

**OPERATING MEMORANDUM NUMBER THREE
BETWEEN
THE CITY OF SAN LUIS OBISPO
AND MI SAN LUIS RANCH, LLC**

The Development Agreement by and between the City of San Luis Obispo (the “City”) and MI San Luis Ranch LLC (“SLR”) dated as of on or about September 18, 2018, and which became effective on October 18, 2018 (the “Development Agreement”), provides in Section 9.03 of the Development Agreement that compliance with the requirements of the San Luis Ranch Specific Plan (the “Specific Plan”), the Conditions of Approval (the “Conditions of Approval”) for the San Luis Ranch Project (the “Project”), the conditions of approval for Vesting Tentative Tract Map. No. 3096 (the “VTTM”), and provisions of the Development Agreement (collectively, the Specific Plan, the Conditions of Approval, the VTTM, and the Development Agreement may be referred to collectively as the “Project Approvals”) require a close degree of cooperation between the City and SLR and refinements and further development of the Project may demonstrate that clarifications are appropriate with respect to the details of performance. The Development Agreement further provides that if and when City and SLR agree that such clarifications are necessary or appropriate, they may implement such clarifications through operating memoranda approved by the City and SLR.

Capitalized terms used in this Operating Memorandum shall carry the same definitions as those set forth in the Development Agreement.

A. PURPOSE:

The purpose of this Operating Memorandum is to clarify how the Parties will implement the final funding of the Prado Overpass improvements, described in Exhibit C to the Development Agreement as the Prado Road/US 101 Interchange and North Bound Ramps (Exhibit C, Table 3, Item 4) and Prado Southbound Ramps (Exhibit C, Table 3, Item 5), collectively, the “Prado Overpass Improvements”). The final cost estimate for the Prado Overpass Improvements, as of the date of this Agreement, have been established at One Hundred One Million Four Hundred Eighty-Three Thousand One Hundred Dollars (\$101,483,100.00) and SLR’s share of the Prado Overpass Improvements (the “Prado Road Interchange Mitigation Fee”) is Twenty-Eight Million Four Hundred Fifteen Thousand Two Hundred Sixty-Eight Dollars (\$28,415,268.00) which is equal to 28% of \$101,483,100.00.

Section 5.04.6 of the DA provides that SLR shall pay its portion of the Prado Road Interchange Mitigation Fee prior to the issuance of occupancy permits within the Specific Plan Area that generate a cumulative total of 233 PM Peak Hour Trips. The Parties acknowledge that the City has issued occupancy permits that exceed this threshold and that such action does not constitute a waiver by the City of any related breach or alleged breach of the Development Agreement by SLR, nor does such action constitute any waiver by the City of remedies for any breach of the Development Agreement, all of which are expressly acknowledged and reserved to the City.

The parties intend through this Operating Memorandum to confirm the final contribution amount from SLR for its share of the Prado Road Interchange Mitigation Fee and to document the method and timing for payment.

The City and SLR previously entered into Operating Memorandum No. 1, Operating Memorandum No. 2, Administrative Amendment No. 1, and Administrative Amendment No. 2,

to address certain items with respect public improvements associated with the recordation of Final Subdivision Maps for the Project.

B. CLARIFICATIONS:

1) Prado Overpass improvements: The Parties acknowledge that the final cost for the Prado Road Overpass Improvements for purposes of the DA is One Hundred and One Million Four Hundred Eighty-Three Thousand One Hundred Dollars (\$101,483,100.00), and SLR's responsibility under the DA of this is Twenty-Eight Million, Four Hundred Fifteen Thousand Two Hundred Sixty-Eight Dollars (\$28,415,268.00), which shall be satisfied as follows:

A. In Operating Memorandum No. 2, the City acknowledged and agreed that "SLR's payment toward the Prado Interchange shall be reduced by Two Million Dollars (\$2,000,000) in lieu and in full satisfaction of the City's Two Million Dollar (\$2,000,000) reimbursement obligations" for oversized or excess public infrastructure described in Operating Memorandum No. 2.

