

SETTLEMENT AGREEMENT AND MUTUAL RELEASE (Avila Ranch)

This Settlement Agreement and Mutual Release (“**Agreement**”) is entered into as of Effective Date (defined herein) and is made by and between Avila Ranch Developers, Inc. (“**ARD**”), TH Avila Ranch, LLC, a California limited liability company (“**THAR**”), Trumark Construction Services, Inc., a California corporation (“**TCS**”), and the City of San Luis Obispo, a California charter city (the “**City**”). ARD and the City are hereinafter referred to individually as a “**Party**,” and collectively as the “**Parties**.”

RECITALS

WHEREAS, Avila Ranch is a 720-unit residential project, including 197 townhomes/duplexes and 125 apartments, and 15,000 square feet of neighborhood serving retail and office uses, being developed on a 150-acre site north of Buckley Road within the boundaries of the Airport Area Specific Plan (the “**Project**”); and

WHEREAS, on September 19, 2017, the San Luis Obispo City Council certified the Final Environmental Impact Report; approved the Avila Ranch Development Plan, Airport Area Specific Plan Amendment 1318-2015, General Plan Amendment 1319-2015, Vesting Tentative Tract Map 3089, Ordinance 1638 (2017 Series) approving a rezone of the Avila Ranch Property, and Ordinance 1639 (2017 Series) approving Development Agreement 2017-1 (“**DA**”) and formation of a Community Facilities District (collectively “**Project Entitlements**”); and

WHEREAS, the Project Entitlements require, among other things, the developer to construct a designated number of Low-income for-rent apartment units in certain locations within Phase 3, the multi-family portion of the Project; provide for down payment assistance to certain Workforce housing units; and construct certain improvements, including but not limited to an approximately 2 acre bioretention basin commonly referred to as “**Basin A**” in Phase 1 of the Project.

WHEREAS, in conjunction with the Project Entitlements, the City and ARD entered into a number of reimbursement agreements wherein the developer would be reimbursed for certain public improvements benefiting properties beyond that of the Project, including but not limited to that certain “Infrastructure Reimbursement Agreement – *Private* (Avila Ranch Vesting Tentative Tract Map 3089)” dated June 18, 2019 (“**Private Reimbursement Agreement**”).

WHEREAS, the Project is being developed in phases, commencing with Phase 1, consisting of 179 single family units (“**Phase 1**”); Phase 2 consisting of 29 single family units (“**Phase 2**”); Phase 3 consisting of 125 apartment units and 92 single family units (“**Phase 3**”); Phase 4 consisting of 197 Townhomes/Duplexes (“**Phase 4**”); Phase 5 consisting of 101 single family units (“**Phase 5**”); and Phase 6 consisting of 15,000 sf of neighborhood commercial (“**Phase 6**”).

WHEREAS, in 2022, a dispute arose between the City and ARD over a number of issues, including but not limited to:

- a. Interpretation of the DA, with respect Development Impact Fees, and the vesting rights of ARD ("**Impact Fees**"); and
- b. Entitling Condominium Units in Phase 4 of Avila Ranch ("**Phase 4 Townhomes**")
- c. Reimbursements pursuant to the Private Reimbursement Agreement; and,
- d. Acceptance of Basin A as a public improvement.

WHEREAS, in addition to the above described "Disputes", the City and ARD engaged in discussions regarding practical solutions to the following items:

- a. Implementation of the Down Payment Assistance Program, with respect to WHIP units, as detailed in the DA ("**DPAP**"); and
- b. Distribution and location of "For-Rent" Units ("**Affordable Housing**")

WHEREAS, with respect to Development Impact Fees, ARD submitted numerous letters to the City, in conjunction with ARD's application for Phase 1 building permits, wherein ARD paid Impact Fees under protest, asserting the misapplication and/or miscalculation of certain Impact Fees to the Project; and

WHEREAS, with respect to the DPAP, ARD asserted that the language in Exhibit "G" to the DA requiring ARD to provide down payment assistance of up to \$20,000.00 to the initial purchaser of a Workforce Housing Incentive Program ("**WHIP**") unit was inconsistent with lending practices and violated commercial lender rules and regulations; and

WHEREAS, with respect to location of Affordable Units, ARD asserted that the unit distribution was impractical and requested a modification of said distribution; and

WHEREAS, with respect to the Phase 4 Townhomes, ARD asserted that the Project Entitlements provided for the processing of a "Condominium Plan" with the Department of Real Estate without requiring additional subdivision of Phase 4 pursuant to the Subdivision Map Act.

WHEREAS, with respect to the Private Reimbursement Agreement, ARD asserted that the City is obligated to reimburse ARD for certain improvements constructed by ARD when certain properties are annexed into the City, and ARD specifically demanded funds with respect to the annexation of the East Airport Business Park and, demanded that the City record notices of the Private Reimbursement Agreement against all properties subject to the Private Reimbursement Agreement; and

WHEREAS, with respect to Basin A, there is a dispute between the Parties over the construction and operation of Basin A; and

WHEREAS, the various disputes set forth in these recitals are referred to herein collectively as “**the Dispute**”; and

WHEREAS, in March 2023, in response to the above-described Dispute, the City and ARD entered into a Tolling and Escrow Agreement (“**Tolling Agreement**”) by which the Parties agreed that the City would continue to issue building permits and ARD would continue to develop the Project by paying the Development Impact Fees under protest, depositing an agreed upon sum, \$19,000 per dwelling unit, which represents the protested Development Impact Fees on Phase 1 permits, into an escrow established with Old Republic Title Company (“**ARD Escrow Funds**”) pending resolution of the Dispute; and

WHEREAS, as conditioned by the Tolling Agreement, the City deposited the sum of One Million One Hundred Thirty-Six Thousand and 00/100 Dollars (\$1,136,000.00) with Old Republic Title Company (“**City Escrow Funds**”).

WHEREAS, ARD and the City have continued communication during the period following the execution of the Tolling and Escrow Agreement, and the Parties engaged in voluntary mediation sessions on August 10, 2023, August 24, 2023, and November 16, 2023, before mediator Bruce Edwards; and

WHEREAS, Section 8.06 of the DA provides in part that anticipated refinements of the Project may require appropriate clarifications and refinements to be made regarding the details of the performance of the City and ARD under the DA; and

WHEREAS, the Parties now desire to memorialize the terms of their settlement by this Agreement and to resolve all claims which may exist between them arising out of and relating to the Dispute.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. Development Impact Fees. As described in the above recitals, ARD disputed the City’s interpretation of Sections 5.04.2 (b), (c) and (e) of the DA, and the calculation and application of Impact Fees to the Project.

Section 5.04.2 (b) of the DA, as amended by the April 16, 2019, Amendment No. 1 to Development Agreement, provides,

The Developer shall be required to pay all City-wide, 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. The Developer shall be required to pay the Los Osos Valley Road (LOVR) Interchange Impact Fees as revised generally consistent with the impact fee methodology set forth in the April 3, 2018 letter agreement between the City and Developer.

Section 5.04.2 (c) of the DA provides:

The Developer shall be required to pay sewer and water impact fees in accordance with the AB 1600 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.

Section 5.04.2 (e) of the DA Provides:

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.

