

**CITY OF LAKE ELSINORE
COMMUNITY FACILITIES DISTRICT NO. 2019-1
(WESTLAKE)**

FUNDING AGREEMENT

THIS AGREEMENT dated August 13, 2019, is made and entered into by and between CITY OF LAKE ELSINORE (the "City"), acting for and on behalf of itself and COMMUNITY FACILITIES DISTRICT NO. 2019-1 OF THE CITY OF LAKE ELSINORE (WESTLAKE) (the "Community Facilities District" or "CFD"), and PARDEE HOMES, a California corporation (the "Developer"), each individually a "Party" and collectively the "Parties."

WHEREAS, the City has formed the CFD pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), authorized special taxes and issuance of bonded indebtedness to finance certain public improvements to be owned, operated or maintained by the City and the Elsinore Valley Municipal Water District and Incidental Expenses in accordance with the Act; and

WHEREAS, in order to proceed in a timely way with development of the property within the Community Facilities District which is attached as **Exhibit "A"** (the "Developer Property"), Developer desires to fund through the Community Facilities District (i) improvements included in the City's fee programs (the "City Improvements"), as more particularly set forth and described in the Description of Cost Estimates attached hereto as **Exhibit "B"** and (ii) if applicable, any improvements unrelated to the City Improvements described and governed by the terms contained in **Exhibit "E"** hereto (the "Miscellaneous Improvements") (collectively the "Improvements"); and

WHEREAS, the City is authorized by the Act to form the CFD and to issue bonds to fund the Improvements; and

WHEREAS, the City Council has adopted its "Statement of Goal and Policies for the Use of the Mello-Roos Community Facilities Act of 1982," which sets forth the City's policies and procedures concerning the use of special district financing programs to finance City facilities (the "Policy"); and

WHEREAS, the purpose of this Agreement is to constitute a formal understanding between Developer and the City (pursuant to the requirements of Government Code Section 53313.51 and other provisions of the Act and the Policy) concerning financial and other obligations and responsibilities related to the Improvements to be financed by the Community Facilities District to the extent funds are available, and to set forth the conditions upon which (1) the Community Facilities District will fund the Improvements and (2) the Community Facilities District will also fund any Miscellaneous Improvements, if applicable, described in **Exhibit "E."**

NOW, THEREFORE, it is mutually agreed between the respective parties as follows:

SECTION 1. DEVELOPER DEPOSIT

At Developer's request, the City undertook the formation of the Community Facilities District. The Developer has advanced to the City a sum of money related to the costs of such formation proceedings, all of which shall be eligible for reimbursement from the CFD. The City

will provide to Developer on request a summary of how the advances have been spent and the unexpended balance remaining. The amounts advanced by Developer and, to the extent determined reasonable and appropriate by the City, expenses incurred by Developer for engineering consultant costs in connection with the formation of the Community Facilities District and the issuance of bonds, will be reimbursable to Developer, without interest, from the proceeds of bonds (the "Bonds") issued by the Community Facilities District. In the event that Bonds are not issued to provide a source of reimbursement to Developer, the City shall not have any liability to Developer to reimburse it for any of the amounts previously advanced by Developer and expended by the City.

Prior to the issuance of the Bonds, the City will request a final advance for any unpaid expenses incurred during preparatory technical, financial and legal work; and following payment of such expenses, the City shall promptly release the balance, if any, of the advance to Developer. Should the City's expenses exceed the remaining balance, the City will bill Developer for the difference, which Developer agrees to pay within 10 days following receipt of such billing, subject to the conditions of paragraph one of this section.

SECTION 2. SALE OF BONDS

2.1 City Policy and Requirements for the Issuance of Bonds. The Policy sets forth the City's policies and procedures concerning the use of special district financing programs to finance the Improvements. Pursuant to the Policy, the total annual amount of the special taxes to be collected with respect to a parcel within the CFD and all other taxes and assessments which will be collected with respect to such parcel must not exceed two percent (2%) of the expected assessed value of such parcel within the Community Facilities District upon the completion of all expected structural improvements to such parcel.

The parties hereby agree that, unless waived by the City, at the time of issuance of the Bonds, the following requirements shall be met: (1) the ratio of the value of all parcels of property for which the Bonds are being issued to the amount of outstanding community facilities district or assessment district bonds attributable to such parcels (the "Value-to-Lien Ratio") may not be less than four-to-one (4:1) and (2) at least 50% of the proposed residential units within the Community Facilities District shall have been completed and conveyed to individual homeowners. The fair market value of the property within the Community Facilities District for purposes of determining the foregoing ratio will be determined based on the assessed value of the property or the appraised value of the property based on the appraisal made by an appraiser selected by the City with a valuation date within ninety (90) days of the issuance of the Bonds. Subject to satisfaction of the Policy and the requirements of this Agreement, the City shall use its best efforts to issue and sell the Bonds in one or more series in an amount sufficient to fund the Improvements in accordance with the schedule for development of the Developer Property.

