



Community Development

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October 31, 2024

TO: Mayor and City Council
FROM: Timmi Tway, Community Development Director
SUBJECT: San Luis Ranch Proposed Lot 7 Amendments

The proposed San Luis Ranch Lot 7 General Plan and Specific Plan amendments have been scheduled for City Council review of initiation on December 10, 2024. A complete agenda report with current project description, fiscal impact analysis considerations, and staff analysis will be provided prior to the meeting.

City staff is providing this memo to address specific points identified in San Luis Ranch’s October 9, 2024 letter to City Council and provide additional context for Council’s benefit.

70 Affordable Units by PSHH

The 70 affordable units noted in the SLR Lot 7 project description for construction by People’s Self Help Housing (PSHH) are an existing project requirement which are necessary to fulfill SLR’s inclusionary housing requirement.

The originally approved 2017 Specific Plan and Development Agreement required SLR to construct either a total of 68 affordable units, or 34 affordable units and payment of in-lieu fees for the commercial development. These calculations were based on the Inclusionary Ordinance in place in 2017:

2017 Approval	Number of Affordable Units	Location & Requirement	Status
	4 low-income units	Required in single-family Zoning NG-23	Completed by SLR
	4 moderate income units	Required in single-family Zoning NG-10	Completed by SLR
	26 very-low-income units	Required in multi-family Zoning NG-30	Not yet constructed
	34 inclusionary housing units or payment of in-lieu fees	Required to fulfill commercial inclusionary requirement Based on amount of commercial acreage	Not yet constructed
2017 Total:	68 affordable units or 34 affordable units and payment of in-lieu fees		- 8 constructed - 60 units not constructed

A Specific Plan amendment was approved in November 2020 to transfer the 26 required very-low-income affordable units from the multi-family portion of SLR to a mixed-use project on Lot 7 (which, at the time, was a mixed-use site proposed as a majority commercial). As a project benefit

proposed in exchange for the City allowing the transfer of the units to Lot 7, the developer offered to deliver at least four and potentially up to 17 additional very-low-income housing units with the 2020 Specific Plan amendment, thereby bringing the total affordable housing units in the PSHH project on Lot 7 to between 64-77 units. 4 low-income and 4 moderate-income units were constructed in the single-family residential area, as required. Therefore, with the 2020 Specific Plan amendment plus the 8 units that were constructed in the single-family area, the total number of required affordable units have now reached 72-85 within the SLR Specific Plan area. SLR has, to date, constructed 8 of these units, leaving a remaining requirement of 64-77 units. The following table illustrates the affordable units currently required in the project and the current status of construction:

2020 Approval	Number of Affordable units	Location & Requirement	Status
	4 low-income units	Required in single-family Zoning NG-23	completed
	4 moderate income units	Required in single-family Zoning NG-10	completed
	26 very-low-income units	Previously required within multi-family development - Transferred in 2020 from multi-family to Lot 7	Not constructed * Planned to be developed by PSHH
	34 inclusionary housing units or payment of in-lieu fees	Required to fulfill commercial inclusionary requirement	Not constructed * Planned to be developed by PSHH
	<i>Between 4 to 17 additional very-low-income units</i>	<i>Project benefit in exchange for transfer of 26 very-low-income units from multi-family site to Lot 7</i>	Not constructed * Planned to be developed by PSHH
2020 Total:	72-85 affordable units (total units within SLR) Of this total, 64-77 are to be constructed on Lot 7 by PSHH		- 8 constructed - 64-77 units unfulfilled

The October 9, 2024 letter from SLR to Council members stated that PSHH will provide at least 70 inclusionary units for low and very-low income tenants. In a July 18, 2024 response to City staff, the applicant included the following affordable housing proposal. Levels of affordability (very-low, low, or moderate income) have not been identified for units on Lot 7. SLR's current proposal includes:

2024 SLR Proposal	Number of Affordable units	Location & Requirement	Status
	4 low-income units	Required in single-family Zoning NG-23	completed
	4 moderate income units	Required in single-family Zoning NG-10	completed
	26 very-low-income units	Previously required within multi-family development - Transferred in 2020 from multi-family to Lot 7	Not constructed * Planned to be developed by PSHH

	15 inclusionary housing units	<i>Proposed for commercial inclusionary, based on 2017 Inclusionary Ordinance:</i> <ul style="list-style-type: none"> • 0.5 acre Lot 7 Commercial – 1 unit • 3.5 acre Hotel – 7 units • 3.7 acre Office use – 7 units 	Not constructed * Planned to be developed by PSHH
	28 affordable units	<i>10% of the additional 276 market rate units proposed on Lot 7 required to be affordable, based on current Inclusionary Ordinance requirement</i>	Not constructed * Planned to be developed by PSHH
	<i>Potentially between 0 to 13 additional affordable units if PSHH can secure funding</i>	<i>Additional units beyond required minimums no longer guaranteed in current proposal</i>	Not constructed * Planned to be developed by PSHH
2024 Proposed Total:	77-90 affordable units (total units within SLR) Of this total, 69-82 are proposed to be constructed on Lot 7 by PSHH		- 8 constructed - 69-74 remaining units unfulfilled

Timing of Affordable Unit Construction

Currently, San Luis Ranch has an outstanding obligation for 26 very-low-income units that has not been fulfilled, that are required due to the existing development of the multi-family portion of the SLR project which was completed in September 2024. The SLR Affordable Housing Agreement, which was recorded in September 2020 (prior to Council approval of the transfer of the 26 very-low-income units) states that the 26 very-low-income units “shall be constructed in proportion to the construction of the other units in the NG-30 Zone, or as stated in condition of approval of future NG-30 Zone development approval.”

At the time of the 2020 Specific Plan amendment and the NG-30 development approval, SLR was resistant to a timing condition for construction of the affordable units. [City ordinance](#) requires that inclusionary units “be constructed concurrently with market rate units, unless an alternative development schedule is otherwise stipulated by the applicable review authority.” City ordinance also requires inclusionary units to be dispersed throughout the residential development project to prevent a concentration of affordable units and ensure concurrent construction of affordable units, and requires that the affordable units be consistent with the design of market rate units in terms of exterior appearance, materials, and finished quality. SLR was provided some relief from strict adherence to the Inclusionary Ordinance, including the dispersed location and design of the units, in 2020 in exchange for 4 to 17 additional affordable housing units. A construction timing condition was not included in the resolution of approval with the 2020 amendment or the NG-30 development approval. However, the recorded Affordable Housing Agreement still states that the 26 very-low-income units shall be constructed in proportion to the construction of the other units in the NG-30 Zone. See Attachment 1, SLR Affordable Housing Agreement, and the following link to the [November 2020 Council Agenda Report](#).

City staff has concerns that the applicant has not made sufficient effort to facilitate construction of the affordable units required as part of the 2020 Lot 7 project approval and Specific Plan amendment. Site control of the PSHH parcel on Lot 7 is necessary for PSHH to apply for grant funding for project construction. San Luis Ranch has expressed concern that recording the tract map for this lot would trigger improvement requirements that will change with the new lot

configuration in the proposal that is currently being processed. In their October 9, 2024 letter, San Luis Ranch proposes to bond for the site improvements associated with providing utilities and access to the PSHH lot. City staff is agreeable to this and has been recommending that SLR record the final map (or a portion of the map as a phased map) and bond for improvements to facilitate a shovel ready project for PSHH. Tract 3142 can be recorded by SLR at any time (in whole or as a phased final map) to facilitate this transfer of ownership. An amendment to Lot 7 is not needed to complete this map recordation or bonding.

