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DEVELOPMENT AGREEMENT  
BY AND BETWEEN

THE CITY OF SAN LUIS OBISPO

AND

AVILA RANCH, LLC

RELATING TO  
THE AVILA RANCH SPECIFIC PLAN

(The "AVILA RANCH DEVELOPMENT AGREEMENT")

As Adopted by the San Luis Obispo City Council  
on October 3, 2017 by Ordinance No. 1639 (2017 Series)

## TABLE OF CONTENTS

RECITALS AND DEFINITIONS.....	1
AGREEMENT.....	4
ARTICLE 1. GENERALLY .....	4
Section 1.01. Definition of “Avila Ranch”.....	4
Section 1.02. Effective Date .....	4
Section 1.03. Term.....	4
Section 1.04. Execution and Recordation of Agreement.....	5
ARTICLE 2. DESCRIPTION OF THE PROJECT .....	6
Section 2.01. In General .....	6
Section 2.02. Project Approvals .....	6
Section 2.03. Subsequent Approvals .....	6
Section 2.04. Subsequent Approval Documents.....	6
Section 2.05. Approvals.....	6
ARTICLE 3. DEVELOPMENT OF PROJECT IN GENERAL .....	7
Section 3.01. Consideration to Avila Ranch.....	7
Section 3.02. Consideration to City.....	7
Section 3.03. Rights of Avila Ranch Generally.....	7
Section 3.04. Rights of City Generally.....	8
Section 3.05. Project Parameters .....	8
ARTICLE 4. APPLICABLE LAW .....	8
Section 4.01. In General .....	8
Section 4.02. Application of Other City Laws .....	8
Section 4.04. State and Federal Law .....	9
ARTICLE 5. FINANCIAL COMMITMENTS OF CITY AND AVILA RANCH .....	9

Section 5.01. In General .....	9
Section 5.02. Basic Principles .....	9
Section 5.02.2. Financing of Infrastructure; Operation and Maintenance.....	10
Section 5.03. Establishment of Financing Mechanisms .....	11
Section 5.04. Imposition of and Increases in Fees, Taxes, Assessments and Other Charges .....	12
Section 5.05. Other Commitments of City and Avila Ranch Related to Financing .....	14
Section 5.05.4. Other Shortfalls of City .....	17
ARTICLE 6. COMMITMENTS OF CITY AND AVILA RANCH RELATED TO PUBLIC IMPROVEMENTS.....	18
Section 6.01. Backbone Infrastructure Phasing Plan.....	18
Section 6.02. Construction and Dedication of Project Facilities and Infrastructure.....	18
Section 6.03. Dedications .....	19
Section 6.04. Cooperation with Respect to Project Facilities and Infrastructure.....	19
ARTICLE 7. OTHER COMMITMENTS OF CITY AND AVILA RANCH.....	21
Section 7.01. Mutual Cooperation for Other Governmental Permits .....	21
Section 7.02. Timing of Development.....	21
Section 7.03. Dedication of Park Lands .....	22
Section 7.04. Dedication of Open Space and Agricultural Lands .....	22
Section 7.05. Affordable Housing and Workforce Housing.....	23
Section 7.07. Energy.....	23
Section 7.08. Water.....	23
Section 7.09. Storm Drain Facilities.....	24
Section 7.10. Interim Fire Station.....	24

Section 7.11. Traffic and Circulation Improvements .....	24
Section 7.12. Bicycle and Multimodal Transportation Improvements.....	25
Section 7.13. Miscellaneous .....	25
ARTICLE 8. CONSIDERATION OF PERMITS AND APPROVALS .....	26
Section 8.01. In General. ....	26
Section 8.02. General Plan and AASP Amendments .....	27
Section 8.03. CEQA Compliance. ....	27
Section 8.04. Life of Approvals.....	27
Section 8.05. Vesting Maps .....	27
Section 8.06. Need for Flexibility.....	27
ARTICLE 9. AMENDMENTS .....	28
Section 9.01. Amendments of Agreement. ....	28
ARTICLE 10. ANNUAL REVIEW .....	28
Section 10.01. Annual Review .....	28
ARTICLE 11. MITIGATION MONITORING AND REPORTING PROGRAM EVALUATION; DEVELOPMENT AGREEMENT REVIEW .....	29
Section 11.01. Mitigation Monitoring and Reporting Program Evaluation. ....	29
Section 11.02. Development Agreement Review .....	29
ARTICLE 12. DEFAULT, REMEDIES, TERMINATION OF DEVELOPMENT AGREEMENT.....	30
Section 12.01. Defaults.....	30
Section 12.01.1. Notice and Cure. ....	30
Section 12.01.2. Actions during Cure Period. ....	30
Section 12.02. Remedies of Non-Defaulting Party. ....	30
Section 12.03. Termination Due to Default.....	32
Section 12.03.2. Procedures for Termination. ....	32



ARTICLE 13. ASSIGNMENT, TRANSFER AND NOTICE.....	33
Section 13.02. Transfers In General. ....	33
Section 13.02.02. City Review of Release Provisions.....	33
ARTICLE 14. MORTGAGEE PROTECTION .....	34
ARTICLE 15. GENERAL PROVISIONS .....	35
Section 15.01. Incorporation of Recitals and Exhibits .....	35
Section 15.02. Project is a Private Undertaking .....	36
Section 15.03. Cooperation in the Event of Legal Challenge.....	36
Section 15.04. Defense and Indemnity .....	36
Section 15.05. Governing Law; Attorneys' Fees.....	37
Section 15.06. Force Majeure .....	37
Section 15.07. Waiver.....	37
Section 15.08. Notices .....	38
Section 15.09. No Joint Venture or Partnership .....	39
Section 15.10. Severability .....	39
Section 15.11. Estoppel Certificate .....	39
Section 15.12. Further Assurances .....	39
Section 15.13. Construction.....	39
Section 15.14. Other Miscellaneous Terms .....	40
Section 15.15. Counterpart Execution .....	40
Section 15.16. Time.....	40
Section 15.17. Good Faith/Fair Dealing .....	40
Section 15.18. Exhibits.....	40

DEVELOPMENT AGREEMENT  
BY AND BETWEEN THE CITY OF SAN LUIS OBISPO AND AVILA RANCH, LLC  
RELATING TO THE AVILA RANCH DEVELOPMENT PLAN

THIS DEVELOPMENT AGREEMENT is entered into this 2nd day of November, 2017 (“Execution Date”), by and between the CITY OF SAN LUIS OBISPO, a municipal corporation and charter city (“City”), and AVILA RANCH, LLC, a California limited liability company (“Avila Ranch” or “Developer”), hereinafter referred to in this Development Agreement individually as a “Party” and collectively as the “Parties,” as appropriate.

**RECITALS AND DEFINITIONS**

A. The “Project,” as referenced in this Development Agreement, consists of the development of housing, neighborhood commercial buildings, parks, agricultural and open space uses, and various public infrastructure facilities located within the Avila Ranch subarea of the Airport Area Specific Plan area on the southwestern boundary of the City, as more particularly described and defined in Section 2.01 below.

B. The “Property,” as referenced in this Development Agreement, consists of approximately 150 acres of land that has been designated for development as part of the Airport Area Specific Plan (the “AASP Area”). The property comprising the Property is more fully shown on **Exhibit A** attached hereto and incorporated herein by this reference. **Exhibit B** attached hereto sets forth the legal description for the Property. Avila Ranch represents and warrants to City that as of the Execution Date, Avila Ranch has a legal or equitable interest in the Property.

C. Upon the effective date of the City ordinance approving this Development Agreement, this Development Agreement becomes Effective, as defined in Section 1.02 below, as to the Property and the City will record it against the Property.

D. On December 9, 2014, City adopted an update to the Land Use and Circulation Elements of the City’s General Plan that included the AASP Area. The City’s General Plan designates the Property for a variety of land uses including residential, neighborhood commercial, open space, and agricultural, and provides for the development of these uses so as to benefit the City and its residents

E. City and Avila Ranch have engaged in a cooperative and successful relationship to establish a development plan for the Property (the “Development Plan”). These efforts have culminated in the City’s adoption and approval of the following entitlements:

- (1) The Final Environmental Impact Report and associated Mitigation Monitoring and Reporting Plan (including all mitigation measures therein) for the project certified and adopted, respectively, by Resolution No. 10832 (2017 Series), on September 19, 2017.

- (2) The Amendment to Airport Area Specific Plan as amended by Resolution No. 10832 (2017 Series), adopted September 19, 2017.
- (3) The City's zoning map as amended by Ordinance No. 1638 (2017 Series), adopted October 3, 2017.
- (4) The Development Plan approved by Resolution No. 10832 (2017 Series), on September 19, 2017.
- (5) Vesting Tentative Tract Map #3089 (Avila Ranch) approved by Resolution No. 10832 (2017 Series), on September 19, 2017.
- (6) Ordinance No. 1639 (2017 Series) dated October 3, 2017 adopting this Development Agreement ("the Adopting Ordinance").
- (7) The amendment to the City General Plan, as amended by Resolution No. by Resolution No. 10832 (2017 Series), on September 19, 2017.
- (8) The conditions of approval of each of the foregoing.

These approvals described in this Recital E, together with the Environmental Impact Report and related Findings, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Plan described in Recital F below, are referred to herein, collectively, as the "Entitlements" or "Project Entitlements."

F. Before approving the Entitlements described in Recital E above, the City Council of the City of San Luis Obispo: (i) reviewed and considered the significant environmental impacts of the Project and several alternatives to the Project, as described in that certain Final Environmental Impact Report (the "Project EIR") and (ii) adopted Resolution No. No. 10832 (2017 Series), on September 19, 2017 to certify the Project EIR, making Findings Concerning Mitigation Measures and Alternatives (the "Findings"), adopting a Statement of Overriding Considerations, and adopting a Mitigation Monitoring and Reporting Plan (the "MMRP"), all in accordance with the provisions of the California Environmental Quality Act, California Public Resources Code section 21000 et seq. ("CEQA").

G. One of the principal purposes of this Development Agreement is to further the cooperative relationship between City and Avila Ranch for the benefit of all residents of San Luis Obispo during the implementation of the Project. The City and Avila Ranch join as Parties to this Development Agreement to ensure the requirements of the Development Agreement Statute (California Government Code section 65864 et. seq.) are satisfied. As more fully set forth below, this Development Agreement contains both covenants of a personal nature and covenants and/or servitudes that run with title to the Property.

H. This Development Agreement is based upon and was written to achieve these purposes:

- (1) that the City shall be kept and/or made "whole" by Avila Ranch as to the Property and by other property owners with respect to their respective properties with respect to all aspects (e.g., fiscal impacts, etc.) of the planning, development, maintenance and operation of the AASP Area including, among other things, the costs to the City of providing the Project with public services and facilities, the payment of City's costs associated with the implementation of the Development Agreement, the Entitlements, all other planning and environmental efforts described and envisioned by the Development Agreement, the Subsequent Approvals (as defined in Section 2.04 below) and the Project, and the mitigation of the Project's environmental impacts.
- (2) that once this Development Agreement has taken legal effect, Avila Ranch shall have a full and vested right, throughout the term of this Development Agreement, to the Rights and Obligations as to the Property;
- (3) that this Development Agreement is intended to reduce the uncertainty in planning and implementation for and, and to secure the orderly development of, the Project, ensure a desirable and functional community environment, provide effective and efficient development of public facilities, infrastructure and services appropriate for the development of the Project, ensure maximum effective utilization of resources within the City, and provide other significant benefits to the City and its residents;
- (4) to secure Project features and Development conditions above and beyond those that may be levied by the City under existing zoning and development regulations and the FEIR;
- (5) to provide Developer with a reliable and definitive form of reimbursement for offsite and onsite infrastructure beyond its fair share;
- (6) that this Development Agreement is intended to be consistent with and to implement the City's General Plan, and more particularly the achievement of the community's development objectives for the Property as set forth in Policy 8.1.6 of the Land Use Element;
- (7) that the development of the Project will enable the City to capture sales taxes that are being leaked to other communities because of the jobs-housing imbalance;
- (8) that the development of the Project would result in the capture of an estimated 540 households that commute to jobs in San Luis Obispo, resulting in the reduction of Countywide vehicle miles traveled for those trips by approximately 4.0 million miles per year; and
- (9) that the value of the obligations of the Developer pursuant to this Development Agreement are anticipated to be above and beyond those necessary to serve the Project.

The Rights and Obligations of the Parties to this Development Agreement shall be construed and interpreted so as shall give full effect to each and all of these purposes.

I. As used in this Development Agreement, "Rights" shall mean all of the vested and other rights and benefits of the Development Agreement, and the term "Obligations" shall mean all of the duties, obligations, responsibilities and other burdens of the Development Agreement. References to lot numbers in this Development Agreement refer to lots as numbered in Vesting Tentative Tract Map. No. 3089 dated April 26, 2017.

J. As used in this Development Agreement, the terms, phrases and words shall have the meanings and be interpreted as set forth in this Development Agreement (the meaning given the term in the singular shall include the term in the plural and vice versa) unless the context clearly indicates the Parties intended another meaning. To the extent that any capitalized terms contained in this Development Agreement are not defined within it, then such terms shall have the meaning ascribed to them in the City Laws, other applicable law or, if no meaning is given a term in any of those sources, the common understanding of the term shall control.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth in this Development Agreement, the Parties hereby agree as follows:

### **ARTICLE 1. GENERALLY**

Section 1.01. Definition of "Avila Ranch." As used herein, "Avila Ranch" means Avila Ranch, LLC, as that business entity existed on the Effective Date and any permitted successor, assign, or transferee of Avila Ranch, LLC.

Section 1.02. Effective Date. This Development Agreement is entered into by and between the City and Avila Ranch and takes legal effect on November 2, 2017, the date that Ordinance No. 1639 (2017 Series) approving the Development Agreement takes legal effect ("Effective Date"). The terms and conditions of this Development Agreement shall be for the benefit of or a burden upon the Property, shall run with title to the Property, and shall be binding upon Avila Ranch and its permitted successors, assigns and transferees during their respective ownerships of any portion of the Property.

Section 1.03. Term.

Section 1.03.1. In General.

- (a) The term of this Development Agreement shall commence upon the Effective Date and shall continue until, and terminate upon, the earliest of the following dates ("Termination Date"):

- (1) 12:01 a.m. on the anniversary of the Effective Date, 2037, unless Avila Ranch requests, and the City approves, an extension of the Term for an additional 10-year period, in which case the Termination Date shall be 12:01 on the anniversary of the Effective Date, 2047. Such request for extension shall be submitted, in writing, to the City Manager at least 180 days, but no earlier than 365 days, before the 2037 Termination Date. The City may deny the request if Avila Ranch is not in compliance with all of its Obligations under this Development Agreement;
  - (2) 12:01 a.m. on the anniversary of the Effective Date, 2024, should Avila Ranch fail to substantially complete the Backbone Infrastructure for Phases 1 and 2 of the Project in accordance with the Project's Phasing Plan as set forth in Section 6.01, below. As used herein, "substantially complete" means that all of the Backbone Infrastructure required for Phases 1 and 2 listed in the phasing schedule is actively under construction and is being diligently prosecuted to completion, with all bonds in place.
  - (3) This Development Agreement may be terminated with respect to the property included in a recorded final subdivision map creating residential lots on any portion of the Property, provided that no further on-site or off-site infrastructure is required and no conditions remain to be satisfied before building permits can be issued for the development of lots depicted on that map. Concurrently with or following recordation of such a subdivision map as to any portion of the Property, Avila Ranch may request in writing and the Community Development Director shall not unreasonably withhold a certificate of termination of this Development Agreement, in recordable form, solely as to the property included in such a final recorded map which meets the foregoing requirements; provided that no such certificate need issue if obligations to the City under this Development Agreement remain unfulfilled which are not made conditions of the approval of the subdivision map. Upon the Community Development Director's recordation of such a certificate, this Development Agreement shall terminate as to the land covered by such final map. If Avila Ranch does not request or the Community Development Director does not issue such a certificate, this Development Agreement shall continue to apply to any lot depicted on such a subdivision map until this Development Agreement otherwise expires or terminates according to its terms.
- (b) This Development Agreement shall be of no further force, effect or operation upon the Termination Date. Subject to the provisions of Section 8.04 below, in no event shall the expiration or termination of this Development Agreement result in expiration or termination of any Approval without further action of City.

#### Section 1.04. Execution and Recordation of Agreement.

Section 1.04.1. Execution and Recordation. Avila Ranch shall execute this Development Agreement, in conformance with Section 15.15 of this Development Agreement, within five business days of date of adoption of the Adopting Ordinance referenced in Recital E above.



Provided Avila Ranch has so executed this Development Agreement, City shall execute this Agreement, in conformance with Section 15.15 of this Agreement, within five business days of execution of this Development Agreement by Avila Ranch.

Section 1.04.2. Recordation. City shall deliver this Development Agreement to the County Recorder for recordation within 10 days following its execution.

## **ARTICLE 2. DESCRIPTION OF THE PROJECT**

Section 2.01. In General. As used herein, "Project" means the development of the Property as described in the "Project Approvals" (defined in Section 2.02 below), including all on-site and off-site "Project Facilities and Infrastructure" (defined in Section 5.02.1 below).

Section 2.02. Project Approvals. As used herein, "Project Approvals" include, but are not limited to: (i) those provisions of City's General Plan that relate to or affect the Property, as the General Plan existed on the Effective Date and as it may be amended from time to time consistently with this Development Agreement (the "General Plan"), (ii) those provisions of the Development Plan (including the Design Guidelines) that relate to or affect the Property, as incorporated into the Specific Plan, as the Development Plan existed on the Effective Date and as it may be amended from time to time consistently with this Development Agreement (the "Development Plan"), (iii) the zoning of the Property, as it existed on the Effective Date and as it may be amended from time to time consistently with this Development Agreement thereafter (the "Zoning") and (iv) the other entitlements listed in Recital E above; provided that "Project Approvals" shall not mean or include amendments to the General Plan, AASP or Zoning of the Property that conflict with the Project Approvals as they existed on the Effective Date unless Avila Ranch consents in writing to such conflicting amendments.

Section 2.03. Subsequent Approvals. As used herein, "Subsequent Approvals" mean those permits and approvals (other than the Project Approvals and amendments thereto) necessary or desirable for the development of the Project including, without limitation, those identified in Section 2.04 below.

Section 2.04. Subsequent Approval Documents. The "Subsequent Approvals" defined in Section 2.03 above include, but are not limited to: (i) subdivision maps and related or similar approvals issued under the California Subdivision Map Act, (ii) development permits (including Site Plan Reviews and Conditional Use Permits as described in the Specific Plan), (iii) architectural review and design review approvals (as described in the Specific Plan), (iv) any other discretionary or ministerial permits or approvals of City necessary or appropriate for build-out of the Project and Property, and (vi) any amendments to any of the foregoing necessary or appropriate for the development of the Project.

Section 2.05. Approvals. Project Approvals, amendments to Project Approvals, and Subsequent Approvals are sometimes referred to in this Development Agreement collectively as the "Approvals" and each individually as an "Approval."

### ARTICLE 3. DEVELOPMENT OF PROJECT IN GENERAL

Section 3.01. Consideration to Avila Ranch. The Parties acknowledge and agree that City's agreement to perform and abide by the covenants and Obligations of City set forth herein is material consideration for Avila Ranch's agreement to perform and abide by the covenants and Obligations of Avila Ranch set forth herein.

Section 3.02. Consideration to City. The Parties acknowledge and agree that Avila Ranch's agreement to perform and abide by the covenants and Obligations of Avila Ranch set forth herein is material consideration for City's agreement to perform and abide by the covenants and Obligations of City set forth herein.

Section 3.03. Rights of Avila Ranch Generally. Avila Ranch shall have a fully vested right to develop the Project and to use the Property consistently with this Development Agreement and Applicable Law.

- (a) During the Term of this Development Agreement, the Developer shall have a vested right to develop the Property to the full extent permitted by the Entitlements and this Development Agreement. Except as provided within this Development Agreement, the Entitlements shall exclusively control the development of the Property, including the uses of the Property, the density or intensity of use, the maximum height and size of proposed buildings, the provisions for reservations or dedications of land for public purposes and the design, improvement and construction standards and specifications applicable to the Project. The maximum number of residential units authorized to be constructed hereunder and the approximate acreage of commercial development is 720 residential units and approximately 15,000 square feet of commercial development. In furtherance of the foregoing, the Developer retains the right to apportion the uses, intensities and densities, between itself and any other owners of the Property, upon the sale, transfer or assignment of any portion of the Property, so long as such apportionment is consistent with the Entitlements and this Development Agreement.
- (b) Subject to the City's exercise of its police power authority the Developer shall have a vested right to: (i) receive from the City all future development approvals for the Property that are consistent with and implement the Entitlements and this Development Agreement; (ii) not have such approvals be conditioned or delayed for reasons which are inconsistent with the Entitlements or this Development Agreement; and (iii) develop the Property in a manner consistent with such approvals in accordance with the Entitlements and this Development Agreement. All future development approvals for the Property, including without limitation general plan amendments, zoning changes, or parcel maps or tract maps, shall upon approval of the City be vested in the same manner as provided in this Development Agreement as for the Entitlements.



Section 3.04. Rights of City Generally. City shall have a right to regulate development of the Project and use of the Property consistently with this Development Agreement and Applicable Law.

Section 3.05. Project Parameters. The permitted uses of the Property, the density and intensity of use of the Property, the maximum height and size of buildings included in the Project, and provisions for the reservation and dedication of land shall be as set forth herein and in the Project Approvals.

#### **ARTICLE 4. APPLICABLE LAW**

##### **Section 4.01. In General.**

Section 4.01.1. Applicable Law Defined. Except as the Parties may otherwise agree, the rules, regulations and official policies applicable to the Project and the Property during the Term of this Development Agreement shall be those set forth in this Development Agreement and, except as otherwise set forth herein, the rules, regulations and official policies of City (including the plans, municipal codes, ordinances, resolutions and other local laws, regulations, capital facilities fees and policies of City) in force and effect on the Effective Date (collectively, "Applicable Law").

Section 4.01.2. Approvals as Applicable Law. Applicable Law shall include, without limitation, Approvals as they may be issued from time to time consistently with this Agreement.

##### **Section 4.02. Application of Other City Laws.**

###### **Section 4.02.1. No Conflicting City Laws.**

- (a) City may apply to the Project and the Property any rule, regulation or official policy of City (including any plan, municipal code, ordinance, resolution or other local law, regulation, capital facility fee or policy of City) (each a "City Law") that does not conflict with Applicable Law or this Agreement. City shall not, however, without the written consent of Avila Ranch apply to the Project or the Property (whether by initiative, referendum, imposition of mitigation measures under CEQA or otherwise) any City Law that is in conflict with Applicable Law or this Agreement.
- (b) If City attempts to apply to the Project a City Law which Avila Ranch believes to conflict with Applicable Law or this Agreement, Avila Ranch shall give City written notice describing the legal and factual basis for Avila Ranch's position. The Parties shall meet and confer within 30 days of City's receipt of such written notice to seek to resolve any disagreement. If no mutually acceptable solution can be reached, either Party may take such action as may be permitted under Article 12 below.

##### **Section 4.03. Uniform Codes and Standard Specifications.**

- (a) Nothing herein shall prevent City from applying to the Project standards contained in uniform building, construction, fire or other uniform codes, as the same may be adopted or amended from time to time by City, provided that the provisions of any such uniform code shall:
  - (1) Apply to the Project only to the extent that such code is in effect on a City-wide basis; and
  - (2) With respect to those portions of any such uniform code that have been adopted by City without amendment, be interpreted and applied consistently with the generally prevailing interpretation and application of such code in California.
- (b) Nothing herein shall prevent City from applying to the Project standards and specifications for public improvements (e.g., streets, storm drainage, parking lots, and driveway widths) adopted or amended from time to time by City, provided that such standards and specifications shall apply to the Project and the Property only to the extent that they are in effect on a City-wide basis.

#### Section 4.04. State and Federal Law.

- (a) Nothing herein shall prevent City from applying to the Project or the Property any change in City Law required by: (i) state or federal law; or (ii) any governmental agency that, due to the operation of state law (and not the act of City through a memorandum of understanding, joint exercise of powers or other agreement entered into after the Effective Date), has binding legal authority on City.
- (b) If the application of such changes prevents or precludes performance of one or more provisions of this Development Agreement, City and Avila Ranch shall take any and all such actions as may be necessary or appropriate to ensure the provisions of this Development Agreement shall be implemented to the maximum extent practicable.

### **ARTICLE 5. FINANCIAL COMMITMENTS OF CITY AND AVILA RANCH**

Section 5.01. In General. This Article 5 establishes a framework for the imposition and allocation to the extent permitted by law of fees, taxes, assessments and other revenues to be generated and/or paid by the Project and/or the Property. The provisions of this Article 5 are intended to prevent the Project from resulting in negative fiscal impacts on City as determined by the fiscal impact analysis prepared for the Project; to facilitate the construction, operation and maintenance of infrastructure and facilities to avoid or limit the physical impacts of development; and to assist in the development of the Project so as to provide long-term fiscal and other benefits to City, including increased employment opportunities, an increased tax base and revenues to City, and an enhanced quality of life for the City's residents.

#### Section 5.02. Basic Principles.

Section 5.02.1. General.

- (a) This Article 5 is intended to serve two basic purposes: first, that there shall be no cost to City for the construction of the fair share allocation of public facilities and infrastructure needed to serve the Project or the Property or for the provision of municipal services to the Project or the Property, including the operation and maintenance of facilities and infrastructure to serve the Project (collectively, the “Project Facilities and Infrastructure”); and second, that all costs associated with the construction of Project Facilities and Infrastructure, and the provision of municipal services to the Project and the Property (including the operation and maintenance of Project Facilities and Infrastructure) shall be borne by the Project alone.
- (b) The cost of providing Project Facilities and Infrastructure to the Project or the Property shall be consistent with the following principles: Except as otherwise specifically permitted by this Development Agreement and not in limitation of any other provisions hereof, (i) there shall be a reasonable relationship between any municipal cost required to be borne by the Project and the type of development within the Project to which such cost is attributable; (ii) there shall be a reasonable relationship between the need to incur any such municipal cost and the type of development within the Project to which such cost is attributable; (iii) no municipal cost required to be borne by the Project shall exceed the estimated reasonable cost of providing the service or facility to which such municipal cost relates; and (iv) with respect to any fee required to finance Project Facilities and Infrastructure, there shall be a reasonable relationship between the amount of the fee and the cost of the Project Facilities and Infrastructure funded by such fee. Wherever this Development Agreement requires a “reasonable relationship” between the Project and any requirement imposed thereon, there shall be required an essential nexus between the Project and such requirement and rough proportionality in the allocation of a municipal cost or fee both internally to various portions of the Property and as between the Project and other projects within the City.
- (c) As used herein, the term “Project Facilities and Infrastructure” shall include public facilities and infrastructure only to the extent they serve the Project, and shall not include public facilities or infrastructure to the extent such facilities or infrastructure serve projects or areas other than the Project or the Property, unless the public facilities and infrastructure serving the Project or Property are required to be oversized to serve other projects or areas in accordance with the provisions of Section 6.02.2 below.

Section 5.02.2. Financing of Infrastructure; Operation and Maintenance. Prior to or concurrent with the adoption of this Development Agreement City shall consider in good faith establishing and forming a mechanism or mechanisms to finance Project Facilities and Infrastructure and Project-related municipal services or the operation and maintenance portion of

the Project Facilities and Infrastructure, such as a Mello-Roos District, Landscaping and Lighting Districts, or other Maintenance Assessment Districts, in accordance with the following principles:

- (1) The level of municipal services provided to the Project, including the level of operation and maintenance of Project Facilities and Infrastructure, shall be at least equal or superior to the level of service provided elsewhere in the City.
- (2) Any costs associated with such mechanism shall be borne by the Project, which may be reimbursed by the financing mechanism.
- (3) The City may require as a condition of approval of a tentative subdivision or parcel map a financing mechanism or mechanisms to finance the operation and maintenance of Project Facilities and Infrastructure.
- (4) In accordance with and subject to Section 7.13.1 below, Avila Ranch shall include within the Covenants, Conditions and Restrictions (CC&Rs) required for each subdivision of the Property a requirement that the Master Homeowners' Association, and or each Homeowners' Association for a subdivision within the Property (each, an "HOA"), shall assume responsibilities to maintain, repair and insure the following items in the event that such financing mechanism is dissolved or in the event that the fees, assessments, or taxes generated thereby are repealed or reduced other than by discretionary action by the City Council. In such event the HOA shall assume responsibility to maintain, repair and insure for the publiclyowned facilities within the Property (as to a Master HOA) or subdivision (as to another HOA), including but not limited to, Parks A through F, H and I, and "Stevenson Park"; landscaped parkways and trees; low-impact-development treatment facilities; and riparian open space, but expressly shall not assume responsibility to maintain, repair and insure streets, curbs, gutters, sidewalks, regional park (Park G), farmed agricultural open space, landscape paseos connecting the public parks, retaining walls adjacent to the open space corridors, bike paths, bike path bridges and bike path facilities (including bike paths and bike path facilities in the County). Avila Ranch shall include the City as a third-party beneficiary of these CC&Rs in language acceptable to the City Attorney, which shall grant the City the right to perform the maintenance, repair and insurance obligations and to impose assessments against the affected parcels in the event an HOA fails to perform its obligations under this subparagraph (4).

