

**OPERATING MEMORANDUM NUMBER TWO  
BETWEEN  
THE CITY OF EL PASO DE ROBLES  
AND OLSEN RANCH 212, LLC  
COMPRISING INSUBSTANTIAL MODIFICATIONS  
TO DEVELOPMENT AGREEMENT**

The Development Agreement by and among the City of El Paso de Robles (the "**City**") and Olsen Ranch 212, LLC ("**Developer**"), dated as of February 14, 2020 and recorded on May 4, 2020 in the Official Records of San Luis Obispo County as Document No. 2020021501 (the "**Development Agreement**"), provides in Section 1.7 of the Development Agreement 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.

Specifically, Section 1.7 (a) describes Insubstantial Modification and provides that “. . any minor modification to the Development Agreement which does not modify (i) the Term of the Development Agreement; (ii) permitted uses of the Property, (iii) maximum density or intensity of use, except as allowed pursuant to Section 2.1.3 of the Development 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 the Development Agreement. . .”

The Development Agreement further provides that if and when City and Developer agree that such Insubstantial Modifications are necessary or appropriate, they may implement such clarifications through operating memoranda approved by the City and Developer as insubstantial modifications to the Development Agreement.

City and Developer entered into Operating Memo No. 1, attached hereto as Exhibit A and incorporated herein by this reference to (1) modify the timing of off-site roadway improvements, (2) modify the timing of the park improvements and (3) modify the off-site traffic improvements credits.

With this Operating Memorandum No. 2, City and Developer wish to clarify certain conditions in the Project Approvals in order to carry out the intent of the City and Developer with respect to the design, development, and implementation of the Project. Capitalized terms used in this Operating Memorandum shall carry the same definitions as those set forth in the Development Agreement.

## A. PURPOSE:

The purpose of this Operating Memorandum is to identify a basic framework between the City and Developer to facilitate the construction of certain improvements as contemplated under the terms of the Development Agreement. This Operating Memorandum will reduce certain uncertainties associated with the orderly development of the Project and provide for the effective and efficient development of public facilities, infrastructure, and services as required by the Development Agreement. Except as expressly modified herein and in Operating Memorandum No. 1, the terms and conditions of the Development Agreement remain in full force and effect.

## B. INSUBSTANTIAL MODIFICATIONS:

The Development Agreement does not impose an obligation upon the developer to install natural gas facilities within the project but does make several references, when describing utilities generally, to natural gas as among the types of utilities that might be provided within the Vinedo Specific Plan. For example, Section 3 of the Development Agreement, entitled “Developer Obligations” requires under the provisions applicable to “Affordable Housing” (sub-subsection 3.0.3.3), that:

“ . . . Developer agrees to deliver the apartment site (the land comprising Planning Area 1) with the following improvements and modifications completed, as further specified in the Specific Plan and Project Conditions of Approval: 1) all rough grading necessary for the site, 2) frontage improvements on Fontana and Niblick as specified in the Specific Plan, and 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 applicable City standards and to the satisfaction of the City's Public Works Director. . . .”

Additionally, Exhibit “D” of the Development Agreement entitled “Planning Area 1—Allocation of Backbone Cost and Fee Credits, which includes Exhibit D to the “Olsen Chandler Ranch Specific Plan PA 1-Fair Share Cost Allocation February 14, 2020”, describes Utilities as “elec., tel., gas, catv”.

Likewise, Exhibit “H” of the Development Agreement, entitled “Fair Share Costs Reimbursement Fee Agreement/Calculations” which includes Exhibit H to the “Olsen Chandler Ranch Specific Plan Developer Cost Allocation February 14, 2020”, describes Utilities as “elec., tel., gas, catv”.

Finally, Section 5.8 of the Vinedo Paso Robles Specific Plan, includes a matrix described as “Major Infrastructure Development Matrix” also identifies “gas” as a utility among the dry utilities that may be installed in any given phase of the Project.

Notwithstanding the above general references, the Olsen/South Chandler Ranch Specific Plan Final Environmental Impact Report (“**FEIR**”), requires the implementation of

# Exhibit B

numerous measures designed to mitigate significant impacts resulting from the Project, including but not limited to the following relating to Air Quality (“**AQ**”) and Green House Gases (“**GHG**”):

**Mitigation Measure AQ-3:** To mitigate the long term operational air pollutant emissions that would exceed SLOAPCD daily emissions thresholds, AQ-3 requires, among other things that the Project, “g. Meet or exceed applicable building standards at the time of development for building energy efficiency with a goal of achieving zero net energy (ZNE) buildings;” “l. All built-in appliances shall comply with California Title 20, Appliance Efficiency Regulations;” and, “m. Utilize on-site renewable energy systems (e.g. solar, wind, geothermal, biomass, and/or biogas) sufficient to meet or exceed applicable building standards at the time of development with a goal of achieving ZNE buildings.”

**Mitigation Measure GHG-2:** To resolve inconsistencies with the City’s Climate Action Plan (CAP) and the SLOCOG 2019 Regional Transportation Plan (RTP) and reduce greenhouse gas emissions GHG-2 includes “all ‘mandatory’ GHG-reduction measures identified in the city’s CAP as well as additional measures to promote zero net energy (ZNE) buildings, including “p. The city shall encourage the use of electrically power appliances (e.g., water heaters, clothes dryers, cooking appliances, pool heating systems).”

The City concludes, that references to “gas”, generally, as a utility in the Development Agreement and/or Specific Plan do not impose a mandatory obligation to install gas as a utility within any Planning Area with Vinedo, or otherwise, in anyway prohibit the development of “all-electric” communities; and, that not requiring gas as a utility within Vinedo would be consistent with EIR Mitigation Measures AQ-3 and GHG-2.

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

FOR CITY:

Date: \_\_\_\_\_

\_\_\_\_\_  
Chris Huot, City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

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# Exhibit B

City Attorney

Special Counsel