2.2 Security for Payment of Special Taxes.

(a) Concurrently with the issuance and sale of each series of the Bonds, the owner of any land within the Community Facilities District, together with land owned by any affiliate (collectively, an "Account Party"), for which the expected levy of the Special Tax (as defined in the Rate and Method of Apportionment of Special Tax for the Community Facilities District (the "Rate and Method") in the fiscal year following the fiscal year in which the Bonds are issued are equal to or exceed 20% of the total expected Special Tax levy for such fiscal year, shall deliver to the City either (i) a renewable, irrevocable instrument of credit from a financial institution (rated "A" or better) or (ii) cash in-lieu thereof (a "Security"). The Security shall be in an amount equal

to 100% of the expected Special Tax levy on the property owned by such Account Party in the two fiscal years following the fiscal year in which the Bonds are issued, based on ownership status as of a date that is within 60 days prior to the date of issuance of the Bonds (the "Stated Amount"). The Security shall be maintained by the Account Party in each fiscal year until terminated in accordance with Section 2.2(c) below. While the Security is still required, the Stated Amount of such Security shall be reduced as set forth in a "Certificate of Reduction or Termination (as defined in Section 2.2(c) below).

The Security shall name the City, or its designee, as a beneficiary and shall provide that the City, or its designee, may draw an amount equal to any delinquencies in payment of semiannual installments of the Special Taxes levied on property owned by the Account Party in the Community Facilities District. The total amount to be drawn under the Security shall not exceed an amount equal to the Special Taxes owed by the Account Party with respect to property within the Community Facilities District that is delinquent at the time the draw is made. The amount drawn on the Security shall be applied in the same manner and for the same purposes as the delinquent Special Taxes would have been applied; provided, however the payment of a draw under the Security will not be deemed to cure the delinquency in payment of the Special Taxes.

If, subsequent to a draw on the Security and prior to the satisfaction of any reimbursements due to the institution providing the Security (the "Security Provider") pursuant to this Agreement, the City receives payment of all or a portion of the delinquent Special Taxes or the proceeds of a sale of delinquent real property pursuant to foreclosure proceedings ("Delinquency Proceeds") for a parcel for which the Security has been drawn, the Security Provider shall be reimbursed for such draws to the extent of Delinquency Proceeds net of the City's costs of collection, provided that the Security is or has been concurrently reinstated to, or a Substitute Security (as defined below) provided for, the then applicable Stated Amount. The Security Provider is intended by the Parties to be a third-party beneficiary of this Section 2.2.

(b) The Security shall be renewed, or a substitute Security reasonably satisfactory to the City (a "Substitute Security") provided, not less than thirty (30) calendar days prior to the expiration of the Security or Substitute Security then in effect. If the Account Party provides a Substitute Security to the City, then the City or its designee, shall return any existing Security on the effective date of the Substitute Security to the Security Provider.

If the Security is not renewed within thirty (30) days prior to its expiration date and the requirements for release or termination of the Security as set forth in Section 2.2(c) below have not then been met, the full amount of the Security may be drawn by the City and deposited in an account established under the Indenture (as hereinafter defined) or in such account established with a financial institution selected by the City. Thereafter, amounts in such account shall be held as security, and if Special Taxes owed by the Account Party with respect to property within the Community Facilities District are not paid prior to delinquency, then such amounts in such account may be applied by the City to pay the delinquent Special Taxes owed by the Account Party with respect to such property on the same terms and conditions applicable hereunder to draws on the Security.

At such time as the Security is renewed, or a Substitute Security is accepted by the City, or the requirement for the Security has been terminated pursuant to this section, the City or its designee, shall release all amounts in the Security account to the Security Provider within ten (10) calendar days from the date of renewal or acceptance.

(c) Following the sale or transfer by the Account Party of any property to a person other than the Account Party, or upon the prepayment of the Special Tax obligation for a parcel owned by the Account Party, the Account Party shall notify District of such event, in writing, and, if requested by the Account Party, the Stated Amount of the Security shall be reduced and be recalculated in accordance with this Section 2.2; provided, however, that City shall be required to recalculate such amount and reduce the Security a maximum of two times each calendar year and any costs associated with the recalculation and reduction shall be borne by the Account Party. The Security shall be terminated when (i) the expected levy on the land owned by the Account Party in the Community Facilities District is responsible for less than 20% of the Special Tax levy in the current fiscal year and the Account Party is not delinquent in the payment of any Special Taxes, (ii) the Account Party has paid all Special Taxes in the current fiscal year and the property owned by the Account Party in the Community Facilities District is expected to be responsible for less than 20% of the Special Tax in the next fiscal year or (iii) the Account Party has paid all Special Taxes in the current fiscal year and in the following fiscal year, the District will not levy the Special Tax on property within the Community Facilities District owned by the Account Party.

Reduction or termination of a Security shall occur automatically upon submission to the Security Provider by the City of a "Certificate of Reduction or Termination." The City shall deliver to the Security Provider, such Certificate of Reduction or Termination promptly upon receiving from the Account Party a certification which shall be made under penalty of perjury and which shall indicate (i) the legal description of all land owned by the Account Party, and either (ii) a recalculation of the new Stated Amount that the Account Party proposes be applicable to the Security or (iii) if termination of the Security is requested, a statement that one of the requirements set forth in (i) through (iii) of the preceding paragraph have been satisfied.

