

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

RECORDING REQUESTED

BY:

City of Paso Robles
Attn: Paso Robles City Clerk
1000 Spring Street
Paso Robles, CA 93446

1-24-20 Draft

WHEN RECORDED MAIL TO:

City of Paso Robles
Attn: Paso Robles City Clerk
1000 Spring Street
Paso Robles, CA 93446

With a copy to:

Stowell, Zeilenga, Ruth,
Vaughn & Treiger LLP
4590 E. Thousand Oaks Blvd., Suite 100
Westlake Village, CA 91362
Attention: James D. Vaughn, Esq.

RECORDING FEES EXEMPT
PURSUANT TO GOVERNMENT CODE
SECTION 27383

(Space Above for Recorder's Use Only)

DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF EL PASO DE ROBLES

AND

OLSEN RANCH 212, LLC

(Pursuant to Government Code sections 65864-65869.5)

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

DEVELOPMENT AGREEMENT

(Pursuant to Government Code
Sections 65864 -65869.5)

This DEVELOPMENT AGREEMENT (“Agreement”) is entered into on _____, 2020, between the CITY OF EL PASO DE ROBLES, a political subdivision of the State of California (“City”) and OLSEN RANCH 212, LLC, a California limited liability company (“Developer”).

The City and Developer are sometimes singularly referenced herein as a “Party” and collectively referenced herein as the “Parties.”

RECITALS:

A. Enabling Statute. Government Code Sections 65864 - 65869.5 (“Development Agreement Law”) authorize the City to enter into binding development agreements with persons having a legal or equitable interest in real property for the development of such property, all for the purpose of strengthening the public planning process, encouraging private participation and comprehensive planning and reducing the economic costs of such development. This Agreement is adopted pursuant to the Development Agreement Law.

B. Property Description. Developer owns a legal or equitable interest in that certain real property, which is the subject of this Agreement, consisting of approximately 338.71 acres, located in San Luis Obispo County, California, as described in Exhibit A attached hereto and incorporated herein by this reference (the “Property”). Developer owns fee title to the portion of the Property commonly known as the South Chandler property and comprising Planning Areas 1 through 7, and has an option to purchase fee title to the remainder of the Property, commonly known as the Olsen property and comprising Planning Areas 11 through 23. The Olsen property is owned by [insert name], a [insert entity type and state].

C. Project Description. Developer intends to develop the Property as part of the Vinedo Specific Plan, which is a master planned community, with a total of approximately 355.6 acres of residential housing units, recreational amenities, parks and open space, and the associated public facilities and infrastructure necessary to serve the site, as generally depicted on the land use plan attached hereto as Exhibit B.

D. Project Background and Approvals.

1. Environmental Impact Report. At a duly noticed and conducted public hearing on _____, the City Council of the City of El Paso de Robles (“Council”) approved Resolution No. _____, certifying a new EIR for the Project which discloses and analyzes all of the potentially significant adverse environmental effects of the Project, as well as the mitigation measures and alternatives that may substantially lessen or avoid such adverse

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

effects to the maximum extent feasible. The Council also adopted CEQA Findings and a Statement of Overriding Considerations with respect to the Project.

2. Approved Land Use Entitlements. At a duly noticed and conducted public hearing on _____, after certifying the EIR for the Project as described above, the Council approved the Project by granting the following land use entitlements for the Property: (1) a General Plan Amendment; (2) a Specific Plan, and (3) approval of this Agreement (collectively, the “Entitlements”).

E. Mutual Benefits. This Agreement is entered into for the purpose of carrying out development of the Project in a manner that will ensure certain anticipated benefits to both the City and Developer. The Parties agree that, due to the size and duration of the Project, certain assurances on the part of each party as to the Project will be necessary to achieve those desired benefits. The benefits to the City under this Agreement include, but are not limited to, the undertaking of proper planning and development as well as enhancing property values and property tax revenues, the provision of certain amenities, the payment of fees by Developer as further described in this Agreement, and the extension of certain public facilities. Furthermore, development of the Project in accordance with the terms of this Agreement will require major investment by Developer in public facilities, substantial front-end investment in on-site and off-site improvements, dedications of land for public purposes and benefit, and a substantial commitment of Developer’s resources to achieve the public purposes and benefits of the Project for the City. The City’s granting to Developer of vested rights to develop the Project will assist Developer in completing the Project, and thus, will help secure the benefits of the Project for Developer and certain public purposes and benefits for the City. The Parties therefore acknowledge that without the respective commitments on the part of City and Developer, the Parties would not enter into this Agreement.

F. General Plan Consistency. The Council hereby finds this Agreement, the Project and the Entitlements to be consistent with the City’s General Plan.

G. Present Exercise of Police Power. The Council hereby finds and determines that the execution of this Agreement is in the best interest of the public health, safety and general welfare of the City and its residents, and that adopting this Agreement constitutes a present exercise of its police power.

H. Financial Intent of the Parties Regarding the Project. Developer and City agree that the City shall be kept whole by Developer with respect to all fiscal aspects of the planning, development, maintenance, and operation of the Project, including the costs to the City of providing the Project with public infrastructure, services, and facilities, the payment of City’s costs associated with the consideration, approval of, and development of, the Project and its Entitlements, and the costs of mitigation of the environmental impacts of the development of the Project, with each Planning Area of the Project bearing its fair and reasonable share of these costs relative to the larger Specific Plan Project. The Parties intend that Developer’s financial commitment to the City is intended to prevent the development of the Project from resulting in

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

negative fiscal impacts on the City, to facilitate the construction, operation, and maintenance of infrastructure and public services facilities, and to assist in the development of the Project to provide long-term fiscal, housing, and other benefits to City, including increased employment opportunities, an increased tax base and revenues to the City, and an enhanced quality of life for the City's residents.

I. Intent of this Agreement. The Parties desire to enter into this Agreement in order to facilitate development of the Property in a manner that will conform to and complement the goals of the City, provide timely construction of necessary infrastructure, protect adjacent land uses and natural resources, enhance implementation of the City's General Plan, and reduce the economic risk of development to Developer and the City. The Parties acknowledge that they are entering into this Agreement pursuant to the Development Agreement Law and the City is acting in its governmental capacity to regulate land use and to promote the purposes of the Development Agreement Law during the entire course of the development of the Property, including the construction of residential dwelling units and the provision of other amenities as provided for herein.

NOW, THEREFORE, the parties agree as follows:

1. GENERAL PROVISIONS.

1.1 Incorporation of Recitals. Recitals A through I of this Agreement are hereby incorporated by reference into this Agreement.

1.2 Definitions.

1.2.1 Administrative Adjustment. "Administrative Adjustment" shall have the meaning set forth in section 1.8.1 of this Agreement.

1.2.2 Affiliated Party. "Affiliated Party" shall have the meaning set forth in section 1.9.3 of this Agreement.

1.2.3 Applicable Law. "Applicable Law" means the rules, regulations, official policies, and ordinances applicable to the Project, the Property and the Entitlements vested by this Agreement, as well as those which are in force and effect on the Effective Date and which govern the permitted land uses, density and intensity of use of the Property, timing or phasing of development, zoning, provisions for reservations or dedication of land for public purposes, location and size of public improvements, development fees and other terms and conditions of development of the Project as set forth in the Entitlements.

1.2.4 Phasing Plan. "Phasing Plan" shall have the meaning set forth in Section 3.2, as further depicted in Exhibit E.

1.2.5 Changes in the Law. "Changes in the Law" means changes in

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

laws, regulations, plans or policies that are specifically mandated and required by changes in state or federal law or regulations, as further defined in section 2.3.4 of this Agreement.

1.2.6 City. The “City” means the City of El Paso de Robles, a political subdivision of the State of California.

1.2.7 City Law. “City Law” means any ordinance, resolution, rule, regulation, standard, directive, condition or other measure enacted by the City, as further defined in section 2.3.5 of this Agreement.

1.2.8 Developer. The “Developer” means Olsen Ranch 212, LLC, a California limited liability company.

1.2.9 Development Agreement Law. “Development Agreement Law” means California *Government Code* sections 65864 through 65869.5.

1.2.10 Development Fees. “Development Fees” shall mean those development and impact fees applicable to the Project and in effect as of the Effective Date of this Agreement, as further defined in Section 2.4.3.

1.2.11 Effective Date. The “Effective Date” means the effective date of the City ordinance adopted to authorize approval and execution of this Agreement.

1.2.12 Emergency Working Group Meeting. “Emergency Working Group Meeting shall have the meaning set forth in Section 6.4 of this Agreement.

1.2.13 Entitlements. “Entitlements” means the land use entitlements for the Project that were approved by the Council on _____, which include a General Plan Amendment, a Specific Plan, and approval of this Agreement, as these entitlements may be amended from time to time.

1.2.14 Finance District. “Finance District” means any public finance district formed to levy special taxes and/or assessments on property owners within the Project under any applicable provisions of California law, including but not limited to the Mello Roos Act, the Improvement Act of 1911, and the Municipal Improvement Act of 1913.

1.2.15 HOA. “HOA” means any homeowners association or other nonprofit mutual benefit corporation formed to own and maintain any common areas within the Project site.

1.2.16 Insubstantial Modifications. “Insubstantial Modifications” shall have the meaning set forth in section 1.7(a) of this Agreement.

1.2.17 Local Goals and Policies. “Local Goals and Policies” shall mean the City

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

of El Paso de Robles adopted Local Goals and Policies for the use of the Mello-Roos Community Facilities Act of 1982, as amended, to Finance Public Facilities and Public Services, as stated in Section 3.15.2 of this Agreement.

1.2.18 Maps. “Maps” means any and all tentative tract maps for any portion of the Project site.

1.2.19 Mortgagee. “Mortgagee” shall have the meaning set forth in Section 9.1.

1.2.20 Non-Assuming Transferees. “Non-Assuming Transferees” shall have the meaning set forth in section 1.9.2 of this Agreement.

1.2.21 Permitted Delay. The terms “Permitted Delay” and “Permitted Delay Notice” shall have the meanings set forth in section 6.3 of this Agreement.

1.2.22 Phasing Plan. “Phasing Plan” shall have the meaning set forth in Section 3.0.2.2 of this Agreement.

1.2.23 Processing Fees. “Processing Fees” mean those City-wide application fees, plan check fees, inspection fees, and other processing or administrative fees, adopted by the City to cover the City’s cost of processing permits and other land use entitlements, and conducting the associated inspections, that are applicable to the Entitlements and/or Implementing Approvals.

1.2.24 Project. The “Project” means the whole of the development of the Vinedo Specific Plan, which is a master planned community on the approximately 338.71 acre Property owned or subject to an option to purchase by Developer, as well as approximately 17 acres of adjacent property owned by third parties, with a total of up to 1,293 residential housing units, as allocated in the Specific Plan, recreational facilities, parks and open space amenities, overlay areas for a potential school on Planning Area 9, and neighborhood commercial development, and the associated public facilities and infrastructure necessary to serve the development and community. Developer’s Property is allocated up to 1,093 residential housing units, as further specified in the Specific Plan.

1.2.25 Project CC&Rs. “Project CC&Rs” means any Declaration of Covenants, Conditions and Restrictions for any portion of the Project site.

1.2.26 Project Costs. “Project Costs” shall have the meaning set forth in Section 4.2 of this Agreement.

1.2.27 Property. The “Property” means that certain real property, which is the subject of this Agreement, consisting of approximately 338.71 acres, located in San Luis Obispo County, California, as more particularly described in Exhibit A hereto.

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

1.2.28 Public Facilities. “Public Facilities” shall have the meaning set forth in Section 4.1.1 of this Agreement.

1.2.29 Recreational Facilities. “Recreational Facilities” means the parks, recreational facilities, trails and natural open space within the Project as further described in section 3.10 of this Agreement.

1.2.30 Reimbursement Fee. “Reimbursement Fee” shall have the meaning set forth in Section 4.2 of this Agreement.

1.2.31 Self-Help Remedy. The term “Self Help Remedy,” shall have the meaning set forth in section 6.4 of this Agreement.

1.2.32 Implementing Approvals. “Implementing Approvals” means any and all land use approvals, entitlements, and permits, other than the Entitlements, that may be necessary or desirable for the buildout of the Project. As set forth in section 2.2.6.3 of this Agreement, requests for “Implementing Approvals” shall be processed and determined in accordance with the terms of this Agreement, the Entitlements, and Applicable Law.

1.2.33 Substantial Amendments. “Substantial Amendments” shall have the meaning set forth in section 1.7(b) of this Agreement.

1.2.34 Third Party Challenge. “Third Party Challenge” shall have the meaning set forth in Section 7.2 of this Agreement.

1.2.35 Transfer Agreement. “Transfer Agreement” shall have the meaning set forth in section 1.9.1. of this Agreement.

1.2.36 Unauthorized Fee. “Unauthorized Fee” shall have the meaning set forth in Section 2.4.7 of this Agreement.

1.3 Binding Covenants. The provisions of this Agreement, to the fullest extent permitted by law, shall constitute covenants which shall run with the Property, and the benefits and burdens of this Agreement shall be binding upon and inure to the benefit of the parties and their successors in interest.

Notwithstanding anything set forth in this Agreement to the contrary:

(a) During the term hereof, the Property shall be subject to this Agreement, and any development of any portion of the Property shall be subject to and in accordance with the terms of this Agreement.

(b) Developer is not obligated by the terms of this Agreement to affirmatively

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

act to develop all or any portion of the Property, pay any sums of money (with the exception of any assessment district or other public finance district lawfully formed to include the Property or other monies owed to the City under applicable law, such as application fees for processing the application for this Agreement), dedicate any land, or to otherwise meet or perform any obligation with respect to the Property. If Developer chooses to develop all or any portion of the Property, then Developer must comply with the terms of this Agreement, the Entitlements, and all other applicable restrictions and requirements governing development of the Project on the Property or a portion thereof.

1.4 Interest of Developer. Developer is the current fee simple owner of a portion of the Property, generally comprising Planning Areas 1 through 7, and Developer intends to hold a fee interest in the Property or portions thereof at all times necessary for the performance of its obligations hereunder, and intends that all other persons holding legal or equitable interests in the Property are to be bound by this Agreement. The fee owners of the portion of the Property not presently owned by Developer, generally comprising Planning Areas 11 through 23, are expressly consenting to the terms and conditions of this Agreement with respect to the portion of the Property they currently own, by signing where indicated below.

1.5 Term. The term of this Agreement shall commence upon the effective date of the ordinance authorizing the approval and execution of this Agreement (the “Effective Date”), and shall extend for a period of twenty (20) years from that date unless it is terminated, modified or extended by the circumstances set forth in this Agreement or by the mutual agreement of the Parties.

1.6 Termination. This Agreement shall be terminated and of no further effect upon the occurrence of any of the following events, whichever occurs first:

- (a) Expiration of the twenty (20) year term;
- (b) Completion of the Project in accordance with the Entitlements and the City’s issuance of all required occupancy permits and acceptance of all dedications and improvements required under the Entitlements and this Agreement;
- (c) As for any specific lot containing a residential dwelling or other structure within the Project, this Agreement shall be terminated as to such lot upon the issuance by City of a certificate of occupancy for the dwelling or other structure constructed thereon;
- (d) Entry of final judgment or issuance of a final order directing City to set aside, withdraw, or abrogate City’s approval of this Agreement or any material part of the Entitlements; or
- (e) The effective date of a party’s election to terminate the Agreement as provided in Sections 6.1 and 6.2 of this Agreement.

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

1.6.1 Partial Termination. In the event of a termination of this Agreement with respect to all or any portion of the Project, then all rights under this Agreement shall cease for that portion of the Project, except any Implementing Approval or other fully-vested land use entitlement issued by City under this Agreement for that portion of the Project, including vesting tentative tract maps, shall continue in effect without expiration until the date upon which such Approval would otherwise expire under the laws of the State of California. No termination of this Agreement with respect to any portion of the Property or Project shall affect in any way the parties' rights and obligations hereunder with respect to any other portion of the Property or Project.

1.6.2 Certain Rights and Obligations Survive Termination. The Parties agree that certain rights and obligations specified in this agreement shall survive its termination, either wholesale or with respect to any portion of the Project, including, but not limited to, the rights and obligations set forth in Sections 3.03.2, 3.13.3, 3.16.1.1, 7, 8.1, and 8.2.

1.7 Modification or Amendment of this Agreement. This Agreement may be modified or amended from time to time, in whole or in part, by mutual written consent of the parties hereto or their successors in interest, consistent with the following terms:

(a) Insubstantial Modifications. The parties acknowledge that refinements and further development of the Project may demonstrate that minor changes are appropriate with respect to the details of the Project development and the performance of the parties under this Agreement. The parties desire to retain a certain degree of flexibility with respect to the details of the Project development and with respect to those items covered in general terms under this Agreement, and thus desire to provide a streamlined method of approving insubstantial modifications to this Agreement. Therefore, any minor modification to this Agreement which does not modify (i) the Term of this Agreement; (ii) permitted uses of the Property, (iii) maximum density or intensity of use, except as allowed pursuant to Section 2.1.3 of this Agreement (Final Lotting) (iv) provisions for the reservation, dedication, acquisition, or abandonment of land or public rights of way, (v) conditions, terms, restrictions or requirements for subsequent discretionary actions, (vi) monetary contributions by Developer, or (vii) any other financial commitments by Developer, including the provisions related to Developer's obligations to finance installation, operations, and maintenance of Project infrastructure and formation and operations of one or more community facilities districts, (any and all of which are hereinafter an "Insubstantial Modification"), and that can be processed under CEQA as exempt from CEQA, or with the preparation of an Addendum to the EIR, shall not require a public hearing prior to the parties executing a modification to this Agreement. Either Party may propose an Insubstantial Modification, consent to which shall not be unreasonably withheld, conditioned or delayed by the other Party. Upon the written request of Developer for a modification to this Agreement, the City Manager or his/her designee shall determine: (1) whether, in his/her reasonable judgment, the requested modification constitutes an "Insubstantial Modification," as defined herein; (2) whether the requested modification is consistent with Applicable Law (other than that portion of this Agreement sought to be modified); and (3) whether, in his/her reasonable judgment, the requested modification tends to promote the goals

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

of this Agreement. If the City Manager or his/her designee determines that the requested modification is an “Insubstantial Modification” that is consistent with Applicable Law and tends to promote the goals of this Agreement, the proposed modification will be approved by the City as an Insubstantial Modification, and a written modification will be executed by the Parties and attached to this Agreement. Any such Insubstantial Modification shall not be deemed an “amendment” to this Agreement under Government Code Section 65858.

(b) Substantial Amendments. Except as otherwise described in Section 1.7(a) of this Agreement, amendments to this Agreement shall be “Substantial Amendments” which require notice and a public hearing pursuant to California Government Code Section 65868.

(c) Amendment Exemptions. City approval of (1) minor modifications of an Entitlement or (2) Implementing Approvals, as defined in Section 2.3.6.3 of this Agreement, in conformity with the Entitlements, Applicable Law and this Agreement, shall not require a modification or amendment to this Agreement and shall automatically be deemed to be incorporated into the Project and vested under this Agreement. Likewise, City approval of any minor amendments or modifications to any Exhibit to this Agreement shall not require a modification or amendment to this Agreement and shall automatically be deemed to be incorporated into this Agreement and vested hereunder.

(d) Parties Required to Amend. Where a portion of Developer’s rights or obligations have been transferred, assigned and assumed pursuant to Section 1.9 of this Agreement, the signature of the person or entity to whom such rights or obligations have been assigned shall not be required to amend this Agreement unless such amendment would materially alter the rights or obligations of such assignee/transferee hereunder. In no event shall the signature or consent of any Non-Assuming Transferee be required to amend this Agreement.

1.7.1 Effect of Amendment. Any amendment to this Agreement shall be operative only as to those specific portions of this Agreement expressly subject to the amendment, and all other terms and conditions of this Agreement shall remain in full force and effect without interruption.

1.8 Project Approval Adjustments. To the extent permitted by state and federal law, any Entitlement or Implementing Approval as defined in Section 2.3.6.3 of this Agreement may, from time to time, be amended or modified in the following manner.

1.8.1 Administrative Adjustments. Upon the written request of Developer for a modification to an Entitlement (other than this Agreement) or an Implementing Approval as defined in Section 2.3.6.3 of this Agreement, the City Community Development Director or his/her designee, shall determine: (i) whether the requested modification is minor when considered in light of the Project as a whole, including but not limited to the factors set forth in Section 2.1.3 of this Agreement; and (ii) whether the requested modification is consistent with Applicable Law (other than that portion of the Applicable Law sought to be amended). If the City Community Development Director or his/her designee, determines, in his/her reasonable

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

judgment, that the proposed modification is both minor and consistent with Applicable law (other than that portion of Applicable Law sought to be amended), the modification shall be determined to be an “Administrative Adjustment” and the City Community Development Director or his/her designee may, except to the extent otherwise required by law, approve the Administrative Adjustment without notice and public hearing. For the purpose of this Section 1.8, and by way of example, lotting pattern changes, changes in pedestrian paths, tentative subdivision map amendments (including lotting patterns and street alignments) which are minor and will not have a substantial or material impact on traffic circulation as described for each such area in the Specific Plan, substitutions of comparable landscaping for any landscaping shown on a landscape plan, minor variations in the location of lots or homesites that do not substantially alter the design concepts of the Project, final locations of floating park sites, floating public facility sites, and minor variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project, may be treated as Administrative Adjustments by the City Community Development Director.

