

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM: 3.65
(ID # 22308)

MEETING DATE:
Tuesday, August 01, 2023

FROM : TLMA-TRANSPORTATION:

SUBJECT: TRANSPORTATION AND LAND MANAGEMENT AGENCY/TRANSPORTATION:
Approval and execution of the Joint Community Facilities Agreement between R-Hearthstone Lot Option Pool 03, L.P., Riverside Unified School District, and the County of Riverside associated with the Community Facilities District No. 41 of Riverside Unified School District, District 1. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Joint Community Facilities Agreement between R-Hearthstone Lot Option Pool 03, L.P., Riverside Unified School District, and the County of Riverside associated with the Community Facilities District No. 41 of Riverside Unified School District; and
2. Authorize the Chairman of the Board of Supervisors to execute the same.

ACTION:Policy

Mark Lancaster

Mark Lancaster, Director of Transportation 6/21/2023

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Spiegel, seconded by Supervisor Gutierrez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Perez, Washington, and Gutierrez
Nays: None
Absent: None
Date: August 1, 2023
xc: Trans.

Kimberly A. Rector
Clerk of the Board
By: *Cindy Murphy*
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: CFD No. 41 of RUSD funded (100%). No General Fund will be used on this project.			Budget Adjustment: No	
			For Fiscal Year: 23/24	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

R-Hearthstone Lot Option Pool 3, L.P. (Developer) petitioned the Riverside Unified School District (RUSD) to form the Community Facilities District No. 41 (CFD No. 41) which is located in the unincorporated area of the County of Riverside (County) known as "Highgrove". The proposed boundaries of the CFD No. 41 are the same as the boundaries of the Developer's approved Tract Map No. 38025-1 (Tract) which provides for the development of approximately 266 multi-family residential units.

The proposed CFD No. 41 will provide the means for financing the construction and acquisition of certain public improvements associated with the Tract, including certain streets, and related public improvements that will be constructed by the Developer and owned and maintained by the County upon completion of construction by the Developer and acceptance by the County.

By entering into the Joint Community Facilities Agreement (JCFA), the County is not assuming any liability with regards to the formation of the CFD No. 41 or the sale and issuance of any bonds. The County Executive Office and the County Transportation Department have participated in the negotiation and preparation of the JCFA and recommend it be approved.

Impact on Residents and Businesses

Construction of the proposed project facilities will substantially help mitigate potential traffic issues in this development.

Additional Fiscal Information

The street facilities constructed under the JCFA will be funded by the proceeds from the sale of bonds issued by RUSD CFD No 41. The assessments that will be charged to the 266 new multi-family residential units through the CFD No. 41 will be disclosed to the potential new buyers.

SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA

ATTACHMENTS:

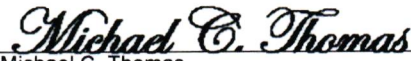
Vicinity Map/Boundary Map
Joint Community Facilities Agreement



Jason Farin, Principal Management Analyst 7/26/2023



Kristine Bell-Valdez, Supervising Deputy County Counsel 7/14/2023



Michael C. Thomas 7/10/2023

WHEN DOCUMENT IS FULLY EXECUTED RETURN
Trans Contract No. 23-04-001
Riverside County Clerk of the Board, Stop 1010
County Office Box 1147, Riverside, Ca 92502-1147
Thank you.

**JOINT COMMUNITY FACILITIES AGREEMENT
TR 38025-1 Street Improvements (MS4415)**

by and among

COUNTY OF RIVERSIDE,

RIVERSIDE UNIFIED SCHOOL DISTRICT,

and

**R-Hearthstone Lot Option Pool 03, L.P.
a Delaware limited partnership**

Dated as of _____, 2023

**Relating to:
Community Facilities District No. 41
of Riverside Unified School District,
Improvement Area No. 1**

Riverside Unified School District CFD No. 41
Joint Community Facilities Agreement (JCFA)
Improvement Area No. 1
R-Hearthstone Lot Option Pool 03, L.P.
TR 38025-1 Street Improvements (MS4415)

AUG 01 2023 3.69

TABLE OF CONTENTS

**ARTICLE I
DEFINITIONS**

Section 1.1. Definitions.....4

**ARTICLE II
CONDITIONS PRECEDENT**

Section 2.1. Proceedings for the Formation of the Community Facilities District; Costs of Formation.....8
Section 2.2. Reserved.....9
Section 2.3. Addendum to Exhibit B of this Joint Community Facilities Agreement for Modification of the County Facilities9
Section 2.4. Fee Deposit with County for Preparation and Implementation of this Joint Community Facilities Agreement.....9

**ARTICLE III
ACQUISITION OF THE COUNTY FACILITIES**

Section 3.1. Acquisition of the County Facilities.....10
Section 3.2. Determination of the Purchase Price; Processing of Payment Requests11
Section 3.3. Dedication of Property and Easements to County.....12
Section 3.4. Public Works Bid and Construction Requirements.....13

**ARTICLE IV
CONSTRUCTION OF THE COUNTY FACILITIES**

Section 4.1. Preparation and Approval of Plans and Specifications.....15
Section 4.2. Duty of Developer to Construct15
Section 4.3. Licenses and Regulatory Permits15
Section 4.4. NPDES Compliance.....16
Section 4.5. Cal/OSHA, Confined Space Entry17
Section 4.6. Notice of Intent to Commence Construction.....17
Section 4.7. Bonding Requirements.....18
Section 4.8. Additional Conditions to be Satisfied during Construction.....18
Section 4.9. Inspection; Completion of Construction.....18
Section 4.10. Maintenance of County Facilities; Warranties19
Section 4.11. Insurance Requirements19
Section 4.12. Ownership of the County Facilities.....21

**ARTICLE V
REPRESENTATIONS, WARRANTIES AND COVENANTS; INDEMNIFICATION**

Section 5.1. Representations, Warranties and Covenants of the Developer.....	22
Section 5.2. Representations, Warranties and Covenants of the School District	24
Section 5.3. Representations, Warranties and Covenants of the County	24
Section 5.4. Developer Indemnification.....	25

**ARTICLE VI
MISCELLANEOUS**

Section 6.1. Developer as Independent Contractor	27
Section 6.2. Other Agreements	27
Section 6.3. Binding on Successors and Assigns	27
Section 6.4. Amendments	28
Section 6.5. Waivers	28
Section 6.6. No Third Party Beneficiaries.....	28
Section 6.7. Notices.....	28
Section 6.8. Jurisdiction and Venue	29
Section 6.9. Entire Agreement	29
Section 6.10. Governing Law.....	29
Section 6.11. Severability	29
Section 6.12. Attorney’s Fees	29
Section 6.13. Usage of Words.....	30
Section 6.14. Counterparts	30
Section 6.15. Time is of the Essence.....	30
Section 6.16. Merger Clause	30
Section 6.17. Interpretation	30
Section 6.18. Designation of Party Representative	30
Section 6.19. Nature of Joint Community Facilities Agreement; Allocation of Special Taxes	30

EXHIBIT A CFD BOUNDARY MAP.....	A-1
EXHIBIT B COUNTY FACILITIES - DESCRIPTION.....	B-1
EXHIBIT C PUBLIC WORKS BIDDING REQUIREMENTS	C-1
EXHIBIT D PURCHASE PRICE DETERMINATION.....	D-1
EXHIBIT E FORMS OF PAYMENT AND PERFORMANCE BONDS	E-1
EXHIBIT F FORM OF PAYMENT REQUEST	F-1
ATTACHMENT A PAYMENT REQUEST – ACTUAL COSTS.....	F-3
APPROVAL BY THE COUNTY ENGINEER	F-4

JOINT COMMUNITY FACILITIES AGREEMENT

THIS JOINT COMMUNITY FACILITIES AGREEMENT (this "Joint Community Facilities Agreement") is made and entered into as of _____, 2023, by and among the County of Riverside, a political subdivision of the State of California (the "County"), Riverside Unified School District, a school district organized and existing pursuant to the laws of the State of California (the "School District"), and R-Hearthstone Lot Option Pool 3, L.P., a Delaware limited partnership ("Developer") (together, the "Parties").

RECITALS

A. The Board of Education of the Riverside Unified School District (the "Board") has been requested to initiate proceedings to form a community facilities district that is to be identified as Community Facilities District No. 41 of the Riverside Unified School District (the "Community Facilities District") under the authority of the Mello-Roos Community Facilities Act of 1982 (the "Act") (commencing with Section 53311 of the California Government Code (the "Code")) that is to be located in an unincorporated portion of the County known as "Highgrove." The Community Facilities District will consist of two separate improvement areas designated "Improvement Area No. 1" and "Improvement Area No. 2."

B. The Developer intends to develop certain real property located as generally shown on Exhibit A and identified as "Improvement Area No. 1," attached hereto, representing Tentative Tract Map No. 38025-1 (the "Tract"), that provides for the development of approximately 266 proposed multi-family residential units; the proposed boundaries of Improvement Area No. 1 of the Community Facilities District are coterminous with the boundaries of the Tract. It is the intention of the parties hereto that Improvement Area No. 1 of the Community Facilities District shall be authorized to finance all or any part of the County Facilities (defined below) to the extent that bond proceeds are available.

C. The Developer has requested and proposed that the Community Facilities District be formed for the purpose of providing the means of financing the construction and acquisition of certain public improvements, including but not limited to certain County streets and related eligible public street improvements (each, a "County Facility" and, collectively, the "County Facilities") to be constructed by the Developer with the purchase price therefor to be paid from the proceeds of bonds to be sold and issued by the Community Facilities District for Improvement Area No. 1. Upon the completion of the construction of each County Facility by the Developer and the acceptance thereof by the County, each County Facility is to be owned, maintained and operated by the County. The County Facilities are generally described in Exhibit B attached hereto and incorporated herein by this reference. In addition, the Community Facilities District will issue Bonds and may levy special taxes on developed property within Improvement Area No. 1 to finance certain facilities of the School District and other public facilities authorized for the Community Facilities District under the Act.

D. Section 53313.5 of the Code provides that a community facilities district may only finance the purchase of facilities whose construction has been completed, as determined by the legislative body of the community facilities district, before the resolution of formation to

establish the community facilities district is adopted pursuant to Section 53325.1 of the Code, except that a community facilities district may finance the purchase of facilities completed after the adoption of a resolution of formation if the facility is constructed as if it had been constructed under the direction and supervision, or under the authority of, the local agency that will own or operate the facility, or in this instance the County.

E. Alternatively, Section 53314.9 of the Code provides that at any time either before or after the formation of a community facilities district, the legislative body may accept advances of funds or work in-kind from any source, including, but not limited to, private persons or entities, and may provide, by resolution, for the use of those funds or that work in-kind for any authorized purpose, under all of the following conditions: (a) the proposal to repay the funds or the value or cost of the work in-kind, whichever is less, is included in both the resolution of intention to establish the community facilities district adopted pursuant to Section 53321 of the Code and in the resolution to establish the community facilities district pursuant to Section 53325.1 of the Code, (b) any proposed special tax is approved by the qualified electors of the community facilities district pursuant to the Act, and (c) any work in-kind accepted pursuant to Section 53314.9 of the Code shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the County. For those County Facilities for which the Developer seeks reimbursement pursuant to this Joint Community Facilities Agreement, the Developer shall comply with all of the applicable requirements set forth in the Public Contract Code regarding the notice of bidding and award of a contract for a public works project by a public agency, in this instance the County.

F. Pursuant to the Act, the Board, in conjunction with approval of this Joint Community Facilities Agreement by the School District, the County and the Developer, intends to consider a resolution of intention stating that it is the intention of the School District to cause the proposed Community Facilities District to be established , and if established, the Community Facilities District will use its best efforts to sell and issue special tax bonds for Improvement Area No. 1 the proceeds of which may be used in part to pay the Developer the purchase price of the County Facilities, provided all of the conditions of Sections 53313.5 and 53314.9 of the Code are satisfied and that the purchase price shall only be paid from the special taxes and proceeds of special tax bonds for Improvement Area No. 1, if any are sold and issued by the proposed Community Facilities District.

G. The Act provides that the proposed Community Facilities District may finance the County Facilities only pursuant to a joint community facilities agreement adopted pursuant to Sections 53316.2, 53316.4 and 53316.6 of the Code.

H. The County, the School District and the Developer desire to enter into this Joint Community Facilities Agreement, as required by the aforementioned sections of the Code. The provisions of this Joint Community Facilities Agreement are intended to apply only to the County Facilities proposed to be financed by Improvement Area No. 1 of the Community Facilities District.

I. The School District and the County, by entering into this Joint Community Facilities Agreement, will enable the Community Facilities District to finance some or all of the

costs of acquiring and constructing the County Facilities, and, consistent with Section 53316.2 of the Code, both the School District and the County have determined that executing this Joint Community Facilities Agreement will be beneficial to the residents of their respective jurisdictions and to the owners of property within the proposed Community Facilities District.

J. The design, construction, inspection, acceptance, operation and maintenance of the County Facilities shall be accomplished in accordance with the provisions of this Joint Community Facilities Agreement. If the Developer wants to be paid or to be reimbursed for the costs of any County Facility from the proceeds of the Bonds (when and if issued), it must comply with the specific provisions set forth in Article III of this Joint Community Facilities Agreement with respect to the County Facility. If the Developer chooses not to be paid or to seek reimbursement for a particular County Facility from the proceeds of the Bonds, then the Developer shall not be bound by Article III of this Joint Community Facilities Agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual premises and covenants contained herein, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. Unless the context otherwise requires, the terms defined in this Article I shall have the meaning herein specified when used in this Joint Community Facilities Agreement:

"Acceptable Title" means title to land, or an easement therein, delivered free and clear of all liens, taxes, assessments, leases, easements and encumbrances, whether any such item is recorded or unrecorded, except those non-monetary items which are reasonably determined by the County not to interfere with the intended use of such land or easement and therefore are not required to be cleared from title.

"Acceptance Date" means, with respect to any County Facility, the date that the County Facility is accepted by the County into its maintained system.

"Act" means the Mello-Roos Community Facilities Act of 1982, constituting Section 53311 *et seq.* of the Code, as amended.

"Actual Cost" means, with respect to a County Facility, to the extent authorized by law, an amount equal to the sum of (a) the Developer's actual, reasonable cost of constructing such County Facility, including labor, material and equipment costs, (b) the Developer's actual reasonable cost of designing and preparing the Plans, Specifications, and Estimates for such County Facility, including engineering services provided in connection with designing and preparing such Plans, Specifications, and Estimates, (c) the Developer's actual, reasonable cost of environmental evaluations required specifically for such County Facility and any mitigation measures required by any governmental agency with jurisdiction with regard to such County Facility, or portions thereof, (d) the amount of any fees actually paid by the Developer to governmental agencies in order to obtain permits, licenses or other necessary governmental approvals and reviews for such County Facility, including but not limited to plan check and inspection fees by the County, (e) the Developer's actual reasonable cost for professional services directly related to the construction of such County Facility, including engineering, legal, inspection, construction staking, materials testing and similar professional services, (f) the Developer's actual, reasonable cost, as determined by the County Engineer, for construction management, bid administration and contract administration services which shall not exceed 2% of construction costs, (g) the Developer's actual reasonable cost of payment, performance or maintenance bonds and insurance for such County Facility, (h) the Developer's actual, reasonable cost of any real property or interest therein acquired after the date on which the Community Facilities District is established pursuant to the Act from a party other than the Developer, which real property or interest therein is either necessary for the construction of such County Facility (e.g., temporary construction easements, haul roads, etc.) or is required to be

conveyed with such County Facility in order to convey Acceptable Title thereto to the County, all as specified in a Payment Request that is to be reviewed and approved by the County Engineer; provided, however, that (x) no item of cost relating to a County Facility shall be included in more than one category of cost specified in clauses (a) through (h) of this definition, and (y) each item of cost shall include only amounts actually paid by the Developer to third parties and shall not include overhead or other internal expenses of the Developer, except that, if Developer employees perform construction management, bid administration or contract administration services with respect to a County Facility, the actual reasonable cost of the salaries and benefits paid by the Developer to such employees for performing such services may be included as an item of cost relating to such County Facility for the category of cost specified in clause (f) of this definition and subject to the 2% limitation specified in clause (f).

"Administrator" means the Assistant Superintendent, Business Services of the School District (or any successor to the responsibilities thereof if such office is no longer in existence), or his/her designee as specified in the written certificate to be provided pursuant to Section 6.18. hereof.

"Board " means the Board of Education of the School District.

"Board of Supervisors" means the Board of Supervisors of the County.

"Bonds" means the special tax bonds that the Community Facilities District may attempt to sell and issue in one or more series for Improvement Area No. 1 if the Proceedings are approved, a portion of the proceeds of which may be used to finance the acquisition and construction of the County Facilities.

"Business Day" means a day which is not a Saturday or Sunday or a day of the year on which the County is not required or authorized to be open.

"CEQA" means the California Environmental Quality Act (CEQA), constituting Section 21000 *et seq.* of the California Public Resources Code, as amended.

"Code" means the California Government Code.

"Community Facilities District" means "Community Facilities District No. 41 of Riverside Unified School District," a community facilities district to be formed and organized under the Act.

"Construction Site" means the sites on which the County Facilities are to be constructed, including off site staging areas and material storage areas.

"County" means the County of Riverside, a political subdivision of the State, and its successors.

"County Engineer" means the Director of Transportation of the County (or any successor to the responsibilities thereof if such office is no longer in existence), or his/her designee as specified in the written certificate to be provided pursuant to Section 6.18. hereof.

"County Facilities" means the street improvements as identified and described in Exhibit B attached hereto that are to be owned, operated and maintained by the County.

"County Facility" means any individual facility as identified and described in Exhibit B.

"County Facilities Account" means the account (however denominated) to be established pursuant to the Indenture to hold that portion of Bond proceeds to be applied to pay the Purchase Price for each County Facility.

"Developer" means R-Hearthstone Lot Option Pool 3, L.P. a limited partnership, organized and existing under the laws of the State, and its successors and assigns, acting as the master developer of infrastructure within Improvement Area No. 1, including but not limited to the County Facilities.

"Developer's Representative" means the person executing this Joint Community Facilities Agreement or the person or persons designated as such by the Developer in a certificate signed by the Developer and delivered to the School District, the Community Facilities District, and the County consistent with Section 6.18. below.

"General Prevailing Wage Rates" means those rates as determined by the Director of the Department of Industrial Relations of the State pursuant to Sections 1770, *et seq.* of the Labor Code of the State that are applicable to construction activity within the County.

"Hazardous Material" means any and all pollutants, wastes, flammables, explosives, radioactive materials, hazardous or toxic substances, material or waste which is or becomes regulated by any local governmental authority, the State or the Federal government and specifically includes, without limitation, any material or substance which is (i) designated as "hazardous substance" pursuant to Section 3111 of the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251 *et seq.* (33 U.S.C. Section 1321), (ii) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 *et seq.* (42 USC Section 6903), (iii) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 *et seq.*, (iv) petroleum or petroleum products, (v) asbestos, (vi) hydrocarbons, or (vii) polychlorinated biphenyl ("PCB") or PCB-containing materials.

"Improvement Area No. 1" means Improvement Area No. 1 of the Community Facilities District.

"Indenture" or "Indentures" means each indenture, trust agreement, resolution, fiscal agent agreement or similar instrument, regardless of title, pursuant to which bonds, notes or other evidences of indebtedness of the Community Facilities District have been issued and are outstanding, as originally executed or as the same may from time to time be supplemented or amended pursuant to the provisions thereof.

"Joint Community Facilities Agreement" means this Joint Community Facilities Agreement, dated as of _____, 2023, by and among the County, the School District, and the

Developer, as originally executed or as the same may be amended from time to time in accordance with its terms.

"Legislative Body" means the Board, acting *ex officio* as the legislative body of the Community Facilities District.

"Payment Request" means the document to be provided by the Developer to the County Engineer to substantiate the Purchase Price of one or more of the County Facilities, which shall be substantially in the form of Exhibit F attached hereto.

"Plans, Specifications, and Estimates" mean the plans specifications, and estimates for the County Facilities prepared or to be prepared at the direction of the Developer pursuant to Section 4.1 hereof.

"Proceedings" means those proceedings to be undertaken by the Board to consider the formation of the Community Facilities District and the approval by said Board and the qualified electors of Improvement Area No. 1 of the Community Facilities District and the authorization to levy special taxes therein pursuant to the Rate and Method and to incur bonded indebtedness to finance the construction and acquisition of certain public improvements and by the Legislative Body to sell and issue the Bonds.

"Public Contract Code" means the Public Contract Code of the State.

"Purchase Price" means, subject to the provisions of Section 3.2 hereof and Exhibit D attached hereto, the Actual Cost of a County Facility as determined by the County Engineer.

"Rate and Method" means the rate and method of apportionment of special taxes authorized to be levied within Improvement Area No. 1 pursuant to the Proceedings.

"School District" means the Riverside Unified School District, a school district organized and existing pursuant to the laws of the State.

"School Mitigation Agreement" means the School Facilities Mitigation Agreement or other similar agreement entered into by and between the School District and the Developer, as originally executed or as the same may be amended from time to time in accordance with its terms.

"State" means the State of California.

"Tract" means Tract Map No. 38025-1.

ARTICLE II

CONDITIONS PRECEDENT

Section 2.1. Proceedings for the Formation of the Community Facilities District: Costs of Formation. The Developer has submitted to the School District an application requesting that the Proceedings be initiated by the School District to form the Community Facilities District for the purpose of financing the acquisition and construction of certain public facilities, including the County Facilities, and to authorize the levy of special taxes within Improvement Area No. 1 of the Community Facilities District pursuant to the Rate and Method and the incurrence of bonded indebtedness to finance the construction and acquisition of said public facilities and for the Legislative Body to authorize the sale and issuance of the Bonds pursuant to the Act and the applicable Indenture.

Should the formation of the Community Facilities District be approved to finance the acquisition and construction of the County Facilities, the Legislative Body will use its best efforts to cause the Bonds to be sold and issued in one or more series, pursuant to the terms of the Act, the applicable Indenture and the applicable sections of the School Mitigation Agreement. A portion of the proceeds of the Bonds are intended to provide funds that will allow the Community Facilities District to finance all or a portion of the costs of constructing and acquiring the County Facilities. Should the Board not approve the formation of the Community Facilities District and/or the Legislative Body not sell and issue any Bonds, the School District, the County and the Developer will not be bound by the terms of this Joint Community Facilities Agreement and it shall be considered null and void by the parties to it. The School District will notify all parties, pursuant to Section 6.7 hereof, within fifteen (15) calendar days of either event occurring.

The Developer acknowledges that the decision of the Board to approve the formation of the Community Facilities District and of the Legislative Body to authorize the sale and issuance of the Bonds is an exercise of legislative discretion by the Board and Legislative Body, respectively, and the School District may not enter into a contract or obligate either the Board or the Legislative Body to exercise its legislative discretion in a particular manner. This Joint Community Facilities Agreement does not, therefore, in any way create a contractual, legal or equitable obligation of or commitment by the Board to approve the formation of the Community Facilities District or the Legislative Body to authorize the sale and issuance of the Bonds.

The Board and the Legislative Body shall have the jurisdiction to and shall be solely responsible for undertaking the Proceedings consistent with the provisions of the Act, each Indenture and the School Mitigation Agreement.

The County is not directly or indirectly approving or responsible in any way whatsoever for: (i) the levy of special taxes within the Community Facilities District or (ii) the issuance of the Bonds. The County shall not be responsible in any way whatsoever for the costs of formation of the Community Facilities District.

Section 2.2. Reserved.