The Account Party shall notify the City of any events that will result in a reduction of the Stated Amount of the Security and shall provide the City with verification of said events. The Account Party may provide the City with a Substitute Security in the reduced amount, and the City shall release and return to the Security Provider the Security then in effect. The Parties expressly acknowledge that the Account Party's failure to so notify the City or to reduce the Security at the times prescribed herein shall in no way effect or invalidate sale or transfer of property, or recordation of maps on property.

(d) If property is sold or transferred by an Account Party with the result that the land owned by the transferee or any of its affiliates ("Transferee") is responsible for twenty percent (20%) or more of the Special Tax in the current fiscal year, a Security on the same terms specified herein will be furnished by Transferee with respect to all land owned by such Transferee in the Community Facilities District. Any applicable purchase and sale agreement and/or escrow instructions shall notify the Transferee of this Security requirement and obligate the Transferee to provide such Security, if applicable. The Security of the Account Party will not be reduced to reflect the sale or transfer of land until a Security is furnished by the Transferee and accepted by the City. The issuing financial institution and the form and terms of said Security will be subject to reasonable prior approval by the City. All terms provided in this Section 2.2 are applicable to the Transferee by replacing the term "Account Party" at each place where it occurs in each section with the term "Transferee." Each provider of a Security for a Transferee shall be an express third-party beneficiary of the provisions of this Section 2.2.

Any costs related to the holding or maintaining the Security, including any fees of a fiscal agent, trustee or other depository shall be borne by the Account Party.

2.3 Major Landowner Initial and Continuing Disclosure. An owner of land which is responsible for twenty percent (20%) or more of the Special Tax in the fiscal year in which the Bonds are issued or in the fiscal year following the fiscal year in which the Bonds are issued (a "Major Landowner") will be required to provide all information regarding the development of its property, including the financing plan for such development, which is necessary to ensure that the official statement for such Bonds complies with the requirements of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") and all other applicable federal and state securities laws. Additionally, Developer acknowledges that, if it is a Major Landowner at the time of issuance of the Bonds, it will be necessary that Developer enter into a continuing disclosure agreement to provide such continuing disclosure pertaining to the development of the land owned by Developer within the Community Facilities District as necessary to assist the underwriter in complying with the continuing disclosure requirements of the Rule and/or to assist in the marketing of the Bonds.

2.4 Bond Issuance Parameters. The terms and conditions upon which each series of the Bonds shall be issued and sold, the method of sale of the Bonds and the pricing of the Bonds shall be determined solely by the City in its reasonable discretion in conformance with the requirements of Government Code Section 53313.5, the Act, the Policy, and this Agreement. The Bonds shall be issued with a term not to exceed 31 years and annual debt service on the Bonds shall be permitted to escalate by two percent (2%) per year consistent with the annual escalation of the Special Tax. The proceeds of the Bonds shall be used in the following priority to (1) fund a reserve fund for the payment of principal and interest with respect to the Bonds in an amount equal to the least of (i) ten percent (10%) of the total bond issue, (ii) maximum annual debt service on Bonds, or (iii) 125% of average annual debt service; (2) fund up to eighteen (18) months of capitalized interest; (3) pay for costs of issuance of the Bonds including, without limitation, underwriter's discount, bond counsel and disclosure counsel fees, appraisal and special tax consultant fees, printing, and fiscal agent fees; (4) pay for the costs of forming the Community Facilities District and any change proceedings for the Community Facilities District; and (5) pay for the actual costs of the Improvements. The Community Facilities District shall maintain records relating to the disbursements of proceeds of the sale of the Bonds. The Indenture or Resolution (hereinafter "Indenture") for the Bonds shall establish an acquisition and construction fund or improvement fund (herein, the "Improvement Fund") into which shall be deposited initially the proceeds of the Bonds net of the amount of proceeds required to fund items (1) through (4) in the second preceding sentence. The Indenture shall also establish separate accounts of the Improvement Fund designated the "City Improvements Account", and any Miscellaneous Improvement Accounts with respect to funds for the facilities described in **Exhibit "E"** if applicable, into which shall be deposited such portions of the Improvement Fund as directed by the City pursuant to consultation with the Developer and in writing at or subsequent to the closing of the sale of the Bonds consistent with the following priorities:

(a) An amount sufficient to fund the reasonable, current estimated cost of the City Improvements anticipated to be funded out of the Bonds being issued shall be deposited in the City Improvements Account;

(b) If applicable, an amount sufficient to fund the reasonable, current estimated cost of any Miscellaneous Improvements anticipated to be funded out of the Bonds being issued shall be deposited in the applicable Miscellaneous Account(s), if any, described in **Exhibit "E"** hereto.

The Indenture shall provide that amounts remaining in the Improvement Fund after funding all proposed Improvements or sooner, as specified by the City, shall be deposited in the special

tax fund or bond service fund and be applied to pay debt service on the Bonds and/or to call Bonds in advance of maturity.