#### Section 5.03. Establishment of Financing Mechanisms.

Section 5.03.1. Procedures for Establishment. The establishment of any mechanism to finance the operation or maintenance of Project Facilities and Infrastructure (each a "Financing Mechanism") shall be initiated upon Avila Ranch's written request to the City's Finance Director. Such request shall outline the purposes for which the Financing Mechanism is to be established and the general terms and conditions upon which the establishment of the Financing Mechanism will be based. City's consideration of Avila Ranch's request shall be consistent with

the criteria set forth in Section 5.02 above. If Avila Ranch requests the City form a Mello-Roos Community Facilities District to finance the operation or maintenance of Project Facilities and Infrastructure, City shall use its best efforts to cause such district to be formed and special taxes to be levied to the extent permitted by Applicable Law.

Section 5.03.2. Nature of City Participation. City's participation in the formation of any Financing Mechanism approved by City (and its operation thereafter) and in the issuance of any Project Debt approved by the City shall include all of the usual and customary municipal functions associated with such tasks including, without limitation, the formation and administration of special districts; the issuance of Project Debt; the monitoring and collection of fees, taxes, assessments and charges such as utility charges; the creation and administration of enterprise funds; the enforcement of debt obligations and other functions or duties authorized or mandated by Applicable Law.

#### Section 5.04. Imposition of and Increases in Fees, Taxes, Assessments and Other Charges.

##### Section 5.04.1. Taxes and Assessments.

- (a) During the Term of this Development Agreement, Avila Ranch shall be bound to and shall not protest, challenge, or cause to be protested or challenged, any City tax in effect on the Effective Date.
- (b) No assessment shall be imposed on the Project or the Property other than through a Financing Mechanism as set forth above.
- (c) No new debt shall be issued that affects the Project or the Property without Avila Ranch's approval, unless such debt otherwise conforms with the requirements of Articles XIII C and D of the California Constitution and any requisite voter approval is achieved, in which case the City may issue debt even if Avila Ranch votes against the matter.

##### Section 5.04.2. Other Fees and Charges; Credits and Reimbursements.

- (a) City shall impose against or apply to the Project or the Property only those financial obligations (other than taxes and assessments) described in this Section 5.04.2. Except as otherwise specifically stated below, any financial obligation imposed against or applied to the Project under this Section 5.04.2 shall be consistent with the provisions of controlling California law, including California Government Code section 66000 et seq. and California Constitution, article XIII A and its implementing statutes.
- (b) The Developer shall be required to pay all City-wide, Airport Area Specific Plan, Los Osos Valley Road ("L.O.V.R.") Interchange Impact Fees, and Project-specific development impact fees, excluding sewer and water impact fees addressed in section 5.04.2(c) immediately below, for the Project's fair share of the cost to mitigate Project impacts as identified in the Final Environmental Impact Report



(FEIR), Specific Plan, conditions of approval or otherwise specified in the Development Agreement in effect when each final map is recorded in accordance with AB1600 analysis. City may adjust development impact fees not more than once a year with changes no greater than the inflation index identified upon imposition of the fee.

- (c) The Developer shall be required to pay sewer and water impact fees in accordance with the AB1600 analysis in effect when each Final Map is recorded plus any adjustments based on CPI until issuance of each building permit. Subsequent payments shall be adjusted annually by the inflation index identified upon imposition of the fee as determined by the City.
- (d) Fees imposed by City, including but not limited to planning, engineering, building permit, fire plan check and development impact fees, but excluding sewer and water impact fees governed by section 5.04.2(c) immediately above, shall be in accordance with the fees in effect as of the date of when the Final Map is recorded plus any adjustments based on the inflation index identified upon imposition of the fee until issuance of each building permit.
- (e) If the City amends any existing Development Impact Fee (DIF) program to include additional projects or costs for the benefit of the Project (either new projects or increased costs for projects included in the analysis supporting existing fees) for improvements necessary to satisfy Project requirements, Developer will be required to pay the amended fees. Credits applied towards infrastructure costs advanced by Developer shall apply when building permits are issued or fees are otherwise due and shall arise only from Developer-funded construction of infrastructure or community facilities included in the project list on which a particular fee was based. Credits applied when building permits are issued or fees are otherwise due pursuant to this section shall be adjusted for inflation consistently with such adjustments of the fees against which credits are allowed.
- (f) The Developer shall pay all then-current processing fees for any subsequent planning applications and permits as adopted by the City Council.
- (g) City acknowledges that Developer may dedicate property and install infrastructure improvements beyond its "fair share" cost. The City agrees to grant fee credits and reimbursements, funded by Development Impact Fees paid by Developer and other developers, and traffic impact fees, where eligible, but excluding sewer and water impact fees. If and to the extent that the Developer constructs or installs any infrastructure and/or facilities that have a capacity or size in excess of that required to serve the Project or mitigate its impacts, and one or more undeveloped properties will be benefitted by such infrastructure and facilities, the City shall enter into a reimbursement agreement with the Developer, in a form mutually acceptable to City and Developer, which provides for the reimbursement of all excess costs and expenses incurred by the Developer in constructing such improvements in accordance with California Government Code

section 66485 et seq. and section 16.20.110 of the City's municipal code, the City's zoning ordinance, and in accordance with Section 5.05.3 below.

- (h) The City's rates for monthly retail utility service (e.g., water and sewer) may be applied to the Project and increased from time to time during the term of this Development Agreement; provided, however, that any such increase shall be imposed only to the extent permitted by law.
- (i) Avila Ranch shall pay City reasonable staff and consultant time and other reasonable costs (including reasonable consultant costs) associated with: (i) the MMRP Evaluation and the Development Agreement Review, (ii) the establishment of any Financing Mechanism (to the extent such costs are not included in the Financing Mechanism), including any necessary election costs, and (iii) all other administrative tasks associated with City's adoption and implementation of this Development Agreement and the Project.
- (j) Avila Ranch shall pay all required fees of the California Department of Fish and Wildlife ("CDFW"). CDFW fees shall be submitted to the City's Planning Division before filing of any required Notice of Determination under CEQA, along with any fee required by the County Clerk/Recorder. The City may require proof of payment of such fees before issuing building permits or filing of a Final Subdivision Map.
- (k) During the term of this Development Agreement, fees and charges other than those specifically described in subsections (a) through (j) above may be imposed against or apply to the Project or the Property only as City and Avila Ranch agree.

#### Section 5.05. Other Commitments of City and Avila Ranch Related to Financing.

Section 5.05.1. Arrangements with Other Governmental Agencies. City and Avila Ranch acknowledge and agree that City may from time to time enter into joint exercise of power agreements, memoranda of understanding or other agreements with other governmental agencies consistent with and to further the purposes of this Development Agreement.

#### Section 5.05.2. Other Funding Sources.

- (a) City and Avila Ranch agree to pursue outside sources of funding for the construction, operation and maintenance of Project Facilities and Infrastructure including, in particular, facilities and infrastructure which serve the region. City shall not be obligated, however, to apply for county, state or federal funds if the use of such funds for the Project would reduce the availability of that resource for other City projects.
- (b) Any obligation of Avila Ranch under this Development Agreement to fund or otherwise bear the costs of the construction of improvements, the provision of services or any other item, whether or not the sole obligation of Avila Ranch, may

be satisfied through the use of funds provided by, from or through any third party (including other non-City, governmental) sources.

Section 5.05.3. Reimbursement.

- (a) City shall reimburse, or provide for the reimbursement by other landowners or developers, the actual hard and soft costs associated with Avila Ranch's funding or construction of that portion of any oversized or accelerated improvements or facilities that is attributable to a project or area other than the Project or Property as required by this section. Hard and soft costs eligible for reimbursement shall include, without limitation: reasonable direct costs of construction and materials, soft costs including bonds, architecture and engineering fees, and professional fees. Such reimbursement shall be based on a fair share allocation of costs determined by calculating the pro rata share of the capacity in such improvements that is attributable to other projects or properties as reflected in the allocation percentages in **Exhibit C**, which reimbursement shall be timely provided in accordance with Applicable Law, following City's collection of funds from the sources identified in subsection 5.05.3(a)(1)–(4) below. Avila Ranch and City acknowledge that the amounts specified in **Exhibit C** for each improvement are estimates only and that total reimbursable costs shall be based on Avila Ranch's actual costs as set forth in this Section 5.05.3.
  - (1) Development Impact Fees paid by the Project for the improvements specified from the AASP impact fees, L.O.V.R. Interchange impact fees, or the Citywide transportation impact fees, as applicable;
  - (2) Development Impact Fees paid to the City on behalf of other development in the AASP area that are not committed to repayment obligations under prior Reimbursement Agreements;
  - (3) Development Impact Fees paid to City from developers who contribute to the impact associated with the improvements installed by Avila Ranch; and
  - (4) Taxes or assessments in a Community Facilities District.
  - (5) Separate reimbursement agreement. For purposes of such agreement, backbone infrastructure that is larger than the minimum size or standard as identified in the Standard Specifications and Engineering Design Standards may be considered to be oversized and shall be subject to prior review and approval by the City prior to being included in a separate reimbursement agreement.
- (b) Under no circumstances shall the City be obligated to fund reimbursement from its own resources, from funds it does not yet possess, or from funds which may not be lawfully used for that purpose.



- (c) Failure or error by the City to collect funds from the sources identified in subsection 5.05.3(a) above shall not subject the City to any liability, obligation, or debt to Avila Ranch. Notwithstanding the foregoing, the City shall reimburse Avila Ranch pursuant to the terms of this Agreement with respect to all such funds actually collected by the City. Failure by the City to reimburse Avila Ranch after the City collects such funds shall entitle Avila Ranch to exercise its remedies in accordance with Article 12.
- (d) For any improvement subject to reimbursement under this section, Avila Ranch shall provide City with evidence of the actual hard and soft costs of each of the improvements in the form of receipted bills, canceled checks, and contracts. Approval of reimbursement may occur in phases as projects are accepted by City. Regardless of Avila Ranch's claimed costs incurred in constructing the reimbursable improvements, City has the authority, through its Director or designee, in the exercise of his or her reasonable discretion, to determine the amount subject to possible reimbursement for each improvement.
- (e) In the event any owner or developer pays all or a portion of the fees or assessments identified in subsection 5.05.3(a)(1)–(4) above under protest, the City shall not be required to make reimbursements under this Development Agreement until the limitation period for instituting court action to seek a refund of such funds paid under protest has passed, and no court action (“Action”) has been instituted. If an Action is instituted seeking refund of funds paid under protest, or to prevent the City from collecting such funds, or challenging any provision of this Development Agreement, the City shall not pay over such funds to Avila Ranch until the Action has been finalized and the authority of the City to collect such funds and reimburse the Developer has been sustained. The City shall promptly notify Avila Ranch in writing of the Action. The City shall reasonably support Developer’s efforts to participate as a party to the Action, to defend the Action or settle the Action. Furthermore, the City shall have the right to tender defense of the Action to Avila Ranch. If, within 15 days of the City’s mailing a notice in compliance with Section 15.08 below requesting that Avila Ranch defend the Action, should Avila Ranch thereafter fail to undertake the defense of the Action at Avila Ranch’s sole cost and expense, the City may stipulate to return of the funds collected under protest, to cease collecting such funds, or enter into any other settlement of the Action acceptable to the City, and Avila Ranch shall lose any right to reimbursement under this Development Agreement of the amount contested in the Action. Avila Ranch shall further reimburse the City for its costs and attorneys’ fees incurred in defense of the Action, including reasonable payment for legal services performed by the City’s City Attorney, and for any liability the City incurred in the Action. In addition, if the City fails to impose a requirement upon development projects to pay their respective prorated share of the improvements specified in **Exhibit C** or fails to collect such funds, Avila Ranch may exercise all of its legal rights to attempt to collect such funds from the owners or developers of the benefitted properties, which legal rights shall not be interpreted to include an action against the City. In the event Avila

Ranch attempts to collect such funds from such owners or developers, the City shall assign to Avila Ranch all of its rights to collect such funds under this Development Agreement.

- (f) The City reserves the right to offset any funds it collects from the sources identified in this Section 5.03.3 against any unpaid fees, debts or obligations of Avila Ranch owed to the City. The City shall provide Avila Ranch with notice, in accordance with Section 15.08 and Article 12, of its intent to offset any collected funds against unpaid fees, debts or obligations described in the notice, and provide Avila Ranch with a reasonable opportunity to cure such unpaid fees, debts, or obligations.
- (g) Avila Ranch's rights to reimbursement under this Section 5.05.3 shall survive termination of this Development Agreement for a period of 15 years from the date of termination or until Developer has been fully reimbursed, whichever occurs first.

#### Section 5.05.4. Other Shortfalls of City.

- (a) Avila Ranch understands and acknowledges that the costs to City of serving the Project and the Property and otherwise carrying out its Obligations under this Development Agreement may exceed the fees, charges and revenues generated by or as a result of the Project. Accordingly, prior to or concurrently with this Development Agreement, the City shall establish a Financing Mechanism to mitigate potential annual shortfalls to the City's General Fund resulting from the provision of municipal services to the Project, the costs of which exceed the General Fund revenues generated by development within the Property (the "General Fund Shortfalls"). The Funding Mechanism shall be designed to remain in place until annual General Fund revenues generated by development within the Property are at least equal to the annual General Fund costs incurred by City in providing municipal services to the Project.
- (b) A Financing Mechanism shall be established to generate revenues sufficient to offset such potential shortfall, if requested by the City, and shall only be effective if a fiscal impact analysis shows a General Fund Shortfall. The shortfall Financing Mechanism may consist of a Mello-Roos Community Facilities District ("CFD").
- (c) City may annually monitor the fiscal impacts of development within the Property to determine the extent to which development generates sufficient General Fund Revenues to eliminate the General Fund Shortfall. When and if the City determines as a result of annual monitoring that sufficient development has occurred within the Property to generate General Fund revenues to cover the annual costs to the City's General Fund of providing municipal services to the Project (the "Break-Even Point"), the shortfall Financing Mechanism shall be discontinued and all revenues that have been collected to fund the projected General Fund Shortfall but have not been used for such purpose shall be refunded

to Avila Ranch, if permissible pursuant to Applicable Law, or otherwise used to defray Project Costs in the City's reasonable discretion and pursuant to law.

- (d) Avila Ranch's obligation to fund projected General Fund Shortfalls under Section 5.05.4 above shall be limited by the provisions of Section 5.02.1 above and, in any event, shall not survive the expiration or termination of this Development Agreement. If Developer requests, and City grants, an extension of this Development Agreement as set forth in Section 1.03.1(a)(1) above, Avila Ranch's obligation to fund projected General Fund Shortfalls shall be extended accordingly.

## **ARTICLE 6. COMMITMENTS OF CITY AND AVILA RANCH RELATED TO PUBLIC IMPROVEMENTS**

Section 6.01. Backbone Infrastructure Phasing Plan. The Project Backbone Infrastructure is planned to be designed and constructed in six (6) phases.

Section 6.01.1. Development Plan Phasing Plan. The improvements described in the Avila Ranch Development Plan and **Exhibits E-1 through E-4 and J** to this Development Agreement constitute the Project "Backbone Infrastructure." The Parties acknowledge that further analysis may result in a more cost-effective approach to the provision of such infrastructure to adequately serve development within the Project Area, and that **Exhibits E-1 through E-4 and J** may be revised accordingly by agreement of the Parties and that such revisions shall not require amendment to this Development Agreement.

Section 6.01.2. Phasing Plan. The phasing plan for the project is attached to this Agreement as **Exhibit D**.

Section 6.01.3. Phasing Plan Amendments. The Phasing Plan may be amended by agreement of the Parties to take advantage of new technologies, to respond to changes in the underlying land use assumptions upon which the plan is based, or for such other reasons as the Parties may agree.

Section 6.02. Construction and Dedication of Project Facilities and Infrastructure.

Section 6.02.1. Construction and Funding of Project Facilities and Infrastructure by Avila Ranch. The City may, in any manner consistent with the terms and provisions of this Development Agreement, require Avila Ranch to construct or fund the construction of any Project Facilities and Infrastructure when needed to satisfy the Backbone Infrastructure Phasing Plan.

Section 6.02.2. Oversizing of Project Facilities and Infrastructure.

- (a) In addition to requiring Avila Ranch to construct or fund the construction of Project Facilities and Infrastructure, City may require any Project Facilities and Infrastructure constructed or funded by Avila Ranch under Section 6.01 above to

be oversized to serve projects or areas other than the Project or the Property; provided that:

- (i) City shall consider in good faith the establishment of a Financing Mechanism to provide such additional funding;
  - (ii) City shall reimburse the costs associated with Avila Ranch's funding or construction of that portion of any such oversized improvements that is attributable to projects or areas other than the Project or the Property, pursuant to section 5.05.3 of this Agreement above.
- (b) If the phasing or incremental construction of facilities would involve significant inefficiencies that are unacceptable to City for a sub-phase implemented by Avila Ranch, Avila Ranch may be required to construct or provide advance funding for the construction of oversized improvements. For example, if the Project generates a need for an 18-inch sanitary sewer line, but other projects reasonably may be expected to use that sewer line and thereby increase the required capacity of such line to 24 inches, City may require Avila Ranch to construct or fund the construction of a 24-inch sewer line (but shall provide reimbursement as described in section 5.05.3 above). Notwithstanding the foregoing, City shall exercise its best good faith efforts to reasonably limit Avila Ranch's obligation to construct or provide advance funding of oversized improvements and may in certain instances, in the interest of fairness to Avila Ranch, tolerate certain inefficiencies.

#### Section 6.03. Dedications.

- (a) To the extent rights-of-way or other interests in real property owned by Avila Ranch within the Property are needed for the construction, operation or maintenance of Project Facilities and Infrastructure, Avila Ranch shall dedicate or otherwise convey such rights-of-way or other interest in real property to City, or as necessary to the County of San Luis Obispo. Such rights-of-way shall be dedicated or otherwise conveyed in the widths set forth in the AASP or in the Avila Ranch Development Plan.
- (b) Any public improvements constructed by Avila Ranch and conveyed to City, and any right-of-way or other real property conveyed to City, shall be dedicated or otherwise conveyed (i) free and clear of any liens unacceptable to the City and (ii) except as otherwise agreed to by City, in a condition free of any toxic materials. Nothing herein shall prevent City's right to pursue third parties under applicable law.

#### Section 6.04. Cooperation with Respect to Project Facilities and Infrastructure.

Section 6.04.1 Off-Site Improvements. Avila Ranch acknowledges that certain off-site improvements are required as part of the project's conditions of approval and mitigation

measures which include, but may not be limited to: (i) a right-of-way along Buckley Road and/or the Buckley Extension; (ii) a right-of-way necessary to implement the Horizon Extension from the project to Suburban Road; (iii) the Earthwood Extension to Suburban; (iv) improvements to Suburban Road between Earthwood and Horizon; (v) improvement of the intersection of Vachell and Venture; (vi) pedestrian improvements along Higuera and Vachell; (vii) intersection improvements at Higuera/Buckley, L.O.V.R./Higuera, Suburban/Higuera, Tank Farm/Higuera, Prado/ Higuera and South/Higuera; and (viii) bicycle improvements required by the City and consistent with the City Bicycle Master Plan, all of which are more particularly described in the Project's approved plans (the "Off-Site Improvements"). A schedule of all Off-Site Improvements for which Avila Ranch is responsible is attached as **Exhibit C** to this Agreement.

Avila Ranch shall exhaust all reasonable efforts and diligently pursue acquisition of all necessary easements and/or rights of way not currently owned or controlled by City or Avila Ranch which are required to construct the Off-Site Improvements. For purposes of this Section 6.04.1, the term "reasonable efforts" shall include proof that the Avila Ranch has made a commercially reasonable written offer to purchase the property interest at fair market value, in accordance with an appraisal conducted by an MAI appraiser.

If after exercising reasonable efforts Avila Ranch is unable to acquire the necessary easements and/or rights of way, City, upon written request of Avila Ranch, may either: (1) require Avila Ranch to construct functionally equivalent alternative improvements to those previously approved, provided that such alternative improvements are equally or more effective in addressing the impact; or (2) pursue acquisition of the real property interests by means of eminent domain. City and Avila Ranch acknowledge that eminent domain is a discretionary process and that City cannot commit to its use unless and until all appropriate notifications, hearings and proceedings have been undertaken. If City chooses to pursue acquisition of the real property interests by means of eminent domain, City shall take all reasonable steps necessary towards that endeavor, including undertaking appraisals, noticing property owners, noticing and holding required public hearings and meetings, and following any other procedures required for pre-judgment possession and Avila Ranch shall pay all costs reasonably incurred by City related to, arising from, or associated with such acquisition or condemnation proceedings, including but not limited to, attorneys' fees, expert witness fees, settlement costs, and jury awards of any kind. In addition, Avila Ranch shall indemnify, defend and hold City harmless from and against any and all claims, liabilities or causes of action of any kind associated with City's acquisition of such real property interests, excluding therefrom any claims, liabilities or causes of action arising from City's gross negligence or willful misconduct.

If and to the extent this Section 6.04.1 demands more of Avila Ranch than does Section 66462.5 of the Subdivision Map Act, this section shall apply in addition to the Developer's obligations under that statute.

Upon acquisition of the necessary interest in land, or upon obtaining right of entry, either by agreement or court order, Avila Ranch shall commence and complete the public improvements.



This requirement shall be included, and, if necessary, detailed, in any subdivision improvement agreement entered between the Developer and the City pursuant to Government Code section 66462.

## ARTICLE 7. OTHER COMMITMENTS OF CITY AND AVILA RANCH

Section 7.01. Mutual Cooperation for Other Governmental Permits. City and Avila Ranch, as appropriate, shall each be responsible to apply to other governmental or quasi-governmental agencies for necessary permits and approvals for development and use of the Property (e.g., agencies having jurisdiction over water supply; wastewater treatment, reuse and disposal; access to the Property; wetlands-related and other biological issues). City and Avila Ranch each shall take any and all actions as may be necessary or appropriate to process successfully such permits and approvals, provided such permits and approvals are consistent with the Development Plan and AASP and agreed by the City and Avila Ranch to be reasonably necessary or desirable for the construction, maintenance or operation of the Project.

### Section 7.02. Timing of Development.

#### Section 7.02.1. Timing Requirements.

- (a) Avila Ranch shall be obligated to comply with the terms and conditions of the Project Approvals, the Development Plan, the AASP, and this Development Agreement when specified in each. The Parties acknowledge that the rate at which phases of the Project develop depends upon numerous factors and market conditions that are not entirely within Avila Ranch's or the City's control such as market demand, interest rates, absorption rates, completion schedules, availability of labor, and other factors. The Parties wish to avoid the result of *Pardee Construction Co. v. City of Camarillo*, 37 Cal. 3d 465 (1984), where the failure of the parties therein to consider and expressly provide for the timing of development resulted in the court's determination that a later-adopted initiative restricting the timing of development prevailed over the parties' agreement. Accordingly, the Parties acknowledge that Avila Ranch shall have the right to develop the Project at such time Avila Ranch deems appropriate in the exercise of its subjective business judgment except as provided in this section below and the City shall not attempt to limit or restrict the timing of development of the Project except in accordance with the terms of this Development Agreement.
- (b) Avila Ranch shall complete the first two phases of development depicted in **Exhibit D** to this Agreement, including the installation of those certain improvements required under either the Development Plan or FEIR, by seven years after the Effective Date. Otherwise, Avila Ranch may proceed with the development of any portion of the Project, or make any financial commitment associated with any such development when, in Avila Ranch's sole and absolute discretion, Avila Ranch determines that it is in Avila Ranch's best financial or other interest to do so. The foregoing sentence shall not, however, limit any

obligation of Avila Ranch under this Development Agreement with respect to any development activities that Avila Ranch chooses to undertake hereunder.

- (c) Avila Ranch shall pursue buildout of the project in conformance with the phasing schedule below. The Parties acknowledge that, except as expressly required by Section 1.03.1(a)(2), the actual timing of buildout will vary from year to year due to a variety of factors such as market demand, economic conditions, etc. Avila Ranch may accelerate buildout of the Project ahead of the schedule so long as there is outstanding indebtedness owed to Avila Ranch for Off-Site Improvements under section 5.05.3 of this Agreement. The Project shall be permitted to develop at a rate up to the cumulative total of 150% of the annual number of dwelling units shown in the phasing schedule immediately below. The Project shall not exceed the cumulative maximum shown for each year in the phasing schedule below, unless authorized by the Community Development Director upon a finding that there is outstanding debt owed to Avila Ranch and that such development and/or rate of development will not exceed the City's Growth Management Ordinance.

		Phase 1			Phase 2 Phase 3		Phase 4			Phase 5	
	Year >>>	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
R-1	101									50	51
R-2 Standard	221	44	44	45	44	44					
R-2 Pocket Cottage	76	16	16	15	16	13					
R-3-Duplex	38						38				
R-3 Town Home	159						52	52	55		
R-4 Apartments	125				65	60					
<b>Total Subject to Limit</b>	<b>720</b>	60	60	60	125	117	90	52	55	50	51
<b>Maximum</b>		<b>90</b>	<b>180</b>	<b>270</b>	<b>458</b>	<b>633</b>	<b>720</b>				
<b>Cumulative Limit</b>											

Section 7.03. Dedication of Park Lands. Avila Ranch shall dedicate land in excess of that ordinarily required by the City to construct public parks in South San Luis Obispo, an area that presently has a deficiency of park area. In particular, Avila Ranch shall provide 18.25 acres of public park land, 1.76 acres in excess of City requirements, to bring the total park acreage for South San Luis Obispo to five and a-half acres per 1,000 persons. Said parks shall be reviewed and approved by the City's Parks and Recreation Commission before dedication. Ongoing maintenance and operation of these park facilities shall be funded by the Project residents pursuant to a Financing Mechanism established pursuant to Sections 5.03 or 5.04 above and shall not be payable from the General Fund or other community-wide resources.

Section 7.04. Dedication of Open Space and Agricultural Lands. To compensate for the loss of onsite agricultural lands and to meet the open space objectives of the General Plan, Avila Ranch shall dedicate at least 50 acres of on-site open space and/or agricultural land and shall preserve at least 50 acres of off-site open space and/or agricultural land. Said lands shall be dedicated within the City's "Greenbelt" area depicted in Figure 5 of the Conservation and Open Space Element, a

copy of which figure is attached here as **Exhibit F**. The land to be dedicated or reserved may be comprised of multiple properties, and may be located in the City or unincorporated County territory. Avila Ranch may satisfy a portion of this requirement through the payment of an in lieu fee to the City or, with the City's approval, to a land conservation organization. If land is dedicated in the form of a Conservation Easement, the terms and conditions shall be approved by the City, together with a correspondent and contemporaneous baseline conditions report. If land is to be dedicated in fee simple title, the City shall have the opportunity to conduct due diligence inspections, including but not limited to, Phase I Environmental Site Assessment (and subsequent assessment as may be necessary), title review, and physical site inspections; the City may reject any such dedications based on its due diligence inspections, which shall not be construed as a waiver of the dedication requirements herein.

Section 7.05. Affordable Housing and Workforce Housing and Related Programs. Avila Ranch shall provide affordable housing for the Project as described in **Exhibit G**. Avila Ranch shall also provide workforce housing and shall implement the local preference "SLO Workers First" program, owner occupancy restrictions and down payment assistance program as described in **Exhibit G**.

Section 7.07. Energy.

- (a) Avila Ranch shall provide for accelerated compliance with the City's Energy Conservation Goals and its Climate Action Plan by implementing energy conservation measures significantly above City standards and norms by providing for solar PV energy generation for 100 percent of onsite electrical demand as described in Section 13 of the Design Framework of the Development Plan. The Project shall also include energy efficiency standards in excess of the current Building Code.
- (b) Developer shall provide sustainability features as described in Section 13 of the Design Framework of the Development Plan, including: (i) housing that meets the 2019 net zero building and energy codes or, if the 2019 building and energy codes are not yet adopted upon building permit application, the equivalent to the satisfaction of the Community Development Director, (ii) implementing any future city-wide policy regarding carbon emissions reduction, (iii) solar electric panels, (iv) integrated power outlets for electric vehicles and electric bicycles, (v) building design that maximizes grey water usage, and (vi) work-at-home options with high-speed internet connectivity.

Section 7.08. Water.

