

JOINT COMMUNITY FACILITIES AGREEMENT

relating to

Moreno Valley Unified School District Community Facilities District No. 2019-1 by and among

Moreno Valley Unified School District, City of Moreno Valley and
KB Home Coastal Inc.

THIS JOINT COMMUNITY FACILITIES AGREEMENT (the “**Agreement**”) is entered into effective as of the ___ day of _____, 2019, by and among MORENO VALLEY UNIFIED SCHOOL DISTRICT, a California School District (“**School District**”), the CITY OF MORENO VALLEY, a California general law city (the “**City**”) and KB Home Coastal Inc., a California corporation (“**Property Owner**”). This Agreement relates to the formation by the School District of a community facilities district known as “Moreno Valley Unified School District Community Facilities District No. 2019-1” (the “**CFD**”).

RECITALS:

A. The property is within Tentative Tract No. 24203 of the City (“**Tract 24203**”) 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 acquisition 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, and will be constructed by the Property Owner and acquired by the City (the “**Facilities**”).

D. Property Owner has yet to determine whether it will finance any or all of the Facilities 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 addition to the 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.

F. The School District will have sole discretion and responsibility for the formation and administration of the CFD.

G. 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 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, when and if formed, will be authorized to finance the acquisition and/or construction of all or a portion of the Facilities. As

authorized by Section 53316.6 of the Act, responsibility for constructing, providing for, and operating the Facilities is delegated to the City.

H. 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 and 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) "Facility(ies)" means the facilities described 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) "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.
 - (d) "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.
 - (e) "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.
 - (f) "City Engineer Representative" means the project manager or engineer or engineers representing the City in the inspection and review of the Facilities, which may be employees of the City or outside consultants representing the City.
 - (g) "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 the Facilities and which may have subaccounts.
 - (h) "Party" or "Parties" shall mean any or all of the parties to this Agreement.
 - (i) "PIA" shall mean the Public Improvements Agreement, by and between the City and the Property Owner, in the form attached hereto as Exhibit E.

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

(k) “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.

(l) “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.

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

(n) “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 Facilities and other facilities. The School District has and will retain, at the expense of Property Owner, the necessary consultants to analyze the formation of the CFD. In addition, the City has retained the necessary consultants to analyze the CFD and this Agreement, at the expense of Property Owner and the funds advanced by Property Owner to the City for such purpose shall be reimbursed from Bond Proceeds.

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 the Facilities by issuing one or more series of Bonds. 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 Facilities. In the event that Bond Proceeds, including investment earnings thereon, are not available or sufficient to fully fund the Facilities, then Property Owner shall remain obligated to construct the Facilities in accordance with the City’s conditions of approval for Tract 24203. The City and Property Owner shall enter into a PIA for all of the Facilities. All Facilities shall be constructed in accordance with the PIA and nothing in this Agreement shall amend, restate or supercede 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 Section 6 below.

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 the Facilities except in accordance with the terms of this Agreement.

In connection with the issuance of any Bonds, the City agrees to execute and deliver a Certificate Concerning Use of Bond Proceeds (“City Certificate”), the form of which is attached hereto as Exhibit “F,” in order for bond counsel to conclude that interest will be excluded from gross income under Section 103 of the Internal Revenue Code of 1986, as amended, and any other provision of law. Each such City Certificate shall be provided by bond counsel prior to the pricing of the Bonds, and shall be executed by a duly authorized officer of the City within thirty (30) calendar days of such

receipt of each such City Certificate(s). Should the City fail to execute and deliver the applicable City Certificate within thirty (30) calendar days, the School District may issue taxable Bonds to fund the Facilities and tax exempt Bonds to fund School Facilities.

5. Ownership of Facilities. The Facilities, once acquired, shall be and remain the property of the City.

6. Requirements for Bidding and Construction of Facilities. The requirements of this Section 6 shall apply only as between City and Property Owner. School District shall have no responsibility for review of, validity of or compliance with any duty or obligation contained in this Section 6. This Section 6 shall apply to any Facility for which a Payment Request is submitted to the City pursuant to this Section 6.

(a) Design Plans and Specifications. All plans, specifications and bid documents for the Facility (“**Plans**”) constructed or to be constructed by or on behalf of 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. Reimbursement of costs for plan revisions will be considered on a case by case basis, at the sole discretion of the City.

(b) Construction of 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 component of the Facilities.

The costs of all surveying, testing and reports associated with the 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 Facility. Any such work shall be paid for and conducted by the Property Owner and included in the acquisition price of the Facility.

