



NEW COMMUNITY APPLICATION AND PROCESSING PROCEDURE

Appendix No. A, of the Land Use Element

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Kings County Board of Supervisors:

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NEW COMMUNITY APPLICATION AND PROCESSING PROCEDURE

ARTICLE 1 – PREAMBLE

Kings County is similar to most of the other southern San Joaquin Valley counties, in that it has historically been an agricultural area with virtually all urban growth occurring in the County’s four cities, the semi-urban concentration of Home Garden, and the three rural communities of Armona, Kettleman City, and Stratford (hereinafter referred to collectively as the "Developed Areas"). However, the continued population growth in California continues to put growth pressures on the San Joaquin Valley. In the north, it has been driven primarily by spillover growth of the San Francisco Bay Area and in the south by similar spillover from the Los Angeles metropolitan area. This growth pressure has resulted in the expansion of existing cities and other already-developed areas as well as proposals for entirely new communities located in previously mainly rural and agricultural areas.

The creation of such new communities presents a range of challenges for the counties within which they are to be located, including the construction of necessary urban infrastructure and public facilities, assuring adequate water supply, extension of municipal and county services, economic impacts to the existing County, establishing responsive governance, mitigation of impacts upon agricultural land, natural areas, wildlife habitat and threatened and endangered species, and mitigation of impacts upon surrounding agricultural lands. The prospect for new communities in Kings County leads to the need for an established procedure regarding how such proposals will be accepted, processed and considered for approval, and how they ultimately will be regulated, served, and governed.

ARTICLE 2 – CONTENT

This New Community Development Procedure (hereinafter referred to as the "Procedure" or the "NCDP") describes the individual submissions and actions needed to review, consider, entitle, finance, develop and manage new communities within Kings County consistent with the County's General Plan and in a manner that protects public health and safety and promotes the general welfare of the residents and businesses in Kings County. These procedures are also designed to ensure that any “new town” is not subsidized at the expense of the remainder of the County, including the Developed Areas. The *New Community Development Procedure* addresses a range of topics that will be considered in the review of new community applications, including: (1) how a New Community development application will be initiated and reviewed by the County; (2) how the County will plan, evaluate, and regulate the new community, (3) the contents of applications at each phase of review; and (4) ongoing (post-approval) County review and management responsibilities.

ARTICLE 3 – NEW COMMUNITY DEVELOPMENT MANAGEMENT SYSTEM

The complex nature of new community proposals requires a special application procedure and the creation of a *New Community Development Management System* (hereinafter referred to as the "System" or the "NCDMS"). Therefore, any application for a General Plan Amendment or rezoning of rural lands to urban uses in excess of 40 acres outside of any Developed Area's Sphere of Influence is deemed a “New Community Application”. This NCDMS describes the role, relationship, and sequencing of key policy and implementation documents associated with the processing, reviewing, approving and implementing a new community plan. This NCDMS is applicable to all New Community Applications previously submitted to the County upon adoption of this System and Procedure, but not yet deemed complete. Applications previously submitted shall be reviewed for consistency with this System and Procedure by County staff.

Section 3.1 Phases of New Community Review

Four major phases of review and consideration for approval are involved in the NCDMS process:

Phase 1 (Preliminary Design Plan Phase) – A pre-application preliminary design plan (hereinafter referred to as the "Preliminary Design Plan" or the "PDP") that allows scoping and refinement of the new community proposal.

Phase 2 (New Community Plan Phase) – Creation of a Community Plan as an amendment to the King County General Plan along with supporting facility and service master plans.

Phase 3 (Specific Plan and Implementation Phase) – Creation of one or more specific plans within the Community Plan, if desired, that establishes zoning for the specific plan area and implements other aspects of the Community Plan.

Phase 4 (Ongoing Review and Development Phase) – Ongoing Review and Development Management.

At each planning phase the appropriate environmental review shall be conducted consistent with all applicable federal, state and local laws and regulations, including the California Environmental Quality Act ("CEQA"), federal and state Endangered Species Act, Clean Water Act, Subdivision Map Act, Planning and Zoning Law, the Kings County General Plan, as amended, and related County codes, regulations and policies.

Section 3.2 Deposit Account

Option 1: The County shall estimate the cost for its review of the PDP, the Community Plan, the Specific Plan(s), and related planning and environmental documents. An Applicant shall, in response to a request from the County deposit funds with the County to cover the estimated costs of the review process. The Applicant(s) shall deposit additional funds into the deposit account, as needed, after formally submitting a New Community Plan application to reimburse the County for staff and consultant time to review the application and related documents. A budget for these activities shall be mutually approved and amended as necessary between the County and any Applicant(s). The applicant(s) will be required to provide the County with an assurance bond of not less than one million dollars (\$1,000,000) to protect the County from the applicant failure for what ever reason from not depositing the required money that may have been expended on the project, and the indemnification of the County for any extraordinary cost associated with the project that is not reimbursed by the Applicant(s).