- (a) Avila Ranch shall provide for accelerated compliance with the Climate Action Plan through by implementing special water conservation measures to reduce the usage of potable water by Avila Ranch households to 35 percent below the current City-wide average as described in Section 13 of the Development Plan.
- (b) Avila Ranch shall comply with the California Water Code and the regulations imposed by the City before or after the Effective Date in its capacity as the



Groundwater Sustainability Agency pursuant to the Sustainable Groundwater Management Act ("SGMA").

- (c) Avila Ranch shall install water improvements necessary to serve the Project and future annexation areas of the AASP and County fringe areas in and around Buckley and Broad Streets as shown in **Exhibit H**.
- (d) Avila Ranch shall offer to dedicate to the City a well site for future municipal use on Lot 594, 406 or 398, with area buffers acceptable to the City and consistent with drinking water standards. If the water well is located in a public park, the design shall be consistent with the project's Parks Plan, and may be subject to review and approval by the City Parks and Recreation Commission. The well site shall have a footprint with an area measuring 20' x 40', plus a buffer as shown more particularly in **Exhibit I**.
- (e) Except as provided in paragraph (b) of this section above, Avila Ranch reserves all groundwater or other water rights with respect to the Property and shall be entitled to irrigate agricultural or open space land with ground or well water, to the extent that such reservation and action does not violate Applicable Law and so long as such water meets or exceeds all applicable water quality standards. Avila Ranch shall have the option, but shall not be required, to connect to the City's water system to irrigate agricultural/open space land with reclaimed water.

Section 7.09. Storm Drain Facilities. Before approval of a Final Subdivision Map or building permit for a use that does not require a map, Avila Ranch shall cause to be provided storm drain facilities adequate to accommodate the storm water runoff from the area subject to the Final Subdivision Map or building permit.

Section 7.10. Interim Fire Station. Avila Ranch shall construct, and dedicate to the City, an interim fire station on Lot 302 to serve all property in South San Luis Obispo. Per the requirements of the Fire Station Master Plan, the interim fire station shall be provided at the buildout of the 361st dwelling unit. After the interim fire station has been constructed, the site shall be dedicated to the City for use as a City park or affordable housing site, as deemed appropriate by the City. Avila Ranch shall be entitled to credits against fire development impact fees in an amount reasonably determined by the City's fiscal impact consultant to reflect (i) the value of the land donated to the City under this section and (ii) the lesser of (a) Avila Ranch's actual cost to improve the interim fire station and (b) the reasonable cost of that construction.

Section 7.11. Traffic and Circulation Improvements. Avila Ranch shall construct or fund the traffic and circulation improvements as established in the FEIR and Development Plan as further described in **Exhibit C**. City and Avila Ranch acknowledge that these improvements are necessary to mitigate project impacts, improve access to and from the project, relieve existing or future traffic deficiencies, and bring such intersections into compliance with the General Plan in advance of impacts associated with the Project. In addition, Avila Ranch shall construct or fund the following improvements:

- a. Buckley/227 Intersection Improvements. Avila Ranch shall commit \$200,000 above its fair share allocation of costs to facilitate design of the roundabout improvements for the Buckley Road/227 intersection called for in the 227 corridor study.
- b. Operational Improvements to the Davenport Creek and Buckley Road Intersection. The Project's fair share of these improvements is 2.7 percent, based on the Project's share of additional traffic on Buckley Road. Avila Ranch shall provide funding to the City in the amount of \$230,000 for these improvements (90 percent of projected costs), including the costs for initial design, construction documents, and right-of-way acquisition. In the event actual costs are less than what has been projected, Avila Ranch may apply the remaining funds (\$230,000 less 90 percent of actual costs of construction) to the Buckley/227 intersection improvements. The City shall work with the County of San Luis Obispo and enter into any necessary agreements to act as a conduit for the Avila Ranch funding contribution to the Davenport Creek and Buckley Road intersection improvements.

Section 7.12. Bicycle and Multimodal Transportation Improvements. Avila Ranch shall construct or fund the construction of bicycle and multimodal transportation improvements as established in the FEIR and Development Plan as further described in **Exhibit J**. City and Avila Ranch acknowledge that these improvements are necessary to mitigate Project impacts, improve access to and from the Project, encourage multimodal transportation, relieve existing or future traffic deficiencies, and bring such intersections into compliance with the General Plan in advance of impacts associated with the Project. In addition, if prior to the termination of this Development Agreement, City acquires all or a portion of right of way through the Chevron site immediately adjacent to the Property as contemplated in the City's Circulation element, Avila Ranch agrees to improve, at its sole cost and expense, subject to reimbursement, such right of way as a Class 1 bicycle facility and pedestrian walkway. Avila Ranch shall be obligated to construct such improvements upon written notice by City that it has acquired all or a portion of the right of way through the Chevron property and such obligation shall survive termination of this Development Agreement. Actual construction of the bicycle and pedestrian improvements shall be coordinated with build-out of the Project, but in no event shall it be later than one year after completion of phase 4 of the Project or City's written notice to Avila Ranch of its acquisition of such right-of-way, whichever is later.

#### Section 7.13. Miscellaneous.

Section 7.13.1. Covenants, Conditions, and Restrictions. CC&Rs for each subdivision within the Property shall state substantially the following: "This project is within the boundaries of the San Luis Obispo Airport Area Specific Plan, and as such, is subject to design guidelines and development standards which have been incorporated into the Airport Area Specific Plan and the Avila Ranch Development Plan Design Guidelines, both on file with the Community Development Department of the City of San Luis Obispo." Before the City approves a Final Subdivision Map or issues a building permit for a land use that does not require a Map, the CC&R disclosure statement referenced above shall be provided to the City Attorney for review and approval.

Section 7.13.2. Ownership and Maintenance of Public Improvements. Unless otherwise mutually agreed, the City shall own and maintain, or cause to be maintained, the following public improvements:

- (a) Potable water system and water tank within public properties or public easements;
- (b) Sanitary sewer system within public properties or public easements;
- (c) Recycled water system within public properties or public easements;
- (d) Storm drain system, including continuous deflective separation (CDS) vaults or other BMP facilities, within public properties or public easements;
- (e) Public roadways;
- (f) Public parks; and,
- (g) Public access, landscape, and utility easements.

Section 7.13.3. Public Utilities Easements. All land subject to public utilities easements (PUEs); public water, sewer, or storm drain easements; and public access easements shall be open and accessible to the City at all times.

Section 7.13.4. Design Review of Major Surface Facilities. Design Review shall be completed for all major surface public facilities for which it is required before construction.

Section 7.13.5. Design and Construction Standards for Sewer and Water Facilities. All sewer, water and recycled water facilities shall conform to the Design and Construction Standards in effect for the Project when improvement plans are submitted. The submittal shall include all pertinent engineering analysis and design calculations. The plans shall be subject to the Director of Public Works' review and approval.

Section 7.13.6. Communications Requirements. Developer shall provide cable or suitable conduit to each City facility, public park, or other lot designated for City or public use for high speed internet connectivity. The cable or suitable conduit shall be shown on the joint trench improvement plans and constructed before the final lift of asphalt is placed on the adjacent street.

## **ARTICLE 8. CONSIDERATION OF PERMITS AND APPROVALS**

Section 8.01. In General.

Section 8.01.1 Review and Action Generally. Upon Avila Ranch's submission of any complete application for an Approval together with any fees permitted under Article 5 and required by City in accordance with Applicable Law, City shall use its best efforts to commence and complete promptly and diligently all steps necessary to act on the application. Avila Ranch promptly shall provide to City all information reasonably requested by City for its consideration of any such application.

Section 8.01.2. Applicable Law. Except as otherwise specifically provided in this Article 8, all applications for Approvals submitted by Avila Ranch shall be considered by City in accordance with Applicable Law. To the extent an approval would amend Applicable Law as set forth in

Section 4.01.1, the aspect of Applicable Law to be amended by the approval shall not apply to the City's consideration of the application.

Section 8.02. General Plan and AASP Amendments. The parties anticipate that Avila Ranch may request amendments to the General Plan or the AASP to respond to changing circumstances and conditions. City is not obligated to approve any such application and may, in the exercise of its legislative discretion, approve, deny or propose conditions or modifications thereto, including conditions or modifications that might otherwise be prohibited by the vested rights provided by this Development Agreement. Avila Ranch shall be afforded a reasonable opportunity to review any such proposed conditions and modifications and to withdraw its application for a General Plan amendment or AASP amendment (in which case neither Avila Ranch's proposed amendments nor the City's proposed modifications shall become effective).

#### Section 8.03. CEQA Compliance.

Section 8.03.01. MMRP Application. When conducting an environmental review of any application for an Approval, City shall review the Mitigation Monitoring and Reporting Program adopted in connection with the Development Plan and Avila Ranch EIR (the "MMRP") to determine if any mitigation measure contained in the MMRP as to the portion of the Property subject to this Development Agreement should be incorporated into the design of, or added as a condition of approval to, such Approval.

Section 8.04. Life of Approvals. Any Approval issued by City, including vesting maps as defined in Section 8.05 below, shall continue in effect without expiration until the later of: (i) the expiration or earlier termination of this Development Agreement or (ii) the date upon which such Approval would otherwise expire under the laws of the State of California.

Section 8.05. Vesting Maps. The ordinances, standards and policies applicable to any vesting tentative map, vesting parcel map, vesting subdivision map or any other type of vesting map ("Vesting Map") under California Government Code section 66474.2, and the ordinances, policies and standards vested under any Vesting Map pursuant to California Government Code section 66498.1(b) shall be those established as Applicable Law under this Agreement. If this Development Agreement terminates before the expiration of any Vesting Map or the vested rights provided thereby, such termination of this Development Agreement shall not affect Avila Ranch's right to proceed with development under such Vesting Map in accordance with the ordinances, policies and standards so vested under the Vesting Map. Notwithstanding the foregoing, no Vesting Map shall extend Applicable Law beyond the stated term of this Development Agreement (and the rules, regulations and official policies of City applicable to that portion of the Property covered by such Vesting Map shall become those in effect as of the expiration of such term) except as otherwise agreed by City and Avila Ranch; provided, however, that City and Avila Ranch may agree to an extension of the term of this Development Agreement with respect to the area covered by any such Vesting Map.

Section 8.06. Need for Flexibility. The provisions of this Development Agreement require a close degree of cooperation between the City and Developer. Implementation of the Project may require minor modifications of the details of the Development Plan and affect the performance of the Parties to this Development Agreement. The anticipated refinements of the Project and the

development of the Property may require that appropriate clarifications and refinements are made to this Development Agreement and the Entitlements with respect to the details of the performance of the City and the Developer. The Parties desire to retain a certain degree of flexibility with respect to those items covered in general terms under this Development Agreement.

## **ARTICLE 9. AMENDMENTS**

### **Section 9.01. Amendments of Agreement.**

Section 9.01.1. General. This Development Agreement may be amended from time to time only upon the mutual written consent of City and Avila Ranch and in compliance with section 17.94.190 of the City's zoning ordinance; provided, however, that in connection with the transfer of any portion of Avila Ranch's Rights and/or Obligations under this Development Agreement to another person, entity, or organization pursuant to the provisions of Article 13 below, Avila Ranch, such transferee and City may agree that the signature of such transferee may be required to amend this Development Agreement insofar as such amendment would materially alter the Rights and/or Obligations of such transferee hereunder. In no event shall the signature or consent of any "Non-Assuming Transferee" (as defined in Section 13.03 below) be required to amend this Agreement.

Section 9.01.2. Future Approvals Do Not Require Amendments to Agreement. Except as the Parties may otherwise agree, no amendment of this Development Agreement shall be required in connection with the issuance of any Approval, or an amendment to the MMRP. Any Approval issued after the Effective Date as to a portion of the Property shall be incorporated automatically into this Development Agreement and vested hereby. City shall not, however, amend or issue any Approval unless Avila Ranch requests such an amendment or issuance from City unless otherwise permitted by this Agreement.

## **ARTICLE 10. ANNUAL REVIEW**

### **Section 10.01. Annual Review**

- (a) The Community Development Director shall annually and concurrently conduct (i) the MMRP Evaluation as set forth in Section 11.01; and (ii) the Development Agreement Review as set forth in Section 11.02 (collectively, the "Annual Review"). With respect to the MMRP Evaluation, if the Community Development Director determines that mitigation measures adopted by City in connection with its approval of the AASP and the Zoning are not being implemented as set forth in the MMRP, the Community Development Director shall take any appropriate remedial action as described in Section 11.01 below. Further, the Community Development Director shall incorporate the results of the MMRP Evaluation into the review of any applications for Approvals that are submitted following completion of an Annual Review.



- (b) Other Investigations and Evaluations. City may from time to time, whether or not as a part of an Annual Review, investigate or evaluate any matter that is properly the subject of an Annual Review.

## **ARTICLE 11. MITIGATION MONITORING AND REPORTING PROGRAM EVALUATION; DEVELOPMENT AGREEMENT REVIEW**

### **Section 11.01. Mitigation Monitoring and Reporting Program Evaluation.**

Section 11.01.1. In General. During its Annual Review, City shall evaluate (the “MMRP Evaluation”) whether the mitigation measures adopted by City in connection with its approval of the AASP and the Zoning are being implemented as set forth in the MMRP as to the Property.

Section 11.01.2. MMRP Implementation. As set forth in the MMRP, City shall consider in connection with any application for an Approval the extent to which mitigation measures described in the MMRP should be incorporated into the design of the project under consideration or set forth in conditions to the City’s approval of the application. During an MMRP Evaluation, the City shall evaluate its overall success over the prior year in implementing such mitigation measures, as set forth above, and consider any additional steps that may be appropriate to ensure, as Approvals are considered over the following year, successful implementation of such mitigation measures (including, in particular, mitigation measures that are the responsibility of City or other agencies with regulatory authority over the Project).

Section 11.01.03. Enforcement. Avila Ranch shall be responsible only for those mitigation measures the City requires to be incorporated into the design of the Project, including those that are attached as conditions to any Approval. Failure to comply with any such design requirement or any condition of approval shall be enforced in any manner authorized by Applicable Law.

### **Section 11.02. Development Agreement Review**

Section 11.02.01. In General. The Community Development Director shall review this Development Agreement annually as required by section 17.94.200 of the City’s zoning ordinance (the “Development Agreement Review”). The Development Agreement Review shall be conducted concurrently with MMRP Evaluation, pursuant to Article 10 above and this Section 11.02. In connection with the Development Agreement Review, Avila Ranch shall provide information as reasonably requested by City.

Section 11.02.02. Director’s Findings of Compliance. If the Community Development Director finds good faith compliance by Avila Ranch with this Agreement, the Community Development Director shall issue a “Finding of Development Agreement Compliance,” which shall be in recordable form and may be recorded by Avila Ranch or any “Mortgagee” (as defined in Section 14.01 below). Issuance of a Finding of Development Agreement Compliance and expiration of the appeal period specified below without appeal, or confirmation by the City Council of the issuance of the Finding of Development Agreement Compliance upon such appeal, shall finally determine the Development Agreement Review for the applicable period.

Section 11.02.03. Finding of Development Agreement Noncompliance. If the Community Development Director finds that Avila Ranch and/or a Transferee has not complied in good faith with this Agreement, the Community Development Director shall proceed as specified in section 17.94.200 of the City's zoning ordinance.

## **ARTICLE 12. DEFAULT, REMEDIES, TERMINATION OF DEVELOPMENT AGREEMENT**

### **Section 12.01. Defaults.**

#### **Section 12.01.1. Notice and Cure.**

- (a) Any failure by a Party to perform any term or provision of this Development Agreement, which failure continues uncured for 60 days following written notice of such failure from the other Party (unless such period is extended by written mutual consent), shall constitute a default under this Development Agreement. Any such notice shall specify the nature of the alleged failure and, where appropriate, how such alleged failure may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within 60 days, then commencement of the cure within that time, and diligent prosecution to completion of the cure thereafter, shall be timely. If the alleged failure is cured, then no default shall exist and the noticing Party shall take no further action and acknowledge the cure in writing to the other Party. If the alleged failure is not cured, then a default shall exist under this Development Agreement and the noticing Party may exercise any of the remedies available under Sections 12.02 through 12.04 below.
- (b) No failure or delay in giving notice of default shall constitute a waiver of default; provided, however, that the provision of notice and opportunity to cure is a prerequisite to the enforcement or correction of any default.

#### **Section 12.01.2. Actions during Cure Period.**

- (a) During any cure period specified under Section 12.01.1 and before delivery of a notice of failure or default, the Party charged shall not be considered in default of this Development Agreement. If there is a dispute as to the existence of a default, the Parties shall otherwise continue to perform their obligations hereunder, to the maximum extent practicable in light of the disputed matter, pending its resolution or formal termination of the Development Agreement.
- (b) City shall continue to process in good faith applications for Approvals during any cure period, but need not approve any such application if it relates to a development project as to which there is an alleged default hereunder.

### **Section 12.02. Remedies of Non-Defaulting Party.**

Section 12.02.01. In General. If any Party is in default under the terms of this Development Agreement, the non-defaulting Party may elect, in its sole and absolute discretion, to pursue any of the following courses of action: (i) waive such default; (ii) in City's case, pursue administrative remedies as provided in Section 12.02.3 below, (iii) pursue judicial remedies as provided for in Section 12.02.4 below; and/or (iii) terminate this Development Agreement as and to the extent permitted by Section 12.04 below and consistently with section 17.94.210 and 17.94.220 of the City's zoning ordinance. In no event shall City modify this Development Agreement as a result of a default by a defaulting Party except in accordance with the provisions of Section 9.01 above.

Section 12.02.2. Severability of Default. City acknowledges that the development of the Project may be carried out by more than one person, entity or organization under this Development Agreement (e.g., portions of Avila Ranch's interest in the Property and this Development Agreement may be transferred to another person, entity or organization, a "Transferee" under Article 13 below). Accordingly, (i) if City determines to terminate or exercise any other remedy under this Development Agreement due to a default by Avila Ranch or any Transferee (hereinafter "Defaulting Developer"), such termination or other remedy shall apply only with respect to the Rights and Obligations of such Defaulting Developer, (ii) City shall, to the extent possible, refrain from seeking any termination of this Development Agreement or other remedy if such remedy would affect materially the ability of a non-defaulting Developer and / or a Transferee (hereinafter "Non-Defaulting Developer") to realize the Rights provided hereunder, and (iii) any termination of this Development Agreement as to any Defaulting Developer shall be deemed to terminate only those Rights and Obligations arising hereunder between City and such Defaulting Developer. The Parties acknowledge and agree that, in accordance with Article 13 below, more than one Transferee may be responsible for certain actions required or forbidden by this Development Agreement, and that more than one Transferee therefore may be in default with respect thereto. The Parties further acknowledge and agree that, notwithstanding the provisions of (ii) in this Section above, in certain instances it may not be possible for City to exercise remedies against the Defaulting Developer of one portion of the Project without affecting in some way a Non-Defaulting Developer of the same or of some other portion of the Project.

Section 12.02.3. Administrative Remedies. Except as otherwise specifically stated in this Development Agreement, City may exercise any and all administrative remedies to the extent necessary or appropriate to secure compliance with this Development Agreement. Such administrative remedies may include, among others, withholding building permits, certificates of occupancy or other Approvals relating to that portion of the Project in default of this Development Agreement.

Section 12.02.04. Judicial Remedies. Except as otherwise specifically stated in this Development Agreement, either Party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation hereof, enforce by specific performance the Obligations and Rights of the Parties hereto or obtain any other remedy consistent with this Development Agreement; provided, however, that in no event shall any person be entitled



hereunder to monetary damages for any cause, including breach of contract by a Party to this Development Agreement provided, however, that City may enforce payment obligations under Applicable Law, including this Development Agreement. Nothing in this section shall be deemed to limit either Party's rights under the Government Claims Act, California Government Code section 810 et seq. For purposes of instituting a legal action under this Agreement, any City Council determination under this Development Agreement shall be deemed final agency action unless expressly stated otherwise.

#### Section 12.03. Termination Due to Default.

Section 12.03.1. In General. Either Party may terminate this Development Agreement pursuant to Section 12.03.2 below and sections 17.94.190–17.94.220 of the City's zoning ordinance in the event of a default by the other Party, provided: (i) such default is prejudicial to the interests of the non-defaulting Party and is neither minor nor technical and (ii) in the case of any termination by City, City first shall have exercised any and all administrative or other remedies short of filing suit available to secure Avila Ranch's compliance with this Development Agreement. Notwithstanding clause (ii) of this Section 12.03.1, City shall not be required, as a prerequisite to initiating the termination of this Development Agreement, to exercise its administrative and other non-judicial remedies for more than 180 days or, if the Parties are making reasonable progress towards resolution of the matter claimed to be a default hereunder, such longer period to which the Parties may agree. Termination of this Development Agreement by Avila Ranch or a Transferee as to any portion or portions of the Property shall not affect the Rights or Obligations of Avila Ranch or any other Transferee as to any other portion or portions of the Property.

#### Section 12.03.2. Procedures for Termination.

- (a) Before any proposed termination of this Development Agreement pursuant to this Section 12.03, and following the 180-day period specified in Section 12.03.1 above to the extent applicable, a non-defaulting Party intending to seek termination of this Development Agreement shall deliver to the defaulting Party (or Parties) a written "Preliminary Notice of Intent to Terminate" this Development Agreement, and all Parties shall meet and confer in good faith effort to agree upon an alternative to termination that will afford the non-defaulting Party the benefit of its bargain in this Development Agreement. If those discussions are not successful in resolving the dispute, the non-defaulting Party desiring to terminate this Development Agreement shall deliver to the defaulting Party a written "Final Notice of Intent to Terminate" this Development Agreement.
- (b) Within 60 days after the City delivers a Final Notice of Intent to Terminate to a defaulting Party, the City Council shall review the matter as set forth in California Government Code sections 65865, 65867, and 65868 and sections 17.94.210–17.94.220 of the City's zoning ordinance. Termination shall be effective 30 days after such City Council review, unless the default is sooner resolved to the mutual satisfaction of the Parties.

- (c) Within 60 days after Avila Ranch delivers a Final Notice of Intent to Terminate to City, the City Council shall consider whether City should take any further curative action. Termination shall be effective 30 days following such City Council consideration (or 90 days following delivery by Avila Ranch of a Final Notice of Intent to Terminate if the City Council fails to complete its consideration by that date), unless the default is sooner resolved to the mutual satisfaction of the Parties.

## **ARTICLE 13. ASSIGNMENT, TRANSFER AND NOTICE**

Section 13.01. Assignment of Interests, Rights and Obligations. Avila Ranch may transfer or assign ("Transfer") all or any portion of its Rights and Obligations under this Development Agreement as to any portion of the Property (the "Transferred Property") to any person acquiring an interest in such Transferred Property, including, without limitation, purchasers or ground lessees of lots, parcels or facilities on such portion of the Property (a "Transferee"). Any such Transfer shall relieve the transferring party (a "Transferor") of any and all Rights and Obligations under this Development Agreement insofar as they pertain to the Transferred Property, as provided in this Article 13.

### **Section 13.02. Transfers In General.**

Section 13.02.1. In General. In connection with any Transfer of all or any portion of the Project or the Property, other than a transfer or assignment to a "Non-Assuming Transferee" as described in Section 13.03 below, or a "Mortgagee" as defined in Section 14.01 below, the Transferor and the Transferee may enter into a written agreement regarding their respective Rights and Obligations in and under this Development Agreement (a "Transfer Agreement"). Any such Transfer Agreement may contain provisions: (i) releasing the Transferor from any Rights and Obligations under this Development Agreement that relate to the Transferred Property, provided the Transferee expressly assumes all such Rights and Obligations, (ii) transferring to the Transferee rights to improve the portion of the Property transferred and any other Rights and Obligations of the Transferor arising under this Agreement, and (iii) addressing any other matter deemed necessary or appropriate in connection with the Transfer.

### **Section 13.02.02. City Review of Release Provisions.**

- (a) A Transferor shall have the right, but not the obligation, to seek City's consent to those provisions of any Transfer Agreement purporting to release such Transferor from any Rights and Obligations arising under this Development Agreement (the "Release Provisions"). If a Transferor fails to seek City's consent or City does not consent to any such Release Provisions, then such Transferor may nevertheless transfer to the Transferee any and all Rights and Obligations of such Transferor arising under this Development Agreement (as described in Section 13.02.1, clauses (i) and (ii) above) but, with respect to City, shall not be released from those Rights and Obligations described in the Release Provisions to which City

has not consented. If City consents to any Release Provisions, then: (i) the Transferor shall be free from any and all Rights and Obligations accruing on or after the date of the Transfer with respect to those Rights and Obligations described in such Release Provisions and (ii) no default hereunder by Transferee with respect to any Rights and Obligations from which the Transferor has been released shall be attributed to the Transferor. City may consent, or conditionally consent, to all, none, or some of the Release Provisions.

- (b) City shall review and consider promptly, reasonably and in good faith any request by a Transferor for City's consent to any Release Provisions. City's consent to any such Release Provisions may be withheld only if: (i) reliable evidence supports a conclusion that the Transferee will be unable to perform the Rights and Obligations proposed to be assumed by the Transferee pursuant to the Transfer Agreement, (ii) the Rights and Obligations are not reasonably allocable among particular portions of the Project and Property, such as the Transferred Property, (iii) the Transferor or Transferee fails to provide acceptable security, as and if reasonably requested by City, to ensure the performance of the Rights and Obligations proposed to be assumed by the Transferee pursuant to the Transfer Agreement, or (iv) the Transferor or Transferee fail to provide information reasonably requested by the City to assist it in making the determinations described in this paragraph. In no event shall City unreasonably withhold consent to any Release Provisions. City shall respond within 30 days to any request by a Transferor for consent to any Release Provisions.
- (c) Subject to the provisions of subsection (b) above, because and to the extent certain obligations arising under this Development Agreement may not reasonably be allocable among portions of the Project, City may refuse to release the Transferor of one portion of the Project from such Rights and Obligations under this Development Agreement even though the Rights and Obligations are being or have been assumed by the Transferee of some other portion of the Project.

Section 13.03. Non-Assuming Transferees. Except as otherwise required by a Transferor, the Obligations of a Transferor shall not apply to any purchaser of any property that has been established as a single legal parcel for nonresidential use that does not require any further on-site or off-site infrastructure. The Transferee in such a transaction and the successors and assigns of such a Transferee ("Non-Assuming Transferees") shall be deemed to have no Obligations under this Agreement, but shall continue to benefit from the Rights provided by this Development Agreement for the duration of its term. Nothing in this section shall exempt any Non Assuming Transferee from the payment of applicable fees, taxes and assessments or from having to comply with applicable conditions of an Approval or with Applicable Law.

## **ARTICLE 14. MORTGAGEE PROTECTION**

Section 14.01. In General. The provisions of this Development Agreement shall not limit Avila Ranch's right to encumber the Property or any portion thereof, or any improvement thereon by

any mortgage, deed of trust or other device securing financing with respect to such portion. City acknowledges that lenders providing such financing and other "Mortgagees" (defined below) may require certain interpretations and modifications of this Development Agreement and agrees upon request, from time to time, to meet with Avila Ranch and representatives of such lenders to negotiate in good faith any such request for an interpretation or modification. City shall not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any person holding a mortgage, deed of trust or other security instrument on all or any portion of the Property made in good faith and for value (each, a "Mortgagee"), shall be entitled to the rights and privileges of this Article 14.

Section 14.02. Impairment of Mortgage or Deed of Trust. Except as otherwise specifically stated in the terms of any security instrument held by a Mortgagee, no default under this Development Agreement shall defeat, render invalid, diminish, or impair the lien of any mortgage or deed of trust on the Property made, or other interest in the Property acquired, by any Mortgagee in good faith and for value.

Section 14.03. Notice of Default to Mortgagee. If a Mortgagee has submitted a written request to City as specified herein for notice, City shall use its best efforts to provide to such Mortgagee written notification of any failure or default by Avila Ranch in the performance of Avila Ranch's obligations under this Agreement, which notification shall be provided to such Mortgagee when such notification is delivered to Avila Ranch.

Section 14.04. Right of Mortgagee to Cure. Any Mortgagee shall have the right, but not the obligation, to cure any failure or default by Avila Ranch during the cure period allowed Avila Ranch under this Agreement, plus an additional 90 days if, to cure such failure or default, the Mortgagee must obtain possession of the property as by seeking appointment of a receiver or other legal process. Any Mortgagee that undertakes to cure any such failure or default shall provide written notice to City of that fact; provided that no initiation of any such efforts by a Mortgagee shall obligate such Mortgagee to complete or succeed in any such curative efforts.

Section 14.05. Liability for Past Defaults or Obligations. Subject to the foregoing, any Mortgagee, including the successful bidder at a foreclosure sale, who comes into possession of the Project or the Property or any part thereof, shall take such property subject to the Rights and Obligations of this Development Agreement and in no event shall any such property be released from any Obligations. Nothing in this Article 14 shall prevent City from exercising any remedy it may have for a default under this Development Agreement; provided, however, that in no event shall such Mortgagee be liable personally for any defaults or monetary obligations of Avila Ranch arising before such Mortgagee acquires or possesses such property.

