



IX. IMPLEMENTATION | ADMINISTRATION

IX.1 The "Next Steps"

The *University District* Specific Plan paves the way for implementation of a regionally significant and prominent mixed-use development, which exemplifies the benefits of community-wide collaboration. This project is something the entire community of San Marcos can be proud of, as it reflects the collaboration and input of numerous stakeholders.

Within North San Diego County, this project will elevate the visibility of downtown San Marcos and help the City to be recognized as a principal leader of sustainable planning. Final implementation of the *University District* project will rely on continued alliances between the community partners who have already dedicated a great deal of time in ensuring its success.

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"Teamwork is the ability to work together toward a common vision. It is the fuel that allows common people to attain uncommon results."

- Anonymous

IX.2 Specific Plan Adoption

IX.2.1 *Heart of the City Specific Plan Amendment*

In accordance with adoption of Specific Plan (SP) 87-29 (o8M #23) and certification of the accompanying Environmental Impact Report (EIR) o8-43, this Specific Plan repeals and replaces the provisions of the previously adopted *Heart of the City* Specific Plan for all properties located within the project boundary of this *University District* Specific Plan. All other provisions of the *Heart of the City* Specific Plan will remain intact and applicable to all properties located outside of the *University District* Specific Plan area, but within the boundaries of the *Heart of the City* Specific Plan.

IX.2.2 *General Plan Amendment*

To ensure internal document consistency and to avoid temporary conflicts, the City of San Marcos General Plan shall be amended concurrently with adoption of the *University District* Specific Plan. The following amendments shall occur as part of General Plan Amendment No. (GPA) o8-103:

- ❑ Modify the original *Heart of the City* Specific Plan boundary, as currently identified in all relevant General Plan and *Heart of the City* Specific Plan narrative and maps, to show the expanded Specific Plan project boundary. Reference *Figure I.D: Aerial Vicinity Map* in Chapter I for clarification;
- ❑ Change land use designations of parcels located within the *University District* project area from the current General Plan land use designations of "Business Park," "Neighborhood Commercial," and "Specific Plan-Medical Health Care Campus" to a new General Plan land use designation of "Specific Plan-*University District*" (SPA-UD);

- ❑ Amend the General Plan Barham/Discovery Community Plan to:
 - Allow for the Specific Plan Area-*University District* (SPA-UD) land use designation in the Barham Discovery Community Plan and Barham Discovery Community Plan Land Use Map.
 - Delete the portion of area located north of Barham Drive/Discovery Street now integrated into the *University District* Specific Plan from the *Scripps Memorial Hospital* Specific Plan;
 - Allow for higher density residential and mixed-use development (the Community Plan Land Use Map indicates that residential development projects shall be designed to not exceed more than 85 percent of allowable densities);
 - Allow for access roads to be designed in accordance with the City's standard arterial or collector street dimensions (as opposed to the existing rural requirements);
 - Revise policy language intended to promote development of a 100-acre "Business Park" adjacent to State Route 78, to instead allow for a mix of developed land uses;
- ❑ Amend all other General Plan narrative and maps contained within the Land Use, Housing, Circulation, Conservation and Open Space, Safety and Noise Elements in order that the *University District* Specific Plan and current General Plan, as amended, are internally consistent.

IX.2.3 *Zoning Ordinance Amendment*

The City of San Marcos Zoning Ordinance shall be amended under Rezone (R) 08-140 to establish the Specific Plan Area-*University District* (SPA-UD). At such time, the zoning classifications and regulations described in the *University District* Specific Plan, for all parcels located within the *University District* project boundary, shall supersede the "Business Park," "Neighborhood Commercial," and "Specific Plan-Medical Health Care Campus" designations. For purposes of the Specific Plan Area-*University District*

(UDSPA) only, these designations shall be replaced as "Specific Plan Area-Mixed Use (SPA-MU)." Further, amendment to the Zoning Ordinance shall occur concurrently with City Council approval of the *University District* Specific Plan and San Marcos General Plan Amendment.

IX.3 Environmental Analysis

Pursuant to the California Environmental Quality Act (CEQA), a Program EIR was prepared for the 2009 *University District* Specific Plan. An Addendum to the 2009 Program EIR and has been prepared to evaluate the potential environmental effects of the proposed amendments to the *University District* Specific Plan.

IX.3.1 Addendum to the 2009 Program EIR for the University District Specific Plan Amendment

The Addendum to the 2009 Program EIR has determined the environmental impacts of the *University District* Specific Plan Amendment, will not introduce environmental impacts beyond those identified and analyzed in the 2009 Program EIR. The Addendum to the 2009 Program FEIR complies with the statutory requirements of state law. CEQA Guidelines § 15164(a) states the following with respect to an Addendum to an EIR:

(a) The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.

An Addendum to prior environmental analysis is appropriate if the minor technical changes or modifications do not result in any new significant impacts or a substantial increase in the severity of previously identified significant impacts. The Addendum is not required to be circulated for public review; however, an Addendum is to be considered by the decision-making body prior to making a decision on the project.