1.8.2 Non-Administrative Amendments. Any request of Developer for a modification to an Entitlement (other than this Agreement), or an Implementing Approval as defined in Section 2.3.6.3 of this Agreement, which is not approved as an Administrative Adjustment as set forth above, shall be subject to review, consideration and action pursuant to Applicable Law (other than Section 1.8.1 above).

1.9 Assignment of Interests, Rights and Obligations. Developer may transfer or assign all or any portion of its interests, rights, or obligations under the Entitlements to third parties acquiring an interest or estate in the Property, or any portion thereof, including, without limitation, purchasers or ground lessee(s) of lots, parcels or facilities under the terms and conditions in this Section. Transfers to Transferees of some or all of the Property who intend to assume some or all of Developer’s obligations under this Agreement, the Entitlements, and the Implementing Approvals, shall not require approval by the City; provided, however, that Developer shall not be released of its obligations under this Agreement as to the property transferred unless and until a Transfer Agreement expressly delineating which party shall bear the continuing obligations under this Agreement, as specified in Section 1.9.1, has been fully executed and approved by the City. Further, no parcel of land and no owner of any parcel of land subject to this Agreement shall be released from the obligations of this Agreement that attach to that parcel under this Agreement unless and until a Transfer Agreement expressly delineating which party shall bear the continuing obligations under this Agreement, as specified in Section 1.9.1, has been fully executed and approved by the City. Transfers to Non-Assuming Transferees of one or more single, subdivided parcels do not require City consent, if completed under the terms of Section 1.9.2. Transfers to parties affiliated with the Developer do not require City consent, if completed under the terms of Section 1.9.3. In all cases, any obligation of Developer under this Agreement, the Entitlements, and the Implementing Approvals not expressly assumed by a Transferee, in a Transfer Agreement approved by the City in writing, or terminated with respect to a particular portion of the Property, as stated in a certificate of occupancy or other written release from the City, shall remain with Developer. In all cases, any

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

proposed Transfer Agreement intended to exonerate Developer or any other owner of any parcel of land subject to this Agreement from any obligation under this Agreement shall require City approval, which may include evaluation of the following factors, as further specified in this Section 1.9: 1) the proposed Transferee's demonstrated financial, physical, and actual ability to complete all obligations it proposes to undertake under this Agreement and the proposed Transfer Agreement; 2) the proposed Transferee's history of successfully completing similar development projects; 3) the proposed Transferee's legal status and history, taxation status and history, and record of compliance with all applicable obligations; 4) the proposed Transferee's litigation history; 5) whether the proposed Transferee has ever been sued by or declared to be in default on its applicable obligations by any local, state, or federal government or official, and if yes, the status and outcome of such proceeding; and 6) whether the proposed Transferee or any of its affiliated entities have ever filed for bankruptcy protection or been declared in default under any financial obligation in any civil lawsuit or other official proceeding under law. The City may further require a proposed Transferee to post a bond or provide other surety in an amount reasonably necessary to guarantee performance of their obligations under this Agreement as a condition of approving a proposed Transfer Agreement.

1.9.1 Transfer Agreements.

1.9.1.1 In connection with the transfer or assignment by Developer of all or any portion of the Property (other than a transfer or assignment by Developer to an affiliated party (as defined in Section 1.9.3 below), a "Mortgagee", or a "Non-Assuming Transferee" (as defined in Section 1.9.2 below)), Developer and the "Transferee" shall enter into a written agreement (a "Transfer Agreement") regarding the respective interests, rights and obligations of Developer and the Transferee in and under the Entitlements. Each Transfer Agreement shall identify each obligation, including its nature and extent, its costs, and the conditions or requirements for completion, of the Developer under this Agreement, the Entitlements, the Implementing Approvals, and for each identified obligation, expressly state whether the obligation remains outstanding and, if not completed to the City's satisfaction, whether it will be assumed by the Transferee or remain with Developer. For each obligation identified for assumption by the Transferee, the Transfer Agreement shall further specify the nature and extent of the obligation and how, when, and by what financing mechanism the Transferee will pay for the obligation. Such Transfer Agreement may, if approved by the City in writing: (i) release Developer from obligations under this Agreement, the Entitlements, and the Implementing Approvals, or the Entitlements that pertain to that portion of the Property being transferred, as described in the Transfer Agreement, provided that the Transferee expressly assumes such obligations and their costs as described in the Transfer Agreement; (ii) transfer to the Transferee vested rights to improve that portion of the Property being transferred; and (iii) address any other matter deemed by Developer or City to be necessary or appropriate in connection with the transfer or assignment.

1.9.1.2 Except as provided in Section 1.9.3 of this Agreement, Developer shall obtain City Manager's prior written consent to any Transfer Agreement, which consent shall not be unreasonably withheld. City shall consider promptly and in good faith any request by

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

Developer for City's consent to any Transfer Agreement containing provisions releasing Developer from any obligations under this Agreement, the Entitlements, and the Implementing Approvals. City may consent, or conditionally consent, to all, none, or some of the release provisions in any Transfer Agreement. City's consent to any release provisions contained in a Transfer Agreement may be withheld only if: (i) reliable evidence supports a conclusion that the Transferee may not be able to perform the financial and other obligations proposed to be assumed by the Transferee under the Transfer Agreement, (ii) the obligations proposed to be assumed by the Transferee may not reasonably be allocable among particular portions of the Project, as the portion of the Property to be transferred, or (iii) the Developer or Transferee fails to provide acceptable security, as and if reasonably requested by City, to ensure the performance of the obligations proposed to be assumed by the Transferee pursuant to the Transfer Agreement. Further, because and to the extent certain obligations arising under this Agreement, the Entitlements, and the Implementing Approvals may not reasonably be allocable among particular portions of the Project and Property, City may refuse to release the Developer of its obligations under this Agreement, the Entitlements, and the Implementing Approvals related to one portion of the Property even though the City agrees to release the Developer of its obligations under this Agreement, the Entitlements, and the Implementing Approvals related to some other portion of the Property. City shall respond within thirty (30) days to any request by Developer for City's consent to any Transfer Agreement. Such determination shall be made by the City Manager in consultation with City Attorney, and is appealable by Developer directly to the Council.

1.9.1.3 If approved by the City Manager under Section 1.9.1, subd. (b), a Transfer Agreement shall be binding on Developer, City and the transferee provided: (i) Developer is not then in default under this Agreement, (ii) Developer has provided notice to City of such transfer, and City has approved the transfer, and (iii) the Transferee executes and delivers to City a written agreement in which: (a) the name and address of the Transferee is set forth and (b) the Transferee expressly and unconditionally assumes each and every obligation of Developer under this Agreement, the Entitlements, and the Implementing Approvals, with respect to the Property, or portion thereof, transferred, to the extent Developer has not retained a continuing obligation, and (c) City has satisfied itself of Transferee's ability to assume Developer's obligations under this Agreement, the Entitlements, and the Implementing Approvals, related to the Transferee's ongoing obligations. Upon recordation of any Transfer Agreement in the Official Records of San Luis Obispo County, Developer shall automatically be released from those obligations assumed by the Transferee therein only to the extent expressly stated in the Transfer Agreement and as approved by the City in writing

1.9.1.4 Developer shall be free from any and all liabilities accruing on or after the date of any assignment or transfer with respect to those obligations expressly assumed by a Transferee pursuant to a Transfer Agreement, to the extent expressly stated in the Transfer Agreement and as approved by the City in writing. No breach or default hereunder by any person succeeding to any portion of Developer's obligations under this Agreement arising after the effective date of the Transfer Agreement shall be attributed to Developer, nor may Developer's rights hereunder be canceled or diminished in any way by any breach or default by any such person.

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

1.9.1.5 Developer's Continuing Responsibilities. Transferee shall be responsible for each obligation under this Agreement, the Entitlements, and the Implementing Approvals identified in a Transfer Agreement for assumption by Transferee. Developer shall be responsible for each obligation under this Agreement, the Entitlements, and the Implementing Approvals identified in a Transfer Agreement for retention by Developer. Any obligation under this Agreement, the Entitlements, and the Implementing Approvals, not expressly assumed by the Transferee in a written approved Transfer Agreement shall remain with Developer.

1.9.2 Non-Assuming Transferees. Except as otherwise required by Developer, in Developer's sole discretion, the burdens, obligations and duties of Developer under this Agreement shall terminate with respect to: (i) any single residential parcel conveyed to a purchaser (as provided in Section 1.6, subd. (c)), or (ii) any property that has been established as one or more separate legal parcels and conveyed for office, commercial, open space, park, school or other nonresidential uses. Neither a Transfer Agreement nor City's consent shall be required in connection with subsections (i) and (ii) above. So long as Developer continues to assume obligations with respect to the portion that is transferred, or can otherwise demonstrate bonds and/or other financial security will satisfy these obligations, the Transferee in such a transaction and its successors ("Non-Assuming Transferees") shall be deemed to have no obligations under this Agreement, but shall continue to benefit from the vested rights provided by this Agreement until this Agreement is terminated with respect to that parcel under Section 1.6 of this Agreement. Nothing in this section shall exempt any property transferred to a Non-Assuming Transferee from payment of applicable fees and assessments or compliance with applicable conditions of approval.

1.9.3 Transfers to Affiliated Parties. Developer, or any "Affiliated Party" of Developer, may at any time and without City's consent or a Transfer Agreement, transfer all or any portion of its rights and obligations under this Agreement to any "Affiliated Party" of such Transferor and, in connection with the transfer of any such obligations, be released from such obligations. As used herein, the term "Affiliated Party" shall mean any entity that owns fifty-one percent (51%) or a controlling interest in Developer, or any entity in which Developer owns fifty-one percent (51%) or a controlling interest, or any entity under common ownership or control with Developer at the time of the execution of the Development Agreement.

1.10 Notices. Except as otherwise provided in this Agreement, or expressly provided by law, any notice, approval, consent, waiver, or other communication required or permitted to be given, or to be served upon any Party in connection with this Agreement, shall be in writing. Such notice shall be personally served or sent by first class United States mail, postage prepaid, or by reputable overnight carrier, such as Federal Express, or by mail, and such notice shall be deemed given (i) if personally served or sent by overnight carrier, when delivered to the Party (or the agent of the Party) to whom such notice is addressed, (ii) if given by email, when sent, or (iii) if given by mail, three (3) business days following deposit in the United States mail. Any notice given by email shall also be sent by first class United States mail, postage prepaid, within two (2) business days after being sent. Such notices shall be addressed to the Party to whom such notice

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

is given at the Party's address set forth below.

If to the City: City of Paso Robles
1000 Spring Street
Attn: City Manager
Paso Robles, CA 93446
Telephone: (805) 237-3888
E-mail: CityManager@prcity.com

With a copy to: City of Paso Robles
1000 Spring Street
Attn: City Attorney
Paso Robles, CA 93446

If to Developer: _____

With a copy to: Stowell, Zeilenga, Ruth, Vaughn & Treiger LLP
4590 E. Thousand Oaks Blvd., Suite 100
Westlake Village, CA 91362
Attention: James D. Vaughn, Esq.
Telephone: (805) 446-1496
jvaughn@szrlaw.com

A Party may change its address for delivery of notices or provide for an additional address or addresses to which copies of notices shall be delivered by providing written notice to the other Party of the new or additional address or addresses in the manner specified in this Section.

SECTION 2. GRANT OF ENTITLEMENTS

2.1 Grant of Land Use. Through its approval of the Entitlements, City has granted land use entitlements for the Project, subject to this Agreement, allowing for the development of up to 1,233 residential dwelling units, and commercial, recreation and open space uses as shown in the approved Specific Plan for the Project. Development of the Project shall include the permitted land uses, density and intensity of use of the Property, timing or phasing of development, zoning, provisions for reservation or dedication of land for public purposes, the location and size of public improvements, and other terms and conditions of development of the Project as set forth in the Entitlements and this Agreement.

2.1.1 Final Lotting. The total number of units within any of the individual residential villages shall be permitted to increase or decrease between the tentative and final residential lot subdivision maps, subject to the limitations set forth in the Specific Plan. The City shall give its approval for such minor modifications, by determining that the final map is in substantial conformance with the approved tentative map, so long as all the following criteria are

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

satisfied in the reasonable judgment of the Community Development Director:

(a) The increase or decrease is within 10 percent of the total number of units assigned to the individual residential village by the approved tentative subdivision map.

(b) The increase or decrease is consistent with the goal, policies and requirements of the General Plan, Specific Plan, and this Agreement.

(c) The increase or decrease does not modify street configurations or lot depths to the extent that the final map is no longer in substantial conformance with the approved tentative map, or result in modification to any lot lines conditioned to remain fixed by the tentative map.

(d) The increase or decrease does not result in any new or substantially more severe significant adverse environmental impacts beyond those identified in the EIR.

(e) The increase or decrease does not result in modification to conditions of the approved tentative map.

(f) The increase or decrease does not result in an average density within any individual residential village in excess of the densities specified in the Specific Plan.

2.1.2 Uses Allowed Within Project. Uses permitted within the Project are those shown for the Property in the Specific Plan, as approved by City, and as may be amended from time to time.

2.1.3 Density Transfer Provision. The Specific Plan will allow residential density to be shifted among all Planning Areas within the Specific Plan, subject to the Specific Plan's total maximum density limits. No transfer may be effectuated except between a donor parcel and a benefitted parcel as to both of which every owner has become a party to a Development Agreement with the City and as to which such Development Agreement has been recorded. Any transfer of density from one parcel to another shall require approval by the City's Planning Commission via a Development Plan Permit land use entitlement and, as part of the application for that permit, written consent of the owner of the parcel reducing its available density to the benefit of the other parcel and written consent by the City as to the final responsibility for development impact fees and other fees owed by the two affected parcel owners, including accounting for any increased fees for the benefitted parcel and reduced fees for the donor parcel.

2.2 Vested Entitlements. City acknowledges that Developer has, by entering into this Agreement and by City's approval of the Entitlements, vested Developer's rights to develop the Project in accordance with the Entitlements.

2.2.1 It is the intent of City and Developer that the vesting of development rights of Developer shall include the permitted land uses, density, and intensity of use of the

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

Property, timing or phasing of development, zoning, provisions for reservation or dedication of land for public purposes, and the location and size of public improvements, as well as those other terms and conditions of development of the Project as set forth in the Entitlements and this Agreement.

2.2.2 In connection with Developer's vested rights, City agrees to cooperate in processing and approving all Implementing Approvals (as defined in Section 2.3.6.3 of this Agreement), so long as such Implementing Approvals are consistent with the Entitlements, including the terms of this Agreement.

2.3 Rules, Regulations and Official Policies.

2.3.1 Applicable Law Defined. Except as otherwise agreed to by the parties, the rules, regulations, official policies, and ordinances applicable to the Project, the Property, and the Entitlements vested by this Agreement shall be those set forth in this Agreement, as well as those which are in force and effect on the Effective Date and which govern the permitted land uses, density and intensity of use of the Property, timing or phasing of development, zoning, provisions for reservations or dedication of land for public purposes, location and size of public improvements, development fees and other terms and conditions of development of the Project as set forth in the Entitlements (collectively, "Applicable Law").

2.3.2 Approvals as Applicable Law. Applicable Law shall include, without limitation, the Entitlements and Implementing Approvals as defined in Section 2.3.6.3 of this Agreement, as they may be issued from time to time in a manner consistent with the terms and provisions of this Agreement.

2.3.3 Uniform Building and Fire Codes. The project shall be subject to, at all times during the term of this Agreement, the applicable editions of the California Building Standards Code as adopted by the State of California. Additionally, the project shall be subject to the applicable requirements of Title 17 of the City's Municipal Code (Buildings and Construction), which includes local amendments to the California Building Standards Code adopted by the City.

2.3.4 State and Federal Law. As provided in California Government Code Section 65869.5, this Agreement shall not preclude the application to the Project of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in state or federal laws or regulations ("Changes in the Law"). In the event Changes in the Law prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended, or performance thereof delayed, as may be necessary to comply with the Changes in the Law, and City and Developer shall take such action as may be required pursuant to this Agreement.

2.3.5 No Conflicting Enactments. Unless ordered by a court of law, or to the extent provided by state law, or as otherwise allowed by this Agreement, the City shall not

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

impose on the Project (whether by action of the Council, or other local legislative body, or by initiative, referendum or other means) any ordinance, resolution, rule, regulation, standard, directive, condition or other measure (each, individually, a “City Law”) that is in conflict with Applicable Law (as defined in Section 2.3.1) or this Agreement, or that reduces the development rights or assurances provided by this Agreement. The parties acknowledge that the Development Agreement Statute provides that this Agreement shall not prevent the City, in subsequent actions applicable to the Project from applying new rules, regulations and policies which do not conflict with the Applicable Law or this Agreement. Without limiting the generality of the foregoing, and except as provided otherwise in this Agreement, any City Law shall be deemed to conflict with Applicable Law or this Agreement, or to reduce the development rights provided hereby, if it would create any of the following results, either by specific reference to the Project or as part of a general enactment which applies to or affects the Project:

(a) Change any land use designation or permitted use on the Property allowed by the Entitlements, except for changes in permitted land uses adopted as a result of a newly enacted or amended City Law of general, City-wide application which shall apply to all portions of the Project other than Planning Area 16 (such as an ordinance restricting short-term rentals in residential zones), or limit or reduce the density or intensity of the Project, or any part thereof, or otherwise require any reduction in the total number of residential dwelling units, or the number of proposed non-residential buildings; or

(b) To the extent that public utilities are to be provided by the City under this Agreement, limit or control the availability of public utilities, services or facilities or any privileges or rights to public utilities, services, or facilities (for example, water rights, water connections or sewage capacity rights, sewer connections, etc.) necessary to serve the Project except as allowed by Applicable Law (for example, to deny utility service for nonpayment of service charges); or

(c) Limit or control the rate, timing, phasing or sequencing of the approval, development or construction of all or any part of the Project, including the processing of Implementing Approvals, in any manner that could result in having to substantially delay construction of any portion of the Project or require the issuance of additional permits or approvals by the City other than those required by Applicable Law or this Agreement; or

(d) Limit or control the location of buildings, structures, grading, or other improvements of the Project in a manner that is inconsistent with the Implementing Approvals as defined in Section 2.3.6.3 of this Agreement (as and when they are issued); or

(e) Apply to the Project any City Law otherwise allowed by this Agreement that is not uniformly applied on a City-wide basis to all substantially similar types of development or impose against the Project any condition, dedication or other exaction not specifically authorized by Applicable Law; or

(f) Excluding any matter that has City-wide application, and that is not

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

otherwise addressed by the terms of this Agreement, establish, enact, increase or impose against the Project any fees, assessments, liens or other monetary obligations other than those specifically permitted by this Agreement, and any adjustments thereto as provided under Section 2.4.1 and 2.4.3 of this Agreement or otherwise under the terms of those fees, assessments, liens, or other monetary obligations, or other connection fees imposed by third party utilities.

2.3.6 If City attempts to apply to the Project a City Law that Developer believes to conflict with Applicable Law or this Agreement, Developer shall provide to City a written notice describing the legal and factual basis for Developer's position. Upon receipt of said notice, the parties shall convene an Emergency Working Group Meeting pursuant to the terms of Section 6.4 of this Agreement.

2.3.7 In accordance with Government Code section 65866, nothing herein shall be construed to limit City's authority to apply new rules, regulations and policies to the Project which do not conflict with the Applicable Law, nor to limit City's general police power to implement, based upon appropriate and adequate findings, specific emergency measures necessary to protect against real and immediate threats to the health and safety of City residents. Further, this Agreement does not prohibit the City from applying a newly enacted or amended City Law to the Project which does not violate any of the limits set by Section 2.3.5, but which may affect the operation of the Project or the development thereunder, such as a law of general application regulating commercial activities in residential zones, a law of general application restricting short-term rentals, or any similar law of general application regulating land uses, which does not prohibit the development of the Project, or require any reduction in the density or intensity of the Project, or materially increase the cost of permitted development, or otherwise require any reduction in the total number of residential dwelling units, and is applicable within the Project and throughout the City.

2.4 Further Assurances.

2.4.1 City shall not adopt or enact any City Law or take any other action which would violate the express or implied provisions, conditions, or intent of any of the Entitlements, except as allowed by this Agreement, as may be mandated by state or federal law, or as may be necessary to respond to a declared emergency.

2.4.2 Developer reserves the right to challenge in court any City Law that would, in Developer's opinion, conflict with Applicable Law (including this Agreement) or reduce the development rights provided by this Agreement. Any such challenge shall be governed by this Agreement, including the limits on remedies provided in Section 6.

2.4.3 [Reserved].

2.4.4 Should any initiative, referendum, or other measure be enacted, and any failure to apply such measure by City to the Project be legally challenged, Developer agrees to fully defend and indemnify the City against such challenge, as further specified in Section 7,

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

including providing all necessary legal services (with counsel reasonably selected by Developer in consultation with the City Attorney), bearing all costs therefor, and otherwise holding the City harmless from all costs and expenses of such legal challenge and litigation.

