of the amendments in the ordinance increases the number of public committee members and details the types of public members to appoint. Increasing the number of public members from two to three individuals creates a clearer majority. The three public members include: one member in the affordable housing development community, one member in the builder development community, and one of the members with a financial or accounting background.

Additionally the Housing Advisory Committee By-Laws were developed to set specific standards and rules related to the blank of business related to the committee.

### Extremely Low Income

In the current Affordable Housing Ordinance there was no definition of the term extremely low income. Additionally there was no clear discussion for the use of potential future use of in lieu payments towards the production, preservation, or protection of affordable homes. Developments are not expected to provide development of extremely low units, but it is important for San Benito County to have the flexibility to use any potential in lieu payments for any future projects.

### Removal of Sections

The sections 21.03.14-16 were removed because the sections were left blank and no direction is currently being reviewed.

### **STAFF RECOMMENDATION**

Staff recommends the Planning Commission to review and approve the ordinance with the discussed amendment changes. Staff recommends the Planning Commission to approve the inclusionary housing in-lieu payment of \$61,950 for on-site units and \$82,600 for off-site units. Staff recommends applying the off-site fee for project developments that seek to not provide any on-site affordable unit. Staff recommends the Planning Commission to approve the Housing Advisory Committee By-Laws.

### **ATTACHMENTS**

- A. Affordable Housing Ordinance
- B. Resolution Ch. 21.03
- C. Housing Advisory Committee (HAC) Procedures for the Transaction of Business
- D. Gruen & Gruen Final Report
- E. In Lieu Payment Analysis
- F. State Income Limits
- G. Public Notice

BEFORE THE BOARD OF SUPERVISORS, COUNTY OF SAN BENITO) )  
AN ORDINANCE OF THE COUNTY OF SAN BENITO ) Ordinance No. \_\_\_\_\_  
AMENDING CHAPTER 21.03 OF TITLE 21 OF THE SAN BENITO ) )  
COUNTY CODE (“AFFORDABLE HOUSING REGULATIONS”) ) )  
\_\_\_\_\_ )

The Board of Supervisors ordains as follows:

**Section 1.** Sections 21.03.001 through 21.03.012 of Chapter 21.03 of Title 21 of the San Benito County Code shall be amended to read as follows:

**§ 21.03.001 FINDINGS.**

San Benito County Goals and General Plan.

The Board of Supervisors finds that a decent home and suitable living environment for all is a priority of the highest order; this priority conforms to state and federal policies. A key goal of the County is to achieve a balanced community with housing available for persons of all economic levels, with priority given to those persons currently residing or working within the County. The Board of Supervisors finds there is an inadequate supply of housing in San Benito County that is affordable to extremely low, very low, low, and moderate-income households. Federal and state housing finance and subsidy programs are not sufficient in themselves to meet that need.

The Board of Supervisors finds that the cost of housing in new developments has increased and will continue to perpetuate this housing shortage. Further, land for residential development in the County is limited, and the amount of land which can be used for development of housing for extremely low, very low, low, and moderate-income households is being depleted by development of high cost housing.

The Board of Supervisors finds that the provision of housing affordable to extremely low, very low, low, and moderate-income households is a County-wide responsibility, and the provision of such housing is a goal of the housing element of the County general plan.

A County-wide inclusionary housing program will assist in alleviating the use of available residential land solely for the benefit of households that are able to afford market rate housing because such market rate development will be required to contribute to the provision of affordable housing for the entire San Benito community.

Provide for Workforce. The Board of Supervisors finds that the housing shortage for persons of extremely low, very low, low, and moderate-income is detrimental to the public health, safety and welfare, and particularly finds that provision of extremely low, very low, low, and moderate-income housing is fundamental to the maintenance of an adequate, growing workforce and market place for the local economy, as well as to provide housing for additional employees whose jobs serve the increasing population living in new market rate housing.

The Board of Supervisors acknowledges that if extremely low, very low, low, and moderate income workers cannot find housing in the County, then employers will have difficulty in securing

a labor force; and employees will be forced to commute.

- (a) Benefit to the County. The Board of Supervisors finds that a County-wide affordable housing program will benefit the County as a whole. Each property that contributes to inclusionary housing augments the housing mix, increases the supply of housing for all economic segments of the community, and thereby provides for a balanced community, which is deemed to be in the public interest.
- (b) Resale Restrictions. The Board of Supervisors finds that the effect of an affordable housing program is severely diminished if it benefits only the first occupants of extremely low, very low, low, and moderate-income housing, and affordable units are resold at market prices. Therefore, the Board of Supervisors recognizes that resale control, to ensure the continuing availability of affordable units to extremely low, very low, low, and moderate-income households, is a necessary consideration in order to prevent undermining of the credibility of the whole program and to avoid the loss of any unit as an affordable unit.
- (c) Public Purpose. The Board of Supervisors finds that public housing programs and housing subsidy programs can meet only a small portion of the need for extremely low, very low, low, and moderate-income housing. The vast majority of housing units has been and will continue to be produced by the private housing industry. This industry has the knowledge and ability to produce housing affordable to extremely low, very low, low, and moderate-income households given supportive government policies, including incentives and public investment as appropriate. Therefore, the Board of Supervisors finds it is a public purpose of the County to seek assistance and cooperation from the private sector and non-profit agencies in making available an adequate supply of housing for persons of all economic segments of the community.
- (d) Benefits of the Application of this Chapter. Application of this chapter may benefit the public through increased housing opportunities in all areas of the County, an increased supply of extremely low, very low, low, and moderate-income housing, and an increased availability of funds for extremely low, very low, low, and moderate-income housing projects.
- (e) Collection of Payments. The Board of Supervisors finds that the In-lieu Payments required or permitted by this chapter will be appropriate and permissible. The payments required by this chapter, as set forth in §21.03.008(c), will be fair and effective because:
  - (1) The payment amount will be based on the amount necessary to construct an affordable unit or affordable units as called for by this chapter, so that when an applicant is allowed and elects to pay an In-lieu Payment, funds will be available to reach the County's overall affordability target, without excessive payments and without setting varying payment standards on a case-by-case basis;
  - (2) The payment amount necessary to construct units at the affordability levels specified by this chapter will be based on land, construction and other costs of building units in the County;
- (f) Objective. The Board of Supervisors finds that an objective of this chapter is to meet the housing needs of all types of extremely low, very low, low, and moderate-income groups in a manner that is economically feasible and consistent with their needs.

The Board of Supervisors further finds that extremely low, very low, low, and moderate income housing best achieves the broader community goal of integrating households of all economic levels into the community when such housing is provided throughout the community and that a specific objective of this chapter is to provide housing opportunities throughout the community, in all planning areas of the County for extremely low, very low, low, and moderate-income households.

The Board of Supervisors further finds that an objective of this chapter is to provide housing opportunities for extremely low, very low, low, and moderate-income household members currently residing or working in San Benito County on a priority basis.

### **§ 21.03.002 PURPOSE.**

The purposes of this chapter are to enhance the public welfare, benefit the property being developed, assure compatibility between future housing development and the housing units affordable to persons of extremely low, very low, low, and moderate-income and ensure that remaining developable land in the County is utilized in a manner consistent with state and local housing policies and needs.

### **§ 21.03.003 DEFINITIONS.**

For the purposes of this chapter, the following definitions shall apply:

- a. "Administrative Manual" means the manual prepared pursuant to subsection 21.03.010 (g).
- b. "Affordable" means a cost for housing, whether for an owner-occupied or rental unit, that does not exceed "affordable housing cost" as set forth in California Health and Safety Code Section 50052.5. Adjustments for household size based on the number of bedrooms in the unit and other monthly housing cost factors, including assumed mortgage interest rates, loan insurance fees, maintenance and repair allowances, utility allowances, homeowners insurance, property tax and assessment costs, and homeowners association dues, shall be as provided by the County in the administrative manual.
- c. "Affordable Housing Plan" means a plan demonstrating how a specific development project will meet the requirements of this chapter.
- d. "Affordable Housing Agreement" means an inclusionary housing agreement between the County and an applicant, governing how the applicant shall comply with this chapter.
- e. "Applicant" means a person or entity that applies for a residential development and, if the applicant does not own the property on which development is proposed, also means the owner or owners of the property.
- f. "Appropriate Authority" means that person, official, or body designated by County regulations to hear, grant, deny, modify, condition, revoke or otherwise act on permits required by the County's regulations.

- g. "Approval" means any approval by the appropriate authority of a discretionary permit for residential development, including, but not limited to, planned unit development or planned community development approval, subdivision approval, use permit, or combined development permit,.
- h. "Approved Documents" means Affordable Housing Agreement or Development Agreement.
- i. "Area Median Income" means the annual income for San Benito County, adjusted for household size, as published periodically in the California Code of Regulations, Title 25, Section 6932, or its successor provision, or as established by the County of San Benito
- j. "Building Permit" means a permit issued by the San Benito County department of planning and building authorizing the construction of new dwellings.
- k. "Director" means the Director of the Resource Management Agency (or a County officer with similar responsibilities designated by the County administrative officer), or his or her designee.
- l. "Density Bonus" means an increase in the number of units permitted in a proposed residential project provided pursuant to the State Density Bonus Law as set forth in Section 65915 *et seq.* of the California Government Code, as amended
- m. "Dwelling" or "Unit" means any structure or portion thereof designed or used as the residence.
- n. "Eligible Household" means a household whose Gross Annual Household Income does not exceed the applicable maximum for a given Inclusionary Unit.
- o. "Extremely Low Household" means a household with an annual income which does not exceed the state of California Department of Finance annual determination for very low-income households earning thirty percent of median income, adjusted for household size.
- p. "First Approval" means the first approval, as the term "Approval" is defined in this chapter, to occur with respect to a residential project.
- q. "For Sale Inclusionary Unit" means an inclusionary unit which is designated in an inclusionary housing agreement to be sold to a household eligible under this chapter.
- r. "Gross Annual Household Income" means the combined adjusted gross income (pre-tax) income of all adult persons in a household, who is an Applicant for an Inclusionary Unit, or who are residing in an Inclusionary Unit, as calculated pursuant to the Section 8 Program under the United States Housing Act of 1937, as amended, or its successor.
- s. "Household" means one or more individuals who occupy one dwelling unit as a single housekeeping unit, whether or not related by blood or marriage.
- t. "HUD" means the United States Department of Housing and Urban Development.

- u. "Inclusionary Unit" means a housing unit, which is required by an approval to meet affordability and occupancy limits under this chapter.
- v. "Inclusionary Unit Cost" shall have the monetary value set forth in § 21.03.008 herein.
- w. "In-lieu Payment" means the amount payable pursuant to this Chapter as an alternative to the construction of fractional on-site or off-site Inclusionary Units.
- x. "Low-Income Inclusionary Unit" means an inclusionary unit reserved for occupancy by low-income households at an affordable rent or sales price.
- y. "Low-Income Household" means a household with an annual income, which does not exceed State of California Department of Finance annual determination for low-income households with incomes that do not exceed eighty percent of the median income, adjusted for household size.
- z. "Market Rate Unit" means a Dwelling Unit offered on the open market at the prevailing market rate purchase or rental.
- aa. "Median Income" means the median household income as determined by the State of California Department of Finance and updated on an annual basis.
- bb. "Moderate-Income Inclusionary Unit" means an inclusionary unit reserved for occupancy by moderate-income households at an affordable rent or sales price.
- cc. "Moderate-Income Household" means a household with an annual income which does not exceed one hundred twenty percent of the median income, adjusted for household size.
- dd. "Owner Occupied Development" means a residential development in which the same person or persons are sole or majority owner(s) of the property at the time of first approval of the development and at the time the development receives its building permit, and those persons make and record a legally binding agreement, acceptable to the director and approved as to form by County Counsel, to reside in the residential development for not less than one year from the recordation of the notice of completion, and where the proposed owner-occupant has not previously been an owner-occupant under this chapter during a period of ten years prior to application for a first approval.
- ee. "Subdivision" means a "Subdivision" as that term is defined by the California Subdivision Map Act.
- ff. "Very Low-Income Inclusionary Unit" means an inclusionary unit designated in and reserved for occupancy by very low-income households at an affordable rent or housing cost.
- gg. "Very Low-Income Household" means a household with an annual income which does not exceed the state of California Department of Finance annual determination for very low-income households, which currently means those not earning more than fifty percent of median income, adjusted for household size.



**§ 21.03.004 DEVELOPMENT REQUIRING INCLUSIONARY CONTRIBUTION.**

(a) The requirements of this chapter are minimum requirements and shall not preclude a residential development from providing additional affordable units and/or affordable units with lower rents or sales prices. Except as expressly provided in paragraphs (b) and (c) of this section, all residential developments shall contribute to the provision of housing for extremely low, very low, low, and moderate-income households in the County of San Benito as provided in this chapter.

(b) Residential developments which meet one of the following criteria shall not be required to comply with this chapter:

(1) Residential developments that form part of a larger residential development as to which the requirements of this chapter have previously been fully satisfied and as to which there is no default in continuing obligations under this chapter, where the new residential development results in no increase in the number of previously approved lots or units;

(2) Development as to which the applicant demonstrates that there is no reasonable relationship between the development and the requirements imposed by this chapter, that the requirements of this chapter would take property in violation of the United States or California Constitutions, or that as a result of unusual or unforeseen circumstances, it would not be appropriate to apply, or would be appropriate to modify, the requirements of this chapter, provided that the Board of Supervisors makes the determination to approve or disapprove an exemption or modification, and makes written findings, based on substantial evidence, supporting that determination;

(3) Development for farm workers, subject to the approval of the County and recorded restrictions on such development in a form approved by County;

(4) Notwithstanding any other provision of this chapter, an applicant may propose an alternative means of compliance with this chapter by submitting an Affordable Housing Plan that achieves the purpose and intent of this chapter. The Board of Supervisors may approve such alternative method of meeting the County's inclusionary housing requirement by means of a Development Agreement or an Affordable Housing Agreement or other appropriate means if the Board of Supervisors finds and determine that, based on substantial evidence in the record, the proposed new residential development is consistent with the general plan, will assist in the attainment of the County's identified housing needs and regional fair share responsibilities for extremely low, very low, low, and moderate income households, and the number of affordable housing units will provide an acceptable level of affordable housing while providing public benefits consistent with compliance with the express requirements of this chapter.

(a) An applicant may reserve or set-aside land to be transferred to an affordable housing developer to satisfy an affordable housing requirement. Land may be part of the market rate development being constructed, or may be provided off-site in a residential zone.

(b) Pending developments, as that term is defined by this chapter, shall be subject to the requirements of the inclusionary housing ordinance in effect when the application for the development is first approved by the appropriate authority,

with the exception that vesting tentative maps shall be subject to the requirements of the inclusionary housing ordinance in effect when the application for the vesting tentative map was deemed complete.