With respect to the foregoing sections of the DA, the Parties agree to the following interpretation:

a. **Development Impact Fees.** The following line-item Impact Fees (collectively “**Avila Ranch DIF**”) are imposed on the Project by the DA, as amended by the First Amendment to the DA:

- 1) Police
- 2) Fire¹
- 3) Traffic (LOVR Base Fee and LOVR add on Fee)
- 4) Water
- 5) Wastewater

b. **Phase 1.** With respect to the Phase 1 map, ARD vested in the value of the Avila Ranch DIF with the recordation of the Phase 1 Final Map on December 23, 2021. The City is permitted to adjust Avila Ranch DIF, except the water and wastewater fees,

¹ The City has confirmed that an interim fire station is to be constructed on Lot 197 of Avila Ranch Phase 1 and that ARD is entitled to a fee credit against the Fire Impact Fee.

once annually by the inflationary index in place at the time the Phase 1 Final Map records. The Parties acknowledge that the inflationary index in place as of the recordation of the Phase 1 Final Map is California Construction Cost Index (“**CCCI**”), as described in Section 4.56.040 of the City’s Municipal Code. With respect to Phase 1 only, the water and wastewater Development Impact Fees may be adjusted once annually by the Consumer Price Index (Los Angeles, All Urban Consumers, All Items) (“**CPI**”). Consistent with the foregoing, attached hereto as **Exhibit “1”** is an “**Impact Fee Summary**,” which was prepared jointly by the Parties, following a reconciliation analysis of each building permit issued for Phase 1. The applicable fees that have been agreed to, and the **Exhibit “1”** Impact Fee Summary reconciliation is based on the Phase 1 Avila Ranch Fee Schedule, attached hereto as **Exhibit “6”**.

c. It is acknowledged that ARD paid \$138,226.14 in LOVR TIF Add-on Fees to the City which City is unable to refund at this time. The City is no longer in possession of these fees, as they were required to be passed through to another developer pursuant to obligations of a separate reimbursement agreement that pre-dates any agreements between the City and ARD. The City will ensure that payment of these fees is reflected accordingly in the amount of LOVR Add-on TIF credits available to ARD for reimbursement of eligible expenses on future permits.

d. **Future Phases.** With respect to all future phases (i.e. Phases 2, 3, 4, 5 and 6) of the Project, each phase subsequent to the Phase 1 Final Map will vest in the published Avila Ranch DIF in place at the time of recordation of the particular final map. Thereafter, the City may adjust the fees once annually based upon the inflationary index established by ordinance and in place at the time of adjustment. The Parties acknowledge that the current inflationary index is the CCCI, as described in Section 4.56.040 of the Municipal Code.

e. **Amendment to Existing Fees.** Prior to implementing any amendments provided for in Section 5.04.2 (e) with respect to the Project and imposing such increased costs on the Project, the City shall give ARD advance written notice of the same, as required by the Mitigation Fee Act, and ARD may submit a letter to the City Clerk requesting special notice of any such fee increase pursuant to the Mitigation Fee Act.

2. Down Payment Assistance Program.

Exhibit “G” to the DA provides:

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.

The Parties acknowledge the potential for the above provision to be in conflict with commercial lending practices and/or otherwise violate commercial lender rules and regulations imposed on ARD. In an effort to avoid conflict with commercial lending practice and/or violations of the commercial lender rules and regulations imposed on ARD; and, maintain the intent of the above provision, the Parties agree that the DPAP may be implemented as follows:

Prior to the initial Closing of each WHIP Unit, ARD agrees to contribute a sum equal to five (5%) percent of the purchase price of the Workforce home, not to exceed \$20,000 to the City's Down Payment Assistance Program Fund ("DPA Funds"). The parties agree that once paid, this contribution by ARD constitutes compliance with ARD's down payment assistance obligations under Exhibit G of the Development Agreement. ARD may alternatively make a lump-sum contribution of \$500,000 to City for all covered WHIP Units to satisfy ARD's down payment assistance obligations under Exhibit G of the Development Agreement. The City agrees to utilize said DPA Funds to assist the buyer of such WHIP unit with the purchase of that WHIP unit, including but not limited to, contributing said funds to buyer's down payment as a loan consistent with the City's DPA program. ARD acknowledges that the DPA Funds will be subject to an interest-bearing promissory note, secured by a deed of trust in favor of the City and when said DPA Funds are recouped by the City, in keeping with the terms of the Development Agreement, City will utilize these recouped DPA Funds to assist any income qualifying household who purchases a home in Avila Ranch. Notwithstanding the foregoing, City may utilize said recouped DPA Funds in City's discretion in conjunction with affordable housing assistance throughout the City of San Luis Obispo.

The Parties further agree that the foregoing language will be incorporated, as appropriate, in each Affordable Housing Agreement associated with a phase of the Project, where applicable.

3. Affordable Units.

Exhibit "G" to the DA contemplates 32 low-income and 8 moderate-income "For Rent" apartment units to be constructed in Phase 3 (the R-4 portion of the Project). The DA requires the developer to dedicate a 1.2 acre parcel, described as Lot 300 of the Vesting Tentative Tract

Map, to an affordable housing provider, for the construction of 24 lower-income apartments. The DA also indicates that 8 low-income and 8 moderate-income apartments will be provided on Lot 301 of the Vesting Tentative Tract Map. Finally, Exhibit “G” to the DA provides, “. . . 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.”

The Parties acknowledge that certain lots within Phase 1 are currently burdened by the Affordable Housing Agreement that requires ARD to dedicate Lot 188 of the Phase 1 Final Map (formerly Lot 300) to an affordable housing provider for construction of 24 low-income housing units.

Subsequent to the recordation of the Phase 1 Final Map, including the recordation of the Phase 1 Affordable Housing Agreement, ARD, the City and C & C Development (an affordable housing provider) commenced discussions regarding the construction and development of the Affordable Units. The Parties, including C & C Development, have discussed the best configuration of location for the Affordable Units and received approval from the Planning Commission on February 14, 2024, on the recommendations from the Architectural Review Commission (“**ARC**”), and after the January 23, 2024 City Council review of the draft Phase 3 Affordable Housing Agreement which included transfer of the 8 moderate-income and 8 low-income units and addition of 19 affordable moderate-income Density Bonus units.

With the approval of the Phase 2 & 3 Final Map, including the Phase 3 Affordable Housing Agreement, and both documents having been recorded on April 1, 2025 as Document Numbers 2025008789 and 2025008792, respectively, ARD has dedicated Lot 186, rather than Lot 188, to an Affordable Housing Provider (C&C Development); and, relocated the 8 moderate-income and 8 low-income apartments from Lot 188 (formerly Lot 301) to Lot 186 to be constructed by the Affordable Housing Provider in conjunction with the 24 low income units, and 19 moderate-income Density Bonus units approved by Planning Commission on February 14, 2024. Moreover, the Phase 3 Affordable Housing Agreement contains the following provisions to ensure that these Affordable Units are constructed:

Construction Timing of Affordable Housing Project. For purposes of this Agreement, the term “Commence Construction” means issuance by the City of a “ready to issue” letter for a building permit for the R-4 Affordable Housing Project, the only condition for which is the payment of City fees. For purposes of this Agreement, the term “Substantially Complete Construction” means completion of seventy-five percent (75%) of the construction of the R-4 Affordable Housing Project as demonstrated by the construction budget attached to the first lender construction loan documents for the R-4 Affordable Housing Project and draw requests approved by the first lender. In order to ensure that the Affordable Housing Project is completed earlier in the Project, as opposed to the last phase of the Project, the City reserves the right to withhold the issuance of building permits to ARD if the Affordable Housing Provider has not Commenced Construction by the issuance of a building permit for ARD’s 500th unit, and/or if the Affordable Housing Provider has not Substantially Completed Construction by the issuance of a building permit for ARD’s 550th unit.

In consideration of the foregoing, concurrently with the execution of this Agreement, the Parties shall execute and cause to be recorded an amendment to the Phase 1 Affordable Housing Agreement, in substantially the form attached hereto as **Exhibit “2”**, to change the lot to be dedicated by ARD from Lot 188 to 186, and to set the maximum rents that may be charged for the low-income units on Lot 186. ARD’s obligations regarding construction of the low-income units shall be fully satisfied upon dedication of Lot 186 to an affordable housing provider and as specified by the construction timing requirements detailed above and as memorialized in the Phase 3 Affordable Housing Agreement, provided the amendment to the Affordable Housing Agreement is recorded prior to such dedication.

