

**JOINT EXERCISE OF POWERS AGREEMENT**

**PERTAINING TO**

**Southern Contra Costa Fees  
for  
Traffic Mitigation**

**BY AND BETWEEN**

**CONTRA COSTA COUNTY**

**CITY OF SAN RAMON**

**TOWN OF DANVILLE**

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## JOINT EXERCISE OF POWERS AGREEMENT

Southern Contra Costa Fee  
for  
Traffic Mitigation

This **JOINT EXERCISE OF POWERS AGREEMENT** (the "Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1996 (the "Effective Date") between the **COUNTY OF CONTRA COSTA** (the "County"), a political subdivision of the State of California, the **City of San Ramon** (the "City"), a municipal corporation duly organized and existing under the laws of the State of California, and the **Town of Danville** (the "Town"), a municipal corporation duly organized and existing under the laws of the State of California. The City, Town, and County may be referred to collectively as the "Parties."

### RECITALS

This Agreement is based on the following facts and circumstances:

A. Southern Contra Costa (SCC) Development Area. There exists in Contra Costa County a geographical area comprising the San Ramon Valley, Tassajara Valley and Dougherty Valley. The San Ramon Valley and Dougherty Valley contain the City, Town, and portions of the County. The approximate boundaries of the SCC Development Area are shown on the map attached as Exhibit "A."

B. Dougherty Valley Development. There is an approved development in the County portion of Dougherty Valley that includes the Shapell project and the Windemere project. These two projects combined are approved for 11,000 residential units with the first 8,500 residential units covered by this Agreement. The remaining 2,500 units shall be constructed only after additional traffic studies are completed. The project approvals include between 300,000 and 600,000 square feet of commercial space spread throughout the Dougherty Valley Development. The location of these two projects are shown on the map attached as Exhibit "C." The Shapell and Windemere projects are referred to collectively as the "Dougherty Valley Developments."

C. Other Development. There exist other properties outside of Dougherty Valley and within the City, Town, and County anticipated to be developed during the duration of this Agreement. The exact location and/or extent of these developments is not fully known at this time. These developments combined are estimated to contain 1,500 residential units, 170,000 square feet of commercial space, and 80,000 square feet of office space. This other development shall be referred to in this Agreement as "Other Developments." The area that contains these Other Developments is referred to as the "SCC Sub-Regional Fee Area" and is shown on the map attached as Exhibit "D."

D. Regional Development. The City, Town, and County have identified regional (I-680 freeway) improvement projects which are listed in Section 7 of this Agreement. The SCC Regional Fee assesses all new development throughout the SCC Development Area a fee to finance a portion of these improvements. The approximate boundaries of the SCC Development Area are shown on the map attached as Exhibit "A." "Regional-only Development" is development in an area within the SCC Development Area and outside both the Dougherty Valley Development area and the SCC Sub-Regional Fee Area.

E. Impact of Development. The Dougherty Valley Developments are approved for phased development of 11,000 units to be completed by approximately 2010. The exact timing and location of the Other Developments are not known at this time. The Dougherty Valley Developments are initially expected to create 8,500 new residential units. The traffic impact from the new residential units will adversely impact the quality of life for the existing residents of the surrounding City, Town, and County unless those impacts are mitigated by off-site street improvements.

F. Traffic Impact Mitigation and Improvements. An Environmental Impact Report (EIR), including a traffic study, has been prepared and certified by the County for the Dougherty Valley Developments. A project list of public improvements necessary to mitigate the Dougherty Valley Developments was included in the EIR. Following approval of the Dougherty Valley Developments, a lawsuit was filed by the Town and City against the County regarding the approval of the Dougherty Valley Developments. The Town, City, and County have mutually agreed upon a settlement agreement which is based on a second traffic study and revised project list (South County Traffic Study, 1994). Included in the settlement agreement are traffic mitigations based upon the revised project list. A list of the projects and their estimated cost are attached as Exhibit "B" and are collectively referred to in this Agreement as "the Improvements."

G. Annexation Proposed. The City proposes to annex portions of the Dougherty Valley Development as phases are completed and an adequate funding mechanism is established. The development applications for the Dougherty Valley Developments have been processed and approved by the County. The County will review the improvement plans for each phase and, as appropriate, issue building permits.

H. Collection and Use of Improvement Fees. The Parties intend and agree that the traffic mitigation fees collected from the Dougherty Valley Developments and the Other Developments shall fully fund the Improvements listed in Exhibit "B" as C-1 and C-2 projects, and partially fund the Improvements listed in Exhibit "B" as C-3 projects. The Parties shall collect fees for the Improvements on an equitable basis. The Parties shall use the fees collected in a coordinated manner to finance and construct the Improvements. The purpose of this Agreement is to implement the collection and use of the improvement fees to construct the Improvements. These traffic mitigation improvement fees will be referred to as the "Southern Contra Costa Fees" or the "SCC Fees."

NOW, THEREFORE, the Parties agree:

1. Parties.

The parties to this Agreement are City, Town, and County.

2. Definitions.

a. "Dwelling Unit" means a separate living space for one family. The term does not include a second unit within the meaning of Government Code Section 65852.2 or the alteration or enlargement of an existing dwelling unit.

b. "Dougherty Valley Developments" refers collectively to the Shapell and Windemere projects located within the County portion of Dougherty Valley.

c. "Other Developments" refers collectively to developments located within the SCC Sub-Regional Fee area as designated in Exhibit A and outside of Dougherty Valley.

d. "Regional-only Development" is development in an area within the SCC Development Area and outside both Dougherty Valley and the SCC Sub-Regional Fee Area.

e. "Improvements" refers to those public improvements required to mitigate traffic impacts of the Dougherty Valley Developments as identified in the Settlement Agreement and consists of those projects listed in Exhibit "B." "Improvement" refers to one or part of one of the projects listed in Exhibit "B."

f. "Land Use Entitlement" means a permit or approval granted for the development of property and includes a subdivision map approval, land use permit, development plan approval, grading permit, building permit, and architectural or design review approval.