Section 2.3. Addendum to Exhibit B of this Joint Community Facilities Agreement for Modification of the County Facilities. It is the intent of both the Developer and the School District to cause one or more series of Bonds to be issued. All of the County Facilities eligible to be financed by the Community Facilities District for Improvement Area No. 1 are identified in Exhibit B. The descriptions of the County Facilities are general, and any minor differences between the County Facilities described in Exhibit B and those County Facilities actually acquired hereunder shall not prevent the financing of such County Facilities. Further refinement of the descriptions of the County Facilities may be addressed by an addendum to Exhibit B that is to be prepared by the County Engineer and executed by the Administrator, the County Engineer and the Developer and will not require further amendment to this Joint Community Facilities Agreement. Other than the modifications described in the previous sentence, should there be additional amendments deemed necessary by the County to be made to this Joint Community Facilities Agreement, any necessary amendments to this Joint Community Facilities Agreement be made pursuant to Section 6.4. hereof, and such amendments shall be made prior to the authorization by the Legislative Body to sell and issue any additional series of Bonds the proceeds of which will be used to finance the particular County Facilities requiring a modification of their description.

Section 2.4. Fee Deposit with County for Preparation and Implementation of this Joint Community Facilities Agreement. The Developer has deposited with the County Executive Officer or his or her designee (the "Special Districts Administrator") an aggregate amount of four thousand dollars (\$4,000) for the joint community facilities agreement that is to be prepared with regard to the Community Facilities District, to be held in a trust account to cover all costs incurred in drafting, preparing and implementing this Joint Community Facilities Agreement. The Special Districts Administrator will prepare an accounting of the costs incurred and provide an accounting to the Developer. If the amount deposited is insufficient to cover such costs, the Developer will cause an additional amount to be deposited with the Special District Administrator within thirty (30) calendar days of being provided a written request for the additional funds. The amounts deposited with the Special District Administrator that have not been used will be returned to the Developer. Any portion of the amounts deposited with the Special District Administrator that are used for the purposes identified above shall be reimbursable to the Developer from the proceeds of the Bonds.

ARTICLE III

ACQUISITION OF COUNTY FACILITIES

Section 3.1. Acquisition of County Facilities. The provisions of this Article III shall apply only to those County Facilities that the Developer elects to finance with the proceeds of the Bonds deposited in the County Facilities Account.

For such County Facilities, the Developer hereby agrees to transfer to the County each of the County Facilities and the Community Facilities District, when and if formed, hereby agrees to pay the Purchase Price(s) therefor, subject to the terms and conditions hereof and the School Mitigation Agreement. Acceptable Title to any parcels on which such County Facilities are constructed and for which title is not presently held by the County as well as Acceptable Title to such County Facilities shall be transferred to the County as of the Acceptance Date; provided, however, that notwithstanding such transfer, as provided in Section 4.10. hereof, the Developer shall be solely responsible for the maintenance of each such County Facility until the Acceptance Date of said County Facility.

The Purchase Price for each such County Facility will be paid solely from the amounts on deposit in the County Facilities Accounts established by the applicable Indentures for the issuance of Bonds, and the Community Facilities District shall not be obligated to pay the Purchase Price of any County Facility except from the amounts on deposit in said County Facilities Account. None of the School District, the Community Facilities District or the County makes any warranty, either expressed or implied, that the proceeds of the Bonds deposited in such County Facilities Accounts, and interest earnings, will be sufficient to pay the full amount of the Purchase Price of the County Facilities or any specific County Facility.

It is understood by the Developer that the net principal amount of the Bonds that will be deposited in the County Facilities Account, pursuant to the terms of the School Mitigation Agreement and the applicable Indenture, and any investment earnings thereon, may not be sufficient to pay the full amount of the Purchase Prices for the County Facilities, or any County Facility, at the time a Payment Request is approved by the County Engineer. If the amounts on deposit in the applicable County Facilities Account, at the time a Payment Request is approved by the County Engineer and submitted to the Administrator for payment, are not sufficient to pay the Purchase Price for any County Facility, the timing of the payment of the Purchase Price and the proportionate amount of the Purchase Price to be paid will be determined consistent with the terms of the School Mitigation Agreement. It is understood that, at all times, for the purpose of this Joint Community Facilities Agreement, the construction of the County Facilities that the Developer elects to finance with the proceeds of the Bonds will be accomplished by the Developer with the expectation that the Purchase Price for each such County Facility is to be paid by the Community Facilities District (but solely from the proceeds of the Bonds, if any, issued for and deposited in the County Facilities Account), and that the conveyance of any such County Facility to the County prior to the receipt of the Purchase Price, or any portion thereof, for said County Facility will not constitute or be construed as a dedication, gift, or waiver of the payment of the Purchase Price or any unpaid balance thereof.

Notwithstanding any other provision of this Joint Community Facilities Agreement, the fact that there may not be sufficient funds available in a County Facilities Account to pay the Purchase Price for any such County Facility will not relieve the Developer from its obligation to construct such County Facility consistent with the conditions of approval for the Tract to construct the County Facilities.

Failure of the Developer to fully comply with the terms this Article may result in a denial of the Developer's request for reimbursement of costs incurred in the design, engineering and construction of such County Facilities. Compliance with Article III shall be determined separately for each County Facility.

Each County Facility identified and described in Exhibit B may be acquired by the County pursuant to the terms hereof provided such County Facility has been accepted by the County in accordance with the terms of Article IV Section 13 and otherwise meets the conditions established in this Joint Community Facilities Agreement

Section 3.2. Determination of the Purchase Price; Processing of Payment Requests.

The determination of the Purchase Price for a County Facility shall be made consistent with the provisions of this Section 3.2. and Exhibit D attached hereto.

In order for the County Engineer to be able to determine the Purchase Price and for the Developer to receive the Purchase Price for a completed County Facility, the Developer shall deliver to the County Engineer:

- (a) A complete Payment Request for said County Facility, together with all attachments and exhibits needed to be included therewith;
- (b) A copy of the documents conveying or which previously conveyed to the County Acceptable Title to the real property on, in or over which such County Facility is located, as provided in Section 3.3 hereof, and Acceptable Title to the County Facility.
- (c) A copy of the Notice of Completion for said County Facility that will be filed in accordance with Part 6 of Division 4 (§§ 8000-9566) of the California Civil Code, if applicable. Final lien releases addressed to the School District, the Community Facilities District, and the County must be received by the County Engineer prior to the County Engineer executing the authorization for the Community Facilities District to pay the Purchase Price.
- (d) The Developer's civil engineer of record or construction civil engineer of record duly registered in the State shall provide to the County redlined "as-built" plans and profile sheets for the County Facility. After the County's approval of the redlined "as-built" drawings, the Developer's engineer shall schedule with the County a time to transfer the redlines onto the County's original mylars at the County's office, after which, said engineer shall review, stamp and sign the original mylars "As-Built."

Notwithstanding anything to the contrary contained herein, no payment of the Purchase Price for any County Facility shall be made unless the County has by written notice to the Administrator stated that the County has accepted ownership of the County Facility as

constructed and to include it as part of its maintained road system as of the Acceptance Date.

When the County Engineer has been provided with a complete Payment Request for the Purchase Price and all other documents consistent with Exhibit D, attached hereto as required by the County to determine the Purchase Price, the County Engineer will sign the Payment Request, identifying the completed County Facility and specifying the Purchase Price to be paid, and forward it to the Administrator for payment.

Upon receipt of such a completed Payment Request from the Contract Administrator, the Administrator shall submit it to the fiscal agent or trustee for the County Facilities Account from which the Purchase Price is to be paid together with such other information as the fiscal agent or trustee may require to authorize payment of the Purchase Price from the County Facilities Account. If at the time such a Payment Request is received by the Administrator, there are not sufficient funds on deposit in the applicable County Facilities Account to pay the Purchase Price for the identified County Facility, the Administrator shall notify the Contract Administrator and the Developer of the amount of funds that are on deposit in the County Facilities Account to be applied to payment of a portion of the Purchase Price for the County Facility, and shall authorize the fiscal agent or trustee to pay the available amount to the Developer as a partial payment of the Purchase Price for the County Facility.

Section 3.3. Dedication of Property and Easements to County. Acceptable Title to all property not presently held by the County on, in or over which any County Facility will be located shall be conveyed to the County by way of grant deed, quitclaim, or dedication of such property, or easement thereon, if such easement is approved by the County as being a sufficient interest therein to permit the County to properly own and operate and maintain such County Facility located therein, thereon or thereover, and to permit the Developer to perform its obligations as set forth in this Joint Community Facilities Agreement.

The Developer shall furnish to the County a title report for such property not previously dedicated or otherwise conveyed to the County for review and approval at least thirty (30) calendar days prior to the notice required by Section 4.6 hereof. The County shall approve the title report unless it reveals a matter that, in the sole judgment of the County, could materially affect the County's use and enjoyment of any part of the property or easement covered by the title report. In the event the County does not approve such title report, the County shall notify the Administrator in writing and the County shall not be obligated to accept title to a County Facility, and the Community Facilities District shall not be obligated to pay any portion of the Purchase Price for a County Facility until the Developer has cured such objections to title to the satisfaction of the County.

Consistent with the preceding paragraph, the Developer shall obtain and provide, or cause to be obtained or provided, to the County duly executed irrevocable offer(s) of dedication to the public for road and drainage purposes, including ingress and egress, for rights of way deemed necessary by the County for the construction, inspection, operation and maintenance of the County Facilities. The irrevocable offer(s) of dedication shall be in a form approved by the County and shall be executed by all legal and equitable owners described in the offer.

Section 3.4. Public Works Bid and Construction Requirements.

(a) In order to ensure that a County Facility that is to be acquired with the proceeds of the Bonds will be constructed as if it had been constructed under the direction and supervision, or under the authority of, a public agency, so that they may be acquired pursuant to Sections 53313.5 and 53314.9 of the Code, the Developer shall comply with all of the applicable requirements set forth in the Public Contract Code regarding the notice of bidding and award of a contract for a public works project by a public agency, in this instance the County.

(b) Prior to awarding the construction contract for any County Facilities, the Developer shall submit a bid packet, including the invitation and specifications for submitting a bid and the general and specific conditions regarding the construction of the County Facility, for review and approval to the County Engineer. A copy of the bid packet, once approved, is to be provided to the Administrator. The contract for construction of any County Facility is to be awarded to the responsible bidder submitting the lowest responsive bid after public notice inviting sealed bids. Bids are to be publicly solicited consistent with the applicable provisions of the Public Contract Code dealing with the bidding of public works projects constructed by the County. Public notice is to be given consistent with the Public Contract Code as to the date, time and place where bids will be opened. The County Engineer is to be provided with copies of all bids received consistent with Exhibit C, attached hereto, and an executed declaration, the form of which will be provided by the County Engineer, that all public bidding procedures as required by the County have been complied with.

(c) The Developer shall require, and the Plans, Specifications, and Estimates and the bid and contract documents shall require, all contractors, subcontractors, vendors, equipment operators and owner operators, in each such case to the extent such individuals or entities are engaged to perform work on a County Facility, to pay not less than General Prevailing Wage Rates to all workers employed in the execution of the contract, as required by the California Labor Code, to post a copy of the General Prevailing Wage Rates at the job-site in a conspicuous place available to all employees and applicants for employment, and to otherwise comply with applicable provisions of the California Labor Code, the Code and the California Public Contract Code relating to General Prevailing Wage Rates as required by the specifications approved by the County Engineer. The Developer can obtain a current copy of the tables setting forth the General Prevailing Wage Rates through the Department of Industrial Relation on their website at www.dir.ca.gov.

(d) The Developer shall require each principal contractor to provide proof of insurance coverage to the County and the Administrator satisfying the requirements of Section 4.11. hereof, throughout the term of the construction of the County Facilities. Rather than requiring its principal contractors to provide such insurance, the Developer may elect to provide the same for the benefit of its principal contractors.

(e) Each principal contractor engaged to perform work on the County Facilities shall be required to furnish (i) labor and material payment bonds, and (ii) contract performance bonds, each in an amount equal to 100% of the contract price naming the Developer, the Community Facilities District, the County, and the School District, as additional obligees with an admitted surety insurer which complies with the provisions of Section 995.660 of the California Code of Civil Procedure. All such bonds shall be in the applicable form shown in Exhibit E. The bonds tendered pursuant to this sub-section are to be accepted and held by the County Engineer.

(f) The Developer shall comply, and shall cause each contractor, subcontractor,

(g) vendor, equipment operator and owner operator, in each such case to the extent such individual or entity is engaged to perform work on the County Facilities, to comply, with such other requirements relating to the construction of the County Facilities as the County may impose by written notification delivered to the Developer, to the extent legally required as a result of changes in applicable federal, State or County laws, regulations, rules or procedures.

(h) The Developer shall require, and the Plans, Specifications, and Estimates and the bid and contract documents shall require, all contractors, subcontractors, vendors, equipment operators and owner operators, in each such case to the extent such individuals or entities are engaged to perform work on the County Facilities, to submit certified weekly payroll records or other proof of payment of General Prevailing Wage Rates to the Developer and to furnish certified payroll records or such other proof of payment of General Prevailing Wage Rates to the County Engineer promptly upon request.

(i) All change orders shall be reviewed and, if appropriate, approved by the County Engineer for the purpose of ensuring that they comply with County standards and for the work represented by the change order to be eligible for consideration in determining the Purchase Price.

(j) The Developer shall provide proof to the Administrator and the County Engineer, at such intervals and in such form as the Administrator or the County Engineer may require, that the foregoing requirements have been satisfied as to all of the County Facilities.

(k) The Developer has deposited or will deposit with the County an appropriate amount, as determined by the County, to cover the anticipated costs, deemed necessary and reasonable, associated with the review and approval of the Plans, Specifications, and Estimates, the review and approval of right of way and conveyance documents and with the processing and administration of this Joint Community Facilities Agreement. The Developer, within thirty (30) calendar days after receipt of an additional billing for such costs, will forward the billed amount to the County.

(l) At the time the Developer submits a "Notice of Intent" to commence construction as set forth in Section 4.6. below, the Developer shall deposit with County the estimated cost of providing construction inspection for the County Facilities, in an amount as determined and approved by County in accordance with Ordinance Nos. 671 and 749, including any amendments thereto, of the County, based upon the bonded value of County Facilities to be inspected, operated and maintained by the County.

ARTICLE IV

CONSTRUCTION OF THE COUNTY FACILITIES

This Article IV sets forth the terms and conditions which the Developer shall follow to ensure acceptance of the County Facilities by the County. Failure of the Developer to fully comply with the terms of this Article may result in the County not accepting a County Facility into its maintained system, in which case the Developer may not receive reimbursement for any costs incurred in the design, engineering and construction of such County Facilities under this Joint Community Facilities District. Compliance with this Article shall be determined separately for each County Facility or segment thereof.

Section 4.1. Preparation and Approval of Plans, Specifications and Estimates. To the extent that the Developer has not already done so, it shall cause the Plans, Specifications, and Estimates to be prepared for the County Facilities. The Developer shall obtain the written approval of the Plans, Specifications, and Estimates from the County Engineer. The Developer shall provide the approved copy of all such Plans, Specifications, and Estimates to the Administrator. When the Plans, Specifications, and Estimates have been approved, no changes are to be made thereto without prior written consent of the County Engineer, and all modifications to the approved Plans Specifications, and Estimates are to be provided to the Administrator.

Section 4.2. Duty of Developer to Construct. The Developer shall construct or cause to be constructed the County Facilities in accordance with the Plans, Specifications, and Estimates approved by the County Engineer. The Developer shall perform all of their obligations hereunder and shall conduct all operations with respect to the construction of the County Facilities in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. Notwithstanding the foregoing, nothing set forth in this Joint Community Facilities Agreement shall be construed (i) to require the Developer to perform any work requiring a contractor's license, nor shall the Developer be deemed to be performing construction services pursuant to this Joint Community Facilities Agreement or (ii) require the Developer to cause the Plans and Specifications to be prepared for the County Facilities at a specific time or in a manner other than as required by the approved conditions for the development of the Tract.

Section 4.3. Licenses and Regulatory Permits. The Developer shall secure all necessary licenses, agreements, permits, rights of entry and temporary construction easements (collectively "Licenses") that may be needed for the construction, inspection, operation and maintenance of the County Facilities. The Developer is to secure all permits approvals or agreements, if any, required by the various Federal and State resource and/or regulatory agencies (collectively, the "Regulatory Permits") for the construction, operation and maintenance of the County Facilities. The Regulatory Permits include, but are not limited to, those permits issued by the U.S. Army Corps of Engineers, the State Water Resources Control Board ("SWRCB"), California State Department of Fish and Game and the Regional Water Quality Control Board.

All Licenses and Regulatory Permits secured by the Developer shall be reviewed by the County Engineer prior to execution or acceptance by the Developer to determine whether the conditions they specify are satisfactory to the County to allow it to operate and maintain the County Facilities.

Section 4.4. NPDES Compliance. The Developer shall prepare and implement, or cause to be prepared and implemented, a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the requirement of the State's National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction Activity (SWRCB Order No. 99-08 DWQ) and any amendments thereto (the "General Permit"). The General Permit regulates both stormwater and non-stormwater discharges associated with construction activities required by this Joint Community Facilities Agreement.

The SWPPP shall identify site specific "Best Management Practices" ("BMPs") to be implemented during and after construction to control pollution of stormwater runoff and receiving waters. The identified BMPs shall include, but not be limited to, "good housekeeping" practices for the Construction Site such as establishing stabilized construction access points, providing adequate sanitary/septic waste management, designating vehicle and equipment cleaning/maintenance areas, employing proper material handling and storage practices, maintaining adequate soil stabilization and erosion control practices to control the discharge of pollutants from the Construction Site and any activities thereon. The SWPPP shall also stipulate to an ongoing program for monitoring and maintenance of all BMPs.

The Developer shall be solely responsible throughout the duration of constructing the County Facilities for placing, installing, constructing, inspecting and maintaining all BMPs identified in the SWPPP and amendments thereto and for removing and disposing of temporary BMPs.

The Developer shall become fully informed of and comply with the applicable provisions of the General Permit, Federal, State and local regulations that govern the Developer's activities and operation pertaining to both stormwater and non-stormwater discharges from the Construction Site of the County Facilities and any area of disturbance outside said Construction Site relating to the County Facilities. The Developer shall, at all times, keep copies of the General Permit, approved SWPPP and all amendments at the Construction Site. The SWPPP shall be made available upon request of a representative of the SWRCB, San Diego Regional Water Quality Control Board, or the United States Environmental Protection Agency. The Developer shall, at reasonable times, allow authorized agents of the above cited agencies, upon the presentation of credentials to: (i) enter upon the Construction Site; (ii) have access to and copy any records required to be kept as specified in the General Permit, (iii) inspect the Construction Site and determine whether related soil stabilization and sediment control BMPs have been implemented and maintained, and (iv) sample or monitor stormwater or non- stormwater runoff for purposes of ensuring compliance with the General Permit.

The Developer shall be solely and exclusively responsible for any arrangements made between it and other property owners or entities that result in disturbance of land at the Construction Site.

The Developer shall be responsible for all costs and for any liability imposed by law as a result of its failure to comply with the requirements set forth in this Section, including but not limited to, compliance with the applicable provisions of the General Permit and Federal, State and local regulations. For the purpose of this Section, costs and liabilities include, but are not limited to, fines, penalties and damages whether assessed against the County, the School District, the Community Facilities District or the Developer, including those levied under the Federal Clean Water Act and the State's Porter-Cologne Water Quality Act.

Section 4.5. Cal/OSHA, Confined Space Entry. At all times during the construction of the County Facilities, the Developer shall require all contractors to comply with all Cal/OSHA safety regulations including regulations concerning confined space and maintenance of a safe working environment for the County, the School District and their respective employees on the site. This will include the preparation of a confined space procedure specific for all storm drain facilities. The procedure shall comply with requirements contained in Sections 5157 and 5158 of Title 8 of the California Code of Regulations and the County's "Program Agency Policy 13." The confined space procedure is to be reviewed and approved by the County Engineer before proceeding with construction of the County Facilities.

Section 4.6. Notice of Intent to Commence Construction. Not less than twenty (20) calendar days prior to the date on which it intends to commence construction of a County Facility, the Developer is to provide written "Notice of Intent" to the County Engineer. Construction on the County Facility may not proceed until the County Engineer issues a "Notice to Proceed" to the Developer. The "Notice of Intent" is to include the following documents:

(a) Copies of all Licenses and Regulatory Permits secured pursuant to Sections 4.3 and 4.4, above, including a copy of the Notice of Intent ("NOI") and waste discharge identification number ("WDID No.") received from the SWRCB pursuant to Section 4.4, above.

(b) Copies of the bonds required by Section 3.4(e), above.

(c) Construction Inspection Deposit required by Section 3.4(j) above.

(d) Duly executed irrevocable offer(s) of dedication to the public for road and drainage purposes, including ingress and egress, for the rights of way deemed necessary by the County for the construction, inspection, operation and maintenance of the County Facilities.

(e) Preliminary reports of title dated not more than thirty (30) days prior to date of submission for all property described in the irrevocable offer(s) of dedication.

(f) A complete list of all contractors and subcontractors to be performing work on the County Facilities, including the corresponding license number and license classification of each. On said list, the Developer shall also identify its designated superintendent for construction of the County Facilities.

(g) A construction schedule which shall show the order and dates in which the

Developer and the Developer's contractor proposes to carry on the various parts of work, including estimated start and completion dates. As the construction progresses the Developer shall update said construction schedule upon request.

(h) The final mylar plan and profile sheets for the County Facilities and assign ownership of said documents to the County prior to the start of construction of each County Facility.

(i) Certificates of insurance and endorsements as required by Section 4.11. below.

(j) The confined space procedure as required by Section 4.5. above.

Section 4.7. Bonding Requirements. The Developer shall post such subdivision bonds as are required by the County in connection with the recording of all subdivision maps for each tract within Improvement Area No. 1. The Developer's obligations pursuant to this Section will be considered satisfied, in part, through the contract performance bonds to be provided by the Developer's contractors pursuant to Section 3.4(e) hereof.

Section 4.8. Additional Conditions to be Satisfied during Construction. Construction of the County Facilities shall be on a five (5) day, forty (40) hour workweek with no work on Saturday, Sundays or days designated by the County as legal holidays, unless otherwise approved by the County. If the Developer feels it is necessary to work more than normal forty (40) hour workweek or on holidays, the Developer shall make a written request for permission from the County to work the additional hours. The request shall be submitted to the County at least 72 hours prior to the request date for additional work hours and state the reasons for the overtime and the specific time frames required. The decision granting permission for overtime work shall be made by the County at its sole discretion and shall be final. If permission is granted, the Developer will be charged the cost incurred at the overtime rates for additional inspection time required in connection with the overtime work in accordance with Ordinances Nos. 671 and 749 of the County, including any amendments thereto.

Section 4.9. Inspection: Completion of Construction. The County Engineer shall have primary responsibility for providing inspection of the construction of the County Facilities to ensure that the work of construction is accomplished in accordance with the Plans approved by the County. County staff shall have access to the Construction Site at all reasonable times for the purpose of accomplishing such inspection.

The Developer is to provide the County with written notice that it considers construction of a County Facility to have been completed consistent with the Plans, Specifications, and Estimates and, upon receipt of said notice, County's staff will provide written confirmation that construction of a County Facility is complete consistent with the approved Plans, Specifications, and Estimates and the provisions of this Joint Community Facilities Agreement. Upon receipt of both written notice from the Developer and from County staff, the County Engineer will in a timely manner notify the Developer and the Administrator that the County Facility has been satisfactorily completed and that the Developer is to proceed with the recording of a Notice of Completion with respect to such construction pursuant to Part 6 (§§8000-9566) of the California

Civil Code. The Developer is to provide a duplicate copy of the recorded Notice of Completion to the Administrator and the County Engineer. Within a reasonable time following receipt of the duplicate copy of the recorded Notice of Completion and the Developer's compliance with other provisions of Section 3.2. hereof, the County Engineer will issue the written notice required by said Section 3.2. that it will accept the County Facility into its maintained road system.