B. The City acknowledges and agrees that SLR is entitled to reimbursements for additional public infrastructure in the amount of Two Million Three Hundred Ninety-Six Thousand Five Hundred Fourteen Dollars and Fifty-Eight Cents (\$2,396,514.58), which such amount shall be applied as a credit to SLR's share of the Prado Road Interchange Mitigation Fee. These reimbursements include One Million Nine Hundred Fifty-Six Thousand Eight Hundred Forty-Eight Dollars and Twenty-Three Cents (\$1,956,848.23) eligible for the LOVR/ Froom Intersection improvements and Four Hundred Thirty-Nine Thousand Six Hundred Sixty-Six Dollars and Thirty-Five Cents (\$439,666.35) eligible for the Froom Ranch Way Widening infrastructure. Such amounts have been documented through contracts and cancelled checks provided to the City on November 9, 2023.

C. SLR shall remit to the City the sum of Fourteen Million One Hundred Twenty-One Thousand Seventy-Two Dollars and Seventy-Six Cents (\$14,121,072.76) within five (5) business days of the mutual execution of this Operating Memorandum.

D. The Parties acknowledge and agree that the City is currently holding funds generated from the Project's Community Facilities District ("CFD") in the amount of Nine Million Eight Hundred Ninety-Seven Thousand Six Hundred Eighty Dollars and Sixty-Six Cents (\$9,897,680.66). Pursuant to Section 11 of that certain Funding, Construction and Acquisition Agreement, dated as of October 20, 2020, between the City and SLR (the "Funding, Construction and Acquisition Agreement"), SLR hereby requests, and the City hereby agrees, to apply such amount as a credit toward SLR's Prado Road Interchange Mitigation Fee. Upon application of such amount for such purpose, SLR agrees that it shall have no further right under the Funding, Construction and Acquisition Agreement or any other document to request disbursements, credits or reimbursements from the proceeds of the City of San Luis Obispo Community Facilities District No. 2019-1 (San Luis Ranch) Special Tax Bonds, Series 2021. SLR further agrees that the City may request the trustee establish such separate subaccounts as may be necessary or desirable to effectuate such application of proceeds.

E. Application pursuant to the Funding, Construction and Acquisition Agreement of the amount of Nine Million Eight Hundred Ninety-Seven Thousand Six Hundred Eighty Dollars and Sixty-Six Cents (\$9,897,680.66), together with the remittance of Fourteen Million One Hundred Twenty-One Thousand Seventy-Two Dollars and Seventy-Six Cents (\$14,121,072.76)

and reimbursements of Two Million Three Hundred Ninety-Six Thousand Five Hundred Fourteen Dollars and Fifty-Eight Cents (\$2,396,514.58) noted in item B, shall together constitute full and final satisfaction of SLR's obligation under the Development Agreement related to the Prado Road Overpass Improvements and the Prado Road Interchange Mitigation Fee.

F. SLR shall retain the right to collect a "Gap Shortfall" (as defined in the Funding, Construction and Acquisition Agreement) from generated special taxes in excess of other obligations of the CFD, provided that the City shall not under any circumstance be obligated to pay SLR any amount in excess of funds actually collected by the City. In addition, SLR shall be entitled to all remaining non-applied public and private reimbursements. Lastly, should a 2nd bond sale take place, SLR shall be entitled to additional reimbursement, payment or credit from the revenues generated from the 2nd CFD bond sale in the manner and subject to the conditions specified in the Funding, Construction and Acquisition Agreement, and the City agrees to assist with the 2nd bond sale in a timely manner.

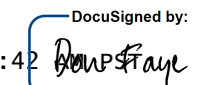
Promptly upon full execution of this Operating Memorandum, the City shall release any building permits or final Certificates of Occupancy that the City would have otherwise issued prior to this Operating Memorandum, but that been withheld pursuant to Section 5.04.6 of the Development Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the last written date below.

FOR CITY OF SAN LUIS OBISPO:

Date: 11/15/2023 | 1:08 PM 
DocuSigned by: 798D822E72C3450
 Derek Johnson, City Manager

FOR MI SAN LUIS RANCH, a Delaware Limited Liability Company:

Date: 11/15/2023 | 7:42 PM 
DocuSigned by: CAE185AE4325434
 Donald R. Faye, Authorized Agent