

JOINT COMMUNITY FACILITIES AGREEMENT

relating to

Val Verde Unified School District Community Facilities District No. 2018-1 (MPLC Legacy 75)

by and among

Val Verde Unified School District, City of Moreno Valley and
MPLC Legacy 75 Associates, LP

THIS JOINT COMMUNITY FACILITIES AGREEMENT (the “**Agreement**”) is entered into effective as of the ___ day of _____, 2018, by and among VAL VERDE UNIFIED SCHOOL DISTRICT, a California School District (“**School District**”), the CITY OF MORENO VALLEY, a California general law city (the “**City**”) and MPLC LEGACY 75 ASSOCIATES, LP, a Delaware limited partnership (“**Property Owner**”). This Agreement relates to the formation by the School District of a community facilities district known as “Val Verde Unified School District Community Facilities District No. 2018-1” (the “**CFD**”), for the purpose of financing certain City improvements and certain fees incurred as a consequence of the development within the CFD to be used by the City to construct facilities to be owned and operated by the City from the proceeds of special taxes of, and bonds issued by, the CFD.

RECITALS:

A. The property is within Tentative Tract No. 36760 and is depicted in Exhibit “A” and described in Exhibit “B” hereto (the “**Property**”), which is located in the City of Moreno Valley, County of Riverside, State of California, and constitutes the land within the boundaries of the CFD.

B. Property Owner owns the Property and intends to develop the Property for residential purposes.

C. Property Owner petitioned the School District to form the CFD for the purpose of financing, among other things, the construction of various public facilities to be owned and operated by the City as described in Exhibit “C” hereto, which facilities will benefit the Property in whole or in part, including certain public facilities to be constructed, owned and operated by the City (the “**City Fee Facilities**”) in lieu of the payment of City Fees (defined below) and certain public facilities to be constructed by the Property Owner and acquired by the City (the “**Acquisition Facilities**”).

D. Property Owner has yet to determine whether it will finance any or all of the City Fee Facilities, in lieu of payment of City Fees, with Bond Proceeds (defined below) that are available for such purpose. The Parties (defined below) hereto acknowledge that the purpose of this Agreement is to satisfy the requirements of the Act (defined below).

E. In conjunction with the issuance of building permits for the construction of homes within the Property and/or receipt of final inspections or occupancy certificates for such homes, the Property Owner, or its successors or assigns, may elect to advance City Fee Facilities costs in lieu of payment of City Fees (the “**Advance(s)**”) at such times as Bond Proceeds are not available in sufficient amounts to pay for City Fee Facilities. In such case, the Property Owner shall be entitled to (i) reimbursement of such Advances limited to Bond Proceeds available to the City, if any (the Advances

being considered an interest free loan by the Property Owner with no repayment obligation except to the extent there are Bond Proceeds received by or made available to the City as described herein, all as further described in Section 5(a) below) and (ii) credit for payments made to the City from Bond Proceeds against City Fees which would otherwise be due to the City with respect to the Property for which such transfer was made equal to the amount of Bond Proceeds disbursed to the City or at the direction of the City for City Fee Facilities, all as further described herein.

F. In addition to the City Fee Facilities and Acquisition Facilities, certain facilities to be owned and operated by the School District (the “**School Facilities**”) and certain facilities to be owned and operated by Eastern Municipal Water District (“**EMWD**”) are also expected to be funded from Bond Proceeds.

G. The School District has sole discretion and responsibility for the formation and administration of the CFD.

H. The School District is authorized by Section 53313.5 of the Act to assist in the financing of the acquisition and/or construction of the City Fee Facilities and/or the Acquisition Facilities. This Agreement constitutes a joint community facilities agreement, within the meaning of Section 53316.2 of the Act, by and among the City, the Property Owner, and the School District, pursuant to which the CFD is authorized to finance the acquisition and/or construction of all or a portion of the City Fee Facilities and/or the Acquisition Facilities. As authorized by Section 53316.6 of the Act, responsibility for constructing, providing for, and operating the City Fee Facilities and/or the Acquisition Facilities is delegated to the City.

I. The Parties (defined below) hereto find and determine that the residents residing within the boundaries of the City, the School District, and the CFD will be benefited by the construction and/or acquisition of the School Facilities, City Fee Facilities and/or the Acquisition Facilities and that this Agreement is beneficial to the interests of such residents.

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. Definitions. Unless the context clearly otherwise requires, the terms defined in this Section shall, for all purposes of this Agreement, have the meanings herein specified.
 - (a) “Acquisition Facility(ies)” means the City facilities described as such in Exhibit “C” hereto.
 - (b) “Act” means 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.
 - (c) “Advance” or “Advances” means an amount advanced by Property Owner to the City for City Fee Facilities in lieu of payment of City Fees prior to the availability of sufficient Bond Proceeds. Advances shall be deemed payment of City Fees to the extent sufficient Bond Proceeds are not received or made available to the City.

(d) “Bond Proceeds” or “Proceeds of the Bonds” shall mean those net funds generated by the sale of the Bonds and investment earnings thereon, net of costs of issuance, reserve fund, capitalized interest and administrative expenses and may include net funds generated by the levy of Special Taxes and investment earnings thereon.

(e) “Bond Resolution” means that resolution, resolution supplement, fiscal agent agreement, indenture of trust or other equivalent document(s) providing for the issuance of the Bonds.

(f) “Bonds” shall mean those bonds, or other securities, issued by, or on behalf of, the CFD in one or more series, as authorized by the qualified electors within the CFD.

(g) “City Engineer Representative” means the project manager or engineer or engineers representing the City in the inspection and review of the Acquisition Facilities, which may be employees of the City or outside consultants representing the City.

