

REIMBURSEMENT AGREEMENT
(Recycled Water Improvements)

This Reimbursement Agreement (Recycled Water Improvements) (“**Agreement**”) is entered into _____ (the “**Effective Date**”), by and between the City of San Luis Obispo, a municipal corporation and charter city (“**City**”) and Avila Ranch Developers, Inc., a California corporation (“**Avila Ranch**”). The City and Avila Ranch are sometimes hereinafter referred to individually as a “party” and collectively as “parties.”

RECITALS

WHEREAS, on September 17, 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 (“**VTTM**”), Ordinance 1638 (2017 Series) approving a rezone of the Avila Ranch property and Ordinance B69 (2017 Series) approving Development Agreement 2017-1 (“**Development Agreement**”), and formation of a Community Facilities District (collectively “**Project**”); and

WHEREAS, Section 5.04.2(g) of the Development Agreement provides that the City will enter into a reimbursement agreement with the developer (now Avila Ranch Developers, Inc. as successor in interest) which provides for the reimbursement of all excess costs and expenses incurred by Avila Ranch in constructing infrastructure beyond its fair share following Government Code section 66485 et. seq. and section 16.20.110 of the City’s Municipal Code; and

WHEREAS, Section 5.05.3(a) of the Development Agreement provides that the City will reimburse, or provide for the reimbursement by other landowners or developer the actual hard and soft costs associated with Avila Ranch’s funding or construction of that portion of any improvement that is attributable to a project or area other than the Project or Project property; and

WHEREAS, as a matter of convenience and efficiencies, the City has requested that Avila Ranch extend a segment of a recycled water line on Venture Drive to a location beyond the tract boundary, as illustrated in Exhibit “A” attached hereto (“**Recycled Water Improvements**”) and Avila Ranch has agreed to construct these Recycled Water Improvements subject to reimbursement.

WHEREAS, City acknowledges that no portion of the Recycled Water Improvements, as defined herein, are attributable to the Project, and therefore one hundred percent (100%) of Avila Ranch’s actual cost of constructing and installing the Recycled Water Improvements is subject to reimbursement (“**Reimbursable Costs**”).

WHEREAS, the City has identified, in Exhibit “B” attached hereto, those properties benefitting from the Recycled Water Improvements (“**Benefitted Properties**” or individually, “**Benefitted Property**”) and each Benefitted Properties proportionate share of the actual cost of the Recycled Water Improvements.

WHEREAS, the City and Avila Ranch now desire to enter into an agreement to memorialize the terms and conditions under which Avila Ranch will be reimbursed the Reimbursable Costs.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, receipt and adequacy being hereby acknowledged, the City and Avila Ranch agree as follows:

1. Recitals. The above recitals are true and correct. The recitals set forth above, and all defined terms set forth in such recitals and the preamble preceding the recitals, are hereby incorporated into this Agreement as though set forth in full.

2. Term. According to Section 5.05.3(g) of the Development Agreement the term of this Agreement will be fifteen (15) years from the date of termination of the Development Agreement, or until all Reimbursable Costs have been fully reimbursed, whichever is sooner.

3. Construction of Recycled Water Improvements. Avila Ranch has constructed the Recycled Water Improvements in substantial conformance with plans and specifications approved by the City (“**Approved Plans**”).

4. Reimbursable Costs. City and Avila Ranch agree that Avila Ranch’s actual cost of constructing and installing the Recycled Water Improvements are detailed in Exhibit “C” attached hereto and incorporated herein by reference, one hundred percent (100%) of which are subject to reimbursement according to this Agreement. For purposes of this Agreement, the Reimbursable Costs include Avila Ranch’s actual cost of designing, permitting, and constructing the Recycled Water Improvements. The Reimbursable Costs include the cost of all right-of-way acquisitions secured by Avila Ranch, if any, including the legal, accounting, project management, and costs of such rights of way acquisition. Reimbursable Costs include Avila Ranch’s hard and soft costs. Soft costs include Avila Ranch’s legal, accounting, and engineering costs.