Option 2: In lieu of the above deposit account process, the County may require the developer to enter into a reimbursement and indemnification agreement at the start of each phase set forth in Section 3.1 above, and detailed in Articles 5, 6, and 7 below. Before commencing each phase the Applicant(s) and the County shall prepare a mutually agreed upon budget and schedule identifying the project tasks, who will complete the tasks, the cost of the tasks, the milestones for completion of each phase, the amount of the deposit, etc. The budget and schedule will specific actions, filings, deposits, automatic triggers to start and stop project process activities, etc. The applicant(s) will be required to provide the County with an assurance bond of not less than one million dollars (\$1,000,000) to protect the County from the applicant failure for what ever reason from not depositing the required money that may have been expended on the project, and the indemnification of the County for any extraordinary cost associated with the project that is not reimbursed by the Applicant(s).

ARTICLE 4 – PRELIMINARY DESIGN PLAN (PHASE 1)

Section 4.1 Preliminary Design Plan (PDP) Requirement

A new community applicant shall submit a Preliminary Design Plan (PDP) in the form of a community master plan which shall provide an overall description of the proposed new community including a description of land uses planned and the generalized geographic distribution of these land uses. The PDP shall generally include the topics included in an “area plan” amendment to the General Plan, but it is expected that the PDP will be generally descriptive, and not overly detailed. The purpose of the PDP is to initiate a discussion regarding the new community proposal with County staff, affected stakeholders and the public-at-large. Any PDP must have reasonable well planned boundaries and be able to describe how the new community will integrate with, or be “buffered” by and/or from surrounding land uses, in accordance with the existing Kings County General Plan, as may be amended, and the Kings County Zoning Ordinance. It is assumed that rural and agricultural areas surrounding the New Community will largely remain in rural and/or agricultural land uses.

The PDP should also preliminarily address how cumulative impacts anticipated under the California Environmental Quality Act ("CEQA") could potentially be avoided or substantially reduced. Following appropriate review and refinement the PDP can be transformed into the formal New Community Plan document.

Section 4.2 Conceptual Public Facilities Plans

Section 4.2.1 Conceptual Facility Master Plans. Concurrent with the submittal of the PDP an applicant shall submit conceptual public facilities master plans for key infrastructure requirements, including, but not limited to, roads, public transportation, local government facilities, health service facilities and hospitals, utilities, water supply, sewage treatment and disposal, drainage, parks, and schools. These concept-level master plans shall provide a general description of how key infrastructure and public facilities will be provided.

Section 4.3 Conceptual Financing Plan

Section 4.3.1 Conceptual Facility Financing Master Plan. Concurrent with submittal of a PDP and concept-level master plans an applicant shall provide a general description of how key infrastructure and public facilities will be financed.

Section 4.4 Environmental Reconnaissance Report

Section 4.4.1 Environmental Reconnaissance Report. Concurrent with submittal of a PDP an applicant shall submit a conceptual environmental reconnaissance document identifying and mapping any potentially significant physical environmental constraints and preliminary mitigation plans. This report shall including, but not be limited to, public safety concerns (e.g. flooding), rivers, canals/ditches, wetlands, vernal pools, critical wildlife habitat for threatened or endangered species, prime farmland or farmland of statewide importance, including farmland subject to Williamson Act or Farmland Security Zone contracts. County Planning Staff may develop a preliminary initial study form to be utilized for this purpose, which shall specify the range of issues to be preliminarily identified by the applicant for a new community.

Section 4.5 Review of Preliminary Design Plan

Once the County receives a complete PDP, including the conceptual public facilities master plans, conceptual financing plan, and environmental reconnaissance report, County Planning Staff shall have up to 90 days following submittal by an applicant to review the new community Preliminary Design Plan, related conceptual facility master plans, conceptual financing plan, and preliminary environmental constraint and mitigation plans. During this time the County Planning Staff may choose to conduct public workshops as well as consultation with

other affected County departments, local, regional or state public agencies. In the event that the County decides to conduct public workshops, the County preliminary review period may be extended to 180 days. Comments and suggestions resulting from this preliminary review process shall be submitted to the applicant who then may reject or incorporate the suggestions into the formal Community Plan/General Plan Amendment/Rezoning application.

The County, at the expense of the applicant, may engage the assistance of legal, engineering, environmental, fiscal/economic, and governance consultants to assist them in the review process. The above time limits shall not commence until the consultants have been hired.

Section 4.6 Results of Preliminary Design Plan Review

The purpose of the Preliminary Design Plan (PDP) is to generally discuss issues related to the community master plans which provide an overall description of the proposed new community, how it will be financed and governed, and anticipated cumulative impacts to the environment and preliminary mitigation strategies.

ARTICLE 5 – NEW COMMUNITY PLAN (PHASE 2)

An applicant for a New Community having completed the Phase 1 PDP process may submit an application for a New Community Plan and related public service and facility master plans. The following section describes the contents of a formal New Community Plan application.