g. "Settlement Agreement" refers to the "Agreement to Settle Litigation Relating to the Dougherty Valley General Plan Amendment, Specific Plan and Environmental Impact Report," an agreement executed by the Town, City, and County in May, 1994. A list of traffic mitigation projects is included as part of the Settlement Agreement and attached to this Agreement as Exhibit "B." The traffic mitigation projects are listed as C-1 projects (to be paid for in full by the Dougherty Valley Developments), C-2 projects (to be paid in full by Dougherty Valley Developments and Other Developments), and C-3 projects (the "Danville Mitigation" projects) in the Settlement Agreement and in Exhibit "B."

h. "Southern Contra Costa Fees" and "SCC Fees" refer to fees imposed by the City, Town, and County on development within the SCC Development Area. The SCC Fees include the Dougherty Valley Fee, the SCC Sub-Regional Fee, and the SCC Regional Fee.

i. "SCC Regional Fee" refers to the category of SCC Fees that is dedicated to area freeway improvement projects, in accordance with Measure C. The project list for the SCC Regional Fee is in Section 7 of this Agreement.

j. "SCC Sub-Regional Fee" refers to the category of SCC Fees that is dedicated to local road improvements that mitigate Dougherty Valley developments and Other Developments. The projects to be funded by this fee are listed as "C-2" and "C-3" projects in the Settlement Agreement and in Exhibit "B."

k. "S-1 Fee" refers to the category of fee that is dedicated to funding roadway system improvements that mitigate the Shapell development within Dougherty Valley (such improvements shall be referred to as "S-1 projects"). These improvements are to be funded entirely by the Shapell development.

The S-1 Fee is a sub-category of the Dougherty Valley Fee. It will be collected as part of the Dougherty Valley Fee, and will be placed in the SCC Sub-Regional Fee trust fund. Funds will be withdrawn from the Sub-Regional Fee trust fund as needed to construct the S-1 projects.

l. "W-1 Fee" refers to the category of fee that is dedicated to funding roadway system improvements that mitigate the Windemere project within Dougherty Valley (these improvements shall be referred to as "W-1 projects"). These improvements are to be funded entirely by the Windemere project.

The W-1 Fee is a sub-category of the Dougherty Valley Fee. It will be collected as part of the Dougherty Valley Fee, and will be placed in the SCC Sub-Regional Fee trust fund. Funds will be withdrawn from the Sub-Regional Fee trust fund as needed to construct the W-1 project.

m. "Danville Mitigation Fee" refers to a portion of the Dougherty Valley Fee (\$200 per unit) that will partially fund construction mitigation projects (overlays and soundwalls) within the Town. These projects are listed in the Settlement Agreement and in Exhibit "B" as C-3 projects.

n. "Dougherty Valley Fee" refers to the category of fee that will be charged only to developments within the Dougherty Valley. The Dougherty Valley Fee includes the Danville Mitigation Fee, the S-1 Fee (for the Shapell project), the W-1 Fee (for the Windemere project), and the Dougherty Valley developments' fair share (pro rata share determined by the South County Traffic Study) for sub-regional improvements (the C-1 and C-2 subregional projects).

o. "Single Family Unit" refers to a detached building designed for occupation as the residence of one family.

p. "Multi Family Unit" refers to a building or part thereof designed and used exclusively as a dwelling unit among other dwelling units, either on the same parcel (e.g., apartments and mobile home parks) or under separate ownership (e.g., townhomes, duplexes, or duets).

q. "Office" refers to developments for the purpose of housing non-commercial, non-manufacturing businesses.

r. "Commercial" refers to developments for the purpose of retail and wholesale sales of merchandise and services.

s. "Underlying jurisdiction" refers to the party to this Agreement in whose territory a specific project lies.

### 3. Collection of Southern Contra Costa (SCC) Fees.

Each party agrees to collect the appropriate Southern Contra Costa (SCC) Fee a development located within the SCC Development Area which receives a land use entitlement from that party. The amount of that fee is described in Section 11.

To accomplish the collection of fees, each party agrees:

- a. to adopt the necessary ordinance(s) and/or resolution(s) to authorize the collection of the SCC Fees within its jurisdiction; and
- b. to impose a condition of approval upon each development which states substantially the following:

The project developer shall be required to pay the SCC Fees to the [City, Town, or County] prior to issuance of building permits for the project.

### 4. Southern Contra Costa (SCC) Fees Trust Fund Accounts.

Each party shall place the fees collected under Section 3 in an interest-bearing individual trust fund account to be used specifically for the SCC Fees. The deposits in each account shall be invested in the same manner as other funds of the party. For investment purposes the funds may be pooled with other funds as long as separate accounting is maintained and the SCC Fees trust fund accounts are credited with the investment earnings.

### 5. Joint Accounting.

Semiannually, on April 1 and October 1 of each year, the Parties shall exchange information regarding the fees collected and investment earnings in each party's SCC Fees Trust Fund account. The information shall be shared in a form and manner to be subsequently agreed to by the Parties.

Within 30 days after the information is exchanged, the Parties shall transfer funds among themselves from one party's SCC Fees Trust Fund account to another, as appropriate, based upon the distribution provisions set forth in Section 14.

6. The Southern Contra Costa Fees.

The Southern Contra Costa Fees (SCC Fees) consists of three components: the regional fee ("SCC Regional Fee"), the sub-regional fee (SCC Sub-Regional Fee), and the Dougherty Valley Fee, which will be charged only to Dougherty Valley Developments.

7. The SCC Regional Fee.

The regional fee shall be used to fund a portion of the costs of three projects:

1. Improvements to the I-680 ramps at Alcosta Boulevard
2. Auxiliary lane along I-680 from Diablo Road to Bollinger Canyon Road
3. Improvements to the I-680 ramps at Stone Valley Road

If, during the life of this JEPA, another regional fee (e.g., the TVTC fee) is adopted, the SCC Regional Fee will be adjusted to avoid double-charging developments for any projects that are both on the SCC list and on the subsequently adopted regional fee project list. Below is a summary of the SCC Regional Fees.