Section 4.10. Maintenance of County Facilities: Warranties. The Developer shall maintain the County Facilities in good and safe condition until the Acceptance Date of the County Facilities. Prior to the Acceptance Date, the Developer shall be responsible for maintaining the County Facilities in proper operating condition, and shall perform such maintenance on the County Facilities as the County Engineer reasonably determines to be necessary. As of the Acceptance Date, the performance bond provided by each of the principal contractors for the County Facilities pursuant to Section 3.4(e) hereof shall be reduced to an amount equal to 10% of the original amount thereof and shall serve as a warranty bond to guarantee that the County Facilities will be free from defects due to faulty workmanship or materials for a period of 12 months from the Acceptance Date, or the appropriate principal contractor may elect to provide a new warranty bond or cash in such an amount. As of the Acceptance Date, the Developer and each principal contractor shall assign to County all of their rights in any warranties, guarantees, maintenance obligations or other evidence of contingent obligations of third persons with respect to the County Facilities.

Section 4.11. Insurance Requirements. Without limiting or diminishing the Developer's obligation to indemnify or hold the County, the Community Facilities District, when formed, and the School District harmless pursuant to Section 5.4. hereof, the Developer shall procure and maintain or cause to be maintained, at its sole cost and expense the following insurance coverages, or alternate coverages acceptable to the County's Risk Manager, during the term of this Joint Community Facilities Agreement.

(a) *Commercial General Liability:* Commercial General liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations, explosion, collapse, use of cranes, and other heavy equipment and underground hazards, personal and advertising injury covering claims which may arise from or out of the Developer's performance of its obligations hereunder. The policy shall name by endorsement the County, the Community Facilities District, the School District, their respective directors, officers, Board of Supervisors, Board, Legislative Body, elected officials, employees, agents or representatives as "Additional Insureds." Policy's limit of liability shall not be less than \$2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Joint Community Facilities Agreement or be no less than two (2) times the occurrence limit.

(b) *Vehicle Liability:* Vehicle liability insurance for all owned, non-owned or hired vehicles in an amount not less than \$2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Joint Community Facilities Agreement or be no less than two (2) times the occurrence limit. Policy shall name by endorsement the County, the Community Facilities District, the School District, their respective directors, officers, Board of Supervisors, Board, Legislative Body, elected officials, employees, agents or representatives as "Additional Insureds."

(c) *Workers' Compensation Insurance:* Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupation Disease with limits not less than \$2,000,000 per person per accident. Policy shall be endorsed to waive subrogation in favor of the County, the Community Facilities District, the School District;

General Insurance Provisions - all lines:

(i) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. Best rating of not less than an A:VIII (A:8) unless such requirements are waived, in writing, by the County's Risk Manager.

(ii) The Developer's insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the County's Risk Manager before the commencement of operations under this Joint Community Facilities Agreement. Upon notification of deductibles or self-insured retentions which are deemed unacceptable to the County, at the election of the County's Risk Manager, the Developer's carriers shall either: (i) reduce or eliminate such deductibles or self-insured retentions as respects this Joint Community Facilities Agreement with the County, or (ii) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.

(iii) The Developer shall cause its insurance carrier(s) to furnish the County with (i) a properly executed original certificate(s) of insurance and certified original copies of endorsements effecting coverage as required herein; or (ii) evidence of coverage acceptable to the County's Risk Manager that may include original certified copies of policies including all endorsements and all attachments thereto, showing such insurance is in full force and effect.

(iv) Further, said certificate(s) and endorsements to policies of insurance shall contain the covenant of the insurance carrier(s) that it shall provide no less than sixty (60) days written notice be given to the County, the Community Facilities District, and the School District prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, this Joint Community Facilities Agreement shall terminate forthwith, unless the County, the Community Facilities District and the School District receive, prior to the effective date, of such material modification or cancellation of coverages, another properly executed original certificate of insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverages and the insurance required herein is in full force and effect. Individual(s) authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the certificate of insurance.

(v) The Developer shall not commence construction of the County Facilities until the County and the Administrator have been furnished either original

certificate(s) of insurance and certified original copies of endorsement, policies of insurance including all endorsements and any and all other attachments as required in this Section, or other evidence of coverage acceptable to County's Risk Manager.

(vi) It is understood and agreed by the parties hereto and the Developer's insurance company(s) that the certificate(s) of insurance and policies shall so covenant and shall be construed as primary insurance, and the County's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

(vii) The Developer may pass down to its principal contractors the insurance obligations contained herein and will require its principal contractors to name on their insurance policies by endorsement, the County, the Community Facilities District, the School District, their respective directors, officers, Board of Supervisors, Board, Legislative Body, elected officials, employees, agents or representatives as "Additional Insureds." Copies of such certificates and endorsements shall be provided to the County.

(viii) The Developer agrees to notify the County and the Administrator of any claim by a third party or any incident or event that may give rise to a claim from the performance of this Joint Community Facilities Agreement.

Section 4.12. Ownership of County Facilities. Notwithstanding the fact that some or all of the County Facilities may be constructed in dedicated street rights-of-way or on property which is owned by or has been or will be dedicated to the County, a County Facility shall be and remain the property of the Developer until Acceptable Title to parcels not owned by the County with respect to such County Facility is conveyed to the County, as appropriate, as provided herein, and such County Facility has been formally accepted by the County for ownership, operation and maintenance, except that maintenance of the streetlights is to be performed by County Community Facilities District No. 23-1M. Ownership of said parcels by the Developer or other third parties shall likewise not be affected by any agreement that the Developer may have entered into or may enter into with the County pursuant to the provisions of the Subdivision Map Act, Section 66410 *et seq.* of the Code, and the provisions of this Section shall control.

ARTICLE V

REPRESENTATIONS, WARRANTIES AND COVENANTS; INDEMNIFICATION

Section 5.1. Representations, Warranties and Covenants of the Developer. The Developer, as the developer of the Tract encompassed within the proposed boundaries of Improvement Area No. 1 of the Community Facilities District, makes the following representations, warranties and covenants for the benefit of the County, the School District and the Community Facilities District, when formed, as of the date hereof:

(a) Organization. The Developer represents and warrants that it is a limited liability company duly organized and validly existing under the laws of the State of California, is in good standing under the laws of the State, and has the power and authority to own its properties and assets and to carry on its business as now being conducted and as now contemplated in the Community Facilities District.

(b) Authority. The Developer represents and warrants that it has the power and authority to enter into this Joint Community Facilities Agreement, and has taken all action necessary to cause this Joint Community Facilities Agreement to be executed and delivered, and this Joint Community Facilities Agreement has been duly and validly executed and delivered on behalf of the Developer.

(c) Binding Obligation. The Developer represents and warrants that this Joint Community Facilities Agreement is a valid and binding obligation of the Developer and is enforceable against the Developer in accordance with its terms, subject to bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights in general and by general equity principles.

(d) Completion of County Facilities. The Developer covenants that it will use its commercially reasonable and diligent efforts to do all commercially reasonable things that may be lawfully required of it in order to cause the County Facilities, the construction of which have been made a condition for the development of the Tract, to be completed in accordance with this Joint Community Facilities Agreement.

(e) Compliance with Laws. The Developer covenants that, while the County Facilities are owned by the Developer or required pursuant to this Joint Community Facilities Agreement to be maintained by the Developer, it will not commit, suffer or permit any of its agents, employees or contractors to commit any act to be done in, upon or to the County Facilities in violation in any material respect of any law, ordinance, rule, regulation or order of any governmental authority or any covenant, condition or restriction now or hereafter affecting the County Facilities.

(f) Payment Requests. The Developer represents and warrants that (i) it will not request payment from the Community Facilities District under this Joint Community Facilities Agreement for the acquisition of any improvements that are not

part of a County Facility, and (ii) it will diligently follow all procedures set forth in this

Joint Community Facilities Agreement and provide to the County Engineer all information requested by the County Engineer in order for the County Engineer to complete a Payment Request and determine the Purchase Price of a County Facility.

(g) Financial Records. Until the final Acceptance Date of all County Facilities, the Developer covenants to maintain proper books of record and account for the County Facilities and all costs related thereto. The Developer covenants that such accounting books will be maintained in accordance with generally accepted accounting principles, and will be available for inspection by the Community Facilities District, the County and the School District, and their respective agents, at any reasonable time during regular business hours on two (2) Business Days' prior written notice, subject to mutually acceptable arrangements regarding the confidentiality of proprietary data.

(h) Hazardous Materials. The Developer represents and warrants that neither the Developer, nor its principal contractors or any subcontractor, agent or employee thereof will use, generate, manufacture, procure, store, release, discharge or dispose of any Hazardous Material on, under or about the Construction Site or the County Facilities or transport any Hazardous Material to or from the Construction Site or the County Facilities in violation of any federal, state or local law, ordinance, regulation, rule, decision or policy statement regulating Hazardous Material.

(i) Permits. The Developer covenants that it will pursue in a commercially reasonable manner all governmental or other permits or licenses required to proceed with the construction of the County Facilities and that it will pay all fees relating thereto. The Developer represents and warrants that to the best of the Developer's knowledge, as of the date hereof, there is no material legal impediment to the Developer's proceeding with and completing the construction of the County Facilities or to the development of the Construction Site as contemplated by the Developer, except for government or other permits to be obtained.

(j) Developer's Responsibilities. Whether or not a County Facility is acquired from the proceeds of the Bonds, the Developer accepts responsibility for and shall be responsible for identification and compliance with all applicable laws pertaining to constructing and installing the County Facilities and the contract or contracts pertaining thereto, including the laws that would apply to the County if it were constructing the County Facilities itself as set forth in the Joint Community Facilities Agreement. Notwithstanding the requirements of this Joint Community Facilities Agreement the County, the School District and the Community Facilities District make no representation as to the applicability or inapplicability of any laws regarding contracts, including contracts related to the construction and installation of the County Facilities, and especially the matters of competitive bidding and payment of prevailing wages. Any of the County, the School District or the Community Facilities District may, in its sole discretion, supply guidance to the Developer with respect to laws governing the construction of the County Facilities if requested to do so by the Developer. Whether or not any or all of them have done so, the Developer will neither seek to hold nor hold them liable for any consequences of any failure by the Developer to correctly determine applicability of any such requirements to any contract it enters into, irrespective of whether the County, the School District, or the Community Facilities District, as the case

may be, knew or should have known about applicability of any such requirement.

Section 5.2. Representations, Warranties and Covenants of the School District.

The School District makes the following representations, warranties and covenants for the benefit of the County, the Community Facilities District, when formed, and the Developer, as of the date hereof:

(a) Authority. The School District represents and warrants that the School District has the power and authority to enter into this Joint Community Facilities Agreement and has taken all actions necessary to cause this Joint Community Facilities Agreement to be executed and delivered, and this Joint Community Facilities Agreement has been duly and validly executed and delivered on behalf of the School District.

(b) Binding Obligation. The School District represents and warrants that this Joint Community Facilities Agreement is a valid and binding obligation of the School District and is enforceable against the School District in accordance with its terms, subject to bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors’ rights in general and by general equity principles.

(c) Payment Requests. The School District represents and warrants that it will cause the Community Facilities District to process, in a timely manner, all completed and approved Payment Requests submitted to it by the County Engineer and follow all procedures applicable to it as set forth in this Joint Community Facilities Agreement and the School Mitigation Agreement.

(d) Financial Records. The School District covenants to maintain, or cause to be maintained, books of record and account for the proceeds of the Bonds, levy and collection of special taxes and the payment of principal of and interest on the Bonds in accordance with the requirements of the Indentures and the Act.

Section 5.3. Representations, Warranties and Covenants of the County. The County makes the following representations, warranties and covenants for the benefit of the School District, the Community Facilities District, when formed, and the Developer, as of the date hereof:

(a) Authority. The County represents and warrants that the County has the power and authority to enter into this Joint Community Facilities Agreement, and has taken all action necessary to cause this Joint Community Facilities Agreement to be executed and delivered, and this Joint Community Facilities Agreement has been duly and validly executed and delivered on behalf of County.

(b) Binding Obligation. The County represents and warrants that this Joint Community Facilities Agreement is a valid and binding obligation of the County and is enforceable against the County in accordance with its terms, subject to bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors’ rights in general and by general equity principles.

(c) CEQA Compliance. The County represents and warrants that it has taken all actions necessary under CEQA to allow for the development of the Tract and the construction, of the public improvements identified as the County Facilities.

(d) Completion of County Facilities. The County covenants that it will use its reasonable and diligent efforts to take expeditiously all actions that may be lawfully required of it in issuing permits, processing and approving Plans and Specifications and inspecting the County Facilities in accordance with this Joint Community Facilities Agreement.

(e) Payment Requests. The County represents and warrants that it will cause the County Engineer to process all complete Payment Requests it receives in a timely manner consistent with the procedures set forth in this Joint Community Facilities Agreement.

(f) Issuance of Tax-Exempt. Bonds. In connection with the issuance of any Bonds, a portion of the proceeds of which are to be made available to finance the acquisition, construction and installation of County Facilities, County hereby represents and warrants that it will execute and deliver such certifications and agreements as may be reasonably required in order for bond counsel to conclude whether interest on such Bonds will be excludable from gross income under Section 103 of the Internal Revenue Code of 1986 and any amendments thereto. The decision regarding whether to issue bonds for County Facilities, and, if so, whether they should be taxable or tax exempt, shall be the decision of the Legislative Body in its sole discretion.

Section 5.4. The Developer Indemnification. The Developer agrees to protect, indemnify, defend and hold the School District, the Community Facilities District, when formed, the County, and their respective directors, officers, Board, Board of Supervisors, Legislative Body, elected officials, employees, representatives and agents (the "Indemnified Parties"), and each of them, harmless from and against any and all claims, losses, liabilities, expenses, suits, actions, decrees, judgments, awards, reasonable attorneys' fees, and court costs which the Indemnified Parties, or any combination thereof, may suffer or which may be sought against or recovered or obtained from the Indemnified Parties, or any combination thereof, as a result of or by reason of or arising out of or in consequence of any acts, omissions, negligence or willful misconduct of Developer, its employees, contractors, or agents in connection with (a) the approval and performance of this Joint Community Facilities Agreement, (b) the acquisition, construction, or installation of the County Facilities, (c) the design, construction, or failure of the County Facilities, (d) the untruth or inaccuracy of any representation or warranty made by the Developer in this Joint Community Facilities Agreement or in any certifications delivered by the Developer hereunder, or (e) any act or omission of the Developer or any of its contractors, subcontractors, or their respective officers, employees or agents, in connection with the County Facilities or its responsibilities or obligations under this Joint Community Facilities Agreement. If the Developer fails to do so, the Indemnified Parties, or each of them, shall have the right, but not the obligation, to defend the same and charge all of the direct or incidental costs of such defense, including reasonable attorneys' fees or court costs, to and recover the same from the Developer.

No indemnification is required to be paid by the Developer as to an Indemnified Party for

any claims, losses, liabilities, expenses, suits, actions, decrees, judgments, awards, reasonable attorneys' fees, and court costs (a) arising directly from the willful misconduct or sole or active negligence of that Indemnified Party or (b) arising from the use or operation of a County Facility after the Acceptance Date of the County Facility, unless such claims, losses, liabilities, expenses, suits, actions, decrees, judgments, awards, reasonable attorneys' fees, and court costs results from the defective or improper design, construction or installation of such County Facility by the Developer or its contractors, subcontractors, or respective officers, employees or agents.

The provisions of this Section shall survive the termination of this Joint Community Facilities Agreement.

ARTICLE VI

MISCELLANEOUS

Section 6.1. The Developer as Independent Contractor. In performing under this Joint Community Facilities Agreement, it is understood that the Developer is acting as an independent contractor, and not as an agent of the School District, the Community Facilities District or the County. Neither the School District nor the County shall have any responsibility for payment to any contractor, subcontractor or supplier of the Developer. The Community Facilities District shall not have any responsibility for payment to any contractor, subcontractor or supplier of the Developer unless such entity or individual is specifically listed as a payee on a Payment Request submitted by the Developer pursuant to this Joint Community Facilities Agreement in which case the Community Facilities District shall be responsible for making such payment only if such Payment Request is approved pursuant to the provisions of this Joint Community Facilities Agreement and the School Mitigation Agreement and only from funds available in the applicable County Facilities Accounts.

It is not intended by the parties that this Joint Community Facilities Agreement create a partnership or joint venture among them, and this Joint Community Facilities Agreement shall not otherwise be construed.

Section 6.2. Other Agreements. Nothing contained herein shall be construed as affecting the School District's, County's or the Developer's respective duty to perform its respective obligations under other agreements, land use regulations or subdivision requirements relating to the development of the Tract, which obligations are and shall remain independent of the School District's rights and obligations, the Developer's rights and obligations and the County's rights and obligations under this Joint Community Facilities Agreement; provided, however, that the Developer shall use its commercially reasonable and diligent efforts to perform each and every covenant to be performed by it under any lien or encumbrance, instrument, declaration, covenant, condition, restriction, license, order, or other agreement, the nonperformance of which could reasonably be expected to materially and adversely affect the acquisition, construction and installation of the County Facilities to be financed with the proceeds of the Bonds.

Section 6.3 Binding on Successors and Assigns. The Developer may assign its duties and obligations pursuant to this Joint Community Facilities Agreement to one or more purchasers of its property, except the purchaser of a single-family residential unit, the owner of a multi-family residential complex or the end user of a non-residential parcel, and to whom said Developer shall assign the right to receive payment of the Purchase Price for the County Facilities. Such a purchaser and assignee shall, as a condition to receiving payment of the Purchase Price, enter into an assignment agreement with the County, the School District and the Community Facilities District, in a form acceptable to the County, the School District and the Community Facilities District, whereby such purchaser agrees, except as may be otherwise specifically provided therein, to assume the duties and obligations of the Developer pursuant to this Joint Community Facilities Agreement and to be bound thereby. Neither this Joint Community Facilities Agreement nor the duties and obligations of the County, the School

Developer: R-Hearthstone Lot Option Pool 03, L.P.
Attn: Steven C. Porath
23975 Park Sorento, Suite 220
Calabasas, CA 91302
Telephone: 818-385-3543

Each such notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication hereunder shall be deemed delivered to the party to whom it is addressed (a) if personally served or delivered, upon delivery, (b) if given by electronic communication, whether by telex, telegram or telecopier, upon the sender's receipt of a document confirming satisfactory transmission, (c) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, 72 hours after such notice is deposited with the United States mail, (d) if given by overnight courier, with courier charges prepaid, 24 hours after delivery to said overnight courier, or (e) if given by any other means, upon delivery at the address specified in this Section.

Section 6.8. Jurisdiction and Venue. Each of the School District, the County and the Developer (a) agrees that any suit action or other legal proceeding arising out of or relating to this Joint Community Facilities Agreement shall be brought in state or local court in the County of Riverside or in the Courts of the United States of America in the district in which said County is located, (b) consents to the jurisdiction of each such court in any suit, action or proceeding, and (c) waives any objection that it may have to the laying of venue or any suit, action or proceeding in any of such courts and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. Each of the School District, the County and the Developer agrees that a final and non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

Section 6.9. Entire Agreement. This Joint Community Facilities Agreement contains the entire agreement between the parties with respect to the matters provided for herein and supersedes all prior agreements and negotiations between the parties with respect to the subject matter of this Joint Community Facilities Agreement except for such matters that are the subject of the School Mitigation Agreement.

Section 6.10. Governing Law. This Joint Community Facilities Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State applicable to contracts made and performed in the State.

Section 6.11. Severability. If any part of this Joint Community Facilities Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Joint Community Facilities Agreement shall be given effect to the fullest extent reasonably possible.

Section 6.12. Attorney's Fees. If any action is instituted to interpret or enforce any of the provisions of this Joint Community Facilities Agreement, each Party shall be responsible for their own attorney's fees.

Section 6.13. Usage of Words. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

Section 6.14. Counterparts. This Joint Community Facilities Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 6.15. Time is of the Essence. Time is of the essence with respect to the Developer's performance of its obligations under this Joint Community Facilities Agreement.

Section 6.16. Merger Clause. This Agreement contains the entire agreement between the Parties with respect to matters specifically addressed herein and supersedes any prior oral or written statements, negotiations, or understandings concerning such matters which are hereby merged into this Joint Community Facilities Agreement.

Section 6.17. Interpretation. The parties to this Joint Community Facilities Agreement and their counsel have reviewed and revised this Joint Community Facilities Agreement, and the normal rule of construction to the effect that any ambiguities in an agreement are to be resolved against the drafting parties shall not be employed in the interpretation of this Joint Community Facilities Agreement.

Section 6.18. Designation of Party's Representative. Each party is to prepare a certificate designating the person or persons that are to serve as the liaison between the County and the Community Facilities District regarding design, engineering and construction of the County Facilities. The certificates are to contain an original and specimen signature of each designated person. The certificates are to be provided to the County and the Community Facilities District at the time the first series of Bonds are issued.


Section 6.19. Nature of Joint Community Facilities Agreement: Allocation of Special Taxes. This Joint Community Facilities Agreement shall constitute a joint community facilities agreement entered into pursuant to Sections 53316.2, 53316.4 and 53316.6 of the Code. The entire amount of the proceeds of the special taxes levied pursuant to each Rate and Method shall be allocated and distributed to the Community Facilities District.

[Balance of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Community Facilities Agreement as of the day and year first herein above written.


RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

By: 
Mark Lancaster
Director of Transportation

APPROVED AS TO FORM:

Minh C. Tran
County Counsel

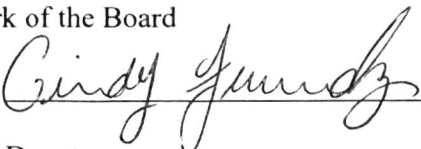
By: 
Michael Thomas
Deputy County Counsel

APPROVAL BY THE COUNTY BOARD OF SUPERVISORS:

By: 
Kevin Jeffries
Chairman, County Board of Supervisors

ATTEST:

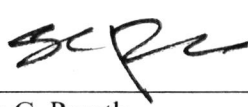
Kimberly Rector
Clerk of the Board

By: 
Deputy

DEVELOPER

R-Hearthstone Lot Option Pool 03, L.P., a Delaware limited partnership

By: R-Hearthstone PBLOVJ GP, LLC, a Delaware limited liability company, its General Partner

By: 
Steven C. Porath
Authorized Representative

RIVERSIDE UNIFIED SCHOOL DISTRICT

By: _____
Name:
Title:

ATTEST:

By: _____
Name:
Title:

AUG 01 2023 3:10 PM

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

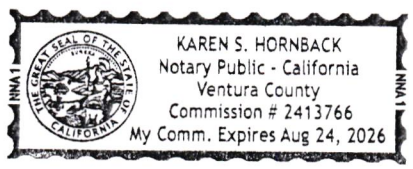
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of Los Angeles }

On June 15, 2023 before me, Karen S. Hornback, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Steven C. Porath
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Karen S. Hornback
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

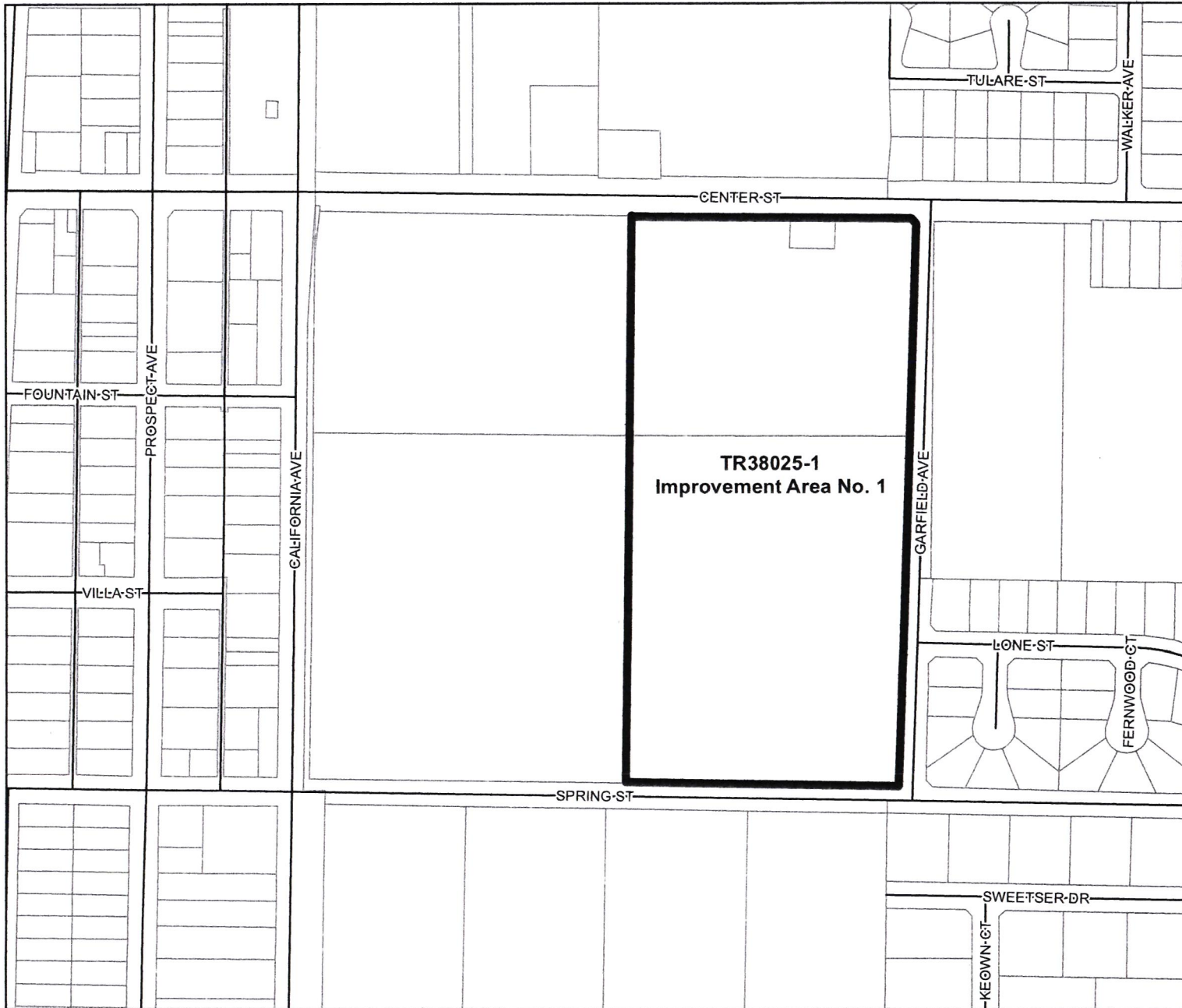
Signer's Name: _____ Signer's Name: _____
 Corporate Officer – Title(s): _____ Corporate Officer – Title(s): _____
 Partner – Limited General Partner – Limited General
 Individual Attorney in Fact Individual Attorney in Fact
 Trustee Guardian of Conservator Trustee Guardian of Conservator
 Other: _____ Other: _____
Signer is Representing: _____ Signer is Representing: _____

EXHIBIT A

**Map of Area Proposed to be Included Within
Community Facilities District No. 41
of Riverside Unified School District
Improvement Area No. 1**


[ATTACHED BEHIND THIS PAGE]


RIVERSIDE UNIFIED SCHOOL DISTRICT COMMUNITY FACILITIES DISTRICT No. 41 IMPROVEMENT AREA No. 1 Tract Map No. 38025-1

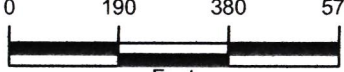




SAN BERNARDINO COUNTY

VICINITY MAP


PROPOSED CFD BOUNDARY





Disclaimer: Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

EXHIBIT B

COUNTY FACILITIES

**Community Facilities District No. 41
of Riverside Unified School District, Improvement Area No. 1**

Facility Description:	Estimated Costs ⁽¹⁾
<p>1. Garfield Street TR 38025-1 (MS4415) - Offsite Street Improvements. Facility Improvements From Station 10+00.00 To Station 22+83.75</p> <p>Approximately 1,284 linear feet of partial width street improvements including, but not limited to aggregate base, asphalt concrete pavement, curb and gutter, sidewalk, removal of existing ac berm, sawcut and join existing pavement, and curb ramp, roadway excavation, site preparation and erosion control. The total cost also includes but is not limited to designing and preparing plan, specifications and estimates, plan check & inspection, construction management, and bid preparation.</p>	<p>\$363,600</p>
<p>2. Spring Steet TR 38025-1 (MS4415) - Offsite Street Improvements. Facility Improvements From Station 6+47.71 To Station 20+00.00.</p> <p>Approximately 1,353 linear feet of partial width street improvements including, but not limited to aggregate base, asphalt concrete pavement, curb and gutter, type D curb, cross gutters, sidewalk, sawcut and join existing pavement, grinding and overlay existing pavement, curb ramp, roadway excavation, site preparation and erosion control. The total cost also includes but is not limited to designing and preparing plan, specifications and estimates, plan check & inspection, construction management, and bid preparation.</p>	<p>\$384,000</p>
<p>2. Highgrove Town Center Avenue TR 38025-1 (MS4415) - Offsite Street Improvements Facility. Improvements From Station 10+00.00 To Station 22+82.67.</p> <p>Approximately 1,283 linear feet of partial width street improvements including, but not limited to aggregate base, asphalt concrete pavement, curb and gutter, cross gutters, sidewalk, curb ramps, roadway excavation, site preparation and erosion control, The total cost also includes but is not limited to designing and preparing plan, specifications and estimates, plan check & inspection, construction management, and bid preparation.</p>	<p>\$532,800</p>

TOTAL STREET IMPROVEMENTS \$1,280,400

⁽¹⁾ Estimated costs include Direct costs, 10% contingency and Indirect Costs estimated at 20%.

EXHIBIT C

**Public Works Bidding Requirements
Contract Bidding by Developer**

Public funding reimbursement or approval by the County of Riverside (County) requires the following, in addition to any applicable requirements of state and federal law:

- ❑ Advertisement for a minimum of ten (10) consecutive days in a newspaper of general circulation (Pub. Cont. Code §20125, Gov. Code §6062). A two to three week bid period is recommended. Proof of publication will be required by the County for verification of advertisement. Failure to advertise the project in a newspaper of general circulation for at least the minimum period of notice will disqualify the developer from receiving credits and/or reimbursement from public funds.
- ❑ Requirement for contractors and subcontractors to be registered with the State of California Department of Industrial Relations (DIR) in order to be qualified to bid on, be listed in a bid proposal, or to perform public work (Labor Code §1725.5). Online application for registration with DIR can be found at the following website: <http://www.dir.ca.gov/Public-Works/Contractor-Registration.html>.
- ❑ Requirement for payment of general prevailing wages (Labor Code §1770-§1774). General prevailing wage rates are available from the Department of Industrial Relations website at: <http://www.dir.ca.gov/Public-Works/Prevailing-Wage.html>. Failure to comply with this requirement will disqualify the developer from receiving credits and/or reimbursement from public funds.
- ❑ Requirement for certified payroll records (Labor Code §1776). Requirements for reporting certified payroll records are available at the following Department of Industrial Relations website: <http://www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html>.
- ❑ Bonds
 - Bid Bond 10% (recommended)
 - Performance Bond 100% (mandatory) (Pub. Cont. Code §20129)
 - Payment Bond 100% (mandatory) (Civil Code §9550)
 - Surety required by an admitted surety insurer in the State of California
 - The bonds shall include the County of Riverside as co-beneficiary
- ❑ Required State Contractor's license shall be specified in the notice inviting bids (Pub. Cont. Code §3300). License shall be verified before award (Pub. Cont. Code §6100).
- ❑ Proprietary and brand specific items shall not be specified (Pub. Cont. Code §3400).
- ❑ Standard County/Caltrans bid items and units of measurement should be utilized. Refer to
- ❑ Engineer's Estimate Guidelines at the following website:
<http://rctlma.org/trans/Engineering-Services/Engineers-Estimate-Guidelines>

- Sufficient liability insurance, naming the County as additional insured for both General and Automobile liability policies. Insurance company is required to be an admitted insurance company in the State of California, and to have a Best Guide rating of A with a financial size of VIII or greater. General liability, Automobile Liability, Worker's Compensation insurance coverages to be at least \$4 Million Aggregate and \$2 Million per occurrence (or higher if exposure is great).
- Hold Harmless Clause (Specifically naming the County of Riverside).
- The bid items should be only for the public works improvements. On site work should not be included in the scope of work.
- Construction plans shall be signed and stamped by a licensed civil engineer in the State of California prior to advertisement (Bus. & Prof. Code §6735).
- Specifications, special provisions, and estimates shall be prepared, signed and stamped by a licensed civil engineer in the State of California prior to advertisement (Bus. & Prof. Code §6735).
- Construction plans shall be signed as approved by the County of Riverside Transportation Department prior to advertisement.
- Current NPDES requirements specified.
- Bid exclusions are not allowed. Bids must be required for all items of work in order for a proper, legal and fair determination of who is the lowest responsive bidder.
- Time and place of bid opening must be made known to the bidders. Sealed bids shall be opened in a public forum and read aloud (Pub. Cont. Code §20393).
- Working days and liquidated damages should be clearly noted in the Notice Inviting Bids and/or other prominent location in the general conditions. Liquidated damages should be calculated using Caltrans methodology, or other industry standard means.
- Non-collusion affidavit shall be required of each bidder (Pub. Cont. Code §7106).
- Additional advertisement in trade Journals (F.W. Dodge, CMD, etc.) is advisable, but not mandatory. A listing of plan rooms used by the County is available upon request.
- All sub-contractors shall be listed (Pub. Cont. Code §4104).
- Bids must be made on bid forms, which are to be included in the contract documents, and must be completely filled in, dated and signed. Signature(s) provided by the bidder must be from an authorized officer or agent.

- Addenda should be reviewed and approved by the County Transportation Department for all addenda that either modify any bidding requirements or modify any item addressed herein.
- Addenda shall be signed and stamped by a civil engineer licensed in the State of California.
- Addenda issued within 72 hours of bid closing, and which contain material changes, shall extend the bidding period by at least 72 hours (Pub. Cont. Code §4104.5).
- A summary of bids shall be prepared, summarizing each bid item, the unit price bid and the total price bid for each bid item, as well as the total sum bid. The bid summary should include the engineer's estimate of unit prices. The bid summary shall include a summary of alternate bid schedules, if applicable.
- Award to the lowest responsive and responsible bidder (Pub. Cont. Code §20128 and §6100 et seq.). Contract to be kept on file by the owner, and provided to the County upon request.

Additional Information and Requirements

- County review and approval is required prior to advertisement, and separately, prior to award.
- Developer must register the public works project online with the Department of Industrial Relations (DIR) within five (5) days of project award using the online PWC-100 form. The following is a link to this online form:
 - <https://www.dir.ca.gov/pwc100ext/>
- Submission of an Engineer's Estimate of quantities, unit costs and extended totals should be made with the developer's first request for review of the bid documents.
- County standard contract language is available in electronic or hard-copy format, upon request.
- All construction work shall be coordinated with the County's Construction Engineer (951) 955-6885. The Construction Engineer or designee will provide oversight inspection. Approval of the final quantities shall be obtained from the Construction Engineer prior to final payment. Contract Change Orders shall be reviewed and approved by the Construction Engineer prior to execution.
- Bidding and contract records shall be maintained by the Developer for a period of not less than three years, and shall be made available upon request to the County. Documents to be retained shall include:
 1. Bid documents
 2. Addenda issued
 3. Bidders list, including date and time of bid submissions
 4. Each bid received
 5. Summary of bids

6. Executed contracts
7. Approved change orders
8. Certified payroll records
9. Other pertinent documents

The following items shall be provided to the County after bid opening:

1. Advertisement Proof of Publication
2. Owner's written certification of Public Bid Opening (Notarized)
3. Copy of bidders envelopes
4. Log of bids received including date/time of receipt
5. Copies of any addenda
6. Tabulated Bid Summary
7. Copy of low-bidder's and other bidder's proposals

The following items shall be provided to the County after award:

1. Copy of Insurance Certificate, meeting the above requirements, and naming the County of Riverside, et al, as additionally insured
2. Copy of contract, performance bond and payment bond

EXHIBIT D

**RIVERSIDE COUNTY UNIFIED SCHOOL DISTRICT CFD NO. 41, IMPROVEMENT
AREA NO. 1 DETERMINATION OF THE PURCHASE PRICE**

1. Prior to the construction of each County Facility, Developer shall follow the steps listed below and such documentation shall be included with the Payment Request:

(a) Prepare a separate bid package for the County Facility.

(b) The plans, cost estimate, specifications and contract document shall require all contractors to pay prevailing wages and to comply with applicable provisions of the Labor Code, Government Code, and Public Contract Code relating to Public Works Projects.

(c) Bids shall be obtained and processed in accordance with the formal public works bidding requirements of the County.

(d) The contract(s) for the construction of the County Facility shall be awarded to the lowest responsible and responsive bidder(s) for the construction of such County facilities in accordance with the Joint Community Facilities Agreement requirements and guidelines.

(e) Contractor(s) shall be required to provide proof of insurance coverage throughout the duration of the construction.

2. Prior to the County's acceptance of the completed County Facility, the following conditions shall also be satisfied:

(a) Developer shall have completed the construction of the County Facility in accordance with the approved Plans, Specifications, and Estimates.

(b) Developer shall have satisfied the County's inspection punch list.

(c) After final inspection and approval of the completed County Facility, the County shall have provided the Developer a final inspection release letter.

(d) Developer shall have filed a Notice of Completion with respect to the County Facility pursuant to Section 3093 of the Civil Code with the County Recorder's Office, and provided a copy of filed Notice of Completion to County.

(e) Developer shall have provided County a copy of the As-Built plans for the County Facility.

(f) Developer shall have provided County copies of all permits or agreements that may have been required by various resource/regulatory agencies for construction, operation and maintenance of the County Facility.

3. Prior to the determination and application of payment request pursuant to the Joint Community Facilities Agreement executed between County, School District, and Developer, Developer shall provide the County the following:

- (a) Copies of all information listed under Items 1 and 2 above.
- (b) Developer shall have submitted a documentation package to the County to determine the Purchase Price of the County Facility, which shall include at a minimum, the following documents related to the County Facility:
 - (i) Plans, specifications, and Developer's Civil Engineer's cost estimates; or Engineer's Report showing the cost estimates.
 - (ii) If Developer is seeking payment request for the Community Facilities District Purchase Price, documentation evidencing cost of any required environmental studies, preparation of designs, plans, specifications, and estimates, required right of way acquisition, and other costs directly related to the development of the County Facility. Only actual, documented and reasonable costs directly related to the County Facility will be considered. Costs should be documented as specified below.
 - (iii) Costs claimed for the Developer's actual, reasonable cost of any real property or interest therein acquired after the date on which the Community Facilities District is established must be accompanied by an appraisal (no more than two years old at the time of acquisition) completed by an MAI appraiser, and documentation of transfer of such right of way to the County, or applicable public agency. The appraisal must be approved by the County as valid and acceptable.
 - (iv) Contracts/agreements, insurance certificates and change orders with each vendor or contractor.
 - (v) Invoices from all contractors, consultants, service providers and vendors.
 - (vi) Copies of cancelled checks, front and back, for payments made to contractors, consultants, service providers and vendors or copies of ACH (Automated Clearing House) payments or other electronic forms of payments.
 - (vii) Final lien releases from each contractor and vendor (unconditional waiver and release).
 - (viii) Certified contract workers payroll for County verification of compliance with prevailing wages.
 - (ix) A total cost summary, in spreadsheet format (MS Excel is preferred) or electronic format showing a breakdown of the total costs incurred. The summary

should include for each item claimed the check or ACH payment number, cost, invoice numbers, and name of payee. See Attachment A of Exhibit F "Form of Payment Request" for details.

EXHIBIT E

PAYMENT BOND

(Public Work - Civil Code Section 9550 *et seq.*)

The makers of this Bond are _____ as Principal and Original Contractor and _____, a corporation, authorized to issue Surety Bonds in California, as Surety, and this Bond is issued in conjunction with that certain public works contract dated as of _____, 20__, between Principal, _____, as owner, for _____ dollars (\$_____) the total amount payable. THE AMOUNT OF THIS BOND IS 100% OF SAID SUM. Said contract is for public work of those certain County Facilities as defined and described in said agreement entitled: "Joint Community Facilities Agreement by and among Riverside Unified School District, a public agency organized and existing pursuant to the laws of the State, County of Riverside, a political subdivision of the State of California and R-Hearthstone Lot Option Pool 03, L.P., a Delaware limited partnership" dated as of _____, 2023.

The beneficiaries of this Bond are as is stated in Section 9554 of the Civil Code and the requirements and conditions of this Bond are as is set forth in Sections 9550 through 9566 of said Code. Without notice, Surety consents to extension of time for performance, change in requirements, amount of compensation, or prepayment under said Contract.

Signed and Sealed this _____ Day of _____ 20__

(Firm Name - Principal)

(Business Address)

Affix Seal
if
Corporation

By: _____
(Signature - Attach Notary's Acknowledgment)

(Title)

(Corporation Name - Surety)

(Business Address)

Affix
Corporate
Seal

By: _____
(Signature - Attached Notary's Acknowledgment)

ATTORNEY-IN-FACT
(Title-Attach Power of Attorney)

PERFORMANCE BOND

The makers of this Bond, _____ as Principal, and _____ as Surety, are held and firmly bound unto _____, hereinafter called the Owner, and unto the County of Riverside, the Riverside Unified School District, and Community Facilities District No. 41 of the Riverside Unified School District as additional obligees, in the sum of _____ Dollars (\$_____) for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

The condition of this obligation is such, that whereas the Principal entered into a certain contract, hereto attached, with the Owner, dated as of _____, 20 for those certain County Facilities as defined and described in said agreement entitled: "Joint Community Facilities Agreement by and among Riverside Unified School District, a public agency organized and existing pursuant to the laws of the State, County of Riverside, a political subdivision of the State of California and R-Hearthstone Lot Option Pool 03, L.P., a Delaware limited partnership" dated as of _____, 2023.

Now therefore, if the Principal shall well and truly perform and fulfill all the undertakings covenants, terms, conditions and agreements of said Contract during the original term of said Contract and any extension thereof that may be granted by the Owner, with or without notice to the Surety, and during the file of any guarantee required under the Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said Contract that may thereafter be made, then this obligation to be void, otherwise to remain in full force and virtue. Without notice, Surety consents to extension of time for performance, change in requirements, change in compensation or prepayment under said Contract.

Signed and Sealed this _____ Day of _____ 20____

(Firm Name - Principal)

(Business Address)

Affix Seal
if
Corporation

By: _____
(Signature - Attach Notary's Acknowledgment)

(Title)

(Corporation Name - Surety)

(Business Address)

Affix
Corporate
Seal

By: _____
(Signature - Attached Notary's Acknowledgment)
ATTORNEY-IN-FACT
(Title-Attach Power of Attorney)

EXHIBIT F

FORM OF PAYMENT REQUEST

**Community Facilities District No. 41
of Riverside Unified School District,
Improvement Area No. 1**

_____, hereby requests payment of the Purchase Price for the County Facility described in Attachment A attached hereto. Capitalized undefined terms shall have the meanings ascribed thereto in the Joint Communities Facilities Agreement, dated as of _____, 2023 (the "Joint Community Facilities Agreement"), by and among Riverside Unified School District, a public agency organized and existing pursuant to the laws of the State (the "School District"), the County of Riverside, a political subdivision of the State of California (the "County") and R-Hearthstone Lot Option Pool 03, L.P., a Delaware limited partnership (the "Developer"). In connection with this Payment Request, the undersigned hereby represents and warrants to the County Engineer as follows:

1. The undersigned has been authorized by the Developer and is qualified to execute this request for payment on behalf of the Developer and is knowledgeable as to the matters set forth herein.

2. The Developer has submitted or submits herewith to the County Engineer as-built drawings or similar Plans and Specifications for the County Facility for which payment is requested, and such drawings or plans and specifications, as applicable, are true, correct and complete.

3. The County Facility has been constructed in accordance with the Plans and Specifications therefor, and in accordance with all applicable County District standards and the requirements of the Joint Community Facilities Agreement, and the as-built drawings or similar Plans and Specifications referenced in paragraph 2 above.

4. There has not been filed with or served upon the Developer notice of any lien, right to lien or attachment upon, or claim affecting the right to receive the payment requested herein which has not been released or will not be released simultaneously with the payment of such obligation, other than material men's or mechanics' liens accruing by operation of law. Copies of lien releases for all work for which payment is requested hereunder are attached hereto.

5. The representations and warranties of the Developer set forth in Section 5.1 of the Joint Community Facilities Agreement are true and correct on and as of the date hereof with the same force and effect as if made on and as of the date hereof.

I hereby declare under penalty of perjury that the above representations and warranties are true and correct.

Date: _____

Developer

By: _____

Name:

Title:

ATTACHMENT A

PAYMENT REQUEST - ACTUAL COSTS

Developer is to complete Columns 1 through 7
 County Engineer is to complete Columns 8 through 11

CFD/Tract Number: _____ Facility
 Description: _____

1	2	3	4	5	6	7	8	9	10	11
Bid Item No.	Bid Item Description	Unit of Measure	Unit Price	Original Contract Quantity	Quantity Invoiced	Amount Invoiced	Quantity Calculated By County	Amount Calculated By County	Difference	Actual Cost
1			0.00	0	0	0.00	0	0.00	0.00	
2			0.00	0	0	0.00	0	0.00	0.00	
3			0.00	0	0	0.00	0	0.00	0.00	
4			0.00	0	0	0.00	0	0.00	0.00	
5			0.00	0	0	0.00	0	0.00	0.00	
6			0.00	0	0	0.00	0	0.00	0.00	
7			0.00	0	0	0.00	0	0.00	0.00	
8			0.00	0	0	0.00	0	0.00	0.00	
9			0.00	0	0	0.00	0	0.00	0.00	
10			0.00	0	0	0.00	0	0.00	0.00	
11			0.00	0	0	0.00	0	0.00	0.00	
12			0.00	0	0	0.00	0	0.00	0.00	
13			0.00	0	0	0.00	0	0.00	0.00	
14			0.00	0	0	0.00	0	0.00	0.00	
15			0.00	0	0	0.00	0	0.00	0.00	
16			0.00	0	0	0.00	0	0.00	0.00	
17			0.00	0	0	0.00	0	0.00	0.00	
18			0.00	0	0	0.00	0	0.00	0.00	

Total: 0.00 0.00 0.00

Amount Requested: _____

APPROVAL BY THE COUNTY ENGINEER

The County Engineer confirms that the County Facility described in Attachment A has been constructed in accordance with the Plans Specifications, and Estimates therefor. The Actual Cost of each County Facility as described in Attachment A has been reviewed, verified and approved by the County Engineer. The Purchase Price for said County Facility is established at \$_____. Payment of the Purchase Price for the County Facility is hereby approved.