In their October 9th letter, SLR proposes dedication of the recorded legal parcel to PSHH and payment to PSHH of \$500,000, and in exchange requests that Lot 7 be free of any construction start or occupancy restrictions related to the affordable component of the project. Staff has concerns that this proposal does not ensure the project obligations to provide affordable housing are fulfilled, and does not meet the intent of the DA or the City's Inclusionary Ordinance. City staff strongly recommends that any Specific Plan amendment to increase the market rate units on Lot 7 should also include a condition for timing of construction of any required affordable housing units in order to ensure that those units are constructed.

Impact Fees

The 2018 Development Agreement for SLR included provisions to lock in development impact fees for construction of 580 units. These fees are substantially lower than impacts fees charged on permits today. It is City staff's position that the provision for lower fees does not extend to the additional 276 market rate units currently proposed for entitlement on Lot 7, as they were not contemplated during the development and approval of the Development Agreement. Based on the 2018 DA, SLR has paid permit and impact fees of approximately \$21,000 per multi-family unit. Current fees for multi-family units would be approximately \$41,000 per unit. The difference in fees between what the DA locked in for the original 580 units and current fees today equates to a total of about \$5.5 million in permit and impact fees for the additional 276 housing units proposed.

The \$5.5 million in additional fees that is identified by SLR in the October 9, 2024 letter reflects the standard development fee payment for any residential project submitted under the 2024 fee schedule. These fees are adopted by City Council to cover the cost of development, including impacts to citywide transportation, fire and police, parks, and other City facilities. The City is currently working on an impact fee update, which is expected to go to Council for adoption in 2025. Payment of current fees is a standard project requirement. If the Developer wishes to negotiate the payment of fees that are different from the now current fees, staff recommends that this be considered through an amendment to the Development Agreement.

Fiscal Impact Analysis

The October 9th SLR letter is correct in its statement that as identified in the ADE Fiscal Impact Analysis, the overall SLR Specific Plan area remains fiscally positive for the City even with the proposed changes to Lot 7. The City's consultant, EPS, has confirmed ADE's overall projection. However, this positive fiscal projection is a result of other variables, including Measure G, inflation, and increased home values which have occurred in the past few years. The currently proposed project amendment would create a project that is not as fiscally positive as initially conceived in 2017, even with those factors considered, and the proposed amendment removes the fiscal gains that the City has made in recent years by increasing City expenses and removing tax generating uses. The City has asked EPS to look into the additional issues raised by SLR, including loss of

property tax that will result from the sale of 120 units to Cal Poly (Harvest Lofts), and the updated commercial and residential unit counts currently proposed and previously approved on Lot 7. The City is actively working with Cal Poly to determine the amount of lost property tax revenue and to attempt to negotiate alternative methods of payment. Additional fiscal impact calculations are currently being developed and will be provided in the agenda report prior to the December 10th City council meeting,

The Lot 7 commercial development has been a major project component since the project's initial conception. It was included in the 2014 General Plan Land Use update, and was a major consideration during the tax negotiations with the County prior to annexation of the SLR site. The tax revenue expected from the originally approved 150,000 square foot commercial development within SLR was a factor in the Development Agreement negotiations and the establishment of the Community Facilities District special taxes. The loss of expected tax revenue changes the outcome of all of these previously negotiated agreements. The subject Lot 7 11.44-acre parcel is uniquely positioned on a future major highway interchange, in which the City is investing substantial tax dollars to install.

As noted in SLR's project summary, commercial development at this location prior to construction of highway interchange has not had much interest. The current site plan was approved by City Council in November 2020, and SLR's discussions with the City for the proposal to convert to the remaining commercial property to residential began in 2022. If a General Plan amendment is approved to allow residential at this location, future tax dollars will be impacted and the City will not be able to replace the loss of prime commercial land. As the Council reviews this proposed General Plan amendment, the competing Council goals of providing additional housing and future fiscal sustainability for the City will be considered.

Required Applications for Processing Proposed Amendment

The currently proposed San Luis Ranch Lot 7 development will require the following applications if Council authorizes the project to proceed:

- General Plan Amendment – Amend Section 8.1.4 “Special Focus Area #2” to reduce required commercial square footage and increase allowable number of residential units. Amend General Plan land use designation from Neighborhood Commercial (maximum 12 dwelling units per acre) to General Retail (maximum 36 dwelling units per acre.)¹
- Specific Plan Amendment – SLR Specific Plan to be updated to reflect proposed Lot 7 changes, proposed land use plan, and update development standards.
- Development Agreement Amendment – Current DA is for 580 units. Update DA to incorporate additional 276 market rate units and affordable housing provisions.

¹ City staff originally advised SLR to submit a zoning designation amendment, as the current Neighborhood Commercial zoning limits residential density to a maximum 12 dwelling units per acre. However, following review by counsel, it has been determined that the Specific Plan overlay supersedes the underlying zoning. The zoning can remain as is, provided that the Specific Plan is updated to reflect the proposed density and development standards.

- Affordable Housing Agreement Amendment – The SLR AHA was recorded September 2020. Does not address Lot 7 affordable housing units.
- Tentative Tract Map – Tract 3142 was approved in 2020 for an 11-lot primarily commercial development. New tentative map required to correspond to proposed residential development, including lot configuration, grading and drainage, and site improvements.
- Development Plan – ARC and PC review of proposed site development plan and architectural review.
- Environmental review – Per the California Environmental Quality Act (CEQA). Appropriate approach to CEQA has not yet been determined.
- ALUC review – Because there would be General Plan and Specific Plan Amendments, the project would be referred to the San Luis Obispo County Airport Land Use Commission (ALUC) to determine conformity with the adopted Airport Land Use Plan (ALUP).

Attachment 1: SLR Affordable Housing Agreement
Attachment 2: DA Financing Plan, Community Benefits

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RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

City of San Luis Obispo
Community Development Department
919 Palm Street
San Luis Obispo, CA 93401-3249
Attn: Community Development Director

Tommy Gong
San Luis Obispo - County Clerk-Recorder
09/14/2020 08:39 AM
Recorded at the request of:
PUBLIC
Titles: 2 Pages: 88
Fees: \$0.00
Taxes: \$0.00
Total: \$0.00



APN's

(Space above for Recorder's Use Only)

No fee for recording pursuant to Government Code Section 27383

AFFORDABLE AND WORKFORCE HOUSING AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (Affordable Units and Workforce Units for "San Luis Ranch")

This AFFORDABLE AND WORKFORCE HOUSING AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (the "Agreement") is made and entered into on the 1st day of September, 2020 by and between the City of San Luis Obispo, a California charter city and municipal corporation (the "City"), and MI San Luis Ranch, LLC, a Delaware limited liability company, or its successor(s)-in-interest, (the "Owner"), collectively referred to as the "Parties."

RECITALS

A. Owner is the owner of certain real property consisting of approximately 131 acres of land located at 1035 Madonna Road in the City, which is more particularly described in attached Exhibit A incorporated herein by this reference (the "Property").