### **§ 21.03.005 INCLUSIONARY REQUIREMENTS.**

All residential development consisting of 5 or more lots, inclusive, in San Benito County shall be subject to the inclusionary housing policy. A residential development of 5 or 6 units may provide an affordable unit or pay an In-lieu Payment based on the payment amount set forth in §21.03.008(b) for one on-site unit. All residential development consisting of 7 or more units shall provide inclusionary units on-site, or off-site if permitted by this Chapter. The size, design, and location of inclusionary units shall be consistent with a project-specific Affordable Housing Plan, the County general plan, zoning ordinance, and other County ordinances and building standards. Compliance may be accomplished by the applicant alone or in combination with others, including a non-profit housing corporation, as specified in Section 21.03.006 and 21.03.007.

### **§ 21.03.006 ON-SITE UNITS.**

To satisfy its inclusionary requirement on-site, an applicant for a residential development must construct inclusionary units in an amount equal to or greater than fifteen percent (15%) of the total number of units approved for the residential development (except to the extent that a fraction of a unit would be required as determined pursuant to Section 21.03.008(b), for which the applicant may elect to make a fractional unit payment pursuant to Section 21.03.008(c)). Initial and subsequent affordability levels and eligible occupants of the inclusionary units shall conform to the requirements of Section 21.03.010, as applicable.

On-Site Affordable Units Must:

- (a) Receive building permits and certificates of occupancy concurrently with the remainder of the residential development, as set forth in and except as otherwise provided by the Affordable Housing Agreement;
- (b) Will be compatible in exterior appearance with the other units in the residential development (though interiors may differ to the extent authorized in the Affordable Housing Agreement) and be dispersed throughout the residential development to the extent feasible or as otherwise provided by the inclusionary housing agreement;
- (c) Have a similar number of bedrooms as the market rate homes in which the affordable units are located.
- (d) Have the following minimum square footages:
  - i) 2 Bedrooms – 900 sq. ft.
  - ii) 3 Bedrooms – 1150 sq. ft.
  - iii) 4 Bedrooms – 1360 sq. ft.

- (e) A minimum of 50% of the required affordable housing shall be 3 bedroom units
- (f) Except as otherwise provided in the Affordable Housing Plan for the residential development, building permits for accompanying market-rate units will not be issued until building permits have been issued for on-site and/or off-site Inclusionary Units, and final inspections for occupancy will not occur for accompanying market-rate units until final inspections for occupancy have occurred for said Inclusionary Units.

The inclusionary housing requirements of this chapter are summarized in the following table. Should there be any discrepancy between this table and the text of this ordinance, the text shall control.

**On-site Requirements**

<b>Size of Development</b>	<b>Inclusionary Requirement</b>	<b>Moderate Income</b>	<b>Low Income</b>	<b>Very Low Income</b>
<b>1-4</b>	<b>None</b>			
<b>5-6</b>	<b>Payment of in-lieu</b>			
<b>7-13</b>	<b>Provide 15% inclusionary units</b>	<b>1 unit + prorated In-lieu Payment for fractional difference</b>		
<b>14-19</b>	<b>Provide 15% inclusionary units</b>	<b>1 unit + prorated In-lieu Payment for fractional difference</b>	<b>1 unit</b>	
<b>20</b>	<b>Provide 15% inclusionary</b>	<b>1 unit</b>	<b>1 unit</b>	<b>1 unit</b>
<b>21 to 26</b>	<b>Provide 15% inclusionary units</b>	<b>1 unit + prorated In-lieu Payment for fractional difference</b>	<b>1 unit</b>	<b>1 unit</b>
<b>27 to 33</b>	<b>Provide 15% inclusionary units</b>	<b>2 units + prorated In-lieu Payment for fractional difference</b>	<b>1 unit</b>	<b>1 unit</b>

<b>34-39</b>	<b>Provide 15% inclusionary units</b>	<b>2 units + prorated In-lieu Payment for fractional difference</b>	<b>2 unit</b>	<b>1 unit</b>
<b>40</b>	<b>Provide 15% inclusionary units</b>	<b>2 units</b>	<b>2 units</b>	<b>2 units</b>
<b>41 or more</b>	<b>Provide 15% inclusionary units</b>	<b>5% of all units + prorated In-lieu Payment for fractional difference</b>	<b>5% of all units 2 units minimum</b>	<b>5% of all units 2 units minimum</b>

**§ 21.03.007 OFF-SITE AFFORDABLE UNITS.**

- (a) Off-site inclusionary units, in place of or combined with on-site units, may be approved by the Board of Supervisors upon a showing by the applicant for the residential development that off-site units will provide a greater contribution to the County's affordable housing needs. If an applicant is permitted to construct off-site affordable housing, the inclusionary requirement shall be twenty percent (20%) which shall be used to determine the required number of off-site units that must be constructed by the applicant (except to the extent that a fraction of a unit would be required as determined pursuant to Section 21.03.008(b), for which the applicant may elect to make a fractional unit payment pursuant to Section 21.03.008(c)). Initial and subsequent affordability levels and eligible occupants of the inclusionary units shall conform to the requirements of Section 21.03.010, as applicable.
- (b) Off-site affordable units, to the greatest extent possible, should be located within the same planning area as the market rate project.
- (c) Off-site units may be allowed only if their location is identified and is owned, or site control is demonstrated by the applicant, at the time of first approval.
- (d) Except as otherwise provided in the Affordable Housing Agreement for the residential development, building permits for corresponding market rate units will not be issued until building permits have been issued for off-site units, and final inspections for occupancy will not occur for corresponding market rate units until final inspections for occupancy have occurred for off-site units.
- (e) The inclusionary housing requirements of this chapter are summarized in the following table. Should there be any discrepancy between this table and the text of this ordinance, the text shall control.

**Off-Site Requirements**

Number of units in subdivision	Inclusionary Requirement	Number of Off- Site Units		
		Moderate Income	Low Income	Very Low Income
1-4	None			
5	Provide 20% Inclusionary	1 unit		
6-9		1 unit + prorated In-lieu Payment for fractional difference		
10		1 unit	1 unit	
11-14		1 unit + prorated In-lieu Payment for fractional difference	1 unit	
15		1 unit	1 unit	1 unit
16-19		1 unit + prorated In-lieu Payment for fractional difference	1 unit	1 unit
20 lots or more		8% of all units (1 unit minimum) + payment of prorated in-lieu fee for fractional difference	6% of all units (1 unit minimum)	6% of all units (1 unit minimum)

**§ 21.03.008 IN-LIEU PAYMENT**

(a) General.

For both on-site and off-site construction, unless an exemption is approved by the Board of Supervisors pursuant to subparagraph (c) below, the applicant shall be required to build the whole number of inclusionary units as determined in subparagraph (b) below.

Applicants whose residential development's on-site or off-site inclusionary housing requirements include building a fractional unit may pay an In-lieu Payment for the fractional unit instead of constructing the next whole number of units. The Applicant may build the next whole number of units at its option, rather than pay the in-lieu payment for the fractional unit.

The amount of the payment for the fractional unit shall be based on the cost of constructing an inclusionary affordable unit as set forth in subparagraph (c) below.

(b) Fractions of units.

When, in determining the number of inclusionary on-site or off-site units required to be built by an applicant pursuant to this Chapter, the number of very low-income units is not a whole number, the fractional units required shall be added to the number of low-income inclusionary units required. If the resultant number of low-income units is not a whole number, the fractional units required shall be added to the number of moderate-income inclusionary units required. Where (after any addition of fractional units under the preceding sentences) the number of moderate income inclusionary units required is not a whole number, the applicant shall build the next higher whole number of moderate-income inclusionary units, or the applicant may elect to pay a fractional unit In-lieu Payment for the fractional unit determined in this paragraph, with such In-lieu Payment calculated in the manner provided in subparagraph (c) below.

(c) Payment amount.

For the purposes of calculating the inclusionary housing In-lieu Payment required by this Chapter, the cost to construct one on-site or off-site inclusionary affordable unit is hereby established as Four Hundred Thirteen Thousand Dollars (\$413,000) ("Inclusionary Unit Cost").<sup>1</sup> For any fractional on-site or off-site unit, if the applicant elects not to build the next higher whole number of units, the amount of the payment for the fractional unit to be paid by the applicant shall be the product of the required fractional unit as determined in subsection (b) above times the Inclusionary Unit Cost.

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<sup>1</sup> It should be noted that the Inclusionary Unit Cost of \$413,000 is used in the calculation of the fractional in-lieu payment for *both* the on-site and off-site calculations. The **15%** on-site requirement mathematically requires that an 'on-site in-lieu payment' would need to be collected per unit every **6 2/3** units in the proposed development to generate enough funds to provide for the cost of constructing one inclusionary unit. Such a per unit *on-site* in-lieu payment (if assessed on all of the units in the development) would need to equal \$61,950 (such that \$61,950 times 6 2/3 = \$413,000). Likewise, the **20%** on-site requirement mathematically requires that an 'off-site in-lieu payment' would need to be collected per unit every **5** units in the proposed development to generate enough funds to provide for the cost of constructing one inclusionary unit. Such a per unit *off-site* in-lieu payment (if assessed on all of the units in the development) would need to equal \$82,600 (such that \$82,600 times 5 = \$413,000).

It should be noted that because applicants are required to construct whole number of units of inclusionary affordable units, any in-lieu payment for fractional units are calculated on the basis of the full cost to construct an inclusionary affordable unit, *i.e.*, the Inclusionary Unit Cost (\$413,000).

If the Board allows an applicant to only pay in-lieu payments pursuant to subparagraph (d), then the entire number of inclusionary affordable units will be built *off-site* and the and the \$82,600 *off-site* in-lieu payment will be assessed against each unit in the applicant's proposed project.

- (d) Qualification for solely paying In-lieu Payment. If the an applicant seeks to pay an In-lieu Payment, instead of providing some or all of the non-fractional (*i.e.*, whole number) inclusionary units required by this Chapter, the applicant must demonstrate, based on evidence in the record, in connection with the first approval for the residential development, that specific characteristics of the development site, such as lack of access to services, zoning which requires large lot development, or potentially high site maintenance costs, make the site unsuitable for households at the required income levels. The evidence must be reviewed and the qualification for an In-lieu Payment must be approved by the Board of Supervisors.

For the purposes of this subparagraph (d), using the twenty percent (20%) inclusionary requirement for off-site construction set forth in § 21.03.007, the per unit In-lieu Payment for an on-site building permit for *each* of the units in the applicants proposed project is Eighty-Two Thousand Six Hundred Dollars (\$82,600).

- (e) Time of payment. Payment of In-lieu Payments shall be made in full to the County prior to issuance of the first building permit for the market-rate units, unless an Affordable Housing Agreement otherwise provides.

#### **§ 21.03.009 DEVELOPMENT PROJECT APPROVAL.**

- (a) A residential development application will not be deemed complete until the applicant has submitted plans and proposals which demonstrate the manner in which the applicant proposes to meet the requirements of this chapter, including any plans for the construction of on-site units, commitment to construct off-site units and/or intent to pay In-lieu Payments, conditioned upon approval by the Board of Supervisors, for all or part of the inclusionary housing requirements as set forth in § 21.03.008(d).
- (b) Conditions to carry out this chapter shall be imposed on the first approval of a residential development. When granting the first approval, the appropriate authority shall determine and include as a condition of approval: (1) the method of compliance with this chapter, including whether the residential development will comply with this chapter through provision of on-site units or off-site units or payment of an In-lieu Payment or combination thereof; (2) if inclusionary units are to be provided, the number of units required and fractional amount of units for which an In-lieu Payment may be paid; and (3) such other matters as the appropriate authority deems proper. The condition of approval shall further provide that prior to the recordation of the parcel map or final map in the case of subdivisions and or prior to the issuance of building permits in the case of all other land use permits to which this chapter applies, the applicant shall enter into an Affordable Housing Agreement acceptable to the director that contains specific requirements implementing the condition of approval including, but not limited to, as applicable, the number of inclusionary units, the level of affordability, location and type of inclusionary units, timing of construction of inclusionary units in relation to the construction of the market rate units contained in the development, and amount of the In-lieu Payment, if any. The Affordable Housing Agreement may be amended by the parties, provided the amendment is consistent with the condition of approval imposed as part of the first approval and the existing County approvals. If the proposed amendment is minor or technical in nature, the director shall have authority to approve or disapprove the amendment on behalf of the County, subject to the approval of County Counsel. If the proposed amendment makes a substantive or material change to the

Affordable Housing Agreement, the amendment shall be effective only if, following notice and hearing and such other procedures as may be required by law, and approved by the appropriate authority who gave the first approval on the project.

- (c) Where a residential development receives a subdivision approval, the final subdivision map or parcel map, which is to be filed and recorded, shall include a notation, in a form acceptable under the Subdivision Map Act, describing the condition of approval to comply with this chapter.
- (d) Where the party subject to a fully executed Affordable Housing Agreement or other document regulating or limiting the operation, price or rent of an inclusionary unit, entered into under this chapter or any previous version of this chapter, believes that the document requires modification as a result of unusual circumstances which could not have been foreseen at the time the document was entered into, the affected party may apply to the County Board of Supervisors for modification of the document. Such modification shall be considered at a public hearing during a regularly scheduled meeting.
- (e) Any determination made by the appropriate authority to implement this chapter in connection with granting a first approval may be appealed pursuant to the appeal provisions of San Benito County Code, Title 25, Chapter 25.47.