SCC Regional Residential Fee: \$792 per single family residential unit

SCC Regional Commercial Fee: \$0.79 per square foot gross floor area

SCC Regional Office Fee: \$1.27 per square foot gross floor area

8. SCC Sub-Regional Fee.

The SCC Sub-Regional Fee shall be used to fund projects in the SCC Sub-Regional Fee Area (within the City, Town, and County). These projects are listed in Exhibit "B" of this document and in the Settlement Agreement as "C-2" and "C-3" projects. Below is a summary of the SCC Sub-Regional Fees.

SCC Sub-Regional Residential Fee: \$2,128 per single family residential unit

SCC Sub-Regional Commercial Fee: \$2.13 per square foot gross floor area

SCC Sub-Regional Office Fee: \$3.41 per square foot gross floor area

9. Dougherty Valley Fee.

The Dougherty Valley Fee will include the Danville Mitigation Fee, the S-1 Fee (for the Shapell project), the W-1 Fee (for the Windemere project), and the Dougherty Valley Development's fair share (pro rata share determined by the South County Traffic Study)

for sub-regional improvements (these projects are C-1 and C-2 projects in the Settlement Agreement and in Exhibit "B").

Danville Mitigation Fee: \$200 per Dougherty Valley residential unit

S-1 Fee: \$937 per Shapell residential unit

Fair Share of C-1 & C-2: \$2,009 per Dougherty Valley residential unit

10. W-1 Fee.

The W-1 Fee shall be collected from the residential portion of the Windemere project in the Dougherty Valley to pay for the construction of Windemere Parkway when needed. Funds collected as W-1 Fees shall be placed in a Construction Project Deposit Trust Fund (Fund No. 8198), to be used by the developer to construct Windemere Parkway when needed. When conditioned to construct Windemere Parkway, the developer shall post a bond for the project. Once the project is bonded, the developer shall be allowed to withdraw the W-1 Fee funds to finance the construction of the Windemere Parkway.

The W-1 Fee shall be as follows:

|                        | Fee          | Units | Total        |
|------------------------|--------------|-------|--------------|
| Phase 1, Multi-family  | \$750/unit   | 1285  | \$ 963,750   |
| Phase 1, Single-family | \$1,250/unit | 1000  | \$ 1,250,000 |
| Phase 2                | \$1,800/unit | 950   | \$ 1,710,000 |
| Phase 3                | \$2,000/unit | 1000  | \$ 2,000,000 |
| Phase 4                | \$2,000/unit | 935   | \$1,870,000  |

**Total W-1 Fees collected: \$ 7,793,750**

The W-1 Fee shall be incorporated into the Dougherty Valley Fee for the Windemere project.

11. SCC Fee Amount and Time of Payment.

The applicability of the SCC Fees on development within the SCC Development Area will depend upon the location of the development. Dougherty Valley Development will pay the Dougherty Valley Fee and SCC Regional Fee. Other Development will pay the SCC Sub-Regional Fee and SCC Regional Fee. Regional-Only Development will pay only the SCC Regional Fee. Below is a summary of the applicable SCC Residential Fees to each development area as defined by this Agreement.

| Dougherty Valley<br>Development |                 | Other Development |                 |                 |                 |
|---------------------------------|-----------------|-------------------|-----------------|-----------------|-----------------|
|                                 | Shapell         | Windemere         | County          | City            | Town            |
| SCC Regional Fee                | \$792           | \$792             | \$792           | \$792           | \$792           |
| SCC Sub-Regional Fee            | N/A             | N/A               | \$ 2,128        | \$ 2,128        | \$ 2,128        |
| Dougherty Valley Fee            | \$ 3,146*       | \$ 3,717**        | N/A             | N/A             | N/A             |
| <b>TOTALS</b>                   | <b>\$ 3,938</b> | <b>\$ 4,509</b>   | <b>\$ 2,920</b> | <b>\$ 2,920</b> | <b>\$ 2,920</b> |

\* The Dougherty Valley Fee for the Shapell project includes \$937 per unit for the S-1 projects.

\*\* This is the average SCC Dougherty Valley Fee for the Windemere project including the phased W-1 Fee. The W-1 Fee will increase as noted in the table in Section 10.

The SCC Fees shall be collected prior to the issuance of a building permit.

#### 12. SCC Fee Adjustments.

The amount of each SCC Fee (Dougherty Valley Fee, SCC Sub-Regional Fee, and the SCC Regional Fee) may be adjusted by a written addendum to this Agreement signed by the Parties, provided that the adjustment is not in conflict with the terms of the Settlement Agreement.

On March 1 of each year that this Agreement is in effect, each party shall adjust the fee for each land use set forth above for inflation. The adjusted fees shall be the amounts in effect for the preceding calendar year, increased or decreased by the amount of the change in the Engineering News-Record Construction Cost Index for the San Francisco Bay Area for the period ending December 31 of the preceding fiscal year. On March 1 of each year this Agreement is in effect, each party shall increase the amount of each of the fees set forth above over the amounts in effect for the preceding calendar year by an amount determined necessary for any significant changes in State or Federal construction requirements.

#### 13. Administrative Costs.

The total funds to be collected by the SCC Fees shall include a 1% increase over the total cost of the projects to be constructed under this Agreement to cover the administrative costs of the Agreement.