4. Processing of Phase 4 Subdivision. ARD shall, at such time as it deems appropriate, submit an application for a tentative map for the condominium subdivision of the six lots currently designated as Phase 4 of the Project. Upon receipt of the tentative map application and development review application, City shall process the tentative map concurrently with the development review application through City’s ARC and planning commission as required by the City’s Subdivisions Ordinance (Municipal Code Chapter 16), but no hearing before City’s city council shall be required. Notwithstanding the foregoing, the City has agreed to charge ARD the cost of processing at the parcel map rate and not the tentative map rate. Nothing in this paragraph shall be deemed to entitle ARD to any increase in unit count over the 197 units previously approved for Phase 4. Nothing in this paragraph shall prevent City from applying to the Phase 4 subdivision standards contained in uniform building, construction, fire or other uniform codes, or standards and specifications for public improvements, all as the same may be adopted or amended from time to time by City, provided that the provisions of any such uniform codes or standards and specification are in effect on a City-wide basis.

5. Private Reimbursement Agreement.

The Parties acknowledge that the “Infrastructure Reimbursement Agreement *Private*” dated June 18, 2019, (“**Private Reimbursement Agreement**”) provides a mechanism by which ARD will be reimbursed for certain traffic improvements, constructed by ARD, which benefit properties in the City and County of San Luis Obispo, beyond that of the Project’s proportionate share. Exhibit “A” to the Private Reimbursement Agreement identifies the properties which benefit from these traffic improvements (“Benefitted Properties”) and attributes a “proportionate share” of the actual costs of said improvements exceeding the prorate share attributable to the Project, to each property (“Reimbursable Costs”). Additionally, the Agreement provides an estimated dollar amount attributable to each Benefitted Property based upon the budget established in 2019. Pursuant to the Private Reimbursement Agreement, the City agreed, for Benefitted Properties in its jurisdiction, to “require payment of the prorated shares of the Reimbursable Costs as a condition of any discretionary entitlement or approval, including Architectural Review Committee (whether administrative, quasi-judicial, or legislative) . . . and payment shall be required prior to the issuance of building permits. For [Benefitted] properties in the County’s jurisdiction, City will require Benefitted Properties to pay their prorated share of documented Reimbursable Costs as a condition of annexation.”

- a. **Morabito Property.** Included among the Benefitted Properties identified in Exhibit “A” to the Private Reimbursement Agreement is the “**Morabito Business Park**” (sometimes referred to herein simply as “**Morabito**”). The City acknowledges that the annexation of the East Airport Commerce Park (which includes Morabito) is conditioned upon the East Airport Commerce Park Association (33 parcels, including Morabito) and Senn-Glick (3 parcels) paying the City a combined total of \$1,000,000.00 (“**East Airport Annexation Traffic Impact Fee Payment**”) to fulfill the Annexation Property’s participation in the City’s Citywide Transportation Impact Fee program (TIF) and/or other area transportation improvement reimbursement obligations as stipulated in the “Pre-Annexation Agreement” dated March 17, 2020. Exhibit “A” to the Private Reimbursement Agreement estimates that Morabito’s proportionate share to be \$478,491.00 (“**Morabito’s Estimated Share**”). The City acknowledges that it has received Morabito’s Estimated Share in the East Airport Annexation Traffic Impact Fee Payment, and upon final execution of this Agreement, City will reimburse ARD as provided in subparagraph “b” below from the East Airport Traffic Impact Fee Payment.

The Parties acknowledge that \$417,452 is eligible for reimbursement immediately, and \$61,039 will be held by the City and reimbursed to ARD upon City approval of cost documentation for the S. Higuera/Vachell Intersection. As identified in the Pre-Annexation Agreement, the City will continue to collect additional reimbursement fees, where required, from future development that occurs within this area that proposes additional building area and/or intensity beyond what was approved in previous entitlements and reflected in the Pre-Annexation Agreement and as consistent with otherwise applicable law.

- b. **Cost Increases.** The City acknowledges that ARD’s cost of construction of certain public improvements identified in the Private Reimbursement Agreement, exceeded the estimated amount. Final Reimbursable Costs shall be updated according to the change order terms of the Private Reimbursement Agreement. Exhibit “A” of the Private Reimbursement Agreement (Reimbursement Costs and Allocation to Benefitted Properties) shall be updated upon completion and approval of the change order, per the terms of the Private Reimbursement Agreement, which shall govern only those fees applicable to any property subject to the fee that receives development entitlements in excess of those previously approved and reflected in the Pre-Annexation Agreement after the relevant update to the extent allowed by applicable law. Notwithstanding the foregoing, the Parties acknowledge that modifications to the Reimbursement Agreement are necessary to account for cost increases in order for Developer to be properly reimbursed; ; and, it will be the responsibility of Developer to request such modification and pay the appropriate City fees in place at the time of such request.
- c. **Notice of Agreement.** The City staff confirmed that they are continuing to track development applications in their system which triggers them to inform owners of Benefitted Properties of their obligation for a fair share contribution to the reimbursement

for the work ARD has completed. City also agrees to record a Memorandum and Notice of Reimbursement Agreement against all Benefitted Properties. Within thirty (30) calendar days after the Effective Date, City shall record with the San Luis Obispo County Recorder's Office a Memorandum of Reimbursement Agreement, in substantially the form attached hereto as **Exhibit "3"**. Upon recordation, City shall provide a conformed copy of the Memorandum to ARD.

6. **Basin A.**

Basin A, is an approximately 2 acre bioretention basin located within Lot 30 of Phase 1 of Avila Ranch. Lot 30 includes other improvements required as a condition of development of the Project, including but not limited to Park A, an improved pedestrian pathway, a portion of the community-wide bike path, and a small bioretention basin located along Vachell Lane. All that portion of Lot 30, which is otherwise not Basin A, is collectively referred to as Park A. See **Exhibit "4"** illustrating Park A and Basin A.

A dispute arose between the City and ARD over whether Basin A was constructed and performing as designed and intended. ARD has asserted that Basin A was constructed as approved by the City and performing as intended. The City has asserted that although Basin A may have been constructed as approved, it is not performing as expected in that it is retaining a significant amount of water year round.

In order to bring resolution to the above described dispute, the Parties agree as follows:

a. Within 30 days of the Effective Date, ARD will prepare a legal description and Grant Deed for Park A. Upon recordation of a Grant Deed to separate Park A from Basin A, City will accept ownership and maintenance of Park A. Except as set forth in the next sentence, ARD agrees that the City will be in sole control of the irrigation controller relating to Basin A and Park A; and, ARD will not access or otherwise modify the irrigation control system without the express written consent of the City. Any repairs or work to the irrigation system within the Basin A parcel shall be performed by ARD at its sole expense, subject to authorization and access to the irrigation controller by the City.

b. Except as expressly provided in subparagraph (a) above, in consideration of the foregoing, ARD will continue to own and maintain Basin A, at its expense, until the "Close Out" of the for-sale single family units in Phase 1, 2, & 3 (i.e. the closing of the final single family dwelling units in Phase 1, 2, & 3).

c. As additional consideration and to secure its faithful performance of the obligations set forth in the foregoing subsections (a) and (b), ARD will provide a separate maintenance bond in the sum of \$182,500.00 which is based upon the City's estimated annual cost of maintenance multiplied by 5 years, which is ARD's estimated build out period of Phases 1, 2, & 3.

d. Not later than one year prior to the estimated Close Out, ARD agrees to brief the City on the maintenance activities, including cost thereof, employed by ARD in the maintenance of Basin A.

e. Upon the Close Out, ARD will notify the City of the same and make demand upon the City to immediately accept Basin A, in its entirety. Thereafter, ARD and City will meet and confer to establish that Basin A, is substantially in the same condition that it was in at the time this Agreement was executed, notwithstanding normal wear and tear; that ARD provides documentation from Althouse & Meade, or another qualified consultant approved by City, that there are no additional permits required for the maintenance or operation of Basin A from other regulatory agencies (e.g. Regional Water Quality Control Board, California Department of Fish and Wildlife, etc.); that the fence around Basin A is in compliance with the City's municipal code and Building Code; that the capacity of Basin A is equivalent to its design capacity and has not been materially reduced through means of siltation, sedimentation, erosion, or other means; that construction of improvements and homes in Phases 1, 2, and 3 have not materially contaminated Basin A resulting from non-stormwater discharges to the storm drainage system that is tributary to Basin A, and that the annual scope of the maintenance activities, and the annual cost associated with such activities, performed by ARD for Basin A from the Effective Date until the Close Out is similar to the City's originally estimated scope and cost of annual maintenance for Basin A as detailed in the CFD budget. Notwithstanding the foregoing, if at the time Close Out and upon City's demand for pond aeration, the matter shall be tendered to a mutually agreed upon and qualified engineer to make the determination that the functionality of Basin A will be substantially improved by pond aeration. Upon such determination, ARD agrees to install such equipment, at ARD's sole expense.

f. Provided that upon the delivery of the demand noted in subsection (e), Basin A meets the criteria for acceptance listed in subsection (e), excepting normal wear and tear and vegetative growth, ARD will deed to the City the balance of Lot 30, which constitutes Basin A and City will otherwise accept Basin A in its entirety, take over the maintenance thereof, at the City's expense as paid for by and through Community Facilities District No. 2017-1; and release ARD from the above referenced maintenance bond. Said acceptance shall be in accordance with Section 16.20.230 of the San Luis Obispo Municipal Code without further conditions or discretionary approvals.