#### **§ 21.03.010 OCCUPANCY AND CONTINUING AVAILABILITY OF UNITS**

The occupancy and continuing availability of inclusionary units shall be provided for in the following manner:

- (a) Inclusionary Units. The number and type of rental inclusionary units and for-sale inclusionary units shall be determined for each application or approval under the standards of this chapter and set forth in the Affordable Housing Agreement as approved by the Board. On-site and off-site for-sale inclusionary units shall be sold only to eligible households and only to very low, low, or moderate income households, as applicable, at prices affordable to such households and pursuant to further requirements of resale restrictions, a promissory note, second deed of trust naming the County of San Benito as beneficiary, deed restrictions and/or other documents pursuant to this chapter. The initial maximum sale price of the inclusionary unit to the first purchaser shall be determined by the director, pursuant to a method set forth in the Administrative Manual, or as established by ordinance from time to time, at the discretion of County Counsel. Similar restrictions shall be required of subsequent owners at the time they acquire the unit.
- (b) Resale Value. The maximum resale price shall be determined under the approved documents, consistent with the administrative manual and the following:
  - (1) The maximum permitted resale price of an inclusionary unit shall not be increased above the purchase price within one year of purchase.
  - (2) The maximum permitted resale price shall be the initial sale price of the inclusionary unit, increased at the same rate as the median income has increased,



with the following modifications:

- (a) The otherwise allowable maximum resale price may be increased by a maximum of ten percent (10%) of the initial sale price of the unit as an allowance for improvements made by the selling owners during their ownership. This allowance shall not be increased or decreased based on the value of improvements actually made to a particular home, provided that the allowance shall be reduced to the extent the unit has been adversely affected in value by owner caused damage or deficient maintenance. To facilitate a determination by the director concerning maintenance prior to sale, the seller shall comply with any applicable requirements in the administrative manual.
  - (b) Where an owner has lawfully added a bedroom to a for sale inclusionary unit, the maximum resale price of the unit shall be calculated based on an assumed household size corresponding to the total number of bedrooms, including the added bedroom.
- (3) The administrative manual and/or approved documents may provide for a ceiling, which limits the resale price increases resulting from the modification of subsection (a) & (b).
- (c) Transfer. Transfer of a for-sale inclusionary unit to a child or step-child upon the death of one or more of the prior owners shall be permitted without payment of any amount otherwise due to the County based on the sales price or appreciation of the unit, and without regard to any otherwise applicable preferences or waiting list priority for successor owners, if, but only if, the household of the child or step-child would be eligible to purchase the unit and will occupy the unit. A child or step-child, whether or not his or her household is income eligible or will occupy the unit and regardless of any otherwise applicable preferences or waiting list priority, shall be entitled to own and/or occupy a for-sale inclusionary unit after the death of the prior parent owner, for a period not to exceed one year, without regard to otherwise applicable resale requirements of this chapter but subject to any applicable provisions of the administrative manual or County documents regulating the project. Not later than the expiration of the one-year period, the unit shall be transferred to the child or step-child (if the household is eligible and wishes to keep the unit) or shall be offered for sale in conformance with this chapter, with appropriate restrictions recorded against the unit under this chapter for the County's benefit.
- (1) For sale inclusionary units may be refinanced for the same amount plus applicable closing costs (to achieve more favorable interests rates), to the extent provided in the administrative manual and with the specific approval of Director, but may not be used as security for additional financing. A separate notice to of that restriction shall be recorded to prevent lenders from by-passing this requirement.
  - (2) Restrictions on resale are required and shall be recorded against title to the affordable units and shall prohibit or limit leasing of inclusionary units.

- (d) Terms of Affordability. New and Existing Inclusionary Units. For-sale inclusionary units, affordability and occupancy restrictions shall remain in effect for thirty years and shall apply to any replacement structure or structures constructed if a structure containing an inclusionary unit or units is demolished or destroyed. If demolition or destruction of a structure containing inclusionary units occurs thirty years or more after recording of the restrictions and said demolition or destruction was unintentional, restrictions on the units in the structure shall terminate on demolition or destruction. Where a for-sale inclusionary unit is transferred and the new owner is required to enter into new regulatory documents under this chapter, the new regulatory documents will provide for an affordability period of thirty years.
- (e) Maintenance. Regulatory agreements and recorded restrictions on resale shall include maintenance and insurance requirements for affordable units.
- (f) Approval and Recording of Documents. The Director, in consultation with County Counsel, shall establish the form and content of agreements and restrictions authorized under this chapter. Regulatory agreements and resale restriction documents may provide for specific affordability and/or occupancy requirements for particular affordable units, consistent with this Chapter and with the terms of the project's Affordable Housing Agreement. These documents shall be executed by the record owners of affected property, approved as to form by County Counsel and recorded in the official records of the County.
- (g) Occupancy. Initial and subsequent occupancy of inclusionary units shall be in accord with conditions and requirements stated in the administrative manual. The homeowner must occupy the home as the primary residence.
- (h) Marketing/Selection of Participants. The administrative manual shall set forth marketing and selection policies and/or procedures for inclusionary units and identify County staff responsible for supervising marketing. A housing advisory committee may be designated to review the income qualifications of potential applicants. If the County maintains a list or lists of eligible households, it may require that households newly occupying affordable units shall be selected first from one or more of those lists.
- (i) Administrative Manual. The Board of Supervisors shall adopt and may from time to time amend an administrative manual, approved as to form by County Counsel, to establish guidelines to interpret and implement this chapter, including without limitation income and maximum asset guidelines for inclusionary units and units assisted by In-lieu Payment proceeds. All mandatory provisions of the manual, when adopted, shall bind applicants and other private parties subject to this chapter. Maximum permitted sales prices shall be governed by the administrative manual. The Board of Supervisors shall conduct a duly noticed public hearing prior to the adoption or any amendment of the administrative manual.

#### **§ 21.03.011 HOUSING ADVISORY COMMITTEE.**

- (a) Creation. The Housing Advisory Committee, comprised of two members of the Board of Supervisors, two members of the Planning Commission, three members of the public appointed by the Chair of the Board. Of the three members appointed by the Board of Supervisors Chair, it is recommended, but not required, to have one member from the affordable housing development community, one member from the builder development

community, and one of the members with a financial or accounting background. This is created pursuant to this chapter for the purpose of advising the Board of Supervisors on matters relating to the housing element of the general plan and the inclusionary housing ordinance, and such other matters as the Board of Supervisors or County staff shall direct. The housing advisory committee shall also evaluate proposals for disbursement of In-lieu Payments in accordance with the procedures set forth in this chapter.

- (b) Adoption of Bylaws. The Board of Supervisors shall adopt bylaws containing rules and procedures for the transaction of business of the housing advisory committee. The Board of Supervisors may amend the bylaws from time to time.

**§ 21.03.012 COLLECTION AND USE OF IN-LIEU PAYMENTS.**

- (a) Proposal. To the maximum extent possible, any monies received by the County pursuant to this Chapter shall be used to increase, improve and preserve the supply of affordable housing and staff administrative services to provide extremely low, very low, low, and/or moderate income housing. Any monies received pursuant to this Chapter may be used for appropriate monitoring, enforcement, and administrative costs. Monies received may also be used to assist the County and other County Agencies with all costs associated for construction, acquisition, unit purchase, development, and rehabilitation of property for rental or homeownership purposes as long as the property is offered for extremely low, very low, low, and moderate income housing. Monies received may also be used to provide subsidies for equity participation loans, low interest loans, rent subsidies, grants or down payment assistance to eligible participants of extremely low, very low, low, or moderate income housing. Monies received may also be used for related activities that promote affordable housing such as homebuyer education, grant writing workshops, credit management workshops, financial literacy workshops and foreclosure prevention education. Monies may also be expended for staff time, and professional services (such as legal, engineering, architectural, auditing, accounting, and other similar services) for the Affordable Housing Program. Any monies received by the County pursuant to this Chapter shall be used to provide reasonable reimbursement to approved governmental agencies or non-profit organizations for related expenses associated with preserving an affordable “At-risk” unit for extremely low, very low, low, or moderate income in order to prevent foreclosure. All such monies on deposit with the County including In-lieu Payments, fees, promissory note repayments, shared appreciation payments, penalties, interest generated or other funds collected shall be separately accounted for and shall not be used for purposes not authorized by Section 21.03.002.
- (b) Funding Proposals. At least once a year when the County holds unappropriated In-lieu Payments, the County shall advertise by notice in newspapers of local circulation and other such written notice as deemed necessary by the housing advisory committee, availability of funds for the provision of extremely low, very low, low, and/or moderate-income housing in the County.
- (c) Submit Proposal. Included in the notice shall be an invitation to submit proposals and requests for funds to provide such housing in the County. Proposals submitted for funding shall be in accordance with the Board of Supervisors' housing priorities set for the year. Proposals

shall be reviewed by the housing advisory committee to be submitted with its recommendations to the Board of Supervisors for final approval. The requests may be for grants, low interest loans and other funding mechanisms deemed appropriate to secure the purpose of this chapter. The proposals may be for pre-development projects and services, projects to promote extremely low, very low, low, or moderate-income housing unit(s), rehabilitation, land acquisition, unit purchase, and development of infrastructure or other projects deemed appropriate to secure the purpose of this chapter.

- (d) Director's Authority. All proposals and requests for funding shall be referred initially to the director or designee. The director or designee shall make recommendations for funding to the housing advisory committee, who shall make a funding recommendation to the Board of Supervisors in accordance with the procedures in this section. The Board of Supervisors, at its discretion, may elect to fund none, any, or all of proposals received and may attach conditions of approval, performance standards, or mitigation measures to any such approval. For proposals which have received final approval in accordance with the procedures set forth in this section, the director or designee shall have the authority to execute all documents necessary to implement the approval on behalf of the County, subject to the approval of County Counsel.
- (e) Grant Contract. Upon authorization for funding, the director on behalf of the County shall enter into a contract to assure to the greatest extent possible that the approved proposals and requests are satisfactorily completed. No warrant shall be issued until such contract is completed and signed by the appropriate parties.
- (f) Household Eligibility. The director shall establish standards for eligibility of Extremely Low, Very Low, Low, and/or Moderate-Income Households in connection with units assisted with the proceeds of In-lieu Payments. Priority for occupancy shall be granted to residents of San Benito County and those employed in San Benito County.
- (g) Impact Fees. If approved by the Board of Supervisors, developments projects which provides 100% affordable housing shall have a pro rata reduction of Impact Fees (as established from time to time in the San Benito County Code) as follows:
  - i) Moderate income units shall require payment of 25% of the Impact Fees.
  - ii) Low income units shall require payment of 15% of the Impact Fees.
  - iii) Very Low & Extremely Low income units shall be exempt from the Impact Fees.

**Section 2.** Sections 21.03.014 through 21.03.015 of Chapter 21.03 of Title 21 of the San Benito County Code shall be amended to read as follows:

**§ 21.03.014 ENFORCEMENT.**

- (a) No permit, license, subdivision approval or map, or other approval or entitlement for a residential development shall be issued, including without limitation a final inspection for occupancy or certificate of occupancy, until all applicable requirements of this chapter have been

satisfied.

- (b) In the event of a violation of any provision of this chapter or any requirement imposed pursuant to this chapter, the County may in its discretion, in addition to all other remedies, take such enforcement action as is authorized under the San Benito County Code and/or any other action authorized by law or by any regulatory document, restriction or agreement executed under this chapter.

### **§ 21.03.015 MONITORING.**

Owners and occupants of property subject to restrictions pursuant to this chapter shall permit County employees or others designated by the County to inspect the property in order to ensure compliance with restrictions on the property upon two business days' advance written notice. Owners of property subject to restrictions pursuant to this chapter shall retain all records related to compliance with obligations under this chapter for a period not less than their ownership of the property, and after it is sold, for no more than five years, and make such records available to County employees or others designated by the County for inspection and copying upon five business days' advance written notice. The County shall be further entitled to monitor compliance with this chapter as provided in the administrative manual and documents executed with respect to any residential development and/or inclusionary unit.

- (a) Periodic Evaluation. Unless funding or staff is not available, the director shall at five-year intervals, or more often at the director's discretion, at Board request, and any time the County Housing Element is updated as required by State law, prepare and submit to the Board of Supervisors an evaluation of this chapter and its effects.

### **Section 3. General Provisions**

- A. **Severability:** If any sentence, subsection, sentence, clause, or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance. The Board of Supervisors hereby declares that it would have enacted this ordinance and each section, subsection, sentences, clauses or phrases thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.
- B. **Captions:** The titles and headings to sections of this ordinance are not part of this ordinance and shall have no effect upon the construction or interpretation of any part hereof.
- C. **Effective Date and Codification:** This ordinance shall be effective thirty (30) days after adoption. Sections 1 and 2 shall be codified, and the remaining sections shall not be codified.
- D. **Publication:** Within ten (10) days after its adoption, this ordinance shall be published pursuant to California Government Code 6061 in its entirety in a newspaper of general circulation which is printed, published and circulated within San Benito County, or a summary or display ad may be published as allowed by the Government Code.

The foregoing ordinance was introduced at a regular meeting of the Board of Supervisors on \_\_\_\_\_, 2019, and passed and adopted by the Board of Supervisors of the County of San Benito at the regular meeting of said Board held on the \_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES: Supervisors:  
NOES: Supervisors  
ABSENT: Supervisors  
ABSTAIN: Supervisors

By: \_\_\_\_\_  
Mark Medina, Chair

ATTEST:  
Janet Slibsager

APPROVED AS TO LEGAL FORM:  
Barbara Thompson, County Counsel

By: \_\_\_\_\_

By: \_\_\_\_\_  
Barbara Thompson

Date: \_\_\_\_\_ Date: \_\_\_\_\_

***BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO***

**A RESOLUTION OF THE PLANNING )  
COMMISSION OF THE COUNTY OF SAN )  
BENITO, STATE OF CALIFORNIA, )  
RECOMMENDING THE BOARD OF )  
SUPERVISORS AMEND CHAPTER 21.03 )  
RELATING TO AFFORDABLE HOUSING )  
REGULATIONS. )**

**Resolution No. 2019-**

**WHEREAS**, the Planning Commission has held a duly noticed public hearing on the proposed regular ordinance amending Chapter 21.03, related to affordable housing within San Benito County; and

**WHEREAS**, in October of 2016 Ch. 21.03, Ordinance 951, was approved by Board of Supervisors to reestablish an Inclusionary Housing Ordinance; and

**WHEREAS**, Ch. 21.03 set specific percentages for inclusionary housing based on the number of units. At the time of approval an in-lieu payment for the inclusionary housing was not determined and a study to establish an appropriate payment was expected. Since the approval of Ch. 21.03 an in-lieu payment has not been established; and

**WHEREAS**, because the lack of an established in-lieu payment has led to only nominal payments being offered by applicants and collected by San Benito County, the current in-lieu payments collected by the County have proved to be insufficient; and

**WHEREAS**, the proposed ordinance amendments seek to accomplish multiple goals which include establishing a sufficient amount for an in-lieu payment in order to provide for and incentivize the construction of affordable on-site units.

**WHEREAS**, the proposed changes to the ordinance include, but are not limited to the following items: 1) Establishing an Inclusionary Unit Cost to provide for sufficient in-lieu payments to accomplish the aforementioned goals, 2) Updating the Housing Advisory Committee to seven members, 3) Including the defined term for, “Extremely-low income,” and 4) Removing sections 21.03.014, 21.03.015, 21.03.16 from the current ordinance.

**WHEREAS**, the Planning Commission has determined that the proposed ordinance is consistent with the following sections of the 2035 General Plan:

**Goal HOU-1A-10 Affordable Housing Development Priority**

- To encourage local housing to be affordable to extremely-low, very-low, low, and moderate-income families and members of the local workforce, the County shall grant affordable housing units priority for development.

**Goal HOU-2 HOU-2A**

- The County shall continue to approve developments that provide housing for all income groups where consistent with the County Housing Element,

**Goal HOU-2-10 Affordable Housing Requirement**

- The County shall consider developing and adopting an ordinance to require that development contribute to the local supply of affordable housing.