(c) City Public Works Requirements. In order that the 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 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 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 attempt to obtain at least three sealed bids for the construction of the Facility and submit to the City 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 contractors for the Facility 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 and its contractor and subcontractors shall be required to furnish labor and material payment bonds and contract performance bonds in accordance with the City requirements set forth in the PIA for the Facilities. All such bonds shall be in a form approved by the City Representative.

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

(vii) 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 Facilities constructed by Property Owner, acquired by City and paid for with Bond Proceeds

(viii) The Property Owner and all such contractors shall comply with such other requirements relating to the construction of the 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 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(f), 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.

(ix) A “**Change Order**” is an order from the Property Owner to a contractor authorizing material 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.

(d) Inspection; Completion of Construction. The City shall regularly inspect the 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 the Facilities 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 the Facilities, prior to which such Facilities shall not be deemed complete. Within three (3) business days of receipt of written notification from the City inspectors that the Facility has been completed in accordance with the Plans, the City Representative shall notify the Property Owner in writing that such 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.

(e) Liens. With respect to the 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 Facility have been paid, and that no claims of liens have been recorded by or on behalf of any such person, firm or corporation.

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

(i) The actual hard costs for the construction of such Facility as established by the applicable 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 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 Facility;

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

(v) Professional costs associated with the 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 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 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 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 Facility or any portion thereof to the City, the City shall be responsible for the maintenance of such Facility or the portion transferred. Notwithstanding the foregoing, the acquisition price of a Facility may be paid prior to transfer of property ownership and acceptance of the Facility if it is substantially completed at the time of payment. The 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 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 Facility by the City, the value of such Facility shall include the construction costs specified in the construction contracts and the City-approved change orders conforming to this Section 6, as hereinbefore specified. However, if the City reasonably determines that the Actual Costs are excessive and that the value of the Facility is less than the total amount of such Actual Costs, the price to be paid for the acquisition of the 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 a Facility, the Property Owner shall deliver or cause to be delivered to the City a Payment Request in substantially the form of Exhibit "D," attached hereto, copies of the contract(s) with the contractor(s) who have constructed the Facility and other relevant documentation with regard to the payments made to such contractor(s) and each of them for the construction of the 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 Facility. The City shall require the City Representative to complete its determination of the acquisition price of the Facility as promptly as is reasonably possible.

Notwithstanding the preceding provisions of this Section 6, the source of funds for the acquisition of the 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 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 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 Facility which it is not so required to construct.

(g) Easements and/or Fee Title Property Ownership Deeds. The Property Owner shall, at the time the City acquires the Facility as provided in Section 7(f) 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 Facility, or any part thereof.

(h) 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 Facility.

(i) Maintenance. Prior to the transfer of property ownership of a Facility by the Property Owner to the City, as provided in Section 6(f) 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.

(j) 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 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 pertaining to costs and expenses incurred by the City for services of the City Representative by making arrangements with the City and paying the City the City's estimated costs for such services in advance.

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

(l) Independent Contractor. In performing this Agreement with respect to the 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.

(m) 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.

7. 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 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 7(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 7(c).

8. 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.

9. 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 Payment Requests.

10. 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.

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

School District: Moreno Valley Unified School District
25634 Alessandro Boulevard
Moreno Valley, CA 92553
Attn: Chief Business Official

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

Property Owner: KB Home Coastal Inc.
36310 Inland Valley Drive
Wildomar, CA 92595
Attn: Vice President, Forward Planning

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.

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

13. Attorneys' Fees. Except as set forth in Section 7, each party shall be responsible for its own attorney fees' and costs.

14. 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.

15. 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.

16. 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.

17. 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.

18. No Third Party Beneficiaries. No person or entity other than the CFD, 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 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.

19. 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.

20. 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.

MORENO VALLEY UNIFIED SCHOOL DISTRICT

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Secretary to the Board

CITY OF MORENO VALLEY

By: _____

ATTEST:

By: _____

APPROVED AS TO FORM:

By: _____

PROPERTY OWNER

**KB HOME COASTAL INC.,
a California corporation**

By: _____
Name: _____
Title: _____

EXHIBIT "A"

**MORENO VALLEY UNIFIED SCHOOL DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 2019-1**

BOUNDARY MAP; DEPICTION OF PROPERTY

[ATTACHED]

EXHIBIT "B"

DESCRIPTION OF PROPERTY

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

[Insert legal description from title report]

EXHIBIT "C"

CITY FACILITIES

The facilities eligible to be financed by the CFD under the Act shall consist of improvements to Pigeon Pass and Lawless Road required by the conditions of approval of Tract 24203 including, without limitation, all costs of site acquisition, planning, design, engineering, City legal services, materials testing, coordination, surveying, construction staking, construction inspection and any and all appurtenant facilities to the foregoing road improvements. Detailed scope and limits of the Facilities will be determined by the Property Owner and the City, as appropriate, consistent with the standards of the City.