Date: _____

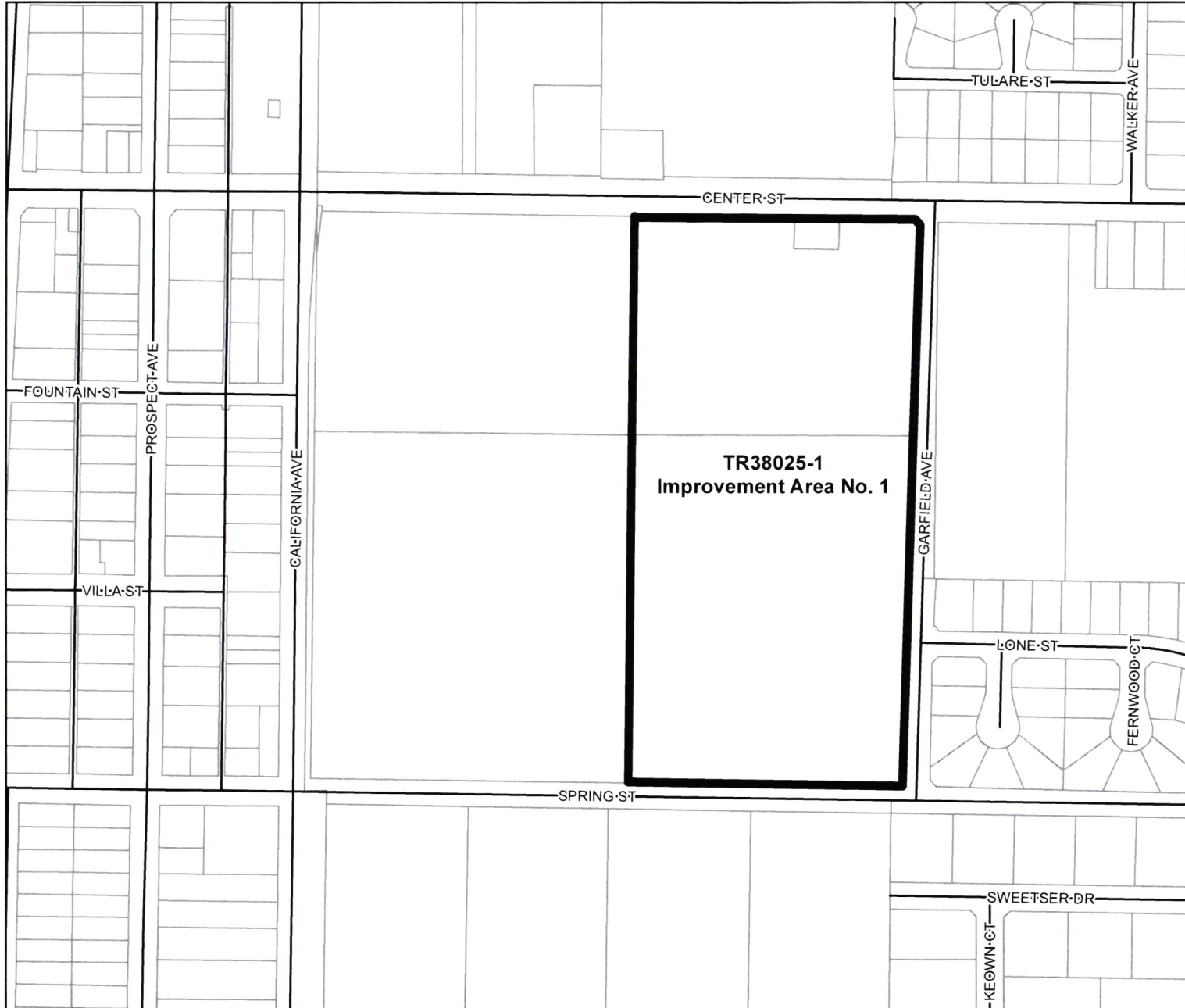
COUNTY ENGINEER

By: _____

Name:

Title:

**RIVERSIDE UNIFIED SCHOOL DISTRICT
COMMUNITY FACILITIES DISTRICT No. 41
IMPROVEMENT AREA No. 1
Tract Map No. 38025-1**





SAN BERNARDINO COUNTY

VICINITY MAP

PROPOSED CFID BOUNDARY

N

0 190 380 570
Feet

Disclaimer: Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

**JOINT COMMUNITY FACILITIES AGREEMENT
TR 38025-1 Street Improvements (MS4415)**

by and among

COUNTY OF RIVERSIDE,

RIVERSIDE UNIFIED SCHOOL DISTRICT,

and

**R-Hearthstone Lot Option Pool 03, L.P.
a Delaware limited partnership**

Dated as of August 1, 2023

**Relating to:
Community Facilities District No. 41
of Riverside Unified School District,
Improvement Area No. 1**

RECEIVED RIVERSIDE COUNTY
CLERK/BOARD OF SUPERVISORS
2024 FEB 15 PM 1:50

AUG 01 2023 3.65

TABLE OF CONTENTS

**ARTICLE I
DEFINITIONS**

Section 1.1. Definitions.....4

**ARTICLE II
CONDITIONS PRECEDENT**

Section 2.1. Proceedings for the Formation of the Community Facilities District; Costs of Formation.....8
Section 2.2. Reserved.....9
Section 2.3. Addendum to Exhibit B of this Joint Community Facilities Agreement for Modification of the County Facilities9
Section 2.4. Fee Deposit with County for Preparation and Implementation of this Joint Community Facilities Agreement.....9

**ARTICLE III
ACQUISITION OF THE COUNTY FACILITIES**

Section 3.1. Acquisition of the County Facilities.....10
Section 3.2. Determination of the Purchase Price; Processing of Payment Requests11
Section 3.3. Dedication of Property and Easements to County.....12
Section 3.4. Public Works Bid and Construction Requirements.....13

**ARTICLE IV
CONSTRUCTION OF THE COUNTY FACILITIES**

Section 4.1. Preparation and Approval of Plans and Specifications.....15
Section 4.2. Duty of Developer to Construct15
Section 4.3. Licenses and Regulatory Permits15
Section 4.4. NPDES Compliance.....16
Section 4.5. Cal/OSHA, Confined Space Entry17
Section 4.6. Notice of Intent to Commence Construction.....17
Section 4.7. Bonding Requirements.....18
Section 4.8. Additional Conditions to be Satisfied during Construction.....18
Section 4.9. Inspection; Completion of Construction.....18
Section 4.10. Maintenance of County Facilities; Warranties19
Section 4.11. Insurance Requirements19
Section 4.12. Ownership of the County Facilities.....21

**ARTICLE V
 REPRESENTATIONS, WARRANTIES AND COVENANTS; INDEMNIFICATION**

Section 5.1. Representations, Warranties and Covenants of the Developer.....22
 Section 5.2. Representations, Warranties and Covenants of the School District24
 Section 5.3. Representations, Warranties and Covenants of the County24
 Section 5.4. Developer Indemnification.....25

**ARTICLE VI
 MISCELLANEOUS**

Section 6.1. Developer as Independent Contractor27
 Section 6.2. Other Agreements27
 Section 6.3. Binding on Successors and Assigns27
 Section 6.4. Amendments28
 Section 6.5. Waivers28
 Section 6.6. No Third Party Beneficiaries.....28
 Section 6.7. Notices.....28
 Section 6.8. Jurisdiction and Venue29
 Section 6.9. Entire Agreement29
 Section 6.10. Governing Law.....29
 Section 6.11. Severability29
 Section 6.12. Attorney’s Fees29
 Section 6.13. Usage of Words.....30
 Section 6.14. Counterparts30
 Section 6.15. Time is of the Essence.....30
 Section 6.16. Merger Clause30
 Section 6.17. Interpretation30
 Section 6.18. Designation of Party Representative30
 Section 6.19. Nature of Joint Community Facilities Agreement; Allocation
 of Special Taxes30

EXHIBIT A CFD BOUNDARY MAP..... A-1
 EXHIBIT B COUNTY FACILITIES - DESCRIPTION.....B-1
 EXHIBIT C PUBLIC WORKS BIDDING REQUIREMENTSC-1
 EXHIBIT D PURCHASE PRICE DETERMINATION.....D-1
 EXHIBIT E FORMS OF PAYMENT AND PERFORMANCE BONDSE-1
 EXHIBIT F FORM OF PAYMENT REQUEST F-1
 ATTACHMENT A PAYMENT REQUEST – ACTUAL COSTS..... F-3
 APPROVAL BY THE COUNTY ENGINEER F-4

JOINT COMMUNITY FACILITIES AGREEMENT

THIS JOINT COMMUNITY FACILITIES AGREEMENT (this "Joint Community Facilities Agreement") is made and entered into as of August 1, 2023, by and among the County of Riverside, a political subdivision of the State of California (the "County"), Riverside Unified School District, a school district organized and existing pursuant to the laws of the State of California (the "School District"), and R-Hearthstone Lot Option Pool 3, L.P., a Delaware limited partnership ("Developer") (together, the "Parties").

RECITALS

A. The Board of Education of the Riverside Unified School District (the "Board") has been requested to initiate proceedings to form a community facilities district that is to be identified as Community Facilities District No. 41 of the Riverside Unified School District (the "Community Facilities District") under the authority of the Mello-Roos Community Facilities Act of 1982 (the "Act") (commencing with Section 53311 of the California Government Code (the "Code")) that is to be located in an unincorporated portion of the County known as "Highgrove." The Community Facilities District will consist of two separate improvement areas designated "Improvement Area No. 1" and "Improvement Area No. 2."

B. The Developer intends to develop certain real property located as generally shown on Exhibit A and identified as "Improvement Area No. 1," attached hereto, representing Tentative Tract Map No. 38025-1 (the "Tract"), that provides for the development of approximately 266 proposed multi-family residential units; the proposed boundaries of Improvement Area No. 1 of the Community Facilities District are coterminous with the boundaries of the Tract. It is the intention of the parties hereto that Improvement Area No. 1 of the Community Facilities District shall be authorized to finance all or any part of the County Facilities (defined below) to the extent that bond proceeds are available.

C. The Developer has requested and proposed that the Community Facilities District be formed for the purpose of providing the means of financing the construction and acquisition of certain public improvements, including but not limited to certain County streets and related eligible public street improvements (each, a "County Facility" and, collectively, the "County Facilities") to be constructed by the Developer with the purchase price therefor to be paid from the proceeds of bonds to be sold and issued by the Community Facilities District for Improvement Area No. 1. Upon the completion of the construction of each County Facility by the Developer and the acceptance thereof by the County, each County Facility is to be owned, maintained and operated by the County. The County Facilities are generally described in Exhibit B attached hereto and incorporated herein by this reference. In addition, the Community Facilities District will issue Bonds and may levy special taxes on developed property within Improvement Area No. 1 to finance certain facilities of the School District and other public facilities authorized for the Community Facilities District under the Act.

D. Section 53313.5 of the Code provides that a community facilities district may only finance the purchase of facilities whose construction has been completed, as determined by the legislative body of the community facilities district, before the resolution of formation to

establish the community facilities district is adopted pursuant to Section 53325.1 of the Code, except that a community facilities district may finance the purchase of facilities completed after the adoption of a resolution of formation if the facility is constructed as if it had been constructed under the direction and supervision, or under the authority of, the local agency that will own or operate the facility, or in this instance the County.

E. Alternatively, Section 53314.9 of the Code provides that at any time either before or after the formation of a community facilities district, the legislative body may accept advances of funds or work in-kind from any source, including, but not limited to, private persons or entities, and may provide, by resolution, for the use of those funds or that work in-kind for any authorized purpose, under all of the following conditions: (a) the proposal to repay the funds or the value or cost of the work in-kind, whichever is less, is included in both the resolution of intention to establish the community facilities district adopted pursuant to Section 53321 of the Code and in the resolution to establish the community facilities district pursuant to Section 53325.1 of the Code, (b) any proposed special tax is approved by the qualified electors of the community facilities district pursuant to the Act, and (c) any work in-kind accepted pursuant to Section 53314.9 of the Code shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the County. For those County Facilities for which the Developer seeks reimbursement pursuant to this Joint Community Facilities Agreement, the Developer shall comply with all of the applicable requirements set forth in the Public Contract Code regarding the notice of bidding and award of a contract for a public works project by a public agency, in this instance the County.

F. Pursuant to the Act, the Board, in conjunction with approval of this Joint Community Facilities Agreement by the School District, the County and the Developer, intends to consider a resolution of intention stating that it is the intention of the School District to cause the proposed Community Facilities District to be established , and if established, the Community Facilities District will use its best efforts to sell and issue special tax bonds for Improvement Area No. 1 the proceeds of which may be used in part to pay the Developer the purchase price of the County Facilities, provided all of the conditions of Sections 53313.5 and 53314.9 of the Code are satisfied and that the purchase price shall only be paid from the special taxes and proceeds of special tax bonds for Improvement Area No. 1, if any are sold and issued by the proposed Community Facilities District.

G. The Act provides that the proposed Community Facilities District may finance the County Facilities only pursuant to a joint community facilities agreement adopted pursuant to Sections 53316.2, 53316.4 and 53316.6 of the Code.

H. The County, the School District and the Developer desire to enter into this Joint Community Facilities Agreement, as required by the aforementioned sections of the Code. The provisions of this Joint Community Facilities Agreement are intended to apply only to the County Facilities proposed to be financed by Improvement Area No. 1 of the Community Facilities District.

I. The School District and the County, by entering into this Joint Community Facilities Agreement, will enable the Community Facilities District to finance some or all of the

costs of acquiring and constructing the County Facilities, and, consistent with Section 53316.2 of the Code, both the School District and the County have determined that executing this Joint Community Facilities Agreement will be beneficial to the residents of their respective jurisdictions and to the owners of property within the proposed Community Facilities District.

J. The design, construction, inspection, acceptance, operation and maintenance of the County Facilities shall be accomplished in accordance with the provisions of this Joint Community Facilities Agreement. If the Developer wants to be paid or to be reimbursed for the costs of any County Facility from the proceeds of the Bonds (when and if issued), it must comply with the specific provisions set forth in Article III of this Joint Community Facilities Agreement with respect to the County Facility. If the Developer chooses not to be paid or to seek reimbursement for a particular County Facility from the proceeds of the Bonds, then the Developer shall not be bound by Article III of this Joint Community Facilities Agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual premises and covenants contained herein, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. Unless the context otherwise requires, the terms defined in this Article I shall have the meaning herein specified when used in this Joint Community Facilities Agreement:

"Acceptable Title" means title to land, or an easement therein, delivered free and clear of all liens, taxes, assessments, leases, easements and encumbrances, whether any such item is recorded or unrecorded, except those non-monetary items which are reasonably determined by the County not to interfere with the intended use of such land or easement and therefore are not required to be cleared from title.

"Acceptance Date" means, with respect to any County Facility, the date that the County Facility is accepted by the County into its maintained system.

"Act" means the Mello-Roos Community Facilities Act of 1982, constituting Section 53311 *et seq.* of the Code, as amended.

"Actual Cost" means, with respect to a County Facility, to the extent authorized by law, an amount equal to the sum of (a) the Developer's actual, reasonable cost of constructing such County Facility, including labor, material and equipment costs, (b) the Developer's actual reasonable cost of designing and preparing the Plans, Specifications, and Estimates for such County Facility, including engineering services provided in connection with designing and preparing such Plans, Specifications, and Estimates, (c) the Developer's actual, reasonable cost of environmental evaluations required specifically for such County Facility and any mitigation measures required by any governmental agency with jurisdiction with regard to such County Facility, or portions thereof, (d) the amount of any fees actually paid by the Developer to governmental agencies in order to obtain permits, licenses or other necessary governmental approvals and reviews for such County Facility, including but not limited to plan check and inspection fees by the County, (e) the Developer's actual reasonable cost for professional services directly related to the construction of such County Facility, including engineering, legal, inspection, construction staking, materials testing and similar professional services, (f) the Developer's actual, reasonable cost, as determined by the County Engineer, for construction management, bid administration and contract administration services which shall not exceed 2% of construction costs, (g) the Developer's actual reasonable cost of payment, performance or maintenance bonds and insurance for such County Facility, (h) the Developer's actual, reasonable cost of any real property or interest therein acquired after the date on which the Community Facilities District is established pursuant to the Act from a party other than the Developer, which real property or interest therein is either necessary for the construction of such County Facility (e.g., temporary construction easements, haul roads, etc.) or is required to be

conveyed with such County Facility in order to convey Acceptable Title thereto to the County, all as specified in a Payment Request that is to be reviewed and approved by the County Engineer; provided, however, that (x) no item of cost relating to a County Facility shall be included in more than one category of cost specified in clauses (a) through (h) of this definition, and (y) each item of cost shall include only amounts actually paid by the Developer to third parties and shall not include overhead or other internal expenses of the Developer, except that, if Developer employees perform construction management, bid administration or contract administration services with respect to a County Facility, the actual reasonable cost of the salaries and benefits paid by the Developer to such employees for performing such services may be included as an item of cost relating to such County Facility for the category of cost specified in clause (f) of this definition and subject to the 2% limitation specified in clause (f).

"Administrator" means the Assistant Superintendent, Business Services of the School District (or any successor to the responsibilities thereof if such office is no longer in existence), or his/her designee as specified in the written certificate to be provided pursuant to Section 6.18. hereof.

"Board " means the Board of Education of the School District.

"Board of Supervisors" means the Board of Supervisors of the County.

"Bonds" means the special tax bonds that the Community Facilities District may attempt to sell and issue in one or more series for Improvement Area No. 1 if the Proceedings are approved, a portion of the proceeds of which may be used to finance the acquisition and construction of the County Facilities.

"Business Day" means a day which is not a Saturday or Sunday or a day of the year on which the County is not required or authorized to be open.

"CEQA" means the California Environmental Quality Act (CEQA), constituting Section 21000 *et seq.* of the California Public Resources Code, as amended.

"Code" means the California Government Code.

"Community Facilities District" means "Community Facilities District No. 41 of Riverside Unified School District," a community facilities district to be formed and organized under the Act.

"Construction Site" means the sites on which the County Facilities are to be constructed, including off site staging areas and material storage areas.

"County" means the County of Riverside, a political subdivision of the State, and its successors.

"County Engineer" means the Director of Transportation of the County (or any successor to the responsibilities thereof if such office is no longer in existence), or his/her designee as specified in the written certificate to be provided pursuant to Section 6.18. hereof.

"County Facilities" means the street improvements as identified and described in Exhibit B attached hereto that are to be owned, operated and maintained by the County.

"County Facility" means any individual facility as identified and described in Exhibit B.

"County Facilities Account" means the account (however denominated) to be established pursuant to the Indenture to hold that portion of Bond proceeds to be applied to pay the Purchase Price for each County Facility.

"Developer" means R-Hearthstone Lot Option Pool 3, L.P. a limited partnership, organized and existing under the laws of the State, and its successors and assigns, acting as the master developer of infrastructure within Improvement Area No. 1, including but not limited to the County Facilities.

"Developer's Representative" means the person executing this Joint Community Facilities Agreement or the person or persons designated as such by the Developer in a certificate signed by the Developer and delivered to the School District, the Community Facilities District, and the County consistent with Section 6.18. below.

"General Prevailing Wage Rates" means those rates as determined by the Director of the Department of Industrial Relations of the State pursuant to Sections 1770, *et seq.* of the Labor Code of the State that are applicable to construction activity within the County.

"Hazardous Material" means any and all pollutants, wastes, flammables, explosives, radioactive materials, hazardous or toxic substances, material or waste which is or becomes regulated by any local governmental authority, the State or the Federal government and specifically includes, without limitation, any material or substance which is (i) designated as "hazardous substance" pursuant to Section 3111 of the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251 *et seq.* (33 U.S.C. Section 1321), (ii) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 *et seq.* (42 USC Section 6903), (iii) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 *et seq.*, (iv) petroleum or petroleum products, (v) asbestos, (vi) hydrocarbons, or (vii) polychlorinated biphenyl ("PCB") or PCB-containing materials.

"Improvement Area No. 1" means Improvement Area No. 1 of the Community Facilities District.

"Indenture" or "Indentures" means each indenture, trust agreement, resolution, fiscal agent agreement or similar instrument, regardless of title, pursuant to which bonds, notes or other evidences of indebtedness of the Community Facilities District have been issued and are outstanding, as originally executed or as the same may from time to time be supplemented or amended pursuant to the provisions thereof.

"Joint Community Facilities Agreement" means this Joint Community Facilities Agreement, dated as of _____, 2023, by and among the County, the School District, and the

Developer, as originally executed or as the same may be amended from time to time in accordance with its terms.

"Legislative Body" means the Board, acting *ex officio* as the legislative body of the Community Facilities District.

"Payment Request" means the document to be provided by the Developer to the County Engineer to substantiate the Purchase Price of one or more of the County Facilities, which shall be substantially in the form of Exhibit F attached hereto.

"Plans, Specifications, and Estimates" mean the plans specifications, and estimates for the County Facilities prepared or to be prepared at the direction of the Developer pursuant to Section 4.1 hereof.

"Proceedings" means those proceedings to be undertaken by the Board to consider the formation of the Community Facilities District and the approval by said Board and the qualified electors of Improvement Area No. 1 of the Community Facilities District and the authorization to levy special taxes therein pursuant to the Rate and Method and to incur bonded indebtedness to finance the construction and acquisition of certain public improvements and by the Legislative Body to sell and issue the Bonds.

"Public Contract Code" means the Public Contract Code of the State.

"Purchase Price" means, subject to the provisions of Section 3.2 hereof and Exhibit D attached hereto, the Actual Cost of a County Facility as determined by the County Engineer.

"Rate and Method" means the rate and method of apportionment of special taxes authorized to be levied within Improvement Area No. 1 pursuant to the Proceedings.

"School District" means the Riverside Unified School District, a school district organized and existing pursuant to the laws of the State.

"School Mitigation Agreement" means the School Facilities Mitigation Agreement or other similar agreement entered into by and between the School District and the Developer, as originally executed or as the same may be amended from time to time in accordance with its terms.

"State" means the State of California.

"Tract" means Tract Map No. 38025-1.

ARTICLE II

CONDITIONS PRECEDENT

Section 2.1. Proceedings for the Formation of the Community Facilities District: Costs of Formation. The Developer has submitted to the School District an application requesting that the Proceedings be initiated by the School District to form the Community Facilities District for the purpose of financing the acquisition and construction of certain public facilities, including the County Facilities, and to authorize the levy of special taxes within Improvement Area No. 1 of the Community Facilities District pursuant to the Rate and Method and the incurrence of bonded indebtedness to finance the construction and acquisition of said public facilities and for the Legislative Body to authorize the sale and issuance of the Bonds pursuant to the Act and the applicable Indenture.

Should the formation of the Community Facilities District be approved to finance the acquisition and construction of the County Facilities, the Legislative Body will use its best efforts to cause the Bonds to be sold and issued in one or more series, pursuant to the terms of the Act, the applicable Indenture and the applicable sections of the School Mitigation Agreement. A portion of the proceeds of the Bonds are intended to provide funds that will allow the Community Facilities District to finance all or a portion of the costs of constructing and acquiring the County Facilities. Should the Board not approve the formation of the Community Facilities District and/or the Legislative Body not sell and issue any Bonds, the School District, the County and the Developer will not be bound by the terms of this Joint Community Facilities Agreement and it shall be considered null and void by the parties to it. The School District will notify all parties, pursuant to Section 6.7 hereof, within fifteen (15) calendar days of either event occurring.

The Developer acknowledges that the decision of the Board to approve the formation of the Community Facilities District and of the Legislative Body to authorize the sale and issuance of the Bonds is an exercise of legislative discretion by the Board and Legislative Body, respectively, and the School District may not enter into a contract or obligate either the Board or the Legislative Body to exercise its legislative discretion in a particular manner. This Joint Community Facilities Agreement does not, therefore, in any way create a contractual, legal or equitable obligation of or commitment by the Board to approve the formation of the Community Facilities District or the Legislative Body to authorize the sale and issuance of the Bonds.

The Board and the Legislative Body shall have the jurisdiction to and shall be solely responsible for undertaking the Proceedings consistent with the provisions of the Act, each Indenture and the School Mitigation Agreement.