**NOW THEREFORE BE IT RESOLVED**, that based on the evidence in the record, the Planning Commission of the County of San Benito hereby finds as follows:

Pursuant to Section 15061(b)(3) of the CEQA Guidelines, the County of San Benito has determined, on the basis of substantial evidence in the light of the whole record, that:

(a) Under CEQA Guidelines 15061(b)(3), CEQA review is not required because it can be seen with certainty that there is no possibility that the adoption of the ordinance will have significant effect on the environment.

**BE IT FURTHER RESOLVED** by the Planning Commission of the County of San Benito recommends that the Board of Supervisors adopt the proposed ordinance amending Ch. 21.03, of the San Benito County Code relating to the affordable housing regulations.



**PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO THIS 19<sup>TH</sup> DAY OF JUNE 2019 BY THE FOLLOWING VOTE:**

AYES:

NOES:

ABSENT:

ABSTAIN:

---

**Robert Rodriguez, Chair**

San Benito County Planning Commission

**ATTEST:**

By: \_\_\_\_\_

**Taven M. Kinison Brown, Principal Planner**  
Resource Management Agency San Benito County

# SAN BENITO COUNTY



## BY-LAWS

Procedures for the Transaction of Business

For

Housing Advisory Committee (HAC)

**I. Name**

The name of the Committee shall be: Housing Advisory Committee (HAC).

**II. Authority**

- A. San Benito County amended Ch. 21.03 Affordable Housing Regulations (Former Ordinance 766) and adopted the new Ordinance 951 in 2016.
- B. The updated ordinance establishes a Housing Advisory Committee for inclusionary housing projects.
- C. The HAC acts in an advisory capacity to the County Board of Supervisors and/or Planning Commission on subjects relating to Housing.

**III. Purpose**

The purpose of this committee is to advise the Board of Supervisors on matters relating to the Housing Element of the General Plan and the inclusionary housing ordinance, and such other matters as the Board of Supervisors or County Staff shall direct. The committee is also expected to evaluate proposals for disbursal of in-lieu fees in accordance with Ch. 21. The HAC is an appointed body that is charged with reviewing and considering housing related issues for the County.

**IV. Duties**

The Duties of the HAC will meet at least quarterly, to review the following operations:

- A. Provide advice regarding affordable housing programs, guidelines and policies consistent with the Housing Element of the San Benito County General Plan.
- B. Provide advice regarding opportunities for the development of housing affordable to those households with very low, low and moderate income.
- C. Assist staff and the Board of Supervisors to promote greater public understanding and acceptance of affordable housing.
- D. Provide advice regarding the expenditures of funds that are set aside for affordable housing programs and make funding recommendations.
- E. Make recommendations to the Planning Commission, Board of Supervisors, and staff regarding affordable housing preferences and program eligibility criteria.
- F. Provide advocacy for establishing and maintaining a diversity of housing types and opportunities in San Benito County.
- G. A housing advisory committee may be designated to review the income qualifications of potential applicants as part of the selection process of program participants
- H. Other functions include review and recommendations on proposed grant and loan applications related to specific housing projects.

**V. Attendance**

- A. HAC committee members shall attend HAC meetings.
- B. A member who cannot attend a meeting must notify the designated staff.
- C. Whenever an elected member of the HAC (Planning Commissioner & Board of Supervisor) does not attend three (3) consecutive, regularly scheduled meetings, the Chair of the HAC shall notify the nominating agency/organization of the absences and request appropriate action.

**VI. Membership**

- A. Members of the Housing Advisory Committee shall be San Benito residents who have a particular interest or expertise in the area of affordable housing and are 18 years of age or older.
- B. Members of the Committee shall be appointed by the Board of Supervisors through a recommendation by the Chair of the Board.
- C. There shall be seven (7) voting members of the Committee, serving two-year terms or until a successor is appointed and able to serve.
  - 1. Two (2) members of the San Benito County Board of Supervisors and an alternative.
  - 2. Two (2) members of the San Benito County Planning Commission and an alternative.
  - 3. Three (3) Members Appointed by the Board of Supervisors Chair
    - a. One member of the affordable housing development community.
    - b. One member of the builder development community
    - c. One member with a financial or accounting background
- D. Public applicants cannot be currently serving on another County Advisory Committee or be an elected official.
- E. Reasons for removal of members of the Committee shall be
  - 1. Members shall notify the Chair or staff in the event of an anticipated absence from a regularly scheduled meeting. Three absences in any twelve month period shall constitute voluntary resignation from being a full Committee member. If due to unforeseen circumstances, a Committee member cannot fulfill his/her duties, the Committee member may request Alternate status through the Chair.
  - 2. Conflict of interest.

## **VII. Terms**

- A. HAC members serve for two year term; with the exception of the first year of establishment, three committee members will serve for three years.
- B. Committee members of HAC shall be appointed by and serve at the pleasure of the Board of Supervisors. Alternate committee members may be designated by each representation on HAC; however, in order to have voting privileges, an alternate designated by an organization must be officially appointed as such by the Board of Supervisors after the vacancy in membership is properly noticed per the Maddy Act (Government Code Section 54970 et seq.)
- C. Any Board appointed committee member or alternate committee member choosing to resign from the HAC must submit a written letter of resignation to the Clerk of the Board of Supervisors with a copy to the HAC Chair.
- D. Vacancies in membership shall be properly noticed (Maddy Act) and nominations to fill vacancies shall be submitted by the representative of the organization. Public-at-Large wishing to be appointed shall complete an application available from the Clerk of the Board.

## **VIII. Committee Organization**

- A. The Committee shall set a regular day and time to meet quarterly. Special meeting can be The Committee shall set a regular day and time to meet quarterly. More meetings can be set by the committee.
- B. A quorum shall be 4 voting members.
  - 1. A majority of votes is defined as simple majority, if quorum present.
- C. Generally accepted practices or principles for meetings shall govern the Committee's proceedings



- D. The Brown Act Laws for Open Public Meetings, Government Code Section 54950.5 governs the Committees' actions.

### **IX. Officers & Staff**

The Officers of HAC are the Chair and Vice Chair, and designated alternates.

- A. Officers shall be elected for one year term;
- B. Officers shall be elected from the voting commissioners of the HAC at the first meeting of the New Year by a simple majority of the HAC commission present.
- C. The one-year term officers will begin upon accepting the election and terminate on December 31<sup>st</sup> of the year.
- D. The Chair of the Committee will serve one year appointment.
  1. Presides at meetings;
  2. Appoints sub-committee membership;
  3. Follows-up on work of sub-committees;
  4. Represents the Committee to the Planning Commission Board of Supervisors;
  5. Calls special meetings;
  6. Coordinates agenda preparation with staff; and
  7. Encourages active participation of members.
- E. The Vice-Chair of the Committee Presides at meetings in the absence of the Chair.
- F. Staff role
  1. Record attendance,
  2. Prepare summary minutes,
  3. Arrange for filling vacancies,
  4. Prepare agenda in consultation with Chair,
  5. Provide information necessary for committee work,
  6. Assure compliance with applicable laws,
  7. Lend professional expertise, and
  8. Track time spent on Committee work.

### **IX. Responsibilities of the Committee**

- A. Appoint sub-committees (either special or on-going),
- B. Appoint acting Chair in absence of both Chair, Vice-Chair, and alternate.
- C. Submit recommendations to the Planning Commission.
- D. Establish goals and action plan to achieve assigned duties, and
- E. Fill vacancies as appointed by the Chair.

### **X. Amendments to these By-laws**

- A. Changes in these By-laws must be approved by a majority vote of the Committee and then ratified by the Board of Supervisors.
- B. Rules of Order:
  - a. All meetings will be governed by the Brown Act.

### **XI. Conflict of Interest**

If a conflict of interest is perceived to exist, at the onset of the meeting, should any commissioner determine their recusal is warranted due to conflict of interest, then that member should inform the Chairperson and state for the record that they will not be participating in that agenda item.



**AFFORDABILITY GAP ANALYSIS  
FOR SINGLE-FAMILY HOUSING USES**

A Memorandum Report to

**COUNTY OF SAN BENITO**

from

**GRUEN GRUEN + ASSOCIATES**

*Urban Economists, Market Strategists and Land Use/Public Policy Analysts*

June 2018

C1508



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APPLYING KNOWLEDGE  
CREATING RESULTS  
ADDING VALUE

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**GRUEN GRUEN + ASSOCIATES**  
MEMORANDUM

Date: June 25, 2018  
To: Resource Management Agency, County of San Benito  
From: Gruen Gruen + Associates  
Subject: Affordability Gap Analysis for Single-Family Housing Uses  
cc:

---

## INTRODUCTION

This Memorandum Report presents additional analysis related to the report prepared last year by Gruen Gruen + Associates (GG+A), entitled “Inclusionary Housing In-Lieu Fee Analysis and Research.” The purpose of that study was to estimate in-lieu fees which are not currently specified in the San Benito County Ordinance on Affordable Housing Regulations. Affordability gaps were estimated for prototypical multi-family uses (both rental and ownership) but not single-family uses. At the request of County staff, the purpose of this Memorandum Report is to estimate affordability gaps for single-family housing uses. An affordability gap analysis is part of the basis upon which impact fees and in-lieu fees must be established. The Memorandum Report contains three primary sections: (1) a summary of current affordable housing income limits and an estimate of affordable sales prices based on these limits; (2) the affordable housing gap analysis for single-family uses that compares differences between affordable and market-rate sales prices; and (3) estimates of in-lieu fees based on the affordable housing gap calculations and the existing policy outlined in the San Benito County Affordable Housing Ordinance.

## PRIMARY CONCLUSIONS – ESTIMATES OF IN-LIEU FEES BASED ON AFFORDABILITY GAPS

Under a scenario in which all inclusionary housing units are assumed to be provided in large lot detached single-family ownership units, in the same size and quality as market-rate units, the average affordability gap at the Very Low, Low, and Moderate income levels is estimated at just under \$230,000 per inclusionary unit. Inclusionary housing in-lieu fees per total dwelling unit range from approximately \$34,000 to \$46,000 depending upon whether fees are paid at the on-site or off-site inclusionary housing rate. For a prototypical market-rate home consisting of an average of 2,100 square feet, this equates to an in-lieu fee of approximately \$16 to \$22 per square foot.<sup>1</sup>

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<sup>1</sup> Santa Cruz imposes an in-lieu fee of \$15 per square foot for ownership housing (see Page 24 of prior GG+A report, “Inclusionary Housing In-Lieu Fee Analysis and Research.” The City of Salinas imposes an in-lieu of \$12 per square foot for residential projects (see: [http://www.cityofsalinas.org/sites/default/files/departments\\_files/community\\_development\\_files/housing\\_division\\_files/draft\\_inclusionary\\_housing\\_guidelines.pdf](http://www.cityofsalinas.org/sites/default/files/departments_files/community_development_files/housing_division_files/draft_inclusionary_housing_guidelines.pdf)). San Luis Obispo county has a sliding scale in-lieu fee schedule that equates to \$18.75 per square foot (see: [http://www.slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/Ordinances/Affordable-Housing-Fund-Ordinance-\(Title-29\)-\(1\).aspx](http://www.slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/Ordinances/Affordable-Housing-Fund-Ordinance-(Title-29)-(1).aspx))



Under a more typical scenario in which a slightly different mix of for-sale single-family housing is assumed, with more modest unit sizes, the average affordability gap at the Very Low, Low, and Moderate income levels is estimated at approximately \$107,000 per inclusionary unit. Inclusionary housing in-lieu fees per total dwelling unit range from approximately \$16,000 to \$21,400, depending upon whether fees are paid at the on-site or off-site inclusionary housing rate. For a prototypical market-rate home consisting of an average of 2,100 square feet, this equates to an in-lieu fee of approximately \$8 to \$11 per square foot.

It is beyond the scope of this assignment to estimate the impact of maximum in-lieu fees on development feasibility. However, imposing the maximum in-lieu fee of approximately \$34,000 to \$46,000 per market-rate unit is likely to cause land values to be close to zero if not negative.<sup>2</sup> Therefore, land owners would have no incentive to sell or develop land to produce single-family housing units if the maximum in-lieu fees based on the affordability gaps are imposed.

---

<sup>2</sup> Local building permit records suggest that vertical hard construction costs for new detached single-family units approximate \$150 per square foot. Assuming additional development costs for (a) land development and backbone infrastructure equal to \$10 per square foot of land, (b) impact and tap fees equal to \$40,000 for a typical single-family unit, (3) additional affordable housing in-lieu fees of \$46,000 per unit, and (4) additional “soft” expenses, including a builder’s profit margin, equal to 22% of sales revenues (consistent with industry averages) – a prototypical market-rate home with 2,100 square feet of living area would cost approximately \$620,000 to produce before acquiring land and securing entitlements. Given current market pricing for new detached single-family units, the residual land value under these assumptions would be very minimal if not negative (i.e., the development would be infeasible).



## HOUSEHOLD INCOME LIMITS AND AFFORDABLE SALES PRICES

This section summarizes current household income limits, maximum monthly affordable housing costs, and resulting estimates of affordable sales prices.

### 2018 Income Limits

Table 1 summarizes updated households income limits for San Benito County for the 2018 Fiscal Year.

	Household Size (Persons)							
	1	2	3	4	5	6	7	8
Extremely Low (30% AMI)	\$19,600	\$22,400	\$25,200	\$27,950	\$30,200	\$33,740	\$38,060	\$42,380
Very Low Income (50% AMI)	\$32,600	\$37,250	\$41,900	\$46,550	\$50,300	\$54,000	\$57,750	\$61,450
Low Income (80% AMI)	\$52,200	\$59,650	\$67,100	\$74,550	\$80,550	\$86,500	\$92,450	\$98,450
<b>Area Median Income (AMI)</b>	<b>\$56,750</b>	<b>\$64,900</b>	<b>\$73,000</b>	<b>\$81,100</b>	<b>\$87,600</b>	<b>\$94,100</b>	<b>\$100,550</b>	<b>\$107,050</b>
Moderate Income (120% AMI)	\$68,100	\$77,850	\$87,550	\$97,300	\$105,100	\$112,850	\$120,650	\$128,450

Sources: State of California, Department of Housing and Community Development; Gruen Gruen + Associates.

Household income limits have been increased since the prior analysis prepared by GG+A in 2017. Household income limits for the Extremely Low category - 30% or less of Area Median Income (AMI)- currently range from \$19,600 for a single-person household up to \$42,380 for an eight-person household. Limits for the Very Low category, which represents 30% to 50% of AMI, range from \$32,600 for a single-person household up to \$61,450 for an eight-person household. Limits for the Low category, reflecting 50% to 80% of AMI, range from \$52,500 for a single-person household up to \$98,450 for an eight-person household. The limits for the "Moderate Income" category, reflecting 80% to 120% of AMI, range from about \$68,000 up to \$128,500.