## **ARTICLE 15. GENERAL PROVISIONS**

Section 15.01. Incorporation of Recitals and Exhibits. The Recitals set forth above and the Exhibits A-J attached hereto are incorporated herein as though set forth in full.

Section 15.02. Project is a Private Undertaking. The development Avila Ranch proposes to undertake is a private development, and Avila Ranch shall exercise full dominion and control over the Project subject only to Avila Ranch's limitations and Obligations contained in this Agreement.

#### Section 15.03. Cooperation in the Event of Legal Challenge.

Section 15.03.1. In General. If any person not party to this Development Agreement institutes any administrative, legal or equitable action or other proceeding challenging the validity of any provision of this Agreement, any Approval or the sufficiency of any review of this Development Agreement or any Approval under CEQA (each a "Third Party Challenge"), the Parties promptly shall meet and confer as to the most appropriate response to such Third Party Challenge; provided, however, that any such response shall be consistent with Sections 15.03.2 and 15.03.3 below.

Section 15.03.2. Tender to and Conduct of Defense by Avila Ranch. City shall tender the complete defense of any Third Party Challenge to Avila Ranch, and upon acceptance of such tender by Avila Ranch: (i) Avila Ranch shall indemnify City against any and all fees and costs arising out of the defense of such Third Party Challenge; and (ii) Avila Ranch shall control the defense and/or settlement of such Third Party Challenge and may take any and all actions it deems necessary and appropriate in its sole discretion in connection therewith; provided, however, that Avila Ranch shall seek and secure City's consent to any settlement of such Third Party Challenge, which consent shall not unreasonably be withheld or delayed.

Section 15.03.03. Defense by City. If Avila Ranch should fail to accept City's tender of defense as set forth in Section 15.03.2 above, City shall defend such Third Party Challenge and control the defense and/or settlement of such Third Party Challenge as City decides (in its sole discretion), and City may take any and all actions it deems necessary and appropriate (in its sole discretion) in connection therewith; provided, however, that City shall seek and secure Avila Ranch's consent to any settlement of such Third Party Challenge, which consent shall not unreasonably be withheld or delayed. Avila Ranch shall indemnify City against any and all fees and costs arising out of the City's defense of such Third Party Challenge. Notwithstanding the foregoing, if Avila Ranch determines for any reason that it no longer intends to develop the Project, then it may deliver notice of such determination to City and shall not be liable for any defense costs incurred by City more than 90 days following the delivery of such notice.

Section 15.04. Defense and Indemnity. Avila Ranch shall defend and indemnify City from and against any and all damages, claims, costs and liabilities arising out of the personal injury or death of any person, or damage to the property of any person, to the extent such damages, claims, costs or liabilities result from the construction of the Project by Avila Ranch or by Avila Ranch's contractors, subcontractors, agents or employees, except as caused by the negligence or willful misconduct of City, its officers, employees, contractors, consultants or agents. Nothing in this Section 15.04 shall be construed to mean that Avila Ranch shall defend or indemnify City from or against any damages, claims, costs or liabilities arising from, or alleged to arise from, activities associated with the maintenance or repair by City or any other public agency of improvements that have been offered for dedication and accepted by City or such other public



agency. City and Avila Ranch may from time to time enter into subdivision improvement agreements, as authorized by the Subdivision Map Act, which agreements may include defense and indemnity provisions different from those contained in this Section 15.04. If any conflict appears between such provisions in any such subdivision improvement agreement and the provisions set forth above, the provisions of such subdivision improvement agreement shall prevail.

**Section 15.05. Governing Law; Attorneys' Fees.** This Development Agreement shall be construed and enforced in accordance with the laws of the State of California. Venue for any dispute arising under this Agreement lies in the county of San Luis Obispo and Avila Ranch hereby consents to personal jurisdiction there for that purpose. The Parties will cooperate to facilitate venue for any Third Party Challenge set forth in Section 15.03 above in San Luis Obispo County. Should any legal action be brought by either Party because of any default under this Development Agreement, to enforce any provision of this Development Agreement, or to obtain a declaration of rights hereunder, the prevailing Party shall be entitled to such reasonable and actual attorneys' fees, and costs as may be fixed by the Court. The standard of review for determining whether a default has occurred under this Development Agreement shall be the standard generally applicable to contractual obligations in California. The terms and provisions of this Section 15.05 shall survive any termination of this Agreement.

**Section 15.06. Force Majeure.** Performance by any Party of its Obligations hereunder shall be excused during any period of "Permitted Delay" as hereinafter defined. For purposes hereof, Permitted Delay shall include delay beyond the reasonable control of the Party claiming the delay (and despite the good faith efforts of such Party) including, but not limited to: (i) acts of God, (ii) civil commotion and acts of terrorism, (iii) riots, (iv) strikes, picketing or other labor disputes, (v) shortages of materials or supplies, (vi) damage to work in progress by reason of fire, floods, earthquake or other casualties, (vii) failure, delay or inability of the other Party to act, (viii) as to Avila Ranch only, the failure, delay or inability of City to provide adequate levels of public services, facilities or infrastructure to the Property, (ix) as to City only, with respect to completion of the Annual Review or processing applications for Approvals, the failure, delay or inability of Avila Ranch to provide adequate information or substantiation as reasonably required to complete the Annual Review or process applications for Approvals; (x) delay caused by restrictions imposed or mandated by governmental entities other than the City; (xi) enactment of conflicting state or federal laws or regulations, (xii) judicial decisions or similar legal incapacity to perform, and (xiii) litigation brought by a third party attacking the validity of this Development Agreement. Any Party claiming a Permitted Delay shall notify the other Party (or Parties) in writing of such delay within 30 days after the commencement of the delay, which notice ("Permitted Delay Notice") shall include the estimated length of the Permitted Delay. A Permitted Delay shall be deemed to occur for the time set forth in the Permitted Delay Notice unless a Party receiving the Permitted Delay Notice objects in writing within 10 days after receiving the Permitted Delay Notice. Upon such an objection, the Parties shall meet and confer within 30 days after the date of the objection in a good faith effort to resolve their disagreement as to the existence and length of the Permitted Delay. If no mutually acceptable solution can be reached, either Party may take action as may be permitted under Article 12 above.

**Section 15.07. Waiver**



Section 15.07.1. Legal Rights. Avila Ranch acknowledges and agrees that the terms and provisions of this Development Agreement specifically permit City in some instances to impose requirements upon the Project that City would not otherwise be able to impose due to a lack of nexus, rough proportionality or reasonable relationship between the Project and such requirement or other reasons. To the extent any such requirement is imposed by City upon the Project consistently with the terms and provisions of this Agreement, Avila Ranch waives any right to challenge judicially the imposition of such requirement by City. Except as otherwise provided in this Section 15.07.1, City shall comply with Applicable Law.

Section 15.07.2. Other Rights. While Section 15.07.1 prohibits Avila Ranch from challenging judicially certain City requirements imposed consistently with this Agreement, nothing in this Development Agreement shall be deemed to abrogate or limit, nor be deemed to be a waiver by Avila Ranch of, any right of Avila Ranch (whether arising under the United States Constitution, the California Constitution or otherwise) to request City to refrain from imposing upon Avila Ranch, the Project or the Property any requirement that this Development Agreement permits City so to impose or otherwise petition City with respect to any matter related to the Project or the Property.

Section 15.08. Notices. Any notice or communication required hereunder between the Parties must be in writing, and may be given either personally, by facsimile (with original forwarded promptly by regular U.S. Mail) or by Federal Express or other similar courier promising overnight delivery. If personally delivered, a notice or communication shall be deemed to be given and received when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to be given and received upon receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next business day. If given by Federal Express or similar courier, a notice or communication shall be deemed to be given and received when delivered as shown on a receipt issued by the courier. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City to:                      City Manager  
                                            City of San Luis Obispo  
                                            990 Palm Street  
                                            San Luis Obispo, CA 93401  
                                            Telecopy/Facsimile: (805) 781-7109

With a courtesy copy to:        City Attorney  
                                            City of San Luis Obispo  
                                            990 Palm Street  
                                            San Luis Obispo, CA 95330

If to Avila Ranch to: Avila Ranch, LLC  
C/O Andy Mangano, Managing Member  
3596 South Broad Street, Suite 140

With a courtesy copy to: Meyers Nave  
Attn: Jon Goetz  
707 Wilshire Blvd., 24<sup>th</sup> Floor  
Los Angeles, CA 90017  
Telecopy/Facsimile: (213) 626-2906

Any Party may at any time, change its address or facsimile number for notice by giving 10 days' written notice to the other.

Section 15.09. No Joint Venture or Partnership. Nothing in this Development Agreement or in any document executed in connection with it shall be construed as creating a joint venture, partnership or any agency relationship between City and Avila Ranch. City shall have no responsibility for public improvements unless and until they are accepted by City in the manner required by law.

Section 15.10. Severability. If any provision of this Development Agreement is held invalid, void or unenforceable but the remainder of this Development Agreement can be enforced without failure of material consideration to any Party, then this Development Agreement shall not be affected and shall remain in full force and effect, unless amended by mutual consent of the Parties.

Section 15.11. Estoppel Certificate. Any Party and any Mortgagee may, at any time, and from time to time, deliver written notice to the other Party or Parties requesting such Party or Parties to certify in writing that, to the knowledge of the certifying Party: (i) this Development Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Development Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments, and (iii) as of the date of the last Annual Review, the requesting Party (or any Party specified by a Mortgagee) is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults. A Party receiving a request hereunder shall execute and return such certificate or give a written, detailed response explaining why it will not do so within 30 days of receipt of a request. Each Party acknowledges that such a certificate may be relied upon by third parties acting in good faith. A certificate provided by City establishing the status of this Development Agreement shall be in recordable form and may be recorded at the expense of the recording Party.

Section 15.12. Further Assurances. Each Party shall execute and deliver to the other Party or Parties all such other further instruments and documents and take all such further actions as may be reasonably necessary to carry out this Development Agreement and the Approvals and to provide and secure to the other Party or Parties the full and complete enjoyment of its Rights hereunder.

Section 15.13. Construction.

- (a) All Parties have been represented by counsel in the preparation of this Development Agreement and no presumption or rule that ambiguity shall be construed against a drafting party shall apply to its interpretation or enforcement. Captions on sections and subsections are provided for convenience only and shall not be deemed to limit, amend or affect the meaning of the provision to which they pertain. If any conflict appears between this Development Agreement and the rules, regulations or official policies of City, the provisions of this Development Agreement shall prevail and be deemed to have amended any such conflicting rules, regulation or official policy as of the Effective Date.
- (b) The Parties intend this Development Agreement to be consistent with the requirements of Chapter 17.94 of the City's zoning ordinance and it shall be construed consistently with that intent. Should any conflict arise between this Agreement and that Chapter 17.94 as it exists on the Effective Date, that Chapter 17.94 shall control.

Section 15.14. Other Miscellaneous Terms. In construing this Agreement, the singular includes the plural; the masculine gender includes the feminine and the neuter; "shall" is mandatory; "may" is permissive.

Section 15.15. Counterpart Execution. This Development Agreement may be executed in any number of counterparts and shall be deemed duly executed when each of the Parties has executed such a counterpart.

Section 15.16. Time. Time is of the essence of each and every provision of this Agreement.

Section 15.17. Good Faith/Fair Dealing. The Parties agree that a covenant of good faith and fair dealing shall apply to all actions of the Parties. As used herein, this covenant shall mean that the Parties shall act reasonably, and no Party shall do anything which shall have the effect of destroying or injuring the rights of any other Party to receive the benefit of its bargain in this Agreement. Nothing in this Section 15.17 shall detract from the principle of Section 12.02.4 that neither Party shall be entitled to damages for breach of this Agreement.

Section 15.18. Exhibits.

List of Exhibits:

- A – Avila Ranch SP Site Plan
- B – Legal Description
- C – Financing Plan
- D – Phasing Plan
- E-1 – Backbone Water Infrastructure
- E-2 – Backbone Sewer Infrastructure
- E-3 – Backbone Recycled Water Infrastructure
- E-4 – Backbone Drainage Infrastructure
- F – Figure 5 of Conservation & Open Space Element
- G – Affordable/Workforce Housing Plan

H – Water Improvements  
I – Water Well Site Plan  
J – Bicycle Improvements

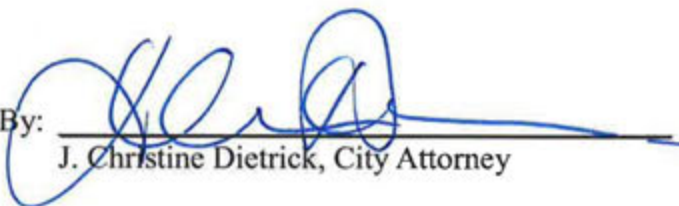
IN WITNESS WHEREOF, the Parties have executed this Development Agreement as of the Execution Date above.

**CITY:**

CITY OF SAN LUIS OBISPO, a municipal corporation

By:   
Heidi Harmon, Mayor

APPROVED AS TO FORM:

By:   
J. Christine Dietrick, City Attorney

**AVILA RANCH, LLC:**

By:   
Andrew D. Mangano  
Its: Managing Member

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Luis Obispo

On November 2, 2017 before me, Heather Suzanne Goodwin, Notary Public  
(insert name and title of the officer)

personally appeared Andrew D. Mangano  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in  
his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Heather Suzanne Goodwin (Seal)



## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of San Luis Obispo

On November 6, 2017 before me, Heather Suzanne Goodwin, Notary Public  
(insert name and title of the officer)

personally appeared Heidi Harmon  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Heather S. Goodwin (Seal)





## Exhibit A

### Avila Ranch Site Plan



REFER TO A9 FOR  
ADDITIONAL DETAIL

REFER TO A8 FOR  
ADDITIONAL DETAIL

REFER TO A7 FOR  
ADDITIONAL DETAIL

REFER TO A6 FOR  
ADDITIONAL DETAIL

REFER TO A5 FOR  
ADDITIONAL DETAIL

REFER TO A4 FOR  
ADDITIONAL DETAIL





REFER TO A9 FOR  
ADDITIONAL DETAIL

REFER TO A8 FOR  
ADDITIONAL DETAIL

REFER TO A7 FOR  
ADDITIONAL DETAIL

REFER TO A6 FOR  
ADDITIONAL DETAIL

REFER TO A5 FOR  
ADDITIONAL DETAIL

REFER TO A4 FOR  
ADDITIONAL DETAIL

## Exhibit B

### Legal Description



CITY OF SAN LUIS OBISPO  
ASSESSOR'S MAP COUNTY OF  
SAN LUIS OBISPO, CA.  
BOOK 053 PAGE 259

HARFORD & CHAPMAN'S SUB-DIVISION, R.S. Bk. 76, Pg. 6.  
HARFORD & CHAPMAN'S SUB-DIVISION, R.M. Bk. B, Pg. 30.  
T. 31S.; R. 12E.; SECTIONS 1, 2, 3, 10, 11, 12, 13, 14 & 15, M.D.B.M.

[illegible]

0 400 800

JAN 02-27-09

THIS MAP IS PREPARED FOR ASSESSMENT PURPOSES ONLY.



### LEGAL DESCRIPTION

Real property in the City of San Luis Obispo, County of San Luis Obispo, State of California, described as follows:

PARCEL A: (A.P.N.: 053-259-004)

PARCEL 2 OF THAT CERTAIN CERTIFICATE OF COMPLIANCE NO. COAL 01-0097, RECORDED APRIL 9, 2003 AS INSTRUMENT NO. 2003-035673 OF OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THE REAL PROPERTY LOCATED IN THE COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, BEING A PORTION OF THE PARCEL DESCRIBED IN DOCUMENT NO. 2000-070932 AND A PORTION OF THE PARCEL DESCRIBED IN DOCUMENT NO. 2000-070933 SHOWN ON THE MAP RECORDED IN BOOK 81 OF RECORD OF SURVEYS, PAGE 32 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWESTERN CORNER OF THE PARCEL DESCRIBED IN DOCUMENT NO. 2000-070931 OF OFFICIAL RECORDS AS SHOWN ON SAID MAP, SAID CORNER ALSO BEING A POINT ON THE CENTERLINE OF VACHELL LANE AS SHOWN ON SAID MAP;  
THENCE IN A SOUTHERN DIRECTION ALONG THE WESTERN LINE OF SAID PARCEL AND SAID CENTERLINE, SOUTH 00° 00' 11" WEST, 666.37 FEET TO THE MOST WESTERN CORNER COMMON TO SAID PARCEL AND THE PARCEL DESCRIBED IN DOCUMENT NO. 2000-070930 OF OFFICIAL RECORDS AS SHOWN ON SAID MAP, SAID COMMON CORNER ALSO BEING ON SAID CENTERLINE OF VACHELL LANE;  
THENCE LEAVING SAID COMMON CORNER AND SAID POINT ON SAID CENTERLINE IN AN EASTERN DIRECTION ALONG THE LINE COMMON TO SAID PARCELS AS SHOWN ON SAID MAP, NORTH 89° 56' 56" EAST, 662.06 FEET TO THE MOST EASTERN CORNER COMMON TO SAID PARCELS, SAID COMMON CORNER ALSO BEING ON A LINE OF THE PARCEL OF LAND DESCRIBED IN DOCUMENT NO. 2000-070932 OF OFFICIAL RECORDS AND WITNESSED BY A 5/8" REBAR AND CAP RCE 12545 AS SHOWN ON SAID MAP, SAID COMMON CORNER ON SAID LINE ALSO BEING THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING IN AN EASTERN DIRECTION NORTH 89° 58' 55" EAST, 660.52 FEET TO A POINT ON A LINE COMMON TO SAID PARCEL DESCRIBED IN DOCUMENT NO. 2000-070932 OF OFFICIAL RECORDS AND THE PARCEL DESCRIBED IN DOCUMENT NO. 2002-070933 OF OFFICIAL RECORDS AS SHOWN ON SAID MAP, SAID POINT BEING SOUTH 0° 08' 06" WEST, 666.27 FEET FROM THE MOST NORTHERN CORNER COMMON TO SAID PARCELS AND BEING WITNESSED BY 5/8" REBAR AND CAP RCE 12545 AS SHOWN ON SAID MAP;  
THENCE CONTINUING IN AN EASTERN DIRECTION NORTH 89° 56' 56" EAST, 183.40 FEET;  
THENCE IN A SOUTHERN DIRECTION THE FOLLOWING COURSES AND DISTANCES:  
SOUTH 00° 00' 00" EAST, 470.92 FEET;  
SOUTH 41° 55' 49" WEST, 63.87 FEET;  
THENCE IN A WESTERN DIRECTION NORTH 90° 00' 00" WEST, 801.27 FEET TO POINT ON A LINE COMMON TO SAID PARCEL DESCRIBED IN DOCUMENT NO. 2000-070930 OF OFFICIAL RECORDS AND SAID PARCEL DESCRIBED IN DOCUMENT NO. 2000-070932 OF OFFICIAL RECORDS AS SHOWN ON SAID MAP;  
THENCE IN A NORTHERN DIRECTION ALONG SAID COMMON LINE, NORTH 00° 00' 11" EAST, 518.07 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL A-1:

AN EASEMENT FOR ACCESS OVER THE NORTHERLY 30 FEET OF PARCEL 1, AS SAID PARCELS ARE SHOWN DESCRIBED IN CERTIFICATES OF COMPLIANCE'S RECORDED NOVEMBER 29, 2000 AS INSTRUMENT NOS. 2000-070930 AND 070931 OF OFFICIAL RECORDS.

PARCEL B:(APN: 053-259-005)

PARCEL 1 OF THAT CERTAIN CERTIFICATE OF COMPLIANCE NO. COAL 01-0097, RECORDED APRIL 9, 2003 AS INSTRUMENT NO. 2003-035672 OF OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THE REAL PROPERTY LOCATED IN THE COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, BEING A PORTION OF THE PARCEL DESCRIBED IN DOCUMENT NO. 2000-070932 AND A PORTION OF THE PARCEL DESCRIBED IN DOCUMENT NO. 2000-070933 OF OFFICIAL RECORDS SHOWN ON THE MAP RECORDED IN BOOK 81 OF RECORD OF SURVEYS, PAGE 32, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWESTERN CORNER OF THE PARCEL DESCRIBED IN DOCUMENT NO. 2000-070931 OF OFFICIAL RECORDS AS SHOWN ON SAID MAP, SAID CORNER ALSO BEING A POINT ON THE CENTERLINE OF VACHELL LANE AS SHOWN ON SAID MAP;  
THENCE IN A SOUTHERN DIRECTION ALONG THE WESTERN LINE OF SAID PARCEL AND SAID CENTERLINE, SOUTH 00° 00' 11" WEST, 666.37 FEET TO THE MOST WESTERN CORNER COMMON TO SAID PARCEL AND THE PARCEL DESCRIBED IN DOCUMENT NO. 2000-070930 OF OFFICIAL RECORDS AS SHOWN ON SAID MAP, SAID COMMON CORNER ALSO BEING ON SAID CENTERLINE OF VACHELL LANE;  
THENCE LEAVING SAID COMMON CORNER AND SAID POINT ON SAID CENTERLINE IN AN EASTERN DIRECTION ALONG THE LINE COMMON TO SAID PARCELS AS SHOWN ON SAID MAP, NORTH 89° 56' 56" EAST, 662.06 FEET TO THE MOST EASTERN CORNER COMMON TO SAID PARCELS, SAID COMMON CORNER ALSO BEING ON A LINE OF THE PARCEL OF LAND DESCRIBED IN DOCUMENT NO. 2000-070932 OF OFFICIAL RECORDS AND WITNESSED BY A 5/8" REBAR AND CAP RCE 12545 AS SHOWN ON SAID MAP;  
THENCE CONTINUING IN AN EASTERN DIRECTION NORTH 89° 58' 55" EAST, 660.52 FEET TO A POINT ON THE LINE COMMON TO SAID PARCEL OF LAND AND THE PARCEL DESCRIBED IN DOCUMENT NO. 2000-070933 OF OFFICIAL RECORDS AS SHOWN ON SAID MAP, SAID POINT BEING SOUTH 0° 08' 06" WEST, 666.27 FEET FROM THE MOST NORTHERN CORNER COMMON TO SAID PARCELS AND BEING WITNESSED BY 5/8" REBAR AND CAP RCE 12545 AS SHOWN ON SAID MAP;  
THENCE CONTINUING IN AN EASTERN DIRECTION NORTH 89° 56' 56" EAST, 183.40 FEET;  
THENCE IN A SOUTHERN DIRECTION THE FOLLOWING COURSES AND DISTANCES:  
SOUTH 00° 00' 00" EAST, 470.92 FEET;  
SOUTH 41° 55' 49" WEST, 63.87 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING IN A SOUTHERN DIRECTION THE FOLLOWING COURSES AND DISTANCES:  
SOUTH 10° 13' 54" WEST, 296.48 FEET;  
SOUTH 51° 47' 47" WEST, 246.34 FEET;  
SOUTH 37° 32' 27" WEST, 206.28 FEET;  
SOUTH 55° 33' 57" WEST, 321.08 FEET;  
SOUTH 75° 54' 21" WEST, 103.88 FEET TO A POINT ON THE SOUTHERN LINE OF PARCEL DESCRIBED IN DOCUMENT NO. 2000-070932 AS SHOWN ON SAID MAP, SAID POINT ALSO BEING ON THE CENTERLINE OF BUCKLEY ROAD;  
THENCE IN A WESTERN DIRECTION ALONG SAID SOUTHERN LINE AND SAID CENTERLINE, SOUTH 89° 56' 32" WEST, 725.86 FEET TO THE SOUTHWESTERN CORNER OF SAID PARCEL, SAID CORNER ALSO BEING THE CENTERLINE INTERSECTION POINT OF SAID VACHELL LANE

AND BUCKLEY ROAD AND WITNESSED BY A 5/8" REBAR AND CAP RCE 12545 AS SHOWN ON SAID MAP;

THENCE LEAVING SAID SOUTHERN LINE AND SAID CENTERLINE INTERSECTION POINT IN A NORTHERN DIRECTION ALONG THE WESTERN LINE OF SAID PARCEL AND SAID CENTERLINE OF VACHELL LANE, NORTH 00° 00' 10" EAST, 666.37 FEET TO THE MOST WESTERN CORNER COMMON WITH SAID PARCEL DESCRIBED IN DOCUMENT NO. 2000-070930 AS SHOWN ON SAID MAP, SAID COMMON CORNER ALSO BEING ON SAID CENTERLINE OF VACHELL LANE; THENCE LEAVING SAID COMMON CORNER ON SAID CENTERLINE IN AN EASTERN DIRECTION ALONG A LINE COMMON TO SAID PARCELS, NORTH 89° 55' 51" EAST, 662.06 FEET TO THE SOUTHEASTERN CORNER OF SAID PARCEL DESCRIBED IN DOCUMENT NO. 2000-070930 AS SHOWN ON SAID MAP, SAID CORNER BEING COMMON WITH A CORNER OF THE PARCEL OF LAND DESCRIBED IN DOCUMENT NO. 2000-070932 AND WITNESSED BY A 5/8" REBAR AND CAP RCE 12545 AS SHOWN ON SAID MAP;

THENCE LEAVING SAID COMMON CORNER IN A NORTHERN DIRECTION ALONG A LINE COMMON TO SAID PARCELS, NORTH 00° 00' 11" EAST, 148.09 FEET TO A POINT, SAID POINT BEING SOUTH 00° 00' 11" WEST, 518.07 FEET FROM THE MOST EASTERN CORNER COMMON TO SAID PARCELS DESCRIBED IN DOCUMENT NO. 2000-070930 AND DOCUMENT NO. 2000-070931 AS SHOWN ON SAID MAP, SAID COMMON CORNER ALSO BEING ON A LINE OF THE PARCEL OF LAND DESCRIBED IN DOCUMENT NO. 2000-070932 AND WITNESSED BY A 5/8" REBAR AND CAP RCE 12545 AS SHOWN ON SAID MAP;

THENCE LEAVING SAID COMMON LINE OF SAID PARCELS, NORTH 90° 00' 00" EAST, 801.27 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL C:(APN: 053-259-006)

PARCEL 4 OF THAT CERTAIN CERTIFICATE OF COMPLIANCE NO. COAL 01-0097, RECORDED APRIL 9, 2003 AS INSTRUMENT NO. 2003-035675 OF OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THE REAL PROPERTY LOCATED IN THE COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA BEING A PORTION OF THE PARCEL DESCRIBED IN INSTRUMENT NO. 2000-70932 AND A PORTION OF THE PARCEL DESCRIBED IN DOCUMENT NO. 2000-70933 AS SHOWN ON A MAP RECORDED IN BOOK 81 OF RECORDS OF SURVEY AT PAGE 32 IN THE OFFICE OF THE COUNTY CLERK/RECORDER OF SAID COUNTY, AND LOT 27 AND LOT 28 OF THE HARFORD'S AND CHAPMAN'S SUBDIVISION AS SHOWN ON A MAP RECORDED IN BOOK 76 OF RECORDS OF SURVEY PAGE 06 IN THE OFFICE OF THE COUNTY CLERK/RECORDER OF SAID COUNTY; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWESTERN CORNER OF THE PARCEL DESCRIBED IN DOCUMENT NO. 2000-70931 AS SHOWN ON THE MAP RECORDED IN BOOK 81 OF RECORDS OF SURVEY AT PAGE 32 IN THE OFFICE OF COUNTY CLERK/RECORDER OF SAID COUNTY, SAID CORNER ALSO BEING A POINT ON THE CENTERLINE OF VACHELL LANE AS SHOWN ON SAID MAP; THENCE IN AN EASTERN DIRECTION ALONG THE NORTHERN LINE OF SAID PARCEL THE FOLLOWING COURSES AND DISTANCES: N89°58'01"E, 562.91 FEET; N89°58'01"E, 99.15 FEET TO THE MOST NORTHERN CORNER COMMON TO SAID PARCEL AND THE PARCEL OF LAND DESCRIBED IN DOCUMENT NO. 2000-70932 AND WITNESSED BY A 5/8" REBAR AND CAP RCE 12545 AS SHOWN ON SAID MAP; THENCE CONTINUING IN AN EASTERN DIRECTION ALONG THE NORTHERN LINE OF SAID PARCEL DESCRIBED IN DOCUMENT NO. 2000-70932 AS SHOWN ON SAID MAP THE FOLLOWING COURSES AND DISTANCES: N89°58'01"E, 422.12 FEET; N89°59'00"E, 239.94 FEET TO THE MOST NORTHERN CORNER COMMON TO SAID PARCEL AND THE PARCEL OF LAND DESCRIBED IN DOCUMENT NO. 2000-70933 AND WITNESSED BY A 5/8" REBAR AND CAP RCE 12545 AS SHOWN ON SAID MAP, SAID COMMON POINT ALSO BEING THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID NORTHERN LINE IN A SOUTHERN

DIRECTION ALONG A LINE COMMON TO SAID PARCELS, S00°08'06"W, 666.27 FEET TO A POINT, THENCE LEAVING SAID COMMON LINE IN AN EASTERN DIRECTION N89°56'56"E 183.40 FEET; THENCE IN A SOUTHERN DIRECTION THE FOLLOWING COURSES AND DISTANCES: S00°00'00"E, 470.92 FEET; S41°55'49"W, 63.87 FEET; S10°13'54"W, 296.48 FEET; S51°47'47"W, 246.34 FEET; S37°32'27"W, 206.28 FEET; S55°33'57"W, 321.08 FEET; S75°54'21"W, 103.88 FEET TO A POINT ON THE SOUTHERN LINE OF THE PARCEL DESCRIBED IN DOCUMENT NO. 2000-70932 AS SHOWN ON SAID MAP, SAID POINT ALSO BEING ON THE CENTERLINE OF BUCKLEY ROAD; THENCE IN A EASTERN DIRECTION ALONG SAID SOUTHERN LINE AND SAID CENTERLINE N89°56'32"E, 1913.13 FEET TO THE SOUTHEASTERN CORNER OF SAID PARCEL DESCRIBED IN DOCUMENT NO. 2000-70933 AND WITNESSED BY A 5/8" REBAR AND CAP RCE 12545 AS SHOWN ON SAID MAP, SAID CORNER ALSO BEING COMMON WITH THE SOUTHWESTERN CORNER OF LOT 28 OF THE HARFORD'S AND CHAPMAN'S SUBDIVISION AND ON THE CENTERLINE OF BUCKLEY ROAD AS SHOWN ON THE MAP RECORDED IN BOOK 76 OF RECORDS OF SURVEY AT PAGE 06 IN THE OFFICE OF COUNTY CLERK/RECORDER; THENCE CONTINUING IN AN EASTERN DIRECTION ALONG THE SOUTHERN LINE OF SAID LOT 28 AND SAID CENTERLINE OF BUCKLEY ROAD, N89°56'15"E, 1338.18 FEET TO THE SOUTHEASTERN CORNER OF SAID LOT 28 ON SAID CENTERLINE OF BUCKLEY ROAD AS SHOWN ON SAID MAP; THENCE LEAVING SAID SOUTHERN LINE OF LOT 28 AND SAID CENTERLINE OF BUCKLEY ROAD IN A NORTHERN DIRECTION ALONG THE EASTERN LINE OF LOT 28 AS SHOWN ON SAID MAP THE FOLLOWING COURSES AND DISTANCES: N00°07'52"W, 679.75 FEET; N00°07'50"W, 659.36 FEET TO THE MOST EASTERN CORNER COMMON TO SAID LOT 28 AND LOT 27 OF HARFORD'S AND CHAPMAN'S SUBDIVISION AS SHOWN ON SAID MAP; THENCE CONTINUING IN A NORTHERN DIRECTION ALONG THE EASTERN LINE OF LOT 27 AS SHOWN ON SAID MAP N00°08'28"W, 659.15 FEET TO THE NORTHEASTERN CORNER OF LOT 27 AND WITNESSED BY 1-1/4" IRON PIPE LS 3877 AS SHOWN ON SAID MAP; THENCE LEAVING SAID EASTERN LINE OF LOT 27 IN WESTERN DIRECTION ALONG THE NORTHERN LINE OF LOT 27 AND THE NORTHERN LINE OF SAID PARCEL OF LAND DESCRIBED IN DOCUMENT NO. 2000-70933 AS SHOWN ON THE MAP RECORDED IN BOOK 81 OF RECORDS OF SURVEY AT PAGE 32 IN THE OFFICE OF COUNTY CLERK/RECORDED OF SAID COUNTY THE FOLLOWING COURSES AND DISTANCES: S89°57'07"W, 908.62 FEET; S89°56'55"W, 54.74 FEET; S89°56'55"W, 268.94 FEET; S89°55'27"W, 323.68 FEET; S89°54'15"W, 323.27 FEET; S89°59'01"W, 324.32 FEET; S89°55'42"W, 323.55 FEET; S89°59'00"W, 84.04 FEET TO THE TRUE POINT OF BEGINNING.

