ORDINANCE NO. 2010-1710

AN ORDINANCE APPROVING INTEREST RATE AND RELATED TERMS PURSUANT TO SECTION 3.12 OF THE MASTER DEVELOPMENT AGREEMENT BY AND AMONG THE MIDDLE GREEN VALLEY LANDOWNERS AND COUNTY OF SOLANO FOR THE MIDDLE GREEN VALLEY SPECIFIC PLAN

The Board of Supervisors of the County of Solano ordains as follows:

Section 1. Findings:

The Solano County Board of Supervisors finds and determines, based on the entire administrative record, that:

1.1. On 7/27, 2010, the Board of Supervisors: (a) adopted Resolution No. 2010-115 certifying an Environmental Impact Report (EIR) that analyzes the environmental impact of the Middle Green Valley Specific Plan Project (Specific Plan), and adopting a Statement of Findings of Fact, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program; (b) adopted Ordinance No. 2010-1708 adopting the Middle Green Valley Specific Plan; and (c) adopted Ordinance No. 2010-1709 approving the Master Development Agreement by and Among the Middle Green Valley Landowners and County of Solano for the Middle Green Valley Specific Plan (Master Development Agreement).

1.2. Section 3.12 of the Master Development Agreement provides for Reimbursement of Initial County Costs to prepare, process, and publish the EIR, Specific Plan, and Master Development Agreement, as further specified in Section 3.12.

Section 2. Approval of Interest Rate and Related Terms

2.1. Attached to this Ordinance as Exhibit H, and incorporated by reference in this Ordinance, is a detailed description of the Interest Rate and Related Terms Pursuant to Section 3.12 of the Master Development Agreement.

2.2. Exhibit H is approved and shall be applied as provided in Section 3.12 of the Master Development Agreement, as further described in Exhibit H.

2.3. County Counsel is authorized and directed to make all necessary and appropriate clerical, typographical, and formatting corrections to the adopted Exhibit H. Any such corrections shall not alter the substance, effect, or effective date of any action taken in adopting Exhibit H. In preparing the Master Development Agreement for signature by the parties, County Counsel is authorized to renumber Exhibit H, and references to Exhibit H, and to attach and incorporate it in sequence with the other exhibits to the Master Development Agreement.

2.4. The provisions of Ordinance No.1709-2010, approving the Master Development Agreement, are incorporated in this Ordinance by this reference.
Section 3. Severability

If any provision of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, including but not limited to being preempted by state law, that portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof nor other applications of the ordinance which can be given effect without the invalid provision or application.

Section 4. Effective Date

This ordinance shall be effective thirty (30) days after its passage.

Section 5. Publication

A summary of this ordinance shall be published once within fifteen (15) days after its adoption, in the Fairfield Daily Republic, a newspaper of general circulation in the County of Solano.

Passed and adopted by the Solano County Board of Supervisors at its regular meeting on July 27, 2010 by the following vote:

AYES: Supervisors Reagan, Spering, and Chair Vasquez

NOES: Supervisors Seifert

EXCUSED: Supervisors Kendylis

John M. Vasquez, Chair
Solano County Board of Supervisors

ATTEST:
Michael D. Johnson, Clerk
Solano County Board of Supervisors

By: Patricia J. Crittenden, Chief Deputy Clerk

Introduced: July 27, 2010
Adopted: July 27, 2010
Effective: August 27, 2010
EXHIBIT H
Interest Rate and Related Terms Related to Initial County Costs

Section 1. Reimbursement Amount

The Reimbursement Amount applicable to each new primary residential unit shall mean the amount calculated by dividing the amount of the Initial County Costs by the total number of new primary residential units for participating landowners listed in Table 4-1 of the Specific Plan.

The following example is for illustration purposes only.

Example:

The Initial County Costs are $1,000,000.00 and the total number of new primary residential units listed in Table 4-1 of the Specific Plan is 390, the Reimbursement Amount is $2,564.10.

Section 2. Interest Rate:

The amount of the "Interest Rate" which shall be applied pursuant to Section 3.12 of the Master Development Agreement by and among the Middle Green Valley Landowners and County of Solano for the Middle Green Valley Specific Plan (Master Development Agreement), shall be equal to the sum of the "Interest Rate Index" plus the "Multiplier," but in no event less than the "Minimum Interest Rate" nor greater than the "Maximum Interest Rate," each as set forth below.

Interest Rate Index: The Five-Year U.S. Treasury swap rate as published in the Federal Reserve Statistical Release

Multiplier: One Percent (1%)

Minimum Interest Rate: Three Percent (3%)

Maximum Interest Rate: Six Percent (6%)

The following example is for illustration purposes only.

Example:

If the Interest Rate Index were 2% and the Multiplier is 1%, the total Interest Rate to be applied pursuant to Section 3.12 would be 3%.

Section 3. Date for Setting of Benchmark Interest Rate:

The date upon which the Benchmark Interest Rate shall be set is the Effective Date of the Master Development Agreement. The Benchmark Interest Rate shall be calculated using the Interest Rate Index that is published on or most recently prior to the Effective Date.
Section 4. Dates Upon Which the Interest Rate Shall be Reset:

The Interest Rate calculated to be in effect starting on the Effective Date of the Master Development Agreement shall apply for the first five years of the Term of the Master Development Agreement. On the fifth (5th) anniversary following the Effective Date of the Master Development Agreement, the Interest Rate shall be reset using the Interest Rate Index that is published on or most recently prior to the fifth anniversary of the Effective Date. Following the fifth anniversary of the Effective Date, the Interest Rate shall be reset in the same manner on the tenth, fifteenth, and twentieth anniversaries of the Effective Date.

The Interest Rates that are calculated in this manner are to be set on the Effective Date and on each subsequent five-year anniversary within the Term of the Master Development Agreement, and are to be applied pursuant to Section 3.12 without regard to changes in the published level of the Interest Rate Index that may occur within each such five-year period.

Section 5. Effect of Minimum and Maximum Interest Rates:

At no time during the Term of the Master Development Agreement shall the Interest Rate (i.e., the sum of the Interest Rate Index and the Multiplier) be less than Three Percent (3%) nor more than Six Percent (6%). The date upon which the Benchmark Interest Rate shall be set is the Effective Date of the Master Development Agreement. The Interest Rate shall be calculated using the Interest Rate Index that is published on or most recently prior to the Effective Date.

On the fifth, tenth, fifteenth or twentieth anniversaries following the Effective Date of the Master Development Agreement, if the Interest Rate set based on the then-published Interest Rate Index would be below 3%, the Interest Rate during the subsequent five-year period shall be 3%. On the fifth, tenth, fifteenth or twentieth anniversaries following the Effective Date of the Master Development Agreement, if the Interest Rate set based on the then-published Interest Rate Index would be above 6%, the Interest Rate during the subsequent five-year period shall be 6%.

Section 6. Compounding:

Interest calculated pursuant to section 3.12 shall be calculated with compounding annually.

Section 7. Accrual:

Interest pursuant to Section 3.12 shall begin accruing on the earlier of: (1) the third (3rd) anniversary following the Effective Date of the Master Development Agreement; or (2) the date upon which the first tentative map is approved.

Section 8. Calculation of Payment Amounts:

The amount payable pursuant to Section 3.12 shall be calculated as of the date of issuance of each corresponding building permit for a new primary residential unit. The dollar amount of the interest payable as of that date shall be calculated using the Interest Rate(s) in effect during the corresponding five-year period(s), and shall be calculated by applying the Interest Rate(s) applicable during each period to the amount of Initial County Costs that have been outstanding and unpaid during each day since the Effective Date. The total amount payable shall be calculated by adding to the Reimbursement Amount an amount equal to the Reimbursement Amount multiplied by the Interest Rate, in the manner demonstrated by the examples below. For purposes of performing this calculation, the Interest Rate shall be translated into a daily...
interest rate, as demonstrated in the examples below.

The following examples are for illustration purposes only.

**Example 1:**

On the Effective Date, the Interest Rate Index is 2.65%, and the Multiplier is 1%, for an Interest Rate of 3.65%. The Initial County Costs are $1,000,000.00. The total number of units is 390. The Reimbursement Amount is determined to be $2,564.10. No tentative map has been approved. On the second anniversary after the Effective Date, a building permit is issued for one new primary residential unit. The amount due under Section 3.12 of the Master Development Agreement would be $2,564.10.