### Maximum Monthly Housing Costs

The first step in estimating an affordability gap is to calculate how much households in the targeted income categories can afford to pay for housing. To estimate maximum monthly housing costs, the income limits must be "adjusted for family size appropriate for the unit".<sup>3</sup> The affordability gap analysis for single-family units is based on the following household size assumptions:

- Two-bedroom units - 3 person household;
- Three-bedroom units - 5 person household; and
- Four-bedroom units - 7 person household.

<sup>3</sup> See Section 50053(b) of the California Health and Safety Code:  
[http://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=50053.&lawCode=HSC](http://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=50053.&lawCode=HSC)



California Health and Safety Code indicates that a three-bedroom home requires a family of at least four persons to qualify as below market rate purchasers.<sup>4</sup> That is, a family of three may meet the criteria of earning below-median income but it would not qualify for a four-bedroom unit given its household size. The Uniform Housing Code (section 503.2) further indicates that the legal occupancy of a single bedroom within a dwelling unit may be three or more persons (per bedroom) if the floor area exceeds 120 square feet. Additional legal occupants in a dwelling unit could be accommodated in other habitable rooms aside from kitchens. Thus, the legal occupancy of a single-family unit containing three bedrooms could house 10 or more people per state and federal housing law. The assumptions used to adjust income limits for appropriate family sizes are within the parameters of each occupancy standard (e.g., a minimum family size of five persons would be necessary to qualify for a below-market-rate housing unit with four bedrooms, while in theory a family of 10 or more could legally occupy the unit - the gap analysis assumes an average household size within this range of seven persons, etc.).

Monthly costs for owner-occupied single-family housing includes mortgage payments (principal and interest), permanent mortgage insurance, homeowner's insurance, and property taxes. Homeowner association (HOA) fees are not considered given most recent single-family developments such as Santana Ranch do not have HOA fees. An "affordable" monthly cost is defined as 35 percent or less of before-tax household income. Affordability for ownership housing is commonly defined at a higher percentage of before-tax household income than for rental housing because owners can retain and build equity in the units and may incur some expenses (e.g., mortgage insurance) that renters do not.

Table 2 presents the estimates of maximum monthly housing costs for two, three, and four-bedroom units.

<b>TABLE 2: Maximum Affordable Monthly Owner-Occupied Housing Costs</b>			
	Unit Type		
	2-Bed	3-Bed	4-Bed
Average Household Size (# Persons)	3.0	5.0	7.0
Maximum Monthly Costs: <sup>1</sup>			
Extremely Low Income	\$735	\$881	\$1,110
Very Low Income	\$1,222	\$1,467	\$1,684
Low Income	\$1,957	\$2,349	\$2,696
Moderate Income	\$2,554	\$3,065	\$3,519
<sup>1</sup> Calculated at 35 percent of before-tax household income.			
Sources: State of California, Department of Housing and Community Development; Gruen Gruen + Associates.			

Monthly maximum costs range from about \$700 to \$1,100, depending on unit size, for Extremely Low income households. Maximum monthly costs for Very Low income households range from

<sup>4</sup> See Footnote 1.



approximately \$1,200 to \$1,700 for two- to four-bedroom units. Monthly maximum costs range from about \$2,000 up to \$3,500 per unit for the Low and Moderate income household categories.

### **Affordable Sales Prices**

Table 3 summarizes estimates of maximum affordable sales prices by income level for two-bedroom, three-bedroom, and four-bedroom ownership units.



<b>TABLE 3: Estimated Maximum Affordable Housing Sale Prices in San Benito County</b>			
	2-Bed	3-Bed	4-Bed
<u>Extremely Low Income</u>			
Maximum Monthly Housing Payment	\$735	\$881	\$1,110
Less: Mortgage Insurance <sup>1</sup>	\$78	\$94	\$118
Less: Homeowners Insurance <sup>2</sup>	\$18	\$22	\$27
Less: Property Tax <sup>3</sup>	\$115	\$137	\$173
Available for Mortgage Principal & Interest	\$524	\$628	\$791
<b>Affordable Sales Price @ 3.93% Rate and 96.5% LTV<sup>4</sup></b>	<b>\$114,663</b>	<b>\$137,440</b>	<b>\$173,165</b>
<u>Very Low Income</u>			
Maximum Monthly Housing Payment	\$1,222	\$1,467	\$1,684
Less: Mortgage Insurance <sup>1</sup>	\$130	\$156	\$180
Less: Homeowners Insurance <sup>2</sup>	\$30	\$36	\$42
Less: Property Tax <sup>3</sup>	\$191	\$229	\$263
Available for Mortgage Principal & Interest	\$871	\$1,045	\$1,200
<b>Affordable Sales Price @ 3.93% Rate and 96.5% LTV<sup>4</sup></b>	<b>\$190,637</b>	<b>\$228,858</b>	<b>\$262,711</b>
<u>Low Income</u>			
Maximum Monthly Housing Payment	\$1,957	\$2,349	\$2,696
Less: Mortgage Insurance <sup>1</sup>	\$209	\$250	\$287
Less: Homeowners Insurance <sup>2</sup>	\$48	\$58	\$67
Less: Property Tax <sup>3</sup>	\$305	\$366	\$421
Available for Mortgage Principal & Interest	\$1,395	\$1,674	\$1,921
<b>Affordable Sales Price @ 3.93% Rate and 96.5% LTV<sup>4</sup></b>	<b>\$305,301</b>	<b>\$366,454</b>	<b>\$420,588</b>
<u>Moderate Income</u>			
Maximum Monthly Housing Payment	\$2,554	\$3,065	\$3,519
Less: Mortgage Insurance <sup>1</sup>	\$272	\$327	\$375
Less: Homeowners Insurance <sup>2</sup>	\$63	\$76	\$87
Less: Property Tax <sup>3</sup>	\$398	\$478	\$549
Available for Mortgage Principal & Interest	\$1,820	\$2,184	\$2,508
<b>Affordable Sales Price @ 3.93% Rate and 96.5% LTV<sup>4</sup></b>	<b>\$398,435</b>	<b>\$478,154</b>	<b>\$548,980</b>
<sup>1</sup> Current permanent mortgage insurance premium on FHA loans below \$625,000 is 85 basis points (0.85%). <sup>2</sup> According to the California Department of Insurance, homeowners insurance premiums average 0.19 percent of replacement (coverage) value in San Benito County. <sup>3</sup> Assumes annual taxes equal to approximately 1.2 percent of market (assessed) value. <sup>4</sup> Affordable sales price calculations assume a 3.5 percent down payment (the minimum down payment required under FHA loans) with a 30-year fixed interest rate of 3.93 percent (which represents the three-year rate average on conventional 30-year fixed rate loans according to the Freddie Mac Primary Mortgage Market Survey).			
Sources: San Benito County Assessor; California Department of Insurance; Federal Housing Administration; Freddie Mac; Gruen Gruen + Associates.			

Affordable sales prices for two-bedroom units range from \$115,000 for Extremely Low income households up to \$398,000 for Moderate income households. Affordable prices for three-bedroom



units for Extremely Low and Very Low income households range from about \$137,000 to \$229,000. The affordable sales price for a three-bedroom unit at the Low and Moderate income level is estimated to range from \$366,000 to \$478,000. Affordable pricing for large four-bedroom units approximates \$173,000 to \$263,000 at the Extremely Low and Very Low income levels, \$421,000 at the Low income level, and nearly \$549,000 at the Moderate income level.

## **AFFORDABLE HOUSING GAP ANALYSIS FOR SINGLE-FAMILY OWNERSHIP HOUSING**

This section estimates the affordability gaps that apply to for-sale single-family housing in San Benito County based on current income limits (reviewed above) and prevailing market-rate housing prices. Affordability gaps are estimated for two single-family development alternatives:

1. The first alternative assumes no product differentiation between market-rate homes and affordable homes. It includes large lot single-family units with an equal mix of three-bedroom and four-bedroom detached units;
2. The second alternative assumes that affordable housing requirements would be met through provision of a different unit mix and more modest average unit sizes (e.g., smaller-lot single-family units including attached products). The second alternative is still modeled as for-sale single-family housing but differs slightly from the type and scale of market-rate housing being built in the county.

According to County staff, no affordable single-family housing projects are under development or have been recently developed in San Benito County. Affordability gap estimates typically quantify the difference between (a) the total development cost including builder profit by unit type for modest for-sale housing and (b) the affordable sales price by unit type. Because County staff were unable to arrange interviews with or otherwise obtain costs from active developers/builders of single-family housing product in San Benito County and GG+A did not obtain cooperation from the builders identified by County staff but not contacted by County staff, GG+A used sales prices as a proxy for development costs plus profit. GG+A completed a detailed review of market-rate sales pricing for recently built single-family developments in San Benito County.



## Estimated Market-Rate Sales Pricing

Table 4 summarizes characteristics and asking prices for active new construction single-family homes in San Benito County.

<b>TABLE 4: Unit Sizes and Asking Prices for Active Single-Family Developments</b>			
	Unit Types (Beds/Baths)	Unit Sizes # Square Feet	Listing Prices (Per-Square-Foot)
Santana Ranch (Anderson)	3/2	1,675	\$338
	3/2.5	1,850	\$315
	4/2	2,003	\$309
	4/3	2,460-2,698	\$250-\$275
Santana Ranch (Legacy)	3/2	1,832-2,073	\$308-\$317
	3/2.5	1,942	\$306
	4/3	2,422-2,572	\$253-\$264
	4/3.5	2,365	\$277
Orchard Park (Blue Mountain)	3/2.5	1,792	\$290
	4/3	2,092-2,226	\$250-\$255
Ladd Ranch (K. Hovnanian)	3/2	1,974	\$309
	4/3	2,265-2,478	\$260-\$270
Rancho Vista (Meritage)	4/3	2,347	\$300
	4/4	2,701-3,085	\$254-\$283
Sources: Anderson Homes; Blue Mountain Communities; Legacy Homes; Meritage Homes; Gruen Gruen + Associates.			

Unit sizes for detached single-family homes containing three bedrooms range from approximately 1,700 to 2,100 square feet. Asking prices for the three-bedroom units range from about \$290 to \$340 per square foot. Unit sizes for detached single-family homes containing four bedrooms range from approximately 2,000 square feet up to 3,100 square feet. Asking prices for four-bedroom units range from approximately \$250 to \$310 per square foot.

Table 5 summarizes actual sales of recently built single-family homes in San Benito County over the past year.





<b>TABLE 5: Market Rate Sales Pricing for Recently Built<sup>1</sup> Single-Family Homes</b>			
	3-Bedroom	4-Bedroom	5-Bedroom
Number of Sales (Past 12 Months)	41	31	5
Home Sizes in Square Feet:			
Average	1,785	2,371	2,725
Range	1,375 – 2,240	1,855 – 2,939	2,286 – 3,363
Average Sales Pricing:			
Per Unit	\$533,912	\$638,186	\$638,492
Per Square Foot (Weighted)	\$299	\$269	\$234
<sup>1</sup> Sales statistics are for detached single-family homes built 2015 or later in San Benito County. Includes new construction sales and re-sales reported over the past 12 months.			
Sources: Redfin; Multiple Listing Service; Gruen Gruen + Associates.			

According to Redfin and MLS data, there have been 41 sales in the past year of three-bedroom homes built in 2015 or later. The homes ranged in size from 1,375 to 2,240 square feet and contained an average of 1,785 square feet. The average price per unit was approximately \$534,000 or \$299 per square foot. There have been 31 sales of larger four-bedroom units in the past year (again only including newer units built since 2015). The four-bedroom homes sold ranged in size from about 1,860 to 2,940 square feet, with an average unit size of just under 2,400 square feet. The average price per unit was approximately \$638,000 or \$269 per square foot. Five sales occurred in the past year for new homes featuring five bedrooms. The average home contained about 2,700 square feet and was sold at an average price of \$234 per square foot.



## Single-Family Housing Prototypes

Table 6 summarizes each of the single-family development alternatives for which affordability gap estimates are prepared.

	Alternative 1	Alternative 2
<u>Single-Family Unit Mix:</u>		
Two-Bedroom Units	None	20.0
Three-Bedroom Units	50.0	50.0
Four-Bedroom Units	50.0	30.0
Total Units	100.0	100.0
<u>Average Unit Sizes (in Square Feet):</u>		
Two-Bedroom Units	NA	1,200
Three-Bedroom Units	1,800	1,500
Four-Bedroom Units	2,400	1,800
Overall Average	2,100	1,530
Source: Gruen Gruen + Associates		

The first alternative is consistent with market-rate single-family units recently built in San Benito County. It assumes a 50/50 mix of three- and four-bedroom detached single-family homes at a density of roughly five units per gross acre. Three-bedroom units are assumed to average 1,800 square feet in size and four-bedroom units average 2,400 square feet in size, for an overall average home size of 2,100 square feet.

The second alternative is consistent with more “modest” smaller lot single-family housing products. It assumes a unit mix consisting of 20 percent two-bedroom units, 50 percent three-bedroom units, and 30 percent four-bedroom units. Unit sizes are assumed to be smaller than market-rate homes containing the same number of bedrooms<sup>5</sup>. Two-bedroom units are assumed to average 1,200 square feet in size. Three-bedroom units are assumed to average 1,500 square feet in size and four-bedroom units average 1,800 square feet in size. The overall average home size is estimated at just over 1,500 square feet.

<sup>5</sup> The small Buena Vista affordable single-family development in the city of Hollister features three- and four-bedroom homes ranging in size from 1,603 to 1,826 square feet. See: <http://www.chispahousing.org/wp-content/uploads/2017/09/Buena-Vista-Homes-Info-Flyer-all-homes-10pp-2017.pdf>.



## Affordable For-Sale Housing Gap Calculations

Table 7 summarizes the estimated affordability gaps for Alternative 1 and Alternative 2 at each income level.