APN: 053-259-004 and 053-259-005 and 053-259-006

## Exhibit C

### Financing Plan

## **Draft Report**

# **Avila Ranch Financing Plan**

*The Economics of Land Use*



Prepared for:

City of San Luis Obispo

Prepared by:

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September 1, 2017

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## Table of Contents

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1.	EXECUTIVE SUMMARY .....	1
2.	AVILA RANCH PROJECT OVERVIEW .....	4
	Avila Ranch Development Plan .....	4
	Project Planning and Regulation .....	6
3.	SERVICES AND IMPROVEMENTS TO BE FUNDED.....	7
	Municipal Services .....	7
	Infrastructure Improvements .....	9
4.	FUNDING AND FINANCING SOURCES .....	11
	Avila Ranch Funding Sources .....	11
	Economic Considerations.....	13
5.	IMPLEMENTATION MEASURES AND RELATED ACTIONS.....	14

## Appendices

APPENDIX A	Avila Ranch Services CFD Preliminary Rate Allocation, Local Area Maintenance and Fiscal Mitigation Combined
APPENDIX B	Avila Ranch Infrastructure Cost and Allocation Analysis

## List of Tables

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Table 1	Sources and Uses of Avila Ranch Infrastructure Financing .....	2
Table 2	Summary of Avila Ranch Services CFD, Preliminary Rate Allocation at Development Stabilization .....	7
Table 3	Infrastructure Costs by Type of Infrastructure .....	9

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# 1. EXECUTIVE SUMMARY

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The Avila Ranch Financing Plan (*Financing Plan*) identifies the municipal services and infrastructure required to serve the Avila Ranch Project and describes how these will be funded and/or financed over time. In addition to providing a general description of how required municipal services and infrastructure will be funded, the *Financing Plan* provides a basis for financial terms included in the Development Agreement and also for the Community Facilities District Rate and Method of Apportionment.

The Avila Ranch Project will create a new City neighborhood located at the northeast corner of Buckley Road and Vachell Lane. The *Avila Ranch Development Plan* allows up to 720 dwelling units; a "Town Center" with 15,000 square feet of local-serving retail and office uses; 18 acres of pocket parks, mini-parks and neighborhood parks; and 53 acres of open space, including riparian corridors and farmed agricultural land. The *Financing Plan* addresses how the Avila Ranch Project will pay for both municipal services and the infrastructure needed as the new neighborhood is constructed and occupied by new residents and businesses.

- Municipal services include both "Citywide" services and also local area maintenance services provide by the City within the Project area. Services covered by the Financial Plan include maintenance responsibilities for bike paths in the County, and fulfillment of airport noise complaint mitigation agreed to between the Airport Land Use Commission, the project, and the San Luis Obispo County Airport. The need for special funding for these services is created, in part, by the Property Tax Sharing Agreement (adopted by the City and the County in 2008) as a part of the area's annexation to the City that provides no property tax to the City.
- Infrastructure needed for the Avila Ranch includes contributions to Citywide, Specific Plan and other subarea development impact fee programs, mitigating impacts upon regional (off-site) infrastructure, and funding "backbone" and subdivision-related improvements within the Project area.

Funding for recurring municipal services will be derived from municipal taxes, service charges and fees typically levied by the City augmented by a newly created special tax levied by a Mello-Roos Community Facilities District (CFD) created for the Project Area.

- Funding for infrastructure improvements will be derived from a variety of sources including direct developer equity investment to build or contribute to building needed infrastructure improvements. **Table 1** presents the "sources and uses" of funding for the range of infrastructure required.
- The key source of infrastructure funding will be "developer equity;" it is estimated that the developer will invest an estimated \$57.0 million directly in project-related infrastructure, including paying the City's development impact fees, which will be updated as part of the City's development impact fee update.
- Some of the developer's investment in City or region-serving infrastructure will be subject to private reimbursement from other benefitting properties or potential impact fee crediting from the City because the developer is either "oversizing" the improvement relative to their nexus-based "fair share" costs, correcting existing deficiencies, or advancing the improvement before its actual need. Because Avila Ranch is located on the periphery of the

City, and timing of development is in advance of other development projects in the area, existing infrastructure in both the City and County needs significant upgrading to serve the needs of the Avila Ranch development.

- Additionally, Avila Ranch is required to participate in the cost of future cumulative, regional facilities that the development impacts. Participation in these projects will be through mitigation fee payments or participation in City impact fee programs.

**Table 1 Sources and Uses of Avila Ranch Infrastructure Financing**

Infrastructure Item		Funding Source			
Type	Description	Developer or Builder Equity	Developer Equity subject to Credits or Reimbursement	Community Facilities District Special Taxes	City or Regional Sources
In-tract Infrastructure	Developer builds neighborhood streets and facilities shown in Subdivision Map	✓			
Backbone Infrastructure	Developer builds major infrastructure serving Specific Plan Area shown in Subdivision Map	✓			
Regional Infrastructure	Nexus-based share of major infrastructure (EIR Mitigation, etc.)	✓			
Regional Infrastructure	Oversizing of major infrastructure	✓	✓	✓	✓
Citywide or Areawide Infrastructure included in Development Impact Fee Programs	Fees paid when building permits issued	✓	✓		

- The City's (or other development's) share of City or region-serving infrastructure will be funded by the City's development impact fees, exactions on other developers, and other City or regional funding sources.
- The Avila Ranch CFD may provide an additional source for developer reimbursement and will provide for capital replacement over time, while also providing funding for City services.

The preparation of the *Financing Plan* occurred through a cooperative effort between the Developer team and City staff and their respective consultants, concurrently with preparation of the Avila Ranch Development Plan and related entitlement documents including the Project Environmental Impact Report, the Fiscal Impact Report, the Vesting Tentative Subdivision Map, Development Plan and the Development Agreement.

As part of the preparation of the Financing Plan, care has been taken to assure that the financial burdens upon the developer are consistent with the developer's need for a reasonable return on its equity investment, that CFD special taxes fall within the City's related property tax burden policy, and that the City has identified sources for its (or other development's share of infrastructure costs).

Finally, the specific actions required to implement and administer the financing mechanisms are identified in **Chapter 5**, providing guidance as to how the City will proceed with implementation following action on the Entitlement Documents.

## 2. AVILA RANCH PROJECT OVERVIEW

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The Avila Ranch Project will create a new City neighborhood within the boundaries of the Airport Area Specific Plan (AASP), and will be regulated by the Development Plan and Specific Plan adopted by the City. The Project site is approximately 150 contiguous acres located at the northeast corner of Buckley Road and Vachell Lane, and includes three separate parcels: APN 053-259-006, APN 053-259-004, and APN 053-259-005.

### Avila Ranch Development Plan

The Avila Ranch Development Plan (*Development Plan*) allows up to 720 dwelling units; a "Town Center" with 15,000 square feet of local-serving retail and office uses; 18 acres of pocket parks, mini-parks and neighborhood parks; and 53 acres of open space, including riparian corridors and farmed agricultural land. These features are described in the Development Plan text and appendices, and on pages 25-89 of the Development Plan. The Development Plan also calls for community gardens, a bicycle and pedestrian pathway along the Tank Farm Creek riparian corridor, and bike connections to the Chevron Project to the north and the Octagon Barn bike facilities to the southwest. Another key improvement specified in the Development Plan is the extension of Buckley Road to South Higuera Street, consistent with the City's Circulation Element.

### Residential Uses

The *Development Plan* includes up to 720 residential units of varied density and type. The R-1 units are proposed to be typical single-family homes with front-loaded and alley-loaded garages. The R-2 portions of the development obtain access from alleys and common driveways limiting direct vehicular access points to residential streets. This circulation design allows many of these R-2 units to front on open space areas or the internal residential collector streets, resulting in attractive landscaped setbacks rather than a series of driveways. These project circulation features along with attention to enhancing streetscapes and corridors with landscaping, utilizing interesting architectural features such as front porches, and maintaining tree-covered sidewalks, and unobstructed views of surrounding open spaces provide the underlying framework for creating a walkable and interconnected neighborhood. The R-3 and R-4 units are included at locations that take advantage of adjacent open spaces, and/or proximity to local jobs, transit, and shopping.

**Table 2 Avila Ranch Development Plan Residential Use Summary**

Residential Category	Quantity
Single Family R-1	101
Single Family R-2	297
Single Family R-3	197
Single Family R-4	<u>125</u>
<b>Total Residential Units</b>	<b>720</b>



### **Neighborhood Commercial Uses**

The Neighborhood Commercial area will allow for 15,000 square feet of building area. It will serve as a focal point and activity center for the project, and will provide shared parking for nearby open space and parks uses, bicycle parking and storage facilities, public plazas for gatherings and special events, and transit connections. Because of the nearby retail shopping center on South Higuera Street, this neighborhood center will focus on small-scale convenience items, and possibly provide some professional service office space.

### **Parks and Recreation Uses**

The *Development Plan* designates 18 acres of parkland, which exceeds the General Plan parkland requirement of 16.5 acres (10 acres per 1,000 population per the Parks and Recreation element) by 1.5 acres. Proposed facilities include a centrally located 9.5-acre neighborhood park as well as mini-parks, pocket parks, and community gardens. The "Designated Park" area does not include passive open space and recreational trails, which are counted as part of the "designated Open Space." The neighborhood park will be linked to surrounding neighborhoods, the Tank Farm Creek riparian corridor and to the regional bikeway system by separated Class I bike paths and Class II bike lanes, and special pedestrian/bike bridges over Tank Farm Creek.

According to the concept plan approved by the Parks and Recreation Commission, the neighborhood park will include group BBQs, basketball courts, tot lots, baseball diamonds, soccer fields, pickle ball courts, tennis courts, a dog park, a skate park, and a community meeting pavilion area. Eight mini-parks and a pocket park will also serve the neighborhoods. Each will be one-half to 2.5 acres in size and provide facilities such as community gardens, tot lots, passive play areas, BBQ and picnic areas, basketball courts, community gardens, dog park, and PC1 - 15 landscaping. These mini- and pocket parks will serve residents within a two-block radius and fill the few "gaps" in the coverage for the neighborhood park facilities. The mini-parks will be phased with adjacent residential development to provide park facilities for future residents near their homes.

### **Open Space Uses**

The Open Space designation is intended to preserve undeveloped or minimally developed land for preservation of natural resources, production agriculture and public safety. The Land Use and Circulation Element ("LUCE") requires 50 percent of the site area to be dedicated as open space, with up to one-third of that amount allowed to be provided offsite. For this 150-acre project site, there would be a minimum requirement of 50 acres of onsite open space, with the remainder to be provided offsite. As proposed, there are 53 acres of open space proposed onsite, which does not include parks and recreational facilities. The balance of the required open space, 22 acres, will be provided offsite through open space or agricultural conservation easements, or through the development impact fee established by the AASP. The Avila Ranch Development Plan designates the following specific areas for open space:

- Planning area creeks, to protect and enhance habitat and recreational values;
- Agricultural buffer areas outside of the URL along the Buckley Road frontage and the easterly project boundary;

- The ACOS Reservation Space in conformance with the ALUP; and
- Tank Farm Creek corridor as a linear park, bikeway and passive recreation areas.

## **Project Planning and Regulation**

The Avila Ranch Project has been designed to be consistent with the City's General Plan policy framework. The Project, however, will require amendment to the Airport Area Specific Plan, to convert the area from its present commercial designation to a primarily residential area. The foundational and parallel entitlement documents include the following:

- General Plan
- Zoning Ordinance
- Airport Area Specific Plan
- Avila Ranch Development Plan
- Avila Ranch Environmental Impact Report
- Avila Ranch Fiscal Impact Report
- Avila Ranch Development Agreement
- Tentative Vesting Subdivision Map and Conditions

### 3. SERVICES AND IMPROVEMENTS TO BE FUNDED

The *Financing Plan* addresses how the Avila Ranch Project will pay for both municipal services and the infrastructure needed as the new neighborhood is constructed and occupied by new residents and businesses.

#### Municipal Services

Municipal services include both "Citywide" services and also local area maintenance services provide by the City within the Project area. The need for special funding for these services is created, in part, by the Property Tax Sharing Agreement (adopted by the City and the County in February 2008 as a part of a larger annexation of Airport Area Specific Plan properties) that provides no property tax to the City. The anticipated future municipal services costs have been calculated based on a fiscal impact analysis of the Avila Ranch Project and also a detailed assessment of local area maintenance requirements prepared by City staff in collaboration with the Developer team. **Table 2** provides a summary of these municipal services costs which are further documented in **Appendix A – Municipal Services Cost Worksheet**.

**Table 2 Summary of Avila Ranch Services CFD, Preliminary Rate Allocation at Development Stabilization**

Item	Local Area Maintenance [1]	Fiscal Mitigation	City CFD Admin [2]	Contract CFD Admin [2]	Total
Annual Costs in CFD at Buildout	\$1,168,813	\$414,156	\$97,500	\$33,609	\$1,714,079
Annual Cost per Unit at Buildout [3]	\$1,623	\$575	\$135	\$47	\$2,381
Avg. Cost per Unit per Month at Buildout	\$135	\$48	\$11	\$4	\$198
Average Annual Tax Burden	0.28%	0.10%	0.02%	0.01%	0.41%

[1] Includes City and County direct costs, and Transportation and Leisure, Cultural & Social Services operating costs.

[2] City CFD Admin reflects an FTE to oversee CFD. Contract CFD Admin reflects a 2% charge; to be confirmed.

[3] Reflects development of 720 units. Does not currently include commercial.

#### Citywide Services

The Avila Ranch Project is unique from a fiscal perspective given the fact that the Property Tax Sharing Agreement (with San Luis Obispo County pursuant to Revenue and Tax Code Section 99) adopted when the area was annexed to the City provides no transfer of property taxes to the City. This Agreement was adopted by the City because the area at that time was designated in the City's General Plan for commercial and industrial uses and these uses were assumed to generate other taxes (sales and use taxes, etc.) that would offset the cost of providing municipal services.

The Tax Sharing Agreement follows the framework established in the 1998 Master Agreement and provides that within the AASP annexation area, no annual property tax increment shall be transferred from the County to the City, and all existing and future sales tax accruing from annexed area within the Airport Area are to accrue to the City.

Also, there was a presumption that, in the aggregate and after factoring in existing and projected sales tax revenues, the 2008 620-acre annexation would be fiscally positive. For example, the City and County analysis showed that annexation of the Airport Area would be fiscally beneficial to the City and result in an immediate fiscal "net" revenue (operating revenues less operating costs) of approximately \$450,000 upon annexation of the area (largely due to the existing sales base in the area), increasing to \$750,000 upon build-out. At the time of annexation in 2008, there were existing sales tax revenues of \$300,000 annually in the annexed area, according to the February 2008 Staff Report. Nevertheless, the City and EPS deemed it prudent to evaluate the Avila Ranch project on its own to guard against any future volatility in the sales tax revenues and in light of the fact that a significant shift in land use was being considered related to the rezoning of the Avila Ranch property from business park to residential uses.

The *Fiscal Impact Analysis* prepared for the Avila Ranch Project documented municipal service costs and also the municipal revenues that the Project area is expected to generate as it is constructed and occupied.<sup>1</sup> Key citywide services include the following:

- General Government
- Police protection
- Fire protection
- Transportation
- Leisure, Cultural and Social Services (includes Park and Landscape Maintenance)
- Community Development

Citywide services provided to the Avila Ranch area are estimated to cost some \$1.5 million annually when the Project area is fully developed, before accounting for offsetting municipal revenue. The net expenditures, after accounting for revenues and off-setting local area maintenance services, are estimated to cost the City approximately \$414,000 per year.<sup>2</sup>

### **Local Area Maintenance**

The Avila Ranch Specific Plan includes a high standard of infrastructure and public facilities that will require maintenance. City staff and the Developer team have collaborated to develop a detailed assessment of the maintenance requirements of the infrastructure facilities, as documented in **Appendix A**.

Local area maintenance services provided to the Avila Ranch area are estimated to cost approximately \$1.1 million annually when the Project area is fully developed. Key services include the following:

- Maintenance of parks and greenbelts
- Maintenance of residential collectors and arterials, including lighting
- Maintenance of the Venture Drive bridge over Tank Farm Creek

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<sup>1</sup> *Avila Ranch Fiscal Impact Analysis*, ADE, April 2017

<sup>2</sup> Fiscal expenditures reflect the revised fire costs and Avila Ranch's share. The fire costs were revised subsequent to the ADE analysis referenced above.

- Maintenance of storm drains
- The Buckley Road bike path (County) and County Airport Sound Abatement services

## Infrastructure Improvements

Infrastructure and municipal facilities required to serve the Project include "Backbone" and "In-tract" Infrastructure as well as "City-serving or regional infrastructure" which is generally located beyond the Project boundary but require improvement (at least in part) due to development of the Project area. These future municipal services costs were estimated by conducting a fiscal impact analysis of the Avila Ranch Project and also a detailed assessment of local area maintenance requirements prepared by City staff in collaboration with the Developer team.

**Table 3** provides a summary of these infrastructure costs which are further documented in **Appendix B – Project Infrastructure Cost Worksheet**.

**Table 3 Infrastructure Costs by Type of Infrastructure**

Type of Infrastructure	Total Project Costs [1]
Transportation	\$37,234,884
Parks	\$6,645,500
Water and Sewer	\$427,500
Public Safety	\$1,346,250
Intract Improvements	\$20,896,000
Offsite Improvements	<u>\$552,000</u>
<b>Total Infrastructure Expenses</b>	<b>\$67,102,134</b>

[1] Total Project Infrastructure costs whether Avila Ranch is building or paying fees.

Sources: Avila Ranch LLC; City of San Luis Obispo.

### **Backbone and In-tract Infrastructure**

The Avila Ranch Project, proposed for a largely undeveloped area, will require the full complement of local infrastructure to serve the Project area including streets and in-street utilities, drainage, parks and trails, and bikeways. These improvements are typically divided into "in-tract" improvements, such as neighborhood streets and utilities, and "backbone" improvements, including collector streets and public facilities (such as parks) that serve the whole project area.

Key Backbone Improvements include the following:

- Buckley Road Extension from Vachell Lane to South Higuera Street
- Venture Road Residential Collector
- Tank Farm Creek and Buckley Frontage Bike Path



- Horizon Lane Collector south of Suburban
- Earthwood Collector
- Various Transit Stops

**Improvements to City-serving and Regional Infrastructure**

The Avila Ranch project, as it develops, will contribute to the demand for City-serving and region-serving infrastructure improvements, including the following:

- Improvements related to Buckley Road along the Project's frontage
- Vachell Lane improvements
- Various sidewalk improvements
- Intersection improvements at Tank Farm Road/South Higuera and South Street/South Higuera
- Horizon Lane south of Tank Farm
- Bob Jones Trail Bike Path
- Vachell Lane Widening

## **4. FUNDING AND FINANCING SOURCES**

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### **Avila Ranch Funding Sources**

#### **Developer Equity**

Developer equity will be the primary source of funding for infrastructure improvements needed to serve the Avila Ranch area. Developer (or builder) equity will pay impact and mitigation fees, fund construction of all "in-tract" and "backbone" improvements located within the Avila Ranch area, fund the Project's "fair share" allocation of off-site "regional" improvements, of which some will be subject to fee credits, and advance funding over and above the "fair share" costs, a portion of which will be subject to reimbursement by the City. It is estimated that total developer equity necessary to fund the backbone and in-tract infrastructure and region-serving infrastructure (including the amount beyond the nexus-based "fair share" amount) is \$57.0 million.

#### **Participation in Area and Citywide Development Impact Fee Programs**

The Avila Ranch Project will be subject to the City's various development impact fee programs, including the existing Airport Area Specific Plan fees, the Citywide Traffic Impact fee, LOVR interchange reimbursement fee, special ad hoc fees for environmental mitigation, and water and sewer connection fees as levied at the time building permits are issued. This obligation typically involves paying the impact fees at the time individual building permits are issued. Additional fees are charged by regional agencies including the local school districts. It is important to note that the current AASP does not include fee categories for residential or retail land uses. During 2017 the City engaged in a comprehensive effort to update and reorganize its impact fees. This update includes the recalculation of existing impact fees (excluding the water and sewer connection charges), the consideration of fees for public safety and other community facilities, and the consolidation and redistribution of cost items included in the City's area impact fee programs. The AASP impact fee program will need to be revised or replaced to incorporate appropriate fee levels for the Avila Ranch project.

#### **Construction and dedication of "in-tract" improvements**

As is common practice, the developer of Avila Ranch will build in-tract and backbone infrastructure within, and on the periphery of, the Avila Ranch area to the specification of the City as documented in the Tentative Subdivision Map and subsequently dedicate these improvements and underlying lands to the City.

#### **"Fair Share" allocation of other improvement costs**

The development of the Avila Ranch Project will increase traffic on existing roadways and create demand for other City/County infrastructure. Many of these improvements are facilities located beyond the project boundary. This additional demand was studied in detail as part of the Environmental Impact Report (EIR) and the mitigation measures identified to maintain policy-based levels of service on these facilities. The mitigation program includes Avila Ranch completing improvements along Higuera Road, extending Buckley Road from Vachell to Higuera, as well as improving Buckley as it fronts the development, among others. The EIR requires these improvements to be installed ahead of need and improved to the 2035 General Plan buildout configuration to the extent feasible. Consequently, the project will construct improvements that

are necessary to correct existing deficiencies and to accommodate traffic and other impacts above and beyond its own impacts.

#### ***Funding regional improvements above the "Fair Share" allocation***

The Avila Ranch developer has offered to provide funding for regional improvements beyond the Project boundary, and beyond its fair share to build out the improvement to their ultimate configuration to maximum extent feasible. While not expressly obligated to do so, such additional contribution assures that the regional improvements will be built in a timely and efficient manner, benefiting the developer, the City, and the County. Consequently, there are no improvements that are being funded directly by the City or others. Funding for the costs above the project's fair share will come from future development impact fees generated by the project itself in the form of AASP, citywide and LOVR impact fees, direct contribution from other projects benefiting from those improvements, and fees generated elsewhere in the City and AASP. In some cases, although a project is eligible for reimbursement, Avila Ranch will carry the full cost burden because a facility is not included in one of the funding mechanisms mentioned above.

#### **Development Impact Fee or Exaction Revenue**

Insofar as other developers/builders are obligated to pay their "fair share" of infrastructure improvements by paying the Citywide and area development impact fees or additional nexus-based "exactions," a portion of this revenue will be used for reimbursement for investments above "fair share" made by the Avila Ranch developer (or other nearby developers that may advance funding for construction of fee-funded facilities and improvements).

#### **Community Facilities District**

The owners of the property have requested and the City has tentatively agreed to form a Community Facilities District (CFD) subject to Council action for the Avila Ranch area. Such a CFD, pursuant to the Community Facilities District Act of 1982, allows for the levy of a special tax on real property located within the designated boundary of the CFD for a range of purposes including providing funding for municipal services, local area maintenance, and infrastructure. It is common for the special taxes to be used to service municipal bonds issued for the CFD to fund new development-related infrastructure; however, the CFD for Avila Ranch will be used to fund ongoing City services and infrastructure maintenance as described below. Usage of this financing mechanism is warranted for a number of reasons, including that the project provides significantly greater amount of parks space, open space, bike trails, and other amenities than typical of other developments in the City.

The Avila Ranch CFD, as currently envisioned, will provide funding for City service costs not covered by existing taxes (i.e., "fiscal mitigation") and also for funding maintenance of municipal improvements located within the Avila Ranch area. The CFD may also be used as a source of funding to meet the City's obligation to reimburse developer funding of regional improvements above "fair share" and also as a source for repair and replacement of local area serving facilities (e.g., local streets, drainage and flood protection facilities, and landscaping).

#### **Other Funding Sources**

Funding for the City's share of regional improvement costs may be derived from a variety of sources typically used by the City to fund infrastructure, including proceeds from federal, State,

and regional grants. However, no grants are currently identified and use of grant funding require prevailing wage.

## **Economic Considerations**

### **Project Feasibility**

As a part of achieving new development as envisioned in the City's General Plan and specified in specific plans or other zoning actions, it is in the interest of the City to cooperate with developers and builders to promote feasibility of new development, i.e., that new development generates economic returns sufficient to attract necessary private equity investment and commercial lending. While market conditions can constrain investment at low points in the business cycle, over the longer terms the type and amount of development authorized by the City and the costs imposed for needed infrastructure and facilities should balance so as not to unnecessarily impede desired development.

### **Financial Burden Measures**

A variety of methods are used to determine the cost burden placed upon new development associated with providing the necessary infrastructure including in-tract and backbone infrastructure improvements and contributions to City-serving infrastructure through payment of impact fees or other mechanisms. The Avila Ranch Project, given the real estate values created and the total cost of infrastructure improvements, is shown to fall within reasonable levels of financial burden.