IX.3.2 Program EIR for 2009 University District Specific Plan Amendment***IX.3.2 Certification***

The State CEQA Guidelines identify several types of EIRs, each applicable to different project circumstances. Given the magnitude of the University District Specific Plan project, and likelihood that site development will occur over a period of years in a series of action that are related either (1) geographically; (2) as logical parts in the chain of contemplated actions; (3) in connection with the issuance of rules, regulations, plans or other general criteria to govern the conduct of a continuing program; or (4) as individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways, a Program Environmental Impact Report (EIR) has been completed for this project in order to avoid duplicative reconsideration of basic policy considerations and improve consideration of cumulative impacts – in compliance with the requirements of California Environmental Quality Act (CEQA) Guidelines Section 15168 – Program EIR. Moreover, CEQA Guidelines Section 15165 requires preparation of a Program EIR where a phased project is to be undertaken and where the total undertaking comprises a project with significant environmental effects.

In the event that any future actions require discretionary review, in accordance with CEQA Guidelines Sections 15168®, 15182, and 15162 through 15164, those actions would be examined in light of the Program EIR using a written checklist or similar device to determine whether the action is within the scope of the Program EIR and no further environmental document prepared pursuant to CEQA ("CEQA document") is required or whether an additional CEQA document must be prepared.

IX.3.2 Mitigation Monitoring Program

Public Resources Code (PRC) Section 21081.6 requires that a "reporting or monitoring program shall be designed to ensure compliance during implementation" of the *University District* project. The adopted program shall apply to changes made to the

project or conditions of project approval to mitigate or avoid significant effects on the environment. The City has prepared a Mitigation Monitoring Program (MMP) in conjunction with preparation of the Final Program EIR for the *University District Specific Plan*. The MMP provides a brief summary of the required mitigation for impacts attributable to the project, identifies the party responsible for monitoring project compliance with the mitigation measures, and identifies the time period or project phase in with the mitigation measures are to be completed.

Pursuant to Sections 15091 and 15093 of California Environmental Quality Act (CEQA) Guidelines, should significant adverse environmental impacts not be fully mitigated, or for which mitigation is not feasible, the City Council will be required to adopt a Statement of Overriding Considerations (SOC) in order to proceed with project approval. The SOC shall detail the economic, social, and/or other related benefits resulting from the project, which outweigh the unavoidable adverse environmental impacts.

The final approved MMP may be referenced in the certified Program EIR document.

IX.3.3—CEQA Findings

Pursuant to Sections 15043, 15091, and 15093 of CEQA Guidelines, various findings are required to certify a CEQA document. Pursuant to Section 15091 of CEQA Guidelines, the City Council shall make one or more of the following findings:

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

In addition, pursuant to Section 15093 of CEQA Guidelines, should significant adverse environmental impacts not be fully mitigated, or for which mitigation is not feasible, the City Council will be required to adopt a Statement of Overriding Considerations (SOC) in order to proceed with project approval. The SOC shall detail the economic, social, legal, technological and/or other related benefits resulting from the project, which outweigh the unavoidable adverse environmental impacts.

Finally, pursuant to Section 65454 of the Government Code, the City Council must find that the *University District* Specific Plan is consistent with the General Plan upon adoption or amendment of the Specific Plan.

IX.3.4—Notice of Determination

Pursuant to Section 15094 of CEQA Guidelines, the City of San Marcos shall file a Notice of Determination within five (5) working days of deciding to carry out or approve the *University District* Specific Plan and San Marcos General Plan Amendment. This Notice shall be sent to other agencies and will be filed with the San Diego County Clerk.

IX.4 Specific Plan Implementation

IX.4.1 *Severability*

In the event that any regulation, condition, program, policy, or provision of this Specific Plan, or the application thereof to any person or circumstance, is held to be invalid or unconstitutional by any court of competent jurisdiction, such regulation, condition, program, policy, or provision shall be deemed separate, distinct and independent, and shall not affect the validity of the remaining provisions of this Specific Plan, or applications thereof that can be implemented without the invalid provision or application, unless the deletion of such regulation, condition, program, policy, or provision would result in a material change so as to cause compliance or enforcement of the Specific Plan to be unreasonable.

IX.4.2 *City-Initiated Marketing Program*

To further the objectives of this plan, and to ensure the capture of a proportionate share of corporate and other desirable users in a competitive market, the City should formulate a comprehensive marketing program for the project area. The principal target of this program should be regionally or nationally established firms closely identified with development of the highest quality and having the means to fully implement the objectives of this plan.