Section 5.1 New Community Plan

A New Community Plan shall be the comprehensive policy document guiding future development of the New Community Plan area. Consistent with planning practice and the State Planning and Zoning Law, a New Community Plan, as an “area plan” amendment to the General Plan, shall be a comprehensive policy plan integrating the key elements of community development as required by the Government Code, including land use, transportation, public facilities, housing, open space and conservation, public safety and noise. The New Community Plan shall reflect a long range horizon of at least 20 years.

All subsequent planning, urban development, infrastructure improvements, public services, capital budgeting, and resource conservation programs in the new community shall be consistent with the New Community Plan. Specific land use entitlements shall be established by Specific Plans prepared for the New Community sub-areas. The County Board of Supervisors may amend the New Community Plan from time to time as needed or requested. Any Community Plan amendments would be subject to public input and review consistent with State Law.

Section 5.2 Master Plans

A New Community Plan shall be accompanied by a series of detailed master plans including:

5.2.1. Community Facilities Master Plan. The new community will require a range of other community facilities to house other municipal service providers and provide services to community residents and businesses, and to meet the space needs for regional (County Government) services, all of which shall be addressed in a community facilities master plan (the "Community Facilities Master Plan" or the "CFMP"). The types of services and facilities to be addressed in the CFMP shall include:

Municipal Facilities:

- Administrative and community meeting space

- Police protection, law enforcement facilities, and emergency services
- Fire protection facilities
- Library facilities
- Parks and recreation facilities
- Water supply system facilities [pursuant to section 5.2.4 below]
- Sewage and Wastewater Treatment Plant and Disposal
- Storm water drainage system facilities [pursuant to section 5.2.3 below]
- Any other facilities required to provide any of the services proposed in the PDP up to and including any services allowed under the Community Services District Law found in California Government Code Section 61100

Regional Facilities:

- Solid Waste Collection and Disposal Facilities
- County Social Services Program Facilities
- Courthouses and Adjunct Court Facilities
- Detention Facilities (County Jail)
- Hospitals and Health Services Facilities
- Cemeteries

5.2.2 Public Services Plan and Fiscal Analysis. The Public Services Plan (PSP) shall be coordinated with the *Community Facilities Master Plan* and shall include an estimate of the demand for services based upon estimated population growth over time and explicit level of service assumptions for each service. The Public Services Plan shall then demonstrate how individual services will be provided to develop and maintain urban service levels. Municipal services to be addressed include, but are not limited to:

- Police Protection
- Fire Protection
- Integrated Water Utilities (see Section 5.2.4 – Integrated Water System Master Plan (Water Supply Assessment) below).
- Sewage Collection, Treatment and Disposal Services
- Drainage, Landscape, and Habitat Maintenance
- Parks and Recreation
- Court Services
- Solid Waste Collection and Disposal Services
- Pest and Mosquito Abatement
- Library Services

Regional (County-provided) services may also need to be expanded in significant ways in response to demands created by the New Community. Plans for any such County services should be included in the Public Services Plan:

- Interim Planning, Zoning, Building Permit and Inspection Services and Code Enforcement
- Social Services
- Job Training and Development
- Public Health Services
- Hospital and Emergency and Non-Emergency Medical Services
- School Services and Adjunct County Office of Education Services, Community Colleges
- County Public Works Department Services

- District Attorney and County Probation Department Services
- County Jail and Detention Services
- Animal Control

A key component of the New Community PSP will be an analysis of the public costs and revenues associated with providing the services described above. In this regard, a “Fiscal Impact Analysis” will be conducted during preparation and consideration of a New Community Plan. The fiscal impact analysis shall address how municipal services will be provided and funded and also evaluate the long term impacts of the New Community upon the County government, including any interim municipal services that will be provided to the New Community Plan and the range of County-wide services provided indefinitely. The fiscal analysis shall be updated concurrent with application for each subsequent Specific Plan.

5.2.3 Governance Framework Plan. A governance framework shall describe the local governmental structure through which each of the local public services described in Subsection 5.2.1 and 5.2.2 above shall be provided to the New Community. It is likely that the governance of a new community will evolve over time with more developed governing bodies created as the area becomes more developed and populated. The governance for the new community will be determined through the following processes:

- a. **Initial/Interim Governance Structure.** Initially, the County Board of Supervisors shall serve as the governing body, contingent upon any assignments of decision-making authority, and may continue to play an important role in decision-making and the provision of public services over time. However, the County will need to establish a separate entity such as a special district that is responsible for overseeing and coordinating new community-related infrastructure development and public services delivery. This can be accomplished either through the Kings County Local Agency Formation Commission processes or through special legislation.
- b. **Agreements with County Departments and other Agencies.** Initially, and over time, the various County departments may provide municipal services to a new community. Because some County departments currently do not provide urban levels of services it will be necessary for these services levels to be enhanced for the new community. Service agreements with the respective agencies may provide a mechanism for achieving this objective.
- c. **Provision of Services by Existing Special Districts.** Certain infrastructure and services may be provided to a new community by existing special districts such as irrigation districts. When such services differ in some fashion from those provided through the jurisdiction of these special districts special agreements may be required.
- d. **Partnerships with Private and Quasi-Public Agencies.** The County or other appointed agency shall work with private, quasi-public agencies and organizations and non-profits to provide selected services for the new community. This may include partnerships with any homeowners associations that may be created within the new community, conservation organizations for the protection of on-site resources and/or participation in regional habitat and agricultural conservation programs, development of affordable housing, and the provision of health, seniors, youth and other social services.
- e. **Creation of new Special District(s).** As set forth in Subsection 5.2.8a above, in addition to existing agencies and districts, the New Community Plan will likely require the establishment of an entirely new special district or districts to provide the full range of community and municipal services. For instance, a new special district may be needed to provide general governmental services, and a new school district or health care district may be needed to provide the sort of specialized education or hospital services they can respectively provide. The creation of a new district may require a vote among applicable property owners and/or approval by other

agencies with jurisdiction over the area. A determination of which, if any, new districts need to be formed will be based on the geography of the area, the public services and facility requirements, the extent of the services already being provided in the area by existing districts or the County, and the willingness of any existing local agencies to continue to provide the same, or an expanded, level of services.

- f. Formation of a New City. Depending upon the ultimate build out of a proposed new community, it may be desirable and appropriate for the County to include in the New Community Plan a provision requiring the incorporation of a new city at some point in the area's development process, and inclusion of the potentially significant effects of such incorporation into the EIR prepared for the project.
- g. Options and Mechanisms for Transition. Given that the form and structure of the governmental entities with jurisdiction over the new community and the New Community Plan will likely evolve over time, a transition plan will be needed. The transition plan shall define the process through which new governing structures are adopted and developed.

5.2.4. Financing Plan. A New Community Financing Plan (the "Financing Plan"), which describes how the infrastructure, facilities, services specified in the master plans (described above) and mitigation measures included in the CEQA document approved for the project will be financed, shall be submitted with the New Community Plan.

- a. Financing Plan contents. The Financing Plan will be expected, through one mechanism or another, to provide for the funding of all infrastructure and services required for the New Community without any negative effect upon existing taxpayers or ratepayers in other portions of the County. As a part of the Financing Plan approval process, the developer will be required to enter into a comprehensive development agreement providing for the financing of all public facilities and services for the new community. In general, the Financing Plan must set forth mechanisms that assure that the new community "pays its own way". The Financing Plan shall specify the sources and uses of funds for all of the public improvements and services specified in the master plans or included as mitigation measures in the CEQA document.
- b. Financial Feasibility. The Financing Plan shall ensure that the New Community Plan as a whole can be developed in a financially feasible manner given available private and public funding sources. In addition to a Financing Plan for the New Community Plan as a whole, each individual Specific Plan for the New Community Plan sub-areas will include a more detailed Financing Plans, pursuant to and implementing the New Community Plan Financing Plan.
- c. Public Facilities phasing and linkage. Public facilities and infrastructure phasing will ultimately be determined by cooperative agreements between the County and the developers as well as by market factors that drive the pace of development. However, the New Community Plan shall provide an initial description of phasing for major "backbone" infrastructure components described in this Section. Certain "backbone" improvements determined to be necessary at the inception of development, such as arterial roadways, sewer and water trunk lines, water treatment plant, sewage treatment plant, stormwater discharge facilities, energy transmission and distribution lines, gas distribution pipelines and a fire station and law-enforcement substation, will need to be constructed before or concurrently with the first phase of residential and commercial development. Other items such as in-tract roads, schools, library, and recreation facilities can be phased to match the pace of development and to respond to the growing needs of the community as they arise.

5.2.5 Transportation Master Plan. The New Community Plan area is likely to be a largely undeveloped area, with limited existing transportation infrastructure. New transportation corridors, roadways, and improvements to existing roads will be necessary as set forth in the Regional Transportation Plan and in the guidelines articulated in the New Community Plan. Certain roadway improvements will need to be developed in the early years of

community development in order to link to the regional highway system. Other roadways and improvements will be tied to the construction of various land uses and will be guided by subsequent Specific Plans. The Transportation Master Plan (the "TMP") shall include the following elements:

- An assessment of travel demand and potential effects on existing roadways
- Location and classification of major roadways
- Bicycle routes
- Pedestrian routes (trails) access standards
- Major roadway conceptual plan lines
- Transit plan and multi-modal service standards
- Transportation demand management program
- Integrate the TMP with the *Regional Transportation Plan* adopted by the Kings County Association of Governments as determined to be necessary
- Coordinate TMP with the *Circulation Element* of the *Kings County General Plan*

5.2.6 Integrated Water System Master Plan (Water Supply Assessment). A Water Supply Assessment shall be prepared and submitted to the County if required by the provisions contained within Senate Bill 610. (See California Water Code, §§ 10910-10914.) If an application for a New Community requires preparation of a water supply assessment, the assessment shall be circulated within the Community Plan Draft EIR for public review and comment. The assessment shall reflect Kings County's promotion of an integrated approach to water supply through the linkage of supply, wastewater treatment and disposal issues. The construction of integrated water infrastructure will require cooperation between the County and the water provider to determine participation, service delivery responsibilities and capacity. The type, amount, and phasing of infrastructure that is actually built will be determined by agreements reached between the local special district, the water wholesaler (e.g. an irrigation district) and the County.

Prior to the adoption of a community plan or preparation of the first Specific Plan, triggering the need for a water supply assessment, an Integrated Water Infrastructure Master Plan ("IWIMP") shall be developed for the New Community Plan area. The IWIMP shall be submitted as part of the application package and reviewed by the regional water quality control board and other regulatory agencies as may be required. The IWIMP shall provide for the phased development of the Community as specified in the New Community Plan, and shall incorporate the following elements:

A Potable Water System Plan.

A Recycled Water System Plan.

A Storm Drainage Master Plan (SDMP).

Concurrent with the subsequent preparation of each Specific Plan, a design-level water delivery plan shall be developed. The plan shall demonstrate the ability of the water purveyor and proposed system to continue to deliver irrigation to downstream users despite modification to the existing system. At a minimum, the Facilities Master Plan shall incorporate elements of the Storm Drainage Master Plan that identify specific improvement to existing water facilities. The IWIMP shall be reviewed and approved by the local irrigation district and the County of Kings prior to or concurrently with the Specific Plan.

5.2.7. Energy Systems and Carbon Reduction Master Plan. Energy services will be developed in accordance with an Energy System Master Plan (the "ESMP") that shall be approved as part of the New Community Plan. The ESMP will establish a service agreement with energy distributors and will identify opportunities to purchase power generated from sustainable sources such as solar, wind, and/or fuel cells,

including the possible development of these facilities in proximity to the new community site. The ESMP will consider the new community's "carbon footprint" and describe how greenhouse gas emissions will be curtailed consistent with statewide goals established through implementation of the Assembly Bill 32, Global Warming Solutions Act of 2006, (Division 25.5 (commencing with Section 38500) to the Health and Safety Code).

5.2.8. Schools Master Plan. New K-12 schools and community college facilities may be required in a new Community Plan to serve the student population. New school requirements shall be discussed and evaluated, and the number of schools to be developed will depend on the actual rate of students generated by housing in the Community and school size based on enrollment levels determined by the affected school district. If an entirely new school district is proposed then coordination through the Kings County Board of Education/Kings County Superintendent of School and the affected school district or districts from which the territory for the new district is proposed to be formed.

5.2.9. Agricultural Preservation and Habitat Conservation/Mitigation Plan. Kings County places high value and importance on the preservation and conservation of farmland and agricultural productivity. Any significant loss of farmland within a New Community Plan area will be evaluated and mitigated through feasible mitigation measures, including through preservation of offsite farmlands through voluntary conservation measures as required in the *Resource Conservation Element* of the *Kings County General Plan*. Mitigation efforts will be required as part of all new development that significantly impacts agricultural lands. The County may require compliance through an Agricultural Preservation and Habitat Conservation Plan (the "APHCP") if one is developed and adopted through consultation with the relevant federal and state agencies. Responsibility will fall initially to the County to adopt a plan and zoning designations that are acceptable to the regulatory agencies, however, the developers of a New Community Plan area shall ultimately be responsible for the monetary costs of implementing such requirements. Subsequent development will be responsible for mitigating habitat off-site when necessary.

The APHCP or mitigation required as part of a New Community Plan Draft EIR must address when relevant:

- Buffering of surrounding agricultural areas
- Mitigation of agricultural land conversion
- Mitigation of endangered species takes and wetland/habitat conversion

Section 5.3 Kings County General Plan Consistency

A New Community Plan shall be adopted as a part of the County of Kings General Plan, consistent with the California Government Code Section 65300 et seq. As such, the County General Plan shall continue to apply all adopted countywide General Plan policies, as may be amended, to the new community and shall supplement these with the goals, objectives, policies, and programs contained in the New Community Plan. All mandatory and specific general plan goals and policies are presumed to have equal weight and, as a result, must remain vertically and horizontally (i.e. internally) consistent.

Adoption of a New Community Plan will modify the County General Plan Land Use Map. Three general designations may be identified in the New Community Plan Area: "Multiple Use—Urban Development Area," (geographically consistent with the first phases of proposed development); "New Community Expansion Area," (subsequent phases of development to be developed within the time horizon of the General Plan); and "Future Study Area", (areas that may be developed following development of the Urban Development Area and the New Community Expansion Area).

This spatial progression assures continuity of compact urban development and the related efficiency of infrastructure and municipal service delivery. Existing County zoning regulations shall be retained throughout the New Community Plan Area until such time as a Specific Plan is approved by the County Board of Supervisors in accordance with the State Planning and Zoning Law and CEQA.

Any future amendments to the *Kings County General Plan* shall be evaluated for their applicability to the New Community Plan. In the event there are potential conflicts, the appropriateness of applying the amendment to the New Community shall be evaluated. If deemed irrelevant or contrary to an existing New Community Plan's requirements, a New Community Plan shall be specifically excluded from the amended policy.

Section 5.4 County Housing Element Implementation

In accordance with Section 65400 of the Government Code, the Board of Supervisors shall provide, as part of its mandatory periodic review and update of the *Housing Element*, a report to the State of California Office of Planning and Research and the Department of Housing and Community Development regarding progress in meeting the County's share of regional housing needs.

Updates to the County General Plan *Housing Element* shall consider the appropriate contribution of a New Community in meeting countywide and regional fair share housing needs allocations and the Housing Action Plan. These shall reflect provisions for affordable housing made in any Specific Plan and/or Development Agreement approved for a New Community.

Section 5.5 California Environmental Quality Act (CEQA)

Generally, a programmatic, project specific or mixture of programmatic/project specific Environmental Impact Report (EIR) shall be prepared for a New Community Plan and shall be considered for certification in accordance with CEQA. The EIR shall: (a) describe the proposed project (the New Community Plan); (b) the new community's existing environmental setting; (c) the potentially significant adverse environmental impacts that could occur to the physical environment upon implementation of the New Community Plan, including direct and indirect cumulatively considerable impacts resulting from other known future projects in the vicinity; (d) feasible mitigation measures that must be adopted to avoid or substantially reduce the significant impacts of the project; (e) significant impacts that remain significant and unavoidable; (f) alternatives to the proposed project; and (g) the environmentally preferred alternative. A companion document, the *Mitigation Monitoring and/or Reporting Program*, shall be included which defines the process for the monitoring of the implementation of prescribed mitigation measures and evaluation of their effectiveness in reducing any significant impacts.

The EIR shall correspond to the level of specificity of the New Community Plan's goals, objectives, policies, and programs. It shall be used as the basis for the preparation of subsequent CEQA documents for later (or concurrent) sub-area specific plans, in which the analyses could be tiered from those defined in the New Community EIR. The County shall approve the thresholds of significance proposed to be used in the EIR.

ARTICLE 6 – SPECIFIC PLAN AND IMPLEMENTATION (PHASE 3)

Section 6.1 New Community Plan Sub-Area Specific Plans

Following (or concurrently) with consideration of a New Community Plan one or more Specific Plans may be prepared and submitted for review by the County. Such Specific Plans shall be prepared as implementation of the New Community Plan and as such entirely consistent with New Community Plan policy. Specific Plans shall establish zoning regulations for the Specific Plan area and other related development regulations. Moreover, facility master plans and related technical documents prepared during the Community Plan Phase will generally

need to be refined in response to the added level of detail available in the Specific Plan. Individual specific plans shall be prepared sequentially to implement a New Community Plan, each in accordance with California Government Code Section 65450 et seq., and shall be, following statutory proceedings, adopted by ordinance of the County. The public shall be provided the opportunity to have input during the preparation of specific plans, as well as during hearings conducted by the Planning Commission and Board of Supervisors.

Section 6.2 Specific Plan Initiation

A specific plan in a New Community Plan area may be initiated and prepared by one of the methods hereinafter set forth.

6.2.1 Developer initiation. A proposal for the approval of a specific plan in an area for which a New Community Plan has been approved may be initiated by a property owner and/or developer, with preference given to one or more master developers, subject to County input, review, and independent approval, and, provided that the owner or developer provides full funding for the project and assurance bonding.

6.2.2 County Initiation. A proposal for the approval of a specific plan in an area for which a New Community plan has been approved may be initiated by the County using general funds or other sources of money, with reimbursement to be provided by subsequent developers.

Section 6.3 Specific Plan Contents

Specific Plans adopted pursuant to the New Community Plan shall contain physical development plans addressing, at a minimum, the components listed below, which shall be set forth in detail in the proposed specific plan in text and/or diagram or diagrams, as appropriate. All of such matters shall be consistent with the policies, goals and objectives set forth in the New Community Plan approved for the area.

6.3.1. Land Use and Urban Design Element. The land use element shall depict the uses to be accommodated by type, density, intensity and/or other descriptive characteristics.