### **Incidence of Burdens**

Depending upon the type of funding relied upon to develop a project, the "incidence" of the burden (who pays?) varies. Equity provided by the developer for project costs including contributions to public infrastructure and facilities is a burden on the equity investors in the project. Special taxes or assessments on real property are a burden on the local homeowners or businesses subject to these taxes or assessments. Excise taxes (e.g., sales taxes, utility taxes, transient occupancy taxes) are a burden on those engaging in purchases of these goods. The City has established CFD policies which place a 1.8 percent "cap" on property tax burdens. The Avila Ranch project is located in County Tax Rate Area (TRA) 003-022 which has a total current tax rate of 1.07225 percent,<sup>3</sup> including the basic 1 percent rate plus "overrides" related to voter-approved general obligation bonds and special taxes or assessments. Future additional tax overrides may also be approved in the future.

In addition to this policy "cap," market conditions also influence the amount of tax levied. For example, an increase in the amount of taxes levied on real property will affect a home buyers' ability to qualify for mortgage financing and in turn, the price they are willing to pay for the new home. In the City of San Luis Obispo, Home Owners Associations' burdens range from approximately \$100 per month (peak phases of Serra Meadows, Toscana, Trillium) to a high of \$239 per month at Avivo, a full service condominium project that provides structural replacement, common open space, and community buildings.

<sup>3</sup> San Luis Obispo County Auditor-Controller.

## **5. IMPLEMENTATION MEASURES AND RELATED ACTIONS**

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The Financing Plan will be implemented concurrent with approval and subsequent development of the Avila Ranch area. Key components of implementation will include the following.

### **Development Agreement**

The Entitlement Documents for the Avila Ranch Project will include a Development Agreement, a contract between the Developer and the City that vests the entitlement over a long term (15 or 20 years) as consideration for extraordinary benefits to be received by the City for granting the vesting. The Avila Ranch Development Agreement largely provides a framework and security for funding the regional infrastructure improvements and the related reimbursement to the Developer for investments that exceed the "fair share" cost allocation for these improvements.

### **Development Impact Fees and Exactions**

The Avila Ranch Project development will be subject to the City's development impact fees as they will exist at the time building permits are issued. At the present time, the Project is subject to the City's water and wastewater connection fees, transportation impact fee, Airport Area Impact Fees, Los Osos Valley Road Interchange Fee, parks fees, and public art in lieu fees. Concurrent with consideration of the Avila Ranch Project, the City is engaged in an effort to update its development impact fees, potentially resulting in the inclusion of new facilities in the Citywide fees and also reallocation of infrastructure items among the area impact fees and the Citywide fees. The Project will also be responsible for building or funding improvements, termed "exactions," as specified in the Final Environmental Impact Report. The Development Agreement will include further specification regarding the Project's development impact fee and exaction obligations.

### **Fee Obligations**

Subject to the terms included in the Development Agreement, new development in the Avila Ranch Project will pay the fees existing at the time building permits are issued, i.e., be subject to the fees that result from the Development Impact Fee Update.

### **Reimbursement Agreement(s)**

The Avila Ranch Development Agreement will enable and specify the terms and security for reimbursement agreements that will be created for each of the individual regional improvements. Presently, reimbursement agreements are expected for the following off-site, Citywide or regional facilities:

- Suburban Widening east of Earthwood
- Horizon Collector south of Suburban to Avila Ranch with right-of-way

### **Source of Reimbursement Agreement funding**

A number of infrastructure improvements are specified in the City's development impact fee programs and Environmental Impact Fee mitigation measures that the Avila Ranch Developer will fund or build beyond its "fair share" allocation of cost. These contributions will be eligible for reimbursement from fees paid by other developers benefiting from these improvements or from other sources.



### **Projects Eligible for Private Reimbursement**

Two projects have been identified that may be eligible for private reimbursement. Alternatively, these improvements may be incorporated into the updated Impact Fee Program.

- Buckley Road Extension Bike Path
- Vachell/Buckley Intersection Control (if installed)

### **Projects Eligible for Impact Fee Credits**

Insofar as the Developer builds or directly funds infrastructure improvements that are included in one of the City's development impact fees (e.g., Airport Area, Traffic Impact Fee, etc.), the Developer is eligible to receive a dollar-for-dollar credit against its fee obligations for these improvements. The Development Agreement will specify the precise terms of these fee credits.

- South Higuera/South Street NB RT Lane (may occur as a private reimbursement)
- Tank Farm/Higuera SB LT and WB LT
- South Higuera Sidewalk
- Tank Farm Creek Bike Path and Bridges

### **Community Facilities District**

A CFD, as enabled by the Community Facilities District Act of 1982, allows a local jurisdiction to levy a special tax within a specified area to pay for public services and/or infrastructure needed within the area. Over the past three decades, CFDs have become a common mechanism for cities to fund services and finance development-related infrastructure. The levy of any special tax and any related bond issuance is subject to voter approval, if the area is inhabited approval by two-thirds of the voters in the area is required. If fewer than 12 voters are located in the area, approval by the landowners is required (Avila Ranch area currently has no residential uses).

### **City Policy and Approach**

The City of San Luis Obispo has not, before this Avila Ranch Project, created any CFDs. The City has, in anticipation of Avila Ranch and other development-related financing requirements, adopted policies and procedures related to CFDs that guide formation of the Avila Ranch CFD. A key policy adopted by the City is that "aggregate" property tax burden within the City should not exceed 1.8 percent of assessed value annually.

### **Funding Capacity**

The funding capacity of a CFD is based upon the type and amount of development within the bounds of the CFD and the amount of the special tax levied against each parcel. Special taxes levied as part of a CFD must clearly specify a "rate and method of apportionment" which defines the amount of the tax levied on each parcel and how the amount may be increased (indexed) over time to account for inflationary cost increases. Generally, CFD special taxes are limited to a fraction of the 1 percent property tax allowed under Article 13 A of the State Constitution.

The funding capacity of the Avila Ranch Project, taking account of the market value of development being created, the existing general and special taxes, and the City's established special tax "cap" of 1.8 percent, is estimated to be approximately \$2.9 million annually. Given market conditions and maximum equivalent HOA rates in the community of \$200 per month, and the significant amount of smaller multifamily units, the aggregate tax burden on residential units

may limit this capacity to below this maximum, resulting in a funding capacity of approximately \$1.7 million per year.

### **Special Tax Components**

The Avila Ranch CFD is primarily being formed to provide a source for funding Citywide services and the maintenance and replacement of public facilities and infrastructure within the Project area. The "Rate and Method of Apportionment" that will be developed as part of CFD adoption will specify how the Avila Ranch special taxes shall be allocated to these uses. Based upon current cost analysis, the allocation of CFD special tax funding at full development of the Avila Ranch Project area would be as follows:

• Citywide Services	\$414,000
• Local Area Maintenance (City)	\$1.1 million
• County Services	\$66,000
• Capital Reimbursement	(TBD)
• CFD Administration (City)	\$97,500
• CFD Administration (Contract)	\$33,500

### **CFD Administration**

The City will be required to administer the CFD from year to year. Given the nature of the special tax (a fixed tax rate plus an index-based inflator), this administration is quite simple, involving sending documentation to the County Tax Collector as the annual property tax bills are prepared. This service is typically provided by consultants to the City and costs approximately \$10,000 to \$20,000 per year depending upon the size of the CFD and complexity of the special tax. There will be some additional administration required by the Finance Department to control CFD funds consistent with the terms of the Rate and Method of Apportionment and related financial reporting (in the CAFR, etc.).

### **Formation Process**

It is anticipated that the CFD formation will be initiated at the time the Avila Ranch Entitlement Documents are considered for adoption by the City Council. The following steps must be accomplished as part of the CFD formation process:

- Develop CFD concept and document costs to be funded
- Map CFD Boundary and conduct voter determination (occupied area or unoccupied?)
- Prepare Rate and Method of Apportionment
- Adopt Resolution of Intention
- Adopt Resolution of Formation
- Conduct election (or obtain landowner approval)
- Adopt Ordinance to Levy Special Tax

## APPENDIX A:

Avila Ranch Services CFD Preliminary Rate Allocation,  
Local Area Maintenance, and Fiscal Mitigation Combined



**Table A-1**

**Summary of Avila Ranch Services CFD Preliminary Rate Allocation at Development Stabilization**

Item	Local Area Maintenance [1]	Fiscal Mitigation	City CFD Admin [2]	Contract CFD Admin [2]	Total
Annual Costs in CFD at Buildout	\$1,168,813	\$414,156	\$97,500	\$33,609	\$1,714,079
Annual Cost per Unit at Buildout [3]	\$1,623	\$575	\$135	\$47	\$2,381
Avg. Cost per Unit per Month at Buildout	\$135	\$48	\$11	\$4	\$198
Average Annual Tax Burden	0.28%	0.10%	0.02%	0.01%	0.41%

[1] Includes City and County direct costs, and Transportation and Leisure, Cultural & Social Services operating costs.

[2] City CFD Admin reflects an FTE to oversee CFD. Contract CFD Admin reflects a 2% charge; to be confirmed.

[3] Reflects development of 720 units. Does not currently include commercial.





Table A-3  
Local Area Maintenance Annual Cost Assumptions[illegible]

**Table A-3**  
Local Area Maintenance Annual Cost Assumptions

[illegible]

**Table A-4**  
**Fiscal Mitigation Assumptions**

<b>Budget Category</b>	<b>Total</b>
<b>General Fund Revenues</b>	
<u>Taxes</u>	
Property Tax	\$0
Property Tax in lieu of VLF	\$297,169
Sales Tax: General	\$129,987
Sales Tax: Measure G	\$64,994
Sales Tax: Public Safety	\$3,220
Utility Users Tax	\$122,980
Franchise Fees	\$34,435
Business Tax Certificates	\$1,463
Real Property Transfer Tax	\$22,963
<u>Service Charges</u>	
Recreation Fees	\$58,856
Other Charges for Services	\$38,704
<u>Other Revenue</u>	
Fines and Forfeitures	\$3,449
Interest Earnings and Rents	\$4,263
Other Revenues	\$2,331
<u>Transfers In</u>	
Gas Tax/TDA	\$35,971
Other	\$29,820
<b>Total Revenues</b>	<b>\$850,605</b>
<b>General Fund Expenditures</b>	
General Government	\$294,029
Police	\$332,799
Fire [1]	\$398,463
Transportation [2]	\$51,536
Leisure, Cultural and Social Services	\$130,497
<i>Park and Landscape Maintenance [3]</i>	\$213,528
Community Development	\$106,747
Transfers Out	\$2,226
<b>Total Expenditures</b>	<b>\$1,529,825</b>
<b>Net Fiscal Impact</b>	<b>(\$679,220)</b>
Reduce Parks and Landscape Maintenance [4]	\$213,528
Reduce for Transportation [4]	\$51,536
<b>REVISED Net Fiscal Impact</b>	<b>(\$414,156)</b>

[1] Increased per City allocation 7-28-2017; reflects cost of operating station and Avila Ranch's share (25% of 590 acres).

[2] Included in LAM; exclude for Fiscal Mitigation.

[3] Included in LAM; exclude for Fiscal Mitigation.

[4] Included in LAM.

## APPENDIX B:

### Avila Ranch Infrastructure Cost and Allocation Analysis





Table B-2  
Avila Ranch Infrastructure Cost and Allocation Analysis

	Item	Total Project Cost Estimate	Implementation/ Participation by Avila Ranch	Allocation to Avila Ranch		Developer Equity				
				Nexus Allocation to Avila Ranch	Allocation to Avila Ranch (Absorb Credits or Reimbursements)	Percent	Up-Front Amount	Reimbursement Agreement Requested/ Recommended?	If Yes, Amount Subject to Private Reimbursement?	
Projects to be Built by Avila Ranch	Build Project (No Reimbursement)									
	T1 Transit Stops	\$75,000	Build	100.0%	\$75,000	100%	\$75,000	No		
	T2 Buckley Road Widening - Vachell to Avila Pl.	\$2,294,500	Build Ph 1 & 4	90.0%	\$1,147,250	100%	\$2,294,500	No		
	T3 Suburban Sidewalk Sidewalks W/O Earthwood (Existing Deficiency)	\$125,000	Build Phase 1	100.0%	\$125,000	100%	\$125,000	No		
	T4 Suburban Signal Modifications	\$125,000	Build Phase 1	100.0%	\$125,000	100%	\$125,000	No		
	T5 Venture Residential Collector	\$2,612,000	Build Phase 1,2,3	100.0%	\$2,612,000	100%	\$2,612,000	No		
	T6 Buckley Frontage Bike Path	\$655,000	Build Phase 1, 4	100.0%	\$655,000	100%	\$655,000	No		
	T7 Horizon/Jespersen Collector Avila Ranch	\$2,163,000	Build Phase 4	75.0%	\$1,622,250	100%	\$2,163,000	No		
	T8 US 101/S. Higuera Interchange - Prepare P&AE for SB Ramp Metering	\$50,000	Complete Phase 1-2	100.0%	\$50,000	100%	\$50,000	No		
	T9 County Office Improvements related to Buckley Road Intersections (at HWY 227 and Davenport Creek) (T34)	\$430,000	Payment to County	N/A	N/A	100%	\$430,000	No		
	Build Project (Potential Private Reimbursement)									
	T10 Vachell Lane Widening, LTL @ Venture, misc sidewalks and Class II Bike Lanes	\$650,000	Build Phase 1	50.0%	\$325,000	100%	\$650,000	No		
	T11 Earthwood Collector Suburban to Venture	\$418,000	Build Phase 1	75.0%	\$313,500	100%	\$418,000	No		
	T12 Buckley Road Extension - Vachell to South Higuera	\$6,000,000	Build Phase 2	25.0%	\$1,500,000	100%	\$6,000,000	No		
	T13 Suburban Widening E/O Earthwood	\$450,000	Build Phase 4	34.7%	\$156,150	100%	\$450,000	Yes	\$293,850	
	T14 Horizon Collector South of Suburban to Avila Ranch w/ROW	\$770,000	Build Phase 4	75.0%	\$577,500	100%	\$770,000	Yes	\$192,500	
	T15 South Higuera/Vachell Lane	\$150,000	Build Phase 2	50.0%	\$75,000	100%	\$150,000	Yes	\$75,000	
	Build Project (Eligible for AASP Fee Credits/Reimbursement)									
	T16 Tank Farm/Higuera SB Dual LT	\$470,000	Build Phase 1	13.4%	\$62,980	100%	\$470,000	No	\$0	
	T17 Tank Farm Creek Bike Path	\$860,000	Build Phase 1,2,3	75.0%	\$645,000	100%	\$860,000	No		
	T18 Tank farm Creek Bikeway - Chevron s/o TFR	\$934,000	Build phase 4 if ROW	100.0%	\$934,000	100%	\$934,000	No		
	T19 Tank Farm/Higuera WB Dual RT	\$670,000	Build Phase 4	13.4%	\$89,780	100%	\$670,000	No	\$0	
	Build Project (Eligible for AASP Fee Credits/Reimbursement)									
	T20 Buckley Extension Bike Path	\$508,000	Build Phase 2	25.0%	\$127,000	100%	\$508,000	No		
Build Project (Eligible for LOVR Credits)										
T21 US 101/LOVR Interchange - Install SB Ramp Metering	\$250,000	Build Phase 1	100.0%	\$250,000	100%	\$250,000	No	\$0		
Build Project (Eligible for City TIF Fee Credits/Reimbursement)										
T22 South Higuera/South Street NB RT Lane	\$370,000	Build Phase 1	30.8%	\$113,960	100%	\$370,000	Yes 1	\$0		
T23 South Higuera Sidewalk - Vachell to LOVR	\$125,000	Build Phase 1	100.0%	\$125,000	100%	\$125,000	No			
T24 South Higuera Sidewalk - City Limit to LOVR	\$60,000	Build Phase 2	24.3%	\$19,440	100%	\$60,000	No			
	Subtotal:	\$21,226,500			\$11,723,810		\$21,226,500		\$361,350	
Avila Ranch Pay Impact Fees/Mitigation Fee	Pay Fee - LOVR									
	T25 LOVR Interchange (Impact Fees remaining after crediting from above)	\$3,172,464	Pay impact Fees	100.0%	\$3,172,464	100%	\$3,172,464	No		
	Pay Fee - Citywide TIF									
	T26 Citywide TIF Impact Fees (Remaining to be paid - reduced for potential TIF Credit shown above)	\$ 1,501,920	Pay Impact Fees		\$1,501,920	100%	\$ 1,501,920	No		
	Pay AASP Fee (or Mitigation Fee as Identified)									
	T27 Horizon Lane S/O Tank Farm to Suburban	\$594,000	Pay Impact Fees	25.0%	\$148,500	0%	\$0	No		
	T28 Prado/Higuera NB Dual LT	\$750,000	Pay Impact Fees	8.5%	\$63,750	0%	\$0	No		
	T29 Prado/Higuera Cumulative Improvements (Dual LT, RT, 2 Truss)	\$2,000,000	Pay Impact Fees	0.0%	\$0	0%	\$0	No		
	T30 AASP Impact Fees (Remaining to be paid - reduced for potential AASP Credit shown above)	\$0	Pay impact Fees		\$0	100%	\$0	No		
	Pay Mitigation Fee - Pro Rate									
	T31 LOVR/Higuera Intersection Improvements	\$2,540,000	Pay MIT Fees	25.4%	\$645,160	25.4%	\$645,160	No		
	T32 Bob Jones Trail Bike Path	\$1,250,000	Pay MIT Fees	5.8%	\$72,500	5.8%	\$72,500	No		
	T33 Buckley/Vachell Intersection	\$650,000	Pay MIT Fees	16.5%	\$107,250	16.5%	\$107,250	No		
	Pay Mitigation Fee - Pro Rate or AASP if Amended into									
	T34 Buckley/HWY 227 Intersection	\$2,700,000	Pay MIT Fees	2.7%	\$72,900	16.0%	\$270,000	No		
	T35 Tank Farm/Higuera NB RT extension	\$850,000	Pay MIT Fees	13.4%	\$113,900	13.4%	\$113,900	No		
		Subtotal:	\$16,898,384			\$5,898,344		\$5,898,344		\$0
		Total All Transportation:	\$27,234,884			\$17,622,154		\$27,198,694		\$361,350
Other Costs	Parks - Land and Improvements (18 acres)	\$8,645,500		100.0%	\$8,645,500	100%	\$8,645,500	No		
	Water and Sewer	\$427,500		100.0%	\$427,500	100%	\$427,500	No		
	Public Safety - Interim Fire Station	\$1,346,250		100.0%	\$1,346,250	100%	\$1,346,250	No		
	Intracrt Improvements - Not Specified Above	\$20,896,000		100.0%	\$20,896,000	100%	\$20,896,000	No		
	Offsite Improvements - Not Specified Above	\$552,000		100.0%	\$552,000	100%	\$552,000	No		
		Subtotal:	\$29,867,250			\$29,867,250		\$29,867,250		
	Grand Total:	\$67,102,134			\$47,489,404		\$56,978,944		\$361,350	

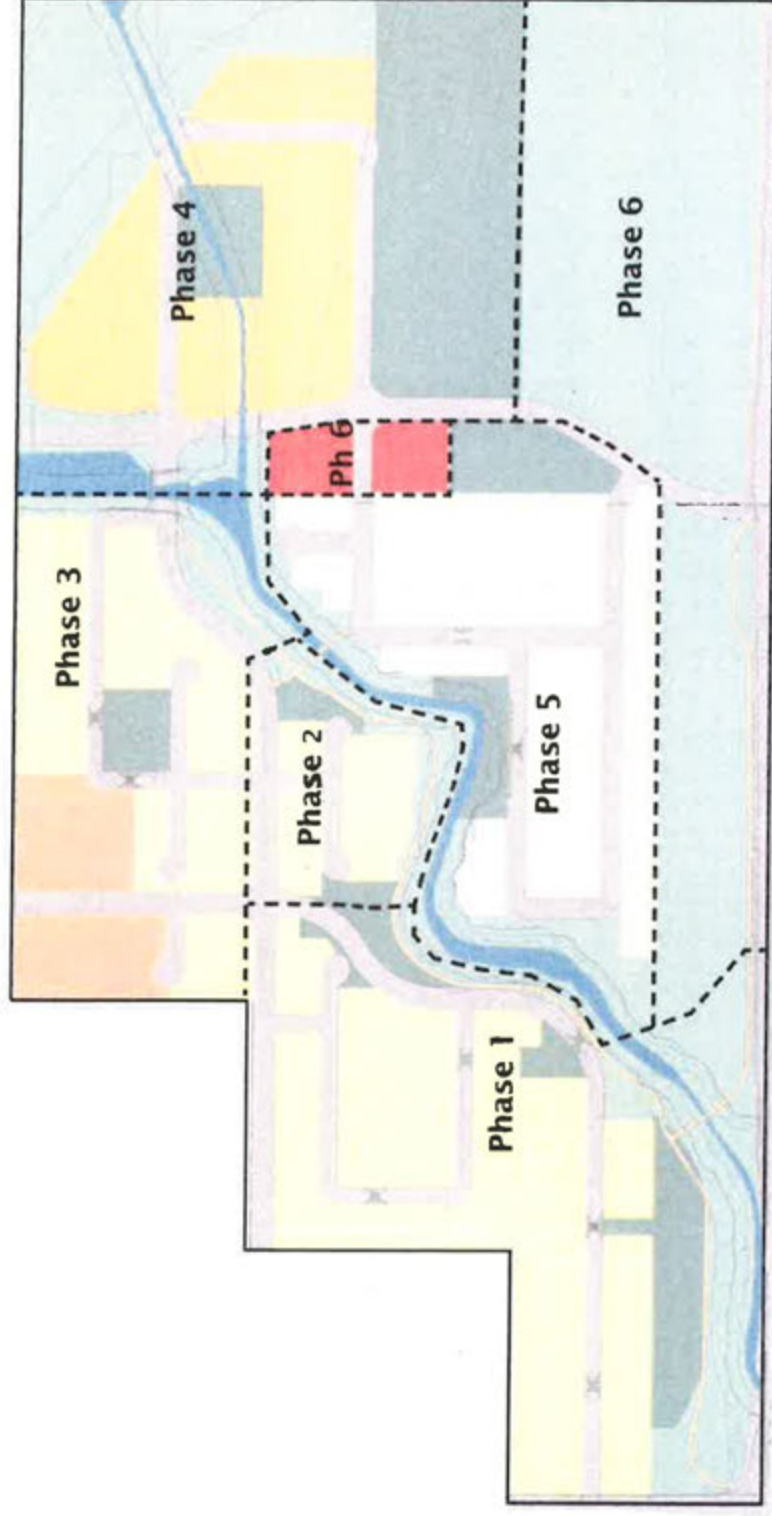


Table B-2  
Avila Ranch Infrastructure Cost and Allocation Analysis

Item	Total Project Cost Estimate	Fee Credit and Reimbursement Agreement Status				Developer Final Equity (Not Subject to Credit or Reimbursement)	If No and If Developer Equity is 100% Value to City	If No and If Developer Equity is 100% Value to County	
		Amount Subject to Fee Credit							
		TIF	AASP	AASP (Future)	LOVR				
Build Project (No Reimbursement)									
T1 Transit Stops	\$75,000					\$75,000			
T2 Buckley Road Widening - Vachell to Avila PL	\$2,294,500					\$2,294,500		\$1,147,250	
T3 Suburban Sidewalk Sidewalks W/O Earthwood (Existing Deficiency)	\$125,000					\$125,000			
T4 Suburban Signal Modifications	\$125,000					\$125,000			
T5 Venture Residential Collector	\$2,612,000					\$2,612,000			
T6 Buckley Frontage Bike Path	\$655,000					\$655,000			
T7 Horizon/Jesserson Collector Avila Ranch	\$2,163,000					\$2,163,000	\$548,750		
T8 US 101/S. Higuera Interchange - Prepare PS&E for SB Ramp Metering	\$50,000					\$50,000			
T9 County Offsite Improvements related to Buckley Road Intersections (at HWY 227 and Davenport Creek) (T34)	\$430,000					\$430,000		\$430,000	
Build Project (Potential Private Reimbursement)									
T10 Vachell Lane Widening, LTL @ Venture, misc sidewalks and Class II Bike Lanes	\$650,000					\$650,000	\$214,500	\$110,500	
T11 Earthwood Collector Suburban to Venture	\$418,000					\$418,000	\$104,500		
T12 Buckley Road Extension - Vachell to South Higuera	\$6,000,000					\$6,000,000	\$1,125,000	\$3,375,000	
T13 Suburban Widening E/O Earthwood	\$450,000					\$156,150			
T14 Horizon Collector South of Suburban to Avila Ranch w/ROW	\$770,000					\$577,500			
T15 South Higuera/Vachell Lane	\$150,000					\$75,000			
Build Project (Eligible for AASP Fee Credits/Reimbursement)									
T16 Tank Farm/Higuera SB Dual LT	\$470,000		\$470,000			\$0			
T17 Tank Farm Creek Bike Path	\$660,000		\$815,000	\$45,000		\$0			
T18 Tank Farm Creek Bikeway - Chevron slo TFR	\$934,000		\$934,000			\$0			
T19 Tank Farm/Higuera WB Dual RT	\$670,000		\$670,000			\$0			
Build Project (Eligible for AASP Fee Credits/Reimbursement)									
T20 Buckley Extension Bike Path	\$500,000			TBD		\$500,000	\$93,750	\$281,250	
Build Project (Eligible for LOVR Credits)									
T21 US 101/LOVR Interchange - Install SB Ramp Metering	\$250,000				\$250,000	\$0	\$0		
Build Project (Eligible for City TIF Fee Credits/Reimbursement)									
T22 South Higuera/South Street NB RT Lane	\$370,000	\$370,000				\$0			
T23 South Higuera Sidewalk - Vachell to LOVR	\$125,000	\$125,000				\$0			
T24 South Higuera Sidewalk - City Limit to LOVR	\$80,000	\$80,000				\$0			
Subtotal:	\$21,226,500	\$75,000	\$2,689,000	\$45,000	\$250,000	\$16,906,150	\$2,078,500	\$5,344,000	
Pay Fee - LOVR									
T25 LOVR Interchange (Impact Fees remaining after crediting from above)	\$3,172,464					\$3,172,464	\$0		
Pay Fee - Citywide TIF									
T26 Citywide TIF Impact Fees (Remaining to be paid - reduced for potential TIF Credit shown above)	\$1,501,920					\$1,501,920			
Pay AASP Fee (or Mitigation Fee as Identified)									
T27 Horizon Lane S/O Tank Farm to Suburban	\$594,000					\$0	\$0		
T28 Prado/Higuera NB Dual LT	\$750,000					\$0	\$0		
T29 Prado/Higuera Cumulative Improvements (Dual LT, RT, 2 Thru)	\$2,000,000					\$0	\$0		
T30 AASP Impact Fees (Remaining to be paid - reduced for potential AASP Credit shown above)	\$0					\$0			
Pay Mitigation Fee - Pro Rata									
T31 LOVR/Higuera Intersection Improvements	\$2,543,000					\$943,180			
T32 Bob Jones Trail Bike Path	\$1,250,000					\$72,500	\$72,500		
T33 Buckley/Vachell Intersection	\$650,000			TBD		\$187,250	\$542,750		
Pay Mitigation Fee - Pro Rata or AASP if Amended into P									
T34 Buckley/HWY 227 Intersection	\$2,760,000			TBD		\$270,000		\$270,000	
T35 Tank Farm/Higuera NB RT extension	\$850,000			TBD		\$113,600	\$0		
Subtotal:	\$16,908,384	\$0	\$0	\$0	\$0	\$5,983,194	\$615,250	\$270,000	
Total All Transportation:	\$37,234,884	\$575,000	\$2,689,000	\$45,000	\$250,000	\$22,789,344	\$2,693,750	\$5,614,000	
Parks - Land and Improvements (18 acres)									
Water and Sewer	\$6,645,500					\$6,645,500	\$0		
Public Safety - Interim Fire Station	\$427,500					\$427,500			
Intrac Improvements - Not Specified Above	\$1,346,250					\$1,346,250	\$0		
Offsite Improvements - Not Specified Above	\$20,896,000					\$20,896,000			
Subtotal:	\$552,000					\$552,000			
Subtotal:	\$29,867,250					\$29,867,250			
Grand Total:	\$67,102,134	\$575,000	\$2,689,000	\$45,000	\$250,000	\$52,656,594	\$2,693,750	\$5,614,000	