(h) “City Fees” means fees for those capital improvements authorized to be financed with City development impact fees (“DIF”), for police facilities, fire facilities, community and/or recreation centers and interchange improvements, which are components of the DIF, imposed by the City as a consequence of development of any portion of the Property to finance City Fee Facilities.

(i) “City Fee Facilities” means those City capital improvements eligible to be financed with DIF or any component(s) thereof for police facilities, fire facilities, community and/or recreation centers and interchange improvements, which are components of the DIF, imposed by the City as a consequence of development of any portion of the Property to finance City Fee Facilities, as further described in Exhibit “C” hereto. City Fee Facilities financed with Bond Proceeds pursuant to this Agreement may include City capital improvements from a single DIF category or multiple DIF categories at the discretion of the City.

(j) “Disbursement Request” means a request for payment relating to City Fee Facilities in the form attached hereto as Exhibit “D.”

(k) “Other Facilities Account of the Improvement Fund” means the fund, account or sub-account of the CFD (regardless of its designation within the Bond Resolution) into which a portion of the Bond Proceeds may be deposited in accordance with the Bond Resolution to finance City Fee Facilities and/or the Acquisition Facilities and which may have subaccounts.

(l) “Party” or “Parties” shall mean any or all of the parties to this Agreement.

(m) “Payment Request” means a request for payment relating to Acquisition Facilities in the form attached hereto as Exhibit “E”.

(n) “PIA” shall mean the Public Improvements Agreement, by and between the City and the Property Owner, in the form attached hereto as Exhibit “F.”

(o) “Rate and Method” means the Rate and Method of Apportionment of the Special Tax authorizing the levy and collection of Special Taxes pursuant to proceedings undertaken for the formation of the CFD pursuant to the Act.

(p) “School Facilities” means those public improvements to be owned, operated, or maintained by the School District identified in proceedings to form the CFD that are eligible to be financed with Bond Proceeds.

(q) “Special Taxes” means the special taxes authorized to be levied and collected within the CFD pursuant to the Rate and Method.

(r) “State” means the State of California.

3. Formation of the CFD. The School District has undertaken to analyze the appropriateness of forming the CFD to finance the City Fee Facilities, Acquisition Facilities, and other facilities. The School District has retained, at the expense of Property Owner, the necessary consultants to analyze the formation of the CFD, and the CFD formation is now complete.

4. Sale of Bonds and Use of Bond Proceeds. In the event that the CFD is formed and Bonds are issued, the Board of Education of the School District acting as the legislative body of the CFD may, in its sole discretion, finance City Fee Facilities and/or Acquisition Facilities by issuing one or more series of Bonds. To the extent that the CFD and Property Owner determine that Bond Proceeds are available to finance City Fee Facilities and/or Acquisition Facilities, School District shall notify the City of the amount of such Bond Proceeds deposited in the Other Facilities Account of the Improvement Fund that is available for such purpose. It is currently anticipated that sufficient Bond Proceeds will be available to fund City Fee Facilities in an amount equal to the aggregate total of the applicable City Fees for dwelling units within the CFD and/or Acquisition Facilities; notwithstanding the foregoing, there is no assurance that City Fees will not increase in the future or available Bond proceeds be less than anticipated such that Bond Proceeds are not sufficient to fund the anticipated amount of City Fee Facilities in an amount equal to the aggregate total of the applicable City Fees and/or Acquisition Facilities. As Bond Proceeds are transferred to the City and reserved to fund City Fee Facilities as described in Section 5 below, the portion of the Property with respect to which such transfer was made shall receive a credit in the amount transferred against the payment of City Fees with respect to the Property. Nothing herein shall supersede the obligation of and owner of the Property to make Advances or otherwise pay City Fees to the City when due. The purpose of this Agreement is to provide a mechanism by which the CFD may issue the Bonds and levy Special Taxes to provide a source of funds to finance all or a portion of the City Fee Facilities and to finance Acquisition Facilities in lieu of the payment of all or a portion of the City Fees and provision of Acquisition Facilities. In the event that Bond Proceeds, including investment earnings thereon, are not available or sufficient to fully satisfy the obligation, then Property Owner shall remain obligated to make Advances for which it will receive no reimbursement (except to the extent Bond Proceeds later become available to the City) or pay City Fees to the City as required by the City in accordance with applicable law.

The Bonds shall be issued only if, in its sole discretion, the Board of Education of the School District determines that all requirements of State and federal law and all School District policies have been satisfied or have been waived by the School District. Nothing in this Agreement shall confer upon the City or any owner of the Property, including Property Owner, a right to compel the issuance of the Bonds or the disbursement of Bond Proceeds to fund City Fee Facilities and/or Acquisition Facilities except in accordance with the terms of this Agreement.

5. Disbursements for City Fee Facilities.

(a) Upon the funding of the Other Facilities Account of the Improvement Fund with funds reserved to fund City Fee Facilities, the Property Owner shall notify the City of the amount of Bond Proceeds reserved to fund City Fee Facilities and the Property Owner and the City may execute and submit a Disbursement Request for payment to the School District or the CFD requesting disbursement of an amount equal to all or a portion of the Advances from the Other Facilities Account of the Improvement Fund to the extent that Bond Proceeds are available in the Other Facilities Account of the Improvement Fund for such purpose. Upon the City's receipt of funds pursuant to such Disbursement Request, the Property Owner shall receive reimbursement of the Advances from the City. To facilitate the City's bookkeeping, the City may direct in a Disbursement Request, that all or a portion of a payment be made directly to the Property Owner as reimbursement for Advances made by the Property Owner. In the event of a reimbursement to the Property Owner pursuant to the preceding sentence, the City shall account for an equivalent amount of Advances previously received from the Property Owner in accordance with Section 5(c) below.