The County is not directly or indirectly approving or responsible in any way whatsoever for: (i) the levy of special taxes within the Community Facilities District or (ii) the issuance of the Bonds. The County shall not be responsible in any way whatsoever for the costs of formation of the Community Facilities District.

Section 2.2. Reserved.

Section 2.3. Addendum to Exhibit B of this Joint Community Facilities Agreement for Modification of the County Facilities. It is the intent of both the Developer and the School District to cause one or more series of Bonds to be issued. All of the County Facilities eligible to be financed by the Community Facilities District for Improvement Area No. 1 are identified in Exhibit B. The descriptions of the County Facilities are general, and any minor differences between the County Facilities described in Exhibit B and those County Facilities actually acquired hereunder shall not prevent the financing of such County Facilities. Further refinement of the descriptions of the County Facilities may be addressed by an addendum to Exhibit B that is to be prepared by the County Engineer and executed by the Administrator, the County Engineer and the Developer and will not require further amendment to this Joint Community Facilities Agreement. Other than the modifications described in the previous sentence, should there be additional amendments deemed necessary by the County to be made to this Joint Community Facilities Agreement, any necessary amendments to this Joint Community Facilities Agreement be made pursuant to Section 6.4. hereof, and such amendments shall be made prior to the authorization by the Legislative Body to sell and issue any additional series of Bonds the proceeds of which will be used to finance the particular County Facilities requiring a modification of their description.

Section 2.4. Fee Deposit with County for Preparation and Implementation of this Joint Community Facilities Agreement. The Developer has deposited with the County Executive Officer or his or her designee (the "Special Districts Administrator") an aggregate amount of four thousand dollars (\$4,000) for the joint community facilities agreement that is to be prepared with regard to the Community Facilities District, to be held in a trust account to cover all costs incurred in drafting, preparing and implementing this Joint Community Facilities Agreement. The Special Districts Administrator will prepare an accounting of the costs incurred and provide an accounting to the Developer. If the amount deposited is insufficient to cover such costs, the Developer will cause an additional amount to be deposited with the Special District Administrator within thirty (30) calendar days of being provided a written request for the additional funds. The amounts deposited with the Special District Administrator that have not been used will be returned to the Developer. Any portion of the amounts deposited with the Special District Administrator that are used for the purposes identified above shall be reimbursable to the Developer from the proceeds of the Bonds.

ARTICLE III

ACQUISITION OF COUNTY FACILITIES

Section 3.1. Acquisition of County Facilities. The provisions of this Article III shall apply only to those County Facilities that the Developer elects to finance with the proceeds of the Bonds deposited in the County Facilities Account.

For such County Facilities, the Developer hereby agrees to transfer to the County each of the County Facilities and the Community Facilities District, when and if formed, hereby agrees to pay the Purchase Price(s) therefor, subject to the terms and conditions hereof and the School Mitigation Agreement. Acceptable Title to any parcels on which such County Facilities are constructed and for which title is not presently held by the County as well as Acceptable Title to such County Facilities shall be transferred to the County as of the Acceptance Date; provided, however, that notwithstanding such transfer, as provided in Section 4.10. hereof, the Developer shall be solely responsible for the maintenance of each such County Facility until the Acceptance Date of said County Facility.

The Purchase Price for each such County Facility will be paid solely from the amounts on deposit in the County Facilities Accounts established by the applicable Indentures for the issuance of Bonds, and the Community Facilities District shall not be obligated to pay the Purchase Price of any County Facility except from the amounts on deposit in said County Facilities Account. None of the School District, the Community Facilities District or the County makes any warranty, either expressed or implied, that the proceeds of the Bonds deposited in such County Facilities Accounts, and interest earnings, will be sufficient to pay the full amount of the Purchase Price of the County Facilities or any specific County Facility.

It is understood by the Developer that the net principal amount of the Bonds that will be deposited in the County Facilities Account, pursuant to the terms of the School Mitigation Agreement and the applicable Indenture, and any investment earnings thereon, may not be sufficient to pay the full amount of the Purchase Prices for the County Facilities, or any County Facility, at the time a Payment Request is approved by the County Engineer. If the amounts on deposit in the applicable County Facilities Account, at the time a Payment Request is approved by the County Engineer and submitted to the Administrator for payment, are not sufficient to pay the Purchase Price for any County Facility, the timing of the payment of the Purchase Price and the proportionate amount of the Purchase Price to be paid will be determined consistent with the terms of the School Mitigation Agreement. It is understood that, at all times, for the purpose of this Joint Community Facilities Agreement, the construction of the County Facilities that the Developer elects to finance with the proceeds of the Bonds will be accomplished by the Developer with the expectation that the Purchase Price for each such County Facility is to be paid by the Community Facilities District (but solely from the proceeds of the Bonds, if any, issued for and deposited in the County Facilities Account), and that the conveyance of any such County Facility to the County prior to the receipt of the Purchase Price, or any portion thereof, for said County Facility will not constitute or be construed as a dedication, gift, or waiver of the payment of the Purchase Price or any unpaid balance thereof.

Notwithstanding any other provision of this Joint Community Facilities Agreement, the fact that there may not be sufficient funds available in a County Facilities Account to pay the Purchase Price for any such County Facility will not relieve the Developer from its obligation to construct such County Facility consistent with the conditions of approval for the Tract to construct the County Facilities.

Failure of the Developer to fully comply with the terms this Article may result in a denial of the Developer's request for reimbursement of costs incurred in the design, engineering and construction of such County Facilities. Compliance with Article III shall be determined separately for each County Facility.

Each County Facility identified and described in Exhibit B may be acquired by the County pursuant to the terms hereof provided such County Facility has been accepted by the County in accordance with the terms of Article IV Section 13 and otherwise meets the conditions established in this Joint Community Facilities Agreement

Section 3.2. Determination of the Purchase Price; Processing of Payment Requests.

The determination of the Purchase Price for a County Facility shall be made consistent with the provisions of this Section 3.2. and Exhibit D attached hereto.

In order for the County Engineer to be able to determine the Purchase Price and for the Developer to receive the Purchase Price for a completed County Facility, the Developer shall deliver to the County Engineer:

- (a) A complete Payment Request for said County Facility, together with all attachments and exhibits needed to be included therewith;
- (b) A copy of the documents conveying or which previously conveyed to the County Acceptable Title to the real property on, in or over which such County Facility is located, as provided in Section 3.3 hereof, and Acceptable Title to the County Facility.
- (c) A copy of the Notice of Completion for said County Facility that will be filed in accordance with Part 6 of Division 4 (§§ 8000-9566) of the California Civil Code, if applicable. Final lien releases addressed to the School District, the Community Facilities District, and the County must be received by the County Engineer prior to the County Engineer executing the authorization for the Community Facilities District to pay the Purchase Price.
- (d) The Developer's civil engineer of record or construction civil engineer of record duly registered in the State shall provide to the County redlined "as-built" plans and profile sheets for the County Facility. After the County's approval of the redlined "as-built" drawings, the Developer's engineer shall schedule with the County a time to transfer the redlines onto the County's original mylars at the County's office, after which, said engineer shall review, stamp and sign the original mylars "As-Built."

Notwithstanding anything to the contrary contained herein, no payment of the Purchase Price for any County Facility shall be made unless the County has by written notice to the Administrator stated that the County has accepted ownership of the County Facility as

constructed and to include it as part of its maintained road system as of the Acceptance Date.

When the County Engineer has been provided with a complete Payment Request for the Purchase Price and all other documents consistent with Exhibit D, attached hereto as required by the County to determine the Purchase Price, the County Engineer will sign the Payment Request, identifying the completed County Facility and specifying the Purchase Price to be paid, and forward it to the Administrator for payment.

Upon receipt of such a completed Payment Request from the Contract Administrator, the Administrator shall submit it to the fiscal agent or trustee for the County Facilities Account from which the Purchase Price is to be paid together with such other information as the fiscal agent or trustee may require to authorize payment of the Purchase Price from the County Facilities Account. If at the time such a Payment Request is received by the Administrator, there are not sufficient funds on deposit in the applicable County Facilities Account to pay the Purchase Price for the identified County Facility, the Administrator shall notify the Contract Administrator and the Developer of the amount of funds that are on deposit in the County Facilities Account to be applied to payment of a portion of the Purchase Price for the County Facility, and shall authorize the fiscal agent or trustee to pay the available amount to the Developer as a partial payment of the Purchase Price for the County Facility.

Section 3.3. Dedication of Property and Easements to County. Acceptable Title to all property not presently held by the County on, in or over which any County Facility will be located shall be conveyed to the County by way of grant deed, quitclaim, or dedication of such property, or easement thereon, if such easement is approved by the County as being a sufficient interest therein to permit the County to properly own and operate and maintain such County Facility located therein, thereon or thereover, and to permit the Developer to perform its obligations as set forth in this Joint Community Facilities Agreement.

The Developer shall furnish to the County a title report for such property not previously dedicated or otherwise conveyed to the County for review and approval at least thirty (30) calendar days prior to the notice required by Section 4.6 hereof. The County shall approve the title report unless it reveals a matter that, in the sole judgment of the County, could materially affect the County's use and enjoyment of any part of the property or easement covered by the title report. In the event the County does not approve such title report, the County shall notify the Administrator in writing and the County shall not be obligated to accept title to a County Facility, and the Community Facilities District shall not be obligated to pay any portion of the Purchase Price for a County Facility until the Developer has cured such objections to title to the satisfaction of the County.

Consistent with the preceding paragraph, the Developer shall obtain and provide, or cause to be obtained or provided, to the County duly executed irrevocable offer(s) of dedication to the public for road and drainage purposes, including ingress and egress, for rights of way deemed necessary by the County for the construction, inspection, operation and maintenance of the County Facilities. The irrevocable offer(s) of dedication shall be in a form approved by the County and shall be executed by all legal and equitable owners described in the offer.

Section 3.4. Public Works Bid and Construction Requirements.

(a) In order to ensure that a County Facility that is to be acquired with the proceeds of the Bonds will be constructed as if it had been constructed under the direction and supervision, or under the authority of, a public agency, so that they may be acquired pursuant to Sections 53313.5 and 53314.9 of the Code, the Developer shall comply with all of the applicable requirements set forth in the Public Contract Code regarding the notice of bidding and award of a contract for a public works project by a public agency, in this instance the County.

(b) Prior to awarding the construction contract for any County Facilities, the Developer shall submit a bid packet, including the invitation and specifications for submitting a bid and the general and specific conditions regarding the construction of the County Facility, for review and approval to the County Engineer. A copy of the bid packet, once approved, is to be provided to the Administrator. The contract for construction of any County Facility is to be awarded to the responsible bidder submitting the lowest responsive bid after public notice inviting sealed bids. Bids are to be publicly solicited consistent with the applicable provisions of the Public Contract Code dealing with the bidding of public works projects constructed by the County. Public notice is to be given consistent with the Public Contract Code as to the date, time and place where bids will be opened. The County Engineer is to be provided with copies of all bids received consistent with Exhibit C, attached hereto, and an executed declaration, the form of which will be provided by the County Engineer, that all public bidding procedures as required by the County have been complied with.

(c) The Developer shall require, and the Plans, Specifications, and Estimates and the bid and contract documents shall require, all contractors, subcontractors, vendors, equipment operators and owner operators, in each such case to the extent such individuals or entities are engaged to perform work on a County Facility, to pay not less than General Prevailing Wage Rates to all workers employed in the execution of the contract, as required by the California Labor Code, to post a copy of the General Prevailing Wage Rates at the job-site in a conspicuous place available to all employees and applicants for employment, and to otherwise comply with applicable provisions of the California Labor Code, the Code and the California Public Contract Code relating to General Prevailing Wage Rates as required by the specifications approved by the County Engineer. The Developer can obtain a current copy of the tables setting forth the General Prevailing Wage Rates through the Department of Industrial Relation on their website at www.dir.ca.gov.

(d) The Developer shall require each principal contractor to provide proof of insurance coverage to the County and the Administrator satisfying the requirements of Section 4.11. hereof, throughout the term of the construction of the County Facilities. Rather than requiring its principal contractors to provide such insurance, the Developer may elect to provide the same for the benefit of its principal contractors.

(e) Each principal contractor engaged to perform work on the County Facilities shall be required to furnish (i) labor and material payment bonds, and (ii) contract performance bonds, each in an amount equal to 100% of the contract price naming the Developer, the Community Facilities District, the County, and the School District, as additional obligees with an admitted surety insurer which complies with the provisions of Section 995.660 of the California Code of Civil Procedure. All such bonds shall be in the applicable form shown in Exhibit E. The bonds tendered pursuant to this sub-section are to be accepted and held by the County Engineer.

(f) The Developer shall comply, and shall cause each contractor, subcontractor,

(g) vendor, equipment operator and owner operator, in each such case to the extent such individual or entity is engaged to perform work on the County Facilities, to comply, with such other requirements relating to the construction of the County Facilities as the County may impose by written notification delivered to the Developer, to the extent legally required as a result of changes in applicable federal, State or County laws, regulations, rules or procedures.

(h) The Developer shall require, and the Plans, Specifications, and Estimates and the bid and contract documents shall require, all contractors, subcontractors, vendors, equipment operators and owner operators, in each such case to the extent such individuals or entities are engaged to perform work on the County Facilities, to submit certified weekly payroll records or other proof of payment of General Prevailing Wage Rates to the Developer and to furnish certified payroll records or such other proof of payment of General Prevailing Wage Rates to the County Engineer promptly upon request.

(i) All change orders shall be reviewed and, if appropriate, approved by the County Engineer for the purpose of ensuring that they comply with County standards and for the work represented by the change order to be eligible for consideration in determining the Purchase Price.

(j) The Developer shall provide proof to the Administrator and the County Engineer, at such intervals and in such form as the Administrator or the County Engineer may require, that the foregoing requirements have been satisfied as to all of the County Facilities.

(k) The Developer has deposited or will deposit with the County an appropriate amount, as determined by the County, to cover the anticipated costs, deemed necessary and reasonable, associated with the review and approval of the Plans, Specifications, and Estimates, the review and approval of right of way and conveyance documents and with the processing and administration of this Joint Community Facilities Agreement. The Developer, within thirty (30) calendar days after receipt of an additional billing for such costs, will forward the billed amount to the County.

(l) At the time the Developer submits a "Notice of Intent" to commence construction as set forth in Section 4.6. below, the Developer shall deposit with County the estimated cost of providing construction inspection for the County Facilities, in an amount as determined and approved by County in accordance with Ordinance Nos. 671 and 749, including any amendments thereto, of the County, based upon the bonded value of County Facilities to be inspected, operated and maintained by the County.

ARTICLE IV

CONSTRUCTION OF THE COUNTY FACILITIES

This Article IV sets forth the terms and conditions which the Developer shall follow to ensure acceptance of the County Facilities by the County. Failure of the Developer to fully comply with the terms of this Article may result in the County not accepting a County Facility into its maintained system, in which case the Developer may not receive reimbursement for any costs incurred in the design, engineering and construction of such County Facilities under this Joint Community Facilities District. Compliance with this Article shall be determined separately for each County Facility or segment thereof.

Section 4.1. Preparation and Approval of Plans, Specifications and Estimates. To the extent that the Developer has not already done so, it shall cause the Plans, Specifications, and Estimates to be prepared for the County Facilities. The Developer shall obtain the written approval of the Plans, Specifications, and Estimates from the County Engineer. The Developer shall provide the approved copy of all such Plans, Specifications, and Estimates to the Administrator. When the Plans, Specifications, and Estimates have been approved, no changes are to be made thereto without prior written consent of the County Engineer, and all modifications to the approved Plans Specifications, and Estimates are to be provided to the Administrator.

Section 4.2. Duty of Developer to Construct. The Developer shall construct or cause to be constructed the County Facilities in accordance with the Plans, Specifications, and Estimates approved by the County Engineer. The Developer shall perform all of their obligations hereunder and shall conduct all operations with respect to the construction of the County Facilities in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. Notwithstanding the foregoing, nothing set forth in this Joint Community Facilities Agreement shall be construed (i) to require the Developer to perform any work requiring a contractor's license, nor shall the Developer be deemed to be performing construction services pursuant to this Joint Community Facilities Agreement or (ii) require the Developer to cause the Plans and Specifications to be prepared for the County Facilities at a specific time or in a manner other than as required by the approved conditions for the development of the Tract.

Section 4.3. Licenses and Regulatory Permits. The Developer shall secure all necessary licenses, agreements, permits, rights of entry and temporary construction easements (collectively "Licenses") that may be needed for the construction, inspection, operation and maintenance of the County Facilities. The Developer is to secure all permits approvals or agreements, if any, required by the various Federal and State resource and/or regulatory agencies (collectively, the "Regulatory Permits") for the construction, operation and maintenance of the County Facilities. The Regulatory Permits include, but are not limited to, those permits issued by the U.S. Army Corps of Engineers, the State Water Resources Control Board ("SWRCB"), California State Department of Fish and Game and the Regional Water Quality Control Board.

All Licenses and Regulatory Permits secured by the Developer shall be reviewed by the County Engineer prior to execution or acceptance by the Developer to determine whether the conditions they specify are satisfactory to the County to allow it to operate and maintain the County Facilities.

Section 4.4. NPDES Compliance. The Developer shall prepare and implement, or cause to be prepared and implemented, a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the requirement of the State's National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction Activity (SWRCB Order No. 99-08 DWQ) and any amendments thereto (the "General Permit"). The General Permit regulates both stormwater and non-stormwater discharges associated with construction activities required by this Joint Community Facilities Agreement.

The SWPPP shall identify site specific "Best Management Practices" ("BMPs") to be implemented during and after construction to control pollution of stormwater runoff and receiving waters. The identified BMPs shall include, but not be limited to, "good housekeeping" practices for the Construction Site such as establishing stabilized construction access points, providing adequate sanitary/septic waste management, designating vehicle and equipment cleaning/maintenance areas, employing proper material handling and storage practices, maintaining adequate soil stabilization and erosion control practices to control the discharge of pollutants from the Construction Site and any activities thereon. The SWPPP shall also stipulate to an ongoing program for monitoring and maintenance of all BMPs.

The Developer shall be solely responsible throughout the duration of constructing the County Facilities for placing, installing, constructing, inspecting and maintaining all BMPs identified in the SWPPP and amendments thereto and for removing and disposing of temporary BMPs.

The Developer shall become fully informed of and comply with the applicable provisions of the General Permit, Federal, State and local regulations that govern the Developer's activities and operation pertaining to both stormwater and non-stormwater discharges from the Construction Site of the County Facilities and any area of disturbance outside said Construction Site relating to the County Facilities. The Developer shall, at all times, keep copies of the General Permit, approved SWPPP and all amendments at the Construction Site. The SWPPP shall be made available upon request of a representative of the SWRCB, San Diego Regional Water Quality Control Board, or the United States Environmental Protection Agency. The Developer shall, at reasonable times, allow authorized agents of the above cited agencies, upon the presentation of credentials to: (i) enter upon the Construction Site; (ii) have access to and copy any records required to be kept as specified in the General Permit, (iii) inspect the Construction Site and determine whether related soil stabilization and sediment control BMPs have been implemented and maintained, and (iv) sample or monitor stormwater or non- stormwater runoff for purposes of ensuring compliance with the General Permit.

The Developer shall be solely and exclusively responsible for any arrangements made between it and other property owners or entities that result in disturbance of land at the Construction Site.

The Developer shall be responsible for all costs and for any liability imposed by law as a result of its failure to comply with the requirements set forth in this Section, including but not limited to, compliance with the applicable provisions of the General Permit and Federal, State and local regulations. For the purpose of this Section, costs and liabilities include, but are not limited to, fines, penalties and damages whether assessed against the County, the School District, the Community Facilities District or the Developer, including those levied under the Federal Clean Water Act and the State's Porter-Cologne Water Quality Act.

Section 4.5. Cal/OSHA, Confined Space Entry. At all times during the construction of the County Facilities, the Developer shall require all contractors to comply with all Cal/OSHA safety regulations including regulations concerning confined space and maintenance of a safe working environment for the County, the School District and their respective employees on the site. This will include the preparation of a confined space procedure specific for all storm drain facilities. The procedure shall comply with requirements contained in Sections 5157 and 5158 of Title 8 of the California Code of Regulations and the County's "Program Agency Policy 13." The confined space procedure is to be reviewed and approved by the County Engineer before proceeding with construction of the County Facilities.

Section 4.6. Notice of Intent to Commence Construction. Not less than twenty (20) calendar days prior to the date on which it intends to commence construction of a County Facility, the Developer is to provide written "Notice of Intent" to the County Engineer. Construction on the County Facility may not proceed until the County Engineer issues a "Notice to Proceed" to the Developer. The "Notice of Intent" is to include the following documents:

(a) Copies of all Licenses and Regulatory Permits secured pursuant to Sections 4.3 and 4.4, above, including a copy of the Notice of Intent ("NOI") and waste discharge identification number ("WDID No.") received from the SWRCB pursuant to Section 4.4, above.

(b) Copies of the bonds required by Section 3.4(e), above.

(c) Construction Inspection Deposit required by Section 3.4(j) above.

(d) Duly executed irrevocable offer(s) of dedication to the public for road and drainage purposes, including ingress and egress, for the rights of way deemed necessary by the County for the construction, inspection, operation and maintenance of the County Facilities.

(e) Preliminary reports of title dated not more than thirty (30) days prior to date of submission for all property described in the irrevocable offer(s) of dedication.

(f) A complete list of all contractors and subcontractors to be performing work on the County Facilities, including the corresponding license number and license classification of each. On said list, the Developer shall also identify its designated superintendent for construction of the County Facilities.

(g) A construction schedule which shall show the order and dates in which the

Developer and the Developer's contractor proposes to carry on the various parts of work, including estimated start and completion dates. As the construction progresses the Developer shall update said construction schedule upon request.

(h) The final mylar plan and profile sheets for the County Facilities and assign ownership of said documents to the County prior to the start of construction of each County Facility.

(i) Certificates of insurance and endorsements as required by Section 4.11. below.

(j) The confined space procedure as required by Section 4.5. above.

Section 4.7. Bonding Requirements. The Developer shall post such subdivision bonds as are required by the County in connection with the recording of all subdivision maps for each tract within Improvement Area No. 1. The Developer's obligations pursuant to this Section will be considered satisfied, in part, through the contract performance bonds to be provided by the Developer's contractors pursuant to Section 3.4(e) hereof.

Section 4.8. Additional Conditions to be Satisfied during Construction. Construction of the County Facilities shall be on a five (5) day, forty (40) hour workweek with no work on Saturday, Sundays or days designated by the County as legal holidays, unless otherwise approved by the County. If the Developer feels it is necessary to work more than normal forty (40) hour workweek or on holidays, the Developer shall make a written request for permission from the County to work the additional hours. The request shall be submitted to the County at least 72 hours prior to the request date for additional work hours and state the reasons for the overtime and the specific time frames required. The decision granting permission for overtime work shall be made by the County at its sole discretion and shall be final. If permission is granted, the Developer will be charged the cost incurred at the overtime rates for additional inspection time required in connection with the overtime work in accordance with Ordinances Nos. 671 and 749 of the County, including any amendments thereto.

Section 4.9. Inspection: Completion of Construction. The County Engineer shall have primary responsibility for providing inspection of the construction of the County Facilities to ensure that the work of construction is accomplished in accordance with the Plans approved by the County. County staff shall have access to the Construction Site at all reasonable times for the purpose of accomplishing such inspection.

The Developer is to provide the County with written notice that it considers construction of a County Facility to have been completed consistent with the Plans, Specifications, and Estimates and, upon receipt of said notice, County's staff will provide written confirmation that construction of a County Facility is complete consistent with the approved Plans, Specifications, and Estimates and the provisions of this Joint Community Facilities Agreement. Upon receipt of both written notice from the Developer and from County staff, the County Engineer will in a timely manner notify the Developer and the Administrator that the County Facility has been satisfactorily completed and that the Developer is to proceed with the recording of a Notice of Completion with respect to such construction pursuant to Part 6 (§§8000-9566) of the California

Civil Code. The Developer is to provide a duplicate copy of the recorded Notice of Completion to the Administrator and the County Engineer. Within a reasonable time following receipt of the duplicate copy of the recorded Notice of Completion and the Developer's compliance with other provisions of Section 3.2. hereof, the County Engineer will issue the written notice required by said Section 3.2. that it will accept the County Facility into its maintained road system.