2.4.5 Except as may be necessary to respond to a declared emergency, in the event a City Law is enacted, whether by action of the Council, or by initiative, referendum (other than a referendum which specifically overturns the City's approval of the Entitlements for the Project), or otherwise, which relates to the rate, timing, phasing or sequencing of new development or construction in the City or, more particularly, development and construction of all or any part of the Project, and that is in conflict with the Applicable Law or this Agreement, such City Law shall not apply to the Project, or any portions thereof.

2.4.6 [Reserved].

2.4.7 Implementing Approvals. City agrees that certain other land use approvals, entitlements, and permits, other than the Entitlements, may be necessary or desirable for the buildout of the Project (collectively, the "Implementing Approvals"). Provided that such Implementing Approvals are not in conflict with the Entitlements, Applicable Law, or this Agreement, City shall timely process any request for such Implementing Approvals and reach a final decision regarding the request in an expeditious manner, in compliance with Applicable Law.

2.4.8 Specific Development Plan; Small Lot Vesting Tentative Map. City acknowledges that the Project includes one or more small lot vesting tentative tract maps ("Maps"), at least some of which may be processed subsequent to the City's approval of the Entitlements. City hereby agrees that upon its approval of the Maps, such approvals shall be included within the Entitlements, as defined by this Agreement, and shall be extended all the terms, conditions and protections provided by this Agreement. The parties agree that any tentative map processed as part of the Project will comply with the provisions of Government Code section 66473.7.

2.4.9 Extension of Tentative Maps. In accordance with Government Code Section 66452(a)(1), all tentative subdivision maps and tentative parcel maps, whether vesting or not, which may be approved by the City in connection with the development of the Property, shall be extended for the greater period of (a) the term of this Agreement or (b) such maximum total time as is permitted in accordance with the State Subdivision Map Act (Government Code Section 66410 *et seq.*) or Applicable Law.

2.5 Development Fees. With respect to both the residential and non-residential portions of the Project, Developer agrees to pay the development impact fees and mitigation fees set forth in Exhibit C hereto, which shall be paid at issuance of certificates of occupancy at the rates in effect at the time of payment, subject to section 2.5.3 herein, and shall pay all existing standard City-wide fees applicable to the Project under Applicable Law, including application

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

fees, processing fees and inspection fees, at issuance of building permits, subject to the provisions set forth in Sections 2.5.1 through 2.5.7.

2.5.1 Application, Processing and Inspection Fees. Developer agrees to pay all application fees, processing fees, plan check fees, inspection fees and other administrative fees adopted to cover the City's cost of processing the Entitlements and Implementing Approvals, provided that said fees are applied on a City-wide basis (collectively, "Processing Fees"). Developer shall pay Processing Fees at the time at issuance of building permits, unless an earlier time is required by Applicable Law, and at the rates in effect at the time of said payment, for both the residential and non-residential portions of the Project. To the extent such Processing Fees are not paid as required by this Section, the City shall have the right to withhold permits, plan check services, or inspection services until the associated fees have been paid.

2.5.2 [Reserved].

2.5.3 Development Fees and Improvement Credits – Adjustments. For the first three years after the Effective Date of this Agreement, the City may increase development and impact fees applicable to the residential and non-residential portions of the Project only as permitted under the City's ordinances in effect on the Effective Date of this Agreement, with the exception of Transportation Impact Fees, for which the City may increase only as permitted under the City's ordinances in effect on the Effective Date of this Agreement for a period of ten years. Similarly, for the first three years after the Effective Date of this Agreement, Developer shall receive credits against development and impact fees applicable to the residential and non-residential portions of the Project in return for construction of specified public improvements, with each credit given only in the amount and for the improvements specified in this Agreement and Exhibit D, with the exception of credits against Transportation Impact Fees, which the Developer may receive only in the amount and for the improvements specified in Exhibit D for ten years. After those periods (three or ten years depending on the fee) following the Effective Date of this Agreement, the City shall have the right to make reasonable annual adjustments to those development and impact fees applicable to the residential and non-residential portions of the Project and in effect as of the Effective Date of this Agreement ("Development Fees"), provided that any increases in Development Fees must be necessary to account for increases in the cost of constructing the facilities or providing the services for which the fees are collected, in accordance with the Engineering News Record Construction Cost Index, or an agreed-upon reasonable successor to such index, or as justified by a City Council lawfully approved fee study and cost of service analysis; and that building permits and other Implementing Approvals shall be subject to the adjusted Development Fees in effect at the time of fee payment. After five years following the Effective Date of this Agreement, Developer may seek City approval in writing of an amendment to the list of specified credits against development and impact fees, available in return for construction of specified public improvements, to reflect changes in the City's planned public improvements and related impact fees after a new or amended, City Council approved, fee study and cost of service analysis. A list of the Development Fees and the rates as of the Effective Date of this Agreement are set forth in Exhibit C, attached hereto and incorporated herein by this reference. A list of the Development Fees Credits and Related Improvements to be

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

constructed by Developer as of the Effective Date of this Agreement are set forth in Exhibit D, attached hereto and incorporated herein by this reference.

2.5.4 Exemptions - Special and General Taxes, Assessment Districts.

Limitations placed on the imposition of development fees, charges or other exactions on development set forth in this Section 2.5 shall not apply to the approval of special or general taxes by the qualified electors of the City at elections, or to the formation of any City-wide assessment district within the City.

2.5.5 [Reserved].

2.5.6 [Reserved].

2.5.7 Right to Challenge Fees. Where Developer alleges that any imposition, modification, amendment and/or adjustment (other than an adjustment pursuant to section 2.5.3 of this Agreement) of any Development Fee, Processing Fee, or other fee or exaction, other than a fee set forth in Exhibit C or standard City-wide fee in existence on the Effective Date of this Agreement and applicable to the Project under Applicable Law (collectively an “Unauthorized Fee”), Developer reserves the right to challenge such Unauthorized Fee pursuant to Government Code Sections 66020 *et seq.*, and all other statutory and constitutional bases for such challenge, and where applicable, Developer shall first pay the Unauthorized Fee before commencing suit against the City.

SECTION 3. DEVELOPER OBLIGATIONS

3.0 Developer Cooperation.

3.0.1 Other Development Agreements. Developer will provide all necessary and appropriate assistance to help ensure the City is able to successfully negotiate development agreements with the Centex project and the Our Town project. Such assistance shall include, but is not limited to: copies of technical and planning studies upon request, assistance in facilitating backbone infrastructure development, and participating in discussions designed to address any outstanding issues.

3.0.2 Project Phasing. The Project is to be built in phases, as specified in the Specific Plan, the Tentative Map timeline, and the Phasing Plan (Exhibit E), subject to the terms of this Agreement.

3.0.2.1 As a condition of development, Developer shall be obligated to comply with the terms and conditions of the Project Approvals, the Specific Plan, and this Agreement as specified in each, including as specified in the Phasing Plan (Exhibit E) . The Parties acknowledge that the rate at which phases of the Project develop depends upon numerous factors and market conditions that are not entirely within Developer’s or the City’s control such as market demand, interest rates, absorption rates, completion schedules, availability of labor, and

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

other factors. The Parties wish to avoid the result of *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal. 3d 465, where the failure of the parties therein to consider and expressly provide for the timing of development resulted in the court's determination that a later-adopted initiative restricting the timing of development prevailed over the parties' agreement. Accordingly, the Parties acknowledge that Developer shall have the right to develop the Project at such time as Developer deems appropriate in the exercise of its subjective business judgment except as provided in this Agreement, the Specific Plan, and the Phasing Plan, and the City shall not attempt to further restrict the timing of development of the Project except in accordance with the terms of this Agreement, the Specific Plan, and the Phasing Plan.

3.0.2.2 Developer shall build the Project in phases, as specified in the Specific Plan (see especially Exhibit 5.8 to the Specific Plan titled "Development Phasing Plan"), the Phasing Plan (Exhibit E), and the Tentative Map timeline. Except for extensions approved by the City for acts of God or as otherwise approved in writing upon an amendment to this Agreement, Developer agrees to receive approval of a grading permit for and commence grading of Phase 1A within ten years of the Effective Date of this Agreement. Failure by Developer to receive approval of a grading permit for and commence grading of Phase 1A within ten years of the Effective Date of this Agreement, except for extensions approved by the City for acts of God or as otherwise approved in writing upon an amendment to this Agreement, shall constitute a material breach by Developer and shall afford City the right, but not the obligation, to cancel this Agreement, upon notice of default and a failure to cure by Developer as provided by Section 6. Thereafter, failure by Developer to receive approval of a grading permit for and commence grading of each subsequent phase (Phase 1B, Phase 2, and then Phase 3) within ten years of the completion of the prior phase, except for extensions approved by the City for acts of God or as otherwise approved in writing upon an amendment to this Agreement, shall constitute a material breach by Developer and shall afford City the right, but not the obligation, to cancel this Agreement, upon notice of default and a failure to cure by Developer as provided by Section 6

3.0.2.3 [Reserved]

3.0.2.4 In addition to and separate from the annual review required by Section 5, Developer shall provide a biennial progress report to the City Manager, explaining the Developer's efforts and progress in developing the Project under the terms of this Agreement, including its efforts at maintaining compliance with the Phasing Plan. Developer shall submit the first biennial progress report on or before July 1, 2020, and every two years thereafter on or before each July 1 in even-numbered years. Failure by Developer to submit a biennial progress report, by itself, shall not constitute a material breach of this Agreement, but is subject to this Agreement's notice and cure requirements. The Developer shall no longer be required to submit a biennial progress report after issuance of a grading permit for Phase 1A, unless, thereafter, construction ceases for any period of one year or longer. If the biennial progress report requirement is reinstated, then Developer shall submit a biennial progress report upon the first July 1 following the reinstatement of this requirement and every July 1 of even-numbered years thereafter until issuance of a grading permit for the next phase or other re-commencement of development activities.

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

3.0.3 Housing Affordability.

3.0.3.1 [Reserved]

3.0.3.2 All apartments built in the Project (60 units in Planning Area 1, or the highest allowable number granted under density bonus provisions) shall be rented at San Luis Obispo County workforce housing-income or lower rates (i.e., 160% of Average Median Income—AMI in San Luis Obispo or less) for the term of this Agreement or fifty-five (55) years, whichever is longer. This clause shall apply to all apartments in Planning Area 1 of the Project for the full Term of this Agreement, surviving and notwithstanding any termination of the Agreement as to any particular lot or portion of the Property, as part of Developer's consideration and inducement to City to agree to approve the Project and enter into this Agreement, and further surviving for the longer of fifty-five (55) years or the expiration of this Agreement as to all portions of Planning Area 1 of the Project. After this subsection has expired by its terms, rents for apartments within Planning Area 1 of the Project may increase in a manner that is fully consistent with State law and City ordinances then in effect. Developer further agrees that the Project's apartments (60 units in Planning Area 1, or the highest allowable number granted under density bonus provisions) cannot be subdivided or converted into condominium units for the term of this Agreement or fifty-five (55) years, whichever is longer.

3.0.3.3 Developer and City agree that the City shall have until December 31, 2022 to develop an alternate affordable housing project for the Project's apartments (60 units in Planning Area 1, or the highest allowable number granted under density bonus provisions). Developer agrees to cooperate in good faith with the City in seeking the development and financing of such an affordable housing project. Developer further agrees to sell the land underlying the Project's apartments (Planning Area 1) to the City or the City's designee, which must be an affordable housing nonprofit or government entity, for development of an affordable housing project for Two Million Dollars (\$2,000,000.00) at any time upon notice by the City on or before December 31, 2022. Developer acknowledges that the City's development of an affordable housing project may include additional density on Planning Area 1, up to a total of 100 units, if City completes all required analysis under the California Environmental Quality Act, secures all required permits and entitlements for such project in conformance with the terms of the Specific Plan.

3.0.3.4 Developer and City agree that, upon full build-out of the Project, at least forty percent (45) of the residential units sold (not including Planning Area 1) shall be affordable to persons at the workforce housing standards for San Luis Obispo County in effect at the time of sale. There is no fixed sales price cap; a unit will be counted toward the workforce housing requirement if its final sales price is less than or equal to the workforce housing standards for San Luis Obispo County for homes with that bedroom count that are in effect at the time of sale. Developer and City agree that the Project's single-family residential for-sale units, at full build-out, shall contain at least 150 accessory dwelling units. Developer and City further agree that the Project, at full build-out of each of the Phases, shall contain at least the following

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

specified numbers of accessory dwelling units and units affordable to persons at the workforce housing standards for San Luis Obispo County at the time of sale for each phase, relative to the final number of completed single-family residential units in each phase.

Phase	Number of Workforce Housing Units	Percentage of Accessory Dwelling Units
Phase 1A (excluding PA 1)	100	40
Phase 1B	25	20
Phase 2	20	70
Phase 3	0	20
Project Total	145	150

City and Developer agree that, for the for-sale units, this requirement does not dictate sales prices nor require income-qualified buyers, and instead constitutes affordable by design requirements, in the proportions specified above. The Developer’s compliance with this product mix phasing requirement shall be tested, at the end of each phase, by determining the proportion of units sold at prices affordable to persons at the workforce housing standards for San Luis Obispo County in effect at the time of each sale and the proportion of units sold with accessory dwelling units. To further address the need for affordable and workforce housing in the City, Developer agrees to include an option for an accessory dwelling unit, either attached or detached, in at least two floor plans for each single-family residential planning area (other than PA-13 because the motorcourt product cannot accommodate ADU’s), which plans shall be submitted for approval to City and offered for sale to potential purchasers. The lots with ADUs shall be subject to reduced setback standards as reasonably approved by the Community Development Director. Developer agrees that it shall build the proportion of workforce housing units and accessory dwelling units specified for each Phase as stated in the table above. If any Phase as completed and sold contains an insufficient proportion of units sold at sale prices affordable to persons at the workforce housing standards for San Luis Obispo County at the time of each sale or an insufficient portion of accessory dwelling units relative to the proportions specified above, Developer further agrees to amend the design parameters, proposed unit sizes and types, or mix of product types in the next phase(s) as necessary to accomplish the required proportions of workforce housing units and accessory dwelling units specified above. Developer shall submit such revised product mix and phasing plan for City approval before issuance of a building permit for Phase 1B and each later phase. Development impact, building permit, utility connection and capacity charge, and other City fees for accessory dwelling units shall be limited as required by applicable law, including Government Code section 65852.2. City further agrees to consider in good faith requests from Developer for waivers or reductions of applicable development standards that would, if waived, facilitate development of workforce housing and accessory dwelling units.

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

3.0.4 Local Preference.

3.0.4.1 Program for New Housing: Developer is required to comply with the Specific Plan local preference program requirements for all development of the Project, as further specified in Exhibit J. This program requires an initial exclusive thirty-day marketing period and first preference for selling new residences in the Project to persons who live or work within the City, and second to persons who live or work in the surrounding northern San Luis Obispo County area. This program further requires first preference local marketing for contracting and employment opportunities in the Project to persons who live or work within the City, and second preference to persons who live or work in the surrounding northern San Luis Obispo County area.

3.1 Public Improvements to Be Dedicated, Constructed, or Financed by Developer. Developer agrees to dedicate, construct, or acquire the improvements or facilities, and to perform its other obligations, as set forth in this Section, at its expense (including through Community Facility Districts or other land secured financing), subject only to reimbursements or credits as specified in this Agreement and Applicable Law.

3.2 Roadway and Backbone Infrastructure Improvements. Except as otherwise provided herein, Developer, at its sole expense, shall construct the roadway and backbone infrastructure improvements as specified in this section, and as further described and depicted in the Specific Plan and in the Phasing Plan, attached hereto as Exhibit E. Except as otherwise provided in this Agreement and in the Entitlements, roadway and backbone infrastructure improvements within the Project boundaries shall be constructed in compliance with the City's improvement standards as of the Effective Date, or at a higher standard to the extent that such higher standard was defined in the Specific Plan. Roadway and backbone infrastructure improvements outside the Project boundaries will be constructed pursuant to all applicable conditions of approval imposed by the public agencies with jurisdiction and permitting authority over said improvements. The Phasing Plan depicts the Project's roadway and backbone infrastructure improvements, states the required development thresholds for completion of the roadway and backbone infrastructure improvements (in compliance with the Specific Plan), and defines the applicable construction and engineering standards for the roadway and backbone infrastructure improvements.

3.2.1 On-Site Roadway Improvements.

3.2.1.1 Timing of Construction of Backbone Infrastructure, Including Collector Streets. Developer shall construct and/or improve the collector streets in segments, as it develops the adjacent residential and non-residential uses and in accordance with the terms of the Entitlements and the Phasing Plan (Exhibit E). All-weather fire access roads shall be in place prior to storage of combustible materials on any site.

3.2.1.2 Local Roads. Developer shall construct all local roads within the

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

Project as set forth in the Specific Plan and the Phasing Plan (Exhibit E), and in accordance with the terms of the Entitlements, as it develops the adjacent residential and non-residential uses.

3.2.1.3 Community Walls/Fences and Monuments. Developer shall submit plans and upon City approval, install community walls, fences, landscaping, and entry and other monuments as required by the Specific Plan and Entitlements, and as stated in the Phasing Plan.

3.2.2 Off-Site Roadway Improvements and Traffic Mitigation Measures. Developer shall construct the off-site roadway improvements to Airport Road, Niblick Road, and Sherwood Road as specified in the Specific Plan and the Infrastructure Maintenance Plan. Developer shall also pay the City's traffic impact fee at the time of issuance of each certificate of occupancy, at the rate set forth in Exhibit C attached hereto and incorporated herein by this reference, as may be adjusted under Section 2.5.3 of this Agreement (fee credits). Upon issuance of the first Public Facilities CFD bonds, Developer shall contribute Seven Hundred and Fifty Thousand Dollars (\$750,000.00) direct to the City towards the implementation of the Niblick Road Corridor Study findings. Developer shall be entitled to credit against the City's traffic impact fee, as set forth in Exhibit D hereto, for the off-site roadway improvements specified thereon, including but not limited to Airport Road, Niblick Road, and the roundabout at Airport Road and Sherwood Road, and as may be further specified in the Infrastructure Maintenance Plan. All off-site roadway and circulation improvements shall be installed as required by and consistent with the Mitigation Monitoring and Reporting Program of the Specific Plan EIR.

3.2.3 Maintenance and Ownership of Roadways. The obligations of City and Developer to maintain Project infrastructure shall be as specified in the Infrastructure Maintenance Plan, attached hereto as Exhibit I.

3.2.3.1 On-Site Roadways. Upon completion of the on-site roadways, in compliance with all applicable requirements, the roadways shall be dedicated to the City and accepted into the network of City-maintained roads. The landscape medians and corridors along the roads, from the back of curb, to the edge of the right-of-way, will be maintained by the City.

3.2.3.2 Off-Site Roadways. All off-site roadways shall remain public and shall be owned and maintained by the City.

3.3 Wastewater Facilities.

3.3.1 Description of Facilities. Developer shall construct all necessary on-site wastewater facilities and off-site sewer line segments along Commerce Way, Scott Street, and Flag Way, from the Project boundary to the point of connection at the west end of Flag Way (referred to as "Project A7: Commerce Way, Scott Street, and Flag Way Sewer Pipeline Replacement" in the City's 2019 Wastewater Collection System Master Plan and Renewal Strategy). Upon completion, inspection, testing, and acceptance by the City Manager or designee of each improvement, the Commerce Way, Scott Street, and Flag Way Sewer pipeline

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

replacements and all on-site wastewater facilities shall be dedicated to and accepted by the City. Developer shall pay the City's sewer connection fee at certificate of occupancy for each unit, and shall be entitled to a fee credit against such fee for the cost of the Commerce Way, Scott Street, and Flag Way Sewer Pipeline Replacement, in the amounts set forth on Exhibit D. Developer shall complete the installation of the off-site sewer line segment along Commerce Way, Scott Street, and Flag Way to the satisfaction of the City Engineer. Completion may be in phases, with the portion west of Camino Lobo, including any changes needed in the Flag Way section, to be completed before issuance of the first residential unit certificate of occupancy in Phase 1A, and the remainder completed prior to issuance of the first certificate of occupancy in Phase 1B, as identified in Exhibit B.

3.3.2 Wastewater Facilities Serving the Our Town Development. All such facilities (which are specifically limited to installing a new sewer line along Niblick Road with two or more stubs-outs to serve PA-10A and PA 10-B, one at the planned entrance to PA-10A and one at the east side of PA-10A) shall be built prior to issuance of the first building permit for the Project, and as further specified in the Phasing Plan. Changes to wastewater infrastructure phasing are subject to written approval by the City Engineer.

3.3.3 Ongoing Operations and Maintenance. The City shall be responsible for the ongoing operations and maintenance of all wastewater facilities, which shall be funded through user rates, service fees, or other user charges paid to the City by residents and other users within the Project.

3.4. Water Facilities:

3.4.1 Description of Facilities. Developer shall construct all necessary on-site water facilities, which shall be constructed in phases over the course of Project buildout as described in the Specific Plan, and as further specified in the Phasing Plan (Exhibit E). The water facilities will be designed and constructed to meet all applicable water supply, fire protection and operating criteria, as established by Applicable Law and by the City's Water Division Manager or City Engineer. Developer shall be responsible for planning, designing, and constructing all water facilities, and upon completion, all water facilities will be tested by, dedicated to, and accepted by the City. Developer shall pay the City's water system connection fee at certificate of occupancy for each unit. Any existing domestic and agricultural wells located on the Property shall be permanently abandoned in accordance with County standards once City water is available for the lots served by those existing wells.