7. Mutual Escrow Instructions for the Release of Funds.

Pursuant to the Tolling Agreement, the City issued ARD, from and after the effective date of the Tolling Agreement, a total of 90 building permits. Said permits were issued under protest by ARD as to the amount of the development impact fees being charged. In consideration of the issuance of said permits, ARD deposited into the Escrow Account the sum of \$19,000.00 per building permit, representing the amount paid under protest. From the effective date of the Tolling Agreement, ARD deposited the total sum of \$1,710,000.00 into the Escrow Account ("**ARD Escrow Funds**").

Additionally, pursuant to the Tolling Agreement, City deposited the sum of \$1,136,000.00 into the Escrow Account (“**City Escrow Funds**”).

As of the Effective Date of this Agreement, the Escrow Account retains a total sum of \$2,846,000.00.

The Parties have jointly prepared the Impact Fee Summary, attached hereto as **Exhibit 1** which details the Required Impact Fee Obligations, the Impact Fees Paid by ARD, the Credits Issued by City, the Reconciliation Credits to be Issued as part of this settlement agreement, and the final Overpayment/ Underpayment amounts. This summary reflects the reconciliation analysis which was completed jointly by the Parties for each building permit issued for Phase 1. Tables 1 and 2 below summarize the results of the Impact Fee Summary.

Table 1: ARD Underpaid Impact Fees

The amounts detailed in the below table correspond to the total amount underpaid by ARD with respect to the building permits obtained in Phase 1 for each line itemed Impact Fee.

Police	\$ 8,804.60
Fire	\$ 0
LOVR Base Fee	\$ 0
LOVR Add On Fee	\$ 0
Water	\$ 0
Wastewater	\$ 0

Table 2: ARD Overpaid Impact Fees

The amounts detailed in the below table correspond to the total amount overpaid by ARD with respect to the building permits obtained in Phase 1 for each line itemed Impact Fee.

Police	\$ 0
Fire	\$ 93,887.06
LOVR Base Fee	\$ 803,454.21
LOVR Add On Fee	\$ 48,858.23
Water	\$ 171,888.01
Wastewater	\$ 159,633.77

Concurrently with the execution of this Agreement, the Parties will execute the Mutual Escrow Instructions attached hereto as **Exhibit “5”**. Said Mutual Escrow Instructions direct the Escrow Holder to immediately release the following sums to each Party.

- a. To the City, the total sum of \$1,577,083.32, less any costs of escrow attributable to the City.
- b. To ARD, the total sum of \$1,268,916.68, less any costs of escrow attributable to ARD.

Upon release of the above funds, the Escrow Holder is instructed to close the Escrow.

The Parties shall further jointly direct the Escrow Agent to terminate the Escrow account established pursuant to the Tolling and Escrow Agreement and to submit a final bill for escrow agent services to the Parties, which bill shall be shared equally by the Parties.

8. Release by the City. The City hereby and forever releases ARD, and its respective insurers, attorneys, successors, assigns, heirs, transferees, agents, principals, officers, directors, employees, shareholders, members, co-venturers, partners, affiliates, subsidiaries, and representatives from any and all claims, demands, damages, debts, liabilities, accounts, obligations, costs, expenses, liens, and judgments of every kind and nature, whether known or unknown, suspected or unsuspected, relating to or otherwise arising out of the Dispute.

9. Release by ARD. ARD hereby and forever releases the City, and its respective insurers, attorneys, successors, assigns, heirs, transferees, agents, principals, elected officials, officers, directors, employees, and representatives from any and all claims, demands, damages, debts, liabilities, accounts, obligations, costs, expenses, liens, and judgments of every kind and nature, whether known or unknown, suspected or unsuspected, relating to or otherwise arising out of the Dispute.

10. Waiver of Civil Code Section 1542. It is understood and agreed that this is a full and final release applying to all known, unknown, anticipated and unanticipated injuries, losses, expenses and damages arising out of or in relation to the Dispute and is intended to be as broad as possible as to any and all claims that the City may have against ARD relating to the Dispute and any and all claims ARD may have against the City relating to the Dispute, whether specifically set forth herein. The Parties understand California Civil Code Section 1542 provides as follows:

Section 1542. General Release- Claims Extinguished.

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

The Parties expressly waive the provisions of Section 1542, and the Parties acknowledge and agree that waiver of the provisions of Section 1542 has been separately bargained for.

11. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective grantees, transferees, successors, assigns, employees, and agents of each Party to this Agreement to the extent permitted by law.

12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

13. Severability. The provisions of this Agreement are severable, and if any one or more provisions may be determined judicially unenforceable, in whole or in part, the remaining provisions and any partially unenforceable provisions, to the extent enforceable, shall nevertheless be binding upon and enforceable against the Parties hereto to the extent they may reasonably be enforced apart from that which is invalidated.

14. Attorney's Fees and Costs. Each Party shall bear its own attorney's fees and costs arising from the Dispute. If any claim, controversy, or action arises out of or relates to this Agreement following the Effective Date, the prevailing party in such action shall be entitled to recover reasonable attorneys' fees, costs, and expenses in addition to all other appropriate relief.

15. Controlling Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the State of California. Venue for any action commenced regarding the terms, interpretation, or enforcement of this Agreement shall be in the Superior Court for the County of San Luis Obispo, California.

16. No Amendment. This Agreement may not be altered, amended, modified, or otherwise changed in any respect, except by a writing signed by all Parties to this Agreement.

17. Authorizations. The undersigned, by their signatures, represent and warrant that they are authorized agents of their respective entities and are authorized to execute this Agreement. All Parties represent and warrant that no portion of any claim which they have or might have arising out of the matters referred to herein, nor any portion of any recovery or settlement to which they might be entitled, has been assigned or transferred to any other person, firm or corporation not a party to this Agreement, in any manner, including by way of subrogation or operation of law or otherwise. In the event that any claim, demand, or suit should be made or instituted against any Party because of any such purported assignment, subrogation, or transfer, each Party agrees to defend, indemnify and hold harmless the other Party against such claim, demand or suit, and to pay and satisfy any such claim, including necessary expenses of investigation, actual attorneys' fees and costs.

18. No Admission of Liability. It is expressly understood and agreed that this Agreement is being made solely for the purpose of avoiding the expense and inconvenience of potential litigation and it is not to be construed as an admission on the part of any Party or of any unlawful or wrongful conduct, or of any liability to any other Party as alleged in the Dispute or otherwise, all of which is expressly denied.

19. Integrated Agreement. This Agreement contains the entire Agreement and understanding between and among the Parties concerning the subject matter of this Agreement and supersedes and replaces all prior negotiations, proposed agreements and agreements, written or oral concerning the subject matter of this Agreement. All Parties acknowledge that no other Party nor any agent or attorney of such Party has made any promise, representation or warranty, express or implied, which is not contained in this Agreement, to induce any other Party into executing this Agreement. All Parties herein further acknowledge that they are not executing

this Agreement in reliance on any promise, representation or warranty not contained in this Agreement.

20. Effective Date. The Effective Date of this Agreement is the last date set forth opposite the signatures of the Parties at the end of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

AVILA RANCH DEVELOPERS, INC.

CITY OF SAN LUIS OBISPO

By: _____
Joshua Peterson, President

By: _____
Whitney McDonald, City Manager

Dated: _____, 2025

Dated: _____, 2025

APPROVED AS TO FORM

APPROVED AS TO FORM

By: _____
Michael Slater, General Counsel
Avila Ranch Developers, Inc.

By: _____
J. Christine Dietrick, City Attorney

TH AVILA RANCH, LLC,
a California limited liability company

By: _____
Joshua E. Peterson,
Authorized Agent

Dated _____, 2025

**TRUMARK CONSTRUCTION SERVICES,
INC.,**
a California corporation

By: _____
Joshua E. Peterson
Authorized Agent

Dated: _____, 2025

Exhibit "1"
Impact Fee Summary

IMPACT FEE SUMMARY						
	Fire	Police	TIF LOVR Base	TIF LOVR Add-on	Water	Wastewater
Total Required Impact Fees Due - Phase 1	\$ 121,780.74	\$ 142,969.80	\$ 1,885,814.26	\$ 461,677.18	\$ 2,215,158.81	\$ 2,058,750.02
Actual Fees Paid	\$ (93,887.06)	\$ (134,165.20)	\$ (803,454.21)	\$ (187,084.37)	\$ (2,387,046.82)	\$ (2,218,383.79)
Actual Credits Issued	\$ (27,494.38)	\$ -	\$ (246,598.30)	\$ (64,434.28)	\$ -	\$ -
Reconciliation Credits to be Issued	\$ (94,286.36)	\$ -	\$ (1,639,215.96)	\$ (259,016.76)	\$ -	\$ -
(Overpayment)/ Underpayment	\$ (93,887.06)	\$ 8,804.60	\$ (803,454.21)	\$ (48,858.23)	\$ (171,888.01)	\$ (159,633.77)
	Refund ARD	ARD Pay to City	Refund ARD	Refund ARD	Refund ARD	Refund ARD

RECONCILIATION SUMMARY						
	Fire	Police	TIF LOVR Base	TIF LOVR Add-on	Water	Wastewater
Total Credits Used After Reconciliation	\$ (121,780.74)	\$ -	\$ (1,885,814.26)	\$ (323,451.04)	\$ -	\$ -
Total Fees Paid After Reconciliation	\$ -	\$ (142,969.80)	\$ -	\$ (138,226.14)	\$ (2,215,158.81)	\$ (2,058,750.02)
Total After Reconciliation	\$ (121,780.74)	\$ (142,969.80)	\$ (1,885,814.26)	\$ (461,677.18)	\$ (2,215,158.81)	\$ (2,058,750.02)

Exhibit “2”
Amendment to Phase 1 Affordable Housing Agreement

**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

No fee for recording pursuant to
Government Code Section 27383

(Space Above for Recorder’s Use)

**FIRST AMENDMENT TO
AFFORDABLE HOUSING AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS
(For-Sale Moderate-Income Units, WHIP Units, and Land Dedication for Phase 1 of Avila Ranch)**

This First Amendment To Affordable Housing Agreement and Declaration of Restrictive Covenants (For-Sale Moderate-Income Units, WHIP Units, and Land Dedication for Phase 1 of Avila Ranch) (this “**First Amendment**”) is made and entered into as of _____, 2025, (the “**Effective Date**”) by and between Avila Ranch Developers, Inc., a California corporation (“**ARD**”) and Yellowfin Holdings, LP, a California limited partnership and, CJ Holdings, LP, a California limited partnership (collectively “**Adjoining Landowners**”) and the City of San Luis Obispo, a California charter city and municipal corporation (“**City**”). ARD, Adjoining Landowners and City are sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

A. The Parties have entered into that certain Affordable Housing Agreement and Declaration of Restrictive Covenants (For-Sale Moderate-Income Units, WHIP Units, and Land Dedication for Phase 1 of Avila Ranch) recorded on December 23, 2021 in San Luis Obispo County Records as Document No. 2021083395 which in part required the Adjoining Landowners to dedicate Lot 188 of the Phase 1 Final Map (“**Lot 188**”) to an Affordable Housing Provider for the development of 24 Low-Income Units; and, if the Affordable Housing Provider did not complete said Low-Income Units by the fourth (4th) development phase of the Project (as defined in the Original Agreement) the obligation to complete the Low-Income Units remained with ARD to complete (“**Original Agreement**”).

B. Subsequent to the Original Agreement, ARD and the City entered into discussions with C & C Development, an affordable housing provider for the construction of the 24 Low-Income Units, ARD’s eight (8) Low-Income and eight (8) Moderate-Income Units together with an additional 19 Low-Income Units pursuant to a Density Bonus (collectively “**Affordable Rental Units**”), all on Lot 186 of the Phase 1 Final Map (“**Lot 186**”).

C. Thereafter, ARD conveyed Lot 186 to Avila Ranch, LP, an affiliated entity of C & C Development for the construction of the Affordable Rental Units.

D. On January 23, 2024, the San Luis Obispo City Council approved Final Tract Map No. 3089 Phases 2 & 3, together with the “Avila Ranch Phase 3 Affordable Housing Agreement and Declaration of Restrictive Covenants (For-Sale Moderate-Income Units, WHIP Units, and R-4 For-Rent Affordable Units)” (“**Phase 3 Affordable Housing Agreement**”) which acknowledged the construction of Affordable Rental Units on Lot 186 and established a new timeframe within which the Affordable Rental Units were to be constructed.

E. On April 1, 2025, the Phase 3 Affordable Housing Agreement was recorded, in part, against Lot 186, burdening Lot 186 with the obligation to construct, develop and manage the Affordable Rental Units.

F. ARD and City desire to amend the Original Agreement to reflect the transfer of the eight (8) Low-Income and eight (8) Moderate-Income Units from Lot 188 to Lot 186, as detailed in the Phase 3 Affordable Housing Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, the promises and covenants of the Parties in this First Amendment, and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

AGREEMENT

1. Article 5 of the Original Agreement, entitled “Dedication of Real Property for Low Income Housing” is deleted in its entirety and with the deletion of Article 5 the Original Agreement no longer imposes any burden on Lot 188 and shall have no force and effect as to Lot 188. Article 5 of the Original Development agreement has been superseded by requirements identified in the Phase 3 Affordable Housing Agreement.

2. Recordation. This First Amendment shall be recorded against the real property described in Exhibit “A” attached hereto and shall run with the land.

3. Capitalization. If a capitalized term used herein is not otherwise defined in this First Amendment, it shall have the same meaning as given to it in the Original Agreement.

4. Conflict. In the event of conflict between this First Amendment and the Original Agreement, the terms of this First Amendment shall prevail.

5. Counterparts. This First Amendment may be executed in two or more fully or partially executed counterparts, each of which will be deemed an original binding the signer thereof against the other signing parties, but all counterparts together will constitute one and the same instrument. Signatures to this First Amendment and any notice given hereunder, transmitted by telecopy or electronic mail shall be valid and effective to bind the party so signing. Each party agrees to promptly deliver an executed original of this First Amendment with its actual signature to the other party, but a failure to do so shall not affect the enforceability of this First Amendment, it being expressly agreed that each party to

this First Amendment shall be bound by its own telecopied or e-mailed signature and shall accept the telecopied or e-mailed signature of the other party to this First Amendment.

6. Effect. Except as expressly modified by this First Amendment, the Original Agreement remains in full force and effect as originally written. From and after the execution of this First Amendment, all references in the Original Agreement to the "Agreement" shall be deemed as references to the Original Agreement as modified by this First Amendment.

IN WITNESS WHEREOF, the Parties have executed this First Amendment as to the date first written above.

CITY:
CITY OF SAN LUIS OBISPO,
a California charter city and municipal corporation

ARD:
AVILA RANCH DEVELOPERS, INC.,
a California corporation

By: _____
Timothea Tway,
Community Development Director

By: _____
Joshua E. Peterson, President

APPROVED AS TO FORM AND LEGAL EFFECT

ADJOINING LANDOWNERS:
Yellowfin Holdings, LP,
a California limited partnership

By: _____
J. Christine Dietrick, City Attorney

By: Spyglass Real Estate, Inc., a California corporation,
Its General Partner

By: _____
Joshua Peterson, President

CJ HOLDINGS, LP,
a California limited partnership

By: Spyglass Real Estate, Inc., a California corporation,
Its General Partner

By: _____
Joshua Peterson, President

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

Adjoining Landowners' Property:

Lot 327 of Final Map 3089 Phases 2 & 3 as said map was filed and recorded April 1, 2025, in Book 43 of Maps at pages 49 through 61, inclusive, in the office of the San Luis Obispo Recorder.

Exhibit “3”

Memorandum of Infrastructure Reimbursement Agreement

Prepared by, recording requested by and
return to:

Name:
Company:
Address:
City:
State: Zip:
Phone:
Fax:

-----Above this Line for Official Use Only-----

MEMORANDUM AND NOTICE OF AGREEMENT

This Memorandum and Notice of Agreement (“**Memorandum**”) is provided by City of San Luis Obispo (“**City**”) pursuant to that certain “Infrastructure Reimbursement Agreement *Private*”, dated July 18th, 2019, entered into between the City and Avila Ranch, LLC, in which the City agreed to collect reimbursement fees from certain properties benefitted by certain oversized traffic improvements constructed by the developer of Avila Ranch in accordance with the City’s approvals permitting the development of Avila Ranch, including, but not limited to the Avila Ranch Development Agreement and Vesting Tentative Tract Map 3089 (“**Private Reimbursement Agreement**”). The Private Reimbursement Agreement was subsequently assigned and assumed by Avila Ranch Developers, Inc., (“**ARD**”) the developer of Avila Ranch.

The Private Reimbursement Agreement was entered into in accordance with Government Code section 66485 and 16.20.110 of the City’s Municipal Code. Exhibit “1” attached hereto, is Exhibit “A” to the Private Reimbursement Agreement and identifies those properties benefitted by the transportation improvements constructed by ARD (“**Benefitted Properties**”). The amounts set forth in Exhibit “1” are subject to change. **This Memorandum and Notice does not constitute a lien on the referenced properties.**

The Private Reimbursement Agreement terminates on the date which is fifteen (15) years from the date of termination of the Avila Ranch Development Agreement or until all Reimbursable Costs have been fully reimbursed to Developer, whichever is sooner.

For additional information or to obtain a copy of the *Private* Reimbursement Agreement, please contact City of San Luis Obispo, Community Services Group – Infrastructure Finance at (805) 781-7100.

CITY OF SAN LUIS OBISPO

By: _____
Timothea Tway, Director of Community
Development

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 _____, 2025, before me, _____, Notary Public in and for said State, personally appeared _____, 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 _____

(Seal Above)

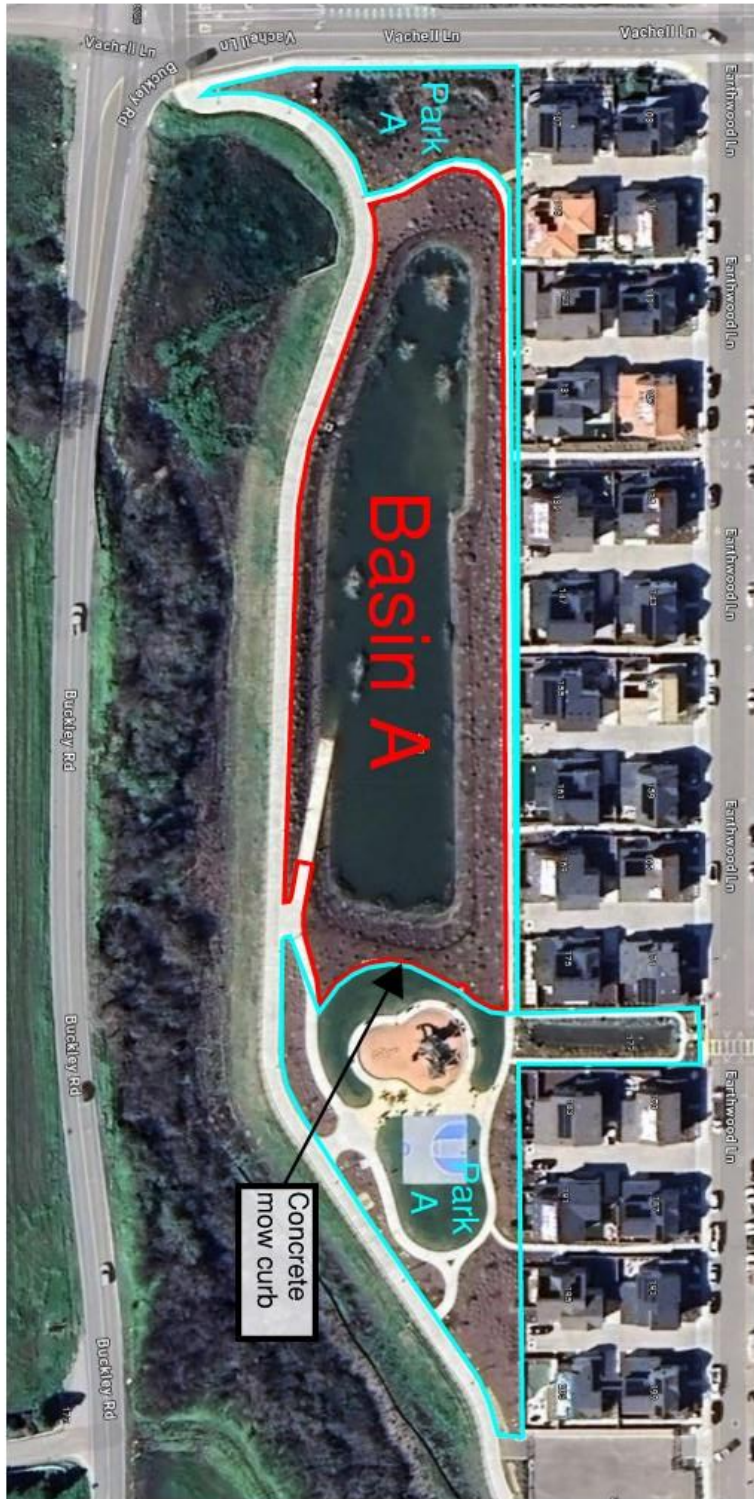
Exhibit "1"