EXHIBIT "D"

**MORENO VALLEY UNIFIED SCHOOL DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 2019-1**

PAYMENT REQUEST FORM
MORENO VALLEY UNIFIED SCHOOL DISTRICT CFD NO. 2019-1 – OTHER FACILITIES
ACCOUNT OF THE IMPROVEMENT FUND

Moreno Valley Unified School District (“**School District**”), City of Moreno Valley (the “**City**”) and _____ (“**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 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 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 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 Representative to verify the Actual Cost of the 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

**KB HOME COASTAL INC.,
a California corporation**

By: _____
Name: _____
Title: _____

CONFIRMATION AND APPROVAL BY THE CITY

The City has (a) confirmed that the 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 Facility(ies). Such 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 "E"

FORM OF PUBLIC IMPROVEMENTS AGREEMENT

EXHIBIT “F”

**§ _____
COMMUNITY FACILITIES DISTRICT NO. 2019-1 OF THE
MORENO VALLEY UNIFIED SCHOOL DISTRICT
SERIES _____ SPECIAL TAX BONDS
(Riverside County, California)**

CERTIFICATE CONCERNING USE OF BOND PROCEEDS

I, the undersigned, hereby certify that I am a duly authorized officer of the City of Moreno Valley (“City”), and am authorized to sign this Certificate Concerning Use of Bond Proceeds (“Certificate”) on behalf of the City in connection with the issuance of the above-captioned Series _____ Special Tax Bonds (“Bonds”). All capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Joint Community Facilities Agreement by and between the Moreno Valley Unified School District (“School District”), the City, and KB HOME Coastal Inc., dated _____, 2019 (“JCFA”).

I further certify on behalf of the City that:

1. City is a city formed and operating pursuant to California law.
2. City has been informed by the School District and CFD No. 2019-1 that they are in the process of issuing the Bonds on behalf of CFD No. 2019-1.
3. City is informed that a portion of the net Bond proceeds are being allocated in order to finance the costs of certain facilities to be owned and operated by the City, as further described in Attachment “1” attached herein.
4. The financing of the City Facilities is in satisfaction of the requirements of the City to provide services to the property within the boundaries of CFD No. 2019-1.
5. The City represents that the City Facilities financed with proceeds of the Bonds will not be used for any activity that constitutes a trade or business that is carried on by persons or entities, other than governmental entities (“Private Use”). The leasing of the City Facilities or the access of a person or entity other than a governmental unit to the City Facilities or services provided thereby on a basis other than as a member of the general public (“General Public Use”) shall constitute a Private Use unless the City obtains an opinion of bond counsel to the contrary. Use of the City Facilities in a trade or business constitutes General Public Use only if the property is intended to be available and is in fact reasonably available for use on the same basis by natural persons not engaged in a trade or business.
6. With respect to management and service contracts, the determination of whether a particular use of the City Facilities constitutes Private Use shall be determined on the basis of applying Revenue Procedure 2017-13. The City represents that, as of the date hereof, no portion of the City Facilities is expected to be subject to contracts or other arrangements with persons or entities engaged in a trade or business (other than governmental units) that involve the management of property or the provision of services that do not comply with the standards of Revenue Procedure 2017-13.

This Certificate may be relied upon by the School District, CFD No. 2019-1, and bond counsel in reaching its terms of confirmation of the tax-exempt status of the Bonds.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date set forth below.

Dated: _____

CITY OF MORENO VALLEY

By: _____
[Authorized Official Title]

ATTACHMENT “1”

The types of facilities to be owned and operated by the City and financed by CFD No. 2019-1 are:

“City Facilities” consist of the facilities eligible to be financed by the CFD under the Act shall consist of improvements to Pigeon Pass and Lawless Road required by the conditions of approval of Tract 24203 including, without limitation, all costs of site acquisition, planning, design, engineering, City legal services, materials testing, coordination, surveying, construction staking, construction inspection and any and all appurtenant facilities to the foregoing road improvements. Detailed scope and limits of the Facilities will be determined by the Property Owner and the City, as appropriate, consistent with the standards of the City.