3.4.2 Recycled Water. The project will utilize recycled water provided by the City and will connect to the City's system within Airport Road at the northern boundary of the South Chandler parcel. Recycled water mains 12 inches in diameter shall be installed by the project within Airport Road and within Niblick Road west of Airport Road. Recycled water mains 10 inches in diameter shall be installed by the project within Niblick Road east of Airport Road and within the subdivision to Meadowlark Road. Easements no less than 25-foot wide shall be provided to the City where recycled water is not located in public right-of-way.

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

When recycled water becomes available, recycled water will be utilized to irrigate common areas such as parks and landscape areas, including recreational areas, unless the City waives the requirement. Until such time, City potable water shall be utilized via dedicated landscape connections at these sites. Recycled water mains shall be installed in conjunction with the installation of water and sewer facilities needed for common area landscaped areas in this project. Onsite irrigation shall be installed according to State requirements for recycled water irrigation systems. Developer need not provide connections to the recycled water main for individual residential and commercial lots.

The City agrees to impose a fee through a connection fee reimbursement agreement, or other mechanism, payable by any future developers of lots, other than Developer and its successors in interest, who later connect to the recycled water main provided by the project, in an amount equal to each such landowner or developer's fair share of the cost of installing the recycled water main at sufficient capacity to serve such landowners or developers. Said fair share will be established by the connection formula for City costs of providing the recycled water treatment and delivery system.

The reimbursement amount paid through the City to the Developer shall be based on the relative fair shares of the cost of installing the recycled water main within the development serving each lot owned by Developer and by future developers. The Developer shall also have the opportunity to request reimbursement for oversizing the pipeline to serve other developments based on the actual construction costs as established by invoices and other documents. The City shall have no obligation to reimburse Developer for any such costs beyond the amount of funds the City collects by these reimbursement fees, less City's reasonable costs to establish and implement these reimbursement fees, and limited to fifteen (15) years from the date of execution of the reimbursement agreements. Given that full reimbursement of Developer cannot occur until after such future developers connect to this recycled water line, Developer acknowledges that it may not receive full reimbursement. Developer agrees the City is not liable for any shortfall in reimbursement suffered by Developer.

3.4.3 Water Facilities Serving Our Town. All such facilities (which are specifically limited to installing a new water line along Niblick Road with two or more sub-outs to serve PA-10A and PA 10-B, one at the planned entrance to PA-10A and one at the east side of PA-10A) shall be built prior to issuance of first building permit for the Project, and as further specified in the Phasing Plan. Further, Developer shall not damage or remove the existing private domestic water system serving the existing residences in Planning Area 10B to the extent such existing private domestic water system is located on property owned or controlled by Developer, until such time as those residences connect to the City's water system or other, written agreement governing maintenance is entered into between Developer and the owners of existing residences in Planning Area 10B served by this existing private domestic water system, subject to the review and approval of the City Engineer as to the adequacy of such alternative maintenance agreement.

3.4.4 Ongoing Operations and Maintenance. The City shall be responsible for

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

the ongoing operations and maintenance of the water supply facilities, which shall be funded through user rates, service fees or other user charges paid to the City by residents and other users within the Project.

3.5 Drainage Facilities:

3.5.1 Description of Facilities. Development of the Project will include construction of on-site drainage facilities, including drain lines, detention basins, drainage outfalls and water quality treatment basins, which shall be designed to detain flows up to the 100-year flood event, back to historic flow rates. Developer shall construct the drainage facilities in phases over the course of Project buildout as described in Specific Plan and the Stormwater plan for the development, and as further specified in the Phasing Plan. Developer will be responsible for planning, designing and constructing all drainage facilities required to meet City General Plan standards and requirements. Upon completion, the on-site drainage facilities will be dedicated to, and accepted by, the City.

3.5.2 Ongoing Operations and Maintenance. The City shall be responsible for the ongoing operations and maintenance of the on-site drainage facilities and related hardscape and drainage inlet facilities, which shall be funded through an appropriate community facilities district and the City's user rates, service fees or other user charges paid to the City by residents and other users within the Project. Developer shall be responsible for funding installation, ongoing operations, and maintenance of the Project's landscaping, including landscaping surrounding and above on-site drainage facilities, as further specified in the Infrastructure Maintenance Plan, Exhibit I.

3.5.3 Communications Conduit and Other Infrastructure. Developer shall provide conduit for high speed internet connectivity to each City facility, public park, and lot within the Project that is designated for City or public use. Communications conduit shall be placed in every street in a manner that allows each residence to be connected. The conduit shall be shown on the joint trench improvement plans and constructed before the final lift of asphalt is placed, to the satisfaction of the City Engineer.

3.6 Fire Facilities. Developer shall pay the City's fire facilities fee for each unit at issuance of certificate of occupancy, at the rate in effect at the time of payment, subject to section 2.5.3 herein.

3.7 Police Facilities. Development shall pay the City's police facilities fee for each unit at issuance of certificate of occupancy, at the rate in effect at the time of payment, subject to section 2.5.3 herein.

3.8 Solid Waste. Adequate landfill facilities exist to service the Project. The cost of providing that service shall be funded through user rates, service fees or other user charges paid directly by residents of the Project and other users.

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

3.9 School Facilities. Developer shall pay the then current and applicable school impact fees in full satisfaction of the provisions of California Government Code Sections 53080 and 65995.1.

3.10 Parks and Open Space. Developer shall submit plans and upon City approval, provide parks, recreational facilities, trails and other open space (collectively, “Recreational Facilities”), to serve the Project residents and general public, as set forth in the Entitlements. The Parties acknowledge that such Recreational Facilities address existing unmet needs in the City for recreational facilities. To help further address those unmet needs, Developer agrees to complete the Royal Oaks Meadows improvements as specified in Exhibit K.

3.10.1 Ownership and Maintenance. Upon completion, the Recreational Facilities will be conveyed to the City or the HOA, as shown on the Infrastructure Maintenance Plan, Exhibit I, and the Recreational Facilities Ownership Exhibit, Exhibit F, each as attached hereto and incorporated herein by this reference. In recognition of the significant benefits to the public from additional park facilities, the City agrees to grant the Developer credit for its costs incurred in completing the proposed Turtle Creek Park and Oak Knoll Park improvements, against the Developer’s obligations under the Quimby Act and the City’s park facilities fee, notwithstanding the existing list of development impact fee credit eligible facilities. The ongoing cost of operating and maintaining the Recreational Facilities owned by the City shall be paid through user rates, service fees or other user charges paid directly by residents of the Project and other users, as further specified in the Infrastructure Maintenance Plan. The ongoing cost of operating and maintaining the Recreational Facilities owned by the HOA (or any private parties) shall be funded through a combination of user fees and HOA dues and assessments.

3.10.2 [Reserved.]

3.10.3 Bikeways and Pathways. The Linne Road to Meadowlark bikeway shall be completed in phases as the corresponding on-site segments of Niblick Road are completed.

3.10.4 [Reserved.]

3.10.5 [Reserved.]

3.10.6 [Reserved]

3.11 General Government and Library Facilities. Developer shall pay the City’s general government facility fee and library facility fee for each unit at certificate of occupancy, , at the rate in effect at the time of payment, subject to section 2.5.3 herein.

3.12 Improvement Security. In connection with the recordation of any final subdivision map for the Project, Developer shall, through the execution of a subdivision or improvement agreement with the City, provide to the City, in a form reasonably acceptable to City Attorney, improvement security as provided in the City Code to secure the faithful

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

performance of Developer's obligations under this Agreement to construct the on-site and off-site improvements identified in the final map. The terms, amounts, and provisions for release of the improvement security shall be as set forth in the City Code.

3.13 Project Covenants, Conditions and Restrictions. Before issuance by City of any residential certificate of occupancy for the Project, Developer shall record a Declaration of Covenants, Conditions and Restrictions ("Project CC&Rs") in a form approved by the City. The City shall be required to approve in advance all proposed changes to the Project CC&Rs that would impact the HOA's financial, managerial, or other ability to maintain infrastructure to the City's standards. Developer shall ensure that this requirement is included in the Project CC&Rs and in the deed to each dwelling unit sold in the Project.

3.13.1 Minimum Provisions of Project CC&Rs. The Project CC&Rs shall, at a minimum provide for (1) the maintenance of the common areas designated in the Specific Plan; and (2) waivers and defense, indemnity, and hold harmless provisions in favor of City, and maintenance of insurance coverage, as required by Sections 3.14.1 and 3.14.2 of this Agreement. The CC&Rs shall include clauses specifically stating that all infrastructure—including landscaping—maintained by the HOA shall be to the same or higher standards than the City has adopted for implementation elsewhere in the community.

3.13.2 Formation of HOA. Prior to or concurrent with the recordation of the Project CC&Rs, Developer shall provide evidence to City Attorney that the HOA has been duly formed and is operating.

3.13.3 Survival of Covenants. All obligations of the HOA pursuant to this Agreement shall survive the termination of this Agreement.

3.14 Maintenance by HOA. Where required under this Agreement, the HOA shall provide maintenance of all common areas and right of way within the Project, and such maintenance shall be to approved City standards.

3.14.1 Indemnity by HOA. The Project CC&Rs shall contain provisions, satisfactory to the City Attorney, relating to the indemnity of the City and its employees, agents and elected and appointed officials, by the HOA for any liability arising out of the negligence of the HOA or the failure of the HOA to adequately maintain any of the areas it is required to maintain. If the HOA has failed to perform its maintenance obligations pursuant to this Agreement, City may, after ten (10) days written notice to Developer and the HOA, enter onto the property in question and perform such maintenance, in which case City may at its option recover 110% of its costs of doing so from the HOA if, in City's opinion, the HOA has failed to commence and to diligently prosecute such maintenance within the said ten (10) day period.

3.14.2 HOA Insurance. The HOA shall maintain a policy of commercial general liability insurance in an amount not less than two million (\$2,000,000) dollars covering property damage, bodily injury, including death, and personal injury arising out of a single occurrence.

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

Such insurance shall, with respect to matters arising out of this Agreement, name City, its employees, agents and elected and appointed officials, as additional insureds. Prior to the issuance by City of the first residential certificate of occupancy, the HOA shall submit a certificate of insurance to City evidencing such insurance coverage and shall thereafter maintain a current insurance certificate on file with the City.

3.15 Project-Related Community Facilities Districts (CFDs). The provisions of this section, Section 3.16 “Services CFD”, and Section 3.17 “Facilities CFD” are intended: to prevent the Project from resulting in negative fiscal impacts on City as determined by the fiscal impact analysis prepared for the Project; to facilitate the construction, operation, and maintenance of infrastructure and facilities to avoid or limit the physical impacts of development; and to assist in the development of the Project so as to provide long-term fiscal and other benefits to City, including increased employment opportunities, an increased tax base and revenues to City, and an enhanced quality of life for the City’s residents.

3.15.1 Zones of Benefit; Differential Rates. At the request of Developer, subject to City approval, the Services CFD and the Facilities CFD may be divided as necessary into zones of benefit, between which the amount of assessments may vary. Subject to City approval, the rate and method for the assessments allocated to individual properties may reflect differential tax rates between low density residential, medium density residential, high density residential, and non-residential land uses. Workforce housing that is counted for compliance with section 3.0.3 of this agreement shall be subject to a reduced Special Tax amount.

3.15.2 Exemptions. Developer expressly agrees that Parcels conveyed or to be conveyed to the City, school district, or other local agencies shall be exempted from any special tax imposed by either CFD. The rental project in PA-1 shall be exempt from both the Services CFD and the Facilities CFD if it is built to serve households at 120 percent of Area Median Income or lower to accommodate development of said units as deed-restricted affordable housing.

3.15.3 Administrative Fees. The CFDs shall include an administrative expense component to cover the City’s annual costs for levying the special taxes and performing any other administrative obligations consistent with the terms of Exhibit G.

3.15.4 Education of Prospective Buyers. Developer shall take all actions necessary to educate prospective buyers of the CFDs and ensure that prospective buyers are fully aware of the special taxes related to the Services CFD and Facilities CFD. To that end, Developer shall comply with the disclosure requirements of the Local Goals and Policies and shall comply with all the disclosure requirements set forth in Government Code section 53341.5 and other governing state laws.

3.15.5 Surviving Obligations. The rights and obligations related to any CFD formed under this Agreement, including all CFDs formed under Sections 3.15 and 3.16, shall survive the termination or expiration of this Agreement, including the obligation to pay the

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

assessed special taxes imposed by the CFD and to use the funds raised consistent with applicable law and the terms of this Agreement and of the CFD. If this Agreement expires or is terminated before the formation of a CFD, then there shall be no further obligation to form a CFD under this Agreement.

3.16 Public Services and Maintenance CFD (“Services CFD”).

3.16.1 Formation, Consent, Waiver, and Benefit. No residential s certificates of occupancy shall be issued until a Community Facilities District has been formed to include the Property for the purpose of funding public services and Project maintenance costs. Developer consents to and shall cooperate in such formation or the formation of an equivalent financing mechanism for maintenance and services purposes. Developer also consents to the levy of such special taxes or assessments as are necessary to fund the maintenance and service obligations described herein, pursuant to and consistent with the requirements of this Agreement, Government Code Section 53111, et seq., and the City’s CFD Local Goals and Policies, attached as Exhibit G.

3.16.2 Uses of Funds Collected. The Services CFD will fund maintenance of certain sidewalks, paths, landscaping, irrigation systems, basins, storm drains, streetlights, open space, and neighborhood parks (“Maintenance Services”) as shown in Exhibit I. In addition, the Services CFD shall provide the funds required to offset a portion of the Specific Plan's impact on City general fund resources available to pay for municipal services citywide, including in the Specific Plan area. As such, the funds shall also be utilized for police, fire, general City services, and other purposes authorized by the Act (“City Services,” together with “Maintenance Services,” the “Public Services and Maintenance”).

3.16.3 Services Special Tax Rate. Subject to the provisions of this Agreement and Exhibit G, the amount of the Services CFD special tax (the "Services Special Tax") shall total \$598,551 at buildout for 1,028 units, in 2020 dollars. This represents an average amount equal to Five Hundred Eighty- Two Dollars and Twenty-Five Cents (\$582.25) per residential unit located within the boundaries of such Services CFD. If Planning Area 1 is developed to serve households earning 120 percent of Area Median Income or less, those units shall be exempt from the Special Services Tax and the total Special Services Tax to be collected would be \$563,616 at buildout in 2020 dollars. The total Services Special Tax collected shall be adjusted for any other increases or decreases in the total number of units constructed at full buildout. The actual special tax applicable to each unit type will be determined by the City. The Services Special Tax will be authorized to increase annually as outlined in the Local Goals and Policies (Exhibit G).

3.17 Public Facilities CFD (“Facilities CFD”).

3.17.1 Formation. Developer, by itself or in conjunction with Participating Owners, and City agree to form a Community Facilities District or Districts for the purpose of

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

financing the construction and/ or acquisition of public infrastructure and facilities ("Facilities CFD(s)"). If requested by Developer, by itself or in conjunction with Participating Owners, City and Developer, (and, if applicable, Participating Owners) shall use their best efforts to cause to be formed the Facilities CFD(s) for the purpose of financing the acquisition or construction of some or all of the "CFD Eligible Improvements" within and associated with the Specific Plan, including those improvements that will mitigate impacts of the Specific Plan upon areas inside and outside of the Project area, and that will be owned, operated, and/or maintained by the City or another public agency.

More specifically, CFD Eligible Improvements are those improvements including, but not limited to arterials, collectors, roadways serving bus transfer facilities, and unloaded primary residential roads; traffic signals; right of way acquisitions; bridges/culverts, water, sewer, recycled water, and drainage improvements and appurtenances; landscape and landscape irrigation and drainage facilities; environmental mitigation and remediation; bicycle and pedestrian facilities; parks, paseos, schools, electrical substations, park and ride facilities, bus facilities, recycling centers, facilities for police protection and fire protection, general government facilities, modification to and/ or undergrounding of existing improvements; wetlands; electrical and dry utility improvements; transit improvements; masonry walls; development impact fees approved by City on a case-by-case basis (which approval shall not be unreasonably denied); design, engineering, surveying, construction management, and security for CFD Eligible Improvements; and other improvements that are defined as authorized improvements under this agreement, city policies, and State law.

3.17.2 Applicable Law and Policies. Formation of the Facilities CFD(s) shall be pursuant to and consistent with the requirements of this Agreement and Government Code Section 53311, et seq. and the City's CFD Local Goals and Policies. Developer shall be allocated a share of infrastructure costs and assessed special taxes as specified in a tax formula agreed to by City, Developer, and, if applicable, Participating Owners, in accordance with the financing plan for the Specific Plan, provided, however, that City agrees that, to the extent permitted by law, City shall allow for separate improvement areas in the Facilities CFD boundary if approved by the City Manager in writing.

3.17.3 No Requirement to Form. Nothing in this section shall be construed to require Developer to form a Facilities CFD nor, if formed, to preclude the payment by an owner of any of the Parcels to be included within the CFD a cash amount equivalent to its proportionate share of costs for the CFD Eligible Improvements, or any portion thereof, prior to the issuance of bonds.

3.17.4 Bond Issuance. If Developer, by itself or in conjunction with Participating Owners, desires to pursue a Facilities CFD, City and Developer (and Participating Owners, if applicable), agree that, with the consent of Developer (and Participating Owners, if applicable), and to the extent permitted by law, City and Developer (and Participating Owners, if applicable), shall use their best efforts to cause bonds to be issued and in amounts sufficient to affect the purposes of this section.

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

3.17.5 Guiding Laws, Policies, and Other Documents. Developer shall adhere to all goals and policies the City has established (which City may amend, from time to time) in its Local Goals and Policies for the use of the Mello-Roos Community Facilities Act of 1982, as amended, to Finance Public Facilities and Public Services document (Exhibit G) (“Local Goals and Policies”), except for those additional provisions above and beyond the Local Goals and Policies as specified in this Agreement.

3.17.6 Key Parameters. The Parties shall adhere to the following key parameters for any public financing districts formed for this Project. City and Developer (and Participating Owners, if applicable), further agree that, with the consent of Developer (and Participating Owners, if applicable), or their successor(s) in interest, and to the extent permitted by law, the City agrees to the following:

(a) The Facilities CFD assigned special tax (“Special Tax”), when aggregated with the Services Special Tax and all other existing or approved taxes and assessments (excluding homeowners association assessments), shall not exceed 1.90% of the assessed value of each fully improved parcel, net of the homeowner's exemption allowed by the State, which may change from time to time.

(b) The Special Tax shall be levied for as long as needed to service the principal and interest on bond debt, and to pay for any additional CFD Eligible Improvements not reimbursed with bond proceeds as defined in the Funding, Construction, and Acquisition Agreement. However, the Special Tax shall be authorized to be levied for a period that allows all bond issues to have a not-to-exceed bond term of 35 years.

(c) No Special Tax escalator will be allowed for the Public Facilities CFD and the Special Tax shall not increase once the bonds are issued regardless of any increases in property values or inflation.

(d) CFD Eligible Improvements may include, in priority order, (1) Backbone Infrastructure, (2) in-tract infrastructure, (3) water and sewer connection fees, and (4) development impact fees.

(e) Prior to bond issuance, annual Special Taxes not used for debt service and City administration expenses (“Pay-Go Taxes”) shall be paid to Developer, for any CFD Eligible Improvements, for a maximum period not to exceed 10 years prior to bond issuance. The CFD Eligible Improvements funded with Pay-Go Taxes will not be reimbursed by bond proceeds.

(f) At the election of Developer (and Participating Owners, if applicable) the City agrees to issue up to three series of bonds for the Public Facilities CFD, or each improvement area, as applicable. Additional bond series may be considered upon mutual agreement by Developer and City.

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

(g) Developer (and Participating Owners, if applicable) may utilize private placement of bonds.

(h) Each Participating Owner shall be responsible only for its pro-rata share of special taxes as set forth in the rate and method for the Project CFD(s).

(i) The amount of bonds issued for each improvement area shall be maximized based on a bond term of thirty-five (35) years for each series of bonds, utilizing the full projected assigned Special Tax revenues at buildout with a debt service coverage ratio of not less than 110%.

(j) [Reserved]

(k) The Special Tax shall be authorized to be levied for a period of up to 45 years, or until the final maturity of the last series of bonds within an improvement area, whichever comes first.

(l) Up to twenty-four (24) months of capitalized interest may be issued for each series of bonds or such lesser amount as requested by the Developer.

3.17.7 Change Proceedings. Prior to the issuance of bonds for the Facilities CFD, or an improvement area, Owner may petition the City to conduct “Change Proceedings” to modify the Special Taxes to address Project revisions or changes in market conditions. City agrees to cooperate with Owner with respect to any such Change Proceeding requests, provided that the requested changes are consistent with the terms of this Agreement and the Local Goals and Policies (Exhibit G).

3.17.8 Private Financing. Nothing herein shall be construed to limit Developer's option to install the public improvements using traditional assessment districts or private financing.