<b>TABLE 7: Estimated Average Affordability Gap Per Unit by Income Level <sup>1</sup></b>		
	Alternative 1	Alternative 2
Extremely Low Income	\$458,198	\$325,148
Very Low Income	\$367,715	\$237,380
Low Income	\$219,979	\$98,286
Moderate Income	\$99,933	(\$14,708) <sup>2</sup>
<sup>1</sup> The affordability gap estimates are based on market-rate pricing as follows: <ul style="list-style-type: none"> <li>- Two-bedroom units: \$350 per square foot</li> <li>- Three-bedroom units: \$315 per square foot</li> <li>- Four-bedroom units: \$275 per square foot</li> </ul> <sup>2</sup> No affordability gap is estimated to exist. Affordable prices per unit (on average) for Alternative 2 would exceed market-rate pricing by \$14,708 per unit.		
Source: Gruen Gruen + Associates		

At the Extremely Low income level (30% of AMI), the average gap is estimated at approximately \$458,000 per unit for Alternative 1. The average gap is estimated at \$368,000 per unit at the Very Low income level (50% of AMI) and \$220,000 per unit at the Low income level (80% of AMI) for Alternative 1. At the Moderate income level (120% of AMI), the average gap is estimated at approximately \$100,000 for Alternative 1. The estimated affordability gaps for Alternative 1 indicate the differences between market-rate and affordable prices if **no product differentiation (between market-rate and affordable homes) exists.**

For Alternative 2, in which a different unit mix is assumed with more modest unit sizes, the affordability gaps are lower. At the Extremely Low and Very Low income levels (30% and 50% of AMI), the average gaps are estimated at \$325,000 and \$237,000 per unit. The average gap is estimated at \$98,000 at the Low income level (80% of AMI) under Alternative 2. **At the Moderate income level (120% of AMI) under Alternative 2, the gap analysis suggests that affordable prices would more than exceed typical market-rate pricing and therefore no affordability gap exists at that income level.**



## ESTIMATE OF IN-LIEU FEE BASED ON THE RESULTS OF THE AFFORDABILITY GAP ANALYSIS AND EXISTING SAN BENITO COUNTY INCLUSIONARY HOUSING REQUIREMENTS

The existing San Benito County Affordable Housing Ordinance targets three income limits for inclusionary housing: Very Low, Low, and Moderate income households. As summarized in Table 8, we estimate an overall average affordability gap at these income targets of approximately \$229,000 for Alternative 1 and \$107,000 for Alternative 2. Table 8 further estimates the maximum in-lieu fees per total dwelling unit for each Alternative.

<b>TABLE 8: Estimated In-Lieu Fees Per Total Dwelling Unit <sup>1</sup></b>		
	Alternative 1	Alternative 2
Average Affordability Gap Per Unit for Very Low, Low, and Moderate Income Levels <sup>1</sup>	\$229,209	\$106,986
Inclusionary Housing Requirement <sup>2</sup>	15% - 20%	15% - 20%
<b>Inclusionary Housing In-Lieu Fee Per Total Unit</b>	<b>\$34,381 - \$45,842</b>	<b>\$16,048 - \$21,397</b>
<sup>1</sup> Excludes the Extremely Low income category.		
<sup>2</sup> The range of 15 to 20 percent is applied because the existing Affordable Housing Ordinance is not clear about whether in-lieu fees can be paid on the percentage of on-site or off-site inclusionary housing units required.		
Source: Gruen Gruen + Associates		

On the assumption that the inclusionary requirements set forth in the existing Ordinance (15 percent on-site requirement, 20 percent off-site requirement) reflect the relationship between new market-rate residential development and the need for additional affordable housing induced by the new market-rate households<sup>6</sup>, Table 8 summarizes estimates of the in-lieu fee per total unit based on these inclusionary housing requirements ranging from 15 to 20 percent of total dwelling units. Note that a range is applied because the existing policy is not clear about whether in-lieu fees can be paid on the percentage of on-site or off-site inclusionary housing units required.

<sup>6</sup> It is beyond the scope of the study summarized in this report to evaluate if the production and occupancy of market rate housing units induces the need for additional affordable housing units in San Benito County.



Under Alternative 1 in which all inclusionary units are assumed to be provided in large lot detached single-family ownership units, in the same size and quality as market-rate units, the average affordability gap at the Very Low, Low, and Moderate income levels is estimated at just under \$230,000 per inclusionary unit. Inclusionary housing in-lieu fees per total dwelling unit range from approximately \$34,000 to \$46,000 depending upon whether fees are paid at the on-site or off-site inclusionary housing rate. For a prototypical market-rate home consisting of an average of 2,100 square feet, this equates to an in-lieu fee of approximately \$16 to \$22 per square foot.<sup>7</sup>

Under Alternative 2 in which a slightly different mix of for-sale single-family housing is assumed, with more modest unit sizes, the average affordability gap at the Very Low, Low, and Moderate income levels is estimated at approximately \$107,000 per inclusionary unit. Inclusionary housing in-lieu fees per total dwelling unit range from approximately \$16,000 to \$21,400, again depending upon whether fees are paid at the on-site or off-site inclusionary housing rate. For a prototypical market-rate home consisting of an average of 2,100 square feet, this equates to an in-lieu fee of approximately \$8 to \$11 per square foot.

It is beyond the scope of this assignment to estimate the impact of maximum in-lieu fees on development feasibility. However, imposing the maximum in-lieu fee of approximately \$34,000 to \$46,000 per market-rate unit is likely to cause land values to be close to zero if not negative.<sup>8</sup> Therefore, land owners would have no incentive to sell or develop land to produce single-family housing units if the maximum in-lieu fees based on the affordability gaps are imposed.

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<sup>7</sup> Santa Cruz imposes an in-lieu fee of \$15 per square foot for ownership housing (see Page 24 of prior GG+A report, “Inclusionary Housing In-Lieu Fee Analysis and Research.” The City of Salinas imposes an in-lieu of \$12 per square foot for residential projects (see: [http://www.cityofsalinas.org/sites/default/files/departments\\_files/community\\_development\\_files/housing\\_division\\_files/draft\\_inclusionary\\_housing\\_guidelines.pdf](http://www.cityofsalinas.org/sites/default/files/departments_files/community_development_files/housing_division_files/draft_inclusionary_housing_guidelines.pdf)). San Luis Obispo county has a sliding scale in-lieu fee schedule that equates to \$18.75 per square foot (see: [http://www.slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/Ordinances/Affordable-Housing-Fund-Ordinance-\(Title-29\)-\(1\).aspx](http://www.slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/Ordinances/Affordable-Housing-Fund-Ordinance-(Title-29)-(1).aspx))

<sup>8</sup> Local building permit records suggest that vertical hard construction costs for new detached single-family units approximate \$150 per square foot. Assuming additional development costs for (a) land development and backbone infrastructure equal to \$10 per square foot of land, (b) impact and tap fees equal to \$40,000 for a typical single-family unit, (3) additional affordable housing in-lieu fees of \$46,000 per unit, and (4) additional “soft” expenses, including a builder’s profit margin, equal to 22% of sales revenues (consistent with industry averages) – a prototypical market-rate home with 2,100 square feet of living area would cost approximately \$620,000 to produce before acquiring land and securing entitlements. Given current market pricing for new detached single-family units, the residual land value under these assumptions would be very minimal if not negative (i.e., the development would be infeasible).

Gruen Gruen + Associates (GG+A) is a firm of economists, sociologists, statisticians and market, financial and fiscal analysts. Developers, public agencies, attorneys and others involved in real estate asset management utilize GG+A research and consulting to make and implement investment, marketing, product, pricing and legal support decisions. The firm's staff has extensive experience and special training in the use of demographic analysis, survey research, econometrics, psychometrics and financial analysis to describe and forecast markets for a wide variety of real estate projects and economic activities.

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# Affordability Gap

4 bedroom/5 person household

	Gruen & Gruen Average Market Rate Price	Affordable Price 3 Bedroom/4 person*	Affordable Price 4 Bedroom/5 person*	Average Affordable Price*	Gap	Average Gap	15% In Lieu Fee per unit	20% In Lieu Fee per unit	In Lieu Fee/ Square Foot**
<b>Extremely Low</b>	\$ 613,500.00	\$ 76,500.00	\$ 83,000.00	\$ 79,750.00	\$ 533,750.00	\$ 413,000.00	\$ 61,950.00	\$ 82,600.00	\$ 29.50
<b>Very Low</b>	\$ 613,500.00	\$ 135,000.00	\$ 145,000.00	\$ 140,000.00	\$ 473,500.00				
<b>Low</b>	\$ 613,500.00	\$ 194,000.00	\$ 210,500.00	\$ 202,250.00	\$ 411,250.00				
<b>Moderate</b>	\$ 613,500.00	\$ 365,000.00	\$ 395,000.00	\$ 380,000.00	\$ 233,500.00				

\* Price Assumptions

6% Interest Rate

95% Loan to Value

no more than 30% of AGI

\*\* Based average of

2,100 sq ft. home

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

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May 6, 2019

**MEMORANDUM FOR:** Interested parties

**FROM:** Zachary Olmstead, Deputy Director  
Division of Housing Policy Development

**SUBJECT:** **State Income Limits for 2019**

Attached are briefing materials and State Income Limits for 2019 that are now in effect and replace 2018 State Income Limits. Income limits reflect updated median income and household income levels for extremely low-, very low-, low-, and moderate-income households for California's 58 counties. The 2019 State Income Limits are on the Department of Housing and Community Development (HCD) website at <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>.

State Income Limits apply to designated programs, are used to determine applicant eligibility (based on the level of household income) and may be used to calculate affordable housing costs for applicable housing assistance programs. Use of State Income Limits are subject to a particular program's definition of income, family, family size, effective dates, and other factors. In addition, definitions applicable to income categories, criteria, and geographic areas sometimes differ depending on the funding source and program, resulting in some programs using other income limits.

The attached briefing materials detail California's 2019 Income Limits and were updated based on: (1) changes to income limits the U.S. Department of Housing and Urban Development (HUD) released on April 24, 2019 for its Public Housing, Section 8, Section 202 and Section 811 programs and (2) adjustments HCD made based on State statutory provisions and its 2013 Hold Harmless (HH) Policy. Since 2013, HCD's HH Policy has held State Income Limits harmless from any decreases in household income limits and median income levels that HUD may apply to the Section 8 Income Limits. HUD determined its HH Policy was no longer necessary due to federal law changes in 2008 (Public Law 110-98) prohibiting rent decreases in federal or private activity bond funded projects.

For questions concerning State Income Limits, please contact HCD staff at (916) 263-2911.



## **2019 State Income Limits Briefing Materials California Code of Regulations, Title 25, Section 6932**

### **Overview**

The Department of Housing and Community Development (HCD), pursuant to Health & Safety Code Section 50093(c), must file updates to its State Income Limits with the Office of Administrative Law. HCD annually updates these income limits based on U.S. Department of Housing and Urban Development (HUD) revisions to the Section 8 Income Limits that HUD released on April 24, 2019.

HUD annually updates its Section 8 Income Limits to reflect changes in median family income levels for different size households and income limits for extremely low-, very low-, and low-income households. HCD, pursuant to statutory provisions, makes the following additional revisions: (1) If necessary, increase a county's area median income to equal California's non-metropolitan median income, (2) adjusts area median income and household income category levels to not result in any decrease for any year after 2009 pursuant to HCD's February 2013 Hold Harmless (HH) Policy. HCD's HH Policy was implemented to replace HUD's HH Policy, discontinued in 2009, to not decrease income limits and area median income levels below a prior year's highest level and, (3) determines income limits for California's moderate-income category.

Following are brief summaries of technical methodologies used by HUD and HCD in updating income limits for different household income categories. For additional information, please refer to HUD's briefing materials at <https://www.huduser.gov/portal/datasets/il/il19/IncomeLimitsMethodology-FY19.pdf>.

### **HUD Methodology**

HUD Section 8 Income Limits begin with the production of median family incomes. HUD uses the Section 8 program's Fair Market Rent (FMR) area definitions in developing median incomes, which means developing median incomes for each metropolitan area, parts of some metropolitan areas, and each non-metropolitan county. The 2019 FMR area definitions for California are unchanged from last year. HUD calculates Section 8 Income Limits for every FMR area with adjustments for family size and for areas with unusually high or low family income or housing-cost-to-income relationships.

#### ***Extremely Low-Income***

In determining the extremely low-income limit, HUD uses the Federal Poverty Guidelines, published by the Department of Health and Human Services. HUD compares the appropriate poverty guideline with 60% of the very low-income limit and choose the greater of the two. The value may not exceed the very low-income level.

#### ***Very Low-Income***

The very low-income limits are the basis for all other income limits. The very low-income limit typically reflects 50 percent of median family income (MFI) and HUD's MFI figure generally equals two times HUD's 4-person very low-income limit. HUD may adjust the very low-income limit for an area or county to account for conditions that warrant special considerations. As such, the very low-income limit may not always equal 50% MFI.

#### ***Low-Income***

In general, most low-income limits represent the higher level of: (1) 80 percent of MFI or, (2) 80 percent of state non-metropolitan median family income. However, due to adjustments that HUD sometimes makes to the very low-income limit, strictly calculating low-income limits as 80 percent of MFI could produce unintended anomalies inconsistent with statutory intent (e.g. very low-income limits being higher than low-income limits). Therefore, HUD's briefing materials specify that, with some exceptions, the low-income limit reflect 160 percent of the very low-income limit.

## 2019 State Income Limits Briefing Materials California Code of Regulations, Title 25, Section 6932

HUD may apply additional adjustments to areas with unusually high or low housing-costs-to-income relationships and for other reasons. This could result in low-income limits exceeding MFI.

### ***Median Family Income/Area Median Income***

HUD references and estimates the MFI in calculating the income limits. California law and State Income Limits reference Area Median Income (AMI) that, pursuant to Health & Safety Code 50093(c), means the MFI of a geographic area, estimated by HUD for its Section 8 Program.

HUD's calculations of Section 8 Income Limits begin with the production of MFI estimates. This year, MFI estimates use the 2016 American Community Survey. HUD then adjusts the survey data to account for anticipated income growth by applying the Consumer Price Index inflation forecast published by the Congressional Budget Office through mid-2019. HUD uses the MFI to calculate very low-income limits, used as the basis to calculate income limits for other income categories. For additional information, please see HUD's methodology describing 2019 MFI's at <https://www.huduser.gov/portal/datasets/il/il19/Medians-Methodology-FY19r.pdf>.

### ***Adjustment Calculations***

HUD may apply adjustments to areas with unusually high or low family income, uneven housing-cost-to-income relationship, or other reasons. For example, HUD applies an increase if the four-person very low-income limit would otherwise be less than the amount at which 35 percent of it equals 85 percent of the annualized two-bedroom Section 8 FMR (or 40<sup>th</sup> percentile rent in 50<sup>th</sup> percentile FMR areas). The purpose is to increase the income limit for areas where rental-housing costs are unusually high in relation to the median income.

In certain cases, HUD also applies an adjustment to the income limits based on the state non-metropolitan median family income level. In addition, HUD restricts adjustments so income limits do not increase more than five percent of the previous year's very low-income figure OR twice the increase in the national MFI, whichever is greater. For the 2019 income limits, the maximum increase is 10% from the previous year. This adjustment does not apply to the extremely low-income limits.

Please refer to HUD briefing materials for additional information on the adjustment calculations.