SECTION 3. ALLOCATION OF SPECIAL TAXES

Prior to the issuance of Bonds, the City Council of the City, acting as the legislative body of the Community Facilities District, shall levy Special Taxes at the assigned special tax rate on all parcels classified as Developed Property pursuant to the Rate and Method. Such Special Taxes collected by the City shall first be applied to fund annual administrative expenses of the Community Facilities District and then to fund Improvements in the same manner as the proceeds of Bonds as set forth in Section 5 and Section 6 below. Prior to the issuance of Bonds, such Special Taxes collected by the City each fiscal year in excess of that required to fund annual administrative expenses of the Community Facilities District shall be deposited in a special fund of the City, which shall also be referred to as the City Improvements Account. Upon the issuance of the Bonds, such City Improvements Account shall be closed and all funds then remaining in it shall be transferred to the City Improvements Account of the Improvement Fund that is established with the issuance of the Bonds. Upon sale and delivery of the Bonds, the City shall annually levy the Special Tax as provided for in documents pursuant to which the Bonds were issued. Following the issuance of the Bonds, the City shall have no obligation to levy Special Taxes to reimburse the Developer for the costs of any Improvements not paid for from Bond proceeds. The entire amount of any Special Tax levied by the Community Facilities District to repay the Bonds and recover costs and expenses allowable pursuant to Government Code Section 53313.5, shall be allocated to the Community Facilities District.

SECTION 4. NOTICE OF SPECIAL TAX

Developer, or Developer's successors or assigns, shall provide written notice to all potential purchasers of lots advising of the special tax obligation applicable to the Developer Property in the form required by Section 53341.5 of the Government Code. A sample copy as prepared by Developer is attached as **Exhibit "C."**

SECTION 5. CITY IMPROVEMENTS

The Developer may be required pursuant to the conditions of development or the City's development impact fee ordinance to pay certain City fees (the "City Fees") relating to the Improvements prior to the availability of proceeds of the Special Taxes or Bonds to pay for such Improvements. In the event such City Fees are paid prior to the availability of Special Taxes or Bond proceeds, the amounts paid to the City shall be deemed to be deposits (each a "Deposit") that are subject to refund by the City to the Developer in accordance with this Agreement. The City shall place each Deposit in a capital facilities account(s). If the Developer has made any Deposits to the City, then following deposit of Special Taxes or Bond proceeds in the City Improvements Account, the City shall return to the Developer, from the capital account in which the Deposits were deposited an equal amount of the Deposits not previously returned, without interest or other earnings thereon. The City shall be so obligated to return such Deposits only to the extent that an equivalent amount of the Deposits to be returned is deposited in the City Improvements Account from Bond proceeds.

Bond proceeds used to finance Improvements which relate to the City Fees shall be allocated first for return of all Deposits prior to being allocated to the payment of City Fees not previously deposited by the Developer. Any Deposits that have not been returned to the Developer at the time it is determined that there will be no further Bond proceeds available (i.e.

when the final series of Bonds to finance the Improvements have been issued) shall be retained by the City and may be used for the purposes for which the City Fee was required, and the unrefunded Deposits shall constitute full and final payment for such City Fees, without any increase of any kind.

Any City Fees paid (as Deposits) by the Developer shall be made with the understanding that such Deposits will be returned to the Developer if, and when, Special Taxes and Bond proceeds have been deposited to the City Improvements Account. The City shall expend any amounts disbursed to it from the City Improvements Account on capital facilities. The payment of Deposits prior to the availability of the Special Taxes and Bond proceeds in the City Improvements Account shall not be construed as a dedication or gift of the City Fees, or a waiver of the return of the Deposits, it being the intention that the City Fees be paid by Special Taxes and Bond proceeds to the extent of such Bond proceeds.

SECTION 6. MISCELLANEOUS IMPROVEMENTS.

Improvements unrelated to the City Improvements, if applicable, will be supplemented by the terms contained in an addendum which will appear as **Exhibit "E"** hereto. The amounts deposited in the applicable Miscellaneous Improvement Account(s), if any, will be disbursed for the acquisition or construction of Miscellaneous Improvements in accordance with the provisions in the applicable Joint Community Facilities Agreement(s), if any. Any amounts in the applicable Miscellaneous Improvement Account(s) shall be disbursed at the written direction of the City upon Developer's submittal of an addendum which will appear as the applicable entity's Certificate and the Disbursement Request Form provided for in the Joint Community Facilities Agreement(s). Upon receipt of the Disbursement Request Form, the City shall submit a written requisition for payment of the requested amount to trustee for the Bonds pay the amount requested to the applicable entity.

SECTION 7. INDEPENDENT CONTRACTOR

In performing this Agreement, Developer is an independent contractor and not the agent of the City. The City shall not have any responsibility for payment to any contractor or supplier of Developer. It is not intended by the parties that this Agreement create a partnership or joint venture among them and this Agreement shall not otherwise be construed.

SECTION 8. INDEMNIFICATION

Developer shall assume the defense of, indemnify and hold harmless, the City, its officers, employees and agents, and the Community Facilities District, its officers, employees and agents, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subject or put, by reason of, or resulting from the Developer's performance of its obligations under this Agreement, the issuance of the Bonds, the construction of the Improvements, the failure of the Developer to provide notice of the special tax to be levied by the Community Facilities District pursuant to Section 53341.5 of the Act (but only if the Developer is required by law to provide such notice), or arising out of any alleged misstatements of fact or alleged omission of a material fact made by the Developer, its officers, directors, employees or agents to the City, the Community Facilities District, the underwriter of the Bonds and its counsel, the appraiser, the special tax consultant, the market absorption consultant or bond counsel regarding the Developer, its proposed developments, its property ownership, and any contractual arrangement it may enter into in a disclosure document describing the Community Facilities District and the risks relating to the Bonds. No provision of this Agreement shall in any way limit

the extent of Developer's responsibility for payment of damages resulting from the operations of Developer and its contractors; provided, however that Developer shall not be required to assume the defense or indemnify and hold harmless the City, its officers, employees or agents, or the Community Facilities District, its officers, employees or agents, as to actions, damages, claims, losses or expenses resulting from negligence or willful misconduct of such person or entity.

SECTION 9. CONFLICT WITH OTHER AGREEMENTS

Except as specifically provided herein, nothing contained herein shall be construed as releasing Developer from any condition of development or requirement imposed by any other agreement with City. In the event of a conflicting provision, such other agreement shall prevail unless such conflicting provision is specifically waived or modified in writing by City.

SECTION 10. TERMINATION

The provisions of this Agreement related to the financing of the Improvements shall terminate and be of no further force or effect upon the earlier of (i) ten (10) years following the issuance of building permits for all dwelling units expected to be built within the Community Facilities District, (ii) the funding of all Improvements pursuant to this Agreement, or (iii) December 31, 2029. Notwithstanding the foregoing, this Agreement shall not terminate pursuant to (iii) of the previous sentence if, on December 31, 2029, all of the building permits within the Community Facilities District have been pulled, construction within the Community Facilities District, as contemplated by the parties hereto, is ongoing, and the Developer has not yet received a full return of all Deposits or full reimbursement for the Miscellaneous Improvements from Special Taxes. If the Community Facilities District is unable to sell the first series of Bonds after diligent, commercially reasonable efforts to do so, this Agreement shall terminate and be of no further force and effect.

SECTION 11. NOTICES

Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to either party shall be deemed to have been received when personally delivered or seventy-two (72) hours following deposit of the same in any United States Post Office in California, registered or certified, postage prepaid. Any notice to the Community Facilities District or the City shall be addressed to City of Lake Elsinore, 130 South Main Street, Lake Elsinore, CA 92530, Attention: Assistant City Manager. Any notice to Developer shall be addressed to Pardee Homes, 1250 Corona Pointe Court, Suite 600, Corona, CA 92879, Attention: Jeff Chambers.

Each party may change its address for delivery of notice by delivering written notice of such change of address to the other party hereto.

SECTION 12. GENERAL PROVISIONS

(a) Amendment. This Agreement may be amended at any time but only in writing signed by each party hereto.

(b) Exhibits. All exhibits attached hereto are incorporated into this Agreement by reference.

(c) Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

(d) Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other parties hereto, or the failure by a party to exercise its rights upon the default of another party, shall not constitute a waiver of such party's right to insist and demand strict compliance by such other parties with the terms of this Agreement thereafter.

(e) No Third-Party Beneficiaries. Except as provided explicitly in this Agreement, no person or entity shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City, the Community Facilities District, and Developer (and their respective successors and assigns), any rights, remedies, obligations or liabilities under or by reason of this Agreement.

(f) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute but one instrument.

(g) Assignment. Developer may assign all or any of its rights pursuant to this Agreement to a purchaser of all or any portion of the Developer Property. Such a purchaser and assignee shall, as a condition to taking an assignment of such rights, enter into an assignment and assumption agreement with the City and Developer, in a form reasonably acceptable to Developer and the City, whereby such rights assigned are specified and such purchaser agrees, except as may be otherwise specifically provided therein, to assume the obligations of Developer pursuant to this Agreement and to be bound thereby.

(h) Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

(i) Construction of Agreement. This Agreement has been reviewed by legal counsel for both the City and Developer and shall be deemed for all purposes to have been jointly drafted by the City and Developer. No presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

(j) Attorneys' Fees. In the event of any action or proceeding, including an arbitration or a reference pursuant to Section 638, et seq., of the Code of Civil Procedure brought by any Party against any other under this Agreement, the prevailing Party shall be entitled to recover its actual attorneys' fees and all fees, costs and expenses incurred for prosecution, defense, consultation, or advice in such action or proceeding. In addition to the foregoing, the prevailing Party shall be entitled to its actual attorneys' fees and all fees, costs and expenses incurred in any post-judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Agreement into any judgment on this Agreement.

(k) Venue and Forum. Any action at law or in equity arising under this Agreement brought by any Party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Riverside, State of California, and the Parties waive all provisions of law providing for the filing, removal or change of venue to any other Court.

(l) Entire Agreement. Except as provided in an addendum, which if applicable, will appear as **Exhibit “E”** hereto, this Agreement sets forth and contains the entire understanding and agreement of the parties. There are no oral or written representations, understandings, undertaking or agreements, which are not contained or expressly referred to herein, and any such representations, understandings or agreements are superseded by this Agreement. No evidence of any such representations, understandings or agreements shall be admissible in any proceeding of any kind or nature relating to the terms or conditions of this Agreement, its interpretation or breach.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first set forth above.

CITY OF LAKE ELSINORE, a political subdivision of
the State of California

By: _____
Assistant City Manager

ATTEST:

By: _____
Grant Yates, Acting City Clerk

APPROVED AS TO FORM:

CITY ATTORNEY OF THE CITY OF LAKE ELSINORE

By: _____
David Mann, City Attorney

[SIGNATURES CONTINUED ON NEXT PAGE.]

[SIGNATURE PAGE CONTINUED]

PARDEE HOMES,
a California corporation

By: _____
Michael Taylor, Division President

LIST OF EXHIBITS

- EXHIBIT A - DESCRIPTION OF DEVELOPER PROPERTY
- EXHIBIT B - DESCRIPTION OF COST ESTIMATES
- EXHIBIT C - NOTICE OF SPECIAL TAX (as prepared by Developer)
- EXHIBIT D - DISBURSEMENT REQUEST FORM
- EXHIBIT E - ADDENDUM

EXHIBIT A

DESCRIPTION OF DEVELOPER PROPERTY

LEGAL DESCRIPTION

Real property in the City of Lake Elsinore, County of Riverside, State of California, described as follows:

Assessor's Parcel Nos. (as set forth in the County of Riverside Assessor's Fiscal Year 2018-19 Roll):

379-050-034

379-050-006

EXHIBIT B

DESCRIPTION OF COST ESTIMATES

The Improvements consist of the City Improvements, as described below. Any other types of Improvements will be described in an addendum to this Agreement appearing as **Exhibit "E."**

I. CITY IMPROVEMENTS.

City facilities included in the City's development fee programs used to finance expansion projects, exclusive of in-tract facilities constructed by a property owner, but including and not limited to the following.

Estimated Cost of the City Improvements	
<i>Description</i>	<i>Estimated Cost</i>
Traffic Facilities	\$ 156,317
Library Facilities	24,450
City Hall & Public Works Facilities	65,852
Community Center Facilities	44,336
Marina Facilities	63,407
Animal Shelter Facilities	28,362
Fire Facilities	99,756
Park Facilities	260,800
Storm Drainage Facilities	117,373
Total Fees	<u>\$ 860,653</u>

EXHIBIT C

**NOTICE OF SPECIAL TAX
COMMUNITY FACILITIES DISTRICT 2019-1
OF THE CITY OF LAKE ELSINORE (WESTLAKE)
COUNTY OF RIVERSIDE, CALIFORNIA**

**NOTICE OF SPECIAL TAX
COMMUNITY FACILITIES DISTRICT NO. 2019-1 (WESTLAKE)
OF THE CITY OF LAKE ELSINORE
COUNTY OF RIVERSIDE, CALIFORNIA**

TO: THE PROSPECTIVE PURCHASER OF THE REAL PROPERTY KNOWN AS:

TRACT NO. 33267, LOT NO. ____

THIS IS A NOTIFICATION TO YOU PRIOR TO YOUR ENTERING INTO A CONTRACT TO PURCHASE THIS PROPERTY. THE SELLER IS REQUIRED TO GIVE YOU THIS NOTICE AND TO OBTAIN A COPY SIGNED BY YOU TO INDICATE THAT YOU HAVE RECEIVED AND READ A COPY OF THIS NOTICE.

(1) This property is subject to a special tax, which is in addition to the regular property taxes and any other charges, fees, special taxes, and benefit assessments on the parcel. The Special Tax is imposed on this property because it is a new development, and may not be imposed generally upon property outside of this new development. If you fail to pay this tax when due each year, the property may be foreclosed upon and sold. The tax is used to provide public facilities or services that are likely to particularly benefit the property. YOU SHOULD TAKE THIS TAX AND THE BENEFIT FROM THE FACILITIES AND SERVICES FOR WHICH IT PAYS INTO ACCOUNT IN DECIDING WHETHER TO BUY THIS PROPERTY.

(2) The property you are purchasing (the "Property") is within the boundaries of Community Facilities District No. 2019-1 (Westlake) of the City of Lake Elsinore (the "CFD") and is subject to an annual Special Tax pursuant to the Rate and Method of Apportionment (the "RMA") for the CFD, which has been recorded against the Property. The annual Maximum Special Tax which may be levied against the Property to pay for public facilities during any given Fiscal Year will depend on whether the Property is classified as "Developed Property", "Approved Property" or "Undeveloped Property" during such Fiscal Year. Developed Property is defined as "all Assessor's Parcels of Taxable Property: (i) that are included in a Final Map that was recorded prior to the January 1st preceding the Fiscal Year in which the Special Tax is being levied, and (ii) has an Assessor's Parcel Number from the County shown on an Assessor's Parcel Number from the County shown on an Assessor's Parcel Map for the individual lot included on the Final Map, and (iii) a Building Permit for new construction was issued on or before May 1st preceding the Fiscal Year in which the Special Tax is being levied." Approved Property is defined in the RMA as "all Assessor's Parcels of Taxable Property: (i) that are included in a Final Map that was recorded prior to the January 1st preceding the Fiscal Year in which the Special Tax is being levied, and (ii) has an assigned Assessor's Parcel Number from the County shown on an Assessor's Parcel Number from the County shown on an Assessor's Parcel Map for the individual lot included on the Final Map, and (iii) that have not been issued a building permit on or before May 1st preceding the Fiscal Year in which the Special Tax is being levied." In each Fiscal Year prior to the first Fiscal Year in which the Property is classified as Developed Property or Approved Property, the Property will be classified as Undeveloped Property. Each of the capitalized terms not defined herein shall have the meanings set forth in the RMA.

Undeveloped Property

If the Property is classified as Undeveloped Property in Fiscal Year 2019-2020, the annual Maximum Special Tax authorized to be levied against the Property by the CFD to pay for public facilities during such Fiscal Year shall be \$31,245 per Acre. On each July 1, commencing July 1, 2020, the Assigned Special Tax Rate for Undeveloped Property shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year.

Approved Property

If the Property is classified as Approved Property in Fiscal Year 2019-2020, the annual Maximum Special Tax authorized to be levied against the Property by the CFD to pay for public facilities during such Fiscal Year shall be \$31,245 per Acre. On each July 1, commencing July 1, 2020, the Assigned Special Tax Rate for Approved Property shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year.

Developed Property

If the Property is classified as Developed Property in Fiscal Year 2019-2020, annual Maximum Special Tax authorized to be levied against the Property by the CFD to pay for public facilities during such Fiscal Year shall be the greater of (i) the applicable Fiscal Year 2019-2020 Assigned Special Tax for Developed Property as set forth in the Table 1, which is reproduced in pertinent parts on the following page, or (ii) the Fiscal Year 2019-2020 annual Backup Special Tax applicable to the Property which the seller of the Property (“the Seller”) has calculated to be \$2,238.91 per unit.

**TABLE 1
ASSIGNED SPECIAL TAX FOR DEVELOPED PROPERTY
(FISCAL YEAR 2019-2020)**

Land Use Category	Building Square Footage	Assigned Special Tax Per Taxable Unit
1. Single Family Residential Property	Less than 1,900 sq. ft.	\$1,904.00
2. Single Family Residential Property	1,900 sq. ft. to 2,100 sq. ft.	\$2,016.00
3. Single Family Residential Property	Greater than 2,100 sq. ft.	\$2,096.00

In the event that it is necessary to levy the annual Backup Special Tax against the Property, the CFD Administrator will independently calculate the annual Backup Special Tax pursuant to the methodology set forth in Section D.1.(c) of the RMA for the purpose of levying the annual Backup Special Tax against the Property. It is possible that the CFD Administrator’s calculation of the annual Backup Special Tax may be more or less than the Seller’s calculation. On each July 1, commencing July 1, 2020, the Assigned Special Tax Rate for Developed Property and the annual Backup Special Tax shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year. For each Fiscal Year that any Bonds are outstanding, the Special Tax shall be levied on all Assessor’s Parcels subject to the Special Tax. The Special Tax shall cease not later than the 2059-2060 Fiscal Year, however, the Special Tax will cease to be levied in an earlier Fiscal Year if the CFD Administrator has determined (i) that all required interest and principal payments on the CFD Bonds have been paid; (ii) all authorized facilities of the CFD have been acquired and all reimbursements to the developer have been paid, (iii) no delinquent Special Tax remain uncollected and (iv) all other obligations of the CFD have been satisfied.

(3) The authorized facilities which are being paid for by the special taxes and the money received from the sale of Bonds which are being repaid by the special taxes, include, but are not limited to: (a) paying for the cost of the construction, purchase, modification, expansion, rehabilitation and/or improvement of (1) drainage, library, park, roadway, traffic, administration and community center facilities, marina and animal shelter facilities, and other public facilities of the City, including the foregoing public facilities which are included in the City’s fee programs with respect to such facilities and authorized to be financed under the Mello-Roos Community Facilities Act of 1982, as amended (the “City Facilities”) and (2) water and sewer facilities including the acquisition of capacity in the sewer system and/or water system of the Elsinore Valley Municipal Water District which are included in Elsinore Valley Municipal Water District’s water and sewer capacity and connection fee programs (the “Water District Facilities” and together, with the City Facilities, the “Facilities”), and to finance the incidental expenses (the “Incidental Expenses”) to be incurred, including: (b) (1) the cost of engineering, planning and designing the Facilities; (2) all costs, including

costs of formation of the District, associated with the creation of the District, the issuance of the bonds, the determination of the amount of special taxes to be levied and costs otherwise incurred in order to carry out the authorized purposes of the District; and (3) any other expenses incidental to the construction, acquisition, modification, rehabilitation, completion and inspection of the Facilities; and (c) paying for the principal and interest and other periodic costs on the bonds to be issued to finance the Facilities and Incidental Expenses. These facilities may not yet have been all constructed or acquired and it is possible that some may never be constructed or acquired.

YOU MAY OBTAIN A COPY OF THE RESOLUTION OF FORMATION WHICH AUTHORIZED CREATION OF THE CFD, AND WHICH SPECIFIES MORE PRECISELY HOW THE SPECIAL TAX IS APPORTIONED AND HOW THE PROCEEDS OF THE TAX WILL BE USED, FROM THE CITY OF LAKE ELSINORE BY CALLING (951) 674-3124. THERE MAY BE A CHARGE FOR THIS DOCUMENT NOT TO EXCEED THE REASONABLE COST OF PROVIDING THE DOCUMENT.

I (WE) ACKNOWLEDGE THAT I (WE) HAVE READ THIS NOTICE AND RECEIVED A COPY OF THIS NOTICE PRIOR TO ENTERING INTO A CONTRACT TO PURCHASE OR DEPOSIT RECEIPT WITH RESPECT TO THE ABOVE REFERENCED PROPERTY. I (WE) UNDERSTAND THAT I (WE) MAY TERMINATE THE CONTRACT TO PURCHASE OR DEPOSIT RECEIPT WITHIN THREE DAYS AFTER RECEIVING THIS NOTICE IN PERSON OR WITHIN FIVE DAYS AFTER IT WAS DEPOSITED IN THE MAIL BY GIVING WRITTEN NOTICE OF TERMINATION TO THE OWNER, SUBDIVIDER, OR AGENT SELLING THE PROPERTY.

Dated: _____

By: _____

Name: _____

Dated: _____

By: _____

Name: _____

EXHIBIT D

**CFD NO. 2019-1 (WESTLAKE)
OF THE CITY OF LAKE ELSINORE**

DISBURSEMENT REQUEST FORM

1. City of Lake Elsinore Community Facilities District No. 2019-1 (Westlake) of (the "CFD") is hereby requested to pay from the City Improvements Account, or any applicable account or sub-account thereof, established by the CFD in connection with its [20__] Special Tax Bonds (the "Bonds") to City of Lake Elsinore (the "City") as payee, the sum set forth below :

\$_____ (the Requested Amount")

2. The Requested Amount represents the payment of City Fees for ____ lot(s) within the boundaries of the CFD (the "Property").

(Tract No. _____, Lot Nos. _____).

3. The Requested Amount is due and payable, has not formed the basis of any prior request or disbursement.

4. The Requested Amount shall be payable to _____ (the "Developer"), pursuant to the wiring instructions attached hereto.

5. The Requested Amount is authorized and payable pursuant to the terms of the certain Funding Agreement (the "Agreement") between the City, acting for and on behalf of itself and the CFD and Developer.

6. Capitalized undefined terms used herein shall have the meaning ascribed to them in the Agreement.

Dated: _____

DEVELOPER:

PARDEE HOMES, a California Corporation

By: _____

Name: _____

Title: _____

Dated: _____

CITY OF LAKE ELSINORE

By: _____

Its: _____

[ATTACH WIRING INSTRUCTIONS]

EXHIBIT E

ADDENDUM

DESCRIPTION AND COST ESTIMATES OF THE MISCELLANEOUS IMPROVEMENTS

I. ELSINORE VALLEY MUNICIPAL WATER DISTRICT IMPROVEMENTS.

1. The construction, purchase, modification, expansion, rehabilitation and/or improvement of water and sewer facilities including the acquisition of capacity in the sewer system and/or water system of the Elsinore Valley Municipal Water District which are included in Elsinore Valley Municipal Water District's water and sewer capacity and connection fee programs (the "Facilities"), and all appurtenances and appurtenant work in connection with the foregoing Facilities, including the cost of engineering, planning, designing, materials testing, coordination, construction staking, construction management and supervision for such Facilities, and to finance the incidental expenses to be incurred, including:

a. The cost of engineering, planning and designing the Facilities;

b. All costs, including costs of the property owner petitioning to form the District, associated with the creation of the District, the issuance of the bonds, the determination of the amount of special taxes to be levied and costs otherwise incurred in order to carry out the authorized purposes of the District; and

c. Any other expenses incidental to the construction, acquisition, modification, rehabilitation, completion and inspection of the Facilities.

2. The acquisition of an 8-inch water transmission line in Grand Avenue east of Machado Street of approximately 1,650 linear feet.

Estimated Cost of the Water District Improvements	
<i>Description</i>	<i>Estimated Cost</i>
Water Capacity Fees (3/4" Meter)	\$ 2,207,020
Sewer Capacity Fees	1,271,400
Irrigation Capacity Fees	44,765
Water Facilities (Water Transmission Line)	765,129
Total Fees	<u>\$ 4,288,314</u>