Reimbursement Costs and Allocation to Benefited Properties

	Owner	Share of Improvements					Cost Allocations					Total Assessment
		Earthwood Extension	Suburban Extension East of Earthwood	Horizon Extension	South Higuera/Vadell	Buckley Road Extension	Earthwood Extension	Suburban Extension East of Earthwood	Horizon Extension	South Higuera/Vadell	Buckley Road Extension	
Avila Ranch	Avila Ranch LLC, Avila Family Trust	75.00%	34.70%	75.00%	50.00%	25.00%	\$ 351,980	\$ 156,150	\$ 575,084	\$ 174,641	\$ 1,315,885	\$ 2,573,741
Froom Ranch	Madonna					18.00%	\$ -	\$ -	\$ -	\$ -	\$ 947,437	\$ 947,437
Existing Regional Traffic											\$ 1,115,871	\$ 1,115,871
053-141-13						1.70%	\$ -	\$ -	\$ -	\$ -	\$ 89,418	\$ 89,418
053-161-20						1.72%	\$ -	\$ -	\$ -	\$ -	\$ 90,697	\$ 90,697
053-258-042	Ernie Ball Trust, Steve Dora Trustee	25.00%				0.00%	\$ 117,327	\$ -	\$ -	\$ -	\$ 117,327	\$ 117,327
053-258-027	Pat and Janet Stone		6.65%			0.00%	\$ -	\$ 29,919	\$ -	\$ -	\$ -	\$ 29,919
053-258-025	JCC Suburban LLC		21.64%			0.00%	\$ -	\$ 97,371	\$ -	\$ -	\$ -	\$ 97,371
053-258-024	JCC Suburban LLC		14.63%			0.00%	\$ -	\$ 65,849	\$ -	\$ -	\$ -	\$ 65,849
053-258-018	Wallace Trust, John Wallace, Trustee		1.90%	2.12%		0.00%	\$ -	\$ 8,548	\$ 16,271	\$ -	\$ -	\$ 24,820
053-258-023	Wallace Trust, John Wallace, Trustee		4.57%	5.11%		0.00%	\$ -	\$ 20,570	\$ 39,153	\$ -	\$ -	\$ 59,723
053-258-017	Richard Feris Trust		5.22%	5.84%		0.00%	\$ -	\$ 23,508	\$ 44,746	\$ -	\$ -	\$ 68,254
053-258-014	Hodgrfer and Associates		5.34%	5.97%		0.00%	\$ -	\$ 24,042	\$ 45,763	\$ -	\$ -	\$ 69,805
053-258-015	Hodgrfer and Associates		5.34%	5.97%		0.00%	\$ -	\$ 24,042	\$ 45,763	\$ -	\$ -	\$ 69,805
053-258-007	Robert J Miller Trust					0.00%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
053-258-005	Robert J Miller Trust					0.00%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
053-258-004	Kaiser Sand and Gravel Company					0.00%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
053-258-009	Robert J Miller Trust					0.00%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Multiple	Motorhome Business Park (Remaining)				17.48%	7.95%	\$ -	\$ -	\$ -	\$ 61,039	\$ 417,453	\$ 478,491
053-259-001	Sport Warehouse Properties, LLC				5.46%	4.34%	\$ -	\$ -	\$ -	\$ 19,085	\$ 228,538	\$ 247,623
053-259-002	Malton/Johnson Properties, LLC				9.59%	5.04%	\$ -	\$ -	\$ -	\$ 33,497	\$ 265,494	\$ 298,991
076-071-016 (North)	Caltrans (w/Amendment or EIR, Net of Octagon Barn)				13.00%	11.96%	\$ -	\$ -	\$ -	\$ 45,391	\$ 628,671	\$ 674,062
076-071-016 (South)	Caltrans (w/Amendment or EIR, Net of Flood Plain)				4.47%	3.12%	\$ -	\$ -	\$ 15,630	\$ 164,076	\$ 179,706	
Total Allocations		100.00%	100.00%	100.00%	100.00%	100.00%	\$ 469,307	\$ 450,000	\$ 766,779	\$ 349,281	\$ 5,263,541	\$ 7,298,909
Avila Ranch Fair Share							\$ 469,307	\$ 450,000	\$ 766,779	\$ 349,281	\$ 5,263,541	\$ 7,298,909
Existing Regional Traffic Share							\$ 351,980	\$ 156,150	\$ 575,084	\$ 174,641	\$ 1,315,885	\$ 1,315,871
Reimbursement Agreement Total		\$ 117,327	\$ 293,890	\$ 191,695	\$ 174,641	\$ 2,831,785						

Exhibit "4"

Illustration Depicting Park A and Basin A



- Notes:
- Limits of Basin A have been adjusted to discern a clearer, more distinguishable boundary between what City maintains and what HOA maintains.
 - The concrete mow curb along the west side of Park A lawn, along with the concrete bike/ped path that surrounds Basin A will be the physical boundary that separates Basin A from Park A.

**Exhibit “5”
Mutual Escrow Instructions**

September __ 2025

Sent via U.S. Mail and Email: jmegown@oldrepublictitle.com

Joseph C. Megown
Construction Disbursing Manager
Westport Branch
Old Republic Title
11960 Westline Ind. Dr., Suite 232
St. Louis, MO 63146

Re: Mutual Escrow Instructions

Dear Mr. Megown,

Reference is made to that certain Tolling and Escrow Agreement dated March 28, 2023, as amended, between Avila Ranch Developers, Inc, (“**ARD**”) and the City of San Luis Obispo (“**City**”) wherein ARD and City acknowledged a dispute arising out of the development of the Avila Ranch project, which included a dispute over certain fees and reimbursements paid by ARD or owed to ARD (“**Tolling Agreement**”).

Pursuant to the terms of Tolling Agreement, the City and ARD agreed to stay litigation to allow the parties to mutually resolve these disputes, including, but not limited to establishing an escrow with Old Republic Title Company (“**Escrow Holder**”) wherein ARD would deposit the sum of \$19,000 per dwelling unit developed (“**ARD Escrow Funds**”); and the City deposited the sum of One Million One Hundred Thirty-Six Thousand and 00/100 Dollars (\$1,136,000.00) with Old Republic Title Company (“**City Escrow Funds**”).

ARD and the City are advised that Escrow Holder is currently holding the sum of \$2,846,000.00 representing the sum of ARD Escrow Funds and City Escrow Funds as detailed in Exhibit “A” attached hereto (“**Escrowed Funds**”).

ARD and City have entered that certain Settlement Agreement, wherein ARD and City have reached agreement on the issues in dispute, including, but not limited to the distribution of the Escrow Funds.

This letter (this “**Escrow Letter**”) shall constitute the mutual escrow instructions of ARD and City, to be followed by Escrow Holder and our request that Escrow Holder distribute the Escrowed Funds as provide herein.

MUTUAL INSTRUCTIONS

1. **Distribution of Escrowed Funds.** Pursuant to the terms and conditions of the Settlement Agreement, Escrow Holder is hereby instructed to distribute the Escrowed Funds to ARD and City in the amounts set forth in Exhibit “B”.

- a) Funds distributed to ARD shall be made by wire pursuant to separate wire instructions provided by ARD to Escrow Holder (“**ARD Distribution**”).

- b) Funds distributed to City shall be made by wire transfer pursuant to separate wire instructions provided by City to Escrow Holder (“**City Distribution**”).
- c) ARD and City shall equally share in any fees charged by the Escrow Agent for the administration of this Escrow and Escrow Holder is instructed to deduct each Party’s share of the Escrow Fees from each Party’s respective Distribution.
- d) The Distributions shall occur no later than 2:00 p.m. Pacific Time on _____, 2025.

2. **Close of Escrow.** Upon the Distribution of the Escrowed Funds according to these Mutual Escrow Instructions, Escrow Holder is instructed to Close Escrow.

3. **Notice.** Any notice to be given hereunder to either Party shall be in writing and shall be given either by personal delivery, telecopier transmission, or by registered or certified mail, with return receipt requested, postage prepaid and addressed as follows:

<p>To ARD:</p> <p style="padding-left: 40px;">Avila Ranch Developers 2505 Alluvial Avenue Clovis, CA 93611 Attention: Michael Slater</p>	<p>To City:</p> <p style="padding-left: 40px;">City Attorney’s Office City of San Luis Obispo 990 Palm Street San Luis Obispo, CA 93401 Attn: Christine Dietrick</p>
--	--

Should you have any questions regarding the foregoing, please do not hesitate to contact the undersigned. Thank you for your assistance.

AVILA RANCH DEVELOPERS, INC.
a California corporation

CITY OF SAN LUIS OBISPO
a California charter city

By: _____
Joshua Peterson, President

By: _____
Whitney McDonald, City Manager

Dated: _____, 2025

Dated: _____, 2025

APPROVED AS TO FORM

By: _____
J. Christine Dietrick, City Attorney

TH AVILA RANCH, LLC,
a California limited liability company

By: _____
Joshua E. Peterson,
Authorized Agent

Dated _____, 2025

TRUMARK CONSTRUCTION SERVICES, INC.

a California corporation

By: _____

Joshua E. Peterson
Authorized Agent

Dated: _____, 2025

ACKNOWLEDGED AND AGREED TO THIS _____ DAY OF _____, 2025, AS TO PROVISIONS
RELATING TO ESCROW HOLDER:

Old Republic Title Company

By: _____

Joseph C. Megown
Construction Disbursing Manager, Westport Branch

cc: Jessica Moreno, Old Republic Title Company
David Fleishman, Richards Watson Gershon
Timmi Tway, Director of Community Development, City of San Luis Obispo
Callie Taylor, Senior Planner, City of San Luis Obispo
Michael P. Slater, Vice President Land Use, Trumark Homes
Dan Garson, Director of Land Development, Trumark Homes

Exhibit "A"
Escrowed Funds

Old Republic Title Co. of St. Louis, Inc.

BALANCE SHEET

*Printed By: Megown, Joe
Thu, Sep 12, 2024 : 7:46 AM
Page: 1*

AVILLA RANCH PROJECT ; Code: 11562

Order Date:	05/03/2023	Closing Date:	00/00/00	
Location:	AVILLA RANCH PROJECT SAN LUIS OBISPO, CA	Address:		
Bldg Type:		Sq Ft:	0	Garage:
Lender	CITY OF SAN LUIS OBISPO	Telephone:		
Address:		Fax:		
Owner	AVILA RANCH DEVELOPERS, INC.	Telephone:		
Address:		Fax:		

Type	Ck #	Date	Party	Vndr Voucher #	Voucher	Deposit	Balance
D	140439	05/03/23	CITY OF SAN LUIS OBISPO		0.00	1,136,000.00	1,136,000.00
D	140444	05/03/23	AVILA RANCH DEVELOPERS,		0.00	19,000.00	1,155,000.00
D	140441	05/03/23	AVILA RANCH DEVELOPERS,		0.00	19,000.00	1,174,000.00
D	140446	05/03/23	AVILA RANCH DEVELOPERS,		0.00	19,000.00	1,193,000.00
D	140445	05/03/23	AVILA RANCH DEVELOPERS,		0.00	19,000.00	1,212,000.00
D	140447	05/03/23	AVILA RANCH DEVELOPERS,		0.00	19,000.00	1,231,000.00
D	140443	05/03/23	AVILA RANCH DEVELOPERS,		0.00	19,000.00	1,250,000.00
D	140440	05/03/23	AVILA RANCH DEVELOPERS,		0.00	19,000.00	1,269,000.00
D	140442	05/03/23	AVILA RANCH DEVELOPERS,		0.00	19,000.00	1,288,000.00
C	34086	05/19/23	OLD REPUBLIC TITLE		2,840.00	0.00	1,285,160.00
D	141548	06/21/23	AVILA RANCH DEVELOPERS,		0.00	19,000.00	1,304,160.00
D	141547	06/21/23	AVILA RANCH DEVELOPERS,		0.00	19,000.00	1,323,160.00
D	141549	06/21/23	AVILA RANCH DEVELOPERS,		0.00	19,000.00	1,342,160.00
D	141545	06/21/23	AVILA RANCH DEVELOPERS,		0.00	19,000.00	1,361,160.00
D	141546	06/21/23	AVILA RANCH DEVELOPERS,		0.00	19,000.00	1,380,160.00
D	141550	06/21/23	AVILA RANCH DEVELOPERS,		0.00	19,000.00	1,399,160.00
D	141895	07/06/23	AVILA RANCH DEVELOPERS,		0.00	266,000.00	1,665,160.00
D	143548	09/20/23	AVILA RANCH DEVELOPERS,		0.00	266,000.00	1,931,160.00
D	144755	11/17/23	AVILA RANCH DEVELOPERS,		0.00	171,000.00	2,102,160.00
D	145231	12/11/23	AVILA RANCH DEVELOPERS,		0.00	152,000.00	2,254,160.00
D	146289	02/02/24	AVILA RANCH DEVELOPERS,		0.00	152,000.00	2,406,160.00
D	147159	03/19/24	AVILA RANCH DEVELOPERS,		0.00	247,000.00	2,653,160.00
D	148353	05/16/24	AVILA RANCH DEVELOPERS,		0.00	190,000.00	2,843,160.00

*** Total for: AVILLA RANCH PROJ 2,840.00 2,846,000.00

Exhibit "B"
Distribution of Escrowed Funds

ESCROW DEPOSIT & DISTRIBUTION

Initial Deposit from City	\$	1,136,000.00
Subsequent Deposits (\$19k/ permit)	\$	1,710,000.00
TOTAL ESCROW DEPOSITS	\$	2,846,000.00

ARD DISTRIBUTION

Fire Refund	\$	(93,887.06)
Police Underpayment	\$	8,804.60
TIF LOVR Base Refund	\$	(803,454.21)
TIF LOVR Add-on Refund	\$	(48,858.23)
Water Refund	\$	(171,888.01)
Wastewater Refund	\$	(159,633.77)
ARD DUE FROM ESCROW	\$	(1,268,916.68)

CITY DISTRIBUTION

CITY DUE FROM ESCROW	\$	(1,577,083.32)
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Escrow Ending Balance \$ -

Exhibit "6"
Avila Ranch Phase 1 Impact Fee Schedule

Single Family Residential - Avila Ranch FMAP 1 Vested Fees				
Fee Year	2021/2022	2022/2023	2023/2024	2024/2025
Escalated by CPI Each Year	Base Year	7.90%	3.80%	3.90%
Water (> 1201 sq ft)	\$ 13,767.02	\$ 14,854.61	\$ 15,419.09	\$ 16,020.43
Water (800-1200 sq ft)	\$ 11,013.62	\$ 11,883.70	\$ 12,335.28	\$ 12,816.35
Water (451-800 sq ft)	\$ 9,636.91	\$ 10,398.23	\$ 10,793.36	\$ 11,214.30
Water (< 450 sq ft)	\$ 4,154.26	\$ 4,482.45	\$ 4,652.78	\$ 4,834.24
Wastewater (> 1201 sq ft)	\$ 12,785.98	\$ 13,796.07	\$ 14,320.32	\$ 14,878.82
Wastewater (800-1200 sq ft)	\$ 10,288.83	\$ 11,101.65	\$ 11,523.51	\$ 11,972.93
Wastewater (451-800 sq ft)	\$ 9,003.46	\$ 9,714.73	\$ 10,083.89	\$ 10,477.17
Wastewater (< 450 sq ft)	\$ 3,834.86	\$ 4,137.81	\$ 4,295.05	\$ 4,462.56
Escalated by CCCI Each Year	Base Year	24.52%	1.38%	7.33%
TIF LOVR Subarea (> 1400 sq ft)	\$ 10,951.75	\$ 13,637.12	\$ 13,825.31	\$ 14,838.71
TIF LOVR Subarea (700 - 1399 sq ft) - per sq ft	\$ 7.82	\$ 9.74	\$ 9.87	\$ 10.60
TIF LOVR Subarea (< 699 sq ft)	\$ 5,475.87	\$ 6,818.55	\$ 6,912.65	\$ 7,419.35
TIF LOVR Add on (> 1400 sq ft)	\$ 2,566.05	\$ 3,195.25	\$ 3,239.34	\$ 3,476.78
TIF LOVR Add on (700 - 1399 sq ft)	\$ 2,566.05	\$ 3,195.25	\$ 3,239.34	\$ 3,476.78
TIF LOVR Add on (< 699 sq ft)	\$ 2,566.05	\$ 3,195.25	\$ 3,239.34	\$ 3,476.78
Citywide Fire	\$ 676.87	\$ 842.84	\$ 854.47	\$ 917.10
Citywide Police	\$ 794.64	\$ 989.49	\$ 1,003.14	\$ 1,076.67
Quimby In Lieu (Subdivision)	n/a - dedicated 18.25 acres parkland			
Parkland Improvement Impact Fee (Subdivision)	n/a - building all parks improvements			
	Phase 1 FMAP 12/23/2021 Vested Fees			
Notes:				
1. Water and Wastewater to be escalated by CPI each year.				
2. TIF LOVR Subarea, TIF LOVR Add-on, Fire and Police to be escalated by CCCI each year.				