14. Fund Distribution.

The parties agree to the following semi-annual distribution of the funds collected by the SCC Fees:

- a. SCC Regional Fees: after withholding 1% of each fee for administrative costs, SCC Regional Fees will be distributed to the Parties as follows:

City shall receive 19.6%  
Town shall receive 73.5%  
County shall receive 6.9%

- b. SCC Sub-Regional Fees: SCC Sub-Regional Fees will be distributed to the Parties in accordance with the following table:

*Collecting* ⇒ Sub-Regional Residential Fees Collected/Building Permit Issued in:

|                 | City            | Town          | County          |
|-----------------|-----------------|---------------|-----------------|
| City receives   | \$1,359 (63.9%) | \$404 (19%)   | \$1,338 (62.9%) |
| Town receives   |                 | \$1,596 (75%) |                 |
| County receives | \$769 (36.1%)   | \$128 (6%)    | \$790 (37.1%)   |
| Total           | \$2,128         | \$2,128       | \$2,128         |

Sub-Regional Commercial Fee: \$2.13 per square foot gross floor area

Sub-Regional Office Fee: \$3.41 per square foot gross floor area

All the identified commercial and office development in the SCC Sub-Regional Fee Area are located in the City. The following fee distributions the SCC Sub-Regional Commercial and Office Fees include the 1% the City is to withhold to cover the costs of fee collection and quarterly disbursement.

SCC Sub-Regional Commercial Fee:

City receives \$1.36 per square foot gross floor area

County receives \$0.77 per square foot gross floor area

TOTAL Fee \$2.13 per square foot gross floor area

SCC Sub-Regional Office Fee:

City receives \$2.17 per square foot gross floor area

County receives \$1.24 per square foot gross floor area

TOTAL Fee \$3.41 per square foot gross floor area

- c. Dougherty Valley Fees for the Shapell Development: Dougherty Valley Fees will be distributed to the parties in accordance with the following:

For each residential traffic mitigation fee of \$3,146 collected from the **Shapell** development for the Dougherty Valley Fee,

|                 |                 |
|-----------------|-----------------|
| City receives   | \$ 2,600        |
| Town receives   | \$ 267          |
| County receives | \$ 279          |
| <b>TOTAL</b>    | <b>\$ 3,146</b> |

For each residential traffic mitigation fee collected from **Windemere** development for the Dougherty Valley Fee, the distribution will be as follows:

| <u>Phase and Land Use</u> | <u>W-1 Fee</u> | <b>TOTAL Dougherty Valley Fee</b> | <b>Town receives:</b> | <b>City receives:</b> | <b>County receives:</b> |
|---------------------------|----------------|-----------------------------------|-----------------------|-----------------------|-------------------------|
| Phase 1 Multi Family      | \$ 750         | <b>\$2,959</b>                    | \$267                 | \$1,670               | \$1,022                 |
| Phase 1 Single Family     | \$1,250        | <b>\$3,459</b>                    | \$267                 | \$1,670               | \$1,522                 |
| Phase 2 Residential       | \$1,800        | <b>\$4,009</b>                    | \$267                 | \$1,670               | \$2,072                 |
| Phase 3 and 4 Residential | \$2,000        | <b>\$4,209</b>                    | \$267                 | \$1,670               | \$2,272                 |

For traffic mitigation fees collected from Windemere development or Shapell development for commercial development within Dougherty Valley, the fees shall be distributed as follows:

|                             |                                                |
|-----------------------------|------------------------------------------------|
| City receives               | \$1.57 per square foot gross floor area        |
| Town receives               | \$0.28 per square foot gross floor area        |
| County receives             | \$0.36 per square foot gross floor area        |
| <b>TOTAL Commercial Fee</b> | <b>\$2.21 per square foot gross floor area</b> |

- d. In the event of an incorporation into the City or Town of a development that encompasses a project listed in the Settlement Agreement, the fund distribution shall be adjusted, and any SCC fees previously collected for that project shall be transferred to the incorporating party.

15. Construction of the Improvements.

- a. City, Town, and County shall use the funds disbursed under Section 14 only for the design, environmental review, construction contract, and related costs of the projects listed in Exhibit "B." It is the intention of the Parties that the projects listed in Exhibit "B" shall be completed as needed to satisfy the Growth Management and Congestion Management Program requirements. If a project crosses jurisdictional boundaries, the Parties shall make every effort to coordinate the projects between jurisdictions. A copy of each party's current project priority list should be transmitted to the other parties with the March 1 disbursement of funds.
- b. Upon acceptance of an Improvement, the ownership and responsibility for maintenance of the Improvement rest with the party having jurisdiction over the area containing the Improvement.

16. Growth Management and Congestion Management Program Requirements.

The Parties agree to meet and develop a Capital Improvement Plan (CIP) based upon each party's priority list and the projected fee revenue for the duration of the Agreement.

An initial CIP shall be included in this Agreement by amendment within six months of the effective date of this Agreement. The parties shall review said CIP annually and make necessary adjustments by amendment. Updates to the CIP shall be based upon the new priority lists and projected income of each jurisdiction.

17. Reimbursement for Developer-Constructed Projects.

If a developer elects, or is required as a condition of approval for development, to construct one or part of one of the Improvements, the developer shall be eligible to receive reimbursement or credit toward the appropriate SCC Fee.

**Credit:** A credit is considered to be a portion of the SCC Fee that the developer will be relieved of paying in exchange for the construction of one or part of one of the Improvements. The developer shall pay the full Fee amount to the collecting jurisdiction (i.e., the jurisdiction in which the development lies). After the ensuing semi-annual review (see Section 5), the Parties will distribute the fees in accordance with the provisions of Section 14. The underlying jurisdiction (i.e., the jurisdiction in which the subject road improvements are constructed) will issue the credit for the road improvements to the developer once it has received its share of the semi-annual fee distribution. The credit received by the developer shall be limited to the lesser of:

1. the underlying jurisdiction's share of the road fee obligation required by this Agreement or
2. the "eligible cost" for the Improvement as determined by the underlying jurisdiction.

For example, if a Dougherty Valley developer elects to construct a C-2 project in the City (the underlying jurisdiction) as a mitigation for its development, the development would pay its full Dougherty Valley Fee to the County (the collecting jurisdiction). After the next semi-annual review, the County would disburse the appropriate share of fees to the City. Credit would then be issued by the City to the developer.

**Reimbursement:** If the eligible cost of an Improvement to be built by the developer is greater than the amount credited, the underlying jurisdiction and the developer shall enter into a reimbursement agreement prior to the commencement of construction of the Improvement.

