

## MEMORANDUM OF UNDERSTANDING REGARDING OLSEN/SOUTH CHANDLER PLANNING AREA 1 AFFORDABLE HOUSING

This MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into as of September \_\_, 2020 ("Effective Date"), by and between the CITY OF EL PASO DE ROBLES, a California municipal corporation, ("City") and the HOUSING AUTHORITY OF THE CITY OF PASO ROBLES, a public body corporate and politic ("Housing Authority"). The City and Housing Authority may be referred to individually as a "Party" and collectively as the "Parties".

### RECITALS

A. On February 20, 2020, following a duly noticed public hearing, the City Council of the City of El Paso de Robles (the "Council") considered an application submitted by Olsen Ranch 212, LLC, a California limited liability company (the "Developer") for certain land use entitlements for the development of approximately 338.71 acres located in the City of Paso Robles (the "Property"). Following the public hearing, the Council approved (1) a General Plan Amendment, (2) a Specific Plan and (3) approval of a development agreement by and between the City and Developer (the "Development Agreement") to allow for the development of a master planned community consisting of residential housing units, recreational amenities, parks and open space and associated public facilities and infrastructure necessary to serve the site (the "Project").

B. The Project contemplates that at least 60 units of rental apartments will be developed in that certain property referred to as Planning Area 1, as depicted in Exhibit A, attached hereto and incorporated herein by this reference (the "Affordable Housing Site") at San Luis Obispo County workforce housing-income or lower rates (160% of Area Median Income for San Luis Obispo County or less). Pursuant to Section 3.0.3.3 of the Development Agreement, the City has the option to direct Developer to convey the Affordable Housing Site to the City or its designee on or before December 31, 2022 for the development of affordable housing consistent with the City's goals.

C. City desires that the Housing Authority serve as the City's designee pursuant to Section 3.0.3.3 of the Development Agreement and receive and accept the Affordable Housing Site from Developer, and develop an affordable housing development consisting of not less than 60 units of affordable housing on the Affordable Housing Site, consistent with the terms of this MOU.

D. Housing Authority is willing to serve as City's designee pursuant to Section 3.0.3.3 of the Development Agreement, and work to develop an affordable housing development for the Affordable Housing Site, consistent with the terms of this MOU.

### AGREEMENT

NOW THEREFORE, the City and Housing Authority agree as follows:

1. Housing Authority as City Designee for Affordable Housing. The City agrees that it shall designate the Housing Authority as its designee under Section 3.0.3.3 of the Development Agreement, to receive and take title to the Affordable Housing Site, for the purposes of developing an alternative affordable housing project in accordance with Section 3.0.3.3 of the Development Agreement. As the City's designee, the Housing Authority shall make a good faith effort to develop a proposed affordable housing project that will be in furtherance of the affordable housing goals and policies of the City, including but not limited to helping the City to meet its Regional Housing Needs Allocation goals

for extremely low, very low and low income households. All units shall be provided to households earning 60% of Area Median Income or below.

2. Specific Terms of Affordable Housing Project to be Developed. The affordable housing project to be proposed by the Housing Authority shall be an affordable rental housing development of not less than 60 units, or the highest allowable number of units feasible under the density bonus provisions applicable to the proposed project. The City's target number of units for the site is approximately 75-100 units. The specific number of units, affordability levels, and amenities for the project shall be developed as the Housing Authority proceeds through the process of seeking development entitlements and financing for the Project. The project shall not be more than three stories in height.

3. Housing Authority to Notify City When it is Prepared to Take Title of the Property. The Housing Authority shall notify the City in writing when it is prepared to take title to the Affordable Housing Site, which in no event shall be later than October 1, 2022. If the Housing Authority fails to provide the City written notice by such date, the City may, at its discretion, take title to the Affordable Housing Site, or allow the Developer to proceed with the workforce housing development contemplated in Section 3.0.3.2 of the Development Agreement.

4. Housing Authority CTCAC Application. The Housing Authority intends to develop the Affordable Housing Site as a Low Income Housing Tax Credit ("LIHTC") project. After execution of this MOU, the Housing Authority will pursue financing for the project by submitting a LIHTC application to the California Tax Credit Allocation Committee ("CTCAC"). The preparation and submission of a CTCAC application will require the Housing Authority to invest substantial predevelopment funds in order to prepare the required development feasibility analysis to support the application, including without limitation obtaining appropriate zoning, preliminary architectural and civil drawings, cost analysis, environmental review, soils reports, survey, appraisal and market studies. Subject to its ability to complete the necessary predevelopment analysis, the Housing Authority intends to submit a CTCAC application in July 2021. If the CTCAC application is not approved or not ready for submission by July 2021, the Housing Authority intends to submit a CTCAC application in March 2022, and if that application is not approved the Housing Authority may submit a CTCAC application in July 2022.

5. Conveyance of Affordable Housing Site. Upon receipt of written notification from the Housing Authority pursuant to Section 3 above that the Housing Authority desires to take title to the Property, the City shall direct the Developer to convey the Affordable Housing Site to the Housing Authority in accordance with Section 3.0.3.3 of the Development Agreement. Developer shall be required to convey the Affordable Housing Site with the following improvements and modifications completed per the City approved site plan and signed off as complete by the same, as further specified in the Specific Plan and Project conditions of approval: (1) all rough grading necessary for the Affordable Housing Site; (2) frontage improvements on Fontana and Niblick as specified in the Specific Plan approved for the Project (Section 5.8 Development Phasing Plan, Exhibit 2.5A Sewer Plan, Exhibit 2.5C Water Plan); (3) all utility stub-outs, including for water, sewer, natural gas, electricity, telecommunications, and any other utilities as specified in the Specific Plan; all to be completed according to the approved site plan and to applicable City standards and to the satisfaction of the City's Public Works Director. Housing Authority and City shall jointly issue escrow instructions for the conveyance of the Affordable Housing Site from Developer to the Housing Authority by no later than December 31, 2022. Housing Authority shall be responsible for its share of closing costs associated with the transfer of the Affordable Housing Site (which shall be split equally between Developer and Housing Authority, unless a different arrangement is agreed to between the two parties), and Housing Authority shall be solely responsible for the cost of any title insurance policies and endorsements desired for the Affordable Housing Site.

6. Housing Authority Responsible for Backbone Infrastructure Costs, Subdivision Tract Improvements and Development Impact Fees. Housing Authority acknowledges and agrees that, as a condition of taking title to the Affordable Housing Site, Housing Authority shall be required to pay to Developer the Specific Plan backbone infrastructure costs attributable to the Affordable Housing Site, in the amount of One Million Two Hundred Seventy Five Thousand Nine Hundred Sixteen Dollars (\$1,275,916) as outlined in Exhibit D of the Development Agreement between the City and Olsen Ranch 212, LLC, which shall be paid at issuance of the first building permit to the Housing Authority for its project. Housing Authority shall be responsible for working with Olsen Ranch 212, LLC to determine backbone infrastructure and subdivision tract improvements to be completed on and adjacent to the Site. Housing Authority additionally acknowledges and agrees that it shall be responsible for any development impact fees associated with the development of the Affordable Housing Site. The City may consider fee deferral, subject to City Council approval, in order to facilitate the development of affordable housing and compliance with Regional Housing Needs requirements. These costs shall be solely the responsibility of the Housing Authority, and Housing Authority accepts the responsibility for these costs as a condition of conveyance of the Affordable Housing Site to the Housing Authority.

7. Planning and Entitlement Process. Prior to conveyance of the Affordable Housing Site, Housing Authority may prepare and submit all applications, plans and documents necessary for the appropriate land use entitlements and requested approvals from the City (or such preliminary approvals as are necessary to support the Housing Authority's CTCAC application), and as necessary to facilitate environmental review of the affordable housing development in accordance with the California Environmental Quality Act. Housing Authority's application to the City for the entitlements required to proceed with the Development shall be submitted in accordance with the City's standard entitlement process and the requirements of the Olsen – South Chandler Specific Plan, including but not limited to providing required deposits reflecting the anticipated cost of processing such entitlements and paying staff and consultant costs associated with the processing of entitlements for the Development pursuant to a Fee Agreement, which is the standard agreement for processing costs included in the City's development application package, which is entered into pursuant to the City's standard entitlement process (the "Fee Agreement"). The City may consider deferring payment of the cost recovery portion of processing costs, subject to City Council approval.

8. Entitlements Subject to Council Approval. Notwithstanding any other provision of this MOU, nothing herein shall commit or otherwise require the City, or be interpreted as committing or requiring the City to approve the development of an affordable housing project on the Affordable Housing Site, or any portion thereof, or any other agreements by and between City and Housing Authority as necessary to facilitate the development of the Affordable Housing Site. The City retains its authority to approve, deny or conditionally approve future development of the Affordable Housing Site, or any portion thereof, and City shall have no liability to Housing Authority if the entitlements required for the development of the Affordable Housing Site are not approved. The City will expeditiously review any application, plans, and documents submitted by the Housing Authority for the Affordable Housing Site, and will coordinate with the Housing Authority where possible to help facilitate compliance with the Housing Authority's CTCAC applications, as outlined in Section 4 above.

9. Duration and Termination of MOU. In the event that Housing Authority fails to notify the City that it desires to take title to the Property on or before the deadline set forth in Section 3 of this MOU, or if the Affordable Housing Site is not conveyed to the Housing Authority on or before December 31, 2022, this MOU shall terminate automatically. Otherwise this MOU shall remain in effect until the Housing Authority has taken possession of the Affordable Housing Site, and completed all financial obligations set forth herein, including payment of all backbone infrastructure costs and development impact fees attributable to the Affordable Housing Site.

# Exhibit A

10. **No Third-Party Beneficiaries.** This MOU is intended solely for the benefit of the Parties hereto and is not intended to and does not confer any benefit to third parties.

11. **No Joint Venture.** Nothing in this MOU shall be deemed to create any form of business organization between the Parties, including, without limitation, a joint venture or partnership, and neither Party shall have any fiduciary duty to the other Party. Except as expressly provided to the contrary in this MOU, nothing contained in this MOU shall authorize or empower either Party to assume or create any obligation or liability whatsoever, express or implied, on behalf of the other Party or the Site.

12. Notices. Notices with respect to this MOU shall be sent by registered mail or via facsimile, which shall be effective upon confirmation of receipt in legible form to the other Party addressed as follows:

If to the City: City of El Paso de Robles  
1000 Spring Street  
Paso Robles, CA 93446  
Attn: Assistant City Manager  
Ph: (805) 237-4032  
Email: [SJohnson-Rios@prcity.com](mailto:SJohnson-Rios@prcity.com)

If to Housing Authority:      Housing Authority of the City of Paso Robles  
    901 30<sup>th</sup> Street  
    Paso Robles, CA 93446.  
    Attn: Executive Director  
    Ph: (805) 238-4015 x204  
    Email: [dcooke@pasoroblesha.org](mailto:dcooke@pasoroblesha.org)

13. **Governing Law.** This MOU shall be governed by the laws of the State of California without regard to its conflicts of laws principles.

14. **Counterparts.** This MOU may be executed in counterparts, each of which shall have the effect of and be considered as an original of this MOU.

15. Waiver. No failure of a Party hereto to exercise any right or power given it hereunder, or to insist upon strict compliance by another Party of any obligation hereunder, and no custom or practice at variance with the terms hereto, shall constitute a subsequent waiver of the Party's right to demand compliance with the terms hereof.

16. Headings. The headings used in this MOU are solely for convenience of reference and shall not constitute a part of this MOU, nor shall they affect the meaning, construction or effect of any provision thereof.

17. **Authority.** Each of the Parties and its officers executing this MOU represents and warrants to the other Party that they have the requisite corporate authority to enter into this MOU.

18 Assignment. Neither Party may assign any of its rights or obligations under this MOU without the prior written consent of the other Party hereto, which shall not be unreasonably withheld, conditioned or delayed, and any attempt by such Party to assign any of its rights or obligations under this


# Exhibit A

MOU without such consent shall be null and void. The Parties acknowledge that if the Housing Authority's CTCAC application is approved, the Housing Authority will form a limited partnership or other entity with one or more affiliates or investor partners for the purpose of acquiring and developing the Affordable Housing Site and the Housing Authority will have the right to assign this MOU to such entity subject to the City's prior written consent, which shall not be unreasonably withheld, conditioned or delayed.

IN WITNESS WHEREOF, the Parties have caused this MOU to be executed by their duly authorized representatives on the first date written above.

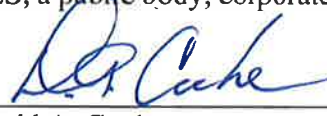
CITY:

CITY OF EL PASO DE ROBLES,  
a California municipal corporation

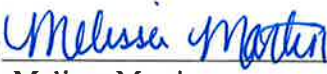
By:   
Tom Frutchey 9-22-20  
City Manager

HOUSING AUTHORITY:


HOUSING AUTHORITY OF THE CITY OF PASO  
ROBLES, a public body, corporate and politic

By:   
David A. Cooke  
Executive Director

Attest:

By:   
Melissa Martin  
Deputy City Clerk

APPROVED AS TO FORM:

By:   
Kimberly Hood  
Interim City Attorney