3.17.9 Shortfall Agreement. Concurrent with any formation of a Facilities CFD, Developer, Participating Owners, if applicable, and City shall enter into a shortfall agreement as defined in the Funding, Construction, and Acquisition Agreement, in form and substance acceptable to City, whereby Developer (and Participating Owners, if applicable) shall covenant to finance its fair share of the costs of the CFD Eligible Improvements, to the extent that the bonds issued by the CFD do not provide sufficient funding for the completion of such Improvements, subject to reimbursement/ acquisition by pay-as-you-go proceeds, to the extent available.

SECTION 4. CITY OBLIGATIONS

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

4.1 City Cooperation. The parties agree that Developer must be able to proceed rapidly with the development of the Property and, accordingly, that expedited City review of tentative maps, final maps, modifications to Entitlements, Implementing Approvals, building permits and construction inspections, is essential because these aspects of the Project are already part of an approved master planned community. Accordingly, to the extent that the applications and submittals are in conformity with the Entitlements, Applicable Law, and this Agreement, and adequate funding exists therefor, City agrees to provide adequate City resources to diligently accept, review, and take action on all subsequent applications and submittals made to City by Developer in furtherance of the Project. Similarly, to the extent that adequate funding exists therefor, City shall provide adequate City resources to promptly review and approve improvement plans, conduct construction inspections, and accept completed public facilities. Developer agrees to require all builders to utilize the City electronic plan review submittal process and to reimburse the City for all costs associated with providing expedited services. City may waive electronic plan review submittal process for parts of the development, if appropriate, in the City's sole judgment. In the event City does not have adequate resources, City shall authorize the use of "contract labor" for inspection and plan review purposes, which shall be reimbursed by Developer, pursuant to a mutually agreeable reimbursement agreement that also specifies any fee credit to Developer to avoid Developer paying more than once for the same plan check, inspection, or other City service. City shall consult with Developer concerning the selection of the most knowledgeable, efficient and available "contract labor" for purposes of providing inspection and plan review duties for the City and the Project; provided, however, that City shall retain the right to select any "contract labor" it reasonably chooses.

4.1.1 City Obligation to Form Public Finance District and Issue Bonds. Development of the Project requires the investment of significant capital to fund the Project's necessary infrastructure, including the facilities described in this Agreement and the City's development impact fees as specified in Exhibit C (collectively, the "Public Facilities"). To facilitate the construction of the Public Facilities in a timely fashion, and based upon the commitment of Developer to participate in the finance district(s) in compliance with this Agreement and the Local Goals and Policies as specified in Section 3.15 and 3.16 above, City shall cooperate with Developer fully and in good faith to form and implement a Community Facilities District, or other tax exempt and/or land based financing mechanisms (the "Finance District") through which special taxes may be levied and bonds may be sold to fund the Public Facilities identified by Developer; provided however, that nothing herein shall obligate the City to make any expenditure for the Public Facilities from the City's general fund or any funds not derived from the sale of bonds or the collection of special taxes as described in this paragraph. The City shall be obligated to form and implement a Community Facilities District or other public financing mechanism only if Developer is not in default under this Agreement and if the proposed Community Facilities District or other public financing mechanism complies with Sections 3.15 and 3.16 of this Agreement and the Local Goals and Policies (Exhibit G).

4.1.2 Final Map and Improvement Plan Procedures. The City shall complete improvement plan and final map review in accordance with Applicable Law, in good faith, and in an expeditious manner. If reasonably necessary, City shall have the right to hire outside

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

inspectors and/or consultants, the cost of which shall be reimbursed by Developer. For those improvement plans or other Implementing Approvals under the jurisdiction of another agency, if any, the City agrees to reasonably cooperate in providing any necessary information or approval in a timely manner, so long as the plans do not substantially conflict with the Entitlements.

4.1.3 Building Permits. City shall complete its review of house plans and issue building permits in a good faith and expeditious manner. Recordation of a final map shall not be required prior to the issuance of building permits for model homes.

4.1.4 Environmental Review and Mitigation. The parties understand and agree that the EIR for the Project considers the whole of the Project, including each of the Entitlements and all Implementing Approvals (as defined in Section 2.3.6.3 of this Agreement) necessary for development of the Project. Accordingly, the City agrees to use the certified EIR for this Project as a program and project EIR to comply with CEQA's environmental review requirements for all Implementing Approvals, to the maximum extent allowed by law, including applying the CEQA exemptions specified in *Government Code* § 65457 and CEQA Guidelines 15182 and 15183, which establish an exemption from further environmental review for the processing of tentative tract maps after certification of a Specific Plan EIR for residential development, if the proposed tentative tract maps are consistent with the Specific Plan and meet other applicable requirements. For Implementing Approvals, if an exemption or reliance on the EIR as a program and project EIR is not legally permissible, in the City's sole judgment, then City and Developer agree to meet and confer as to the most appropriate form of environmental review of such approval, provided, however, that City shall retain the authority to determine the most appropriate form of such environmental review.

4.1.5 Inspections. Any building or fire inspection request received by City from Developer will be processed expeditiously.

4.1.6 Right(s)-of-Way Acquisition and Use. Developer shall take all commercially reasonable actions to acquire the necessary right(s) of way (ROW), including ROW for required off-site traffic mitigation measures.

4.1.6.1 To the extent that the acquisition of off-site right(s)-of-way are necessary for Developer to construct off-site improvements including, but not limited to, roadways, water, wastewater or drainage facilities, and to the extent Developer has been unable to acquire said rights-of-way at fair market value despite exhausting all commercially reasonable actions to do so, City shall, within thirty (30) days of written request by Developer, negotiate in good faith with the owner of such off-site land to acquire the right(s)-of-way in question, provided that Developer has provided City with all information, appraisals, and documentation necessary to allow City to make the offer required under *Government Code* section 7267.2.

4.1.6.2 In the event such negotiations fail to acquire such right(s)-of-way within (one-hundred and eighty (180) days after the negotiations commence, City shall consider commencing proceedings to acquire the necessary rights of way, including as allowed by

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

Government Code sections 37350 and 37350.5. City agrees to use its best efforts and take all reasonable actions to expedite acquisition of the necessary rights of way, to the extent permitted by law.

4.1.6.3 [Reserved].

4.1.6.4 Developer shall fund the cost of such right(s)-of-way acquisition, including attorney's fees and court costs as incurred, if such acquisition by the City is necessary.

4.2 Third-Party Reimbursements. In light of the benefits of the Project and Specific Plan to all of the property in the Project, and in accordance with Section 65456 of the California Government Code, City shall impose a fee through a new area of benefit fee or other mechanism (the "Reimbursement Fee"), payable by the owners of property within the Project other than Developer who seek land use entitlements which are required to be consistent with the Specific Plan, in an amount equal to each such landowner's fair share of the cost of backbone infrastructure improvements, and of preparing, adopting and/or certifying, administering (to consist of third party consultant and legal costs), and defending the Project, the Specific Plan, its EIR and all other Implementing Approvals providing benefits to the entire Project, including but not limited to Approvals relating to the establishment of the Project, the Specific Plan, the amendment of the General Plan to accommodate the Project, and the establishment of Financing Mechanisms to fund the construction, operation and maintenance of the Public Facilities and Infrastructure (the "Project Costs"), as further described and enumerated in Exhibit H. For the avoidance of doubt, development agreements between the City and such other property owners shall be a permitted means of fulfilling the City's obligations under this Section 4.2.

4.2.1 City shall make a good faith effort to establish the Reimbursement Fee within one (1) year of this Agreement and before issuance of the first building permit for the Project. The City shall impose the Reimbursement Fee at issuance of each certificate of occupancy for each unit built under the Project other than those developed by Developer, to reimburse Developer for the fair share of the Project Costs incurred in securing approval of the Project. Upon receipt of such Reimbursement Fees, City shall, to the extent permitted by law, pay such amounts to Developer without regard to the status of development within the Project less the City's reasonable costs to establish and implement the Reimbursement Fee. The City shall have no obligation to reimburse Developer for Project Costs beyond the amount of funds the City collects by the Reimbursement Fee, less City's reasonable costs to establish and implement the Reimbursement Fee. Given that full reimbursement of Developer cannot occur until the entire Project develops, Developer acknowledges that it will receive full reimbursement, if at all, only after many years. However, City shall continue to collect Reimbursement Fees from other property owners or persons seeking land use entitlements which are required to be consistent with the Specific Plan and shall promptly pay such proceeds to Developer, net of City's reasonable costs to establish and implement the Reimbursement Fee to the extent permitted by law. City shall have no obligation to collect and to transfer to Developer reimbursement fees from developments for which building permits issue on or after the expiration of this Agreement. Developer shall defend, indemnify and hold harmless the City, its

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

officers, agents, and employees from any and all claims by third parties with respect to the Reimbursement Fees, as further specified in Section 7.

4.2.2 [Reserved].

4.2.3 City shall use all reasonable and appropriate efforts to cause the development agreements for Project, as well as for the Our Town and Centex projects, to be approved at the same time.

4.2.4 [Reserved].

SECTION 5. ANNUAL REVIEW

5.1 Annual Review.

5.1.1 Developer shall, at least annually during the term of this Agreement, review the extent of good faith compliance by Developer with the terms of this Agreement and submit the results of that review to the Community Development Director. Such periodic review shall be limited in scope to compliance with the terms and conditions of this Agreement pursuant to California Government Code Section 65865.1.

5.1.2 Upon not less than thirty (30) days written notice, the Community Development Director, shall deem the report complete, request additional information, or deem the Developer out of compliance with this Agreement.

5.1.3 Failure by Developer in any given calendar year to undertake and complete its annual review of the Agreement shall not, by itself, constitute a finding by City that Developer is not in compliance with all the terms and conditions of this Agreement for that calendar year.

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

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

provide constructive notice. Whether or not the certificate is reasonably relied upon by any person, the party executing the certificate shall not be bound by the certificate in any way in connection therewith, if a substantial failure to comply with the Agreement existed at the time of the last Annual Review, which could not reasonably have been known or discovered by the party executing the certificate, and which was not disclosed by the other party.

SECTION 6. DEFAULT, TERMINATION, ENFORCEMENT AND REMEDIES

6.1 Defaults. Any failure by either party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other party (unless such period is extended by mutual written consent), shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence (“Default Notice”) shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then the substantial commencement of the cure within such time period, and the diligent prosecution to completion of the cure within one year thereafter, shall be deemed to be a cure within such 30-day period. Upon the occurrence of a default under this Agreement, the non-defaulting party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured, as provided herein, then no default shall exist, and the noticing party shall take no further action.

6.2 Remedies. In addition to any other rights or remedies, any party may institute legal action to cure, correct or remedy any default, to enforce any provision herein, or to enjoin any threatened or attempted violation, including but not limited to actions for declaratory relief, specific performance, injunctive relief, and relief in the nature of mandamus. All the remedies described herein shall be cumulative and not exclusive of one another, and the exercise of any one or more of the remedies shall not constitute a waiver or election with respect to any other available remedy.

6.2.1 Specific Performance Remedy. Due to the size, nature and scope of the Project, it will not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun. After such implementation, Developer may be foreclosed from other choices it may have had to utilize the Property and provide for other benefits. Developer has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more substantial time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate Developer for such efforts. By the same token, in the event that City issues any permit or other approval for a structure, and the public facilities, improvements, and infrastructure reasonably necessary to provide an adequate level of public services to that structure are not timely completed or Developer otherwise fails to carry out its obligations under this Agreement, then it would not be possible to determine a sum of money that would adequately compensate City for the resulting hardship. For the above reasons, City and

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

Developer agree that, notwithstanding any other language in this Agreement, damages would not be an adequate or appropriate remedy if City fails to carry out its obligations under this Agreement, or if Developer fails to timely complete any public facility, improvement, or infrastructure provided for herein that is reasonably necessary to provide an adequate level of public services to any structure for which City has issued a permit or other approval or otherwise fails to carry out its obligations under this Agreement. Therefore, specific performance of this Agreement is the only remedy which would compensate Developer if City fails to carry out its obligations under this Agreement, and City hereby agrees that Developer shall be entitled to specific performance in the event of a default by City hereunder. Further, specific performance of this Agreement is the only remedy which would compensate City if Developer fails to timely complete any public facility, improvement, or infrastructure provided for herein that is reasonably necessary to provide an adequate level of public services to any structure for which City has issued a permit or other approval for the Project or otherwise fails to carry out its obligations under this Agreement, and Developer hereby agrees that City shall be entitled to specific performance in such event.

6.2.2. Withholding of Permits and Approvals. City and Developer acknowledge that if Developer substantially fails to carry out its obligations under this Agreement, and Developer fails to cure said default as specified in Section 6.1, then City shall have the right to refuse to issue any permits or other approvals to which Developer would otherwise have been entitled to pursuant to this Agreement or applicable law, subject to the process set forth in Section 6.4 of this Agreement.

6.2.3. Termination. If City elects to consider terminating this Agreement due to a material default of Developer, the City shall give notice of intent to terminate this Agreement and the matter shall be scheduled for consideration and review by the Council at a duly noticed and conducted public hearing. Developer shall have the right to offer written and oral evidence prior to or at the time of said public hearings. If the Council determines that a material default has occurred and is continuing, and elects to terminate this Agreement, City shall give written notice of termination of this Agreement to Developer by certified mail and this Agreement shall thereby be terminated sixty (60) days thereafter.

6.3 Force Majeure. Performance by any party of its obligations under this Agreement (other than for payment of money) shall be excused during any period of “Permitted Delay” as hereinafter defined. For purposes hereof, Permitted Delay shall include delay beyond the reasonable control of the party claiming a Permitted Delay (and despite the good faith efforts of such party) including, but not limited to (i) acts of God, (ii) civil commotion, (iii) riots, (iv) strikes, picketing or other labor disputes, (v) shortages of materials or supplies, (vi) damage to work in progress by reason of fire, floods, earthquake or other casualties, (vii) failure, delay or inability of the other party to act, (viii) as to City only, with respect to completion of the Annual Review or processing applications for Approvals, the failure, delay or inability of Developer to provide adequate information or substantiation as reasonably required to complete the Annual Review or process applications for Approvals; (ix) delay caused by governmental restrictions imposed or mandated by other governmental entities, (x) enactment of conflicting state or federal

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

laws or regulations, (xii) judicial decisions or similar basis for excused performance, and (xiii) litigation brought by a third party attacking the validity of this Development Agreement, the Specific Plan, or any related City approval. Any party claiming a Permitted Delay shall notify the other party (or parties) in writing of such delay within thirty (30) days after the commencement of the delay, or within 30 days after receipt of a Default Notice, whichever is later which notice (“Permitted Delay Notice”) shall include the estimated length of the Permitted Delay. A Permitted Delay shall be deemed to occur for the time period set forth in the Permitted Delay Notice unless a party receiving the Permitted Delay Notice objects in writing within ten (10) days after receiving the Permitted Delay Notice. In the event of such objection, the parties shall meet and confer within thirty (30) days after the date of the objection with the objective of attempting to arrive at a mutually acceptable solution to the disagreement regarding the Permitted Delay. If no mutually acceptable solution can be reached, either party may take such action as may be permitted under Section 6.1 of this Agreement.

6.4 Emergency Working Group Meeting. Notwithstanding any other provision in this Agreement, neither Developer nor City shall commence any legal action, or willfully engage in any other act or omission inconsistent with the terms of this Agreement, including but not limited to withholding or delaying issuance of any ministerial Subsequent Approval by City, (collectively, a “Self-Help Remedy”), without first initiating, and participating in good faith in, an “Emergency Working Group Meeting” pursuant to the terms of this Section. Upon receipt of any Default Notice, or upon the existence of any dispute or disagreement between the Parties arising out of or relating to this Agreement and/or the Project, any party may initiate an Emergency Working Group Meeting to address and seek to resolve the dispute or disagreement by giving written notice to the other Party setting forth the nature of the issue in dispute and the desire to hold an immediate Emergency Working Group Meeting. The Meeting shall be held within 10 days of the written notice, unless extended by mutual written agreement of the Parties. To expedite the process of commencing and completing an Emergency Working Group Meeting, if and when the need for such a Meeting should arise, the Parties shall form the Emergency Working Group within 60 days of the Effective Date of this Agreement, which shall consist of the following members: (1) the City Manager; (2) the City Community Development Director; (3) City Public Works Director; (4) City Building Official; (5) City Attorney; (6) Developer’s President or executive; (7) Developer’s project manager or other employee appointed by Developer; (8) Developer’s legal counsel; and (9) up to two other representatives of Developer, if Developer owns any interest in the Property at the time of the dispute. Both Developer and City shall maintain a current list of names and contact information for the Emergency Working Group.

SECTION 7. DEFENSE AND INDEMNITY/HOLD HARMLESS

7.1 Defense and Indemnity. Developer shall defend, indemnify and hold harmless City, its elected and appointed commissions, officers, agents and employees, from and against any and all damages, claims, costs and liabilities arising out of the personal injury or death of any third party, or damage to the property of any third party, to the extent such damages, claims,

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

costs or liabilities arise out of or in connection with the construction or operations of the Project under this Agreement by Developer or by Developer's contractors, subcontractors, agents or employees. Nothing in this Section 7.1 shall be construed to mean that Developer shall defend or indemnify City from or against any damages, claims, costs or liabilities arising from, or alleged to arise from, activities associated with the maintenance or repair by City or any other public agency of improvements that have been offered for dedication and accepted by City or such other public agency. City and Developer may from time to time enter into subdivision improvement agreements, as authorized by the Subdivision Map Act, which agreements may include defense and indemnity provisions different from those contained in this Section 7.1. In the event of any conflict between such provisions in any such subdivision improvement agreement and the provisions set forth above, the provisions of the agreement that provides greater indemnification shall prevail. No provision of this Agreement shall be construed to require any party to enter into subdivision improvement agreement that contains defense and indemnity provisions different from those contained in this Section 7.1. The parties agree that this Section 7 shall constitute a separate agreement entered into concurrently, and that this Section 7 shall survive termination of this Agreement. Without limiting the generality of the foregoing, if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this Section 7, which shall survive such invalidation, nullification or setting aside.

7.2 If any person not party to this Development Agreement institutes any administrative, legal or equitable action or other proceeding challenging the validity of any provision of this Agreement, any Approval or the sufficiency of any review of this Development Agreement or any Approval under CEQA (each a "Third Party Challenge"), the Parties promptly shall meet and confer as to the most appropriate response to such Third Party Challenge; provided, however, that any such response shall be consistent with this Section 7 and Section 8.

7.3. City shall tender the complete defense of any Third Party Challenge to Developer, and upon acceptance of such tender by Developer: (i) Developer shall defend and indemnify City against any and all fees and costs arising out of the defense of such Third Party Challenge; and (ii) City and Developer shall jointly control the defense and/or settlement of such Third Party Challenge. Counsel in any such legal defense shall be selected by Developer and reasonably approved by the City. Developer's obligation to provide such defense includes the obligation to indemnify and hold harmless the City from any and all claims arising from such litigation or administrative challenge, including, but not limited to, damages, claims, judgments, litigation costs and attorneys' fees. Developer shall not settle any such proceeding on terms which include the granting of any form of relief to any person not a party to this Agreement, excepting only monetary relief to be paid solely by Developer, without the consent of City, which consent shall not be unreasonably withheld, conditioned or delayed.

7.4 If Developer should fail to accept City's tender of defense as set forth in Section 7.3 above, City shall defend such Third Party Challenge and control the defense and/or settlement of such Third Party Challenge as City decides (in its sole discretion), and City may take any and all actions it deems necessary and appropriate (in its sole discretion) in connection

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

therewith; provided, however, that City shall seek Developer's consent to any settlement of such Third Party Challenge, which consent shall not unreasonably be withheld or delayed. Developer shall indemnify City against any and all fees and costs arising out of the City's defense of such Third-Party Challenge, including, but not limited to, any damages, claims, judgments, litigation costs and attorneys' fees.

SECTION 8. COOPERATION IN THE EVENT OF LEGAL CHALLENGE

8.1 Cooperation.

8.1.1 In the event of any administrative, legal or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of any provision of any of the Entitlements, or the approval of any final map, Implementing Approval, or ministerial permit, granted to Developer pursuant to the Entitlements, or the creation of any Community Services District, or other public entity, or Finance District pursuant to the Entitlements, or the imposition, enforcement, levy, or collection of any special assessment or special tax imposed pursuant to the Entitlements, or the approval of this Agreement, or the certification of the EIR, the parties shall cooperate in defending such action to settlement or final judgment. In addition, Developer agrees to defend the City and, at the City's request, to appear and represent the City at Developer's sole cost and expense, in connection with any action challenging the City's approval of any provision of any of the Entitlements or the approval of any final map, Implementing Approval, or ministerial permit, granted to Developer pursuant to the Entitlements, or the creation of any Community Services District, or other public entity, or Finance District pursuant to the Entitlements, or the imposition, enforcement, levy, or collection of any special assessment or special tax imposed pursuant to the Entitlements, or the approval of this Agreement, or certification of the EIR. Counsel in any such legal defense shall be selected by Developer and reasonably approved by the City. Developer's obligation to provide such defense includes the obligation to indemnify and hold harmless the City from any and all claims arising from such litigation or administrative challenge, including, but not limited to, damages, claims, judgments, litigation costs and attorneys' fees. Developer shall not settle any such proceeding on terms which include the granting of any form of relief to any person not a party to this Agreement, excepting only monetary relief to be paid solely by Developer, without the consent of City, which consent shall not be unreasonably withheld, conditioned or delayed. Nothing contained herein shall limit the right of the City to appear and defend itself in any administrative or legal proceeding, at the City's expense. The City shall promptly give notice to Developer, within five (5) business days of service of process upon the City Clerk, of any action filed against the City in relation to the Development and shall promptly and fully cooperate with Developer in its defense of any such action filed against the City.