Reimbursement will begin at the time additional funds become available to the underlying jurisdiction for the Improvement constructed by the developer. Reimbursements will be made at the end of each fiscal quarter, with July 1 being the beginning of the fiscal year. The underlying jurisdiction reserves the right not to make a quarterly payment if the amount of available funds in the appropriate SCC Fee trust fund account is less than the total of all the reimbursements owed. In such cases, the underlying jurisdiction may choose to pay some lesser amount for each agreement than is owed in a quarter based on the ratio of the amounts owed for each agreement for that quarter to the total owed that quarter. A minimum fund balance of \$50,000 in each jurisdiction will be maintained each quarter after all reimbursements are made.

The amount of each quarterly payment will depend on the fund balance, on the amount of fees collected and available for reimbursement, and on all other terms listed herein. A developer could therefore be reimbursed in one quarter and not reimbursed in another quarter because of the construction of an Improvement by the County, City, or Town. No interest shall be paid on the outstanding balance due to the developer. Interest shall be used for construction of Improvements or Agreement administration costs.

Reimbursement agreements shall remain in effect until paid in full. The first quarter shall be the one following the quarter in which the underlying jurisdiction accepts the constructed road improvements as complete.

**Costs eligible for credit or reimbursement:** Only those road improvements identified in Exhibit "B" are eligible for credit or reimbursement. Some improvements (such as curbs, gutters, paths, sidewalks, drainage facilities, fences, and soundwalls) which are located along the property frontage of the development are not eligible for credit or reimbursement unless explicitly identified as part of an Improvement identified in Exhibit "B." Credit or reimbursement is limited to the amount estimated for the Improvement and used in the calculation of the SCC Fees.

The determination of the "eligible costs" for credit or reimbursement will be based on at least three independent bids for the Improvement. The developer shall submit said bids to the public works department of the underlying jurisdiction for review and concurrence. Upon the department's concurrence with the bids, the lowest acceptable, verifiable bid shall be the basis for determination of the credit and/or reimbursement amount. The eligible amount shall not exceed the estimated cost of the Improvement used in the

calculation of the SCC Fee and listed in Exhibit "B." The underlying jurisdiction shall reserve the right to reject the developers' bids or any other proposed value for said "eligible costs" and to calculate said costs using the bond estimate prices.

Offsite right of way acquisition costs shall be eligible for credit or reimbursement of the SCC Fee, except that the cost of any right of way work performed by the underlying jurisdiction (e.g., negotiation, right of way condemnation, etc.) shall be subtracted from the amount eligible for credit or reimbursement. Right of way for an Improvement that is dedicated by the developer will not be eligible for credit or reimbursement unless the right of way take is greater on the developer's side of the road than on the other side of the road, resulting in an excessive take. In such cases, the amount of reimbursement allowed shall be determined by the underlying jurisdiction.

Any extra work or change orders, either required by the Parties or determined necessary by the developer, must be agreed to in writing by the developer and the underlying jurisdiction to be included in the credit or reimbursement amount. Work performed by the developer prior to execution of a written credit and/or reimbursement agreement between the underlying jurisdiction and the developer shall not be eligible for credit or reimbursement.

**Utility Relocation Costs:** The developer shall be responsible for utility relocation costs for projects along the frontage of his development. Any offsite Improvement will be considered a County, City, or Town project and the underlying jurisdiction will require the utility companies to relocate the utilities at their cost.

**Administrative Costs:** The total amount of funds eligible for credit or reimbursement under each agreement shall be reduced by 1% to cover the administrative costs of the reimbursement agreement.

18. Independent Planning Action.

Nothing in this Agreement shall have any bearing on the determination of which party will process a development application for any of the developments. Further, nothing in this Agreement shall have any bearing on the determination of how many dwelling units or how much non-residential space may be permitted or the nature of the development to be approved by the party having jurisdiction over a particular development.

19. Amendments.

This Agreement may be amended at any time by an amendment mutually executed by the City, Town, and County. Such amendments shall be approved by the governing board or council of each party.

20. Existing Area of Benefit Programs.

The SCC Fee generates revenue to fund improvements mitigating impacts attributable to the Dougherty Valley and Other Developments; it is not intended to replace existing areas of benefit.

The parties agree to amend their existing area of benefit programs to eliminate any duplication of projects between their existing areas of benefit and this Agreement. Each party shall be responsible for amendments to their own area of benefit project lists and shall hold the other parties harmless in the event of liability arising from the failure to amend the project list for its own area of benefit.

21. Indemnification and Hold Harmless.

Each party to this Agreement shall defend, indemnify, including for attorneys' fees and costs, save, and hold harmless the other parties, their boards or councils, officers, agents, and employees from any and all claims, demands, suits, costs, expenses, or liability for any damages, injury, sickness, or death, including liability for inverse condemnation, nuisance, or trespass, arising directly or indirectly from, or in any way connected with, the design, construction, installation, inspection, operation, maintenance, or repair of those road improvement projects located within the indemnitor's jurisdiction.

Nothing in this section is intended to affect the legal liability of any party to third parties by imposing any standard of care different from the standard of care imposed by law.

Nothing in this section is intended to affect the provisions of Government Code Section 57325 as to territory annexed subsequent to the execution of this Agreement.

A party is not liable to another party for the inadvertent failure or legal inability to collect a fee.

22. Insurance.

For the design and construction of road improvement projects within their respective jurisdictional boundaries, the Parties to this Agreement shall cause all contract documents for such work to include provisions requiring the consultant or contractor: (1) to name all Parties to this Agreement, their boards or councils, officers, agents, and employees as additional insureds under any insurance provided by the consultant or contractor; (2) to provide to all Parties to this Agreement a certificate or certificates of insurance evidencing such coverage and to provide at least 30 days' written notice of lapse, cancellation, or other termination of coverage; and (3) to promise to defend, indemnify, including for attorneys' fees and costs, save and hold harmless all Parties to this Agreement, their boards or councils, officers, agents, and employees from any loss, damage, injury, death, claim, or demand connected in any way with the work or services performed by the consultant or contractor, the consultant's or contractor's subcontractors, or anyone under the consultant's or contractor's direction or control. If more than one consultant or

contractor is employed, the term "consultant" or "contractor" shall refer to all consultants and contractors employed by the Parties to this Agreement.