B. The City Council of the City has approved the development of housing, including 580 residential units, as well as neighborhood commercial, commercial retail, park, and agricultural and open space uses on the Property, which is within the San Luis Ranch Specific Plan ("SLR SP") area on the southwestern boundary of the City, through a series of actions and approved entitlements (collectively referenced herein as the "Project") as follows:

(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. 10822, on July 18, 2017, and the Supplemental Final Environmental Impact Report for the Project certified and adopted by Resolution No. 10927, on July 17, 2018.

(2) An amendment to the General Plan (Resolution No. 10822), adopted on July 18, 2017, including amendments to the Land Use/Circulation Element (“LUCE Update”) adopted by Resolution No. 10586 (2014 Series) on December 9, 2014.

(3) The SLR SP adopted by Resolution No. 10822, on July 18, 2017, as amended by Resolution No. 10927, adopted on July 17, 2018.

(4) The City’s Zoning Ordinance as amended by Ordinance No. 1636, adopted July 18, 2017.

(5) The Development Plan approved by Resolution No. 10822, on July 18, 2017.

(6) The Vesting Tentative Map #3096 approved on July 18, 2017.

(7) The Annexation Agreement approved by Resolution No. 10885, adopted on May 1, 2018.

(8) The Development Agreement by and between the City of San Luis Obispo and MI San Luis Ranch, LLC, relating to the San Luis Ranch, adopted by the San Luis Obispo City Council on August 21, 2018 by Ordinance No. 1649 (2018 Series) (the “**Development Agreement**”).

(9) Resolution No. 10961 adopted by the City Council on November 27, 2018 approving the Final Map (Tract 3096).

C. Consistent with the affordable housing requirements of the Development Agreement, the Parties have agreed that the Owner shall construct and sell eight (8) affordable housing units (the “**For Sale Affordable Units**”), of which four (4) units will be located in the NG-10 Zone on Lots 53, 64, 174, and 191 and will be sold to Moderate Income Level households, and four (4) units will be located in the NG-23 Zone on Lots 261, 267, 283, and 293 and will be sold to Low Income Level households, and shall construct and either sell or rent twenty-six (26) units in the NG-30 Zone of which will be available to Very Low Income Level households (the “**For Sale/Rental Affordable Units**”), in conformance with the sales prices and income limits established by the City’s “**Affordable Housing Standards**” published by the City’s Community Development Department to implement the City’s Inclusionary Housing Ordinance pursuant to Title 17 of the City’s Municipal Code at the time of sale or rental of each unit. The For Sale Affordable Units and For Sale/Rental Affordable Units are collectively referenced herein as the “**Affordable Units.**”

D. In addition, the 19.6-acre Neighborhood Commercial portion of the SLR SP area will generate a requirement for 34 additional inclusionary units, consisting of four (4) units for Moderate Income Level households, four (4) units for Low Income Level households, and twenty-six (26) units for Very Low Income Level households (the “**Neighborhood Commercial**”).

Affordable Units”). Alternatively, the project may provide the inclusionary units consistent with the Development Agreement, the SLR SP, the City’s Inclusionary Housing Ordinance, and Table 2 of the City’s Housing Element to satisfy this requirement.

E. In accordance with the Affordable and Workforce Housing Plan incorporated in the Development Agreement and attached hereto as Exhibit F, the Parties have further agreed that Owner shall construct and either sell or rent fourteen (14) workforce housing units: two (2) of which will be located in the NG-10 Zone on Lots 105 and 121, two (2) of which will be located in the NG-23 Zone on Lots 251 and 257, and ten (10) of which will be located in the NG-30 Zone to households with income levels of 121 to 160% of the Area Median Income (the “**Workforce Units**”), as further defined and described in Exhibit F. Pursuant to Exhibit F, any Workforce Unit that is sold to an Eligible Household shall participate in the City’s equity sharing program, as described and implemented through a Workforce Shared-Equity Agreement to be entered into between the initial buyer of the Workforce Unit and the City in the form attached hereto as Exhibit E (the “**Workforce Shared-Equity Agreement**”).

F. Exhibit F to the Development Agreement, and provided herein as Exhibit F to this Agreement, further obligates Owner to create and implement a local preference program for purchasers and renters of any housing unit constructed within the SLR SP and to offer an incentive to buyers who are identified as local heroes, as defined in Section 4.2. The Parties intend this Agreement to further implement these requirements of the Development Agreement.

AGREEMENT

NOW, THEREFORE, the Parties agree and acknowledge that the above recitals are true and accurate, and are incorporated into this Agreement by this reference, and the Parties mutually acknowledge and agree as follows:

**ARTICLE 1.
DEFINITIONS AND EXHIBITS**

Section 1.1. **Definitions.** In addition to terms defined elsewhere in this Agreement, the following terms have the following meanings in this Agreement:

(a) “**Affordability Period**” means, (i) for any For Sale Affordable Unit, For Sale/Rental Affordable Unit, or Workforce Unit that is sold to an Initial Buyer, a period of forty-five (45) years from the date of the sale of the unit to the Initial Buyer, subject to the provisions of the Workforce Shared-Equity Agreement applicable to Workforce Units that are sold to Initial Buyers, or (ii) for any For Sale/Rental Affordable Unit or Workforce Unit that is initially rented to an Eligible Household, a period of fifty-five (55) years from the date the unit is initially occupied by a Eligible Household.

(b) “**Affordable Rental Price**” means the maximum allowable rental price for an Affordable Unit in effect at the time of its rental by the Owner to an Eligible Household, which

is to be calculated in accordance with the formula provided in the Affordable Housing Standards or in Exhibit F.

(c) “**Affordable Sales Price**” means the maximum allowable sales price for an Affordable Unit or Workforce Unit in effect at the time of its sale by the Owner to an Eligible Household, which is to be calculated in accordance with the formula provided in the Affordable Housing Standards or in Exhibit F.

(d) “**Director**” means the Community Development Director of the City or successor position.

(e) “**Eligible Household**” means a household which has been determined by the Housing Authority or other agency approved by the Director to be eligible to purchase or rent an Affordable Unit or Workforce Unit in compliance with this Agreement, including compliance with Local Preference provisions (“**SLO Workers First**”) (as discussed in detailed in below Section 4.1), and in compliance with the Local Heroes provisions (as discussed in detailed in below Section 4.2).

(f) “**For Rent Affordable Unit**” means any For Sale/Rental Affordable Unit or any Workforce Unit that is offered for rent to a tenant for any period of time.

(g) “**Homebuyer/City Deed of Trust**” means the Purchase Money Deed of Trust, Deed of Trust Covenants, Assignment of Rents, Security Agreement and Fixture Filing in the form provided in Exhibit D, executed by each Initial Buyer of an Affordable Unit or Workforce Unit that secures the Initial Buyer’s performance under the Homebuyer/City Note.

(h) “**Homebuyer/City Note**” means the Occupancy, Resale, and Refinancing Restriction Agreement, with Option to Purchase and Promissory Note Secured by Deed of Trust, in the form provided in Exhibit C and executed by each Initial Buyer of an Affordable Unit or Workforce Unit.

(i) “**Household Income**” means the combined gross, pre-tax income of all adult occupants of the applicant household.