### ***Income Limit Calculations for Household Sizes Other Than 4-Persons***

The income limit statute requires adjustments for family size. The legislative history and conference committee report indicates that Congress intended that income limits should be higher for larger families and lower for smaller families. The same family size adjustments apply to all income limits, except extremely low-income limits, which are set at the poverty income threshold. They are as follows:

Number of Persons in Household:	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
Adjustments:	70%	80%	90%	Base	108%	116%	124%	132%

### ***Income Limit Calculations for Household Sizes Greater Than 8-Persons***

For households of more than eight persons, refer to the formula at the end of the table for 2019 Income Limits. Due to the adjustments HUD can make to income limits in a given county, table data should be the only method used to determine program eligibility. Arithmetic calculations are applicable only when a household has more than eight members. Please refer to HUD's briefing material for additional information on family size adjustments.

## **2019 State Income Limits Briefing Materials**

### **California Code of Regulations, Title 25, Section 6932**

#### **HCD Methodology**

State law (Health & Safety Code Section 50093, et. seq.) prescribes the methodology HCD uses to update the State Income Limits. HCD utilizes HUD's Section 8 Income Limits. HCD's methodology involves: (1) if necessary, increasing a county's median income established by HUD to equal California's non-metropolitan county median income determined by HUD, (2) applying HCD's HH Policy, in effect since 2013, to not allow decreases in area median income levels and household income category levels, (3) applying to the median income the same family size adjustments HUD applies to the income limits, and (4) determining income limit levels applicable to California's moderate-income households defined by law as household income not exceeding 120 percent of county area median income.

#### ***Area Median Income and Income Category Levels***

HCD, pursuant to federal and State law, adjusts median income levels for all to counties so they are not less than the non-metropolitan county median income established by HUD (\$64,800 for 2019). Next, HCD, for all counties, applies its HH policy to ensure area median income and income limits for all household income categories do not fall below any level achieved in the prior year.

#### ***Moderate-Income Levels***

HCD is responsible for establishing California's moderate-income limit levels. After calculating the 4-person area median income (AMI) level as previously described, HCD sets the maximum moderate-income limit to equal 120 percent of the county's AMI.

#### ***Applicability of California's Official State Income Limits***

Applicability of the State Income Limits are subject to particular programs as program definitions of factors such as income, family, and household size vary. Some programs, such as Multifamily Tax Subsidy Projects (MTSPs), use different income limits. For MTSPs, separate income limits apply per provisions of the Housing and Economic Recovery Act (HERA) of 2008 (Public Law 110-289). Income limits for MTSPs are used to determine qualification levels as well as set maximum rental rates for projects funded with tax credits authorized under Section 42 of the Internal Revenue Code (Code). In addition, MTSP income limits apply to projects financed with tax-exempt housing bonds issued to provide qualified residential rental development under Section 142 of the Code. These income limits are available at <http://www.huduser.org/datasets/mtsp.html>.

**Section 6932. 2019 Income Limits**

County	Income Category	Number of Persons in Household							
		1	2	3	4	5	6	7	8
Last page instructs how to use income limits to determine applicant eligibility and calculate affordable housing cost and rent									

<b>Alameda County</b>  Area Median Income: <b>\$111,700</b>	Extremely Low	26050	29750	33450	37150	40150	43100	46100	49050
	Very Low Income	43400	49600	55800	61950	66950	71900	76850	81800
	Low Income	69000	78850	88700	98550	106450	114350	122250	130100
	<b>Median Income</b>	78200	89350	100550	<b>111700</b>	120650	129550	138500	147450
	Moderate Income	93850	107250	120650	134050	144750	155500	166200	176950

<b>Alpine County</b>  Area Median Income: <b>\$94,900</b>	Extremely Low	18150	20750	23350	25900	30170	34590	39010	43430
	Very Low Income	30250	34600	38900	43200	46700	50150	53600	57050
	Low Income	46100	52650	59250	65800	71100	76350	81600	86900
	<b>Median Income</b>	66450	75900	85400	<b>94900</b>	102500	110100	117700	125250
	Moderate Income	79750	91100	102500	113900	123000	132100	141250	150350

<b>Amador County</b>  Area Median Income: <b>\$73,600</b>	Extremely Low	15500	17700	21330	25750	30170	34590	39010	43430
	Very Low Income	25800	29450	33150	36800	39750	42700	45650	48600
	Low Income	41250	47150	53050	58900	63650	68350	73050	77750
	<b>Median Income</b>	51500	58900	66250	<b>73600</b>	79500	85400	91250	97150
	Moderate Income	61800	70650	79450	88300	95350	102450	109500	116550

<b>Butte County</b>  Area Median Income: <b>\$66,500</b>	Extremely Low	14000	16910	21330	25750	30170	34590	39010	43430
	Very Low Income	23300	26600	29950	33250	35950	38600	41250	43900
	Low Income	37250	42600	47900	53200	57500	61750	66000	70250
	<b>Median Income</b>	46550	53200	59850	<b>66500</b>	71800	77150	82450	87800
	Moderate Income	55850	63850	71800	79800	86200	92550	98950	105350

<b>Calaveras County</b>  Area Median Income: <b>\$75,300</b>	Extremely Low	15850	18100	21330	25750	30170	34590	39010	43430
	Very Low Income	26400	30150	33900	37650	40700	43700	46700	49700
	Low Income	42200	48200	54250	60250	65100	69900	74750	79550
	<b>Median Income</b>	52700	60250	67750	<b>75300</b>	81300	87350	93350	99400
	Moderate Income	63250	72300	81300	90350	97600	104800	112050	119250

<b>Colusa County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Contra Costa County</b>  Area Median Income: <b>\$111,700</b>	Extremely Low	26050	29750	33450	37150	40150	43100	46100	49050
	Very Low Income	43400	49600	55800	61950	66950	71900	76850	81800
	Low Income	69000	78850	88700	98550	106450	114350	122250	130100
	<b>Median Income</b>	78200	89350	100550	<b>111700</b>	120650	129550	138500	147450
	Moderate Income	93850	107250	120650	134050	144750	155500	166200	176950

<b>Del Norte County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

County	Income Category	Number of Persons in Household							
		1	2	3	4	5	6	7	8
Last page instructs how to use income limits to determine applicant eligibility and calculate affordable housing cost and rent									

<b>El Dorado County</b>  Area Median Income: <b>\$83,600</b>	Extremely Low	17600	20100	22600	25750	30170	34590	39010	43430
	Very Low Income	29300	33450	37650	41800	45150	48500	51850	55200
	Low Income	46850	53550	60250	66900	72300	77650	83000	88350
	<b>Median Income</b>	58500	66900	75250	<b>83600</b>	90300	97000	103650	110350
	Moderate Income	70200	80250	90250	100300	108300	116350	124350	132400

<b>Fresno County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Glenn County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Humboldt County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Imperial County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Inyo County</b>  Area Median Income: <b>\$72,700</b>	Extremely Low	15300	17450	21330	25750	30170	34590	39010	43430
	Very Low Income	25450	29100	32750	36350	39300	42200	45100	48000
	Low Income	40750	46550	52350	58150	62850	67500	72150	76800
	<b>Median Income</b>	50900	58150	65450	<b>72700</b>	78500	84350	90150	95950
	Moderate Income	61050	69800	78550	87250	94250	101200	108200	115150

<b>Kern County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Kings County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

County	Income Category	Number of Persons in Household							
		1	2	3	4	5	6	7	8
Last page instructs how to use income limits to determine applicant eligibility and calculate affordable housing cost and rent									

<b>Lake County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Lassen County</b>  Area Median Income: <b>\$69,400</b>	Extremely Low	14600	16910	21330	25750	30170	34590	39010	43430
	Very Low Income	24300	27800	31250	34700	37500	40300	43050	45850
	Low Income	38850	44400	49950	55500	59950	64400	68850	73300
	<b>Median Income</b>	48600	55500	62450	<b>69400</b>	74950	80500	86050	91600
	Moderate Income	58300	66650	74950	83300	89950	96650	103300	109950

<b>Los Angeles County</b>  Area Median Income: <b>\$73,100</b>	Extremely Low	21950	25050	28200	31300	33850	36350	39010	43430
	Very Low Income	36550	41800	47000	52200	56400	60600	64750	68950
	Low Income	58450	66800	75150	83500	90200	96900	103550	110250
	<b>Median Income</b>	51150	58500	65800	<b>73100</b>	78950	84800	90650	96500
	Moderate Income	61400	70150	78950	87700	94700	101750	108750	115750

<b>Madera County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Marin County</b>  Area Median Income: <b>\$136,800</b>	Extremely Low	33850	38700	43550	48350	52250	56100	60000	63850
	Very Low Income	56450	64500	72550	80600	87050	93500	99950	106400
	Low Income	90450	103350	116250	129150	139500	149850	160150	170500
	<b>Median Income</b>	95750	109450	123100	<b>136800</b>	147750	158700	169650	180600
	Moderate Income	114900	131300	147750	164150	177300	190400	203550	216700

<b>Mariposa County</b>  Area Median Income: <b>\$65,500</b>	Extremely Low	13800	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22950	26200	29500	32750	35400	38000	40650	43250
	Low Income	36700	41950	47200	52400	56600	60800	65000	69200
	<b>Median Income</b>	45850	52400	58950	<b>65500</b>	70750	76000	81200	86450
	Moderate Income	55000	62900	70750	78600	84900	91200	97450	103750

<b>Mendocino County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Merced County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

County	Income Category	Number of Persons in Household							
		1	2	3	4	5	6	7	8
Last page instructs how to use income limits to determine applicant eligibility and calculate affordable housing cost and rent									

<b>Modoc County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Mono County</b>  Area Median Income: <b>\$81,200</b>	Extremely Low	17050	19500	21950	25750	30170	34590	39010	43430
	Very Low Income	28450	32500	36550	40600	43850	47100	50350	53600
	Low Income	44750	51150	57550	63900	69050	74150	79250	84350
	<b>Median Income</b>	56850	64950	73100	<b>81200</b>	87700	94200	100700	107200
	Moderate Income	68200	77950	87700	97450	105250	113050	120850	128650

<b>Monterey County</b>  Area Median Income: <b>\$74,100</b>	Extremely Low	18900	21600	24300	26950	30170	34590	39010	43430
	Very Low Income	31450	35950	40450	44900	48500	52100	55700	59300
	Low Income	50300	57500	64700	71850	77600	83350	89100	94850
	<b>Median Income</b>	51850	59300	66700	<b>74100</b>	80050	85950	91900	97800
	Moderate Income	62250	71100	80000	88900	96000	103100	110250	117350

<b>Napa County</b>  Area Median Income: <b>\$100,400</b>	Extremely Low	21100	24100	27100	30100	32550	34950	39010	43430
	Very Low Income	35150	40200	45200	50200	54250	58250	62250	66300
	Low Income	55650	63600	71550	79500	85900	92250	98600	104950
	<b>Median Income</b>	70300	80300	90350	<b>100400</b>	108450	116450	124500	132550
	Moderate Income	84350	96400	108450	120500	130150	139800	149400	159050

<b>Nevada County</b>  Area Median Income: <b>\$85,100</b>	Extremely Low	16750	19150	21550	25750	30170	34590	39010	43430
	Very Low Income	27900	31900	35900	39850	43050	46250	49450	52650
	Low Income	44650	51000	57400	63750	68850	73950	79050	84150
	<b>Median Income</b>	59550	68100	76600	<b>85100</b>	91900	98700	105500	112350
	Moderate Income	71450	81700	91900	102100	110250	118450	126600	134750

<b>Orange County</b>  Area Median Income: <b>\$97,900</b>	Extremely Low	24950	28500	32050	35600	38450	41300	44150	47000
	Very Low Income	41550	47500	53450	59350	64100	68850	73600	78350
	Low Income	66500	76000	85500	94950	102550	110150	117750	125350
	<b>Median Income</b>	68550	78300	88100	<b>97900</b>	105750	113550	121400	129250
	Moderate Income	82250	94000	105750	117500	126900	136300	145700	155100

<b>Placer County</b>  Area Median Income: <b>\$83,600</b>	Extremely Low	17600	20100	22600	25750	30170	34590	39010	43430
	Very Low Income	29300	33450	37650	41800	45150	48500	51850	55200
	Low Income	46850	53550	60250	66900	72300	77650	83000	88350
	<b>Median Income</b>	58500	66900	75250	<b>83600</b>	90300	97000	103650	110350
	Moderate Income	70200	80250	90250	100300	108300	116350	124350	132400

<b>Plumas County</b>  Area Median Income: <b>\$70,700</b>	Extremely Low	14650	16910	21330	25750	30170	34590	39010	43430
	Very Low Income	24400	27850	31350	34800	37600	40400	43200	45950
	Low Income	39000	44600	50150	55700	60200	64650	69100	73550
	<b>Median Income</b>	49500	56550	63650	<b>70700</b>	76350	82000	87650	93300
	Moderate Income	59400	67900	76350	84850	91650	98450	105200	112000

County	Income Category	Number of Persons in Household							
		1	2	3	4	5	6	7	8
Last page instructs how to use income limits to determine applicant eligibility and calculate affordable housing cost and rent									

<b>Riverside County</b>  Area Median Income: <b>\$69,700</b>	Extremely Low	15100	17250	21330	25750	30170	34590	39010	43430
	Very Low Income	25150	28750	32350	35900	38800	41650	44550	47400
	Low Income	40250	46000	51750	57450	62050	66650	71250	75850
	<b>Median Income</b>	48800	55750	62750	<b>69700</b>	75300	80850	86450	92000
	Moderate Income	58550	66900	75300	83650	90350	97050	103750	110400

<b>Sacramento County</b>  Area Median Income: <b>\$83,600</b>	Extremely Low	17600	20100	22600	25750	30170	34590	39010	43430
	Very Low Income	29300	33450	37650	41800	45150	48500	51850	55200
	Low Income	46850	53550	60250	66900	72300	77650	83000	88350
	<b>Median Income</b>	58500	66900	75250	<b>83600</b>	90300	97000	103650	110350
	Moderate Income	70200	80250	90250	100300	108300	116350	124350	132400

<b>San Benito County</b>  Area Median Income: <b>\$84,500</b>	Extremely Low	21450	24500	27550	30600	33050	35500	39010	43430
	Very Low Income	35700	40800	45900	51000	55100	59200	63250	67350
	Low Income	57150	65300	73450	81600	88150	94700	101200	107750
	<b>Median Income</b>	59150	67600	76050	<b>84500</b>	91250	98000	104800	111550
	Moderate Income	71000	81100	91250	101400	109500	117600	125750	133850