Initial County Costs = $1,000,000.00  
Total Units = 390  
Reimbursement Amount = $2,564.10  
Interest Rate, annualized = 3.65%  
Days in Year = 365  
Daily Interest Rate during relevant period = 0.01%  
Number of Days Interest Accrued = 0  
Payment Amount = $2,564.10

\[
= (1,000,000 + 390) + (0.00)  
= 2,564.10 + (0.00)  
= $2,564.10
\]

**Example 2:**

The same example as above, except the building permit is issued after interest has begun accruing. On the Effective Date, the Interest Rate Index is 2.65%, and the Multiplier is 1%, for an Interest Rate of 3.65%. The Initial County Costs are $1,000,000.00. The total number of units is 390. The Reimbursement Amount is determined to be $2,564.10. No tentative map has been approved. On the fourth anniversary after the Effective Date, a building permit is issued for one new primary residential unit. The amount due under Section 3.12 of the Master Development Agreement would be $2,657.69.

Initial County Costs = $1,000,000.00  
Total Units = 390  
Reimbursement Amount = $2,564.10  
Interest Rate, annualized = 3.65%  
Days in Year = 365  
Daily Interest Rate during relevant period = 0.01%  
Number of Days Interest Accrued = 365  
Amount of Accrued Unpaid Interest at Day 365 = $93.59  
Payment Amount = $2,657.69

\[
= (1,000,000 + 390) + ((1,000,000 + 390) \times ((0.0365 + 365) \times 365))  
= 2,564.10 + (2,564.10 \times ((0.0365 + 365) \times 365))  
= 2,564.10 + (2,564.10 \times (0.0001 \times 365))  
= 2,564.10 + (2,564.10 \times 0.0365)
\]
Example 3:

The same example as above, except the building permit is to be issued five days after the fourth anniversary following the Effective Date. The amount due under Section 3.12 of the Master Development Agreement would be $2,659.02.

Initial County Costs = $1,000,000.00
Total Units = 390
Reimbursement Amount = $2,564.10
Interest Rate, annualized = 3.65%
Days in Year = 365
Daily Interest Rate during relevant period = 0.01%
Number of Days Interest Accrued = 370
Number of Days in 1st Compounding Period = 365
Number of Days in 2nd Compounding Period = 5
Amount of Accrued Unpaid Interest at Day 365 = $93.59
Amount Upon Which Interest Accrues in 2nd Compounding Period = $2,657.69
Amount of Unpaid Interest Accrued from Days 366 through 370 = $1.33
Payment Amount = $2,659.02

Amount of Accrued Unpaid Interest at Day 365 = $93.59
Amount Upon Which Interest Accrues in 2nd Compounding Period = $2,657.69
Amount of Unpaid Interest Accrued from Days 366 through 370 = $1.33
Payment Amount = $2,659.02

Example 4:

The same example as above, except the building permit is to be issued five days after the fifth anniversary following the Effective Date. On the fifth anniversary after the Effective Date, assume that the Interest Rate Index published on that date was 3.65% instead of the 2.65% that applied during the first five years and, as a result, the Interest Rate during the second five years would be 4.65%. The amount due under Section 3.12 of the Master Development Agreement would be $2,756.45.

Initial County Costs = $1,000,000.00
Total Units = 390
Reimbursement Amount = $2,564.10
Interest Rate, annualized during first five years = 3.65%
Days in Year = 365
Daily Interest Rate during first five years = 0.01%
Interest Rate, annualized during second five years = 4.65%
Daily Interest Rate during second five years = 0.0127% (approx.)
Number of Days Interest Accrued in First Period
at rate in effect during first five years = 365
Number of Days Interest Accrued in Second Period
at rate in effect during first five years = 365
Number of Days Interest Accrued in Third Period
at rate in effect during second five years = 5
Payment Amount = $2,756.45.

Amount Upon Which Compounding is Calculated at End of First Period
= (1,000,000 + 390) + ((1,000,000 + 390) x ((0.0365 + 365) x 365))
= 2,564.10 + (2,564.10 x ((0.0365 + 365) x 365))
= 2,564.10 + (2,564.10 x (0.0001 x 365))
= 2,564.10 + (2,564.10 x 0.0365)
= 2,564.10 + 93.59
= $2,657.69

Amount Upon Which Compounding is Calculated at End of Second Period
= 2,657.69 + (2,657.69 x (0.0001 x 365))
= 2,657.69 + (2,657.69 x (0.0365))
= 2,657.69 + 97.01
= $2,754.70

Interest Accrued in Third Period
= 2,754.70 x ((0.0465 + 365) x 5)
= 2,754.70 x (0.000127 x 5)
= 2,754.70 x (0.000635)
= $1.75

Sum of Reimbursement Amount Plus Interest Accrued in 1st, 2nd, and 3rd Periods
= 2,564.10 + 93.59 + 97.01 + 1.75
= $2,756.45