(j) “**Housing Authority**” means the Housing Authority of the City of San Luis Obispo.

(k) “**Initial Buyers**” means the first Eligible Household to whom the Owner sells any of the Affordable Units or Workforce Units.

(l) “**Low Income Household**” is defined in the City’s Affordable Housing Standards and means a household with a Household Income that does not exceed 80% of the area median income as established by the California Department of Housing and Community Development.

(m) **“Moderate Income Household”** is defined in the City’s Affordable Housing Standards and means a household with a Household Income that does not exceed 120% of the area median income as established by the California Department of Housing and Community Development.

(n) **“Very Low Income Household”** is defined in the City’s Affordable Housing Standards and means a household with a Household Income that does not exceed 50% of the area median income as established by the California Department of Housing and Community Development.

(o) **“Workforce Income Household”** is defined in the Development Agreement and means a household with a Household Income that is 121% to 160% of the area median income as established by the California Department of Housing and Community Development.

(p) **“Workforce Sales/Rental Price”** means the maximum allowable sales or rental price for a Workforce Unit in effect at the time of its sale or rent by the Owner to an Eligible Household. Maximum sales prices are to be calculated by first multiplying the area median income (AMI) amount, as determined by the California Department of Housing and Community Development, by 1.6 (which is to represent the upper value of 160% of the AMI); and secondly multiplying by a household size adjustment factor, that is proportional to the adjustment factors utilized in the City’s Affordable Housing Standards. Maximum monthly rental prices shall not exceed 25% of 140% of the AMI divided by 12, and adjusted per the Workforce Income Level, or calculated as proportional to the Moderate Income rent calculation in the City’s Affordable Housing Standards or as amended in any future updates of the Affordable Housing Standards.

Section 1.2. Exhibits. The following exhibits are attached to this Agreement:

- Exhibit A Legal Description of the Property
- Exhibit B Map Showing Location of Affordable Units and Workforce Units.
- Exhibit C Form of Homebuyer/City Deed Restriction
- Exhibit D Form of Homebuyer/City Deed of Trust
- Exhibit E Form of Workforce Shared-Equity Agreement
- Exhibit F Affordable and Workforce Housing Plan from the Development Agreement
- Exhibit G Form of Affordable Housing Rental Restriction Agreement

**ARTICLE 2.
CONSTRUCTION OF PROJECT AND AFFORDABLE UNITS
AND WORKFORCE UNITS**

Section 2.1. Construction of Affordable Units and Workforce Units. The Parties have agreed that the Owner shall construct and sell or rent the Affordable Units and Workforce Units in the locations identified in Exhibit B and in conformance with the sales and rental prices and income limits established by the Affordable Housing Standards.

Section 2.2. Construction Timing. The Affordable Units and Workforce Units shall be constructed pursuant to the following schedule:

(a) The For Sale Affordable Units and Workforce Units to be constructed in NG-10 and NG-23 zones shall be shown on all planning applications and be identified on construction documents prior to building permit issuance as shown in Exhibit B, and shall be completed in accordance with the following schedule which outlines the timing of affordable unit availability and market rate units. The affordable unit in the closest proximity to market rate construction (or within) shall be available for occupancy by an eligible household prior to occupancy of market rate units:

Timing of Delivery of Affordable Units

NG-10 Zone Units	
Income Level	Timing
Moderate	Prior to occupancy of the 34 th market rate unit and any additional units
Moderate	Prior to occupancy of the 68 th home and any additional units
Moderate	Prior to occupancy of the 102 nd home and any additional units
Workforce	Prior to occupancy for the 136 th home and any additional units
Workforce	Prior to occupancy of the 167 th home and any additional units
Moderate	Prior to occupancy for the 195 th home and any additional units

NG-23 Zone Units	
Income Level	Timing
Low	Prior to occupancy of the 21 st home and any additional units
Low	Prior to occupancy of the 42 nd home and any additional units
Low	Prior to occupancy of the 55 th home and any additional units
Low	Prior to occupancy of the 65 th home and any additional units
Workforce	Prior to occupancy of the 75 th home and any additional units
Workforce	Prior to occupancy of the 80 th home and any additional units

NG-30 Zone Units		
Unit Amount	Income Level	Timing
10 Units	Workforce	Workforce Units shall be constructed in proportion to the construction of the other units in the NG-30 Zone, or as stated in conditions of approval of future NG-30 Zone development approval

26 Units	Very Low	For Sale/Rental Affordable Units shall be constructed in proportion to the construction of the other units in the NG-30 Zone, or as stated in conditions of approval of future NG-30 Zone development approval
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(b) The construction deadlines for the 26 For Sale/Rental Affordable Units and 10 Workforce Units to be constructed in the NG-30 Zone, shall be constructed in proportion to the construction of the other units in the NG-30 Zone, or as alternatively defined in any future conditions of approval of the NG-30 Zone development. Should Owner decide to dedicate land to a non-profit affordable housing provider approved by the Director to build the 26 For Sale/Rental Affordable Units in the NG-30 Zone, Owner or Owner's Agent shall cause to record a further Affordable Housing Agreement in a form subject to the written approval of the City requiring and securing performance of the construction of at least the 26 For Sale/Rental Affordable Housing Units.

(c) The construction deadlines or in-lieu fee requirements for the 34 Neighborhood Commercial Affordable Units shall be defined in the future conditions of approval for development within the Neighborhood Commercial Zone. Prior to issuance of building permits for any structure in the Neighborhood Commercial Zone, Owner or Owner's Agent shall cause to record a further Affordable Housing Agreement in a form subject to the written approval of the City requiring and securing performance of the construction of the 34 Neighborhood Commercial Affordable Units as approved in development plan conditions, which will specify in-lieu fee payment or timing of construction.

Section 2.3. Design and Appearance of the Affordable Units and Workforce Units. The design, bedroom count, appearance, and general quality of the Affordable Units and Workforce Units shall be of the same character as other units within the Specific Plan Zone in which they are located.

Section 2.4. Use of Affordable Units and Workforce Units. The Affordable Units and Workforce Units that are offered for sale shall be sold only to Eligible Households who will owner-occupy the Affordable Units or Workforce Units as their primary place of residence.

**ARTICLE 3.
SALE OF AFFORDABLE UNITS OR WORKFORCE UNITS**

Section 3.1 Sale of Affordable Units or Workforce Units by Owner to Eligible Households.

(a) Owner shall sell the For Sale Affordable Units and any For Sale/Rental Affordable Units or Workforce Units that are offered for sale, to Eligible Households at an Affordable Sales Price. The Affordable Sales Price shall be the absolute maximum price that the

Owner or any other seller may receive as compensation for the sale of a For Sale Affordable Unit, For Sale/Rental Affordable Unit, or Workforce Unit.

(b) Owner shall actively market the For Sale Affordable Units and any For Sale/Rental Affordable Units or Workforce Units that are offered for sale, openly and in the same general manner as the Project as a whole, allow prospective buyers to view the For Sale Affordable Units and any For Sale/Rental Affordable Units or Workforce Units that are offered for sale, model units or floor plans, disclosure documents, and any other relevant sales materials, as may be available. Owner's sales agents shall provide the same general quality of customer service to buyers of the For Sale Affordable Units and any For Sale/Rental Affordable Units or Workforce Units that are offered for sale as provided to market-rate buyers, shall display information about the availability of the For Sale Affordable Units and any For Sale/Rental Affordable Units or Workforce Units that are offered for sale in a readily noticeable manner in the sales office and/or Project sales website, shall disclose the restrictions contained in this Agreement and the Development Agreement to any prospective buyers in a timely manner and direct potential purchasers to submit eligibility applications to determine if they qualify as Eligible Households.