<b>San Bernardino County</b>  Area Median Income: <b>\$69,700</b>	Extremely Low	15100	17250	21330	25750	30170	34590	39010	43430
	Very Low Income	25150	28750	32350	35900	38800	41650	44550	47400
	Low Income	40250	46000	51750	57450	62050	66650	71250	75850
	<b>Median Income</b>	48800	55750	62750	<b>69700</b>	75300	80850	86450	92000
	Moderate Income	58550	66900	75300	83650	90350	97050	103750	110400

<b>San Diego County</b>  Area Median Income: <b>\$86,300</b>	Extremely Low	22500	25700	28900	32100	34700	37250	39850	43430
	Very Low Income	37450	42800	48150	53500	57800	62100	66350	70650
	Low Income	59950	68500	77050	85600	92450	99300	106150	113000
	<b>Median Income</b>	60400	69050	77650	<b>86300</b>	93200	100100	107000	113900
	Moderate Income	72500	82850	93200	103550	111850	120100	128400	136700

<b>San Francisco County</b>  Area Median Income: <b>\$136,800</b>	Extremely Low	33850	38700	43550	48350	52250	56100	60000	63850
	Very Low Income	56450	64500	72550	80600	87050	93500	99950	106400
	Low Income	90450	103350	116250	129150	139500	149850	160150	170500
	<b>Median Income</b>	95750	109450	123100	<b>136800</b>	147750	158700	169650	180600
	Moderate Income	114900	131300	147750	164150	177300	190400	203550	216700

<b>San Joaquin County</b>  Area Median Income: <b>\$71,400</b>	Extremely Low	14700	16910	21330	25750	30170	34590	39010	43430
	Very Low Income	24500	28000	31500	35000	37800	40600	43400	46200
	Low Income	39200	44800	50400	56000	60500	65000	69450	73950
	<b>Median Income</b>	50000	57100	64250	<b>71400</b>	77100	82800	88550	94250
	Moderate Income	60000	68550	77150	85700	92550	99400	106250	113100

<b>San Luis Obispo County</b>  Area Median Income: <b>\$87,500</b>	Extremely Low	18900	21600	24300	26950	30170	34590	39010	43430
	Very Low Income	31500	36000	40500	44950	48550	52150	55750	59350
	Low Income	50350	57550	64750	71900	77700	83450	89200	94950
	<b>Median Income</b>	61250	70000	78750	<b>87500</b>	94500	101500	108500	115500
	Moderate Income	73500	84000	94500	105000	113400	121800	130200	138600



County	Income Category	Number of Persons in Household							
		1	2	3	4	5	6	7	8
Last page instructs how to use income limits to determine applicant eligibility and calculate affordable housing cost and rent									

<b>San Mateo County</b>  Area Median Income: <b>\$136,800</b>	Extremely Low	33850	38700	43550	48350	52250	56100	60000	63850
	Very Low Income	56450	64500	72550	80600	87050	93500	99950	106400
	Low Income	90450	103350	116250	129150	139500	149850	160150	170500
	<b>Median Income</b>	95750	109450	123100	<b>136800</b>	147750	158700	169650	180600
	Moderate Income	114900	131300	147750	164150	177300	190400	203550	216700

<b>Santa Barbara County</b>  Area Median Income: <b>\$79,600</b>	Extremely Low	23200	26500	29800	33100	35750	38400	41050	43700
	Very Low Income	38650	44150	49650	55150	59600	64000	68400	72800
	Low Income	61850	70650	79500	88300	95400	102450	109500	116600
	<b>Median Income</b>	55700	63700	71650	<b>79600</b>	85950	92350	98700	105050
	Moderate Income	66850	76400	85950	95500	103150	110800	118400	126050

<b>Santa Clara County</b>  Area Median Income: <b>\$131,400</b>	Extremely Low	30750	35150	39550	43900	47450	50950	54450	57950
	Very Low Income	51250	58550	65850	73150	79050	84900	90750	96600
	Low Income	72750	83150	93550	103900	112250	120550	128850	137150
	<b>Median Income</b>	92000	105100	118250	<b>131400</b>	141900	152400	162950	173450
	Moderate Income	110400	126150	141950	157700	170300	182950	195550	208150

<b>Santa Cruz County</b>  Area Median Income: <b>\$98,000</b>	Extremely Low	25800	29450	33150	36800	39750	42700	45650	48600
	Very Low Income	42950	49100	55250	61350	66300	71200	76100	81000
	Low Income	68900	78750	88600	98400	106300	114150	122050	129900
	<b>Median Income</b>	68600	78400	88200	<b>98000</b>	105850	113700	121500	129350
	Moderate Income	82300	94100	105850	117600	127000	136400	145800	155250

<b>Shasta County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Sierra County</b>  Area Median Income: <b>\$71,800</b>	Extremely Low	15850	18100	21330	25750	30170	34590	39010	43430
	Very Low Income	26400	30200	33950	37700	40750	43750	46750	49800
	Low Income	42250	48250	54300	60300	65150	69950	74800	79600
	<b>Median Income</b>	50250	57450	64600	<b>71800</b>	77550	83300	89050	94800
	Moderate Income	60300	68900	77550	86150	93050	99950	106850	113700

<b>Siskiyou County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Solano County</b>  Area Median Income: <b>\$85,700</b>	Extremely Low	18000	20600	23150	25750	30170	34590	39010	43430
	Very Low Income	30000	34300	38600	42850	46300	49750	53150	56600
	Low Income	48000	54850	61700	68550	74050	79550	85050	90500
	<b>Median Income</b>	60000	68550	77150	<b>85700</b>	92550	99400	106250	113100
	Moderate Income	72000	82300	92550	102850	111100	119300	127550	135750

County	Income Category	Number of Persons in Household							
		1	2	3	4	5	6	7	8
Last page instructs how to use income limits to determine applicant eligibility and calculate affordable housing cost and rent									

<b>Sonoma County</b>  Area Median Income: <b>\$93,300</b>	Extremely Low	22700	25950	29200	32400	35000	37600	40200	43430
	Very Low Income	37800	43200	48600	54000	58350	62650	67000	71300
	Low Income	60500	69150	77800	86400	93350	100250	107150	114050
	<b>Median Income</b>	65300	74650	83950	<b>93300</b>	100750	108250	115700	123150
	Moderate Income	78350	89550	100750	111950	120900	129850	138800	147750

<b>Stanislaus County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Sutter County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Tehama County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Trinity County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Tulare County</b>  Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

<b>Tuolumne County</b>  Area Median Income: <b>\$66,700</b>	Extremely Low	13950	16910	21330	25750	30170	34590	39010	43400
	Very Low Income	23250	26600	29900	33200	35900	38550	41200	43850
	Low Income	37200	42500	47800	53100	57350	61600	65850	70100
	<b>Median Income</b>	46700	53350	60050	<b>66700</b>	72050	77350	82700	88050
	Moderate Income	56050	64050	72050	80050	86450	92850	99250	105650

<b>Ventura County</b>  Area Median Income: <b>\$97,800</b>	Extremely Low	22000	25150	28300	31400	33950	36450	39010	43430
	Very Low Income	36650	41850	47100	52300	56500	60700	64900	69050
	Low Income	58600	67000	75350	83700	90400	97100	103800	110500
	<b>Median Income</b>	68450	78250	88000	<b>97800</b>	105600	113450	121250	129100
	Moderate Income	82150	93900	105600	117350	126750	136150	145500	154900

County	Income Category	Number of Persons in Household							
		1	2	3	4	5	6	7	8
Last page instructs how to use income limits to determine applicant eligibility and calculate affordable housing cost and rent									

Yolo County	Income Category	1	2	3	4	5	6	7	8
Area Median Income: <b>\$87,900</b>	Extremely Low	18450	21100	23750	26350	30170	34590	39010	43430
	Very Low Income	30800	35200	39600	43950	47500	51000	54500	58050
	Low Income	49250	56250	63300	70300	75950	81550	87200	92800
	<b>Median Income</b>	61550	70300	79100	<b>87900</b>	94950	101950	109000	116050
	Moderate Income	73850	84400	94950	105500	113950	122400	130800	139250

Yuba County	Income Category	1	2	3	4	5	6	7	8
Area Median Income: <b>\$64,800</b>	Extremely Low	13650	16910	21330	25750	30170	34590	39010	42800
	Very Low Income	22700	25950	29200	32400	35000	37600	40200	42800
	Low Income	36300	41500	46700	51850	56000	60150	64300	68450
	<b>Median Income</b>	45350	51850	58300	<b>64800</b>	70000	75150	80350	85550
	Moderate Income	54450	62200	70000	77750	83950	90200	96400	102650

**Instructions:**

**Eligibility Determination:**

Use household size income category figures in this chart. Determine eligibility based on actual number of persons in household and total of gross income for all persons.

**Determination of Income Limit for Households Larger than Eight Persons:**

Per person (PP) adjustment above 8: (1) multiply 4-person income limit by eight percent (8%), (2) multiply result by number of persons in excess of eight, (3) add the amount to the 8-person income limit, and (4) round to the nearest \$50.

**Yuba County**

<b>E X A M P L E</b>	4 persons	8% PP Adj	+ 8 persons	=9 persons
Extremely Low	25,750	2060	42,800	44,850
Very Low Income	32,400	2592	42,800	45,400
Lower Income	51,850	4148	68,450	72,600
Moderate Income	77,750	6220	102,650	108,850

8 person +	8% Adj x 2	=10 persons
42,800	4120	46,900
42,800	5184	48,000
68,450	8296	76,750
102,650	12440	115,100

**Calculation of Housing Cost and Rent:**

Refer to Health & Safety Code Sections 50052.5 and 50053. Use benchmark household size and multiply against applicable percentages defined in H&SC using Area Median Income identified in this chart.

**Determination of Household Size:**

For projects with no federal assistance, household size is set at number of bedrooms in unit plus one.

For projects with federal assistance, household size may be set by multiplying 1.5 against the number of bedrooms in unit.

**HUD Income Limits release: 4/24/19**

HUD FY 2019 California median incomes:

State median income: \$82,200

Metropolitan county median income: \$82,800

Non-metropolitan county median income: \$64,800

Note: Authority cited: Section 50093, Health and Safety Code. Reference: Sections 50079.5, 50093, 50105 and 50106, Health and Safety Code.

**PROOF OF PUBLICATION  
(2015.5 C.C.P.)  
STATE OF CALIFORNIA  
County of San Benito**

I am a citizen of the United States and a resident of the County aforesaid. I am over the age of eighteen years, and not a party to or interested in the above entitled matter.

I am the printer and principal clerk of the publisher of the Free Lance, published on line, printed and published in the city of Hollister, County of San Benito, State of California, **FRIDAY, AND ON LINE** for which said newspaper has been adjudicated a newspaper of general circulation by the **Superior Court of the County of San Benito, State of California, under the date of June 19, 1952, Action Number 5330**, that the notice of which the annexed is a printed copy had been published in each issue. Thereof and not in any supplement on the following dates:  
**June 7, 2019**

I, under penalty of perjury that the foregoing is true and correct. This declaration has been executed **ON June 7, 2019**

**HOLLISTER FREE LANCE  
350 Sixth Street,  
Hollister CA 95023**

/s/ Stacy Sutherland /  
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**NOTICE OF PUBLIC HEARING  
COUNTY OF SAN BENITO PLANNING COMMISSION  
MEETING OF WEDNESDAY, JUNE 19, 2019**

**NOTICE IS HEREBY GIVEN** that the Planning Commission of the County of San Benito, Hollister, California, is scheduled to review the following items:

Proposed Amendment to **CHAPTER 21.03 OF TITLE 21 OF THE SAN BENITO COUNTY CODE (AFFORDABLE HOUSING REGULATIONS)** the purpose of the proposed amendment is to update the **entire Chapter 21.03**. Changes include, but are not limited to the following:

1. Assigning the In-Lieu Fees in section 21.03.008 to \$61,950 for each building permit built on site.
2. For off- site affordable housing to be constructed, fractional unit calculations will be based on an in lieu fee of \$85,600.
3. Updated the Housing Advisory Committee in section 21.03.011 to include seven (7) members and updated the industry experience recommended for community members.
4. Implementing extremely low inclusionary unit requirements throughout the ordinance.
5. Removed sections 21.03.014 Affordable by design, 21.03.015 Development Standards, 21.03.016 Additional Standards, and adjusting numbering accordingly to subsequent sections.

**PLN190020 The San Benito Hemp Campus (Use Permit and Development Agreement)**

**OWNER/APPLICANT:** Chambers/Pacific Bay Capital Group. **LOCATION:** 7777 Frazier Lake Road and 7800 Lake Road, Hollister, CA 95023, more commonly known as Assessor's Parcel Numbers 013-050-028-000, **REQUEST:** The San Benito Hemp Campus is a proposal to reuse 275,000 square feet of existing structures at a former turkey egg raising facility on a 75-acre agriculturally (AP) zoned parcel south of and adjacent to the Frazier Lake Airport. The property is presently used as an equestrian facility and for storage. The San Benito Hemp Campus facility would provide for hemp cultivation and hemp-derivative manufacturing and oil extraction. The manufacturing processes will include compounding and formulating various hemp (CBD) products. The project includes a proposal to erect 60,000 square feet of hoop greenhouses for seed production and cultivation. The San Benito Hemp Campus will process hemp grown elsewhere in the California region as the market will bear. The proposed facility would operate seven days per week, 24 hours/day with two, twelve-hour shifts. Initially, the facility is expected to employ between 50 and 75 employees with potentially 125 employees at full development.

The applicants have also offered to enter into a Development Agreement with the County of San Benito. The Development Agreement will vest the Applicant's rights to conduct hemp related activities, including but not limited to cultivation, testing and distribution and derivative manufacturing and oil

extraction and other hemp processing activities in accordance with County Code. The Development Agreement also addresses specific Community Benefits for San Benito County. The Planning Commission will decide on the merits of the **Use Permit** for the reuse of the existing facility, and then make a recommendation to the Board of Supervisors who will take final action on the **Development Agreement** at a future duly noticed Board of Supervisors' Meeting, potentially in July 2019.

**ENVIRONMENTAL EVALUATION:**

A Negative Declaration has been prepared

**NOTICE IS HEREBY FURTHER GIVEN** that the Planning Commission will hold a Public Hearing on these items in the Board of Supervisors Chambers of San Benito County, located at 481 Fourth Street, Hollister, California, on **Wednesday, June 19, 2019, at 6:00 p.m.** or as near as possible thereafter, at which time and place interested persons may appear and be heard thereon.

If you challenge these items in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the County of San Benito at, or prior to, the Public Hearing.

Documents related to these items may be inspected by the public on weekdays between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, at the County Resource Management Agency, 2301 Technology Parkway, Hollister, CA. Please note that the items listed are only the agenda items that require a public hearing. Please call the Planning Division of the RMA if there are any questions and/or for complete agenda information at 831 637-5313.

Dated: May 31, 2019  
Publish: June 7, 2019

**(PUB HF 6/7)**