To the extent that the City expends all or a portion of an Advance pending the deposit of Bond Proceeds in the Other Facilities Account of the Improvement Fund, for purposes of Treasury Regulations regarding investment and expenditure of Bond Proceeds and State law provisions regarding financing of public capital facilities, the Advance shall be considered an interest free loan by the Property Owner, which the City agrees to repay to the extent of the deposit, if any, of Bond Proceeds in the Other Facilities Account of the Improvement Fund and the City's written direction as described below to pay all or a portion of such deposit to the Property Owner as repayment of an Advance.

(b) From time to time following the funding of the Other Facilities Account of the Improvement Fund, Property Owner may notify the City in writing and the City and Property Owner may jointly request a disbursement from the Other Facilities Account of the Improvement Fund to fund City Fee Facilities by executing and submitting a Disbursement Request. Upon receipt of such Disbursement Request completed in accordance with the terms of this Agreement, the CFD shall wire transfer or otherwise pay to the City (or upon the City's written direction pay to the Property Owner or a City contractor) such requested funds to the extent that Bond Proceeds are then available, or subsequently become available, in the Other Facilities Account of the Improvement Fund for such purpose. Upon such notice and the City's receipt of such disbursement (or upon payment to the Property Owner or a City contractor in accordance with directions from the City relating to City Fee Facilities), the Property Owner shall be deemed to have satisfied the portion of the applicable City Fees with respect to the number of dwelling units or lots for which City Fees would otherwise have been required in an amount equal to such disbursement divided by the per lot or unit amount of the applicable City Fees.

(c) The City agrees that prior to submitting a Disbursement Request requesting payment from the CFD it shall review and approve all costs included in its request and will have already paid contractually or incurred such costs of City Fee Facilities from its own funds (which may include Advances from the Property Owner) subsequent to the date of this Agreement, or will disburse such amounts to pay the costs of the City Fee Facilities following receipt of funds from the CFD. For City Fee Facilities to be constructed, in the event that the City does not disburse any Bond Proceeds (or equivalent amount of Advances repaid pursuant to the second to the last sentence of the first paragraph of Section 5(a) above) received by it to third parties within five banking days of receipt, it will trace and report to the CFD all earnings, if any, earned by the City, from the date of receipt of such Bond

Proceeds by the City (or the date of disbursement pursuant to the second to the last sentence of the first paragraph of Section 5(a) above) to the date of expenditure by the City for capital costs of the City Fee Facilities. Such report shall be delivered at least annually until all Bond Proceeds are expended by the City.

(d) Subject to Section 5(e) below, the City agrees to maintain adequate internal controls over its payment function and to maintain accounting records in accordance with generally accepted accounting procedures. The City will, upon request, provide the School District and/or Property Owner with access to the City's records related to the City Fee Facilities and expenditure of Advances and will provide to the School District its annual financial report certified by an independent certified public accountant for purposes of assisting the School District in calculating the arbitrage rebate obligation of the CFD, if any.

(e) At the City's discretion, the City may elect to satisfy the tracing and accounting of Bond Proceeds requirements set forth in Section 5 of this Agreement by selecting and depositing unexpended Bond Proceeds with a commercial bank, savings bank, savings and loan association or other financial institution which is authorized by law to accept, hold, trace and account for deposits of money (the "**Deposit Institution**"). Property Owner shall pay for all costs and expenses associated with such Deposit Institution and shall pay said costs and expenses as provided in the written direction of the City.

(f) The School District or the CFD agrees to maintain full and accurate records of all amounts, and investment earnings, if any, expended from the Other Facilities Account of the Improvement Fund and expenditure of Advances. The School District or the CFD will, upon request, provide the City and/or Property Owner with access to the School District's or the CFD's records related to the Other Facilities Account of the Improvement Fund.

(g) As a condition to receiving Bond Proceeds, the City agrees that it shall provide to the School District a certificate substantially in the form attached hereto as Exhibit "G."

6. Ownership of City Fee Facilities and Acquisition Facilities. The City Fee Facilities and Acquisition Facilities, once acquired, shall be and remain the property of the City.

(a) Acquisition Facilities. The requirements of this Section 6 shall apply to any Acquisition Facility for which a Payment Request is submitted to the City pursuant to this Section 6. The City and Property Owner shall enter into a PIA for all of the Acquisition Facilities. All Acquisition Facilities shall be constructed in accordance with the PIA and nothing in this Agreement shall amend, restate or supersede the requirements set forth in the PIA. The City and not the School District, shall be responsible for determining the Property Owner's compliance with the PIA and this Section 6.

(b) Design Plans and Specifications. All plans, specifications and bid documents for the Acquisition Facility ("**Plans**") constructed or to be constructed by the Property Owner shall be prepared by the Property Owner at the Property Owner's initial expense, subject to approval by the City. Costs for preparation of the Plans shall be included in the acquisition price. Costs for revisions to Plans will be considered on a case by case basis at the sole discretion of the City. The Property Owner shall not award bids for construction, or commence or cause commencement of construction, of the Acquisition Facility, except as set forth in Section 6(c).

(c) Construction of Acquisition Facilities. A qualified engineering firm (the “**Field Engineer**”) shall be employed by the Property Owner to provide all field engineering surveys determined to be necessary by the City’s inspection personnel. Field Engineer shall promptly furnish to the City a complete set of grade sheets listing all locations, offsets, etc., in accordance with good engineering practices, and attendant data and reports resulting from Field Engineer’s engineering surveys and/or proposed facility design changes. The City shall have the right, but not the obligation, to review, evaluate and analyze whether such results comply with applicable specifications.

A full-time soils testing firm, approved in writing by City, shall be employed by Property Owner to conduct soil compaction testing and certification. Property Owner shall promptly furnish results of all such compaction testing to City for its review, evaluation and decision as to compliance with applicable specifications. In the event the compaction is not in accordance or compliance with applicable specifications, Property Owner shall be fully liable and responsible therefore. A final report shall be required fully certifying all required compaction efforts prior to acceptance of each of the Acquisition Facilities.

The costs of all surveying, testing and reports associated with the Acquisition Facility furnished and constructed by the Property Owner’s contractor(s) shall be included in the acquisition price.

The City shall not be responsible for conducting any environmental, archaeological, biological, or cultural studies or any mitigation or permitting requirements that may be requested by appropriate Federal, State, and/or local agencies with respect to the Acquisition Facility. Any such work shall be paid for and conducted by the Property Owner and included in the acquisition price of the Acquisition Facility.

(d) City Public Works Requirements. In order that the Acquisition Facility may be properly and readily acquired by the City, the Property Owner shall comply with all of the following requirements with respect to the Acquisition Facility, and the Property Owner shall provide such proof to the City as the City may reasonably require and at such intervals and in such form as the City may reasonably require, that the following requirements have been satisfied as to the Acquisition Facility:

(i) The Property Owner will prepare a bid package for review, comment and approval by the City Manager of the City or his designee (the “**City Representative**”) in accordance with the City’s requirements and the California Public Contracts Code.

(ii) The Property Owner shall, after obtaining at least three sealed bids for the construction of the Acquisition Facility in conformance with the procedures and requirements of the City, submit to the City written evidence of such competitive bidding procedure, including evidence of the means by which bids were solicited, a listing of all responsive bids and their amounts, and the name or names of the contractor or contractors to whom the Property Owner proposes to award the contracts for such construction, which shall be the lowest responsible bidder. If the City Representative disapproves of any such contractor, the Property Owner shall select the next lowest responsible bidder from the competitive bids received who is acceptable to the City Representative.

(iii) Property Owner shall make arrangements with City to schedule the bid opening, which is to be held at City offices, conducted by Property Owner and witnessed by City staff.

(iv) The specifications and bid and contract documents shall require all such contractors to pay prevailing wages and to otherwise comply with applicable provisions of the Labor Code, the Government Code and the Public Contract Code relating to public works projects and as required by the procedures and standards of the City with respect to the construction of its public works projects.

(v) All Contractors shall be required to furnish labor and material payment bonds and contract performance bonds in accordance with the PIA. All such bonds shall be in a form approved by the City Representative.

(vi) All Contractors shall be required to provide proof of insurance coverage throughout the term of the construction of such Acquisition Facilities which they will construct in conformance with the approved Plans in accordance with the PIA.

(vii) The Property Owner and all such Contractors shall comply with such other requirements relating to the construction of such Acquisition Facilities which the City may impose by written notification delivered to the Property Owner and each such Contractor at any time either prior to the receipt of bids by the Property Owner for the construction of such Acquisition Facilities or, to the extent required as a result of changes in applicable laws, during the progress of construction thereof. In accordance with this Section 6(c), the Property Owner shall be deemed the awarding body and shall be solely responsible for compliance and enforcement of the provisions of the State Labor Code, Government Code, and Public Contract Code to the extent expressly applicable to a nongovernmental entity constructing infrastructure to be acquired by a public entity.

(viii) The Property Owner shall provide proof to the City, at such intervals and in such form as the City Representative may require that the foregoing requirements have been satisfied as to all of the Acquisition Facilities constructed by Property Owner, acquired by City and paid for with Bond Proceeds.

(ix) The Property Owner and its contractor and subcontractors shall be required to provide proof of insurance coverage throughout the term of the construction of the Acquisition Facility, which they will construct in conformance with the City's requirements and the PIA.

(x) The Property Owner and all such contractors shall comply with such other requirements relating to the construction of the Acquisition Facility which the City may impose by written notification delivered to the Property Owner and each such contractor at the time either prior to the receipt of bids by the Property Owner for the construction of such Acquisition Facility or, to the extent required as a result of changes in applicable laws, during the progress of construction thereof. In accordance with Section 6(d), the Property Owner shall be deemed the awarding body and shall be solely responsible for compliance and enforcement of the provisions of the Labor Code, Government Code, and Public Contract Code.

(xi) A "**Change Order**" is an order from the Property Owner to a contractor authorizing a change in the work to be performed. The Property Owner shall receive comments from the City Representative prior to the Property Owner's approval of any Change Order. The City Representative shall comment on or deny the Change Order request within ten (10) business days of receipt of all necessary information. The City's comments to a Change Order shall not be unreasonably

delayed, conditioned or withheld. The Property Owner shall not be entitled to include in the acquisition price costs associated with a Change Order that have not been approved by the City Representative.

(e) Inspection; Completion of Construction. The City shall regularly inspect the Acquisition Facilities with a final inspection at the request of the Property Owner. Such inspection does not include inspection for compliance with safety requirements by the Property Owner's contractor(s). The City's personnel shall be granted access to each construction site at all reasonable times for the purpose of accomplishing such inspection. Upon satisfaction of the City's inspectors, the Property Owner shall notify the City in writing that an Acquisition Facility has been completed in accordance with the Plans. The Property Owner shall pay the City the estimated costs associated with the activities of the City Representative in administering its obligations with respect to this Agreement in advance at the request of the City.

The Property Owner shall request the City to perform a final inspection of each Acquisition Facility, prior to which such Acquisition Facility shall not be deemed complete. Within three (3) business days of receipt of written notification from the City inspectors that an Acquisition Facility has been completed in accordance with the Plans, the City Representative shall notify the Property Owner in writing that such Acquisition Facility has been satisfactorily completed. Upon receiving such notification, the Property Owner shall file a Notice of Completion with the County of Riverside Recorder's Office, pursuant to the provisions of Section 3093 of the Civil Code. The Property Owner shall furnish to the City a duplicate copy of each such Notice of Completion showing thereon the date of filing with the County of Riverside (the "**County**"). The City will in turn file a notice with the County for acceptance.

(f) Liens. With respect to the Acquisition Facility, upon the earlier of (i) receipt of all applicable lien releases, or (ii) expiration of the time for the recording of claim of liens as prescribed by Sections 3115 and 3116 of the Civil Code, the Property Owner shall provide to the City such evidence or proof as the City shall require that all persons, firms and corporations supplying work, labor, materials, supplies and equipment for the construction of the Acquisition Facility have been paid, and that no claims of liens have been recorded by or on behalf of any such person, firm or corporation.

(g) Acquisition; Acquisition Price; Source of Funds. The costs eligible to be included in the acquisition price of the Acquisition Facility (the "**Actual Costs**") shall include:

(i) The actual hard costs for the construction of such Acquisition Facility as established by the City-approved construction contracts and approved Change Orders, including costs of payment, performance and maintenance bonds and insurance costs, pursuant to this Agreement;

(ii) The design and engineering costs of such Acquisition Facility including, without limitation, the costs incurred in preparing the Plans. Costs for plan revisions will be considered on a case by case basis;

(iii) The costs of environmental evaluations and public agency permits and approvals attributable to the Acquisition Facility;

(iv) Costs incurred by the Property Owner for construction management and supervision of such Acquisition Facility, not to exceed five percent (5%) of the actual construction cost;

(v) Professional costs associated with the Acquisition Facility such as engineering, inspection, construction staking, materials, testing and similar professional services; and

(vi) Costs approved by the City of acquiring from an unrelated third party any real property or interests therein required for the Acquisition Facility including, without limitation, temporary construction easements, temporary by-pass road and maintenance easements.

Provided the Property Owner has complied with the requirements of this Agreement, the City agrees to execute and submit to the School District a Payment Request for payment of the acquisition price of the completed Acquisition Facility to the Property Owner or its designee within thirty (30) days after the Property Owner's satisfaction of the preconditions to such payment stated herein.

As a condition to the City's execution of the Payment Request for the acquisition price, the property ownership of the completed Acquisition Facility shall be transferred to the City by grant deed, bill of sale or such other documentation as the City may require free and clear of all taxes, liens, encumbrances, and assessments, but subject to any exceptions determined by the City to not interfere with the actual or intended use of the land or interest therein (including the lien of a community facilities district so long as the subject property is exempt from taxation or is otherwise not taxable by such community facilities district). Upon the transfer of property ownership of the Acquisition Facility or any portion thereof to the City, the City shall be responsible for the maintenance of such Acquisition Facility or the portion transferred. Notwithstanding the foregoing, the acquisition price of an Acquisition Facility may be paid prior to transfer of property ownership and acceptance of the Acquisition Facility if it is substantially completed at the time of payment. The Acquisition Facility shall be considered "substantially complete" when it has been reasonably determined by the City to be usable, subject to final completion of "punch list" items, such items still required to be completed based solely upon approval of the City's inspectors.

For purposes of determining the acquisition price to be paid by the CFD for the acquisition of each Acquisition Facility by the City, the value of such Acquisition Facility shall include the construction costs specified in the City-approved contracts and the City-approved change orders conforming to this Section 6, as hereinbefore specified. The City approval is a condition prior to initiation of contract work. However, if the City reasonably determines that the additional Actual Costs are excessive and that the value of the Acquisition Facility is less than the total amount of such Actual Costs and such construction costs, the price to be paid for the acquisition of the Acquisition Facility shall be the value thereof as determined by the City Engineer Representative, subject, however, to the Property Owner's right to appeal to the City Council.

Upon completion of the construction of an Acquisition Facility, the Property Owner shall deliver or cause to be delivered to the City a Payment Request in substantially the form of Exhibit "E," attached hereto, copies of the contract(s) with the contractor(s) who have constructed the Acquisition Facility and other relevant documentation with regard to the payments made to such contractor(s) and each of them for the construction of the Acquisition Facility, documentation evidencing payment of prevailing wages, and shall also provide to the City invoices and purchase orders with respect to all equipment, materials and labor purchased for the construction of the

Acquisition Facility. The City shall require the City Engineer Representative to complete its determination of the acquisition price of the Acquisition Facility as promptly as is reasonably possible.

Notwithstanding the preceding provisions of this Section, the source of funds for the acquisition of the Acquisition Facility or any portion thereof shall be funds on deposit in the Other Facilities Account of the Improvement Fund. If no such funds are available, the City shall not be required to acquire the Acquisition Facility from the Property Owner. In such event, the Property Owner shall complete the design and construction and offer to the City property ownership of such portions of the Acquisition Facility as are required to be constructed by the Property Owner as a condition to recordation of subdivision maps for the Property, but need not construct any portion of the Acquisition Facility which it is not so required to construct.

(h) Easements and/or Fee Title Property Ownership Deeds. The Property Owner shall, at the time the City acquires the Acquisition Facility as provided in Section 6(g) hereof, grant or cause to be granted to the City, by appropriate instruments prescribed by the City, all easements across private property and/or fee title property ownership deeds which may be reasonably necessary for the proper operation and maintenance of such Acquisition Facility, or any part thereof.

(i) Permits. The Property Owner shall be responsible for obtaining all necessary construction permits and encroachment permits from the City covering construction and installation of the Acquisition Facility.

(j) Maintenance. Prior to the transfer of property ownership of an Acquisition Facility by the Property Owner to the City, as provided in Section 6(g) hereof, the Property Owner shall be responsible for the maintenance thereof and shall require its contractor(s) to repair all facilities damaged by any party, prior to acceptance by the City and/or make corrections determined to be necessary by the City's inspection personnel.

(k) Inspection of Records. The City shall have the right to review all books and records of the Property Owner pertaining to the costs and expenses incurred by the Property Owner for the design and construction of the Acquisition Facility during normal business hours by making arrangements with the Property Owner. The Property Owner shall have the right to review all books and records of the City pertaining to costs and expenses incurred by the City for services of the City Engineer Representative by making arrangements with the City and paying the City the City's estimated costs for such services in advance.

(l) Property Ownership of Improvements. Notwithstanding the fact that some or all of the Acquisition Facility may be constructed in dedicated street rights-of-way or on property which has been or will be dedicated to the City, each Acquisition Facility shall be and remain the property of the Property Owner until acquired by the City as provided in this Agreement.

(m) Materials and Workmanship Warranty. Property Owner shall provide materials and workmanship warranties as set forth in the PIA.

(n) Insurance Requirements. Neither the Property Owner nor its contractor shall commence work on a Facility under this Agreement prior to obtaining all insurance required by the PIA for such Facility with a company or companies acceptable to the City, nor shall the Property Owner's contractor allow any subcontractor to commence work on its subcontract until all insurance required of the subcontractor has been obtained.

The Property Owner shall, during the life of this Agreement, notify the City in writing of any incident giving rise to any potential bodily injury or property damage claim and any resultant settlements, whether in conjunction with this or any other project which may affect the limits of the required coverage, as soon as is reasonable and practical

(o) Independent Contractor. In performing this Agreement with respect to the Acquisition Facilities, the Property Owner is an independent contractor and not the agent of the City. The City shall not have any responsibility for payment to any contractor, subcontractor or supplier of the Property Owner. 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.

8. Indemnification.

(a) *Indemnification by the School District*. The School District shall assume the defense of, indemnify and save harmless, the City and its respective 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 School District with respect to this Agreement and the issuance of the Bonds; provided, however, that the School 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 officers, agents, or employees.

(b) *Indemnification by Property Owner*. Property Owner shall assume the defense of, indemnify and save harmless, the School District, the CFD, and the City, their respective 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 Property Owner with respect to this Agreement; provided, however, that Property Owner shall not be required to indemnify any person or entity as to damages resulting from willful misconduct of such person or entity or their officers, agents, or employees.

(c) *Indemnification by the City*. The City shall assume the defense of, indemnify and save harmless, the School District, the CFD and their respective 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 design, engineering, and construction of the City Fee Facilities constructed by the City and Acquisition Facilities acquired by the City; 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 officers, agents, or employees. In addition to the obligations set forth in Section 8(b) above, Property Owner shall indemnify the City, their respective officers, employees, and agents, and each and every one of them, from and against all actions, damages, claims, losses, or expenses of every type as a result of the City indemnifying the School District and/or the CFD under this Section 8(c).

9. Allocation of Special Taxes. The Board of Education of the School District, as the legislative body of the CFD, shall annually levy the Special Tax as provided for in the formation proceedings of the CFD. The entire amount of any Special Tax levied by the CFD to repay Bonds, or to fund other obligations, shall be allocated to the CFD.

10. Amendment and Assignment. This Agreement may be amended at any time but only in writing signed by each Party hereto. This Agreement may be assigned, in whole or in part, by Property Owner to the purchaser of any parcel of land within the Property provided, however, such assignment shall not be effective unless and until the City and the School District have been notified, in writing, of such assignment and the assignment specifies whether the Property Owner or such assignee is authorized to execute disbursement requests and whether the Property Owner or such assignee is to be reimbursed for Advances which have not been reimbursed at the time of such notice.

11. 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.

12. 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:

School District: Val Verde Unified School District
975 West Morgan Street
Perris, CA 92571
Attn: Deputy Superintendent, Business Services

City: City of Moreno Valley
14177 Fredrick Street
PO Box 88005
Moreno Valley, CA 92552
Attn: City Clerk

Property Owner: MPLC Legacy 75 Associates, LP
c/o Mission Pacific Land Company
4100 Newport Place, Suite 480
Newport Beach, CA 92660
Attn: Randall C. Luce

Each Party may change its address for delivery of notice by delivering written notice of such change of address to the other Parties hereto. 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 written acknowledgement from the addressee, (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.

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

14. Attorneys' Fees. In the event of the bringing of any action or suit by any Party against any other Party arising out of this Agreement, the Party in whose favor final judgment shall be entered shall be entitled to recover from the losing Party all costs and expenses of suit, including reasonable attorneys' fees.

15. Interpretation in the event of Ambiguities or Disputes. The Parties acknowledge and agree that each has been given the opportunity to review this Agreement with legal counsel independently, and/or has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof. In the event of an ambiguity in or dispute regarding the interpretation of same, the interpretation of this Agreement shall not be resolved by any rule of interpretation providing for interpretation against the Party who causes the uncertainty to exist or against the drafter.

16. 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.

17. 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.

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

19. No Third Party Beneficiaries. No person or entity other than the CFD 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 School District, the CFD, and Property Owner (and their respective successors and assigns, exclusive of individual homebuyers), any rights, remedies, obligations, or liabilities under or by reason of this Agreement.

20. 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.

21. 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.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year written above.

VAL VERDE UNIFIED SCHOOL DISTRICT

By: _____
Michael R. McCormick, Superintendent

ATTEST:

By: _____
Secretary to the Board

CITY OF MORENO VALLEY

By: _____

ATTEST:

By: _____

APPROVED AS TO FORM:

By: _____

PROPERTY OWNER

**MPLC LEGACY 75 ASSOCIATES, LP,
a Delaware limited liability company**

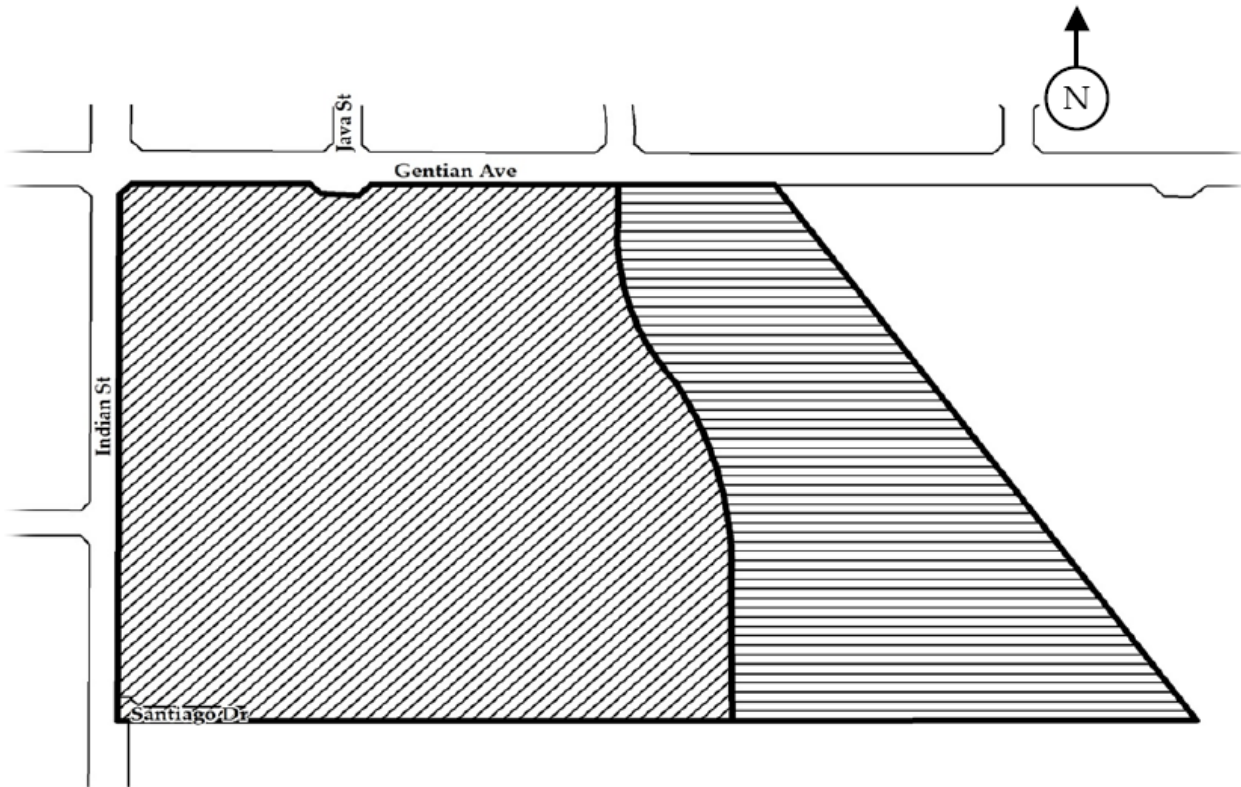
By: MISSION PACIFIC LAND COMPANY,
a Delaware limited liability company, its
General Partner

By: _____
Name: Randall C. Luce
Its: Managing Director

EXHIBIT "A"

**VAL VERDE UNIFIED SCHOOL DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 2018-1 (MPLC LEGACY 75)**

BOUNDARY MAP; DEPICTION OF PROPERTY



LEGEND



	Boundaries of Community Facilities District No. 2018-1 Zone 1
	Boundaries of Community Facilities District No. 2018-1 Zone 2

EXHIBIT "B"

**VAL VERDE UNIFIED SCHOOL DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 2018-11 (MPLC LEGACY 75)**

DESCRIPTION OF PROPERTY

Real property in the City of Moreno Valley, County of Riverside, State of California, described as follows:

APNS

485-220-023

485-220-032

485-220-040

EXHIBIT “C”

**VAL VERDE UNIFIED SCHOOL DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 2018-1 (MPLC LEGACY 75)**

CITY FACILITIES

1. City Fee Facilities. The type of City Fee Facilities eligible to be financed by the CFD under the Act are the capital improvements authorized to be financed with City development impact fees (“**DIF**”) limited to DIF for police facilities, fire facilities, community and/or recreation centers and interchange improvements (which does not include any regional impact fees (i.e. Western Riverside Council of Governments Transportation Uniform Mitigation Fee)). The amount of the City Fee Facilities will be based on the applicable fee schedule, which is subject to change.

2. Acquisition Facilities. The types of Acquisition Facilities eligible to be financed by the CFD under the Act shall consist of capital improvements, including but not limited to city-maintained storm drain and park and trail improvements, including all costs of site acquisition, planning, design, engineering, legal services, materials testing, coordination, surveying, construction staking, construction inspection and any and all appurtenant facilities to the foregoing required to serve the Property. The facilities listed above are representative of the types of facilities eligible to be financed by the CFD as Acquisition Facilities. Detailed scope and limits of specific projects will be determined by the Property Owner and the City, as appropriate, consistent with the standards of the City.

EXHIBIT "D"

**VAL VERDE UNIFIED SCHOOL DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 2018-1 (MPLC LEGACY 75)**

DISBURSEMENT REQUEST FORM

1. Val Verde Unified School District Community Facilities District No. 2018-1 (the "CFD") is hereby requested to pay from Bond Proceeds to the City of Moreno Valley (the "City"), as Payee, or to the City's designee, the sum set forth in 3 below.