(c) Owner agrees to maintain an interest list of prospective buyers and shall separate and prioritize names based on interest in the 5 different residential product types, which consist of: (i) Efficiency Units, (ii) Condominium Units, (iii) Townhomes, (iv) Single Family Residences on 2,400 s.f. lots, and (v) Single Family Residences on 3,200 s.f. lots ("**Product Types**") and consistent with the SLO Workers First requirements contained in below Section 4.1 of this Agreement, to the extent these requirements are not in conflict with state or federal fair housing laws or regulations.

(d) The Owner agrees to retain the Housing Authority, Peoples' Self-Help Housing, or other agency approved by the Director, for screening of potential purchasers to determine if they qualify as Eligible Households.

(e) Once certified, Eligible Households shall submit purchase offers directly to Owner, and Owner shall accept offers to purchase in the order received, provided that such offers include a letter from the Housing Authority, or other agency acknowledged by the Director, that the buyer is an Eligible Household, a valid check for the required good faith deposit, and a preliminary first mortgage loan approval. Owner shall conduct any additional screening of applicants deemed necessary and not in violation of fair housing laws.

(f) Selected applicants shall be responsible for obtaining their own financing for purchasing the For Sale Affordable Units and any For Sale/Rental Affordable Units or Workforce Units that are offered for sale.

(g) Purchase contracts between Owner and Eligible Households shall include requirements that buyers execute documents for the benefit of the City as described in Section 3.2 below.

(h) The escrow instructions for the sale of a For Sale Affordable Unit or any For Sale/Rental Affordable Units or Workforce Units that are offered for sale shall stipulate that the Homebuyer/City Note, Homebuyer/City Deed of Trust, and, for Workforce Units, the Workforce Shared-Equity Agreement, shall be recorded against the unit at close of escrow on the sale to the Eligible Household; and that the Homebuyer/City Note, Homebuyer/City Deed of Trust, and, for Workforce Units, a Workforce Shared-Equity Agreement shall be recorded junior only to the lien of the deed of trust securing the Eligible Household's first purchase money mortgage loan, or to a second mortgage loan only if such loan is provided by a public agency which requires such subordination, or as otherwise approved in writing by the City.

(i) A Request for Notice of Default and Sale for the benefit of the City shall be recorded for each deed of trust recorded at close of escrow.

(j) Within five (5) days following the sale of any For Sale Affordable Unit or any For Sale/Rental Affordable Unit or Workforce Unit that is offered for sale by the Owner to an Initial Buyer, Owner shall forward, or shall cause escrow officer to forward to the City, copies of the buyer's and seller's settlement statement and all closing documents, including the Homebuyer/City Note, Homebuyer/City Deed of Trust, and if applicable, the Workforce Shared-Equity Agreement executed in connection with the sale.

(k) Owner shall be independently responsible to make good faith efforts to market and sell the For Sale Affordable Units, the Workforce Units, and any For Sale/Rental Affordable Units that are offered for sale in compliance with this Agreement, and shall cooperate with City in good faith in the effort to sell the Affordable Units and Workforce Units to Eligible Households in a timely manner.

(l) If Owner has not received any purchase offer from an Eligible Household for a For Sale Affordable Unit or any For Sale/Rental Affordable Unit or Workforce Unit that is offered for sale within one hundred eighty (180) days after the unit has been offered for sale, the Owner shall provide a one hundred eighty (180) days' notice to the City and shall satisfy any further conditions that may be reasonably required by the City, including but not limited to, further efforts to find an Eligible Household and/or additional marketing by the Owner to attract an offer to purchase from an Eligible Household. If escrow has not closed on the Affordable Unit sale within an additional sixty (60) days from date of Owner's acceptance of such an offer under this sub-section, if the City consents in writing, Owner may sell the Affordable Unit at its fair market value and pay to the City an amount equal to the difference between the actual contract sale price and the Affordable Sales Price. As an alternative, if the parties mutually agree, Owner may sell the Affordable Unit to the City or the City's designee for the Affordable Sales Price to satisfy Owner's obligations under this Agreement with respect to such Affordable Unit.

Section 3.2 Homebuyer Documents and Security Instruments. Prior to the sale of each For Sale Affordable Units and any For Sale/Rental Affordable Units or Workforce Units that are offered for sale, Owner shall ensure that:

(a) The Initial Buyer and the City execute a Homebuyer/City Deed Restriction in the form shown as Exhibit C.

(b) The Initial Buyer signs a Homebuyer/City Deed of Trust in the form shown as Exhibit D.

(c) The Initial Buyer of a Workforce Unit signs a Workforce Shared-Equity Agreement in the form shown as Exhibit E.

(d) Following sale of an Affordable Unit to the Initial Buyer, the Initial Buyer shall be responsible for complying with the terms of this Agreement through the Homebuyer/City Note, the Homebuyer/City Deed of Trust, and, for any Workforce Unit, the Workforce Shared-Equity Agreement.

Section 3.3 Records. The Owner shall retain all records related to compliance with obligations under this Agreement for a period not less than five (5) years from the date of origination of such records, and make them available to City employees or others designated by the City for inspection and copying on five (5) business days' written notice. The City shall be entitled to monitor compliance with this Agreement, and the Owner shall cooperate with City monitoring, including obtaining Eligible Household verification upon request of the City.

ARTICLE 4. LOCAL PREFERENCE ("SLO WORKERS FIRST")

Section 4.1. Local Preference ("SLO Workers First"). Owner shall maintain an interest list for persons interested in purchasing or renting residences within the SLR SP area, and Owner shall take reasonable steps to publicize the existence of the list through local media outlets. Owner will give first preference to purchase or rent any residence within the SLR SP area to Local Employees identified on the interest list. Specifically, for purposes of this Section, the term "**Local Employee(s)**" shall include individuals who are employed by employers that are located in geographic areas that are customarily included in the City's annual jobs-housing balance analysis in the City's General Plan Annual Report, including the following zip codes: 93401, 93405 and 93407, and employees working within the City's corporate limits and areas outside the City limits for employers such as Cal Poly, California Men's Colony, Cuesta College, employers on agricultural lands within the Edna Valley area and business parks on South Broad Street ("**Local Employers**"). New employees to businesses in these geographic areas with bona fide employment offers will be considered Local Employees as well. Owner will maintain and update the interest list through full build-out of the Project. Owner will operate and administer this program as follows:

(a) Owner shall maintain the interest list and shall separate and prioritize names of Local Employees based on interest in each Product.

(b) When a unit becomes available, meaning once vertical construction of the unit structure has begun approximately 270-360 days prior to certificate of occupancy, Owner shall notify Local Employees on the interest list of the opportunity to purchase or rent a residence on a lottery basis. Once notified, those individuals shall have 60 days to get pre-qualified to purchase or rent the residence and to provide Owner with proof that the individual is a Local Employee (i.e. paycheck or bona fide offer of employment from a Local Employer). Any and all such documentation provided to Owner shall be deemed confidential. If a Local Employee fails to get pre-qualified or fails to provide Owner with proof of local employment within the 60 day time period indicated above, then Owner may remove or put that name at the end of the interest list.