23. Term of Agreement.

With the exception of Section 21 (Indemnification and Hold Harmless), which shall remain in effect in perpetuity, this Agreement shall remain in effect from the Effective Date in the opening paragraph until:

- a. the projects listed in Exhibit "B" have been constructed, and
- b. the last phase of the Dougherty Valley Developments has been built out.

24. Attorneys' Fees.

If legal action is necessary to enforce this agreement, the prevailing party is entitled to reasonable court costs and attorneys' fees.

25. Powers.

The powers of this Agreement shall be exercised subject to the restrictions upon the exercising of such powers by the County, as provided in Section 6509 of the Government Code.

26. Sole Agreement.

This Agreement is the sole agreement on the subject matters of this Agreement between the parties. However, nothing contained herein shall supersede or amend any provision of the Settlement Agreement.

27. Signatures.

This Agreement may be signed in counterparts with the signature pages attached to form a complete document.

APPROVED BY:

**COUNTY OF CONTRA COSTA**

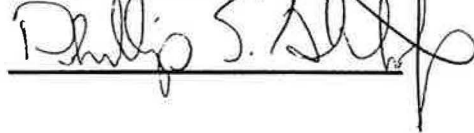
By:



August 6, 1996

Attest: *Shirley Casillas*  
Clerk of the Board of Supervisors

Form approved by Counsel

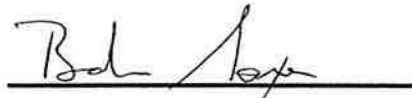


**CITY OF SAN RAMON**

By:

  
Mayor

Form approved by Counsel



Attest:

City Clerk

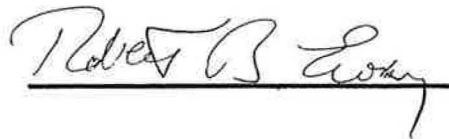


**TOWN OF DANVILLE**

By:



Form approved by Counsel



Attest:

Town Clerk



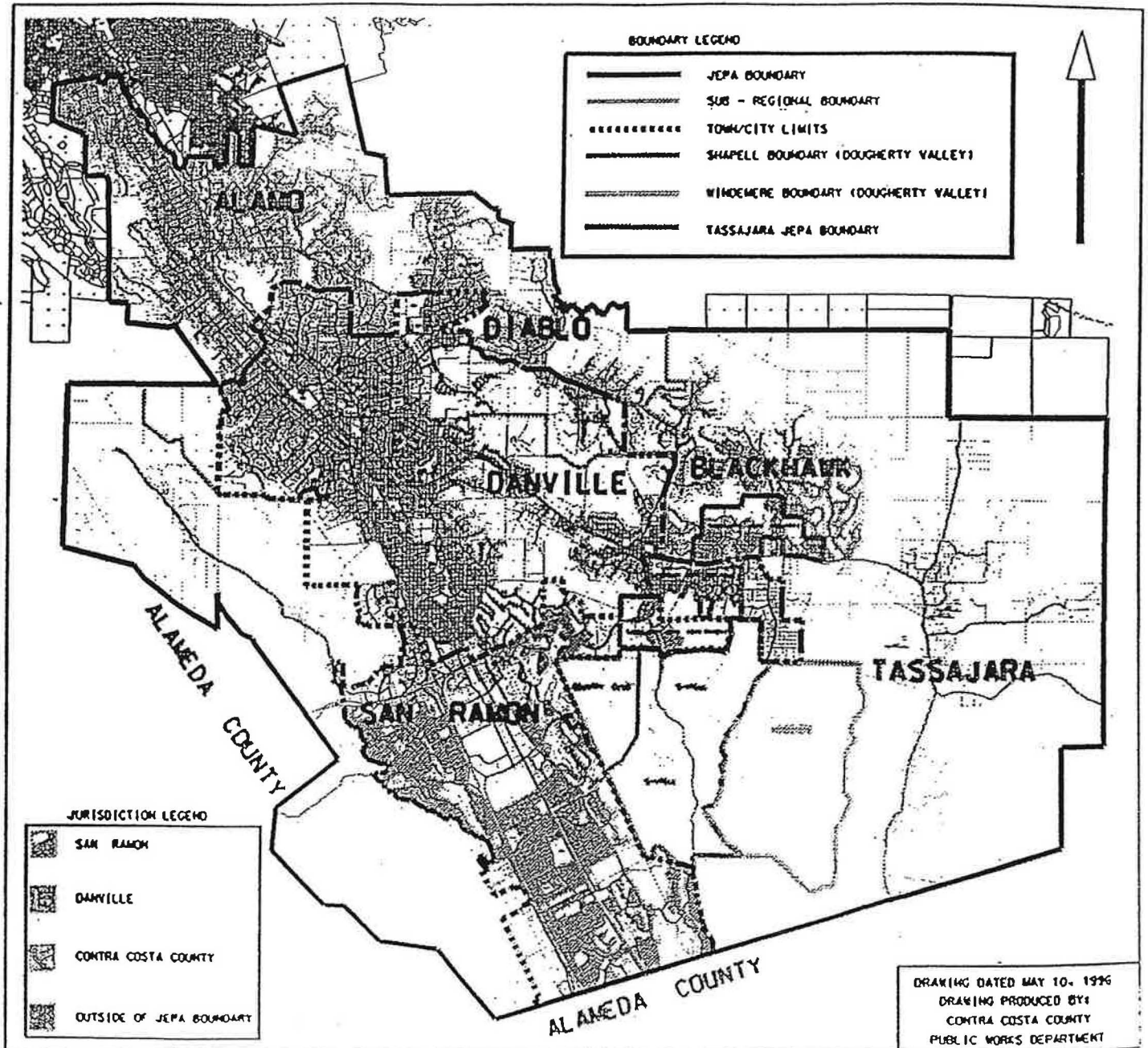
# EXHIBIT "A" - SCC DEVELOPMENT AREA

## SOUTHERN COSTA COUNTY JEPa AREA

TOWN OF DANVILLE

CITY OF SAN RAMON

CONTRA COSTA COUNTY



## EXHIBIT "B" "IMPROVEMENTS"

| No.           | Project Description                                                                                                                                                                                                                                           | Estimated Cost |
|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| C 1.1         | Camino Tassajara/Blackhawk Road: within existing curb-to-curb, reconfigure NB to provide two left turn lanes, one thru, one shared thru/right-turn lane, and one right-turn lane. On Tassajara Ranch Drive, remove median and add bike lane                   | \$672,431      |
| C 1.2         | I-680/Sycamore Valley Rd: restripe WB approach to an exclusive right, one shared thru/right, one thru, and one left                                                                                                                                           | \$5,000        |
| C 1.3         | Crow Canyon Rd/Dougherty Rd intersection improvements: reconfigure EB approach to provide 3 thru lanes, one free right turn lane. Reconstruct SB Dougherty south of Crow Canyon for an acceleration lane for right turns from EB Crow Canyon Rd (S-1 project) | \$300,736      |
| C 1.4         | Bollinger Canyon Rd/Camino Ramon: if needed, reconfigure SB approach to provide two exclusive left turn lanes, one shared thru/right turn lane, and one exclusive right turn lane                                                                             | \$56,674       |
| C 1.5         | Bollinger Canyon Road/Alcosta Boulevard: add southbound right turn lane on Alcosta Boulevard                                                                                                                                                                  | \$207,041      |
| C 1.5         | Bollinger Canyon Road from Alcosta Blvd to Canyon Lakes Drive: widen to 6 lanes; northbound right turn lane on Alcosta; westbound right turn lane on Bollinger (S-1 Project)                                                                                  | \$1,430,539    |
| C 1.6         | Dougherty Road: construct 6 lane arterial between Crow Canyon Rd and northerly project limits (S-1 Project)                                                                                                                                                   | \$404,568      |
| C 1.7/<br>1.8 | Windemere Parkway: construct 4 lane arterial from easterly project limits to Camino Tassajara Road (W-1 Project)                                                                                                                                              | \$7,793,750    |
| C 1.9         | Crow Canyon Rd: widen from 4 to 6 lanes between Dougherty Road and West Branch Boundary (east)                                                                                                                                                                | \$237,252      |
| C 1.10        | Crow Canyon Road: widen from 4 to 6 lanes from Alcosta Blvd to West Branch Boundary (west)                                                                                                                                                                    | \$5,328,366    |
| C 1.10<br>B   | Crow Canyon Road: widen from 4 to 6 lanes from West Branch Boundary (west) to Dougherty Road (S-1 Project)                                                                                                                                                    | \$672,658      |
| C 1.11        | Dougherty Rd: widen to 6 lanes from southerly limits of project (Development) to Old Ranch Rd and improve intersection by signalization, left and right turn channelization                                                                                   | \$2,066,039    |
| C 1.12        | Dougherty Rd: widen to 6 lanes between Old Ranch Rd and County Line                                                                                                                                                                                           | \$2,297,757    |
| C 1.13        | Dougherty Road/Old Ranch Road: signalize, left and right turn channelization                                                                                                                                                                                  | SEE C-1.11     |
| C 1.14        | Alcosta Blvd/Old Ranch Rd: signalize                                                                                                                                                                                                                          | \$330,949      |

Total Estimated Cost C-1 Projects

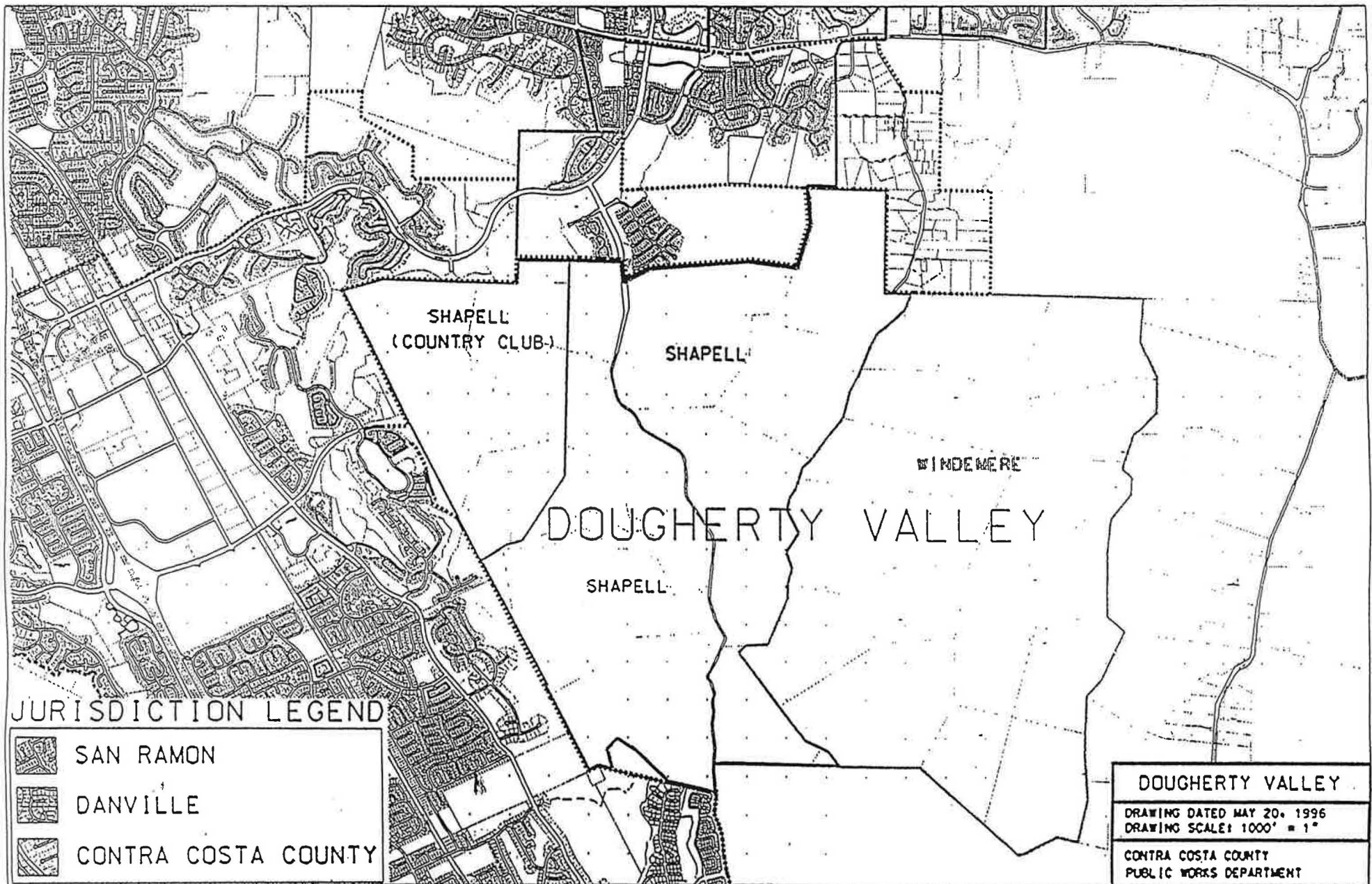
\$21,803,760

## EXHIBIT "B" "IMPROVEMENTS"

| No.                               | Project Description                                                                                                                                                                                                                                         | Total Cost          |
|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| C 2.1                             | Bollinger Canyon Rd: construct eight lanes from I-680 to Alcosta                                                                                                                                                                                            | \$2,432,732         |
| C 2.2                             | Camino Tassajara Road: widen from 2 to 6 lanes from Windemere Pkwy to County Line                                                                                                                                                                           | \$3,953,456         |
| C 2.3                             | Camino Tassajara/Sycamore Valley Rd: widen/restripe SB for 1 shared left and right turn, and 1 exclusive left turn lane                                                                                                                                     | SEE PROJECT C - 3.5 |
| C 2.4                             | Crow Canyon Rd: between Alcosta and I-680, widen to 8 lanes                                                                                                                                                                                                 | \$3,517,601         |
| C 2.5                             | Bollinger Canyon Rd: improve NB I-680 Onramp: widen right turn radius, construct raised island to convert curb lane to a free right turn lane, restripe 2nd right turn lane to stay under signal control, modify signal control                             | \$114,830           |
| C 2.6                             | Alcosta Blvd/Crow Canyon Rd: add exclusive right turn lane EB                                                                                                                                                                                               | DELETED             |
| C 2.7                             | Alcosta Blvd/Crow Canyon Rd: add one exclusive NB right turn lane                                                                                                                                                                                           | \$860,678           |
| C 2.8                             | Camino Ramon/Crow Canyon Rd: widen/restripe SB approach to one right turn lane, one thru lane, and 1 left turn lane; add an exclusive right turn lane                                                                                                       | \$345,322           |
| C 2.9                             | Crow Canyon Rd/I-680 NB off-ramp: add NB RT lane                                                                                                                                                                                                            | \$186,322           |
| C 2.10                            | I-680 SB ramps/Crow Canyon Rd: restripe to revise existing right turn lane to provide shared right/left lane                                                                                                                                                | \$72,739            |
| C 2.11                            | Bollinger Canyon Rd/Sunset Rd: if needed, reconfigure SB approach to provide one left turn lane, one thru lane and one free right turn lane. Widen Bollinger Canyon Rd, west of Sunset Dr, to provide dedicated curb lane to accept right turns from Sunset | \$335,338           |
| C 2.12                            | Crow Canyon Rd Noise Attenuation: as appropriate, construct soundwalls along Crow Canyon Rd between Dougherty Rd and Alcosta Blvd                                                                                                                           | SEE PROJECT C - 3.4 |
| C 2.13                            | Crow Canyon Road Overlay from I-680 to West Branch Boundary (for overlays of roads in Danville, see C-3 project list)                                                                                                                                       | SEE PROJECT C - 3.2 |
| Total Estimated Cost C-2 Projects |                                                                                                                                                                                                                                                             | \$11,819,018        |

| No.   | Project Description                                                                      | Cost Estimate |
|-------|------------------------------------------------------------------------------------------|---------------|
| C 3.1 | Camino Tassajara Overlay (58.6% of C-2.13)                                               | \$1,395,889   |
| C 3.2 | Crow Canyon Road Overlay (12.6% of C-2.13) from West Branch Boundary to Camino Tassajara | \$301,045     |
| C 3.3 | Sycamore Valley Road Overlay (28.8% of C-2.13)                                           | \$686,136     |
| C 3.4 | Crow Canyon Soundwall                                                                    | \$583,625     |
| C 3.5 | Camino Tassajara/Sycamore Valley Road Intersection                                       | \$1,500       |

|                                                      |              |
|------------------------------------------------------|--------------|
| TOTAL Estimated C-3 Project Cost                     | \$2,968,195  |
| Dougherty Valley Funding                             | \$1,700,000  |
| Sub-Regional Fee Collected in the Town               | \$399,000    |
| TOTAL SCC JEPA C-3 Project Funding                   | \$2,099,000  |
| TOTAL SCC JEPA C-2 Project Funding                   | \$11,819,018 |
| TOTAL SCC JEPA C-1 Project Funding                   | \$21,803,760 |
| TOTAL SCC JEPA FUNDING for C-1, C-2 and C-3 Projects | \$35,721,778 |



## EXHIBIT "C" – DOUGHERTY VALLEY DEVELOPMENTS

# EXHIBIT "D" – SCC SUB-REGIONAL FEE AREA