2. The undersigned certifies that the amount requested for City Fee Facilities is due and payable, has not formed the basis of prior request or payment, and is being made with respect to the Joint Community Facilities Agreement by and among Val Verde Unified School District, City of Moreno Valley, and MPLC Legacy 75 Associates, LP, dated as of _____, 2019 (the "JCFA").

3. Amount requested: \$ _____

For Tract / Lot Nos: _____

4. The amount set forth in 3 above is authorized and payable pursuant to the terms of the JCFA. Capitalized terms not defined herein shall have the meaning set forth in the JCFA. The City shall spend the Bond Proceeds allocated hereby in accordance with the requirements set forth in Section 5 of the JCFA.

By entering into the JCFA and requisitioning Bond Proceeds as described herein, the City is not passing upon, determining or assuming the tax-exempt status of the Bonds for federal or California state income tax purposes.

PROPERTY OWNER

MPLC LEGACY 75 ASSOCIATES, LP,
a Delaware limited liability company

By: MISSION PACIFIC LAND COMPANY,
a Delaware limited liability company, its
General Partner

By: _____
Name: Randall C. Luce
Its: Managing Director
Date: _____

CITY OF MORENO VALLEY

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Clerk of the City

cc: City Finance Dept.

EXHIBIT “E”

**VAL VERDE UNIFIED SCHOOL DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 2018-1 (MPLC LEGACY 75)**

PAYMENT REQUEST FORM

VAL VERDE UNIFIED SCHOOL DISTRICT CFD NO. 2018-1 (MPLC LEGACY 75) – OTHER
FACILITIES ACCOUNT OF THE IMPROVEMENT FUND

Val Verde Unified School District (“**School District**”), City of Moreno Valley (the “**City**”) and MPLC Legacy 75 Associates, LP (“**Property Owner**”) are parties to the Joint Community Facilities Agreement, dated as of _____, 2019 (the “**City JCFA**”). Capitalized undefined terms used herein shall have the meanings ascribed thereto in the City JCFA. Pursuant to the City JCFA, Property Owner hereby requests approval of the acquisition price of the Acquisition Facility(ies) described in Attachment A attached hereto. In connection with this Payment Request, Property Owner hereby represents and warrants to the City as follows:

(a) The person executing this Payment Request is qualified to execute this Payment Request on behalf of Property Owner and knowledgeable as to the matters set forth herein.

(b) The Acquisition Facility(ies) have been constructed in accordance with the Plans therefor, and in accordance with all applicable City standards and the requirements of the City JCFA.

(c) The true and correct Actual Cost of the Acquisition Facility(ies) is set forth in Attachment A.

(d) Property Owner has submitted or submits herewith to the City the contracts, invoices, receipts, worksheets and other evidence of Actual Costs which are in sufficient detail to allow the City Engineer Representative to verify the Actual Cost of the Acquisition Facility(ies) for which payment is requested.

(e) There are no liens, rights to lien or attachment upon, or claims 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 materialmen’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.

Property Owner hereby declares under penalty of perjury that the above representations and warranties are true and correct.

Property Owner hereby requests that the acquisition be paid to the person or persons, in the amount set forth in Attachment B hereto.

**PROPERTY OWNER
PROPERTY OWNER**

MPLC LEGACY 75 ASSOCIATES, LP,
a Delaware limited liability company

By: MISSION PACIFIC LAND COMPANY,
a Delaware limited liability company, its
General Partner

By: _____
Name: Randall C. Luce
Its: Managing Director

CONFIRMATION AND APPROVAL BY THE CITY

The City has (a) confirmed that the Acquisition Facility(ies) described in Attachment A is complete and was constructed in accordance with the Plans therefor, and (b) reviewed, verified and approved the acquisition price of such Acquisition Facility(ies). Such Acquisition Facility(ies) is/are complete and the acquisition price therefor eligible for payment is \$_____. The amount to be paid and the payee(s) are described in Attachment B.

Date:

**AUTHORIZED REPRESENTATIVE OF
THE CITY**

By: _____

ATTACHMENT B

ACQUISITION PRICE PAYMENT INSTRUCTIONS

[Include name and address of payee and wire transfer instructions]

EXHIBIT "F"

FORM OF PUBLIC IMPROVEMENTS AGREEMENT

EXHIBIT "G"

FORM OF CITY CERTIFICATION

\$ _____
**VAL VERDE UNIFIED SCHOOL DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 2018-1
20__ SPECIAL TAX BONDS**

CERTIFICATE OF THE CITY OF MORENO VALLEY

WHEREAS, Val Verde Unified School District Community Facilities District No. 2018-1 (the "CFD") is issuing the above-captioned bonds (the "**Bonds**") for the purpose of financing certain infrastructure capital improvements, including the capital expenditures of facilities owned by the City of Moreno Valley (the "**City**");

WHEREAS, the CFD will make available to the City \$ _____ of Bond proceeds (the "**Proceeds**");

WHEREAS, the City has read and understands the restrictions of the Tax Certificate (the "**Tax Certificate**") of the CFD, dated _____, 20__, with respect to the Bonds;

NOW, THEREFORE, the City covenants the following:

1. The City will expend the Proceeds on capital costs (the "**Costs**") paid to third parties for City improvements or equipment (the "**City Project**").
2. The City will maintain records regarding the investment and expenditure of the Proceeds and the usage of the City Project.
3. The City will cooperate with the CFD regarding compliance with the terms of the Tax Certificate, including remitting any rebatable arbitrage on the Proceeds, if any, to the CFD to comply with the restrictions of Section 148(f) of the Code.
4. None of the City will be subject to Private Use (as defined in the Tax Certificate) absent consent of the CFD.

All terms not defined herein have the meaning ascribed in the attached Tax Certificate.

Dated: _____, 20__

CITY OF MORENO VALLEY

By: _____
[Name]
[Title]