(c) Owner agrees not to sell or rent any units within the Project to any individual without first offering the unit to Local Employees who are on the interest list for that Product Type. Upon exhausting all Local Employees on the interest list for the available Product Type, Owner agrees to give priority in the sale or rental of such units to individuals employed full-time by employers located in the County of San Luis Obispo (“**County Employee(s)**”). Owner shall notify County Employees on the interest list, pursuant to this subsection, of the opportunity to purchase or rent a residence on a lottery basis. Once notified, those individuals shall have 60 days to get pre-qualified to purchase or rent the residence and to provide Owner with proof that the individual is a County Employee (i.e. paycheck or bona fide offer of employment from a local employer). Upon exhausting all Local Employees and County Employees on the interest list for the available Product Type, the unit may be offered to individuals who are employed outside the County of San Luis Obispo. Except as set forth in subsection (e) below, any and all such documentation provided to Owner pursuant to this subsection shall be deemed confidential.

(d) Nothing herein shall preclude Owner from notifying multiple Local Employees, or County Employees, of the opportunity to purchase or rent a residence, so long as Owner complies with all other provisions of this Section 4.1 Nor does anything herein preclude Owner from using a lottery to prioritize the purchase and sale or rental of a unit if demand by Local Employees, or County Employees, exceeds supply. Nothing herein shall preclude Owner from taking all reasonable actions necessary in order to facilitate the sale or rental of units within the Project provided such actions are consistent with the “SLO Workers First” preference program described in this Section. Owner shall, upon request, provide documentation to the City on its implementation of this preference program and provide City with the interest list and proof of employment for all sales made under this preference program.

(e) At the Director’s request, not more than quarterly, Owner or its designee(s) shall provide a report to the Director to verify compliance with this Section.

(f) City and Owner acknowledge that this preference program described above will accomplish three important objectives: (i) use new housing to address the current imbalance between existing jobs and housing; (ii) 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, (iii) reduce competition from outside buyers in the initial offering and sales.

Section 4.2. Local Heroes. In addition to all other provisions of this Agreement, Owner will offer an incentive to buyers of any residential unit with the SLR SP area who are considered "Local Heroes," defined for purposes of this Section as Police, Firefighters, Active and Retired Military, Teachers, EMTs, Nurses, and City of San Luis Obispo or County of San Luis Obispo Employees. The incentive described herein will include a minimum of \$1,500 credited to the Local Hero buyer at closing for use at the design center for upgrades and/or for closing costs. Qualification for this incentive is verified through the buyer's loan application, as reviewed and confirmed by Owner's Preferred Lender. At the Director's request, not more than quarterly, Owner or its designee(s) shall provide a report to the Director to verify compliance with this Section.

ARTICLE 5. RENTAL REGULATORY PROVISIONS

Section 5.1. Affordability and Occupancy Covenants. Any For Sale/Rental Affordable Unit and any Workforce Unit that is offered for rent (hereinafter, "Rental Affordable Unit(s)" or "Rental Workforce Unit(s)") shall be subject to a deed restriction and an Affordable Housing Rental Restriction Agreement in a form approved by the City and shall be used exclusively for rental housing for the Term. The Rental Affordable Units and Rental Workforce Units shall not be kept vacant or used for any purpose except for residential use and shall be offered for rent only to Eligible Households, as that term applies to each subject Rental Affordable Unit or Rental Workforce Unit, at Affordable Rents.

Section 5.2. Schedule of Affordable Rents.

(a) The City has provided the Owner with a schedule of Affordable Rents for the Rental Affordable Units in effect on the date of this Agreement. Affordable Rents may be increased annually thereafter as set forth in the City of San Luis Obispo Affordable Housing Standards. Affordable Rents for Rental Workforce Units will be adjusted accordingly, consistent with the rental calculations for Moderate Income Level housing as described in the City's Affordable Housing Standards and described in the "Workforce Sale/Rental Price" definition in Section 1 above. Except as provided in subsection (b) of this Section, the Owner shall not charge any fee other than rent to any tenant of Rental Affordable Units and any Rental Workforce Units for any housing or other services provided by Owner.

(b) Increased Income of Tenants. In the event tenant's income exceeds the qualifying income for a Rental Affordable Unit and a Rental Workforce Unit, Owner shall not be entitled to any additional rent.

Section 5.3. Agreement to Limitation on Rents. The Owner hereby agrees that the certain provisions of Civil Code Section 1954.51 et seq. (the "**Costa-Hawkins Act**") do not apply. The Owner hereby agrees that any Rental Affordable Units and any rental Workforce Units provided pursuant to this Agreement are not subject to Civil Code Section 1954.52(a) or any other provision of the Costa-Hawkins Act inconsistent with controls on rents. The Owner further agrees that this Agreement complies with all federal, State, and City laws and ordinances and that the terms of this Agreement are fully enforceable.

Section 5.4. Income Certification.

(a) Prior to Owner entering into a lease with a prospective tenant of a Rental Affordable Unit or Rental Workforce Unit, the prospective tenant household shall be certified as an Eligible Household by the Housing Authority, Peoples' Self-Help Housing Corporation, or other agency approved by the Director consistent with all other provisions of this Agreement, including but not limited to Section 4.1 above.

(b) Annually, thereafter, the Owner will obtain, complete and maintain on file, immediately prior to initial occupancy and annually thereafter, income certifications for each tenant renting any of the Rental Affordable Units and Rental Workforce Units. Owner shall obtain written certification by the Housing Authority, Peoples' Self-Help Housing Corporation, or other agency approved by the Director that the Rental Affordable Units and Rental Workforce Units are being occupied by Eligible Households in compliance with the terms of this Agreement.

Section 5.5. Reports to City. The Owner shall submit to the Director on or before July 31st of each year, or at other such interval as mutually agreed by the Parties, a report in a form acceptable to the City to enable the City to verify that the Rental Affordable Units and Rental Workforce Units are being occupied by Eligible Households in compliance with the terms of this Agreement. At a minimum, information to be submitted shall include:

(a) Certifications of eligibility for all tenants of Rental Affordable Units and Rental Workforce Units at the time of initial occupancy. Such certification shall include verified income statements and number of persons in each Rental Affordable Unit and Rental Workforce Unit.

(b) Certification of the amount of rent charged for the year for all Rental Affordable Units and Rental Workforce Units.

(c) Other information reasonably required by the City.

Section 5.6. Inspections. The City reserves the right to inspect the Rental Affordable Units and Rental Workforce Units upon reasonable notice to the Owner to ensure that the units are being maintained, operated, and used consistent with this Agreement and applicable federal, state and local codes. The Owner agrees to correct all conditions found by such inspections not to conform to the applicable requirements within ninety (90) days of delivery of written notice from the City, or such period as necessary to correct the violations as determined by the Director, provided that corrections are commenced within ninety (90) days and prosecuted diligently to completion. Notwithstanding the foregoing sentence, the Owner agrees to correct all conditions constituting an immediate threat to life, health or safety as determined by the Director within five (5) days of delivery of written notice from the City. Failure maintain the Property as required by this Agreement or to correct such conditions shall be a Default, as defined below.

Section 5.7. Management of Property and Property Maintenance.

(a) Management Responsibilities. Except for either the Housing Authority's or Peoples' Self-Help Housing Corporation's initial certification of a tenant as an Eligible Household, the Owner is responsible for all management functions with respect to the Project, including, without limitation, the annual recertification of household size and Household Income (subject to review by the Housing Authority, Peoples' Self-Help Housing Corporation, the City or its assignee), selection of tenants, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The City shall have no responsibility over management of the Project's rental units.

(b) Property Maintenance. The City places prime importance on quality maintenance to ensure that all developments within the City which include affordable housing units are not allowed to deteriorate due to below-average maintenance. The Owner shall provide the Rental Affordable Units and Rental Workforce Units with the same level and quality of maintenance, including performance of repairs and periodic replacement of fixtures as the other units in the Project. The Owner agrees to maintain all interior and exterior improvements, including landscaping, on the Property in good condition and repair (and, as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials.

(c) Taxes and Assessments. The Owner shall pay all real and personal property taxes, assessments, if any, and charges and all franchise, income, employment, old age benefit, withholding, sales, and other taxes assessed against it, or payable by it, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property; provided, however, that the Owner shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event the Owner exercises its right to contest any tax, assessment, or charge against it, the Owner, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.

Section 5.8. Laws and Regulations. The Owner acknowledges that Owner is familiar with and will comply with all local and State laws and regulations that pertain to construction, health and safety, labor, fair housing practices, equal opportunity and all other matters applicable to maintaining sound, safe and affordable rental housing.

ARTICLE 6. ENFORCEMENT

Section 6.1. Covenants Running with the Land. The requirements of this Agreement shall be covenants running with the land as defined in California Civil Code Section 1460, and shall apply to the properties as shown and described on Exhibit A. Pursuant to Civil Code Section 1468, which governs such covenants, the provisions of this Agreement shall be binding upon all Parties having any right, title, or interest in any of the properties described herein, or any portion thereof and on their heirs, successors in interest and assigns for a period beginning upon the effective date of this Agreement and ending on one of the two following dates: (i) for the

Affordable Units and Workforce Units that are offered for sale and sold to Initial Buyers, this Agreement and the covenants contained herein shall terminate on the forty-fifth (45th) year following the Initial Sale of the last of the units sold; and (ii) for the Affordable Units and Workforce Units that are rented to Eligible Households, this Agreement and the covenants contained here shall terminate on the and fifty-fifth (55th) year following initial occupancy of the rental units by Eligible Households. The Parties agree that all future deeds or transfers of interest regarding the properties shall show the restrictions of this Agreement for as long as the Agreement is in effect.

Section 6.2. Release of Property from Agreement. Upon the earlier to occur of (i) the conclusion of the Affordability Period, (ii) the sale of 100% of the Affordable Units or Workforce Units to Initial Buyers from Eligible Households, or (iii) the execution of an affordability covenant encumbering any multifamily Rental Affordable Units in compliance with the terms of this Agreement, the entire Property shall be released from the burdens of this Agreement and this Agreement shall be terminated.

Section 6.3. Default. Failure of the Owner to satisfy any of Owner's obligations under the terms of this Agreement within thirty (30) days after the delivery of a notice of default from the City will constitute a default under this Agreement and a violation of the Development Agreement. In addition to remedies for breach of this Agreement, the City may exercise any and all remedies available to it under the Development Agreement or other any other provision of law or equity, including, but not limited to:

(a) withholding, conditioning, suspending or revoking any approvals for the Project, including without limitation final inspections for occupancy and/or the issuance of any certificates of occupancy;

(b) instituting against the Owner, or other parties, a civil action for declaratory relief, injunction or any other equitable relief, or relief at law, including without limitation an action to rescind a transaction and/or to require repayment of any funds received in connection with such a violation;

(c) where one or more persons have received financial benefit as a result of violation of this Agreement, the City may assess, and institute legal action to recover as necessary, a penalty in any amount up to and including the amount of financial benefit received, in addition to recovery of the benefit received; and

(d) requiring the Owner or his/her successors in interest to the Property to pay the City payment received by the Owner for the unauthorized sale of the Affordable or Workforce Unit.

Section 6.4. Attorney's Fees and Costs. If either Party takes or commences any actions or proceedings, including litigation or arbitration, against the other by reason of any breach or claimed breach of any provision of, or in any way connected with, this Agreement, or seeks a judicial declaration of rights under this Agreement, the Party prevailing in such action or

proceeding shall be entitled to recover from the other Party the prevailing Party's reasonable attorney's fees and costs, including, but not limited to, all expert witness fees, other witness fees and associated expenses, whether or not the proceeding or action proceeds to judgment.

**ARTICLE 7.
GENERAL PROVISIONS**

Section 7.1. Appointment of Other Agencies. At its sole discretion, the City may designate, appoint or contract with any other public agency, for-profit or non-profit organization to perform some or all of the City's obligations under this Agreement.

Section 7.2. Records. The Owner shall retain all records related to compliance with obligations under this Agreement for a period not less than five (5) years from the date of origination of such records, and make them available to City employees or others designated by the City for inspection and copying on five (5) business days' written notice. The City shall be entitled to monitor compliance with this Agreement, and the Owner shall cooperate with City monitoring, including obtaining Eligible Household verification upon request of the City.

Section 7.3. Hold Harmless. Owner will indemnify and hold harmless (without limit as to amount) City and its elected officials, officers, employees and agents in their official capacity (hereinafter collectively referred to as "**Indemnitees**"), and any of them, from and against all loss, all risk of loss and all damage (including expense and attorney's fees) sustained or incurred because of or by reason of any and all claims, demands, suits, actions, judgments and executions for damages of any and every kind and by whomever and whenever made or obtained, allegedly caused by, arising out of or relating in any manner to the Project, the Affordable Units, or Owner's performance or non-performance under this Agreement, including claims pursuant to California Labor Code Section 1720 et seq., and shall protect and defend Indemnitees with counsel of their c, and any of them with respect thereto, except to the extent arising from the proven gross negligence or willful misconduct of the City. The provisions of this Section shall survive expiration or other termination of this Agreement or any release of part or all of the Property from the burdens of this Agreement, and the provisions of this Section shall remain in full force and effect.

Section 7.4. Notices. All notices required pursuant to this Agreement shall be in writing and may be given by personal delivery or by registered or certified mail, return receipt requested, to the Party to receive such notice at the addressed set forth below:

TO THE CITY:

City of San Luis Obispo
Community Development Department
919 Palm Street
San Luis Obispo, CA 93401-3249
Attn: Community Development Director

WITH COPY TO:

City of San Luis Obispo
990 Palm Street
San Luis Obispo, CA 93401
Attn: City Attorney

TO THE OWNER:

San Luis Ranch
Post Office Box 3460
San Luis Obispo, CA 93403

Any notice shall be deemed delivered on the first business day that delivery is attempted or upon receipt, whichever is sooner. As used herein, "business day" means any day other than a Saturday, Sunday, or any state or federal holiday on which financial institutions in San Luis Obispo County are authorized or required to close for observance thereof. Any Party may change the address to which notices are to be sent by notifying the other Parties of the new address, in the manner set forth above.

Section 7.5. Integrated Agreement. This Agreement sets forth the full and entire understanding of the Parties regarding the matter set forth herein. Any other prior or existing understandings or agreements by the Parties, whether formal or informal, regarding any matters addressed within this Agreement are hereby superseded or terminated in their entirety.

Section 7.6. Each Party's Role in Drafting the Agreement. Each Party to this Agreement has had an opportunity to review the Agreement, confer with legal counsel regarding the meaning of the Agreement, and negotiate revisions to the Agreement. Accordingly, neither Party shall rely upon Civil Code Section 1654 in order to interpret any uncertainty in the meaning of the Agreement.

Section 7.7. Amendment of Agreement. No changes, amendments, or alterations to this Agreement shall be effective unless in writing and signed by all Parties hereto. Major amendments to this Agreement, shall be subject to the review and approval of the decision-making body which approved the Project. Minor amendments to this Agreement may be approved by the Director. Upon approval, a new Agreement containing the amendments shall be executed and recorded.

Section 7.8. Applicable Law. This Agreement shall be governed by California law. Venue shall be the County of San Luis Obispo.

Section 7.9. Waivers. Any waiver by the City of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the City to take action on any breach or default of Owner or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Owner to perform any obligation

under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the City to any act or omission by Owner shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the City's written consent to future waivers.

Section 7.10. Title of Parts and Sections. Any titles of the sections, subsections, or subparagraphs of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

Section 7.11. Multiple Originals; Counterpart. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

Section 7.12. Recording of Agreement. This Agreement shall be recorded against the Property in the Official Records of the County of San Luis Obispo prior to the recordation of any parcel map or final subdivision map or issuance of any building permit for the Project, whichever occurs first.

Section 7.13. Severability. In the event any limitation, condition, restriction, covenant, or provision contained in this Agreement is to be held invalid, void, or unenforceable, or in conflict with any state or federal fair housing law or regulation, by any court of competent jurisdiction, the remaining portions of this Agreement shall nevertheless be and remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the day and year first above written.

Unofficial Draft

OWNER:

MI SAN LUIS RANCH, LLC, a Delaware limited liability company

By: Donald R. Faye
Donald R. Faye
Its: Authorized Agent

CITY:

City of San Luis Obispo, a California charter city and municipal corporation

By: Michael Codron
Michael Codron, Community Development Director

APPROVED AS TO FORM AND LEGAL EFFECT:

By: J. Christine Dietrick
J. Christine Dietrick, City Attorney

Community Benefits

The San Luis Ranch Project, by virtue of its development and conforming to City planning policies, regulatory standards, and mitigating potential environmental impacts, will confer a range of community benefits in the City of San Luis Obispo. These positive effects of the project including community development objectives or social, economic and/or fiscal benefits, while a precondition for a development agreement, are considered as extraordinary community benefits:

1. Creating a new residential neighborhood and commercial district in the City consistent with General Plan policies.
2. Providing a range of housing prototypes that include small, higher density units that will be "affordable by design".
3. Providing new housing targeted at the City's lower income and working families and including 34 contractually price-restricted affordable (inclusionary) housing units, and an additional 14 price-restricted workforce housing units.
4. Achieving "net-zero" energy consumption and other energy efficiency standards.
5. Generating employment opportunities for the City's construction-related companies and workers.
6. Financing infrastructure that in addition to meeting travel demands created by the Project relieves existing congestion and provides additional capacity for other future development.
7. Providing more than 50 acres of open space including land set aside for continued agricultural use preserving the area's agricultural heritage.

Extraordinary Community Benefits

"Extraordinary" community benefits of a development project are public improvements or other material offerings that cannot be required by the City based on its code requirements or CEQA mitigation, each which must meet Constitutional statutory standards to achieve the "rational nexus" test. A complete listing of the extraordinary community benefits being offered by the San Luis Ranch Developer is shown in **Table 2**. Specifically, the developer has committed to constructing or funding improvements or mitigating impacts that exceed the mitigation measures specified in the project environmental impact report or other City-determined requirements. The developer has also agreed to build a public improvement in advance of when it might otherwise be required. For example, an intersection improvement that may not be required to mitigate project-induced congestion until five years in the future could be built in advance, assuring that the improvement is constructed and conferring congestion reduction immediately. These improvements include the following:

1. Land and Building Dedications
2. Multi-Modal Transportation Improvements and Programs
3. Energy and Water Conservation Features
4. Affordable and Workforce Housing Programs

Taken as a whole these cited community benefits total \$14.25 million. The estimates were prepared by the Developer's financial consultant, Kosmont Companies, and have been reviewed for the reasonableness of the assumptions used and computational accuracy by EPS.

Table 2 Summary of Extraordinary Community Benefits

Extraordinary Community Benefit Items Offered by San Luis Ranch	Dollar Value Beyond SLR's Fair Share
1.0 <u>Land and Building Dedications</u>	
1.1 Agricultural Heritage and Learning Center - Building Costs (Net of Mitigation Requirements)	\$2,025,000
2.0 <u>Multi-Modal Transportation</u>	
2.1 Bike Share/Rental	\$290,000
2.2 Car Sharing/Park & Ride	\$290,000
2.3 Electric Car Charging Stations	\$240,000
3.0 <u>Energy and Water Conservation Features</u>	
3.1 Solar PV [1]	\$3,204,500
3.2 Building Efficiency/Net Zero	\$725,000
4.0 <u>Affordable and Workforce Housing Programs</u>	
4.0 Priority for SLO Residents, Workers (1.5% of Initial Sales Value)	\$4,468,875
4.2 Owner Occupancy Restriction on NG-10 and NG-23 Units (1.5% of Initial Sales Value)	\$2,703,000
4.3 Local Heroes Program - Minimum of \$1,500 Incentive per Home (Assuming Approx. 200 Homes)	\$300,000
Total Extraordinary Community Benefits (Rounded)	\$14,250,000

[1] Total cost of Item 3.1 is \$4,930,000. San Luis Ranch's fair share is 35%, or \$1,725,500. The balance of \$3,204,500 represents value to the City beyond San Luis Ranch's fair share.

Sources: San Luis Ranch; City of San Luis Obispo; Kosmont Companies; Economic & Planning Systems, Inc.

Comparing the Value of Community Benefits with Value Received by Developer

As part of reaching a Development Agreement it is customary that the community benefits offered by the Developer meet or exceed the value(s) conferred on the Developer by the City. As a general measure the extraordinary community benefits offered should meet or exceed the estimated value of the vested entitlement to the developer combined with the additional benefit to the developer from other special terms granted by the City (e.g., infrastructure financing contributions, formation of financing districts, etc.).

Value of Vesting the Entitlement

As a part of this effort a review of the Developer's pro forma financial analysis was conducted by EPS, subject to the terms of a non-disclosure agreement. Applying the standard method of measuring a reduction in the "threshold IRR" associated with reduced risks and costs to the San Luis Ranch project associated with two vesting assurances: 1) elimination of future planning or regulatory changes (i.e., rezoning of the Project area) and 2) assuring project development phasing through a fixed allocation of housing units pursuant to City's Growth Management Ordinance. These two considerations are estimated to confer a value of approximately \$2.75 million to the Developer.