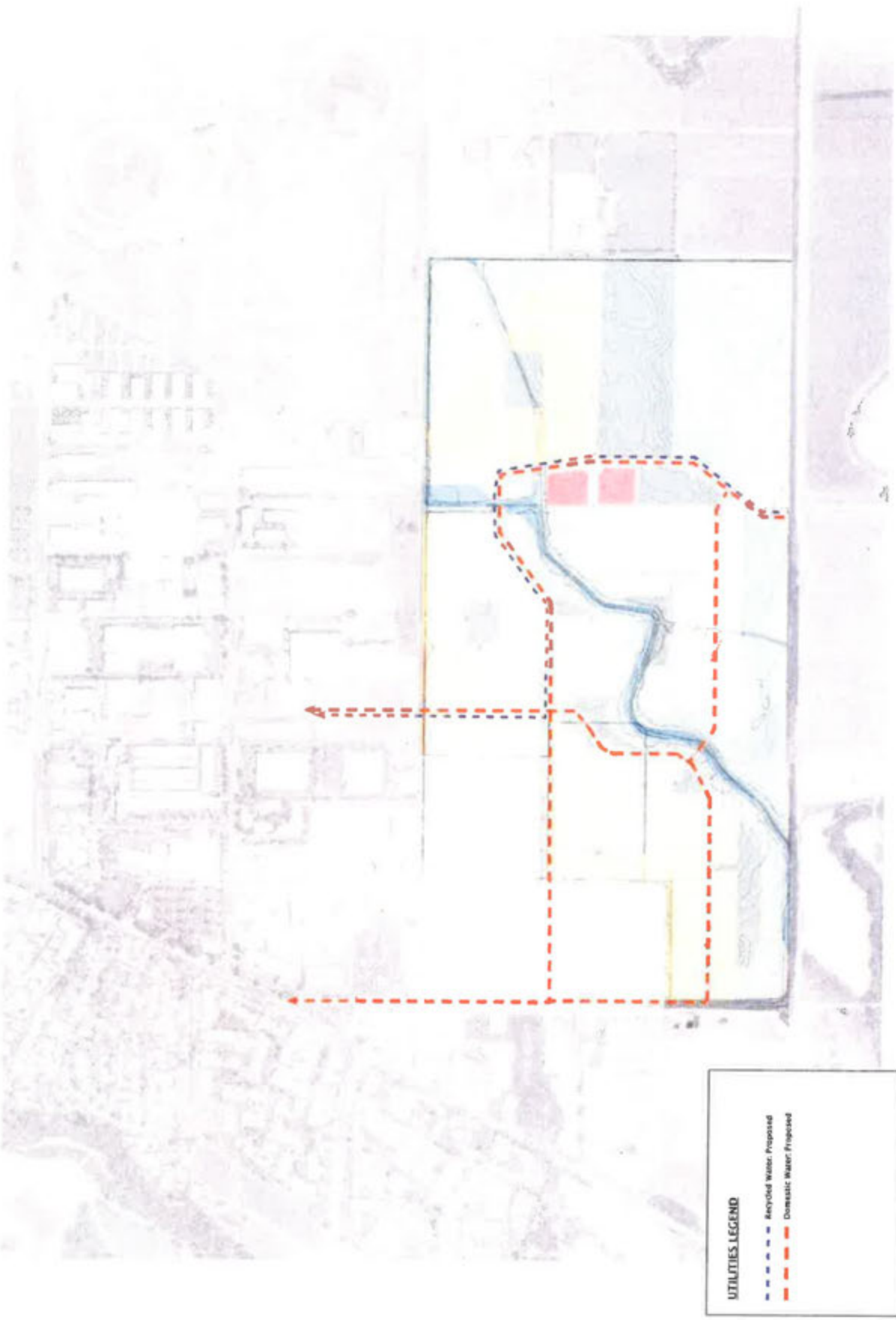
## Exhibit D

### Phasing Plan



## Exhibit E-1

### Backbone Water Infrastructure

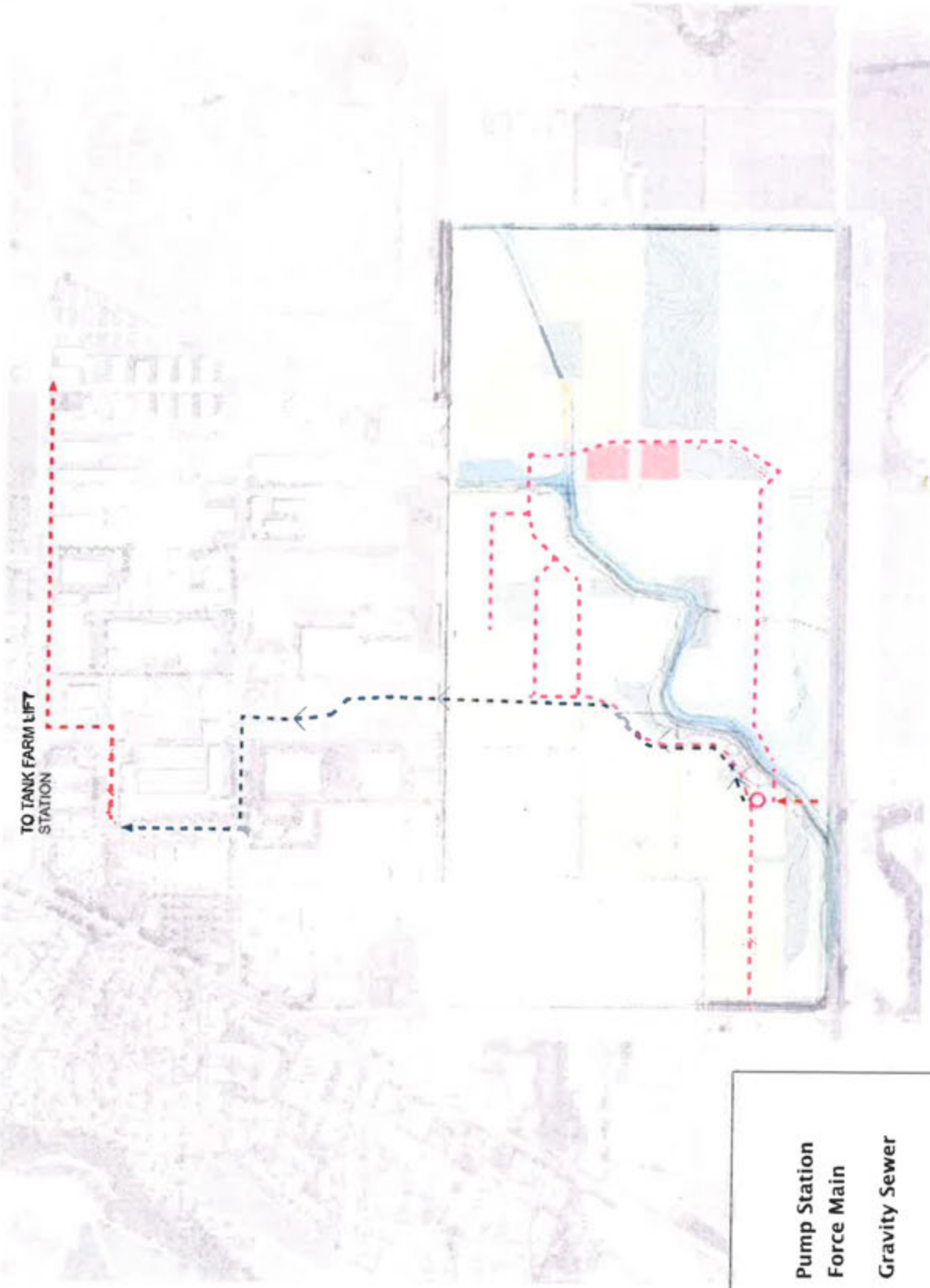


**AVILA RANCH DEVELOPMENT PLAN** | Water Supply Plan

## Exhibit E-2

### Backbone Wastewater Infrastructure





- Pump Station
- Force Main
- Gravity Sewer

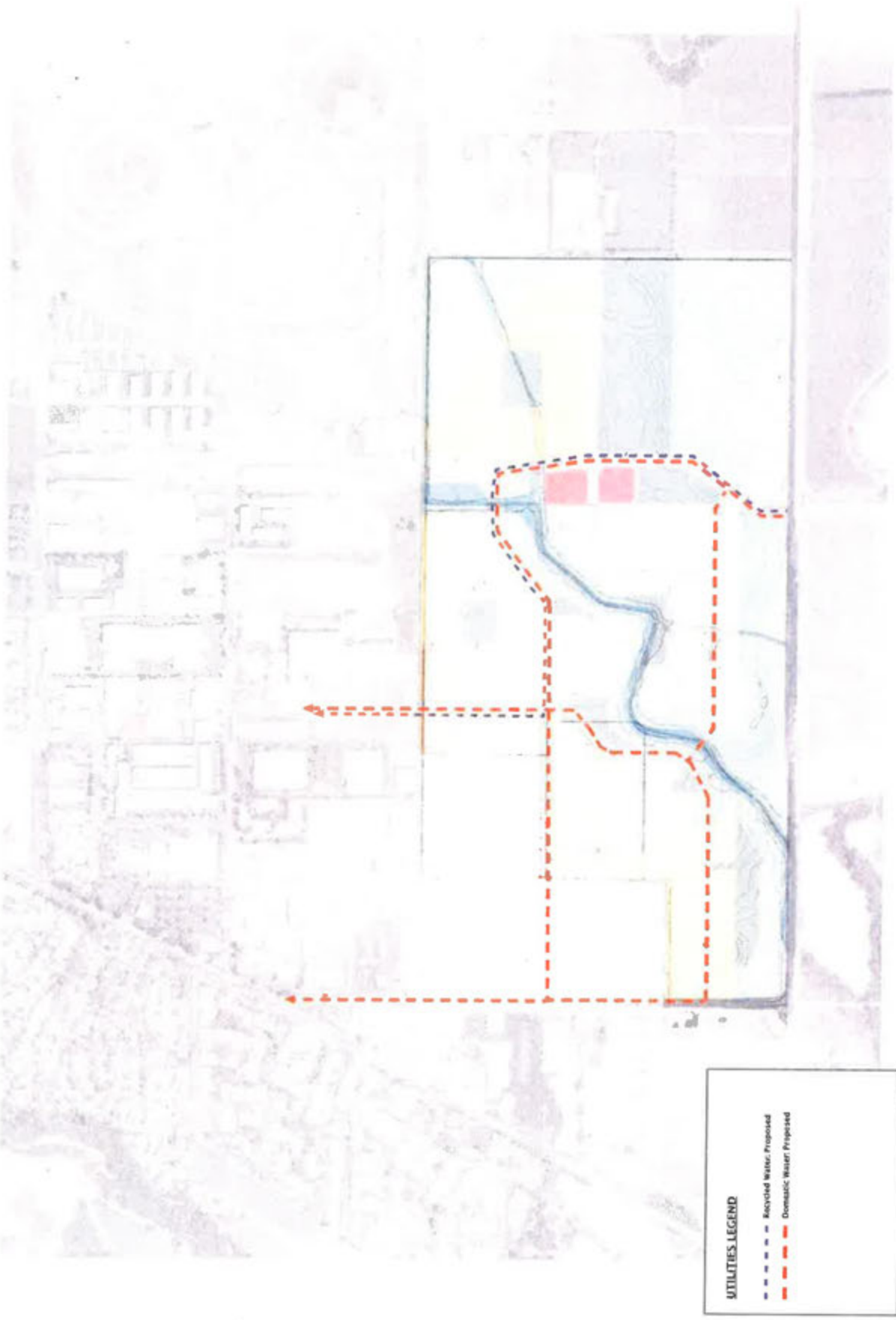
AVILA RANCH DEVELOPMENT PLAN | Wastewater Plan

May 2, 2017  
PROVIDED



## Exhibit E-3

### Backbone Recycled Water Infrastructure







**AVILA RANCH DEVELOPMENT PLAN** / Water Supply Plan

## Exhibit E-4

### Backbone Drainage Infrastructure



	Storm Drains
	Outfalls
	Basin
	Swale

**AVILA RANCH DEVELOPMENT PLAN** | Storm Drainage

## Exhibit F

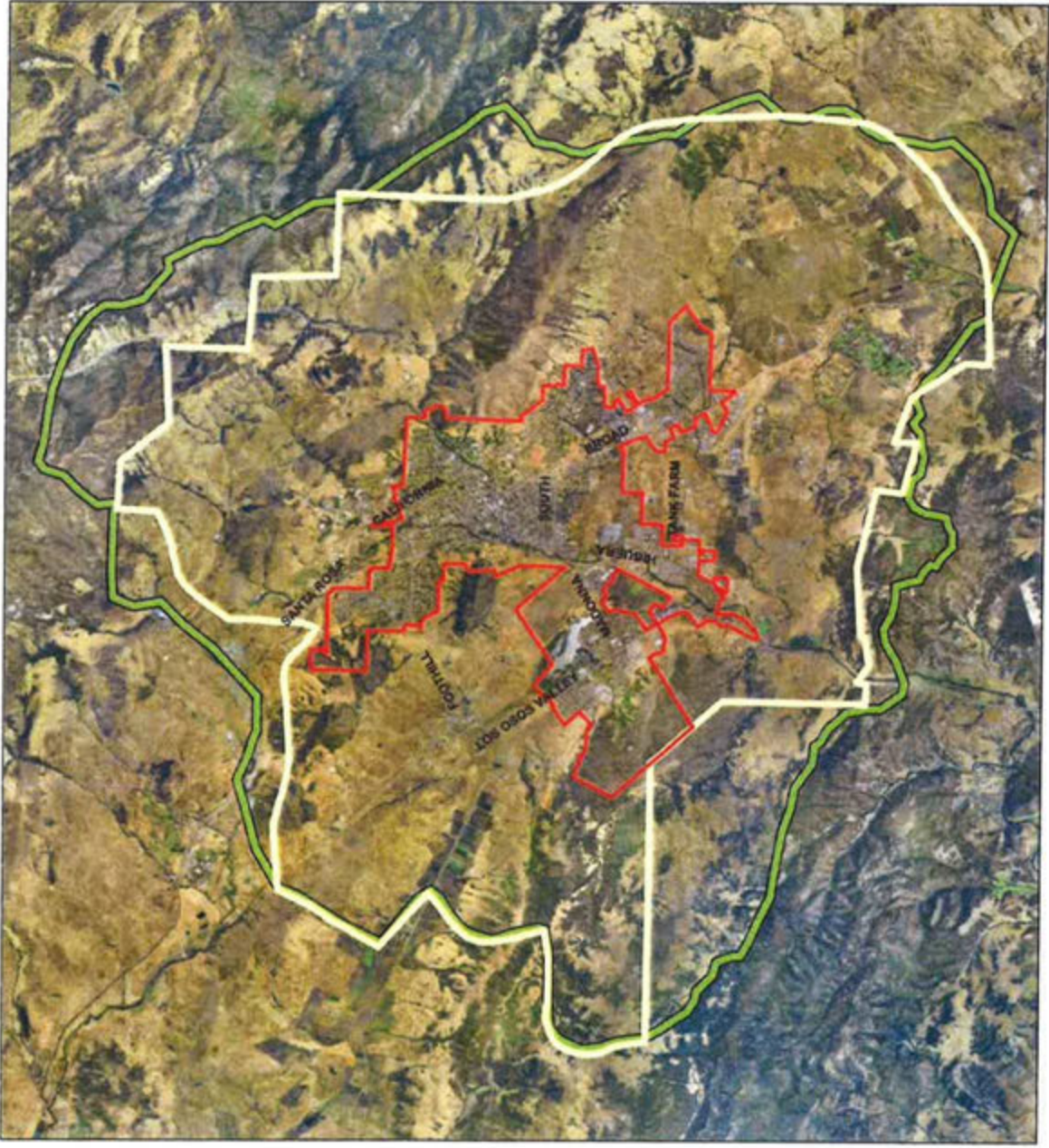
### Figure 5 of Conservation & Open Space Element





**Figure 5:  
Greenbelt Boundaries**

- City Limit
- Greenbelt Boundary
- Previous Greenbelt Boundary



## Exhibit G

### Affordable/Workforce Housing Plan

## **Exhibit G**

### **Affordable & Workforce Housing Plan**

#### **Affordable Housing Plan**

The Avila Ranch project will encourage long term housing affordability by including design and development strategies that serve to provide lower cost housing, by including a range of housing sizes and types that are not typically provided in the community, and by providing a greater number of lower income inclusionary units than required by the City Inclusionary Housing Ordinance. Since the price of houses over time is most closely related to the size of the dwelling unit, the size of the lot, and costs of maintenance, the project has concentrated on lowering the overall size of market rate dwelling units, and reducing lot size for market rate units.

Within each of the residential zones there will be dwelling unit sizes ranging from 550 square foot studios to 1,150 square foot family apartments in the R-4 area, to 2,500 square foot single family detached units in the R-1 development area. A predominant individual share of the project is in small lot single family R-2 units (297 out of 720) and attached single family ownership and rental R-3 units (197 units out of 720). Consequently, the average size of the units across the development is approximately 1,525 square feet.

Maintenance expenses, to the extent feasible, will be included in a Community Facilities District to reduce the necessity for Homeowner's Associations, and the higher costs associated with that maintenance and governance structure. Landscape maintenance and cost of water and utilities will also be reduced because of the drought tolerant landscaping, smaller lots and other sustainable and cost reducing features.

The City's Housing Element provides incentives to develop housing in a denser pattern (R3/R4), and with smaller unit sizes to encourage affordability across the low, mod and workforce income ranges. These incentives include reduced inclusionary housing requirements for denser projects and for projects with lower dwelling unit square footages. Conversely, more inclusionary housing is required for projects with dwelling units that exceed unit sizes of 2,000 square feet. Table 2A of the Housing Element contains these adjustment factors.

According to the City's Inclusionary Housing Ordinance and Table 2A, the inclusionary housing requirement for the residential component of the project is a total of 67 units, with 22 low and 45 moderate income units. The project proposes to meet and exceed the residential component requirement by providing 32 lower income units and 35 moderate income units as show in Table 1 below, which will provide for deeper affordability and more lower income units than required. In addition, the commercial component of the project requires a total of 4 units, with 1 low and 3 moderate income units. The project proposes to meet commercial component requirement by either constructing the units in the project or by paying an affordable housing in-lieu fee.

**Table 1**  
**Inclusionary Housing Requirements**  
**Units Required and Units Provided**

	Units	Avg Size	Total Floor Area	Net Acres	Net Density	Density Units	Density Units/Acre
R-1 Alley	33	2,250	74,250	4.7	7.02	33	7.02
R-1 Front	68	2,250	153,000	8.07	8.43	68	8.43
R-2 Pocket Cottage	76	1,200	91,200	5.67	13.40	76	13.40
R-2 Standard	221	1,750	386,750	21.62	10.22	221	10.22
R-3 Duplex	38	1,750	66,500	4.13	9.20	57	13.80
R-3 Townhome	159	1,375	218,625	6.49	24.50	173	26.66
R-4 Apartments	125	850	106,250	4.39	28.47	115	26.20
Neighborhood Commercial			15,000	1.85			
<b>Total</b>	<b>720</b>	<b>1,525</b>	<b>1,096,575</b>	<b>55.07</b>	<b>13.07</b>	<b>743</b>	<b>13.49</b>
Nominal Requirement	108						
HE Table 2A Adjustment	-41		Constructed	Fee	Total		
Commercial	4						
Requirement:	71	Provided:	67		71		
Low	23		32	1	33		
Moderate	48		35	3	38		

The Avila Ranch project will address housing affordability in several ways, most notably through the design itself, which includes cluster development and many medium and high-density housing units (197 R-3 units and 125 R-4 units), as well as R-2 units that have floor areas that are well below the typical average for single-family detached units in the community.

The City's Inclusionary Housing Requirement will be addressed through deed restrictions on some low income and moderate-income units to be constructed by Avila Ranch, while others will be provided by dedicating and donating improved land to a non-profit affordable housing provider. However, should an affordable housing provider fail to construct the units, the obligation to provide for the 24 deed-restricted low-income affordable housing units remains with Avila Ranch to complete. The following highlights are summarized from the Development Plan:

- **Mix of Residential Densities and Small Lots.** There is an intentional mix of residential densities in the Avila Ranch project that includes a range of R-1 lot sizes, R-2 "four-packs", "six-packs", and "eight-pack" cluster units, and R-3 and R-4 multifamily dwellings, with an emphasis on smaller lot, higher density units. R-2 small lot single family detached units comprise over forty percent of the residential units (with building living areas ranging from 1,050 SF for a 2B/1B unit to 2,200 SF 3B/2B unit), and medium density and above units will comprise over 85 percent of the units in the project. The average unit size across the entire project is less than 1,550 square feet.



- Pocket Cottage Units.** The Plan includes 76 “Pocket Cottage” units, which are intended to meet the needs of young professionals, empty nesters and young families. These units have floor plans ranging from 1,050 to 1,300 square feet in 2BR/1B, 2BR/2B and 3BR/2B configurations. These units, like the other cluster units, are arranged around a common landscaped courtyard, and will have access from a common driveway. These smaller units also have a one-car garage and an adjacent uncovered guest parking space. This parking reduction is justified by the lower expected occupancy for these smaller units and the multimodal features of the overall development. A portion of these units will be reserved for income-qualified workforce households through the Workforce Housing Incentive Program (WHIP) described below. Nine of the Pocket Cottage units (5 2-bedroom and 4 3-bedroom units) would be dedicated for Moderate Income, and 13 of these units (6 2-bedroom/1-bath units and 7 3-bedroom/2-bath units) will be dedicated for the project’s Workforce Housing Incentive Program (WHIP) program described below. The nine inclusionary moderate-income units will be provided on in Phases 1 and 3 of the project on Lots 37, 51, 65, 76, 91, 121, 364, 378 and 392. The Workforce units in the Pocket Cottage series will be provided on Lots 32, 46, 60, 74, 79, 89, 90, 117, 365, 379, 393, 315 or 316.
- R-3 Units and Inclusionary Housing Requirements.** The project includes 197 R-3 multifamily units on 11 acres that range in size from 700 square foot for-sale and for-rent studios to 1,750 square foot duplexes. The R-3 portion will include eighteen (18) for-sale moderate-income units (10 2-bedroom/1-bath units and 8 3-bedroom, 2-bath units) and twelve (12) WHIP units (6 2-bedroom/1-bath units and 6 3-bedroom/2-bath units). The inclusionary units will be provided on Lot 405 as part of the first 80 R-3 townhomes (and the first 116 R-3 units overall), and the 12 Workforce units will be provided on Lot 407.
- R-4 Housing and Affordable Housing Development.** Finally, the project will include a substantial number of apartment units that are near employment and shopping at Suburban and Higuera. The R-4 apartment portion of the project will be directly served by an on-street transit stop and will be within walking distance of nearby shopping. A 1.2 acre portion of R-4 project will be dedicated to an affordable housing provider (Lot 300 of the VTM) at the time that the final map for Phase 1 is recorded to address the local need for lower income housing and to satisfy, in part, the project’s inclusionary housing requirements. The lot shall include 24 lower income units. However, should an affordable housing provider fail to construct the units, the obligation to provide for the 24 deed-restricted low-income affordable housing units on the lot remains with Avila Ranch to complete. Unit sizes in the R-4 apartment portion will range from 550 square foot studios to 1,150 square foot units for larger families. The site to be dedicated is adequate to meet the affordable housing requirement, plus additional potential units. This site will be improved as part of Phase 1 of the project since it is served by Earthwood, and can be conveyed to the affordable housing provider during Phase 1. Its development is not dependent on the completion of improvements in Phase 3 of the project (where it is located), and construction can start on it after the Buckley Road Extension improvements are completed. This will allow completion of these low income inclusionary units early in the project, rather than leaving them to the end. In addition, eight (8) Low Income 2-bedroom/1-bath and eight (8) Moderate Income 2-bedroom/1-bath units will be provided on Lot 301, a market rate apartment development.
- Neighborhood Commercial.** The 1.8-acre Neighborhood Commercial portion of the project will generate a requirement for four additional inclusionary units (1 lower income and 3 moderate income).

Development of this site is anticipated 10+ years, and will be based on market demand. Most of the NC site is currently located in ALUP Safety Zone S-1-B that precludes residential development; however, there is a 0.25-acre portion of Lot 603 that is outside and that can accommodate residential development. The project will include the four inclusionary units in its design, if possible, and subject to the restrictions of the Specific Plan. If that is infeasible, the project will pay an affordable housing in-lieu fee per the Inclusionary Housing Ordinance and Table 2 of the Housing Element.

Overall, the project will provide a total of thirty-two (32) low and thirty-five (35) Moderate Income inclusionary units compared to the city's requirement for twenty-two (22) Low Income units and forty-five (45) Moderate Income units. The inclusionary housing product mix has been intentionally skewed toward the low-income units to ensure that this income group is adequately represented in the project, and to recognize that the moderate-income groups have adequate market rate opportunities in the R-3, R-2 Pocket Cottage and R-4 rental portions of the project. Table 2 shows the phasing of the affordable units, and Exhibit 1 shows the location of these units.

**Table 2**  
**Assisted Affordable Housing Phasing Plan**

<u>Program</u>	<u>Phase</u>						<u>Total</u>
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6*</u>	
Low Income Rentals	24		8			1	33
Mod Income Rentals			8			3	11
Moderate Income For-Sale	6		3	18			27
Workforce For-Sale-WHIP	13			12			25
<u>Other Market Rate Work-</u> <u>force</u>							
For Sale	36		18	70			124
Rental			83	86			169
<b>Total</b>	<b>79</b>	<b>-</b>	<b>120</b>	<b>186</b>	<b>-</b>		<b>385</b>
<b>Units in Phase</b>	<b>179</b>	<b>29</b>	<b>214</b>	<b>197</b>	<b>101</b>	<b>4</b>	<b>724</b>
						Total-Inclusionary Low	33
						Total-Inclusionary Mod	38
						Total-Workforce WHIP	25
						Total--Market Rate Work-	293
						force	
						<b>Total</b>	<b>389</b>

*\*Phase 6 represents the Commercial Development and associated Inclusionary Housing Requirement. This will be met either by development of units within the commercial project or by payment of affordable housing in-lieu fee.*



## **Workforce Housing Plan**

A special four-point program will be provided to create workforce housing and increase the supply of housing available to local employees. This program will include providing local preferences for individuals who work within the City of San Luis Obispo and immediately surrounding area the priority to purchase or rent a residence within the Project, owner-occupancy restrictions in the single-family detached units, and a special Workforce Housing Incentive Program which will provide deed-restricted units for workforce housing eligible households (households earning 121-160% of the Area Median income). This workforce housing program seeks to target the Project to local employees, reduce the influence of investors in the limitation of housing choice and availability, provide a down payment assistance program for Workforce Income families, and provide a certain number of units that will be deed-restricted. The elements of the program are as follows:

- **Local Preference ("SLO Workers First")**. Program 10.4 of the City's Housing Element encourages residential developers to "...sell or rent their projects to those residing or employed in the City first before outside markets." Further, the City and project applicants recognize that one of the principal reasons for the designation of additional residential land in the community in the 2014 Land Use and Circulation Element update was to address the current jobs-housing imbalance. One direct and effective way of achieving this is to provide priority for existing employees to rent or purchase residences within the Project. To that end, an interest list has been developed for the Project. Currently, seventy percent (70%) of those on the interest list work in the San Luis Obispo area. Avila Ranch agrees to give first preference to rent or purchase a residence within the Project to local employees identified on the interest list. For purposes of this program, the term "local employees" shall include individuals who are employed in business that are located in geographic areas that are customarily included in the City's annual jobs-housing balance analysis in its General Plan Status Report. These areas include the City's corporate limits and areas outside the City limits such as Cal Poly, California Men's Colony, Cuesta College, agricultural lands within the Edna Valley area and business parks on South Broad Street. New employees to businesses in these geographic areas with bonafide employment offers will be considered "local employees" as well. Avila Ranch agrees to maintain and update the interest list through full build-out of the Project. City and Avila Ranch agree that, operationally, this program will be administered as follows:
  - a. Avila Ranch shall maintain the interest list and shall separate and prioritize names of local employees based on interest in product type.
  - b. When product becomes available, usually 270-360 days prior to certificate of occupancy (assuming a 180-day construction period), Avila Ranch shall notify those individuals of the opportunity to purchase a residence starting with the "top of the list." Those individuals shall have approximately 60 days to get pre-qualified to purchase the residence and to provide Avila Ranch with proof that the individual is a local employee and the time notice (i.e. paycheck or bonafide offer of employment from a local employer.)
  - c. If an individual fails to get pre-qualified or fails to provide Avila Ranch with proof of local employment within the time periods above, then Avila Ranch may remove or put that name at the end of the interest list.

- d. Except for the multi-family apartments, Avila Ranch agrees not to sell any units within the Project to any individual without first offering the unit to a local employee who is on the interest list for that product type. Upon exhausting all local employees on the interest list for a product type, Avila Ranch agrees to give priority in the sale of such units to individuals residing in the County (but within Fair Housing constraints and state and local regulations), and finally to individuals from outside the county.

Nothing herein shall preclude Avila Ranch from notifying multiple individuals with the opportunity to purchase a residence and prioritizing the purchase and sale based on "first in line" principles. Nothing herein shall preclude Avila Ranch from taking all reasonable actions necessary in order to facilitate the sale of units within the Project provided such actions are consistent with the "SLO Workers First" program described herein. Avila Ranch shall, upon request, update the City on its implementation of this program and provide City with the interest list and proof of employment for all sales made under this program.