5. Payment of Reimbursable Costs.

a) The Reimbursable Cost shall be shared equally among the Benefitted Properties. The Recycled Water Improvements and each of the Benefitted Properties’ share of the Reimbursable Costs are shown on Exhibit “B”, attached hereto, and incorporated herein by this reference. Subject to terms of this Section 5 of this Agreement, the City will reimburse Avila Ranch the Reimbursable Costs, together with the Applicable Annual Rate of Inflation, which will be the Construction Cost Index.

b) City and Avila Ranch agree that the Recycled Water Improvements significantly benefit the Benefitted Properties because the Recycled Water Improvements are improvements that the City will require each of the individual Benefitted Properties to install as conditions of improvement, and/or connect to for landscape irrigation.

c) Within fifteen (15) days of execution of this Agreement, the City agrees to implement a collection mechanism that ensures the collection of funds from Benefitted Properties consistent with each property’s obligation to pay its share. To the extent permitted by law, the City

further agrees to record a notice of this agreement against the Benefitted Properties.

d) The City is not required to reimburse Avila Ranch for more money than it collects.

e) Any amount of Reimbursable Costs City collects within a calendar quarter will be sent to Avila Ranch within thirty (30) days following the end of such calendar quarter, subject to the provisions of this Section 5. All reimbursements will be by check or warrant made payable to:

Avila Ranch Developers, Inc.
2505 Alluvial Avenue
Clovis, CA 93611

6. Entire Agreement/Amendment. This Agreement represents the entire integrated agreement between the City and Avila Ranch regarding the private reimbursement for the Recycled Water Improvements and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both City and Avila Ranch.

7. Governing Law and Venue. The interpretation and implementation of this Agreement will be governed by the law of California, except for those provisions preempted by federal law. However, the laws of the State of California will not be applied to the extent that they would require or allow the court to use the laws of another state or jurisdiction. The parties agree that all actions or proceedings arising out of or relating to the Agreement will be tried and litigated only in the County of San Luis Obispo or the United States District Court for the Central District of California.

8. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order will in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same will remain in full force and effect.

9. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which will be deemed an original and all of which together will constitute one the same instrument.

10. Notices. All notices, demands, invoices, or written communications to the parties required or permitted hereunder will be in writing and delivered personally or by U.S. mail, postage prepaid, to the following addresses or such other address as the parties may designate per this section:

To City:

Finance – Infrastructure Financing
990 Palm Street
San Luis Obispo, CA 93401
Attn: Esteban Cano

To Avila Ranch:

Avila Ranch Developers, Inc.
2505 Alluvial Avenue
Clovis, CA 93611
Attn: Joshua Peterson

11. Interpretation/Ambiguity. This Agreement was negotiated by the Parties, with the advice and assistance of their respective counsel, and will not be construed in favor of or against either Party, regardless of who may have drafted it or any of its terms. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not be applied in interpreting this Agreement.

12. Assignment. Avila Ranch will not assign, transfer, or convey any of its rights duties or obligations under this Agreement without the prior written approval of the City. The City will not unreasonably withhold approval of any assignment Any other assignment will be null and void.

13. Authority to Execute. Both City and Avila Ranch do covenant that each individual executing this agreement on behalf of each party is a person duly authorized and empowered to execute Agreements for such party.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the first date written above.

AVILA RANCH DEVELOPERS, INC.
a California corporation

CITY OF SAN LUIS OBISPO
a municipal corporation and charter city.

DocuSigned by:
By: Joshua E. Peterson
CC0E3EF0643B497...
Joshua E. Peterson, President

Derek Johnson, City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

J. Christine Dietrick, City Attorney

Exhibit "B"
List of Benefitted Properties and Share of Cost

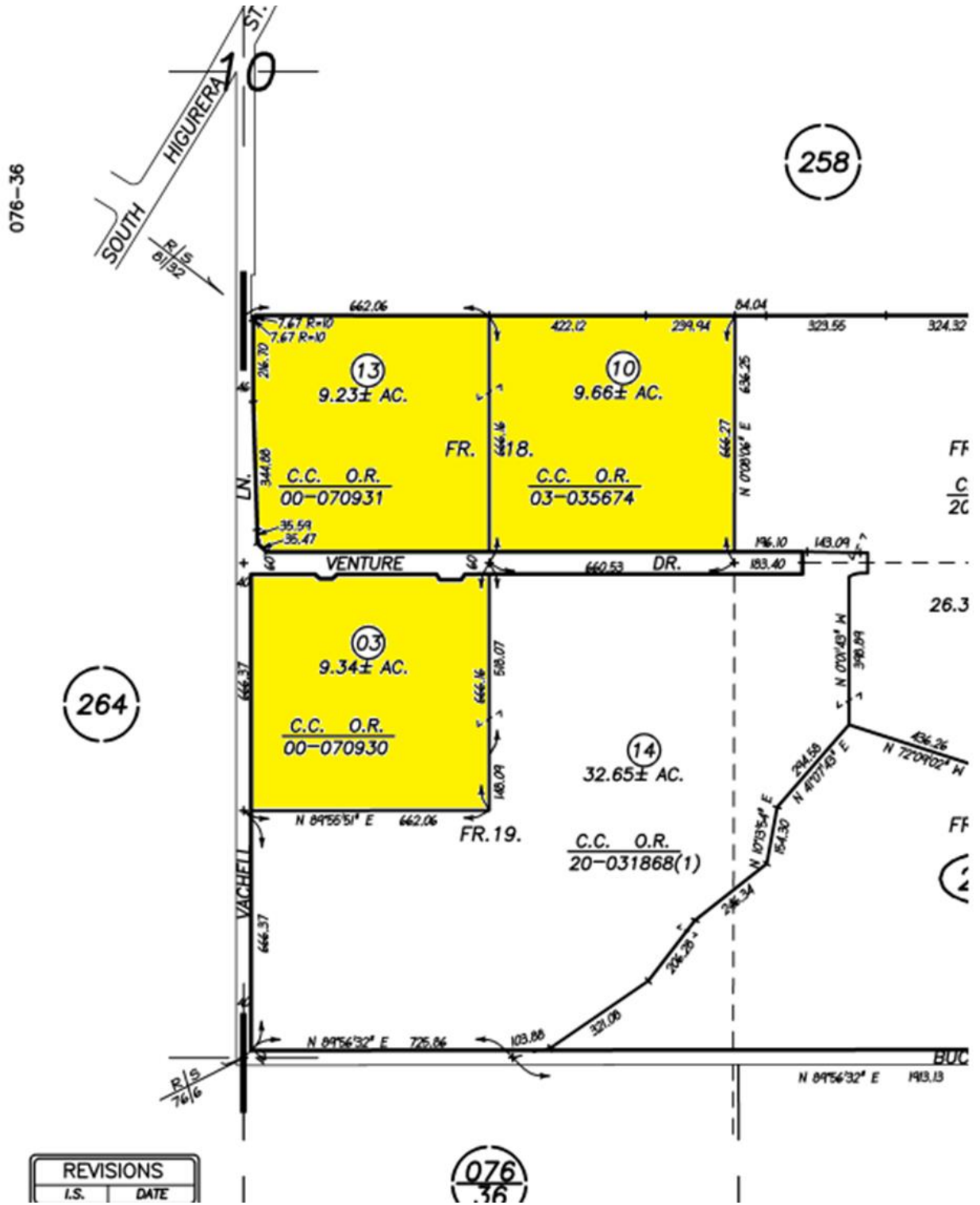


Exhibit "C" Avila Ranch Reimbursable Costs

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CHANGE ORDER # 11

Job Name: Avila Ranch
Contract #: 0613 1061 LD-2
Project #: 0619.01 Backbone
Craft Code: 1606
Date: 8/27/2021

WCP Developers, LLC
OWNER

Address: 2505 Alluvial Avenue
Clovis, CA 93611

Phone: (559) 432-8181
Fax: (559) 432-8595

Sender: Brooke Krob

R. Baker, Inc.
SUBCONTRACTOR

Address: P.O. Box 419
Arroyo Grande, CA 93421

Phone: (805) 489-8711
Fax:

Attn: Joyce Baker

This Change Order shall be attached to and made a part of the above Agreement as executed 06/02/2020 by and between DEVELOPER (Developer), BUILDER (Builder) and CONTRACTOR (Contractor).

DESCRIPTION OF CHANGE (to be completed by Contractor)

Task Number	Description
1	Venture RW Line. See attached proposal dated 8.10.2021

COST DETAIL

Task 1	Description	Quantity	Unit	Unit Price	Total Material / Labor Price
	8" Ductile Iron Pipe - RW	920	LF	\$ 95.20	\$ 87,584.00
	Tie In 12" Cross on Earthwood	1	LS	\$ 14,520.00	\$ 14,520.00
	8" Gate Valve w/box	2	EA	\$ 2,110.00	\$ 4,220.00
	Subtotal Task 1			\$	106,324.00
	Subtotal Task 2			\$	-

CONTRACT SUMMARY

ORIGINAL CONTRACT AMOUNT	\$ 4,273,698.00
Total Material / Labor	\$ 106,324.00
TOTAL THIS CHANGE ORDER	\$ 106,324.00
TOTAL PREVIOUS CHANGE ORDERS	\$ 440,586.49
REVISED CONTRACT AMOUNT	\$ 4,820,608.49

APPROVED AND ACCEPTED

WCP Developers, LLC
OWNER / DEVELOPER / BUILDER

Dan Garson 8/27/2021
OWNER / DEVELOPER / BUILDER REPRESENTATIVE

OWNER / DEVELOPER / BUILDER REPRESENTATIVE

R. Baker, Inc.
SUBCONTRACTOR

JOYCE BAKER 8/27/2021
SUBCONTRACTOR'S REPRESENTATIVE

SUBCONTRACTOR'S REPRESENTATIVE

NOTES:

This Change Order is not approved or valid until fully executed by Wathen Castanos Homes. and returned to Contractor.
 This Change Order shall be attached to and made a part of the above referenced Agreement as executed between Developer and Contractor.
 TO ENSURE TIMELY NOTIFICATION AND ISSUANCE OF APPROVED CHANGE ORDER, PLEASE SUBMIT BY FACSIMILE OR E-MAIL WHENEVER POSSIBLE.

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R. BAKER, INC.
PIPE LINE AND UTILITY CONSTRUCTION
 Post Office Box 419
 Arroyo Grande, California 93421
 Contractors License No. 372751
 Phone 805-489-8711 Fax 805-489-1653
 email:pat@rbakerinc.com

Date: 8/10/2021
 Co: Jerry Meyer
 Re: 8" Reclaimed Water Line on Venture

In response to your invitation to bid on the installation of underground utilities, we are pleased to make the following proposal to furnish all labor, equipment, material, and insurance for the unit prices listed below:

RECLAIMED WATER					
1.	920	LF	8" Ductile Iron Pipe - RW	95.20	87,584.00
2.	1	LS	Tie In 12" Cross on Earthwood	14,520.00	14,520.00
3.	2	EA	8" Gate Valve w/box	2,110.00	4,220.00
TOTAL					106,324.00

These costs are based on working regular 7 AM to 3:30 PM 5 day work weeks.

The above prices are subject to the following conditions:

1. The above quantities are approximate. Payment is to be made on actual quantities installed. Any item not specifically mentioned or DIRECTLY related to any bid items above is not covered in this bid proposal.
2. These prices do not include any engineering, survey staking, or engineered traffic control plans.
3. These prices do not include any costs for compaction testing.
4. These prices do not include any costs for hazardous waste removal, including asbestos cement pipe.
5. These prices do not include any water meters, fees or permits, or certifications of any backflow devices, if needed.
6. These prices do not include any costs for construction water.
7. These prices do not include any dewatering, erosion control, hydro-seeding, or SWPPP.
8. These prices include raising or setting manholes, water valves, meter boxes, and/or utility boxes to grade one time only.

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9. Monthly payments to be made by the 15th of each month for 90% of all work performed during the preceding month. Final payment is to be made with 35 days after completion and acceptance of our work.
10. Pricing is based on assumption of prompt payment by owner and that late payment will result in late fees as well as third party late fees from vendors which will be assumed by owner.
11. Should it become necessary to take legal action to obtain payment, it is agreed that you will pay all the necessary legal fees and court costs involved. Past due payments are subject to 1% after 30 days interest, 2% after 60 days, and 3% interest after 90 days.
12. It is understood that you will furnish sufficient inspection to satisfy yourself that all lines and appurtenances are in the correct location and at proper grade, so that when we complete our work we will have located all items to your satisfaction. It will be assumed that this inspection has been made and those items have been installed per engineering stakes.
13. All work to be performed in accordance with the plans and specifications provided to us for bidding purposes.
14. Should any additional work develop after signing a contract, our normal mark ups would apply. This includes 15% for equipment and material, and 20% for labor.
15. **Force Majeure: If performance of this Subcontract or any obligation** under this Subcontract is prevented, restricted, or interfered with by causes beyond Subcontractor's control ("Force Majeure"), Subcontractor shall not be liable or deemed to be in default for any delay, failure, or interruption in performance under this Agreement resulting, directly or indirectly from such event. The term Force Majeure shall include, but not limited to labor shortages, material shortages and/or material price increases, project delays and/or any other issues arising out of or related to Acts of God, Covid-19, epidemics, pandemics, government lock-downs, shelter in place orders, fire, explosion, vandalism, storm, casualty, illness, injury, general unavailability of materials or other similar occurrence, orders or acts of military or civil authority, or by national and/or state emergencies, insurrections, riots, or wars, or strikes, lock-outs, work stoppages. Subcontractor shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. Substantial Completion date shall be extended for a period reasonably equivalent to the time lost by reason of such Force Maeure event. Subcontract Price shall be adjusted if there are material price increases due to such Force Majeure event beyond Subcontractors control.

16 This proposal is void if not accepted within 30 days.

Thank you for the opportunity of submitting this bid. In the event our proposal is acceptable to you, please contact us and we will procure the necessary material. Additionally, if a contract is written, this proposal shall be included as an exhibit to the contract.

Sincerely,
R. Baker, Inc.
Estimator

Certificate Of Completion

Envelope Id: 7B7986CB94C6419B89C050EDA5FA1F33	Status: Completed
Subject: Please DocuSign: Reimbursement Agreement Recycled Water Improvements.pdf	
Department:	
Supplier:	
Source Envelope:	
Document Pages: 9	Signatures: 1
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Esteban Cano
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	990 Palm Street
	San Luis Obispo, CA 93422
	ecano@slocity.org
	IP Address: 104.129.199.28

Record Tracking

Status: Original 5/19/2022 10:52:42 AM	Holder: Esteban Cano ecano@slocity.org	Location: DocuSign
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Signer Events

Joshua E. Peterson
josh@wchomes.com
Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:
Joshua E. Peterson
CC0E3EF0643B497...

Signature Adoption: Pre-selected Style
Signed by link sent to josh@wchomes.com
Using IP Address: 104.4.75.193

Timestamp

Sent: 5/19/2022 10:57:20 AM
Viewed: 5/19/2022 10:57:49 AM
Signed: 5/19/2022 10:58:37 AM

Electronic Record and Signature Disclosure:

Accepted: 5/19/2022 10:57:49 AM
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In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Dan Garson
dang@wchomes.com
Security Level: Email, Account Authentication (None)

COPIED

Sent: 5/19/2022 10:57:20 AM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

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Certified Delivered	Security Checked	5/19/2022 10:57:49 AM
Signing Complete	Security Checked	5/19/2022 10:58:37 AM

Envelope Summary Events	Status	Timestamps
Completed	Security Checked	5/19/2022 10:58:37 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Carahsoft OBO City of San Luis Obispo (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Carahsoft OBO City of San Luis Obispo:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: keriksso@slocity.org

To advise Carahsoft OBO City of San Luis Obispo of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at keriksso@slocity.org and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

To request paper copies from Carahsoft OBO City of San Luis Obispo

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to keriksso@slocity.org and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Carahsoft OBO City of San Luis Obispo

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to keriksso@slocity.org and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"> •Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify Carahsoft OBO City of San Luis Obispo as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by Carahsoft OBO City of San Luis Obispo during the course of my relationship with you.