6.3.2 Housing Element. A housing element shall describe the total number and type of units that shall be developed and affordable to extremely low, very low, low, and moderate income households, the methods by which they shall be provided (fee waiver, inclusionary, bonus density, state or federal funding, etc.), the timing of their development, and commitments for preserving the affordability of the units for a 10 to 20 year time period. The housing affordability plan shall be developed in collaboration with and approved by the County prior to the submittal of the final draft specific plan.

6.3.3 Circulation Element. The circulation element shall define local streets, and highways, transit facilities, truck routes, bikeways, pedestrian paths, and hiking trails, parking management, demand management, and other elements that are consistent with the New Community Public Facilities and Public Services Plans. The circulation element should also provide streetscape design, addressing matters such as landscaping, sidewalks and crosswalk paving, street furniture, lighting, signage, public art, and other similar elements.

6.3.4 A Community Services and Facilities Element. The community services and facilities element shall set forth in detail the network of public facilities listed in Section 5.2 above which will be located within the geographical area to be covered by the Specific Plan. Such public facilities plan shall also include a description of how each of such proposed facilities shall interconnect with the backbone systems and any other local improvements in other areas located within the geographical area covered by New Community plan approved for the area. Public services plans, that describe in detail how public services will be provided to the geographical area proposed to be covered by the specific plan and that prescribe the precise location of the facilities through which such services will be provided, shall be required.

6.3.5 Parks, Recreation, and Open Space Element. This element shall describe parks and recreation facilities and show the locations of proposed park and recreational facilities. Open space areas, agricultural land and

habitat preservation plans and mitigation plans for each that describe the areas, lands and habitats to be preserved, restored, or newly developed on-site and/or off-site created as a part of Specific Plan implementation, shall be required.

6.3.6 Development Standards and Design Guidelines. The specific plan shall include development regulations (e.g. development standards and design guidelines) pertaining to each use to be developed in the specific plan sub-area that shall address:

Permitted uses

Residential density (units per acre) and commercial and industrial intensity (floor area ratio)

Building heights

Lot coverage and property setbacks

Landscape, including standards for the use of sustainable plant materials (natives, drought tolerant, drip irrigation systems, and so on)

Public lighting

Signage

Parking and parking management including on-site showers for bicyclists or other non-conventional commuters (in activity centers)

Sustainable development practices, including the establishment of energy and water conservation budgets and recycling goals.

Other standards as may be necessary to implement New Community Plan policy.

A Specific Plan shall also include design guidelines to guide site layout, architecture, landscaping, and public streetscape (paving materials, street furniture, trees and plantings, signage, lighting, public art, and other). These shall reflect the New Community plan's policy for the development of a "walkable" and "livable" community (e.g., siting of buildings, concentration and intermixing of development, pedestrian-oriented design, and so on) and the use of sustainable development practices.

These development standards and design guidelines shall constitute the zoning regulations for the specific plan area, and, where appropriate, they shall be uniquely designed to reflect the intended uses within the new community, such as mixed use and pedestrian-oriented buildings/uses in the new community centers and residential village centers.

6.3.7 Implementation and Financing Element. The implementation element shall describe how the Specific Plan will be implemented including detailed description of proposed public service funding and facility financing mechanisms and other implementation steps such as development agreements, subdivision map schedule, etc. Financing mechanisms proposed shall assure that required infrastructure within the Specific Plan will be funded in a manner which is consistent with the New Community Plan and the New Community Financing Plan requirements. A fiscal impact analysis that defines the full public costs associated with development and anticipated revenues shall also be prepared as a part of the specific plan application submittal process.

Section 6.4 Specific Plan Environmental Review

Appropriate environmental review documents shall be prepared prior to approval of a specific plan in accordance with CEQA, including project level environmental review which may tier from the New Community Plan EIR.

Following the certification of an environmental impact report for a Specific Plan, any residential development project in the new community or any zoning change that is undertaken to implement, and that is consistent with, the adopted specific plan shall be exempt from further CEQA review, as specified in California Government Code Section 65457. (See also Pub. Resources Code, §§ 21166, 21083.3.)

Section 6.5 New Community Plan Consistency

The mix and amount of uses to be accommodated in a Specific Plan area shall be consistent with the generalized land uses included in the applicable New Community Plan. However, the mix of single and multi-family housing units may be varied to reflect market conditions prevailing at the time of the specific plan's preparation, provided that there is a commitment to provide sufficient affordable units to meet the needs of the community's population. Any variation of use and/or density shall be determined in consultation with the County and supported by market, fiscal impact, affordability needs, and other analyses that justify such a variation. Any such approved variation shall be conclusively presumed to be consistent with the New Community plan for the area for the purposes of determining under Government Code section 54957 whether subsequent environmental review is required under CEQA.

Section 6.6 Formation of Local Special Districts and Land Secured Financing Districts

Concurrent with the preparation of a specific plan, the technical and environmental review requirements for formation of any special districts required to implement the specific plan shall be undertaken by the project proponent(s), including an analysis in any programmatic or project specific EIR of the potential effects of any such formation. This will allow for appropriate coordination and consideration of these formations by the County and the Local Agency Formation Commission of Kings County (LAFCO). A financial feasibility analysis shall be completed for each new special district or city service proposed, pursuant to the provisions of the State enabling legislation and Kings County LAFCO standards.

Section 6.7 County Zoning Regulations and Building Codes

While the specific plans shall govern the land uses and zoning designations within a New Community plan area, it may be necessary to amend the County General Plan (see Section 5.3 above), Zoning Ordinance and/or other applicable plans or regulations to ensure the more precise standards for a New Community plan area can be found to be consistent with the otherwise generally applicable County requirements. In some cases, the revisions may be only applicable to the particular New Community Plan area, while in others they may have potential utility throughout the County.

Section 6.8 Subdivision Maps

Subdivision maps shall be prepared to implement an approved specific plan and development agreements in accordance with the California Subdivision Map Act. (See Government Code, §§ 66410 et seq.) and Kings County Subdivision Ordinance (Chapter 21 of the Kings County Code of Ordinances). Maps will divide the planning sub-area into legal parcels of record to accommodate planned development. Generally, the subdivision process involves the preparation of tentative and final subdivision maps that are submitted for County review and approval. Provided the conditions of approval of a tentative map are fulfilled, a final subdivision map will issue and will provide the legal basis for land division and development.

The County's Subdivision Ordinance shall be revised by Kings County to reflect the New Community Plan procedures, policies and standards where appropriate. These may address land use density/intensity and parcel size, grading to reflect the site's topography, and the application of best management and environmental sustainability practices.

Section 6.9 Development Agreements

Development agreements (pursuant to Government Code §§ 65864 et seq.) are contractual agreements between the County and developers of a project that provide assurances to each party regarding the uses to be entitled and the rules and requirements for development. Development agreements may be required by the County for all New Community applications being processed under this procedure. Since the new community will ordinarily be developed over an extended time period, such agreements reduce the uncertainty of changing policies, rules and regulations, and conditions of approval that are likely to occur and which can impact development feasibility and quality. In accordance with Government Code Section 65865.2, the agreements shall specify the permitted uses of the property, density and intensity of use, maximum height and size of proposed buildings, and provisions for the reservation or dedication of land for public purposes (schools, parks, and so on), consistent with the adopted New Community plan and any related specific plan.

ARTICLE 7 – ONGOING REVIEW AND DEVELOPMENT MANAGEMENT (PHASE 4)

Following approval of a New Community Plan and any specific plans approved pursuant thereto, formation of related local service and financing special districts, and approval of subdivision maps, the County will have an ongoing role in development management including, but not limited to, planning, zoning, engineering review and building permit issuance and inspection services. The County will also need to be involved, pursuant to the terms of the various elements of the New Community plan, in providing various local, regional and state public services.

Section 7.1 Engineering Review and Monitoring

Proposed development projects shall be reviewed for their compliance with applicable building code, subdivision, and other County engineering requirements and standards. At a minimum, this will encompass review of (a) infrastructure improvements consistent with the public facilities plans, including, but not limited to, transportation, water, wastewater, storm drainage, electricity, natural gas, and telecommunications; (b) site grading and soils/geological stabilization; (c) building and foundation design for structural stability, fire codes, soils and geologic characteristics, and so on; and (d) compliance with energy and water conservation budgets and environmental sustainability standards. Project applicants will be required to submit studies and analyses that are necessary for an adequate engineering review such as traffic impact studies, soils tests, and percolation test. Where development or public improvements abut or otherwise impact the irrigation district canals and tributary facilities in the new community, proposed grading and development plans shall be reviewed by the affected irrigation district to ensure that the structural integrity, functionality, and safety of the existing storage and conveyance systems are maintained.

Section 7.2 Implement Governance Framework

The Kings County Board of Supervisors shall take actions necessary to initiate the proposed governance framework for the New Community including formation of special districts, related tax sharing and allocation, and transitional service agreements.

Section 7.3 Planning and Design Review

Individual development projects proposed pursuant to the New Community Specific Plan(s) shall be reviewed for their consistency with the approved New Community plan goals, objectives and policies and any specific plan design and development standards and guidelines. All discretionary actions shall be processed in a manner consistent with State Law and local ordinances. Plans and designs shall be reviewed and approved by the County Planning Director, the Planning Commission, and, if established, an appointed design review board. If the latter, its membership should consist of design professionals (architecture, landscape, urban design, and/or visual arts)

and New Community Plan residents and business persons that would report their recommendations to the Planning Director and/or Planning Commission. Appeals would be submitted to the Board of Supervisors.

Section 7.4 Environmental Resource and Impact Monitoring

The County shall conduct environmental mitigation monitoring pursuant to the requirements of the New Community plan or individual specific plan environmental impact reports or other environmental review documents prepared and certified for such plans.

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