IX.4.3 *Financing Public Improvements*

The following section outlines the financing mechanisms used by the City of San Marcos ~~and/or San Marcos Redevelopment Agency~~, other than developer exactions currently authorized by local ordinance, which could be employed alone, in combination with the listed financing mechanisms or other possible unlisted financing mechanisms, for implementation of public improvements within the project area:

State Community Redevelopment Law (Tax Increment Financing)

~~Local governments may activate redevelopment agencies to improve blighted areas. Specific plans are also often used to improve the blighted areas which may at the same time be subject to a redevelopment plan. As an area is redeveloped, it may generate new property tax revenue. This revenue is known as the tax increment. This act allows communities to utilize tax increment financing to carry out redevelopment activities, by applying tax increments generated within a redevelopment project area to finance planning, administrative, acquisition, and improvement activities. The act permits a redevelopment agency to finance land acquisition for public purposes, construction of public facilities, such as roads, parks, and sewers, as well as administrative, legal, planning, and engineering costs related to the project. The Agency is then empowered to issue bonds to finance project area improvements and administrative costs, and to apply the tax increments derived in the project area to pay the debt service on those bonds. With certain exceptions, the agency must allocate 20 percent of the tax increment to funding low and moderate-income housing. (See Section 16 of Article XVI of the California Constitution and Sections 33000 et seq. of the Health and Safety Code).~~

~~The San Marcos Redevelopment Agency has established two redevelopment project areas and the majority of the Heart of the City falls within one or the other.~~

California Subdivision Map Act (Reimbursement District)

~~Under Articles 5 and 6 of Chapter 4 of the California Subdivision Map Act (as amended from time to time), cities are authorized to collect funds to cover the costs of public improvements including roads, bridges, drainage and sanitary sewer facilities, and groundwater recharge facilities. Under these provisions, the City could enter into an agreement with a developer for reimbursement of that portion of improvement costs equal to the difference between the amount it would have cost the developer to install improvements to serve his/her property only, and the actual cost of such improvements. Reimbursement would occur by levying a charge on any real property similarly benefited or by establishing and maintaining a local benefit district to levy and collect charges or costs~~

from other benefited properties. It is possible, under this approach, to defer payment of charges or costs by other benefited properties until such property is developed.

Special Tax Levy

California law authorizes cities to place a special tax levy on the ballot for benefit assessments. Proposition 218 added Articles XIII C and D to the California Constitution controlling how general taxes are levied and requiring certain previously levied general taxes to be ratified by voters. It reduces all taxes to either general taxes or special taxes. It defines a general tax as "any tax imposed for general governmental purposes" and a special tax as "any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund." General and special taxes can be reduced or repealed through the initiative process. Benefit assessments and "property related fees and charges" cannot be imposed without prior voter approval. Fees, charges, and assessments can be reduced or repealed through the initiative process.

For the City of San Marcos to pursue a special tax levy, it must hold a noticed public hearing and adopt an ordinance or resolution prior to placing the tax on the ballot. The ordinance or resolution must specify the purpose of the tax, the rate at which it will be imposed, the method of collection, and the date of the election to approve the tax levy. Approval by a 2/3 vote of the City is necessary for adoption.

General Obligation Bonds

In 1986, California voters approved Proposition 46, restoring the ability of local governments and school districts to issue general obligation bonds. General obligation bonds require approval by 2/3 of the jurisdiction's voters and are used to finance the acquisition and construction of public capital facilities and real estate (see Government Code Sections 29900 et seq. and 43600 et seq., and Education Code Sections 15100 et seq.). General obligation bonds are repaid through an increase in the ad valorem property tax being levied by the issuing jurisdiction. General obligation bonds may be used to fund such things as schools, libraries, jails, fire protection and capital improvements.

Public Enterprise Revenue Bonds

Local governments have the ability to issue bonds to finance facilities for revenue producing public enterprises. The enterprises developed under these funds are financed by user charges that, in turn, are applied to bond debt service payments. Revenue bonds do not require approval by a two-third vote since they are neither payable from taxes, nor from the general fund. The Revenue Bond Act of 1941 (Government Code Sections 54300 et seq.) is the most commonly used bond act. Under this act, bonds may be issued for revenue producing facilities such as airports, harbors, hospitals, parking, and garbage collection. Bonds under this act are adopted by resolution of the legislative body and subject to approval by a simple majority of the citizens voting on the bond measure.

Impact Fees and Exactions

Dedications of land and impact fees are exactions which lessen the impacts of new development resulting from increased population or demand on services. Local governments derive their authority to impose exactions from the "police power" granted to them by the State Constitution and/or specific state enabling statutes such as the Subdivision Map Act.

Quimby Act Fees

Quimby Act fees are in-lieu fees payable by developers to the City for acquisition of parkland and open space.

Assessing Tax District

California law authorizes a variety of assessment procedures which could be employed to finance and maintain public improvements within the project area. These procedures potentially can be applied to finance construction of roads, bridges or grade-separated crossings, flood protection or storm drainage facilities, and open space. They can also be used to provide maintenance service or other specialized services, such as transit. Assessment district procedures provide an equitable way of assigning costs because they operate directly on benefited properties and area based on assessed valuation. However, with the passage of Proposition 218 in 1998, there is

now a requirement for a property owner petition and subsequent property owner ballot process before an assessing tax district can be formed.

School Impact Fees

School Districts establish fees, in accordance with state regulations, to be used to construct school facilities. School impact fees are collected by the City prior to the issuance of a building permit, and are forwarded to the applicable school districts.

Drainage and Sewer Facilities

Section 66410-66499.30 of the Government Code and the Subdivision Map Act of Government Code Sections 66483-66484.5 authorize payment of fees to defer the costs of drainage facilities for the removal of surface and storm waters from local and neighborhood drainage areas. To enact fees, an ordinance requiring payment of fees must be in effect for a period of 30 days prior to the filing of a tentative map (or parcel map if no tentative map is required). The ordinance refers to a drainage or sanitary sewer area which contains an estimate of the total costs of constructing the local drainage or sanitary sewer facilities required in the plan. The governing body is the legislative body that has adopted the drainage or sanitary sewer plan. Whether actual or estimated, the fee to be imposed is based upon the findings of the legislative body that the subdivision and development of property within the planned drainage or local sanitary sewer area will necessitate construction of the facilities described in the plan.

Bridges and Major Thoroughfares

Section 66484 of the Government Code authorizes the design, acquisition of rights-of-way, administration of construction contracts and actual construction of bridges and major thoroughfares. Local ordinance must refer to the Circulation Element of the General Plan and to the provisions of such element, which identify those major thoroughfares whose primary purpose is to carry through-traffic and to provide a network connecting to the state highway system. If one-half of the owners within the area of benefit protest the improvement, then proceedings are abandoned. Local ordinance may require the payment of a fee as a condition of approval of a final map, or as a condition of building permit issuance. An ordinance adopted pursuant to this

section may provide for the acceptance of consideration of in lieu of payment of fees. The Agency imposing fees may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares.

Streets and Highways

Section 22585-22594 of the Streets and Highways Code allows the legislative body to construct or install improvements and to provide for the maintenance or servicing of those improvements. The assessment district is initiated by the legislative resolution. Proceedings for the assessment may be abandoned if there is a majority protest representing property owners owning more than 50 percent of the area of assessable lands within the proposed district. A four-fifths vote of all legislative body members can overrule the protest.

Special Municipal Tax Districts

Special Municipal Tax Districts are authorized under Section 60000-60160 of the Government Code. Such districts can maintain and operate any public improvement or utility of local necessity or convenience, furnish or perform any special local service including music, recreation, or advertising. The governing body may appoint officers and employees for the district, as it deems necessary. Officers and employees serve at the pleasure of the legislative body and are not subject to civil service provisions. Formulation is initiated by a petition of residents living within the proposed district. Ten percent of the registered voters within the proposed district must sign the petition. The legislative body adopts a resolution of intention and, if no objections are sustained, submits the questions of district formation and tax levy to residents of the district. A majority vote in favor of the district allows the legislative body to declare the district formed and levy the special tax. The district has the authority to levy taxes upon taxable property not to exceed \$1 per year on each \$100 of assessed valuation.

Other Special Assessment and Bonding Acts

A host of other assessment district acts exist in California, many of which could be used within the project area. All of these allow for the issuance of bonds to represent unpaid assessments. This in turn allows the owner to pay lien to installments over the period

of years the particular bond act and proceeding use provides. The bonds themselves can be issued against single owners or against a group of owners. Assessment districts are beneficial in that they provide all the funding needed for a particular public facility project in advance of the projected development activity. However, assessment districts also create a long-term encumbrance on the benefiting property and require that the funds be repaid over an extended period of time. Assessment districts also require the approval of a majority of the property owners in order to establish the district.

The following are some of the many assessment and bonding acts:

- Improvement Act of 1911 (Streets and Highways Code §5000 et seq.)
- Municipal Improvement Act of 1913 (Streets and Highways Code §10000 et seq.)
- Improvement Bond Act of 1915 (Streets and Highways Code §8500 et seq.)
- Park and Playground Act of 1909 (Government Code §38000 et seq.)
- Tree Planting Act of 1931 (Streets and Highways code §22000 et seq.)
- Landscaping and Lighting Act of 1972 (Streets and Highways Code §22500 et seq.)
- Benefit Assessment Act of 1982 (Government Code §54703 et seq.)
- Integrated Financing District Act (Government Code §53175 et seq.)
- Street Lighting Act of 1919 (Streets and Highways Code §18000 et seq.)
- Municipal Lighting Maintenance District Act of 1927 (Street and Highways Code §18600 et seq.)
- Street Lighting Act of 1931 (Street s and Highways Code §18300 et seq.)
- Parking District Law of 1943 (Streets and Highways Code §31500 et seq.)
- Parking District Law of 1951 (Streets and Highways Code §35100 et seq.)
- Parking and Business Improvement Area Law of 1989 (Street and Highways Code §36500 et seq.)
- Property and Business Improvement District Law of 1994 (Streets and Highways Code §36600 et seq.)
- Pedestrian Mall Law of 1960 (Street and Highways Code §11000 et seq.)
- Permanent Road Divisions Law (Streets and Highways Code §1160 et seq.)
- Community Rehabilitation District Law of 1985 (Government Code §53370 et seq.)

- Geologic Hazard Abatement District (Public Resources Code §26500 et seq.)
- Open Space Maintenance Act (Government Code §50575 et seq.)
- Fire Suppression Assessment (Government Code §50078 et seq.)

Certificates of Participation

With certificates of participation, a local agency leases property from another entity and the lessor raises capital for the project by issuing and selling certificates of participation to private investors. Private investors acquire an interest in the lease payments that the local agency pays to the lessor. Certificate of participation leases are exempt from the constitutional requirement for two-thirds voter approval of long-term debts.

Business Improvement District (BID)

A Business Improvement District is a mechanism for assessing and collecting fees that can be used to fund various improvements and programs within a district. The range of activities that can potentially be funded through BIDs is broad and includes parking improvements, sidewalk cleaning, streetscape maintenance, streetscape improvements (e.g. installation of furniture, lighting, planting, etc.), promotional events, marketing and advertising, security patrols, public art, trash collection, landscaping, and other functions.

Communities Facility District (CFD or Mello-Roos)

The Mello-Roos Act of 1982 was enacted to provide a method of financing public facilities in new and developing areas. The Mello-Roos Act enables cities, counties, special districts, and school districts to establish community facilities districts and to levy special taxes to fund a wide variety of facilities and services required by a specific plan. A Mello-Roos tax can be applied to the planning and design work directly related to the improvements being financed and may also fund services on a "pay-as-you-go" basis. This tax can fund facilities and services related to police and fire protection, ambulances, flood protection recreational programs, parks, and schools. A Mello-Roos is also known as a Community Facilities District (CFD). The formation of such CFDs may be initiated by owner/developer petition. Mello-Roos districts also require approval by a two-thirds majority of the property owners in order to establish the district. A Mello-

Roos tax is not a special assessment, so there is no requirement that the tax be apportioned on the basis of property benefit. The tax can be structured so that it varies depending upon the zoning or development intensity of the property being assessed. Apportionment cannot, however, be done on an ad valorem basis.

Infrastructure Financing District (IFD)

An Infrastructure Financing District (Government Code section 53395-53397.11) may finance the planning, design, purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation (but not the operation or maintenance thereof) of any real or tangible public facility property with a useful life of 15 years or longer that provides significant benefits to the district established as an IFD. It may include, but is not limited to (1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities;(2) Sewage treatment and water reclamation plants and interceptor pipes; (3) Facilities for the collection and treatment of water for urban uses; (4) Flood control levees and dams, retention basins, and drainage channels;(5) Child care facilities;(6) Libraries; (7) Parks, recreational facilities, and open space; and (8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles. IFDs use a tax-increment method of financing similar to Redevelopment Agencies, but IFDs need not make a special finding that an area is blight. The time limit for collecting tax increments is 30 years. Like Redevelopment Agencies, IFDs have affordable housing requirements they must fulfill, but IFDs have no eminent domain authority. Two-thirds approval of the voters in a proposed district is necessary to establish an IFD unless there are fewer than 12 landowners in the district. In such cases, only two-thirds of the landowners are needed to form the IFD.

Integrated Financing District

Using the Integrated Financing District Act (Government Code Section 53175 et seq.), a developer can ask local officials to create an integrated financing district. A developer can lend money to the local agency to build the necessary public facilities, or the developer can build the facilities. The new integrated financing district issues bonds that will be paid by contingent assessments. The assessments remain dormant until other development starts to occur. As other developers build in the area that is now

supplied with public facilities improvements, they pay their fair share of the infrastructure's costs and the original developer who lent funds to the local agency or built the facilities, recoups its investment.

Commercial Parking Benefit District

Parking net revenues collected from paid parking (i.e. parking pay stations, meters, leases, and permits) in the Commercial Parking Benefit District are dedicated to funding public improvements and services that benefit the University District. ("Net revenues" means total parking revenues from the area, less revenue collection costs, such as purchase and operation of the meters, enforcement and the administration of the district.) To ensure that the benefits from these revenues are clearly distinguished from other improvement funding sources, it is recommended that they remain separate from the City's General Fund. Parking Benefit Districts are only effective when district merchants and property owners can clearly see that the monies collected are being spent for the benefit of their blocks, on projects that they have chosen through participation in or with an established Commercial Parking Benefit District advisory body to the City Council. This advisory body advises the City on policies and expenditures of parking meter revenue. City Council retains final approval over all expenditures. Bonding against future revenue enables the City to fund larger capital improvement projects (including the cost of the meters).

Private Document Transfer Fees

A Private Document Transfer Fee can be imposed through a Covenant Condition & Restriction ("CC&R"), permit condition, or restriction contained in a deed, contract, security interest or other document affecting the transfer or sale of an interest in real property. AB 980 requires that as of January 1, 2008, sellers must disclose such document transfer fees to buyers when delivering the transfer disclosure statement. The disclosure statement must include (1) notice that payment of the transfer fee is required; (2) the amount of the fee based on the asking price of the property and how the fee is calculated; (3) notice that the final amount of the fee may be different if it is calculated on the basis of a percentage of the final sale price; (4) the entity to which the

fee will be paid; (5) the purposes of the fee; and (6) the date or circumstances under which the obligation to pay the transfer fee expires.

Local, State and Federal Funding

Certain public facilities or portions of public facilities may be determined to qualify for grants, low-interest loans, tax benefits or other financial assistance from local, state or federal government sources for economic stimulus or other reasons. Such public facilities may be funded with one or more of these sources, which include, but are not limited to the following:

- ***Community Development Block Grants (CDBG)***

The Community Development Block Grant program is a federal grant program administered locally. CDBG funding can be used for economic development purposes including property acquisition and as part of the City's comprehensive strategy for economic development.

- ***State of California Infrastructure Financing***

The State of California provides infrastructure financing support and financial assistance to cities and counties for public infrastructure projects. Although this funding is not directly available for individual businesses, cities and counties can have access to public infrastructure financing and provide it to qualified businesses located in the Specific Plan Area. This is a particularly important tool for off-site infrastructure improvements that have been necessary to support new business expansion in the State.

- ***Transportation/TEA Funding Sources***

A variety of potential Federal and State transportation funding sources exist which could be used to finance different public infrastructure.

- ***State and Federal Economic Stimulus Funds***

A variety of legislation has been enacted at the state and federal level designed to support "shovel-ready" projects that spur economic development. Adoption

of the Specific Plan and environmental documentation will help public infrastructure projects associated with the development to rank higher in applications pursuing state and federal economic stimulus funding.

Disposition and Development Agreements (DDA)

~~A Disposition and Development Agreement is a contract between a Redevelopment Agency and developer for the sale and development of property located within a redevelopment project area, and provides the conditions under which the property will be developed. Pursuant to a DDA, the Redevelopment Agency will agree to acquire property and sell it to the developer. The developer will agree to develop the property subject to certain conditions on its use and design. The Redevelopment Agency may agree to construct certain public facilities improvements or provide public financing (Health and Safety Code Sections 33100 et. seq.).~~

Owner Participation Agreements

~~Owner participation agreements are similar to Disposition and Development Agreements, except that they are utilized with a developer who already owns property within the redevelopment project area. The owner participation agreement is a contract between the property owner or developer, and the Redevelopment Agency to allow for development of a property owned by an entity other than the agency, usually the property owner or developer (Health and Safety Code Sections 33100 et. seq.).~~

~~Specific financing methods to be used in implementation of this Specific Plan, including any funding mechanisms not listed above, shall be determined by and between the City of San Marcos, San Marcos Redevelopment Agency, and/or prospective developer(s) at which time a more detailed development proposal has been submitted for review.~~

IX.4.4 Legal, Non-Conforming Uses

Legal, non-confirming uses located within the *University District* Specific Plan shall comply with the standards set forth in the City of San Marcos Municipal Code Sections 20.92.090 through 20.92.150. These provisions relate to non-conforming buildings,

structures, land and uses; specifically to expansion of non-conforming uses, maintenance of non-conforming land and/or building(s), alteration of non-conforming building(s), non-conforming use of non-conforming building(s), and reconstruction of non-conforming building(s) that have been partially destroyed.

In the event that any provision listed within a section of this Specific Plan is in conflict with the City's Municipal Code, the provision of the Specific Plan shall prevail.

Loss of Non-Conforming Status

Rights to non-conforming status shall terminate upon the following:

- (a) Discontinuance of a non-conforming use for a continuous period of six months or more. The Planning Director shall base determination of discontinuance on evidence including the removal of equipment, furniture, machinery, structures, or other components of the non-conforming use, disconnected or discontinued utilities, or no business records to document continued operation. Maintenance of a valid business license shall of itself not be considered a continuation of the use.
- (b) Conviction of a misdemeanor for violating the provisions of the San Marcos Municipal Code/Zoning Ordinance, pursuant to Chapter 1.12.010.
- (c) Maintenance of any public or private nuisance. Any violation of the provisions of the San Marcos Municipal Code, pursuant to Chapter 20.112.040, or any violation of the common law of nuisance that could be enjoined under a private nuisance action shall result in the discontinuance of the non-conforming use.

Without further action by the City, any subsequent use of the site or structure shall comply with all of the regulations of the applicable district and all other applicable provisions of this Specific Plan and relevant sections of the City's Municipal Code/Zoning Ordinance.

Non-Conforming Use Permit Procedures

- (a) Permit Requirements. A Non-Conforming Use Permit is required for the expansion or modification of existing non-conforming structures or uses. The intent of this permit is to allow for individual review of requests to expand or modify a non-conforming use in a manner that ensures compatibility with surrounding areas and land uses.
- (b) Approving Authority. The City Council shall be the final decision-making body for all Non-Conforming Use Permits. The Planning Commission shall hear and provide a recommendation to the City Council for action on each Non-Conforming Use Permit application.
- (c) Required Findings. A Non-Conforming Use Permit shall be granted only when the designated approving authority determines that the proposed use or activity complies with the applicable requirements of the City's Municipal Code/Zoning Ordinance.
- (d) Conditions/Guarantees. The designated approving authority may impose conditions and/or require guarantees for the Non-Conforming Use Permit to ensure compliance with this section and other applicable provisions of this Specific Plan, and to prevent adverse or detrimental impact to surrounding neighborhoods.

IX.4.5 Lot Consolidation

It is the intent of the *University District* Specific Plan to actively encourage the voluntary consolidation, by property owners working in concert with the City, of small lots. Comprehensively planned development results in greater land use efficiencies, improved design and reduced incremental costs typically associated with larger scale projects.

Existing legal land uses and development that does not meet the requirements of this Specific Plan shall be permitted to continue indefinitely under legal non-conforming

status, subject to the non-conforming regulations identified in the previous section. This market-driven approach is intended to ensure that Specific Plan implementation benefits current businesses and landowners as well as future landowners, District developers, and the larger San Marcos community.

For any legal purposes, the City ~~and/or City Redevelopment Agency~~ may condemn property, including land needed for identified or necessary public improvements, such as flood control or Low-Impact Development (LID) improvements, street rights-of-way, public parking, and proposed parkland. ~~The City Redevelopment Agency may use eminent domain for the assembly and acquisition of property.~~ Any use of eminent domain shall comply with all applicable laws regarding fair compensation, including those of the State of California and the United States of America.

For purposes of this program, the term "lot consolidation" shall mean the legal/physical combination of parcels through the tentative map or boundary adjustment process, and the concurrent submittal of a master site plan reflecting integrated development of the acreage being consolidated.

IX.5 Development Review Process

IX.5.1 *Pre-Application Consistency Review*

Prior to any Site Development Review, Tentative Map, or Conditional Use Permit application submittal, applicants shall meet with the Planning Director or his/her designee for informal review and comments regarding the development goals, policies, and standards of the *University District* Specific Plan. Such meetings are intended to reduce expenditures of time and money in preparing project-specific development proposals.

IX.5.2 Master Development Plan (If Applicable)

It is the intent of the *University District* Specific Plan to provide for integrated development at the earliest possible point in the development review process and to discourage piecemeal or strip development. Cohesive development will occur most effectively by the voluntary efforts of individual and/or multiple property owners through a master plan process.

A Master Development Plan shall apply to all existing properties in, and all projects proposed within the University District project area if, and only if, it is the opinion of the Planning Director or his/her designee that a project specific application(s) will result in piecemeal development that ultimately prevents or precludes future development of adjacent properties in a manner consistent with the *University District* Specific Plan.

If deemed necessary, a Master Development Plan shall adhere to the following requirements:

- (a) A Master Development Plan shall, at minimum, cover all of that land use sub-area of which the subject property is a part. This is provided, however, that where a public street or streets within the sub-area form a logical alternate boundary, the master plan may, at the discretion of the Planning Director or his/her designee, extend to that alternate limit instead.
- (b) Applications for Master Development Plan approval shall be made on a form prescribed by the Planning Director or his/her designee, and shall conform to the Site Development Review requirements detailed in Section IX.4.3 below. A Master Development Plan shall be processed concurrently with any development proposal applicable to the subject property, pursuant to established Site Development Review procedures.
- (c) Master Development Plans shall, at a minimum, adhere to the requirements set forth in Chapter VI – Form Based Code of this Specific Plan.

IX.5.3 Site Development Review

All development proposals within the *University District* Specific Plan Area (UDSPA) shall submit for Site Development Review, as set forth in Chapter 20.80 of the City of San Marcos Municipal Code – Zoning Ordinance. Each project-specific application shall be administratively evaluated by the City of San Marcos Development Advisory Committee for consistency with the *University District* Specific Plan; and shall, at minimum, include the following materials or documentation:

- Completed Site Development Review application and payment of appropriate processing fee;
- Written description of proposed land uses;
- Preliminary title report or policy for all properties involved;
- Master development plan (only if required);
- Site plan drawn to appropriate scale;
- Architectural floor plans and elevations;
- Preliminary (conceptual) grading and drainage plan;
- Landscape plan, inclusive of Low Impact Development (LID) design solutions;
- Building materials board and color photo of that board (no larger than 11" x 17");
- Visual simulation/impact analysis demonstrating the proposed building types (e.g. heights, articulation of frontages, roof types, colors and materials) along the major circulation corridors within the project area.
- Such other information and/or materials as requested by the Planning Director or his/her designee.

Upon completion of Site Development Review, and based on the consistency determination, the Development Advisory Committee shall have the power to approve an application with conditions or revisions, or to deny it subject to the applicant's right of appeal. The Committee shall also have the authority to refer plans to the Planning Commission in lieu of making a consistency determination. No site development proposal shall be deemed approved until all required revisions have been made and the modified plans have been submitted to the Planning Department.

IX.5.4 San Marcos Development Advisory Committee

The San Marcos Development Advisory Committee is comprised of the Planning Director, Building Official, City Engineer and representative(s) of Special Districts or their designees, and shall meet to review development proposals within fifteen (15) working days following submittal of complete application(s).

IX.5.5 Interpretation, Administration and Enforcement

The San Marcos Development Advisory Committee is authorized by the City of San Marcos to interpret, administer, and enforce the provisions of the *University District Specific Plan*. The provisions of this document shall be interpreted in a manner that best fulfills the spirit and intent of the Specific Plan, and such interpretations shall be made in writing and permanently maintained on file with the Planning Division for future reference. Related to the Form-Based Code, all uses not specifically listed or defined within the Form-Based Code are subject to approval and/or interpretation by the Planning Director.

IX.5.6 Appeal

In accordance with the provisions of Section 20.80.040 of the City of San Marcos Municipal Code – Zoning Ordinance, a decision or determination by the Development Advisory Committee may be appealed in writing by an applicant to the Planning Commission within fifteen (15) days of said determination, and upon posting of the required fee. Within forty (40) days of receiving said appeal, the Planning Commission shall affirm, reverse or modify the decision of the Committee. The Planning Commission decision may be appealed to the City Council by following the same procedure for appeal to the Planning Commission.

IX.6 Specific Plan Amendment

It is anticipated that certain future modifications to the *University District* Specific Plan may be necessary during the build-out of the project. All modifications to the *University District* Specific Plan shall be reviewed in accordance with the amendment process described in this section. These amendments are divided into two categories:

The first category, Administrative Amendments, allows for the City Manager to approve minor ministerial changes or modifications that substantially conform to the Specific Plan without a public hearing process.

The second category, Formal Amendments, requires that all other proposed changes are considered to be discretionary in nature and shall be reviewed for approval by the Planning Commission and the City Council.

IX.6.1 Administrative Amendments

Over time, planning areas of the *University District* Specific Plan may need to be revised, as economic conditions or City needs dictate. In accordance with Section 65455 of the Government Code, the City Manager shall have the authority to approve the following ministerial changes or modifications to the Specific Plan text and graphics without a public hearing. In accordance with Section 65452 of the Government Code, the City Council hereby deems the following changes or modifications to be in substantial conformance with the intent of this Specific Plan, and finds them to be necessary and desirable for implementation of the General Plan and *University District* Specific Plan:

- ❑ Expansions or reductions in the geographic area covered by a given planning area within the already approved *University District* Specific Plan boundary.
- ❑ Land use modifications, including substitutions, density changes, and/or transfers between planning areas are allowed under this Specific Plan as an Administrative Amendment, provided the trip generation for the evening peak hour is not exceeded (reference all trip generation figures in the accompanying EIR). A monitoring program will be established to ensure compliance with this provision.

- Re-alignment or modification to the precise location of arterial streets serving the project, if also approved by the City Engineer as not materially affecting a circulation planning concept within the Specific Plan.
- Re-alignment or modification to the precise location of collector or secondary streets serving the project that maintain the general land use pattern, if also approved by the City Engineer as not materially affecting a circulation planning concept within the Specific Plan.
- Re-alignment or modification of lot lines, grading adjustments and brush management boundaries if also approved by the City Engineer.
- Modifications to approved Master Plans/Site Development Plans may be allowed providing such amendments shall not substantially increase the approved densities or boundaries of the Master Plan/Site Development Plan, nor permit a new use or group of uses not allowed anywhere in the Specific Plan.
- Modifications of design criteria or development standards that are offset by the merits of the modified design or development standard and do not significantly change the anticipated physical characteristics of the development.
- Minor changes to any phasing plan.
- Changes or modifications necessary to obtain and implement federal, state, and local permits and approvals.
- Any change that does not create new significant unmitigated environmental impacts that would require a subsequent or supplemental Environmental Impact Report pursuant to Public Resources code section 21166, as amended from time to time.
- Changes that do not violate any applicable health and safety regulations.

The land uses and development yields identified in this Specific Plan have been carefully analyzed in the accompanying Environmental Impact Report (EIR). The analysis results and mitigation requirements reported therein are valid for modifications to the land uses and development yields that result in the same or less vehicular trips generated during the critical evening peak hour (reference all trip generation figures in the accompanying EIR).

Therefore, land use modifications, including substitutions, density changes, and/or transfers between planning areas, are allowed under this Specific Plan as an Administrative Amendment provided the identified trip generation for the evening peak hour is not exceeded. Proposed Administrative Amendments that exceed the identified trip generation for the evening peak hour shall either include new mitigation measures to offset traffic impacts or be processed as a Formal Amendment. A monitoring program will be established to ensure compliance with this provision.

IX.6.2 Formal Amendments

Changes to the *University District* Specific Plan that do not qualify as an Administrative Amendment shall require a Specific Plan Amendment, pursuant to Section 65453 of the Government Code. An applicant may request amendment(s) at any time with no limitation to the number of Specific Plan Amendments that can be approved in any one year.

A Formal Amendment to the *University District* Specific Plan will require review and recommended action by the City of San Marcos Planning Commission, and subsequent approval by City Council. Pursuant to 65456(b) of the Government Code, Formal Amendments require an application/fee to be submitted to the City of San Marcos Planning Department, stating in detail, the reasons for the proposed amendment. A concurrent amendment to the General Plan would not be required unless the City Council determines that the proposed changes to the Specific Plan are no longer consistent with the goals, objectives, policies or programs of the City of San Marcos General Plan.

Pursuant to Section 65457 of the Government Code and Section 21166 of the Public Resources Code, (CEQA) the proposed Formal Amendment may require preparation of a supplemental or subsequent Environmental Impact Report. In such case, the applicant(s) will be responsible for all associated fees for preparation of the necessary CEQA documentation.