City and Avila Ranch acknowledge that this program described above will accomplish three important objectives: 1) use new housing to address the current imbalance between existing jobs and housing; 2) ensure that, to the maximum extent practicable, that the increased housing in San Luis Obispo results in a decline in the current commute traffic; and, 3) reduce competition from outside buyers in the initial offering and sales.

- **Owner-Occupancy Restrictions.** Avila Ranch agrees to include restrictions in the purchase agreement and Covenants Conditions and Restrictions (CC&Rs) for the single family detached units (R-1 and R-2) substantially in the form as set forth in Attachment "A" requiring these units to be restricted to owner-occupants only for the first five years after sale. In the case of units with Accessory Dwelling Units (ADUs), the Principal Dwelling or the ADU will need to be occupied by the property owner. The final form of these agreements will be determined at the time of development of the first final map, and will provide for appropriate monitoring and enforcement. This component of the CC&Rs may not be modified without the City's written consent. The City of San Luis Obispo shall be a designated third party beneficiary to these contractual rights and shall have the right to enforce the owner occupancy requirement. Enforcement and monitoring of the owner occupancy requirement on all single-family dwellings however, Avila Ranch and/ or in coordination with a qualified housing non-profit. Upon request, Avila Ranch shall provide City with any information related to Avila Ranch's implementation and enforcement of this program.

**Workforce Housing Incentive Program (WHIP).** Avila Ranch agrees to provide 25 deed restricted units, including thirteen (13) Pocket Cottage units and twelve (12) R-3 Townhomes, to families in the Workforce Housing category, defined by the City of San Luis Obispo as household incomes of 121% to 160% of Area Median Income (AMI). This program would require that eligible households have incomes no greater than 160% of the then-current Area Median Income (AMI) (Currently estimated at \$133,000 per year) and are income-certified by the Housing Authority of San Luis Obispo or other qualified housing non-profit. For these units, prices would be limited to no more than that required to achieve an Index of Affordability ("Index") of 31 percent (cost of housing including mortgage principal, mortgage interest, taxes and insurance divided by 140% of AMI). The Housing Element does not specify an Index of Affordability for Above Moderate household; however, the proposed index is consistent with the requirements of Policy 2.2 of the Housing Element which specifies a 30% Index for

Moderate Income units, with FHA guidelines, and recognizes the energy and occupancy costs savings proposed as part of the "Net Zero" features of the project. The maximum purchase price would be equal to 5.65 times (140% of 4.05 multiplier) the median income for each household size. For example, the current 4-person (3 bedroom) median household is \$83,200 and the associated maximum price of a 3-bedroom unit would be \$470,200, and the maximum purchase price for a two-bedroom unit would be \$423,200. These units would have to be occupied by an income qualifying Workforce Housing household for a minimum of ten (10) years; if resold within this ten-year period, the units would need to be sold to another income-qualifying Workforce Housing buyer, and the ten-year affordability period would reset. Thirteen (13) of these Workforce units (6 2-bedroom/1-bath units and 7 3-bedroom/2-bath units) will be provided in the R-2 Pocket Cottage portion of the development and twelve (12) units will be provided in the R-3 Townhome portion of the project (6 2-bedroom/1-bath units and 6 3-bedroom/2-bath units). The Workforce units in the Pocket Cottage series will be provided on Lots 32, 46, 60, 74, 79, 89, 90, 117, 365, 379, 393, 315 or 316, and the 12 Workforce units will be provided as on Lot 407 (see Exhibit 1).

The deed restrictions and enforcement would be administered in the same manner that the City does the inclusionary housing requirements. More specifically, prior to recordation of any final map for the Project, Avila Ranch shall enter into and record an Affordable Housing Agreement and Declaration of Restrictive Covenants on title for the Property per City form incorporating the affordability provisions set forth herein. Avila Ranch and City acknowledge that as each workforce housing unit is constructed, a note and deed of trust would be recorded against title to the unit per City form. Avila Ranch acknowledges that the note will be in the amount of the difference between the fair market value of the unit and the restricted sale price and will be in favor of City. The City of San Luis Obispo Community Development Department shall monitor all deed-restricted WHIP units.

**Down Payment Assistance Program.** Avila Ranch agrees to provide a matching down payment assistance (DPA) of five percent of the purchase price up to \$20,000 as a "silent second" on the initial sale of the 25 Workforce homes. These units would have to be occupied by an income qualifying Workforce Housing household for a minimum of ten (10) years; if resold within this ten-year period, the units would need to be sold to another income qualifying Workforce Housing buyer and the 10-year deed restriction would reset to 10 more years with the new buyer of the home. The DPA loan would be repaid upon sale of the unit or refinancing, and the proceeds would be placed in a revolving loan fund to assist future workforce, moderate, or lower income home buyers in Avila Ranch. Unlike a reduction in price that would be captured by a future seller at the end of the affordability term, this assistance would continue throughout the life of the funds to assist buyers in the development. The intent is that these funds will be used in conjunction with the initial 25 Workforce units, but these funds could be used for any income qualifying household who purchases a home in Avila Ranch after the initial ten-year workforce affordability period. This will establish a revolving loan fund of approximately \$500,000 to be administered by the City of San Luis Obispo.

## **Attachment A**

### **Sample Owner Occupancy Limitation in**

### **Conditions, Covenants and Restrictions (CCRs)**

**Leases:** No agreement for the leasing or rental (a "Lease") of a Principal Dwelling Unit or an Accessory Dwelling Unit shall be permitted except as provided herein. Within five years of the date of first occupancy of the Principal Dwelling Unit, there shall be no Lease of the Principal Dwelling Unit without the prior and express approval of the Board based on the determination of the Board that the Lease is reasonably necessary to avoid substantial hardship to the Owner (e.g., ownership and leasing of a Principal Dwelling - Unit for normal investment income purposes would not be permitted). Such hardship may include temporary reassignment of employment to another location, extended requirements for out of state personal commitments, and other factors. A Lease of a Principal Dwelling Unit or an Accessory Dwelling Unit shall be permitted so long as the owner also occupies either the Principal Dwelling Unit or the Accessory Dwelling Unit and the Accessory Dwelling units meets all of the City's requirements.

Any Owner who leases a Principal Dwelling Unit or an Accessory Dwelling Unit (after receiving approval to do so) shall promptly notify the Association and shall advise the Association of the term of the Lease and the name of each tenant. Any Lease shall be subject in all respects to the provisions of this Declaration, the Articles, the Bylaws, the Association Rules, the Architectural Rules and applicable agreements between the Association and any state, local municipal agency; and any Lease shall expressly provide that the Lease is subject to all such instruments and matters. Said Lease shall further provide that any failure by the tenant thereunder to comply with the terms of the foregoing documents shall be a default under the Lease. All Leases shall be in writing.

Any Owner who shall lease or rent his Dwelling Unit shall be responsible for assuring compliance by such Owner's tenant with this Declaration, the Articles, the Bylaws, the Association Rules and the Architectural Rules, and shall be jointly and severally responsible for any violation thereof by his tenant. No Dwelling Unit shall be leased for transient or hotel purposes, for short term vacation rentals, which shall be defined as rental for any period less than thirty (30) days, or any rental whatsoever. No Dwelling Unit shall be leased or rented to more than a single family at any time. Tenants under Leases shall not have voting rights in the Association, but may utilize Common Areas in the same manner as Owners.

## Attachment B

### Sample Purchase Agreement Occupancy Addendum

ADDENDUM "\_\_\_" to

CONTRACT        FOR        PURCHASE        AND        SALE        OF        REAL        PROPERTY  
( \_\_\_\_\_ )

#### OCCUPANCY PERIOD AND USE AS PRINCIPAL RESIDENCE addendum

PROPERTY: Lot \_\_\_ of Tract No.

Address: \_\_\_\_\_

This is an addendum (the "**Addendum**") to the Contract for Purchase and Sale of Real Property (the "**Contract**") dated \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_, as "Seller," and the undersigned, as "Buyer," concerning the property described above (the "**Property**"). This Addendum modifies the Contract as set forth below. All terms used as defined terms below shall have the same meaning as when used in the Contract unless expressly stated otherwise in this Addendum.

Seller desires to sell the Property only to a Buyer only if Buyer will occupy the Property as Buyer's principal residence for at least five (5) years. Buyer acknowledges that imposition of the minimum occupancy period contained in this Addendum, and Seller's limitation of selling only to owner-occupants is a material consideration, and that Seller is forfeiting potential additional profits by selling to Buyer and other owner-occupants. Therefore, to induce Seller to agree to sell the Property to Buyer, Buyer represents and agrees as follows:

1. **Use as Principal Residence for five years.** Buyer represents and warrants to Seller : (a) that Buyer is purchasing the Property for use as Buyer's principal residence; and, (b) that Buyer will occupy the Property as Buyer's principal residence upon the Close of Escrow; and, (c) that Buyer shall not attempt to transfer Buyer's rights under the Contract nor enter into any agreement for the lease, sale or other transfer of the Property which would result in Buyer's failure to occupy the Property as Buyer's principal residence and hold title thereto in fee simple for a period of five (5) years from the Close of Escrow of Buyer's purchase of the Property (the "**Occupancy Period**"). The provisions this Paragraph and the accuracy of the above representations and warranties constitute a covenant of Buyer and a condition precedent to Seller's performance under the Contract. In the case of Property with a Principal Residence and an Accessory Dwelling Unit, the Buyer shall occupy either the Principal Residence or the Accessory Dwelling Unit. Failure of Buyer to occupy the Principal Residence shall not constitute a breach of this Addendum.
2. **Transfer Prior to Close of Escrow.** Any attempt by Buyer to assign Buyer's rights under the Contract and/or to lease, sell or otherwise transfer the Property prior to the Close of Escrow for the sale of the Property without Seller's prior written consent shall constitute both of the following:  
(1) Buyer's default under the Contract, entitling Seller, at its sole election, to terminate the Con-

tract and retain Buyer's deposit pursuant to Paragraph the Contract; and, (ii) the failure of a condition precedent to Seller's obligation to sell the Property to Buyer. Seller's remedies may occur prior to or after the Close of Escrow for the sale of the Property to Buyer. If the Buyer breaches the provisions of this Addendum and the Escrow for the sale of the Property to Buyer has closed, Seller shall be entitled to damages as set forth in Paragraph 4 of this Addendum.

3. **Seller's Right to Terminate CONTRACT.** Buyer understands and agrees that Seller has the unilateral right, in its sole discretion, to terminate the Contract and cancel the Escrow in accordance with Paragraph 2 above, if Buyer takes or has taken any of the following actions: (a) assigns the Contract to another person prior to the Close of Escrow; or, (b) advertises, lists or otherwise offers the Property for sale or rent to others at a time or manner which would result in the failure or inability of the Buyer to reside in the Property for the full Occupancy Period; or,, (c) enters an agreement to sell or rent the Property which would cause Buyer to move from the Property prior to the expiration of the Occupancy Period; or, (d) takes any other action which indicates to Seller that Buyer does not have a bona fide intention of residing in the Property as Buyer's principal residence for the full Occupancy Period.
4. **Transfer Subsequent to Close of Escrow.** Except for "hardship" situations as described in Exhibit "A" to this Addendum, attached hereto, any sale, lease or other transfer by Buyer under which Buyer either fails to occupy the Property for the Occupancy Period or transfers fee simple title to the Property prior to the expiration of the Occupancy Period shall constitute Buyer's default under the Contract. Any such default shall entitle Seller to any of the following remedies: (a) in the case of a sale or other transfer of fee title to the Property, Seller shall be entitled to the amount of the appreciation of the Property which has occurred after the Close of Escrow; or, (b) in the case of a lease or other occupancy agreement, the greater of (i) the actual rent and/or other economic consideration or (ii) the fair market rental value of the Property (collectively, "**Rent**") payable to or for the benefit of Buyer during the Occupancy Period in connection with such lease or other occupancy agreement. For purposes of this Addendum, "appreciation" shall be mean the difference between (i) the fair market value of the Property at the time of Buyer's sale thereof, less Buyer's customary costs of resale such as broker's commission, escrow fees and title costs, and (ii) the Total Purchase Price of the Property plus Buyer's actual cost paid for any improvements made by Buyer to the Property, as evidenced by paid unrelated third-party invoices. Buyer shall pay appreciation to Seller concurrently with the sale or other transfer of fee title to the Property by Buyer. Buyer shall pay Rent to Seller within the first five (5) days of each calendar month during the Occupancy Period.
5. **No Unreasonable Restraint.** Buyer acknowledges that the purpose of this Addendum is to comply with Seller's intention to sell homes only to persons who will occupy them as a principal residence, to obtain a stabilized community of owner-occupied homes, to prevent a shortage of available homes to the local workforce, and to prevent a shortage of homes to permanent residents of San Luis Obispo. Buyer agrees that the provisions and restrictions set forth in this Addendum do not constitute an unreasonable restraint upon alienation of the Property.
6. **Survival: severability grant.** All of the covenants contained herein shall survive the delivery and recordation of the deed conveying the Property from Seller to Buyer and the Close of Escrow. The



provisions of this Addendum shall be independent and severable, and a determination of invalidity or partial invalidity or enforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision of this Addendum or the Contract.

7. **Subordination.** Buyer hereby acknowledges and agrees that a violation of this Addendum by Buyer shall not defeat or render invalid the lien of any first mortgage or deed of trust made in good faith and for value by Buyer, and that the covenants and provisions of this Addendum shall be inferior and subordinate to the lien of any such first mortgage or deed of trust recorded concurrently with the deed conveying the Property to Buyer.
8. **Entire Agreement.** This Addendum and Exhibit "A" hereto contain the entire agreement between Buyer and Seller concerning the matters set forth herein. All prior discussions, negotiations and agreements, if any, whether oral or written, are hereby superseded by these documents. No addition or modification of this Addendum or the Contract shall be effective unless set forth in writing and signed by Buyer and an authorized officer of Seller.
9. **Attorney's Fees.** In the event of controversy, claim or dispute relating to breach of the terms of this Addendum, the prevailing party shall be entitled to recover from the losing party reasonable expenses, including attorneys' fees and costs.
10. **No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Addendum.
11. **Capitalized Terms.** Various capitalized terms used in this Addendum are defined in the Agreements and shall have the same meaning as set forth herein, unless otherwise indicated herein.

**Buyer acknowledges that Buyer has read the provisions of this Addendum and that Buyer understands the provisions and finds them to be reasonable.**

IN WITNESS WHEREOF, the parties have executed this Addendum and make it effective as of the date of Seller's acceptance indicated below.

**"SELLER"**

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

Its: \_\_\_\_\_

**Seller's Acceptance**

Date: \_\_, 20\_\_

**"BUYER"**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

**Buyer's Acceptance**

Date: \_\_, 20\_\_

**EXHIBIT "A" TO ADDENDUM "\_\_"**

The following events shall be deemed to constitute "hardship" situations under which Buyer may transfer, sell, assign, convey or lease (each of which is "a Transfer") its right, title and interest in the Property prior to either (a) Close of Escrow, or (b) occupying and holding title to the property for a period of five y (5) years from Close of Escrow:

A Transfer resulting from the death of Buyer;

Transfer by Buyer where the spouse of Buyer becomes the only co-owner of the Property with Buyer;

A Transfer resulting from a decree of dissolution of marriage or legal separation or from a property settlement agreement incident to such decree;

A Transfer by Buyer into a revocable inter vivos trust in which Buyer is a beneficiary;

A Transfer, conveyance, pledge, assignment or other hypothecation of the Property to secure the performance of an obligation, which transfer, conveyance, pledge, assignment or hypothecation will be released or re-conveyed upon the completion of such performance;

A Transfer by Buyer where necessary to accommodate a mandatory job transfer required by Buyer's employer (not including Buyer, if Buyer is self-employed);

A Transfer necessitated by a medical or financial emergency, proof of which emergency has been delivered to Seller, and has been approved by Seller in its reasonable discretion;

A Transfer which, in the reasonable judgment of Seller, constitutes a "hardship" situation consistent with the intentions of this Addendum and this Exhibit "A" thereto.

Exhibit 1



## Exhibit H

### Water Improvements



## Exhibit I

### Water Well Site Plan





REFER TO A9 FOR  
ADDITIONAL DETAIL

REFER TO A8 FOR  
ADDITIONAL DETAIL

REFER TO A7 FOR  
ADDITIONAL DETAIL

REFER TO A6 FOR  
ADDITIONAL DETAIL

REFER TO A5 FOR  
ADDITIONAL DETAIL

REFER TO A4 FOR  
ADDITIONAL DETAIL

## Exhibit J

### Bicycle and Multimodal Improvements

## Exhibit J

### Bicycle and Multimodal Improvements

#### Development Plan Features

##### *Pedestrian and Bicycles:*

1. **Class I Bike Paths.** Construct Class I multi-use paths in accordance with the project site plan and connect them to the off-site transportation network consistent with the City's Bicycle Transportation Plan. The Buckley Extension Class I bike lane will be provided ahead of the street improvements, such to availability of right of way.
2. **Class II Bike Lanes.** Construct 8-foot Class II "buffered" bike lanes on all Residential Collectors and Commercial Collectors in the Project (Earthwood, Venture, Jespersen and Horizon), and on offsite roads including Vachell and Buckley along the project frontages. The Buckley Extension shall include a 8' buffered bike lane in addition to the Class I. Offsite Earthwood to Suburban shall be minimum 6' bike lane width if parking is removed subject to approval of the Director of Public Works. Buffered bike lane shall use appropriate separation devices, subject to approval of the Director of Public Works, that will assist in providing positive separation between vehicles and bicyclists.
3. **Bike Bridges.** Construct three bike bridges across Tank Farm Creek, one for eastbound traffic on the south side of Buckley to provide east-west connectivity on Buckley Road, and the other along the north side of Buckley on the southern side of Phase 1. An additional bike bridge across Tank Farm Creek will be constructed between Phase 2 area and Phase 5 area as part of phase 5 development or when the offsite Chevron Class I facility is constructed, whichever occurs sooner.
4. **Tank Farm Creek Bike Path Connectivity.** The Chevron portion of the Tank Farm Creek Class I bike path will be constructed by the project to improve connectivity subject to the following: 1) city provides the right of way; 2) connection is made in conjunction with Phase 4 (onsite Tank Farm Creek bike path will be completed in Phase 3; 3) any right of way expense should be paid for by the City and any bike and ped improvement should be included within the reimbursement agreement; and, 4) City will ensure that the cost of the improvements will be completely reimbursed by the end of the buildout.
5. **Octagon Barn/Buckley Road Connectivity.** The Land Conservancy and SLO Bike Club have noted that the portion of the Bob Jones Trail between the Octagon Barn and the Buckley Extension is a missing link. The County currently has a ROW reservation (but not an irrevocable offer) for this area. The project will construct this subject to ROW being provided. ROW should/could be acquired at the time Buckley Extension ROW is secured from the same property owner.)
6. **Bikes and E-Bikes.** E-bikes have been identified as a potential asset to increasing the range and frequency of bike usage, including work trips and weekly shopping trips. The project will provide a \$750 voucher to each R-1, R-2 and R-3 Duplex household. Each separate R-3 Townhome and R-

4 development shall provide a pool of bikes and e-bikes, at an initial rate of one bike per seven units (28 e-bikes for the R-3, and 18 e-bikes for the R-4), with at least half of the pool being e-bikes. The R-4 and R-3 owners/HOAs would be responsible for operation of this pool and it shall be maintained in perpetuity.

7. **Pedestrian Improvements.** Pedestrian improvements will be provided along Suburban, Vachell and Higuera to eliminate the missing links of sidewalks and/or elimination of non-ADA compliant crossings. Appendix F shows the scope of these improvements.
8. **Enhanced Pedestrian and Bicycle Connectivity.** These changes include narrower vehicle lanes and wider bike lanes on internal streets. Vehicle lanes have been narrowed to 10' feet while bicycle lanes have been widened to a full 8-foot buffered bike lane standard. These buffered bike lanes occur on all internal major streets, including Earthwood, Venture, Jespersen and Horizon. Special at-grade "speed table" pedestrian street crossings per Sheets A15 and A16 have also been included to provide for the traffic calming and a continuous walking experience. Finally, pedestrian through connections have been specified along and between residential blocks. This results in a pedestrian intersection density of over 500 intersections per square mile, well in excess of the standard established by LEED and the Smart Growth Coalition.

***Car Sharing:***

1. Shared Mobility strategies will be included to reduce the necessity for additional vehicles for each family. Car sharing would be provided in the development at an initial rate of one car per 50 residences, with at least 50 percent of that fleet in the form of electric vehicles. Vehicles would be stored onsite in guest parking spaces, near public parks and on where approved by the City on public streets.

***Transit:***

1. Provision of transit stops on the project site. Phase 1 will include a transit stop on Earthwood north of Venture, and Phase 4 will include a transit stop at the Town Center.
2. The project site will also be served by bus service from the San Luis Coastal Unified School District. Transit stops will be provided throughout the project in accordance with their requirements.
3. The project shall ensure adequate transit services are provided to the project by the 50<sup>th</sup> unit of Phase I development.

***Mitigation Measures & Conditions of Approval:***

1. All Mitigation Measures and Conditions of approval as identified in final Council resolution for the project shall be implemented.

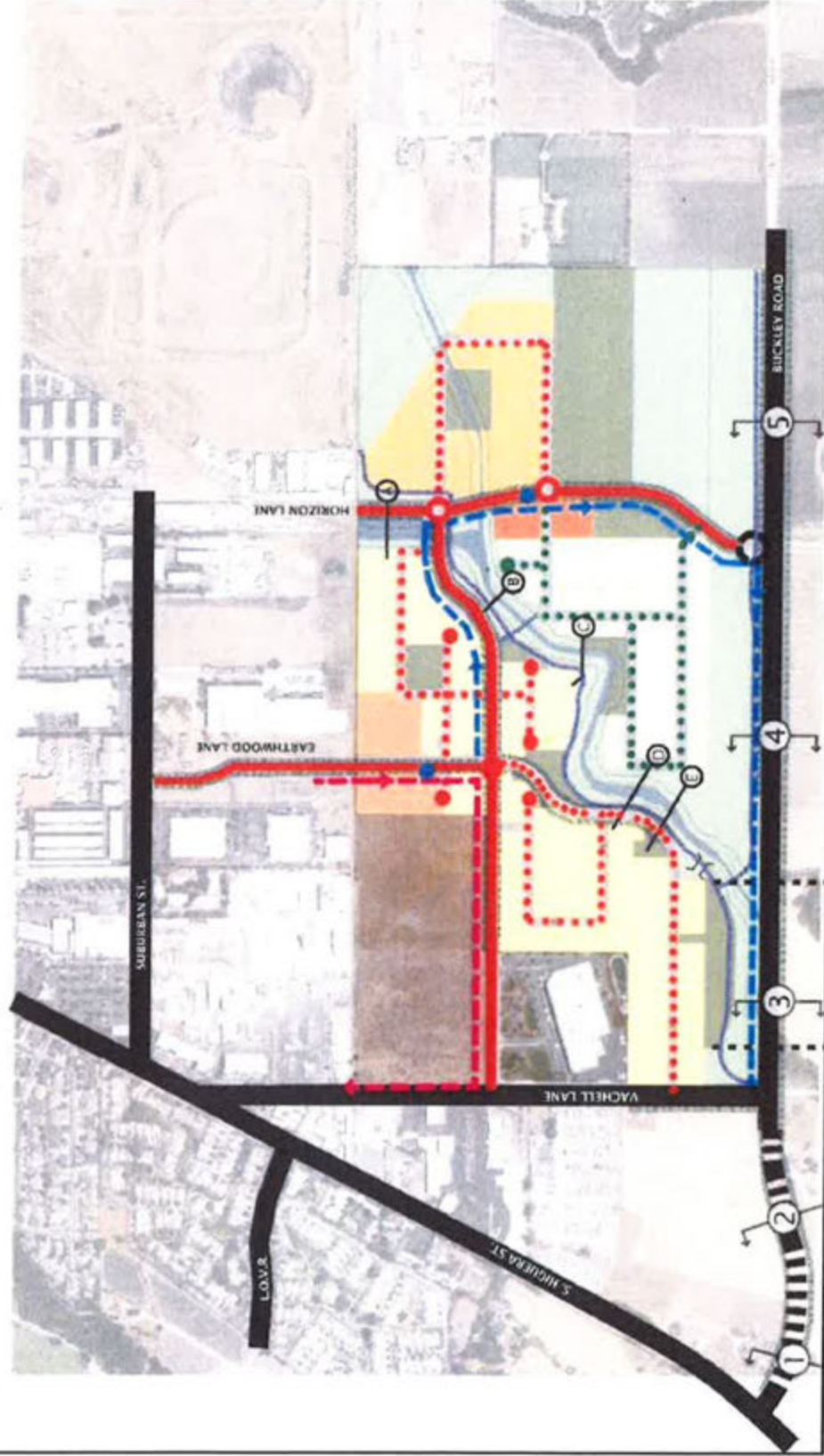


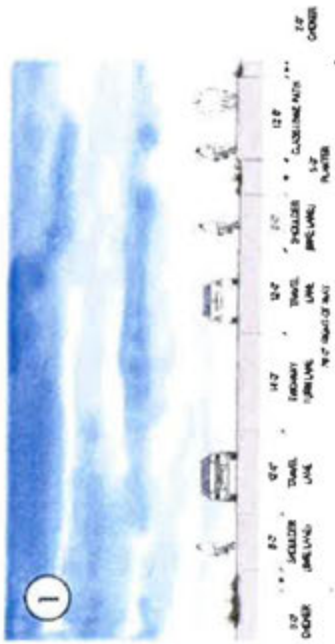
# LEGEND

- Existing Roads
- 60' Collector Road (A14)
- 58' Residential Road (A13)
- 48' Residential Road (A12)
- Class I Bicycle Path
- Class II Bicycle Lane

- Proposed Buckley Extension
- Refer to Buckley Road Street Sections (A20)
- Refer to project Creek Sections (A23, A24)

- Entry
- Bus Route 2, Alternative A
- Bus Route 2, Alternative B
- Proposed Bus Stop Location





BUCKLEY ROAD SECTION: 1



BUCKLEY ROAD SECTION: 3



BUCKLEY ROAD SECTION: 2



BUCKLEY ROAD SECTION: 4



BUCKLEY ROAD SECTION: 5



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In The Superior Court of The State of California  
In and for the County of San Luis Obispo

AD #3297337  
CITY OF SAN LUIS OBISPO  
OFFICE OF THE CITY CLERK

STATE OF CALIFORNIA

ss.

County of San Luis Obispo

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen and not interested in the above entitled matter; I am now, and at all times embraced in the publication herein mentioned was, the principal clerk of the printers and publishers of THE TRIBUNE, a newspaper of general Circulation, printed and published daily at the City of San Luis Obispo in the above named county and state; that notice at which the annexed clippings is a true copy, was published in the above-named newspaper and not in any supplement thereof – on the following dates to wit; SEPTEMBER 23, 2017 that said newspaper was duly and regularly ascertained and established a newspaper of general circulation by Decree entered in the Superior Court of San Luis Obispo County, State of California, on June 9, 1952, Case #19139 under the Government Code of the State of California.

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

*Jane E. Durand*  
(Signature of Principal Clerk)

DATE: SEPTEMBER 23, 2017  
AD COST: \$180.96



CITY OF  
SAN LUIS OBISPO

ORDINANCE NO. 1639 (2017 SERIES)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN LUIS OBISPO, CALIFORNIA, APPROVING THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN LUIS OBISPO, A CHARTER CITY, AND AVILA RANCH LLC

NOTICE IS HEREBY GIVEN that the City Council of the City of San Luis Obispo, California, at its Regular Meeting of September 19, 2017, introduced the above titled ordinance upon a motion by Council Member Gomez, second by Council Member Christenson, and on the following roll call vote:

AYES: Council Member Carolyn Christenson, Aaron Gomez, Andy Pease, Vice Mayor Dan Riviere, and Mayor Heidi Harmon

NOES: None

Ordinance No. 1639 (2017 Series) – This is a City Ordinance that adopts the negotiated agreement between the applicant and the City on important areas related to the phased and orderly development of the Avila Ranch project. The agreement includes extended vesting of development entitlements and reimbursement for public infrastructure and improvements beyond project requirements, which will enable the development of 720 residential units and 15,000 square feet of neighborhood commercial on a 150-acre site north of Buckley Road, including 18 acres of parks and 53 acres of designated open space within the project boundaries.

A full and complete copy of the aforementioned Ordinance is available for inspection and copy in the City Clerk's Office, located at 990 Palm Street, San Luis Obispo, California, or you may call (805) 781-7100 for more information.

NOTICE IS HEREBY FURTHER GIVEN that the City Council of the City of San Luis Obispo will consider adopting the aforementioned Ordinance at its Regular Meeting of October 3, 2017, at 6:00 p.m., which will be held in the Council Chamber, located at 990 Palm Street, San Luis Obispo, California.

Carrie Gallagher  
City Clerk

September 23, 2017

3297337

END OF DOCUMENT