Section 4.10. Maintenance of County Facilities; Warranties. The Developer shall maintain the County Facilities in good and safe condition until the Acceptance Date of the County Facilities. Prior to the Acceptance Date, the Developer shall be responsible for maintaining the County Facilities in proper operating condition, and shall perform such maintenance on the County Facilities as the County Engineer reasonably determines to be necessary. As of the Acceptance Date, the performance bond provided by each of the principal contractors for the County Facilities pursuant to Section 3.4(e) hereof shall be reduced to an amount equal to 10% of the original amount thereof and shall serve as a warranty bond to guarantee that the County Facilities will be free from defects due to faulty workmanship or materials for a period of 12 months from the Acceptance Date, or the appropriate principal contractor may elect to provide a new warranty bond or cash in such an amount. As of the Acceptance Date, the Developer and each principal contractor shall assign to County all of their rights in any warranties, guarantees, maintenance obligations or other evidence of contingent obligations of third persons with respect to the County Facilities.

Section 4.11. Insurance Requirements. Without limiting or diminishing the Developer's obligation to indemnify or hold the County, the Community Facilities District, when formed, and the School District harmless pursuant to Section 5.4. hereof, the Developer shall procure and maintain or cause to be maintained, at its sole cost and expense the following insurance coverages, or alternate coverages acceptable to the County's Risk Manager, during the term of this Joint Community Facilities Agreement.

(a) *Commercial General Liability:* Commercial General liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations, explosion, collapse, use of cranes, and other heavy equipment and underground hazards, personal and advertising injury covering claims which may arise from or out of the Developer's performance of its obligations hereunder. The policy shall name by endorsement the County, the Community Facilities District, the School District, their respective directors, officers, Board of Supervisors, Board, Legislative Body, elected officials, employees, agents or representatives as "Additional Insureds." Policy's limit of liability shall not be less than \$2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Joint Community Facilities Agreement or be no less than two (2) times the occurrence limit.

(b) *Vehicle Liability:* Vehicle liability insurance for all owned, non-owned or hired vehicles in an amount not less than \$2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Joint Community Facilities Agreement or be no less than two (2) times the occurrence limit. Policy shall name by endorsement the County, the Community Facilities District, the School District, their respective directors, officers, Board of Supervisors, Board, Legislative Body, elected officials, employees, agents or representatives as "Additional Insureds."

(c) *Workers' Compensation Insurance:* Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupation Disease with limits not less than \$2,000,000 per person per accident. Policy shall be endorsed to waive subrogation in favor of the County, the Community Facilities District, the School District;

General Insurance Provisions - all lines:

(i) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. Best rating of not less than an A:VIII (A:8) unless such requirements are waived, in writing, by the County's Risk Manager.

(ii) The Developer's insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the County's Risk Manager before the commencement of operations under this Joint Community Facilities Agreement. Upon notification of deductibles or self-insured retentions which are deemed unacceptable to the County, at the election of the County's Risk Manager, the Developer's carriers shall either: (i) reduce or eliminate such deductibles or self-insured retentions as respects this Joint Community Facilities Agreement with the County, or (ii) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.

(iii) The Developer shall cause its insurance carrier(s) to furnish the County with (i) a properly executed original certificate(s) of insurance and certified original copies of endorsements effecting coverage as required herein; or (ii) evidence of coverage acceptable to the County's Risk Manager that may include original certified copies of policies including all endorsements and all attachments thereto, showing such insurance is in full force and effect.

(iv) Further, said certificate(s) and endorsements to policies of insurance shall contain the covenant of the insurance carrier(s) that it shall provide no less than sixty (60) days written notice be given to the County, the Community Facilities District, and the School District prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, this Joint Community Facilities Agreement shall terminate forthwith, unless the County, the Community Facilities District and the School District receive, prior to the effective date, of such material modification or cancellation of coverages, another properly executed original certificate of insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverages and the insurance required herein is in full force and effect. Individual(s) authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the certificate of insurance.

(v) The Developer shall not commence construction of the County Facilities until the County and the Administrator have been furnished either original

certificate(s) of insurance and certified original copies of endorsement, policies of insurance including all endorsements and any and all other attachments as required in this Section, or other evidence of coverage acceptable to County's Risk Manager.

(vi) It is understood and agreed by the parties hereto and the Developer's insurance company(s) that the certificate(s) of insurance and policies shall so covenant and shall be construed as primary insurance, and the County's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

(vii) The Developer may pass down to its principal contractors the insurance obligations contained herein and will require its principal contractors to name on their insurance policies by endorsement, the County, the Community Facilities District, the School District, their respective directors, officers, Board of Supervisors, Board, Legislative Body, elected officials, employees, agents or representatives as "Additional Insureds." Copies of such certificates and endorsements shall be provided to the County.

(viii) The Developer agrees to notify the County and the Administrator of any claim by a third party or any incident or event that may give rise to a claim from the performance of this Joint Community Facilities Agreement.

Section 4.12. Ownership of County Facilities. Notwithstanding the fact that some or all of the County Facilities may be constructed in dedicated street rights-of-way or on property which is owned by or has been or will be dedicated to the County, a County Facility shall be and remain the property of the Developer until Acceptable Title to parcels not owned by the County with respect to such County Facility is conveyed to the County, as appropriate, as provided herein, and such County Facility has been formally accepted by the County for ownership, operation and maintenance, except that maintenance of the streetlights is to be performed by County Community Facilities District No. 23-1M. Ownership of said parcels by the Developer or other third parties shall likewise not be affected by any agreement that the Developer may have entered into or may enter into with the County pursuant to the provisions of the Subdivision Map Act, Section 66410 *et seq.* of the Code, and the provisions of this Section shall control.

ARTICLE V

REPRESENTATIONS, WARRANTIES AND COVENANTS; INDEMNIFICATION

Section 5.1. Representations, Warranties and Covenants of the Developer. The Developer, as the developer of the Tract encompassed within the proposed boundaries of Improvement Area No. 1 of the Community Facilities District, makes the following representations, warranties and covenants for the benefit of the County, the School District and the Community Facilities District, when formed, as of the date hereof:

(a) Organization. The Developer represents and warrants that it is a limited liability company duly organized and validly existing under the laws of the State of California, is in good standing under the laws of the State, and has the power and authority to own its properties and assets and to carry on its business as now being conducted and as now contemplated in the Community Facilities District.

(b) Authority. The Developer represents and warrants that it has the power and authority to enter into this Joint Community Facilities Agreement, and has taken all action necessary to cause this Joint Community Facilities Agreement to be executed and delivered, and this Joint Community Facilities Agreement has been duly and validly executed and delivered on behalf of the Developer.

(c) Binding Obligation. The Developer represents and warrants that this Joint Community Facilities Agreement is a valid and binding obligation of the Developer and is enforceable against the Developer in accordance with its terms, subject to bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights in general and by general equity principles.

(d) Completion of County Facilities. The Developer covenants that it will use its commercially reasonable and diligent efforts to do all commercially reasonable things that may be lawfully required of it in order to cause the County Facilities, the construction of which have been made a condition for the development of the Tract, to be completed in accordance with this Joint Community Facilities Agreement.

(e) Compliance with Laws. The Developer covenants that, while the County Facilities are owned by the Developer or required pursuant to this Joint Community Facilities Agreement to be maintained by the Developer, it will not commit, suffer or permit any of its agents, employees or contractors to commit any act to be done in, upon or to the County Facilities in violation in any material respect of any law, ordinance, rule, regulation or order of any governmental authority or any covenant, condition or restriction now or hereafter affecting the County Facilities.

(f) Payment Requests. The Developer represents and warrants that (i) it will not request payment from the Community Facilities District under this Joint Community Facilities Agreement for the acquisition of any improvements that are not

part of a County Facility, and (ii) it will diligently follow all procedures set forth in this

Joint Community Facilities Agreement and provide to the County Engineer all information requested by the County Engineer in order for the County Engineer to complete a Payment Request and determine the Purchase Price of a County Facility.

(g) Financial Records. Until the final Acceptance Date of all County Facilities, the Developer covenants to maintain proper books of record and account for the County Facilities and all costs related thereto. The Developer covenants that such accounting books will be maintained in accordance with generally accepted accounting principles, and will be available for inspection by the Community Facilities District, the County and the School District, and their respective agents, at any reasonable time during regular business hours on two (2) Business Days' prior written notice, subject to mutually acceptable arrangements regarding the confidentiality of proprietary data.

(h) Hazardous Materials. The Developer represents and warrants that neither the Developer, nor its principal contractors or any subcontractor, agent or employee thereof will use, generate, manufacture, procure, store, release, discharge or dispose of any Hazardous Material on, under or about the Construction Site or the County Facilities or transport any Hazardous Material to or from the Construction Site or the County Facilities in violation of any federal, state or local law, ordinance, regulation, rule, decision or policy statement regulating Hazardous Material.

(i) Permits. The Developer covenants that it will pursue in a commercially reasonable manner all governmental or other permits or licenses required to proceed with the construction of the County Facilities and that it will pay all fees relating thereto. The Developer represents and warrants that to the best of the Developer's knowledge, as of the date hereof, there is no material legal impediment to the Developer's proceeding with and completing the construction of the County Facilities or to the development of the Construction Site as contemplated by the Developer, except for government or other permits to be obtained.

(j) Developer's Responsibilities. Whether or not a County Facility is acquired from the proceeds of the Bonds, the Developer accepts responsibility for and shall be responsible for identification and compliance with all applicable laws pertaining to constructing and installing the County Facilities and the contract or contracts pertaining thereto, including the laws that would apply to the County if it were constructing the County Facilities itself as set forth in the Joint Community Facilities Agreement. Notwithstanding the requirements of this Joint Community Facilities Agreement the County, the School District and the Community Facilities District make no representation as to the applicability or inapplicability of any laws regarding contracts, including contracts related to the construction and installation of the County Facilities, and especially the matters of competitive bidding and payment of prevailing wages. Any of the County, the School District or the Community Facilities District may, in its sole discretion, supply guidance to the Developer with respect to laws governing the construction of the County Facilities if requested to do so by the Developer. Whether or not any or all of them have done so, the Developer will neither seek to hold nor hold them liable for any consequences of any failure by the Developer to correctly determine applicability of any such requirements to any contract it enters into, irrespective of whether the County, the School District, or the Community Facilities District, as the case

may be, knew or should have known about applicability of any such requirement.

Section 5.2. Representations, Warranties and Covenants of the School District.

The School District makes the following representations, warranties and covenants for the benefit of the County, the Community Facilities District, when formed, and the Developer, as of the date hereof:

(a) Authority. The School District represents and warrants that the School District has the power and authority to enter into this Joint Community Facilities Agreement and has taken all actions necessary to cause this Joint Community Facilities Agreement to be executed and delivered, and this Joint Community Facilities Agreement has been duly and validly executed and delivered on behalf of the School District.

(b) Binding Obligation. The School District represents and warrants that this Joint Community Facilities Agreement is a valid and binding obligation of the School District and is enforceable against the School District in accordance with its terms, subject to bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights in general and by general equity principles.

(c) Payment Requests. The School District represents and warrants that it will cause the Community Facilities District to process, in a timely manner, all completed and approved Payment Requests submitted to it by the County Engineer and follow all procedures applicable to it as set forth in this Joint Community Facilities Agreement and the School Mitigation Agreement.

(d) Financial Records. The School District covenants to maintain, or cause to be maintained, books of record and account for the proceeds of the Bonds, levy and collection of special taxes and the payment of principal of and interest on the Bonds in accordance with the requirements of the Indentures and the Act.

Section 5.3. Representations, Warranties and Covenants of the County. The County makes the following representations, warranties and covenants for the benefit of the School District, the Community Facilities District, when formed, and the Developer, as of the date hereof:

(a) Authority. The County represents and warrants that the County has the power and authority to enter into this Joint Community Facilities Agreement, and has taken all action necessary to cause this Joint Community Facilities Agreement to be executed and delivered, and this Joint Community Facilities Agreement has been duly and validly executed and delivered on behalf of County.

(b) Binding Obligation. The County represents and warrants that this Joint Community Facilities Agreement is a valid and binding obligation of the County and is enforceable against the County in accordance with its terms, subject to bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights in general and by general equity principles.

(c) CEQA Compliance. The County represents and warrants that it has taken all actions necessary under CEQA to allow for the development of the Tract and the construction, of the public improvements identified as the County Facilities.

(d) Completion of County Facilities. The County covenants that it will use its reasonable and diligent efforts to take expeditiously all actions that may be lawfully required of it in issuing permits, processing and approving Plans and Specifications and inspecting the County Facilities in accordance with this Joint Community Facilities Agreement.

(e) Payment Requests. The County represents and warrants that it will cause the County Engineer to process all complete Payment Requests it receives in a timely manner consistent with the procedures set forth in this Joint Community Facilities Agreement.

(f) Issuance of Tax-Exempt. Bonds. In connection with the issuance of any Bonds, a portion of the proceeds of which are to be made available to finance the acquisition, construction and installation of County Facilities, County hereby represents and warrants that it will execute and deliver such certifications and agreements as may be reasonably required in order for bond counsel to conclude whether interest on such Bonds will be excludable from gross income under Section 103 of the Internal Revenue Code of 1986 and any amendments thereto. The decision regarding whether to issue bonds for County Facilities, and, if so, whether they should be taxable or tax exempt, shall be the decision of the Legislative Body in its sole discretion.

Section 5.4. The Developer Indemnification. The Developer agrees to protect, indemnify, defend and hold the School District, the Community Facilities District, when formed, the County, and their respective directors, officers, Board, Board of Supervisors, Legislative Body, elected officials, employees, representatives and agents (the "Indemnified Parties"), and each of them, harmless from and against any and all claims, losses, liabilities, expenses, suits, actions, decrees, judgments, awards, reasonable attorneys' fees, and court costs which the Indemnified Parties, or any combination thereof, may suffer or which may be sought against or recovered or obtained from the Indemnified Parties, or any combination thereof, as a result of or by reason of or arising out of or in consequence of any acts, omissions, negligence or willful misconduct of Developer, its employees, contractors, or agents in connection with (a) the approval and performance of this Joint Community Facilities Agreement, (b) the acquisition, construction, or installation of the County Facilities, (c) the design, construction, or failure of the County Facilities, (d) the untruth or inaccuracy of any representation or warranty made by the Developer in this Joint Community Facilities Agreement or in any certifications delivered by the Developer hereunder, or (e) any act or omission of the Developer or any of its contractors, subcontractors, or their respective officers, employees or agents, in connection with the County Facilities or its responsibilities or obligations under this Joint Community Facilities Agreement. If the Developer fails to do so, the Indemnified Parties, or each of them, shall have the right, but not the obligation, to defend the same and charge all of the direct or incidental costs of such defense, including reasonable attorneys' fees or court costs, to and recover the same from the Developer.

No indemnification is required to be paid by the Developer as to an Indemnified Party for

any claims, losses, liabilities, expenses, suits, actions, decrees, judgments, awards, reasonable attorneys' fees, and court costs (a) arising directly from the willful misconduct or sole or active negligence of that Indemnified Party or (b) arising from the use or operation of a County Facility after the Acceptance Date of the County Facility, unless such claims, losses, liabilities, expenses, suits, actions, decrees, judgments, awards, reasonable attorneys' fees, and court costs results from the defective or improper design, construction or installation of such County Facility by the Developer or its contractors, subcontractors, or respective officers, employees or agents.

The provisions of this Section shall survive the termination of this Joint Community Facilities Agreement.

ARTICLE VI

MISCELLANEOUS

Section 6.1. The Developer as Independent Contractor. In performing under this Joint Community Facilities Agreement, it is understood that the Developer is acting as an independent contractor, and not as an agent of the School District, the Community Facilities District or the County. Neither the School District nor the County shall have any responsibility for payment to any contractor, subcontractor or supplier of the Developer. The Community Facilities District shall not have any responsibility for payment to any contractor, subcontractor or supplier of the Developer unless such entity or individual is specifically listed as a payee on a Payment Request submitted by the Developer pursuant to this Joint Community Facilities Agreement in which case the Community Facilities District shall be responsible for making such payment only if such Payment Request is approved pursuant to the provisions of this Joint Community Facilities Agreement and the School Mitigation Agreement and only from funds available in the applicable County Facilities Accounts.

It is not intended by the parties that this Joint Community Facilities Agreement create a partnership or joint venture among them, and this Joint Community Facilities Agreement shall not otherwise be construed.

Section 6.2. Other Agreements. Nothing contained herein shall be construed as affecting the School District's, County's or the Developer's respective duty to perform its respective obligations under other agreements, land use regulations or subdivision requirements relating to the development of the Tract, which obligations are and shall remain independent of the School District's rights and obligations, the Developer's rights and obligations and the County's rights and obligations under this Joint Community Facilities Agreement; provided, however, that the Developer shall use its commercially reasonable and diligent efforts to perform each and every covenant to be performed by it under any lien or encumbrance, instrument, declaration, covenant, condition, restriction, license, order, or other agreement, the nonperformance of which could reasonably be expected to materially and adversely affect the acquisition, construction and installation of the County Facilities to be financed with the proceeds of the Bonds.

Section 6.3 Binding on Successors and Assigns. The Developer may assign its duties and obligations pursuant to this Joint Community Facilities Agreement to one or more purchasers of its property, except the purchaser of a single-family residential unit, the owner of a multi-family residential complex or the end user of a non-residential parcel, and to whom said Developer shall assign the right to receive payment of the Purchase Price for the County Facilities. Such a purchaser and assignee shall, as a condition to receiving payment of the Purchase Price, enter into an assignment agreement with the County, the School District and the Community Facilities District, in a form acceptable to the County, the School District and the Community Facilities District, whereby such purchaser agrees, except as may be otherwise specifically provided therein, to assume the duties and obligations of the Developer pursuant to this Joint Community Facilities Agreement and to be bound thereby. Neither this Joint Community Facilities Agreement nor the duties and obligations of the County, the School

Developer: R-Hearthstone Lot Option Pool 03, L.P.
Attn: Steven C. Porath
23975 Park Sorento, Suite 220
Calabasas, CA 91302
Telephone: 818-385-3543

Each such notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication hereunder shall be deemed delivered to the party to whom it is addressed (a) if personally served or delivered, upon delivery, (b) if given by electronic communication, whether by telex, telegram or telecopier, upon the sender's receipt of a document confirming satisfactory transmission, (c) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, 72 hours after such notice is deposited with the United States mail, (d) if given by overnight courier, with courier charges prepaid, 24 hours after delivery to said overnight courier, or (e) if given by any other means, upon delivery at the address specified in this Section.

Section 6.8. Jurisdiction and Venue. Each of the School District, the County and the Developer (a) agrees that any suit action or other legal proceeding arising out of or relating to this Joint Community Facilities Agreement shall be brought in state or local court in the County of Riverside or in the Courts of the United States of America in the district in which said County is located, (b) consents to the jurisdiction of each such court in any suit, action or proceeding, and (c) waives any objection that it may have to the laying of venue or any suit, action or proceeding in any of such courts and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. Each of the School District, the County and the Developer agrees that a final and non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

Section 6.9. Entire Agreement. This Joint Community Facilities Agreement contains the entire agreement between the parties with respect to the matters provided for herein and supersedes all prior agreements and negotiations between the parties with respect to the subject matter of this Joint Community Facilities Agreement except for such matters that are the subject of the School Mitigation Agreement.

Section 6.10. Governing Law. This Joint Community Facilities Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State applicable to contracts made and performed in the State.

Section 6.11. Severability. If any part of this Joint Community Facilities Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Joint Community Facilities Agreement shall be given effect to the fullest extent reasonably possible.

Section 6.12. Attorney's Fees. If any action is instituted to interpret or enforce any of the provisions of this Joint Community Facilities Agreement, each Party shall be responsible for their own attorney's fees.

Section 6.13. Usage of Words. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

Section 6.14. Counterparts. This Joint Community Facilities Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 6.15. Time is of the Essence. Time is of the essence with respect to the Developer's performance of its obligations under this Joint Community Facilities Agreement.

Section 6.16. Merger Clause. This Agreement contains the entire agreement between the Parties with respect to matters specifically addressed herein and supersedes any prior oral or written statements, negotiations, or understandings concerning such matters which are hereby merged into this Joint Community Facilities Agreement.

Section 6.17. Interpretation. The parties to this Joint Community Facilities Agreement and their counsel have reviewed and revised this Joint Community Facilities Agreement, and the normal rule of construction to the effect that any ambiguities in an agreement are to be resolved against the drafting parties shall not be employed in the interpretation of this Joint Community Facilities Agreement.

Section 6.18. Designation of Party's Representative. Each party is to prepare a certificate designating the person or persons that are to serve as the liaison between the County and the Community Facilities District regarding design, engineering and construction of the County Facilities. The certificates are to contain an original and specimen signature of each designated person. The certificates are to be provided to the County and the Community Facilities District at the time the first series of Bonds are issued.


Section 6.19. Nature of Joint Community Facilities Agreement; Allocation of Special Taxes. This Joint Community Facilities Agreement shall constitute a joint community facilities agreement entered into pursuant to Sections 53316.2, 53316.4 and 53316.6 of the Code. The entire amount of the proceeds of the special taxes levied pursuant to each Rate and Method shall be allocated and distributed to the Community Facilities District.

[Balance of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Community Facilities Agreement as of the day and year first herein above written.


RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE


By: 
Mark Lancaster
Director of Transportation

APPROVED AS TO FORM:

Minh C. Tran
County Counsel

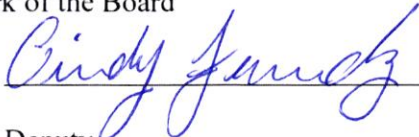
By: 
Michael Thomas
Deputy County Counsel

APPROVAL BY THE COUNTY BOARD OF SUPERVISORS:

By: 
Kevin Jeffries
Chairman, County Board of Supervisors

ATTEST:

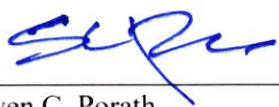
Kimberly Rector
Clerk of the Board

By: 
Deputy

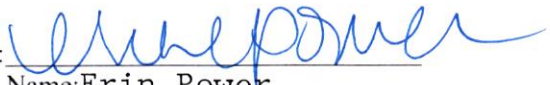
DEVELOPER

R-Hearthstone Lot Option Pool 03, L.P., a Delaware limited partnership


By: R-Hearthstone PBLOVJ GP, LLC, a Delaware limited liability company, its General Partner

By: 
Steven C. Porath
Authorized Representative

RIVERSIDE UNIFIED SCHOOL DISTRICT

By: 
Name: Erin Power
Title: Assistant Superintendent, Business Services

ATTEST:

By: 
Name: Thomas R. Hunt, Clerk
Title: Board of Education

AUG 01 2023 3:05

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of Los Angeles }

On June 15, 2023 before me, Karen S. Hornback, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Steven C. Porath
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Karen S Hornback
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian of Conservator

Other: _____

Signer is Representing: _____

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian of Conservator

Other: _____

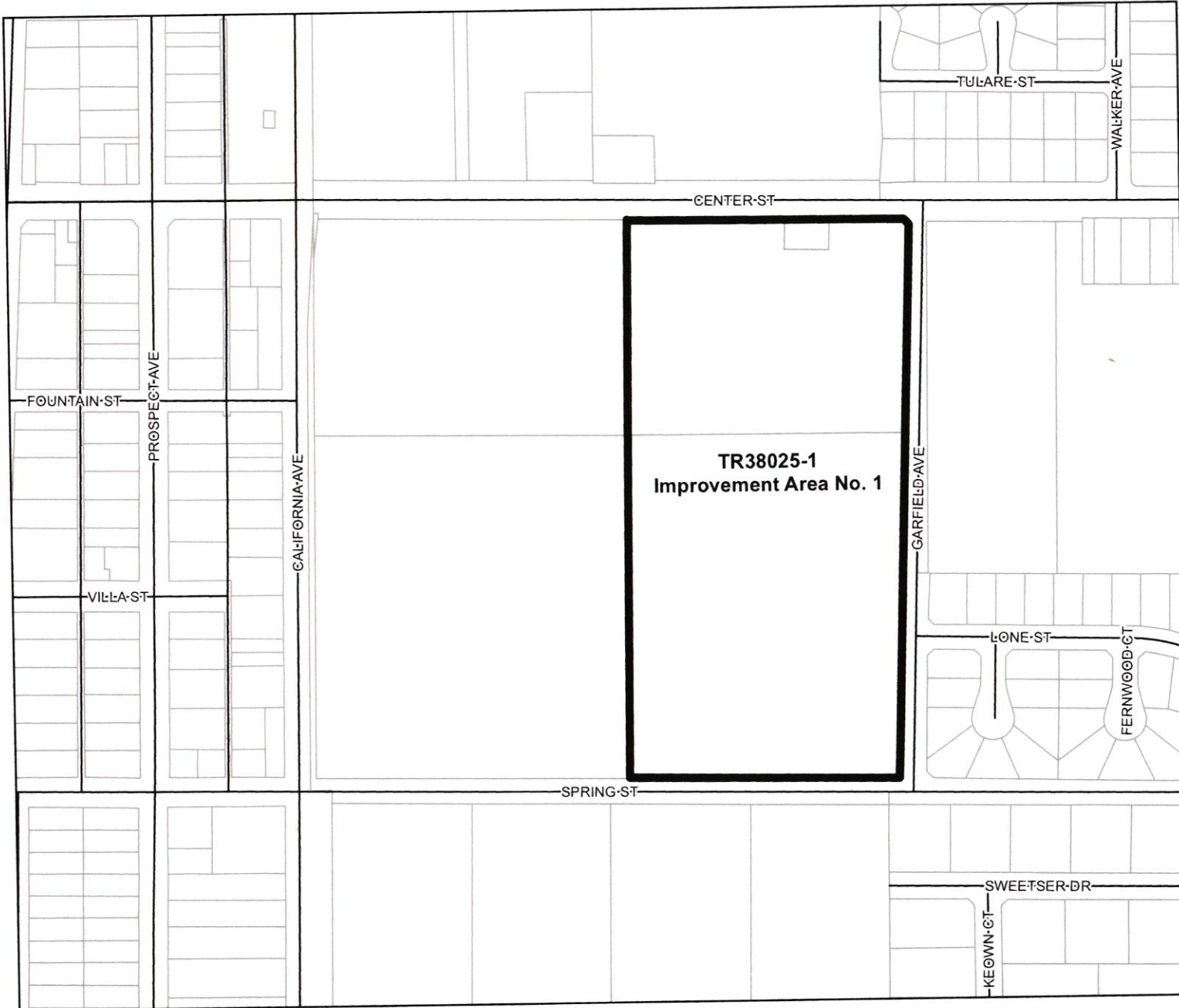
Signer is Representing: _____

EXHIBIT A

**Map of Area Proposed to be Included Within
Community Facilities District No. 41
of Riverside Unified School District
Improvement Area No. 1**


[ATTACHED BEHIND THIS PAGE]


RIVERSIDE UNIFIED SCHOOL DISTRICT COMMUNITY FACILITIES DISTRICT No. 41 IMPROVEMENT AREA No. 1 Tract Map No. 38025-1



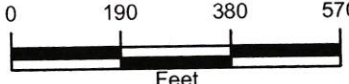
SAN BERNARDINO COUNTY

VICINITY MAP




PROPOSED CFD BOUNDARY



N



 0 190 380 570
 Feet

Disclaimer: Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

EXHIBIT B

COUNTY FACILITIES

**Community Facilities District No. 41
of Riverside Unified School District, Improvement Area No. 1**

Facility Description:	Estimated Costs ⁽¹⁾
<p>1. Garfield Street TR 38025-1 (MS4415) - Offsite Street Improvements. Facility Improvements From Station 10+00.00 To Station 22+83.75</p> <p>Approximately 1,284 linear feet of partial width street improvements including, but not limited to aggregate base, asphalt concrete pavement, curb and gutter, sidewalk, removal of existing ac berm, sawcut and join existing pavement, and curb ramp, roadway excavation, site preparation and erosion control. The total cost also includes but is not limited to designing and preparing plan, specifications and estimates, plan check & inspection, construction management, and bid preparation.</p>	<p>\$363,600</p>
<p>2. Spring Steet TR 38025-1 (MS4415) - Offsite Street Improvements. Facility Improvements From Station 6+47.71 To Station 20+00.00.</p> <p>Approximately 1,353 linear feet of partial width street improvements including, but not limited to aggregate base, asphalt concrete pavement, curb and gutter, type D curb, cross gutters, sidewalk, sawcut and join existing pavement, grinding and overlay existing pavement, curb ramp, roadway excavation, site preparation and erosion control. The total cost also includes but is not limited to designing and preparing plan, specifications and estimates, plan check & inspection, construction management, and bid preparation.</p>	<p>\$384,000</p>
<p>2. Highgrove Town Center Avenue TR 38025-1 (MS4415) - Offsite Street Improvements Facility. Improvements From Station 10+00.00 To Station 22+82.67.</p> <p>Approximately 1,283 linear feet of partial width street improvements including, but not limited to aggregate base, asphalt concrete pavement, curb and gutter, cross gutters, sidewalk, curb ramps, roadway excavation, site preparation and erosion control, The total cost also includes but is not limited to designing and preparing plan, specifications and estimates, plan check & inspection, construction management, and bid preparation.</p>	<p>\$532,800</p>

TOTAL STREET IMPROVEMENTS

\$1,280,400

⁽¹⁾ Estimated costs include Direct costs, 10% contingency and Indirect Costs estimated at 20%.

EXHIBIT C

Public Works Bidding Requirements Contract Bidding by Developer

Public funding reimbursement or approval by the County of Riverside (County) requires the following, in addition to any applicable requirements of state and federal law:

- ❑ Advertisement for a minimum of ten (10) consecutive days in a newspaper of general circulation (Pub. Cont. Code §20125, Gov. Code §6062). A two to three week bid period is recommended. Proof of publication will be required by the County for verification of advertisement. Failure to advertise the project in a newspaper of general circulation for at least the minimum period of notice will disqualify the developer from receiving credits and/or reimbursement from public funds.
- ❑ Requirement for contractors and subcontractors to be registered with the State of California Department of Industrial Relations (DIR) in order to be qualified to bid on, be listed in a bid proposal, or to perform public work (Labor Code §1725.5). Online application for registration with DIR can be found at the following website: <http://www.dir.ca.gov/Public-Works/Contractor-Registration.html>.
- ❑ Requirement for payment of general prevailing wages (Labor Code §1770-§1774). General prevailing wage rates are available from the Department of Industrial Relations website at: <http://www.dir.ca.gov/Public-Works/Prevailing-Wage.html>. Failure to comply with this requirement will disqualify the developer from receiving credits and/or reimbursement from public funds.
- ❑ Requirement for certified payroll records (Labor Code §1776). Requirements for reporting certified payroll records are available at the following Department of Industrial Relations website: <http://www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html>.
- ❑ Bonds
 - Bid Bond 10% (recommended)
 - Performance Bond 100% (mandatory) (Pub. Cont. Code §20129)
 - Payment Bond 100% (mandatory) (Civil Code §9550)
 - Surety required by an admitted surety insurer in the State of California
 - The bonds shall include the County of Riverside as co-beneficiary
- ❑ Required State Contractor's license shall be specified in the notice inviting bids (Pub. Cont. Code §3300). License shall be verified before award (Pub. Cont. Code §6100).
- ❑ Proprietary and brand specific items shall not be specified (Pub. Cont. Code §3400).
- ❑ Standard County/Caltrans bid items and units of measurement should be utilized. Refer to
- ❑ Engineer's Estimate Guidelines at the following website:
<http://rctlma.org/trans/Engineering-Services/Engineers-Estimate-Guidelines>

- Sufficient liability insurance, naming the County as additional insured for both General and Automobile liability policies. Insurance company is required to be an admitted insurance company in the State of California, and to have a Best Guide rating of A with a financial size of VIII or greater. General liability, Automobile Liability, Worker's Compensation insurance coverages to be at least \$4 Million Aggregate and \$2 Million per occurrence (or higher if exposure is great).
- Hold Harmless Clause (Specifically naming the County of Riverside).
- The bid items should be only for the public works improvements. On site work should not be included in the scope of work.
- Construction plans shall be signed and stamped by a licensed civil engineer in the State of California prior to advertisement (Bus. & Prof. Code §6735).
- Specifications, special provisions, and estimates shall be prepared, signed and stamped by a licensed civil engineer in the State of California prior to advertisement (Bus. & Prof. Code §6735).
- Construction plans shall be signed as approved by the County of Riverside Transportation Department prior to advertisement.
- Current NPDES requirements specified.
- Bid exclusions are not allowed. Bids must be required for all items of work in order for a proper, legal and fair determination of who is the lowest responsive bidder.
- Time and place of bid opening must be made known to the bidders. Sealed bids shall be opened in a public forum and read aloud (Pub. Cont. Code §20393).
- Working days and liquidated damages should be clearly noted in the Notice Inviting Bids and/or other prominent location in the general conditions. Liquidated damages should be calculated using Caltrans methodology, or other industry standard means.
- Non-collusion affidavit shall be required of each bidder (Pub. Cont. Code §7106).
- Additional advertisement in trade Journals (F.W. Dodge, CMD, etc.) is advisable, but not mandatory. A listing of plan rooms used by the County is available upon request.
- All sub-contractors shall be listed (Pub. Cont. Code §4104).
- Bids must be made on bid forms, which are to be included in the contract documents, and must be completely filled in, dated and signed. Signature(s) provided by the bidder must be from an authorized officer or agent.

- Addenda should be reviewed and approved by the County Transportation Department for all addenda that either modify any bidding requirements or modify any item addressed herein.
- Addenda shall be signed and stamped by a civil engineer licensed in the State of California.
- Addenda issued within 72 hours of bid closing, and which contain material changes, shall extend the bidding period by at least 72 hours (Pub. Cont. Code §4104.5).
- A summary of bids shall be prepared, summarizing each bid item, the unit price bid and the total price bid for each bid item, as well as the total sum bid. The bid summary should include the engineer's estimate of unit prices. The bid summary shall include a summary of alternate bid schedules, if applicable.
- Award to the lowest responsive and responsible bidder (Pub. Cont. Code §20128 and §6100 et seq.). Contract to be kept on file by the owner, and provided to the County upon request.

Additional Information and Requirements

- County review and approval is required prior to advertisement, and separately, prior to award.
- Developer must register the public works project online with the Department of Industrial Relations (DIR) within five (5) days of project award using the online PWC-100 form. The following is a link to this online form:
 - <https://www.dir.ca.gov/pwc100ext/>
- Submission of an Engineer's Estimate of quantities, unit costs and extended totals should be made with the developer's first request for review of the bid documents.
- County standard contract language is available in electronic or hard-copy format, upon request.
- All construction work shall be coordinated with the County's Construction Engineer (951) 955-6885. The Construction Engineer or designee will provide oversight inspection. Approval of the final quantities shall be obtained from the Construction Engineer prior to final payment. Contract Change Orders shall be reviewed and approved by the Construction Engineer prior to execution.
- Bidding and contract records shall be maintained by the Developer for a period of not less than three years, and shall be made available upon request to the County. Documents to be retained shall include:
 - 1. Bid documents
 - 2. Addenda issued
 - 3. Bidders list, including date and time of bid submissions
 - 4. Each bid received
 - 5. Summary of bids

6. Executed contracts
7. Approved change orders
8. Certified payroll records
9. Other pertinent documents

□ The following items shall be provided to the County after bid opening:

1. Advertisement Proof of Publication
2. Owner's written certification of Public Bid Opening (Notarized)
3. Copy of bidders envelopes
4. Log of bids received including date/time of receipt
5. Copies of any addenda
6. Tabulated Bid Summary
7. Copy of low-bidder's and other bidder's proposals

□ The following items shall be provided to the County after award:

1. Copy of Insurance Certificate, meeting the above requirements, and naming the County of Riverside, et al, as additionally insured
2. Copy of contract, performance bond and payment bond

EXHIBIT D

**RIVERSIDE COUNTY UNIFIED SCHOOL DISTRICT CFD NO. 41, IMPROVEMENT
AREA NO. 1 DETERMINATION OF THE PURCHASE PRICE**

1. Prior to the construction of each County Facility, Developer shall follow the steps listed below and such documentation shall be included with the Payment Request:

(a) Prepare a separate bid package for the County Facility.

(b) The plans, cost estimate, specifications and contract document shall require all contractors to pay prevailing wages and to comply with applicable provisions of the Labor Code, Government Code, and Public Contract Code relating to Public Works Projects.

(c) Bids shall be obtained and processed in accordance with the formal public works bidding requirements of the County.

(d) The contract(s) for the construction of the County Facility shall be awarded to the lowest responsible and responsive bidder(s) for the construction of such County facilities in accordance with the Joint Community Facilities Agreement requirements and guidelines.

(e) Contractor(s) shall be required to provide proof of insurance coverage throughout the duration of the construction.

2. Prior to the County's acceptance of the completed County Facility, the following conditions shall also be satisfied:

(a) Developer shall have completed the construction of the County Facility in accordance with the approved Plans, Specifications, and Estimates.

(b) Developer shall have satisfied the County's inspection punch list.

(c) After final inspection and approval of the completed County Facility, the County shall have provided the Developer a final inspection release letter.

(d) Developer shall have filed a Notice of Completion with respect to the County Facility pursuant to Section 3093 of the Civil Code with the County Recorder's Office, and provided a copy of filed Notice of Completion to County.

(e) Developer shall have provided County a copy of the As-Built plans for the County Facility.

(f) Developer shall have provided County copies of all permits or agreements that may have been required by various resource/regulatory agencies for construction, operation and maintenance of the County Facility.

3. Prior to the determination and application of payment request pursuant to the Joint Community Facilities Agreement executed between County, School District, and Developer, Developer shall provide the County the following:

- (a) Copies of all information listed under Items 1 and 2 above.
- (b) Developer shall have submitted a documentation package to the County to determine the Purchase Price of the County Facility, which shall include at a minimum, the following documents related to the County Facility:
 - (i) Plans, specifications, and Developer's Civil Engineer's cost estimates; or Engineer's Report showing the cost estimates.
 - (ii) If Developer is seeking payment request for the Community Facilities District Purchase Price, documentation evidencing cost of any required environmental studies, preparation of designs, plans, specifications, and estimates, required right of way acquisition, and other costs directly related to the development of the County Facility. Only actual, documented and reasonable costs directly related to the County Facility will be considered. Costs should be documented as specified below.
 - (iii) Costs claimed for the Developer's actual, reasonable cost of any real property or interest therein acquired after the date on which the Community Facilities District is established must be accompanied by an appraisal (no more than two years old at the time of acquisition) completed by an MAI appraiser, and documentation of transfer of such right of way to the County, or applicable public agency. The appraisal must be approved by the County as valid and acceptable.
 - (iv) Contracts/agreements, insurance certificates and change orders with each vendor or contractor.
 - (v) Invoices from all contractors, consultants, service providers and vendors.
 - (vi) Copies of cancelled checks, front and back, for payments made to contractors, consultants, service providers and vendors or copies of ACH (Automated Clearing House) payments or other electronic forms of payments.
 - (vii) Final lien releases from each contractor and vendor (unconditional waiver and release).
 - (viii) Certified contract workers payroll for County verification of compliance with prevailing wages.
 - (ix) A total cost summary, in spreadsheet format (MS Excel is preferred) or electronic format showing a breakdown of the total costs incurred. The summary

should include for each item claimed the check or ACH payment number, cost, invoice numbers, and name of payee. See Attachment A of Exhibit F "Form of Payment Request" for details.

EXHIBIT E

PAYMENT BOND

(Public Work - Civil Code Section 9550 *et seq.*)

The makers of this Bond are _____ as Principal and Original Contractor and _____, a corporation, authorized to issue Surety Bonds in California, as Surety, and this Bond is issued in conjunction with that certain public works contract dated as of _____, 20__, between Principal, _____, as owner, for _____ dollars (\$_____) the total amount payable. THE AMOUNT OF THIS BOND IS 100% OF SAID SUM. Said contract is for public work of those certain County Facilities as defined and described in said agreement entitled: "Joint Community Facilities Agreement by and among Riverside Unified School District, a public agency organized and existing pursuant to the laws of the State, County of Riverside, a political subdivision of the State of California and R-Hearthstone Lot Option Pool 03, L.P., a Delaware limited partnership" dated as of _____, 2023.

The beneficiaries of this Bond are as is stated in Section 9554 of the Civil Code and the requirements and conditions of this Bond are as is set forth in Sections 9550 through 9566 of said Code. Without notice, Surety consents to extension of time for performance, change in requirements, amount of compensation, or prepayment under said Contract.

Signed and Sealed this _____ Day of _____ 20__

(Firm Name - Principal)

(Business Address)

By: _____
(Signature - Attach Notary's Acknowledgment)

(Title)

Affix Seal
if
Corporation

(Corporation Name - Surety)

(Business Address)

By: _____
(Signature - Attached Notary's Acknowledgment)

Affix
Corporate
Seal

ATTORNEY-IN-FACT
(Title-Attach Power of Attorney)

PERFORMANCE BOND

The makers of this Bond, _____ as Principal, and _____ as Surety, are held and firmly bound unto _____, hereinafter called the Owner, and unto the County of Riverside, the Riverside Unified School District, and Community Facilities District No. 41 of the Riverside Unified School District as additional obligees, in the sum of _____ Dollars (\$ _____) for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

The condition of this obligation is such, that whereas the Principal entered into a certain contract, hereto attached, with the Owner, dated as of _____, 20 for those certain County Facilities as defined and described in said agreement entitled: "Joint Community Facilities Agreement by and among Riverside Unified School District, a public agency organized and existing pursuant to the laws of the State, County of Riverside, a political subdivision of the State of California and R-Hearthstone Lot Option Pool 03, L.P., a Delaware limited partnership" dated as of _____, 2023.

Now therefore, if the Principal shall well and truly perform and fulfill all the undertakings covenants, terms, conditions and agreements of said Contract during the original term of said Contract and any extension thereof that may be granted by the Owner, with or without notice to the Surety, and during the file of any guarantee required under the Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said Contract that may thereafter be made, then this obligation to be void, otherwise to remain in full force and virtue. Without notice, Surety consents to extension of time for performance, change in requirements, change in compensation or prepayment under said Contract.

Signed and Sealed this _____ Day of _____ 20__

(Firm Name - Principal)

(Business Address)

Affix Seal
if
Corporation

By: _____
(Signature - Attach Notary's Acknowledgment)

(Title)

(Corporation Name - Surety)

(Business Address)

Affix
Corporate
Seal

By: _____
(Signature - Attached Notary's Acknowledgment)
ATTORNEY-IN-FACT
(Title-Attach Power of Attorney)

EXHIBIT F

FORM OF PAYMENT REQUEST

**Community Facilities District No. 41
of Riverside Unified School District,
Improvement Area No. 1**

_____, hereby requests payment of the Purchase Price for the County Facility described in Attachment A attached hereto. Capitalized undefined terms shall have the meanings ascribed thereto in the Joint Communities Facilities Agreement, dated as of _____, 2023 (the "Joint Community Facilities Agreement"), by and among Riverside Unified School District, a public agency organized and existing pursuant to the laws of the State (the "School District"), the County of Riverside, a political subdivision of the State of California (the "County") and R-Hearthstone Lot Option Pool 03, L.P., a Delaware limited partnership (the "Developer"). In connection with this Payment Request, the undersigned hereby represents and warrants to the County Engineer as follows:

1. The undersigned has been authorized by the Developer and is qualified to execute this request for payment on behalf of the Developer and is knowledgeable as to the matters set forth herein.

2. The Developer has submitted or submits herewith to the County Engineer as-built drawings or similar Plans and Specifications for the County Facility for which payment is requested, and such drawings or plans and specifications, as applicable, are true, correct and complete.

3. The County Facility has been constructed in accordance with the Plans and Specifications therefor, and in accordance with all applicable County District standards and the requirements of the Joint Community Facilities Agreement, and the as-built drawings or similar Plans and Specifications referenced in paragraph 2 above.

4. There has not been filed with or served upon the Developer notice of any lien, right to lien or attachment upon, or claim affecting the right to receive the payment requested herein which has not been released or will not be released simultaneously with the payment of such obligation, other than material men's or mechanics' liens accruing by operation of law. Copies of lien releases for all work for which payment is requested hereunder are attached hereto.

5. The representations and warranties of the Developer set forth in Section 5.1 of the Joint Community Facilities Agreement are true and correct on and as of the date hereof with the same force and effect as if made on and as of the date hereof.

I hereby declare under penalty of perjury that the above representations and warranties are true and correct.

Date: _____

Developer

By: _____

Name:

Title:

ATTACHMENT A

PAYMENT REQUEST - ACTUAL COSTS

Developer is to complete Columns 1 through 7
 County Engineer is to complete Columns 8 through 11

CFD/Tract Number: _____ Facility

Description: _____

1	2	3	4	5	6	7	8	9	10	11
Bid Item No.	Bid Item Description	Unit of Measure	Unit Price	Original Contract Quantity	Quantity Invoiced	Amount Invoiced	Quantity Calculated By County	Amount Calculated By County	Difference	Actual Cost
1			0.00	0	0	0.00	0	0.00	0.00	
2			0.00	0	0	0.00	0	0.00	0.00	
3			0.00	0	0	0.00	0	0.00	0.00	
4			0.00	0	0	0.00	0	0.00	0.00	
5			0.00	0	0	0.00	0	0.00	0.00	
6			0.00	0	0	0.00	0	0.00	0.00	
7			0.00	0	0	0.00	0	0.00	0.00	
8			0.00	0	0	0.00	0	0.00	0.00	
9			0.00	0	0	0.00	0	0.00	0.00	
10			0.00	0	0	0.00	0	0.00	0.00	
11			0.00	0	0	0.00	0	0.00	0.00	
12			0.00	0	0	0.00	0	0.00	0.00	
13			0.00	0	0	0.00	0	0.00	0.00	
14			0.00	0	0	0.00	0	0.00	0.00	
15			0.00	0	0	0.00	0	0.00	0.00	
16			0.00	0	0	0.00	0	0.00	0.00	
17			0.00	0	0	0.00	0	0.00	0.00	
18			0.00	0	0	0.00	0	0.00	0.00	

Total: 0.00 0.00 0.00

Amount Requested: _____

Riverside Unified School District CFD No. 41
 Joint Community Facilities Agreement (JCFA)
 Improvement Area No. 1
 R-Hearthstone Lot Option Pool 03, L.P.
 TR 38025-1 Street Improvements (MS4415)

APPROVAL BY THE COUNTY ENGINEER

The County Engineer confirms that the County Facility described in Attachment A has been constructed in accordance with the Plans Specifications, and Estimates therefor. The Actual Cost of each County Facility as described in Attachment A has been reviewed, verified and approved by the County Engineer. The Purchase Price for said County Facility is established at \$ _____. Payment of the Purchase Price for the County Facility is hereby approved.

Date: _____

COUNTY ENGINEER

By: _____

Name:

Title: