
JOINT COMMUNITY FACILITIES AGREEMENT

among

CITY OF LAKE ELSINORE

and

ELSINORE VALLEY MUNICIPAL WATER DISTRICT

and

PARDEE HOMES

a California corporation

relating to

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

JOINT COMMUNITY FACILITIES AGREEMENT

THIS JOINT COMMUNITY FACILITIES AGREEMENT (the "Agreement") dated as of _____ 1, 2019, by and among the CITY OF LAKE ELSINORE, a political subdivision of the State of California (the "City"), the ELSINORE VALLEY MUNICIPAL WATER DISTRICT, a municipal water district (the "Water District"), and PARDEE HOMES, a California corporation (the "Company"), and relates to Community Facilities District No. 2019-1 of the City of Lake Elsinore (Westlake) (the "District") for the purpose of financing certain facilities to be owned and operated by the Water District, consisting of various water and sewer improvements described in Exhibit B hereto (the "Water District Facilities").

R E C I T A L S:

A. The Company is the developer of the land described in Exhibit A hereto (the "Property") which is located in the City of Lake Elsinore, County of Riverside, and consists of all the property located within the District.

B. The Company, as the developer of the Property, intends to obtain, or has obtained, the necessary development approvals to construct approximately 163 residential units on the Property and to provide the required infrastructure for such units and improvements. The required infrastructure includes the Water District Facilities, some of which may be funded with water and sewer capacity and connection fees of the Water District ("Water District Fees") or proceeds of bonds to be issued by the District. One of the Water District Facilities is a water line to be constructed on behalf of the Company pursuant to a Participation Agreement between the Company and Water District (the "Participation Agreement") and which is referred to herein as the "Acquisition Facility."

C. The City Council of the City (the "City Council") has formed the District pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the California Government Code (the "Act") and has primary responsibility for administration of the District.

D. The provision of the Water District Facilities is necessitated by the development of the Property and the parties hereto find and determine that the residents residing within the boundaries of the Water District, the City and the District will be benefited by the construction and/or acquisition of the Water District Facilities and that this Agreement is beneficial to the interests of such residents.

E. The parties hereto intend to have the District assist in financing the construction and/or acquisition of the Water District Facilities by disbursing proceeds of bonds issued by the District.

F. The Water District is authorized by Section 53313.5 of the Act to assist in the financing of the acquisition and/or construction of the Water District Facilities. This Agreement constitutes a joint community facilities agreement, within the meaning of Section 53316.2 of the Act, by and among the Water District, the Company and the City, pursuant to which the District will be authorized to finance the construction and/or acquisition of the Water District Facilities. As authorized by Section 53316.6 of the Act, responsibility for constructing, providing for and

operating the Water District Facilities is delegated to the Water District to the extent set forth herein.

G. The parties hereto intend to have the District assist in financing the Water District Facilities by transferring to the Company (with respect to the Acquisition Facility) and to the Water District (with respect to the other Water District Facilities) a portion of the bond proceeds of the District, in accordance with the terms of this Agreement and pursuant to the Act.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. Recitals. Each of the above recitals is incorporated herein and is true and correct.

2. Sale of Bonds and Use of Proceeds. The purpose of this Agreement is to provide a mechanism by which the Company may request the District to issue bonds to provide funds to finance the Water District Facilities. In the event that bond proceeds are not available to finance the Water District Facilities, then the Company shall make alternate arrangements with the Water District to finance the Water District Facilities through the payment of Water District Fees.

The City Council of the City acting as the legislative body of the District may, in its sole discretion, finance the design, construction and acquisition of the Water District Facilities by issuing bonds of the District (the "Bonds"). To the extent that the District determines, in its sole discretion, that Bond proceeds are available to finance the Water District Facilities, it shall reserve an amount (the "Water District Facilities Amount") for such purpose.

The Company and the Water District acknowledge that the timing of the disbursement of the Water District Facilities Amount to the Water District shall be in all respects subject to the sole discretion and approval of the City. In no event will an act, or an omission or failure to act, by the City or the District with respect to the disbursement or nondisbursement of the Water District Facilities Amount subject the District or the City to pecuniary liability hereunder.

The Bonds shall be issued only if, in its sole discretion, the City Council determines that all requirements of state and federal law and all City policies with respect to the issuance of the Bonds have been satisfied or have been waived by the City. In no event shall the Company or the Water District have a right to compel the issuance of the Bonds or the disbursement of Bond proceeds to fund the Water District Facilities Amount.

3. Disbursements.

(a) Bond proceeds of the District designated for the Water District Facilities shall be held by the District in a special fund (the "Water District Facilities Account of the Acquisition and Construction Fund") which shall be invested by the City and earn and accumulate its own interest. In the event that the District has deposited Bond proceeds to the Water District Facilities Account of the Acquisition and Construction Fund, the City shall notify the Water District and the Company, in writing, as to the amount of Bond proceeds so deposited and the yield on the Bonds. All interest earnings on amounts in the District's Water District Facilities Account of

the Acquisition and Construction Fund shall remain in the Water District Facilities Account and will be available for disbursement for the Water District Facilities as described below.

(b) The City shall make disbursements from the Water District Facilities Account of the Acquisition and Construction Fund in accordance with the terms of this Agreement and neither the City nor the District shall be responsible to the Water District for costs incurred by the Water District as a result of withheld or delayed payments.

(c) The Water District agrees that it will request a disbursement of Bond proceeds only for costs related to the Water District Facilities that are eligible for financing under the Act. With respect to all Water District Facilities other than the Acquisition Facility, the Water District agrees that prior to requesting payment from the District it shall review and approve all costs included in its request and will have already paid such costs of Water District Facilities from its own funds or will disburse such amounts to pay the costs of the Water District Facilities within five banking days of receipt of funds from the District. In the event that the Water District does not disburse any Bond proceeds received for disbursement to third parties within five banking days of receipt, it will trace and remit to the District from which such Bond proceeds were received all earnings, if any, earned by the Water District in excess of the yield on the Bonds, from the date of receipt of such Bond proceeds by the Water District to the date of expenditure by the Water District of such Bond proceeds for capital costs of the Water District Facilities. Such remittance, if any, shall occur on the earlier of the date of expenditure of such Bond proceeds or each anniversary date of the transfer of such Bond proceeds from the District to the Water District. The Water District agrees that in processing the above disbursements it will comply with all legal requirements for the expenditure of Bond proceeds under the Act and the Internal Revenue Code of 1986 and any amendments thereto. As a condition to receiving any proceeds of the Bonds, the Water District agrees that it shall provide to the District, a certificate confirming the representations contained in Section 3 hereof and such other matters as the District may reasonably request upon which the District and its bond counsel may rely in connection with the issuance of such Bonds and their conclusion that interest on such Bonds is not included in gross income for federal income tax purposes. With respect to the Acquisition Facility, upon its completion and acceptance pursuant to the terms of the Participation Agreement, the Water District shall request a disbursement of Bond proceeds to the Company in an amount equal to the actual cost of the Acquisition Facility less the amount to be reimbursed to the Company by the Water District pursuant to the Participation Agreement. Such disbursement request shall be in the form attached hereto as Exhibit C-1.

(d) The Water District agrees to maintain adequate internal controls over its payment function and to maintain accounting records in accordance with generally accepted accounting procedures. The Water District will, upon request, provide to the District and the City its annual financial report certified by an independent certified public accountant and any other documents deemed necessary by the District and the City for purposes of calculating the District's arbitrage rebate obligations. The District and the City shall have the right to conduct their own audit of the Water District's records related to the expenditure of the Water District Facilities Amount at reasonable times during normal business hours.

(e) From time to time, upon written request from Company in the form attached hereto as Exhibit D ("Payment Request") and the Water District's approval/acknowledgment of such Payment Request, the Water District shall submit a request for disbursement along with adequate supporting documentation to the District which shall be in the form attached hereto as Exhibit C, which shall be signed by the General Manager or Director of Strategic Programs, or his

or her or written designee, and which shall be for the exact amount to be reimbursed to the Water District, which costs shall in no event exceed the amount remaining on deposit in the Water District Facilities Account of the Acquisition and Construction Fund. Upon receipt of an approved disbursement request completed in accordance with the terms of this Agreement, the City shall wire transfer such portion of requested funds as are then available for release pursuant to the documents pursuant to which the Bonds are issued to the Water District's bank account, as directed by the Water District. In each case, the Water District shall remit such funds in accordance with the approved Payment Request, as follows (i) to pay the Company for Water District Facilities previously funded through the payment of Water District Fees for residential units or lots within the District and not yet reimbursed with special taxes or Bond proceeds of the District, and/or (ii) to pay the Water District for Water District Facilities in an amount up to the Water District Fees for residential units or lots within the District which have not yet been paid (in which case Company or its written designee shall receive credit for the Water District Fees with respect to such residential units or lots identified in the approved Payment Request).

(f) If five (5) years following the issuance of the Bonds, 85% or more of the amount deposited into the Water District Facilities Account of the Acquisition and Construction Fund from proceeds of such Bonds have not been expended for federal tax law purposes, the District may in its sole discretion transfer such funds to the City Facilities Account of the Acquisition and Construction Fund to be used to pay for the costs of eligible public facilities or to the redemption fund to redeem Bonds; provided, however that such funds may be retained in the Water District Facilities Account of the Acquisition and Construction Fund beyond such five year period upon the written request of the Water District, and delivery by the Water District of an opinion of bond counsel that such extension will not affect the exclusion from gross income of interest on such Bonds issued on a tax-exempt basis.

4. Construction and Ownership of Facilities. Except for the Acquisition Facility, the Water District will complete the design of the Water District Facilities and the plans and specifications for construction of the Water District Facilities and will be responsible for constructing and inspecting the Water District Facilities. Except for the Acquisition Facility, the Water District covenants and agrees that with respect to the Water District Facilities it will comply with all statutory provisions applicable to the design and construction of public works projects. The Acquisition Facility shall be design constructed and inspected in accordance with the terms of the Participation Agreement. The Water District Facilities shall be and remain the property of the Water District.

5. Indemnification. The City shall assume the defense of, indemnify and save harmless, the Water District, its officers, employees and agents, and each and every one of them, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of, or resulting from, any act or omission of the City with respect to this Agreement and the issuance of the Bonds. No provision of this Agreement shall in any way limit the extent of the City's responsibility for payment of damages resulting from the operations of the City and its contractors; provided, however, that the City shall not be required to indemnify any person or entity as to damages resulting from negligence or willful misconduct of such person or entity or their agents or employees. The Water District shall assume the defense of, indemnify and save harmless, the City, its officers, employees and agents, and each and every one of them, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of, or resulting from, any act or omission of the Water District with respect to this Agreement, and the design, engineering and construction of the Water District Facilities. No provision of this Agreement shall

in any way limit the extent of the Water District's responsibility for payment of damages resulting from the operations of the Water District and its contractors; provided, however, that the Water District shall not be required to indemnify any person or entity as to damages resulting from negligence or willful misconduct of such person or entity or their agents or employees.

6. Allocation of Special Taxes. The City Council, as the legislative body of the District, shall annually levy a special tax as provided for in the formation proceedings of the District. The entire amount of any special tax levied by the District to repay Bonds, or to fund other obligations, shall be allocated at the discretion of the District.

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

8. Entire Agreement. This 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 Agreement; provided, however, the Participation Agreement establishes the terms for construction of the Acquisition Facility and reimbursement of the Company by the Water District for a portion of its costs.

9. 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 hours following deposit of the same in any United States Post Office in California, registered or certified, postage prepaid, addressed as follows:

City/District: City of Lake Elsinore
 130 South Main Street
 Lake Elsinore, CA 92530
 Attn: Assistant City Manager

Elsinore Valley Municipal Water District:

 Elsinore Valley Municipal Water District
 P.O. Box 3000
 31315 Chaney Street
 Lake Elsinore, CA 92531
 Attn: Director of Strategic Programs

Company: Pardee Homes
 1250 Corona Pointe Court, Suite 600
 Corona, CA 92879
 Attn: Jeff Chambers

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

10. Exhibits. All exhibits attached hereto are incorporated into this Agreement by reference.

11. 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.

12. Governing Law and Venue. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in the County of Riverside, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.

13. 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.

14. No Third Party Beneficiaries. No person or entity other than the District when and if formed 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 Water District, the City, the District and the Company (and their respective successors and assigns), any rights, remedies, obligations or liabilities under or by reason of this Agreement.

15. Assignment. The Company may assign all or any of its rights pursuant to this Agreement to a purchaser of all or any portion of the 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 Company, in a form reasonably acceptable to Company 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 the Company pursuant to this Agreement and to be bound thereby.

16. Termination. This Agreement 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 District, (ii) the funding of all Water District Facilities 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 District have been pulled, construction within the District, as contemplated by the parties hereto, is ongoing, and the Company has not yet been fully reimbursed for Water District Facilities pursuant to Section 3(e) above. If the 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.

17. Singular and Plural; Gender. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

18. 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.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and first year written 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 FOLLOWING PAGES]

[SIGNATURE PAGE CONTINUED]

ELSINORE VALLEY MUNICIPAL WATER
DISTRICT

By: _____
Its: John Vega, General Manager

ATTEST:

By: _____
Its: Terese Quintanar, Board Secretary

APPROVED AS TO FORM:

By: _____
Its: John Brown, General Counsel

[SIGNATURE PAGE CONTINUED]

PARDEE HOMES, a California corporation

By: _____
Its: Michael Taylor, Division President

EXHIBIT A
DESCRIPTION OF PROPERTY

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 WATER DISTRICT FACILITIES

The proposed types of Water District Facilities and expenses to be financed by the District include:

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 "Water District 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 Water District Facilities;
- b. Any other expenses incidental to the construction, acquisition, modification, rehabilitation, completion and inspection of the Water District Facilities.

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

EXHIBIT C

DISBURSEMENT REQUEST FORM

1. Community Facilities District No. 2019-1 of the City of Lake Elsinore (Westlake) ("CFD No. 2019-1") is hereby requested to pay from the Water District Facilities Account of the Acquisition and Construction Fund established by the City Council of the City of Lake Elsinore (the "City") in connection with its CFD No. 2019-1 Series _____ Special Tax Bonds (the "Bonds"), to the Elsinore Valley Municipal Water District (the "Water District"), as Payee, the sum set forth below in payment of project costs described below.

2. The undersigned certifies that the amount requested has been expended or encumbered for the purposes of planning, designing, engineering, constructing and/or completing Water District Facilities. The amount requested is due and payable under, or is encumbered for the purpose of funding, a purchase order, contract or other authorization with respect to the project costs described below and has not formed the basis of a prior request or payment. In the event that the Water District does not disburse any Bond proceeds received for disbursement to third parties within five banking days of receipt, the Water District agrees to trace and remit to CFD No. 2019-1 all earnings, if any, in excess of the yield on the Bonds accruing from the investment of such Bond proceeds, from the date of receipt by the Water District of such amounts to the date of expenditure of such amounts by payment thereof to a third party for the costs set forth below. Such remittance, if any, shall be made each year on the earlier of the expenditure of such amounts or the anniversary date of the transfer of the requested amounts by CFD No. 2019-1 to the Water District.

3. Description of Water District Facilities Costs:

4. Amount requested: \$_____.

5. The amount set forth is authorized and payable pursuant to the terms of the Joint Community Facilities Agreement among the City, Pardee Homes and the Elsinore Valley Municipal Water District dated as of _____, 2019 (the "Agreement"). Capitalized terms not defined herein shall have the meaning set forth in the Agreement.

6. Total payments to the Water District for the Water District Facilities from CFD No. 2019-1, including the amounts to be paid under paragraph 4 above, will not exceed the maximum amount to be disbursed for Water District Facilities under the Agreement.

Executed by an authorized representative of the Elsinore Valley Municipal Water District.

By: _____

Name: _____

Title: _____

Date: _____

Request No. _____

EXHIBIT C-1

DISBURSEMENT REQUEST FORM

(Acquisition Facility)

1. Elsinore Valley Municipal Water District ("EVMWD") hereby requests that, in accordance with the terms of the Joint Community Facilities Agreement by and among EVMWD, Pardee Homes and the City of Lake Elsinore ("City") dated _____, 2019 (the "JCFA"), Community Facilities District No. 2019-1 of the City ("CFD") disburse from the Water District Facilities Account of the Acquisition and Construction Fund the sum set forth in 3 below.

2. The undersigned certifies that the amount requested is with respect to the Acquisition Facility.

3. Amount requested: \$_____

4. The name and address of the person or entity to whom payment is to be made is as follows:

Pardee Homes
1250 Corona Pointe Court, Suite 600
Corona, CA 92879

5. The full amount to be paid constitutes costs of the Acquisition Facility described in paragraph 2 above and has not been the subject of a prior EVMWD payment request. Such Acquisition Facility was constructed in accordance with EVMWD's Participation Agreement with Pardee Homes and, as such, EVMWD has determined it was constructed as if it had been constructed under the direction and supervision, or under the authority of, EVMWD.

Pardee Homes,
a California corporation

By: _____
Name: _____
Title: _____
Date: _____

Elsinore Valley Municipal Water District

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT D

PAYMENT REQUEST FORM

1. The Water District is hereby requested to submit a disbursement request to the City of Lake Elsinore Community Facilities District No. 2019-1 (Westlake) ("CFD No. 2019-1") to pay from the Water District Facilities Account of the Acquisition and Construction Fund established by the City Council of the City of Lake Elsinore (the "City") in connection with its CFD No. 2019-1 Series _____ Special Tax Bonds (the "Bonds"), to the Elsinore Valley Municipal Water District (the "Water District"), as Payee, the sum set forth below in payment of Water District Facilities costs as described below.
2. The total amount requested herein is \$_____, comprised of the following:
 - a. *[insert dollar amount or N/A]* to reimburse the undersigned (or its assigns) for water and/or sewer capacity and connection fees previously paid for Lots ____ of Tract ____ within the District and not yet reimbursed with special taxes or Bond proceeds of the District. [ATTACH SUPPORTING DOCUMENTATION.]
 - b. *[insert dollar amount or N/A]* to pay the Water District for water and/or sewer capacity and connection fees relating to Lots ____ of Tract ____ within the District, which have not yet been paid. This amount will serve as a credit to such lots against the applicable fees.
3. CHECK APPLICABLE BOXES:

☐ 1. On behalf of [Property Owner name], I hereby certify and represent that the above-referenced amount of \$_____ in section 2a was previously paid to Water District by [Property Owner name], for water and/or sewer capacity and connection fees imposed by Water District, and such amounts have not been previously reimbursed by Water District to [Property Owner name] (or to any of its successors and assigns).

☐ 2. On behalf of [Property Owner name], I hereby certify and represent that the above-referenced amount of \$_____ in section 2b is currently due to Water District from [Property Owner name] for water and/or sewer capacity and connection fees imposed by Water District on [Property Owner name] for the lots identified.

Dated: _____, 20__

By: _____
Authorized Representative of
[Property Owner name]

Name: _____

Title: _____