8.1.2 The parties agree that this Section 8.1 shall constitute a separate agreement entered into concurrently, and that this Section 8.1 shall survive termination of this Agreement. Without limiting the generality of the foregoing, if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this Section, which shall survive such

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

invalidation, nullification or setting aside.

8.2 Cure; Reapproval.

8.2.1 If, as a result of any administrative, legal or equitable action or other proceeding as described in Section 8.1, all or any portion of the Entitlements (including, but not limited to, this Agreement) are set aside or otherwise made ineffective by any judgment (a “Judgment”) in such action or proceeding (based on procedural, substantive or other deficiencies, hereinafter “Deficiencies”), the parties agree to use their respective best efforts to sustain and reenact or readopt the Entitlements or any portion(s) thereof that the Deficiencies related to, as follows, unless the Parties mutually agree in writing to act otherwise:

8.2.1.1 If any Judgment requires reconsideration or consideration by City of the Entitlements or any portion(s) thereof, then the City shall consider or reconsider that matter in a manner consistent with the intent of this Agreement. If any such Judgment invalidates or otherwise makes ineffective all or any portion(s) of the Entitlements, then the Parties shall cooperate and shall cure any Deficiencies identified in the Judgment or upon which the Judgment is based in a manner consistent with the intent of this Agreement. To the maximum extent permitted under the Judgment and applicable law, City shall then readopt or reenact the Entitlements, or any portion(s) thereof, to which the Deficiencies related.

8.2.1.2 Acting in a manner consistent with the intent of this Agreement includes, but is not limited to, recognizing that the Parties intend that Developer may develop the Project consistent with the requirements and provisions of the Entitlements, and to the extent permitted by Applicable Law, adopting such ordinances, resolutions, and other enactments, including but not limited to zoning ordinances, a specific plan and general plan amendments, as are necessary to readopt or reenact all or any portion of the Entitlements without contravening the Judgment.

8.2.2 Nothing in this Section 8.2 shall obligate the City to expend any funds under the City’s control, other than funds provided to the City under this Agreement, to construct or contribute to the construction of any public facility, improvement, or infrastructure, or to otherwise mitigate any impact caused by the Project.

8.2.3 The parties agree that this Section 8.2 shall constitute a separate agreement entered into concurrently, and that this Section 8.2 shall survive termination of this Agreement. Without limiting the generality of the foregoing, if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this section, which shall survive such invalidation, nullification or setting aside.

SECTION 9. MORTGAGEE PROTECTION

9.1 In General. The provisions of this Development Agreement shall not prevent or

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

limit Developer's right to encumber the Property or any portion thereof, or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to such portion. City acknowledges that lenders providing such financing and other "Mortgagees" (defined below) may require certain modifications or amendments to this Development Agreement and agrees upon request, from time to time, to meet with Developer and representatives of such lenders to negotiate in good faith any such request for modification or amendment. Any modification or amendment requested by a Mortgagee will be processed in accordance with Section 1.7 of this Agreement. Any person holding a mortgage, deed of trust or other security instrument on all or any portion of the Property made in good faith and for value (each, a "Mortgagee"), shall be entitled to the rights and privileges set forth in this Section 9.

9.2 Impairment of Mortgage or Deed of Trust. This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof, including the lien of any mortgage. Notwithstanding the foregoing and except as otherwise specifically stated in the terms of any security instrument held by a Mortgagee, no default under this Development Agreement shall defeat, render invalid, diminish, or impair the lien of any mortgage or deed of trust on the Project Site made, or their interest in the Property acquired by, any Mortgagee in good faith and for value.

9.3 Notice of Default to Mortgagee. If a Mortgagee has submitted a request in writing to City in the manner specified herein for giving notices, City shall exercise its best efforts to provide such Mortgagee written notification from City of any failure or default by Developer in the performance of Developer's obligations under this Development Agreement, which notification shall be provided to such Mortgagee at such time as such notification is delivered to Developer.

9.4 Right of Mortgagee to Cure. Any Mortgagee shall have the right, but not the obligation, to cure any failure or default by Developer during the cure period allowed Developer under this Development Agreement, plus an additional 60 days if, in order to cure such failure or default, it is necessary for the Mortgagee to obtain possession of the property such as by seeking the appointment of a receiver or other legal process. Any Mortgagee that undertakes to cure or attempt to cure any such failure or default shall provide written notice to City that it is undertaking efforts of such a nature; provided that no initiation of any such efforts by a Mortgagee shall obligate such Mortgagee to complete or succeed in any such curative efforts.

9.5 Liability for Past Defaults or Obligations. Subject to the foregoing, any Mortgagee, including the successful bidder at a foreclosure sale, who comes into possession of the Project or the Property or any part thereof pursuant to foreclosure, eviction or otherwise, shall take such property subject to the rights and obligations of this Development Agreement, and in no event shall any such property be released from any obligations associated with its use and development under the provisions of this Development Agreement. Nothing in this Section 9 shall prevent City from exercising any remedy it may have for a default under this Development Agreement provided, however, that in no event shall such Mortgagee personally be liable for any defaults or monetary obligations of Developer arising prior to acquisition or

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

possession of such property by such Mortgagee.

SECTION 10. MISCELLANEOUS - PROVISIONS

10.1 Authority to Execute Agreement. The person or persons executing this Agreement on behalf of Developer and City warrant and represent that they have the authority to execute this Agreement and the authority to bind Developer and the City to the performance of their respective obligations hereunder.

10.2 Cancellation or Modification. In addition to the rights provided the parties in Section 5.1 of this Agreement with respect to City's annual review and Sections 6.1 and 6.2 of this Agreement as to default and termination, any party may propose cancellation or modification of this Agreement pursuant to Government Code Section 65868, but such cancellation or modification shall require the consent of both the City and all other parties hereto retaining fee title to the Property or any portion thereof.

10.3 Consent. Where the consent or approval of a party is required in, or necessary under, this Agreement, such consent or approval shall not be unreasonably withheld, conditioned or delayed.

10.4 Construction of Agreement. All parties have been represented by counsel in the preparation of this Agreement and no presumption or rule that ambiguity shall be construed against a drafting party shall apply to interpretation or enforcement hereof. Captions on sections and subsections are provided for convenience only and shall not be deemed to limit, amend or affect the meaning of the provision to which they pertain.

10.5 Governing Law and Venue.

10.5.1 This Agreement shall be construed and enforced in accordance with the laws of the State of California, without regard to conflicts of laws principles. Venue for any legal action brought by any party hereto for breach of this Agreement, or to interpret or enforce any provisions herein, shall be in the San Luis Obispo County Superior Court.

10.5.2 The parties agree that this Section 10.5 shall constitute a separate agreement entered into concurrently, and that this Section 10.5 shall survive termination of this Agreement. Without limiting the generality of the foregoing, if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this Section, which shall survive such invalidation, nullification or setting aside.

10.6 No Joint Venture or Partnership. City and Developer hereby renounce the existence of any form of joint venture, partnership or other association between City and Developer, and agree that nothing in this Agreement or in any document executed in connection

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

with it shall be construed as creating any such relationship between City and Developer.

10.7 Covenant of Good Faith and Fair Dealing. No party shall do anything which shall have the effect of injuring the right of another party to receive the benefits of this Agreement or do anything which would render its performance under this Agreement impossible. Each party shall perform all acts contemplated by this Agreement to accomplish the objectives and purposes of this Agreement.

10.8 Partial Invalidity Due to Governmental Action. In the event state or federal laws or regulations enacted after the effective date of this Agreement, or formal action of any governmental entity other than City, prevent compliance with one or more provisions of this Agreement, or require changes in plans, maps or permits approved by City, the parties agree that the provisions of this Agreement shall be modified, extended or suspended only to the minimum extent necessary to comply with such laws or regulations.

10.9 Further Actions and Instruments. The parties agree to provide reasonable assistance to the other and cooperate to carry out the intent and fulfill the provisions of this Agreement. Each of the parties shall promptly execute and deliver all documents and perform all acts as necessary to carry out the matters contemplated by this Agreement.

10.10 Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.

10.11 No Waiver. No delay or omission by a party in exercising any right or power accruing upon non-compliance or failure to perform by another party under the provisions of this Agreement shall impair, or be construed to be a waiver of, any such right or power. A waiver by a party of any of the covenants or conditions to be performed by another party shall not be construed as a waiver of any succeeding breach or non-performance of the same or other covenants and conditions hereof.

10.12 Severability. If any provision of this Agreement shall be adjudicated to be invalid, void or illegal, it shall in no way affect, impair or invalidate any other provision. Notwithstanding the foregoing or any other provisions of this Agreement, in the event that any material provision of this Agreement is found to be unenforceable, void or voidable, Developer or City may terminate this Agreement upon providing written notice to the other parties.

10.13 Recording. Pursuant to California Government Code Section 65868.5, no later than ten (10) days after City enters into this Agreement, the City Clerk shall record an executed copy of this Agreement in the Official Records of the County of San Luis Obispo.

10.14 Attorneys' Fees. Should any legal action be brought by either party for breach of this Agreement, or to enforce any provisions herein, the prevailing party shall be entitled to reasonable attorney's fees and costs incurred in addition to all other relief as may be allowed by

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

law.

10.15 Time is of the Essence. Time is of the essence of each and every provision in this Agreement.

THIS AGREEMENT is entered into by and between the parties as of the date and year first set forth above.

CITY:

CITY OF EL PASO DE ROBLES, a political
subdivision of the State of California

By: _____

City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

DEVELOPER:

OLSEN RANCH 212, LLC,
a California limited liability company

By: _____

Its: _____

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

APPROVED AS TO FORM:

STOWELL, ZEILENGA, RUTH,
VAUGHN & TREIGER LLP

By: _____
James D. Vaughn
Attorneys for Developer Olsen Ranch 212, LLC

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Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

List of Exhibits

- Exhibit A - Property Description
- Exhibit B - Land Use Plan
- Exhibit C - Development Fees as of the Effective Date of this Agreement
- Exhibit D - Development Fees Credits and Related Improvements to be constructed by Developer as of the Effective Date of this Agreement
- Exhibit E - Phasing Plan
- Exhibit F - Recreational Facilities Ownership Exhibit
- Exhibit G - Local Goals and Policies for the use of the Mello-Roos Community Facilities Act
- Exhibit H - Fair Share Costs Reimbursement Fee Agreement/Calculations
- Exhibit I - Infrastructure Maintenance Plan
- Exhibit J - Local Preference Program Requirements
- Exhibit K - Royal Oaks Meadows Site Plan
- Exhibit L - Fiscal Impact Report

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Resolution N - Exhibit A
Draft Specific Plan Developer Development Agreement

Exhibit A

Property Description

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Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

Exhibit B

Land Use Plan



Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

Exhibit C

Development Fees as of the Effective Date of this Agreement

Development Impact Fees Summary - - Resolution 19-017 Exhibit "A-2"
July 1, 2019

Construction Type	Transportation Area "A"	Transportation Area "B"	Transportation Area "C"	Police	Fire	Governmental	Park and Recreation	Library	Total Area "A"	Total Area "B"	Total Area "C"
Single Family - Resolution	\$ 2,909	\$ 3,861	\$ 9,983	\$ 85	\$ 1,152	\$ 3,338	\$ 3,264	\$ 1,077	\$ 11,825	\$ 12,777	\$ 18,899
Multiple Family - Resolution	\$ 2,005	\$ 2,661	\$ 6,880	\$ 99	\$ 1,152	\$ 3,338	\$ 3,264	\$ 1,077	\$ 10,935	\$ 11,591	\$ 15,810
One Bedroom units ¹	\$ 1,131	\$ 1,501	\$ 3,880	\$ 60	\$ 650	\$ 1,882	\$ 1,840	\$ 607	\$ 6,170	\$ 6,540	\$ 8,919
Studio Units ²	\$ 754	\$ 1,000	\$ 2,586	\$ 37	\$ 433	\$ 1,255	\$ 1,227	\$ 405	\$ 4,111	\$ 4,357	\$ 5,943
Commercial Lodging Motel/Hotel	\$ 1,203	\$ 2,411	\$ 2,502	\$ 101	\$ 476	\$ 99	No Fee	No Fee	\$ 1,879	\$ 3,087	\$ 3,178
RV Parks & Campgrounds	\$ 1,203	\$ 2,411	\$ 2,502	\$ 101	\$ 476	\$ 99	No Fee	No Fee	\$ 1,879	\$ 3,087	\$ 3,178
Commercial per sq. ft.	\$ 8.45	\$ 11.21	\$ 11.63	\$ 0.13	\$ 0.42	\$ 1.21	No Fee	No Fee	\$ 10.21	\$ 12.97	\$ 13.39
Fuel Stations w/ Convenience Market per sq. ft.	\$ 12.39	\$ 22.85	\$ 24.46	\$ 0.13	\$ 0.42	\$ 1.21	No Fee	No Fee	\$ 14.15	\$ 24.61	\$ 26.22
Drive-Thru Food / Beverage Outlets per sq.ft.	\$ 12.55	\$ 24.16	\$ 25.94	\$ 0.13	\$ 0.42	\$ 1.21	No Fee	No Fee	\$ 14.31	\$ 25.92	\$ 27.70
Assisted Living Facilities per sq. ft.	\$ 0.96	\$ 1.28	\$ 1.33	\$ 0.16	\$ 1.55	\$ 1.37	No Fee	No Fee	\$ 4.04	\$ 4.36	\$ 4.41
Light Industrial per sq. ft.	\$ 1.69	\$ 2.24	\$ 2.33	\$ 0.03	\$ 0.23	\$ 0.66	No Fee	No Fee	\$ 2.61	\$ 3.16	\$ 3.25
Heavy Industrial per sq. ft.	\$ 0.67	\$ 0.89	\$ 0.92	\$ 0.03	\$ 0.23	\$ 0.66	No Fee	No Fee	\$ 1.59	\$ 1.81	\$ 1.84

Development Impact Fee Interpretations / Policies:

1. **Single Family Residential:** Includes single family detached homes, town homes, condominium units, mobile homes, and pre-fabricated homes.
2. **Multi-Family Residential:** Includes buildings comprised of two or more attached dwelling units under common ownership, including apartments
3. **One Bedroom Units:** limited to a maximum of 600 square feet and are comprised of one room, one kitchen, a bathroom and no other rooms with more than three walls (see Exhibit B).
4. **Studio Units:** limited to a maximum of 450 square feet and are comprised of one room including a kitchen, bathroom, and no other room (see Exhibit C).
5. **Heavy Industrial Fee:** Warehousing, Airport Hangers, Open Sided Structures, Mini-Storage
6. **Light Industrial Fee:** Recycling, Wholesale, Manufacturing and Processing, including: Apparel, Chemical Products, Electrical Equip., Food and Kindred Products, Furniture and Fixtures, Glass Products, Cabinet Shops, Prefabricated Walls, and Trusses, Machinery, Metal Fabrication, Mobile Home Manufacturing, Paper Products, Plastics, Fiberglass, Rubber, Jewelry, Stone, Structural Clay and Pottery, Testing Laboratories.
7. **Museums:** No fee for "City Recognized Museums" as Identified by City Council resolution.
8. **Outdoor Attraction/Recreation:** Fee will be determined by a Traffic Generation Study based on the Occupancy of the Attraction.
9. **Accessory Hotel Uses:** accessory uses that generate additional impacts (i.e. restaurants, ballrooms, or conference centers) will be subject to the fee/use as determined by the City Engineer.
10. **Fees for Split Occupancies:** Use the Square Footage or Unit Count for each Fee Category (e.g. residential units over a commercial building)
11. **Payment of Fees:** Development Impact Fees are due concurrently with the permit final / Certificate of Occupancy. Fees may be paid early at any time prior to final occupancy. The fee will be based on the rate that is in effect at that time. All DIFs are subject to change on July 1st (Fiscal Year) by the Engineering News Record's (ENR) April Construction Cost Index Rate (average between Los Angeles and San Francisco) or when City Council adopts changes.
12. **Fee Credits Associated with Demolition:** A property will receive square footage or unit credits for a demolished building of an equivalent use. Credits may only be used on the specific lot/parcel where building was demolished. Credits will be applied to each of the appropriate subcategories of the DIFs schedule. The credits will not be paid out as cash.

The Olsen South Chandler Property is within Area "C".

Resolution N - Exhibit A
Draft Specific Plan Developer Development Agreement

Exhibit D

**Development Fees Credits and Related Improvements to be constructed by Developer as of
the Effective Date of this Agreement**

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Exhibit E

Phasing Plan

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Draft Specific Plan Developer Development Agreement

Exhibit F

Recreational Facilities Ownership Exhibit

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Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

Exhibit G

Local Goals and Policies for the use of the Mello-Roos Community Facilities Act

City of El Paso de Robles, California

Local Goals and Policies

for the use of the Mello-Roos Community Facilities Act of 1982, as amended,
to finance Public Facilities and Public Services

Statement of Purpose

This document sets forth the goals and policies of the City Council of the City of El Paso de Robles (the “City Council”) concerning the use of the Mello-Roos Community Facilities Act of 1982 (California Government Code §53311, et seq.) (“Act”) to finance authorized public facilities and/or public services that benefit or serve the existing, new, or planned development for the City of El Paso de Robles (“City”). These goals and policies have been prepared pursuant to the requirements of §53312.7 of the Act and shall apply to all Community Facilities Districts (“CFD”) formed by the City Council. The City Council may, at its sole discretion, supplement or amend any goal or policy stated herein.

This document supersedes any prior statement of Local Goals and Policies for the City of El Paso de Robles.

Definitions

“**Act**” means the Mello-Roos Community Facilities Act of 1982, as amended (California Government Code §53311, et seq.).

“**Bonds**” means bonds authorized and issued under the Act.

“**CFD**” or “**District**” means a community facilities district formed under the Act.

“**Effective Tax Rate**” or “**Overlapping Debt Burden**” means the sum of the Bradley-Burns property taxes (limited by the California Constitution to a maximum of 1% of assessed valuation), as well as all voter-approved special taxes, including, but not limited to several voter-approved assessments, (which, in Paso Robles, include the City’s General Obligation (GO) Bond, the Cuesta Community College Bond, Paso Robles School District Bonds, and State Water Bonds) and CFD taxes.

“**Lien**” means, in the case of public debt imposed on a parcel or parcels, the amount of debt attributable to a parcel or parcels, based on an apportionment of the debt to such parcel or parcels in relation to the probable debt service to be borne by such parcel to parcels.

“**Maximum Annual Special Tax**” means the upper limit on the amount that of tax that can be levied on a parcel each year to fund Public Services and/or Public Facilities financed by a CFD.

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

“**Overlapping Debt Burden**” means the collective total of the maximum annual special tax, ad valorem property taxes, special assessments and/or special taxes for an overlapping financing district, including such potential taxes and assessments related to authorized but unissued debt of public entities other than the City.

“**Public Facilities**” means improvements authorized to be constructed or acquired under the Act, including, but not limited to, fees to finance capital improvements.

“**Public Services**” means any service authorized by the Act. The City may finance services to be provided by the City and/or by another local agency if it determines the public convenience and necessity require it to do so, although the City prioritizes financing services to be provided by the City.

“**Value**” or “**Fair Market Value**” means the amount of cash or its equivalent which property would bring if exposed for sale in the open market under conditions in which neither buyer or seller could take advantage of the exigencies of the other, and both have knowledge of all the uses and purposes to which the property is adapted and for which it is capable of being used, and of the enforceable restrictions upon uses and purposes.

“**Value-to-Lien Ratio**” means a calculation to measure the number of times the Value of a property exceeds the sum of the Liens, including any proposed liens.

Fundamental Community Facilities District Policy Objectives

It is the policy of the City that the City Council may exercise all rights, powers, and authorities granted to it by the Act to finance, or assist in financing, authorized Public Facilities and/or Public Services.

The silence of these goals and policies with respect to any matter shall not be interpreted as creating any policy regarding that matter. Any inconsistency between these goals and policies and the Act, as amended, shall be resolved in favor of the Act.

Policy objectives are grouped into 11 areas:

- Finding of public interest and/or benefit
- Financing priorities
- Initiation of CFDs: applications and expenses
- Appraisals, market absorption studies, and pricing studies
- Credit quality requirements for bond issues
- Terms and conditions of bonds
- Equity of special taxes, maximum special taxes, and escalators
- Backup special tax
- Transparency and notification
- Disclosure requirements
- Use of consultants

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

Each is addressed in turn below.

Finding of Public Interest and/or Benefit

The City Council may authorize the initiation of proceedings to form a CFD to finance Public Facilities, or to provide Public Services, if, in the opinion of the City Council, the creation of the CFD will generate a public benefit to the community at large as well as the benefit to be derived by the properties within the CFD. Examples of public benefit to the community at large may include, but are not limited to, the following:

- A. Construction of a major public facility, including, but not limited to: a major arterial that will provide a vital roadway facility to alleviate congestion; water storage facilities that will remedy inadequate fire flow; and storm drainage facilities that are a part of the storm drainage master plan;
- B. Provision of public infrastructure sooner or at a higher level than would otherwise be required for a particular development project;
- C. Construction of public infrastructure to serve commercial or industrial projects, which will expand the City's employment and/or sales tax base;
- D. Provision of new development that meets specific land use goals and objectives of the City included in such documents of the City as the General Plan, Specific Plans, and Housing Element;
- E. Provision of maintenance, or other authorized public services, such as landscaping, lighting, storm drain, flood control or open space maintenance necessary to promote or maintain quality of life and public safety within existing or developing areas of the City.

The City retains the right to withhold public financing at its sole discretion.

Financing Priorities

The various eligible services and facilities to be funded under the Act are identified below in descending order of priority:

1. **Eligible Services; Priority Services.** The services eligible to be financed by a CFD are those identified in the Act. Subject to the conditions set forth in the Act, priority for Public Services to be financed by a CFD shall be given to Public Services that are necessary for the public health, safety, and welfare. The City may finance Public Services to be provided by another local agency if it determines the public convenience and necessity require it to do so, although the City prioritizes financing Public Services to be provided by the City.

The City shall consider entering into a joint financing agreement or joint powers authority in order to finance those Public Services provided by other agencies. A joint

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

agreement with the public agency that will provide such Public Services must be entered into as specified in the Act.

To the extent required by the Act, the CFD may finance only those Public Services authorized pursuant to a landowner vote to the extent such services are in addition to those provided in the territory of the CFD before the CFD was created, and such that the additional services may not supplant services already available within the territory of the CFD when the CFD was created.

- 2. Eligible Public Facilities; Priority Public Facilities.** The City will prioritize financing for Public Facilities that may be financed under the Act and that provide substantial or regional direct or indirect public benefit, including in-tract and offsite facilities. It is acknowledged the Act permits the financing of fee obligations imposed by governmental agencies, the proceeds of which fees are to be used to fund public capital improvements of the nature described above. The City will consider applications to finance fee obligations on a case-by-case basis. The City will prioritize financing fees to be paid to the City over other agencies because of the administrative burden associated with financing fees payable to other local agencies.

The funding of Public Facilities to be owned and operated by public agencies other than the City shall be considered on a case-by-case basis. The City shall consider entering into a joint financing agreement or joint powers authority in order to finance those Public Facilities. A joint agreement with the public agency that will own and operate any such Public Facility must be entered into as specified in the Act.

A CFD may also be formed for the purpose of refinancing any fixed special assessment or other governmental lien on property, to the extent permitted under the Act, as applicable.

The City Council shall have the final determination as to the eligibility and priority of any facility for financing. In general, the City will prioritize the funding of facilities and fees as follows:

1. Regional and backbone infrastructure;
 2. In-tract and/or onsite public improvements;
 3. Development Impact Fees for Public Facilities constructed by the City or other public agency may be considered on a case-by-case basis, and priority will be given to water and sewer connection fees.
- 3. Eligible Private Facilities.** Financed improvements may be privately owned in the specific circumstances, and subject to the conditions, set forth in the Act, and subject to the approval of bond counsel.

In instances where multiple series of bonds are to be issued, the City shall determine which Public Facilities shall be financed from the proceeds of each series of bonds.

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

Initiation of CFDs: Applications and Expenses

The City will consider applications requesting the formation of CFDs to finance authorized Public Facilities and/or authorized Public Services. The City reserves the right to request additional information, reports, or studies reasonably necessary to evaluate these applications. Applications may be initiated by owners or developers of vacant property proposed to be developed, owners of property that can be redeveloped into a higher and better use, owners of property within existing developed areas, registered voters residing in existing developed areas, or the City itself.

The City shall not incur any non-reimbursable expense for processing applications and/or petitions for CFDs except for those where the City is the applicant. City and consultant costs incurred in the establishment of a CFD may be recovered by the City through the levy of the Special Tax. The applicant, if not the City, will pay for the costs associated with the application review as well as any non-reimbursable expenses related to the formation for the CFD via advanced deposit.

Each application for formation of a District shall be accompanied by an initial deposit in an amount determined by the City as necessary to fund initial staff time and consultant costs associated with District review and formation. Deposit terms and conditions will be defined by a deposit and reimbursement agreement to be executed by the applicant and the City, as soon as practical after receipt of an application. If additional funds are needed to off-set costs and expenses incurred by the City during the review, evaluation and/or formation of the District, the City shall submit a written request to the applicant for such funds, and the applicant shall comply with each demand within 10 business days of receipt of such notice. If the applicant fails to make deposit of additional funds for the proceedings, the City may suspend all proceedings until receipt of such additional deposit.

The deposits shall be used by the City to pay for actual costs and expenses incurred by the City relative to the proceedings, including but not limited to the following: legal, engineering, appraisal, market absorption and/or pricing, special tax consulting and financial advisory; documented City staff time, administrative costs and expenses; required notifications; and printing and publication of legal matters.

The City shall refund any *unexpended* portion of the deposits upon the following conditions:

- A. The District is not formed within 3 years of submission of the application;
- B. Bonds are not issued and sold by the District within 5 years of formation of the District;
- C. The proceedings for formation of the District or issuance of bonds is disapproved by the City; or
- D. The proceedings for formation of the District or issuance of bonds are abandoned in writing by the applicant;
- E. Except as otherwise provided herein, the applicant shall be entitled to reimbursement for all reasonable costs and expenses incident to the proceedings and construction of the Public Facilities as provided under the Act, provided that all such costs and expenses shall be verified by the City as a condition of reimbursement.

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

The applicant or property owner shall not be entitled to reimbursement from bond proceeds for any of the following:

- A. In-house administrative and overhead expenses incurred by the applicant, or expenses of applicant's counsel or consultants; and
- B. Interest expense incurred by the applicant on moneys advanced or expended during the proceedings and construction of Public Facilities.

The City shall not accrue or pay any interest on any portion of the deposit refunded to the applicant or the costs and expenses reimbursed to the applicant. Neither the City nor the District shall be required to reimburse the applicant or property owner from any funds other than the proceeds of bonds issued by the District and moneys remaining in the deposit account as provided above. Excess funds on deposit after the formation of the proposed District will be refunded to the depositor or its successor or assigns.

Appraisals, Market Absorption Studies, and Pricing Studies

The definitions, standards and assumptions to be used for appraisals shall be determined by the City on a case-by-case basis, with input from City consultants and CFD applicants, and by reference to relevant materials and information promulgated by the State of California, including the Appraisal Standards for Land-Secured Financings prepared by the California Debt and Investment Advisory Commission. In any event, the Value-to-Lien Ratio shall be determined based upon an appraisal of the proposed CFD by an independent Member Appraisal Institute appraiser of the proposed CFD. The appraisal shall be coordinated by and under the direction of the City. All costs associated with the preparation of the appraisal report shall be paid by the applicant through the advance deposit mechanism.

A market absorption study and/or a market pricing study for any proposed development project may be required for land secured financing. These studies shall be based on the specified economic and demographic data, projected sales prices, projected rates at which the finished products will be sold, and, generally, shall include an analysis of competitive prices for the product types proposed to be developed within the CFD. These studies will be used as a basis for verification that timely and sufficient revenues can be produced, and to determine if the public financing of the Public Facilities is appropriate given the timing of the development. Additionally, the projected absorption rates will be provided to the appraiser for use in the appraisal required in the above "Appraisal" section.

The City may, at its discretion, require either of these studies to be updated after the formation of the District but prior to the issuance of bonds. In the event of significant market changes, and if it is determined that the original special tax rates do not support the current pricing or property values, the City retains the right to administratively reduce the special tax rates as appropriate.

Credit Quality Requirements for Bond Issues

It is the policy of the City to comply with all provisions of the Act including, but not limited to, §53345.8, as the same may be amended from time to time. It is the goal of the City to conform, as nearly as practicable, to the California Debt and Investment Advisory Commission's Appraisal Standards for Land-Secured Financings, as such standards may be amended from time to time, provided, however, that this City Council may additionally amend such standards as it deems

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

necessary and reasonable, in its own discretion, to provide needed public improvements within the City, while still accomplishing the goals set forth herein.

It is the City's policy the value-to-debt ratio (i.e., the full market value of the properties subject to the levy of special taxes, including the Value of the improvements to be financed from the proceeds of the issue or series of special tax bonds for which the Value-to-Lien Ratio is being computed, compared to the aggregate amount of the special tax lien proposed to be created, plus any fixed assessment Liens and/or special tax :Liens) for a CFD shall be equal to or greater than 4:1. A CFD with a Value-to-Lien Ratio of less than 4:1, but equal to or greater than 3:1, may be approved, if in the sole discretion of the City Council, upon a determination by the City Manager, a value-to-debt ratio of less than 4:1 is acceptable in light of the circumstances of the particular CFD and/or credit enhancement, such as a letter of credit, or the escrow of bond proceeds to offset a deficiency in the required Value-to-Lien Ratio as it applies to the taxable property within the CFD in the aggregate or with respect to any development area.

The Value-to-Lien Ratio shall be determined based upon the Fair Market Value of the properties subject to the levy of the special tax as shown on the ad valorem assessment roll, or upon an appraisal of the properties proposed to be assessed. The City Manager may require the Value-to-Lien Ratio be determined by an appraisal if, in his or her judgment, the assessed values of the properties proposed to be assessed do not reflect the current full cash value of such properties. The appraisal shall be coordinated by, done under the direction of, and addressed to, the City. The appraisal shall be undertaken by a state-certified real estate appraiser, as defined in regulations adopted pursuant to Business and Professions Code section 11340. The appraiser shall be selected and retained by the City. The costs associated with the preparation of the appraisal report shall be paid by the applicant for the CFD, but may be subject to reimbursement through the CFD, at the sole discretion of the City. The appraisal shall be conducted in accordance with assumptions and criteria established by the City, including the definitions, standards, and assumptions contained herein.

If the City requires letters of credit or other security, the credit enhancement shall be issued by an institution, in a form and upon terms and conditions satisfactory to the City. All fees payable on the letter of credit or other security shall be the sole responsibility of the applicant or developer, not the City or District. Any security required to be provided by the applicant may be discharged by the City upon the opinion of a qualified appraiser, retained by the City, that a Value-to-Lien Ratio of at least 3:1 has been attained per land use category, including any overlapping special assessments or special tax liens. The City shall impose specific requirements (including but not limited to an absorption study) with respect to such credit enhancements on a case-by-case basis.

Terms and Conditions of Bonds

The City shall establish all terms and conditions of CFD-issued bonds. The City will retain the ability to control, manage and invest all CFD-issued bond proceeds. Each bond issue shall be structured to adequately protect bond owners and to not negatively impact the bonding capacity or rating of the City. These security measures could include a combination of credit enhancement, foreclosure covenant, special reserve fund or deposits, and/or a contractual commitment by the proponents and successors to pay the special taxes during the initial stages of the development project. The City has

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

the sole discretion to determine the types of credit enhancement, foreclosure covenant, and reserve fund that may be required.

Unless otherwise authorized by the City, the following shall serve as bond requirements:

- A. A reserve fund shall be set at the lesser of the three tests:
 1. 10% of bond principal amount,
 2. Maximum annual debt service, or
 3. 125% of average annual debt service.
- B. Interest may be capitalized for up to 24 months.
- C. The maximum term of the bonds issued shall not exceed 35 years.
- D. The assigned special tax for any parcel within a District may escalate annually, but not by more than five (5) percent per year for services. Debt Service on the bonds may escalate by not more than two (2) percent per year subject to the sole discretion of the City.
- E. The Maximum Annual Special Tax shall be established to ensure that the annual revenue produced by the levy of the Maximum Annual Special Tax shall be equal to at least 110% of the annual debt service for each year the bonds are outstanding. The calculated annual special tax levy will consider any surplus special tax revenues as a credit against the following year levy calculation, to address a delinquency in the prior year, or other appropriate use, as determined by the City Manager.
- F. All statements and documents related to the sale of bonds shall emphasize and state that (i) the Bonds are limited obligations of the City and neither the faith and credit nor the taxing power of the City is pledged to security or repayment of the bonds, (ii) the sole source of revenues are special taxes, the debt service reserve fund, or proceeds raised by foreclosure proceedings, and (iii) the City shall not be obligated to make payments of principal, interest, or redemption premiums (if any) from any other source of funds.
- G. Bond indentures may include provisions allowing for immediate collection of delinquent taxes, including provisions for the subject District to cause judicial foreclosure proceedings to be filed in the Superior Court, within 90 days of determination of delinquency, against any such property for which special taxes remain delinquent.

Equity of special taxes, maximum special taxes, and escalators

Special tax formulas for CFDs shall provide for minimum special tax levels that satisfy the following: (a) 110 percent debt service coverage for all CFD bonded indebtedness, (b) the reasonable and necessary annual administrative expenses of the CFD, and (c) for refundings,

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

amounts equal to the differences between expected earnings on any escrow fund and the interest payments due on bonds of the CFD. Additionally, the special tax formula may provide for the following: (a) any amounts required to establish or replenish any reserve fund established in association with the indebtedness of the CFD, (b) the accumulation of funds reasonably required for future debt service, (c) amounts equal to projected delinquencies of special tax payments, (d) the furnishing or equipping of facilities, (e) lease payments for existing or future facilities, (f) costs associated with the release of funds from an escrow account, (g) "pay as you go" costs to be paid from CFD special taxes no later than one year after the issuance of the final series of bonds, if applicable and (h) any other costs or payments permitted by law. In structuring the special tax, projected annual interest earnings on bond reserve funds may not be included as revenue for purposes of the calculation.

The special tax formula shall be reasonable and equitable in allocating Public Facilities' and Public Services' costs to parcels within the CFD. Exemptions from the special tax may be given to parcels that: are publicly owned; are held by a property owners' association; are used for a public purpose such as open space or wetlands; are affected by public utility easements making impractical their utilization for other than the purpose set forth in the easements; have insufficient value to support bonded indebtedness; or other parcels on a case-by-case basis. The City may engage a qualified special tax consultant to assist in the development of the rate and method of apportionment for any special tax proposed in connection with a proposed CFD. Special taxes may, but are not legally required to, be allocated in proportion to the estimated benefits that each parcel will derive from the facilities and services to be financed through a CFD. Parcels should, at a minimum, be classified according to whether they are undeveloped, developed for residential uses, or developed for non-residential uses.

The City recognizes that the determination of estimated benefit will rely, to a large extent, on assumptions based on average characteristics of parcels, and that the exact benefit to be derived by any parcel or class of parcel cannot be perfectly estimated. The City may, at its sole discretion, permit the allocation of special taxes on any reasonable basis. The special tax shall be allocated equitably and shall not be discriminatory or arbitrary and shall permit a purchaser of property subject to the special tax a fair means of determining his or her obligation.

Maximum Special Taxes. For residential parcels, the Overlapping Debt Burden, or overall Effective Tax Rate, shall not exceed 1.80% of the projected assessed value of each improved parcel within the District. A CFD with an Effective Tax Rate greater than 1.80% may be approved, in the sole discretion of the City Council, upon a determination by the City Manager that the higher rate would be of significant benefit to the development (e.g. when the development provides significant eligible priority public facilities as defined herein).

For non-residential parcels, the City reserves the right to increase the Effective Tax Rate to two percent (2.0%) if, in the City's sole discretion, it is fiscally prudent. The City, in its discretion, may allow an annual escalation factor on non-residential parcels within a District.

Maximum Special Tax Escalators. For Maximum Annual Special Taxes on residential property to fund Public Facilities, there shall be no escalators on the Maximum Annual Special Taxes, except

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

for minor escalators sufficient to cover reasonable increases in annual administrative expenses of the City. The City Council, in its sole discretion, may approve a rate and method of apportionment of special taxes with a fixed annual escalator not exceeding 2% annually on residential property to also accommodate an ascending bond debt service structure, provided that the City has considered the potential benefits and risks compared to maximum special taxes without such an escalator. For maximum special taxes on non-residential property, the inclusion of any escalator will be determined on a case-by-case basis, subject to the equity provisions above (see p. 8).

Maximum Annual Special Taxes for Public Services shall be subject to a fixed and/or formulaic escalator as determined by the City at the time of development of the rate and method of apportionment of special taxes.

Notwithstanding the above, the annual increase, if any, in the Maximum Annual Special Taxes for any parcel shall not exceed any maximum specified in the Act. Under no circumstances will special taxes levied in any fiscal year against any residential property as a result of a delinquency in the payment of the special tax applicable to any other parcel be increased by more than 10% above the amount that would have been levied in that fiscal year had there never been any such delinquency or default.

Backup Special Tax

A backup special tax shall be required to protect against changes in density resulting in the generation of insufficient special tax revenues to pay annual debt service and administrative expenses. If the applicant or the applicant's successor-in-interest requests a downsizing of the development, the City Council may additionally or alternatively require as a condition of approval of such a request, that the applicant or successor-in-interest, as applicable, prepay such portion of the special tax obligation as may be necessary in the determination of the City to ensure adequate debt service coverage exists with respect to any outstanding bonds or otherwise provides security in a form and amount deemed necessary by the City Council to provide for the payment of debt service on the bonds. The City, in its sole discretion, may defer the issuance of bonds in order to avoid a potential circumstance where a backup tax could otherwise result in the increase of a tax on developed residential property to exceed the prior year tax by more than 2%.

Special taxes will only be levied on an entire County Assessor's parcel, and any allocation of special tax liability of a County Assessor's parcel to leasehold or possessory interest in the fee ownership of such County Assessor's parcel shall be the responsibility of the fee owner of such parcel (except where the City is the fee owner of the parcel and has leased the parcel pursuant to a lease with a term of at least 5 years, in which case the lessee shall have the responsibility for the special tax liability) and the City shall have no responsibility therefore and has no interest therein. Failure to pay, or cause to be paid, any special tax in full when due shall subject the entire parcel to foreclosure in accordance with the Act.

The City shall retain a special tax consultant to prepare a fiscal impact report that: (a) recommends a special tax for the proposed CFD, and (b) evaluates the special tax proposed to determine its ability to adequately fund identified Public Services, Public Facilities, City administrative costs, and other related expenditures. Such analysis shall also address the resulting aggregate tax burden of all

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

proposed special taxes plus existing special taxes, ad valorem taxes, and assessments on the properties within the CFD.

Transparency and Notification

The City will take the following steps to ensure that prospective property purchasers are fully informed about their taxpaying obligations imposed under the Act:

- A. It will conduct all proceedings required by the Act in the manner required by the Ralph M. Brown Act (California Government Code §54950, et seq.);
- B. It will cause a map of the boundaries of any proposed CFD to be recorded, pursuant to §3111 of the California Streets and Highways Code, in the Office of the Recorder of Orange County within 15 days following the adoption of a resolution of intention to form such CFD, pursuant to §53321 of the Act;
- C. It will give notice, as required pursuant to the Act, prior to holding any public hearing on the establishment of a CFD, modification of an existing CFD or annexation to an existing CFD;
- D. It will record a notice of special tax lien, in the form specified by §3114.5 of the California Streets and Highways Code, within 15 days of the City Council's determination that the requisite number of voters are in favor of the levy of a special tax in connection with a CFD. Such notice will include, among other information:
 1. A description of the rate, method of apportionment, and manner of collection of the authorized special tax;
 2. The name(s) of the owner(s) and the assessor's tax parcel number(s) of the real property included within the CFD and not exempt from the special tax; and
 3. The name, address, and telephone number of the Administrative Services Department, so that a property owner may contact the Administrative Services Department to obtain further information concerning the current and estimated future special tax liability of owners or purchasers of real property subject to the special tax lien.
- E. It will, through the Administrative Services Department, furnish a notice of special tax, in the form set forth in §53340.2(c) of the Act to any individual requesting the notice or any owner of property subject to a special tax levied by a CFD formed by the City within five (5) working days of a request for such notice. The City Council may establish a reasonable fee for this service.
- F. In addition, the City will take the following steps in order to comply with various requirements relative to CFDs, per the California Government Code and SEC regulations, and to further demonstrate and provide for full transparency to bond holders, financial markets, and the public, in order to ensure:

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

1. the annual reporting requirements relative to special taxes as detailed in §§53410 through 53412 and 50075 through 50077.5 of the California Government Code are met and will comply with the requirements detailed within Senate Bill 165, “Local Agency Special Tax and Bond Accountability Act”.
2. Compliance with the annual reporting requirements of the Securities and Exchange Commission’s Rule 15c2-12(b)(5) to provide certain annual financial information, operating data, and notices of material events, and, generally, to require the due diligence of underwriters.
3. Compliance with §53359.5 of the California Government Code which requires all agencies issuing Mello-Roos Community Facilities District bonds, including refunding bonds, after January 1, 1993, to report specific information to the Commission by October 30th of each year. Compliance with §53359.5 shall be achieved by completion of the “Yearly Fiscal Status Report” and the “Draw on Reserve of Default Report” as detailed by the California Debt and Investment Advisory Commission.

Disclosure Requirements to Prospective Property Purchasers

Disclosure Requirements for Developers - Developers selling lots or parcels within a CFD shall provide disclosure notices to prospective purchasers that comply with all of the requirements set forth in §53341.5 of the California Government Code. The disclosure notices must be provided to prospective purchasers of property at or prior to the time the contract or deposit receipt for the purchase of the property is executed. Developers shall keep an executed copy of each disclosure document as evidence that disclosure has been provided to all purchasers of property within a CFD. The City may at its discretion institute a requirement for developers of property within the CFD to provide the City with an acknowledgement from purchasers of property, indicating that the purchaser has received notification that their property lies within the boundaries of the CFD.

Disclosure Requirements for the Resale of Lots - Pursuant to §53340.2 of the Act, the City Administrative Services Department shall provide a notice of special taxes to sellers of property (other than developers), which will enable them to comply with their notice requirements under §1102.6 of the California Civil Code. The City shall provide this notice within five (5) working days of receiving a written request for the notice. A reasonable fee may be charged for providing the notice, not to exceed any maximum fee specified in the Act. The City may at its discretion institute a requirement for sellers of property within the CFD to provide the City with an acknowledgement from purchasers, indicating that the purchaser has received the required notice of special tax. If such requirement is instituted, the signed acknowledgement shall be kept on file at the City.

Continuing Bond Disclosures - To the extent it is determined to be necessary in order for an underwriter of bonds to comply with Rule 15c2-12 of the Securities and Exchange Commission, or as otherwise determined to be appropriate by the City, after consultation with the City's bond counsel, the underwriter and its municipal advisor, the City may require landowners in a CFD to

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

provide (i) initial disclosure prior to the time of issuance of any bonds, and (ii) periodic continuing disclosure (quarterly, semiannual and/or annual disclosure, depending on the specific circumstances). These requirements are expected to apply to all landowners in a CFD that are responsible for 10% or more of the annual special taxes securing bonds, and the continuing disclosure requirement is expected to remain in place until the special tax obligation of the property owned by such owners drops below 10%.

Use of Consultants

The City shall select all consultants necessary for the formation of the CFD and the issuance of bonds, including the underwriter(s), bond counsel, municipal advisor, appraiser, absorption consultant, and the special tax consultant. Prior consent of the applicant shall not be required in the determination by the City of the consulting and financing team.

Exceptions and Interpretation

The City is empowered to interpret these Local Goals and Policies. A finding by the City Council that a CFD conforms to the provisions of these Local Goals and Policies shall be conclusive evidence of such conformity. The City reserves the right to modify or amend these policies at any time, as well as to make exceptions or changes for specific financing project by resolution of the City Council.

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

Exhibit H

Fair Share Costs Reimbursement Fee Agreement/Calculations

Exhibit "X"
Olsen Chandler Ranch Specific Plan
Developer Cost Allocation
December 17, 2019

OCR Specific Plan Backbone Costs (a)				
Construction Items	Phase 1	Phase 2	Phase 3	Total
Rough Grading	\$0	\$0	\$0	\$0
Slope Drainage	\$0	\$0	\$0	\$0
Erosion Control	\$70,544	\$89,224	\$23,833	\$183,601
Parkway, Landscape & Irrigation	\$2,142,378	\$1,979,175	\$0	\$4,121,552
Entry Monumentation	\$105,000	\$25,000	\$0	\$130,000
Walls & Fences	\$0	\$0	\$0	\$0
Retaining Walls	\$0	\$0	\$0	\$0
Domestic Water Improvements	\$1,413,439	\$507,403	\$0	\$1,920,842
Sewer Improvements	\$817,202	\$232,082	\$0	\$1,049,283
Storm Drain System Improvements	\$1,561,149	\$258,762	\$0	\$1,819,911
Street Improvements	\$2,477,150	\$2,694,435	\$466,417	\$5,638,002
Utilities (elec., tel., gas, catv)	\$2,401,950	\$1,297,950	\$0	\$3,699,900
Subtotal	\$10,988,809	\$7,064,030	\$490,250	\$18,543,090
Contingency (15%)	\$1,648,321	\$1,059,604	\$73,538	\$2,781,463
Total Construction Costs	\$12,637,131	\$8,123,634	\$563,788	\$21,324,553
Consulting Services	\$1,284,874	\$797,814	\$93,624	\$2,176,312
Assessments, Bonds & Fees	\$959,137	\$554,911	\$14,398	\$1,528,447
Phased Backbone Costs	\$14,881,142	\$9,476,359	\$671,810	\$25,029,312
Total Offsite Street Costs (b),(c)	\$2,393,745	\$0	\$0	\$2,393,745
Royal Oaks Park	\$1,100,000	\$0	\$0	\$1,100,000
Total Backbone Costs	\$18,374,887	\$9,476,359	\$671,810	\$28,523,057
Specific Plan Units (d)	806	392	95	1,293
Backbone Cost per DU by Phase	\$22,798	\$24,174	\$7,072	\$22,060

OCR Specific Plan Developer Cost Allocation					
Units	1028	119	146	1293	
Project	Venido Fair Share	Centex Fair Share	Our Town Fair Share	Total	
Cost Allocation by Developer	\$22,677,264	\$2,625,092	\$3,220,701	\$28,523,057	
Cost Per Unit	\$22,060	\$22,060	\$22,060	\$22,060	

Specific Plan Application & Processing Fees (e)					
Project	Venido Fair Share	Centex Fair Share	Our Town Fair Share	Total	
Studies & Reports	\$136,240	\$15,771	\$19,349	\$171,360	
Planning Consultant	\$528,708	\$61,203	\$75,089	\$665,000	
Engineering	\$911,067	\$105,464	\$129,393	\$1,145,923	
Applications	\$361,398	\$41,835	\$51,327	\$454,560	
Total Costs	\$1,937,413	\$224,273	\$275,158	\$2,436,843	
Cost Per Unit	\$1,885	\$1,885	\$1,885	\$1,885	

Footnotes:

- (a) Estimated backbone costs based on Olsen-Chandler budget dated December 16, 2019 prepared by Savello & Associates.
- (b) Represents the estimated non-TIF credit eligible costs for TIF segments 33a-33e (See TIF Budget 33a-e) of \$7,446,621 less OCR TIF credits of \$6,100,728 and Offsite TIF Improvements at Creston & Niblick, Creston & Scott, Niblick & River Rd, and other offsite mitigation estimated at \$1,047,852 (net of City TIF credits) - Note: Actual costs may be higher as the TIF credits have not yet been agreed upon with the City.
- (c) Amount does not include offsite street improvements for which the OCRSP is conditioned to construct if such improvements are not constructed by Beechwood.
- (d) Phase 1 includes 541 OCR units, 119 Centex units, and 146 Our Town units.
- (e) Specific Plan application and processing fees estimated as of September 30, 2019.

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

Exhibit H

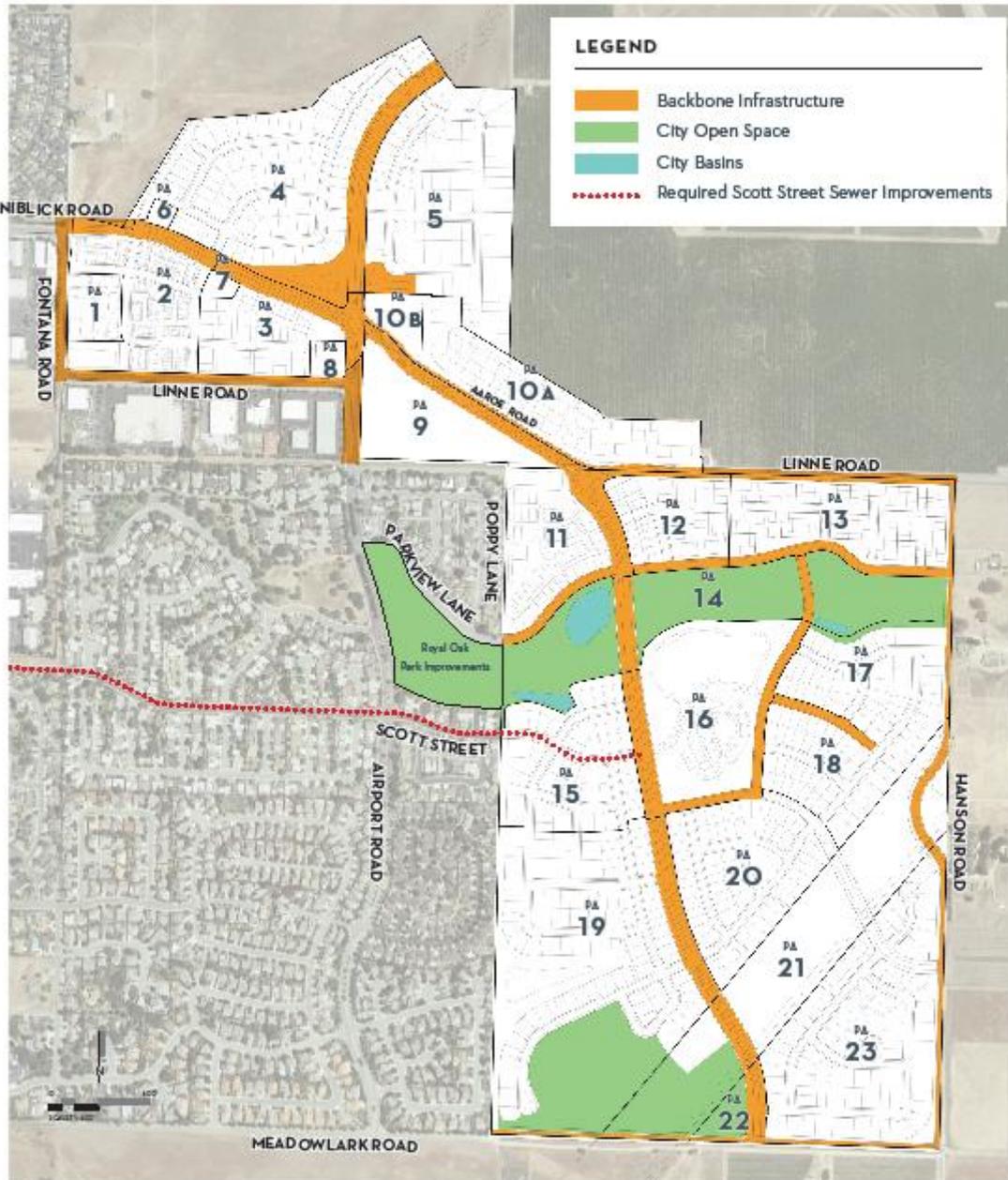
Fair Share Costs Reimbursement Fee Agreement/Calculations (Map)

DRAFT

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Draft Specific Plan Developer Development Agreement

MAP X.X: CENTEX FAIR SHARE MAP
VER. 12.1719

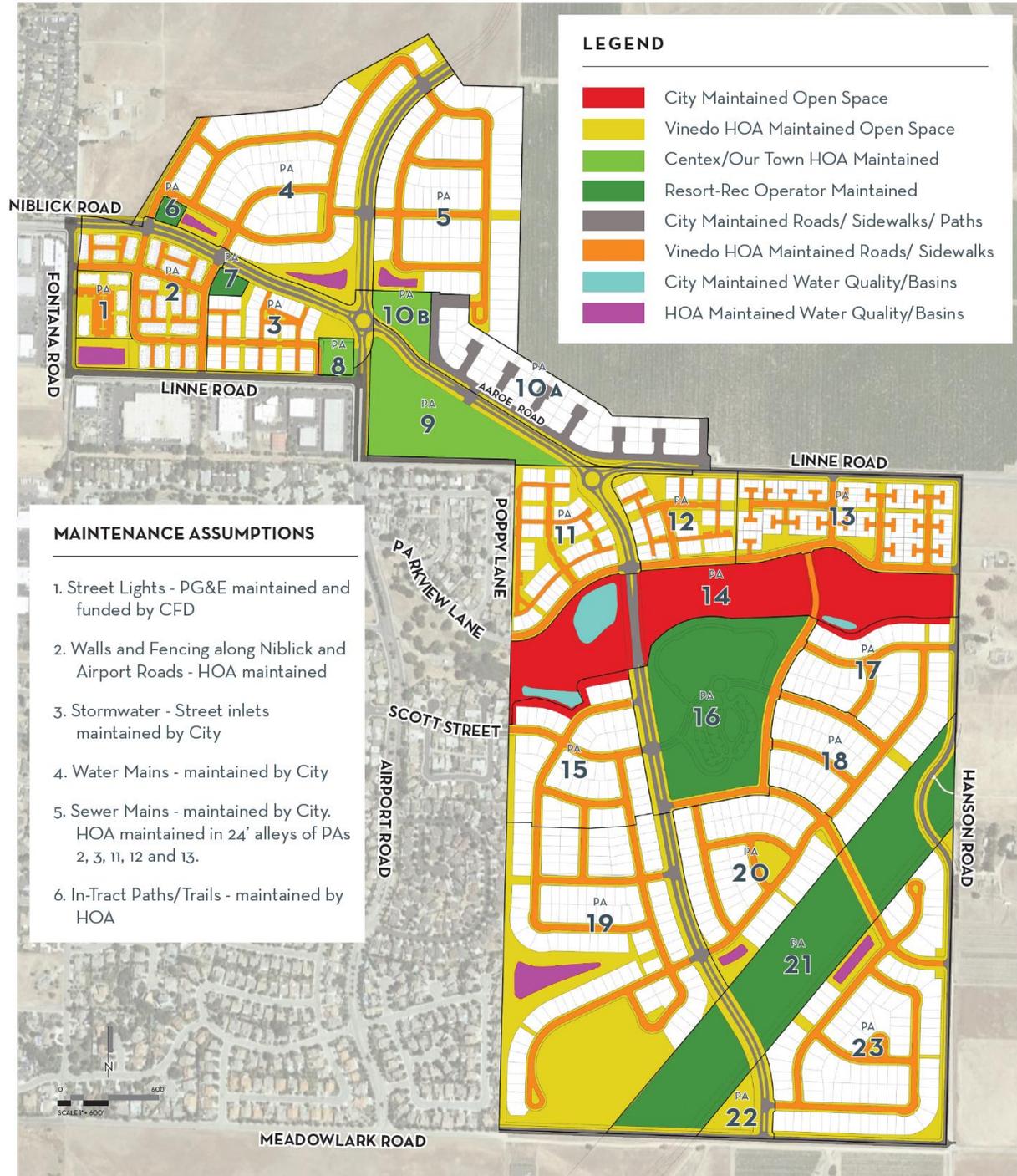


Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

Exhibit I

Infrastructure Maintenance Plan



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Exhibit J

Local Preference Program for Olsen-South Chandler Specific Plan

Program Intent: The City's Housing Element calls for the development of additional housing available to the City's workforce, particularly its lower income residents and employees who may be forced to travel long distances and live outside the community in which they work. The approval and build out of the Olsen-South Chandler Specific Plan will result in the development of an additional 1,293 housing units. The City and Developer agree that the implementation of this local preference program for all housing units in the Specific Plan will help increase the availability of these new residences to persons who live or work within the City, which may be expanded to include those persons who live or work within northern San Luis Obispo County, upon approval of the City, including persons with documentation of current residency or employment in the area, and persons with a bona fide offer of employment within the area ("Local Buyers").

In addition, this local preference program will require Developer to implement a reasonable methodology, subject to the City's approval, for seeking to hire local contractors, employees, and tradespeople that live in the City or have a place of business within the City, or who live or work within northern San Luis Obispo County ("Local Workers").

Under this local preference program, the Developer agrees to undertake all commercially reasonable steps to market and promote the availability of each phase of new residences to Local Buyers for a minimum of 30 days. The local preference program is intended to promote the availability of these new residences to persons who live or work within the City and area, reducing the influence of out-of-area investors as a limiting factor on housing choice and availability. Expanding the availability of workforce housing in the City is part of the City's strategy for resolving the current imbalance between jobs and housing.

Local Preference Program Requirements:

Local Buyers. Initial 30-Day Marketing Period to Local Buyers. Developer agrees, for itself and the builders who buy land subject to the Olsen-South Chandler Specific Plan, that all new residential units shall be marketed first only to Local Buyers for a minimum of 30 days in each release. City, Developer and any builders within the Project shall reasonably cooperate in finalizing a marketing plan that takes into account the following goals and criteria:

- Advance marketing to local residents and employees through local media, presentations to local groups, and other marketing efforts geared to potential Local Buyers for a minimum of 30 days prior to the release of each new set of units. The advance marketing shall feature the local preference program and instruct potential Local Buyers how to sign up to be on an interest list.
- Development of an interest list composed of Local Buyers who have expressed interest in the new residences. Developer shall maintain the interest list and shall

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

separate and prioritize the names of Local Buyers based on their interest in each available residential product type.

- Developer agrees to give first preference to purchase or rent, as applicable, units in each residential phase or release to Local Buyers, during the initial 30-day local marketing period. When each phase or release becomes available for sale, Developer shall notify those Local Buyers on the interest list for that product type of its availability. Developer agrees that those persons so notified shall have approximately 30 days to become pre-qualified to purchase a residence and to confirm their status as a Local Buyer. These two periods may overlap, as the 30-day qualification period for each Local Buyer begins to run upon Developer's notification to Local Buyer of the opportunity to purchase a residence. Developer agrees to not sell any residential unit to any person who is not a Local Buyer for the first 30 days of availability of each residential phase. Developer further agrees to not sell any residential unit to any person who is not a Local Buyer without first offering the unit to a Local Buyer on the interest list for that product type. After exhausting Local Buyers on the interest list for each product type and phase, Developer agrees to give preference to persons who live and work in the surrounding northern San Luis Obispo County area. Developer will conduct significant outreach to Local Buyers for the first 30 days of marketing each phase or release's availability, as each phase becomes available. Developer will use all available local marketing channels to advertise the availability of each phase, including direct mail, email, online and social media ads, radio, tv, promotional events, and outreach to local real estate agents, brokers, and realtors, and other standard, local commercial marketing tools. Developer agrees that all marketing tools used in the first 30 days of availability of each phase of the development will be limited to target only Local Buyers. City will coordinate local outreach as well, through the Chamber of Commerce, the Hispanic Business Alliance, and the City's economic development efforts, amplifying the reach of Developer's local marketing efforts.
- Developer further agrees to host at least four events during each 30-day local marketing period intended to promote the availability of new residences to Local Buyers.

The above requirements constitute the standard Local Buyer program requirements. Each builder of a particular tract may either implement this standard program or craft an alternative program, tailored to the builder's portion of the Project, with such alternative program subject to approval by the City before issuance of the first building permit for that builder.

Local Workers. Developer further agrees, for itself and the builders who buy land subject to the Olsen-South Chandler Specific Plan, that it will establish and implement a reasonable methodology, subject to the City's approval, for selecting and implementing an effort to hire Local Workers. Developer will include proof of compliance with this provision as part of the annual report required under the Development Agreement. The program shall include provisions intended to inform Local Workers, local contractors' associations, and other similar local organizations of tradespeople, about the contracting and employment opportunities coming via

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

the Project for at least thirty days. Each builder of a particular tract may either implement this standard program or craft an alternative program, tailored to the builder's portion of the Project, with such alternative program subject to approval by the City before issuance of the first building permit for that builder.

Nothing herein shall preclude Developer from notifying multiple individuals about the opportunity to purchase a residence and prioritizing the purchase and sale, or hiring of Local Workers, based on "first in line" principles. Nothing herein shall preclude Developer from taking all reasonable actions necessary in order to facilitate the sale of units within the Olsen-South Chandler Specific Plan, if such actions are consistent with this local preference program and applicable law. City and Developer agree that the operation of the interest list and local preference program shall comply with applicable state and federal laws. Developer shall, upon request, update the City on its implementation of this program and provide City with the interest list and proof of compliance with this program requirement.

City and Developer agree that this local preference program will accomplish four important objectives: 1) use new housing to address the current imbalance between existing jobs and housing; 2) ensure that, to the maximum extent practicable, the increased housing generated by this development will allow local employees and Local Workers to reduce their commuting distances, reducing the City's greenhouse gas emissions, improving local traffic and air quality, and contributing to a better quality of life for the community; 3) reduce competition from investors outside of the community in the initial offering and sales of these new residences; and 4) ensure that Local Workers shall have first opportunity to contract for and build the new residences and commercial facilities within the Specific Plan area, ensuring that the new development contributes to and improves the City and surrounding community's economy, adding both new, local jobs and economic opportunities and not just housing.

Resolution N - Exhibit A

Draft Specific Plan Developer Development Agreement

Exhibit K

Royal Oaks Meadows Site Plan



ROYAL OAKS PARK SITE PLAN

LEGEND

- ① 12' Multi-Modal Path
- ② Enhanced Turf Area
- ③ Enhanced Tot Lot
- ④ Royal Oaks 'Sandlot' Little League Field
- ⑤ New Bus Stop Bench & Shade Structure
- ⑥ New Parking Lot
- ⑦ New Basketball Courts
- ⑧ BBQ & Shade Pavilion
- ⑨ Existing Utility Building



KEY MAP

LANDSCAPE



DATE: 08-28-19
BY: [Signature]
L.2

08-28-19
DESIGN PACKAGE
OLSEN RANCH 212, LLC

PROPOSED CONCEPTUAL PLAN



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VIÑEDO
PASO ROBLES



Resolution N - Exhibit A
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Exhibit L

Fiscal Impact Report

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