

**REIMBURSEMENT AGREEMENT
RE PROPOSED
COMMUNITY FACILITIES DISTRICTS
FOR
PLANNING AREA 3**

THIS REIMBURSEMENT AGREEMENT RE PROPOSED RANCHO MISSION VIEJO COMMUNITY FACILITIES DISTRICTS (the “Agreement”) dated as of _____, 2021 is entered into by and between the County of Orange, a political subdivision of the State of California (the “County”), and RMV PA 3 Development, LLC, a Delaware limited liability company (the “Master Developer”).

RECITALS:

A. The County and DMB San Juan Investment North, LLC, a Delaware limited liability company, RMV Middle Chiquita, LLC, a California limited liability company, RMV Ranch House, LLC, a California limited liability company, RMV Headquarters, LLC, a California limited liability company, RMV San Juan Watershed, LLC, a California limited liability company, RMV San Mateo Watershed, LLC, a California limited liability company, and RMV Blind Canyon, LLC, a California limited liability company (collectively, the “Owner”) have entered into that certain Rancho Mission Viejo Development Agreement dated November 8, 2004 and recorded in the Official Records of the County of Orange as Document No. 2004001082094, covering that area referred to as the “Ranch Plan Planned Community” (the “Development Agreement”).

B. The Development Agreement provides that, if requested by the Owner, the County and the Owner shall cooperate in exploring the use of special districts, community facilities districts, assessment districts or other similar project-related public financing districts for the purpose of financing the Owner’s obligations to provide various public facilities in connection with the development of the Ranch Plan Planned Community.

C. The Master Developer (which is affiliated with the Owner) has requested that the County enter into this Agreement to facilitate the process of forming one or more community facilities districts (individually a “District” and collectively the “Districts”) pursuant to the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 et seq.) (the “Act”) to finance certain infrastructure improvements related to the development of a portion of the Ranch Plan Planned Community known as Planning Area 3 Master Plan Area Plan (PA 180030). (the “Facilities”).

D. Pursuant to Government Code Section 53314.9, the Board of Supervisors is authorized to accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or that work-in-kind for any authorized purpose, including, but not limited to, paying any costs incurred by the local agency and creating a district. The legislative body may also enter into an agreement, by resolution, with the person or entity advancing the funds or

work-in-kind, to repay all or a portion of the funds advanced or to reimburse the person or entity for the cost or value of the work-in-kind, provided that certain conditions are met. The conditions to be satisfied require that (1) the proposal to repay the funds or the value or cost of the work-in-kind must be included in the resolution of intention for the proposed district and in the resolution of formation for the proposed district, (2) that any proposed special tax is approved by the qualified electors of the district pursuant to the Act and that, if not approved, any funds which have not been committed for any authorized purpose by the time of the election must be returned to the person or entity advancing funds, and (3) any work-in-kind accepted shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the local agency.

E. The County and the Master Developer are desirous of entering into this Agreement in accordance with Government Code Section 53314.9 in order to provide a mechanism by which the Master Developer may advance certain costs related to the formation of the Districts and the Facilities proposed to be financed by the Districts, when and if formed, and to provide that the Districts, when and if bonds are issued and/or special tax revenues are available, will reimburse the Master Developer for the amounts advanced.

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. Proposed Formation of the Districts and Issuance of Bonds.

(a) At the request of the Owner and/or the Master Developer, the County will undertake to analyze the appropriateness of forming one or more Districts to finance, among other items, the Facilities. The County will retain, at the Master Developer's expense, the necessary consultants to analyze the proposed formation of the Districts, to determine the eligibility of various Facilities for financing and to provide for the issuance of bonds, including an engineer, special tax consultant, municipal advisor, bond and disclosure counsel, market absorption consultant, appraiser and other consultants deemed necessary by the County. In addition, County staff time spent in connection with any proposed formation and actual formation of a District and any bond issuance shall be paid for by the Master Developer from amounts advanced under this Agreement or from bond proceeds as determined by the County.

(b) In order to begin the process of analyzing the formation of one or more Districts, within 10 days following execution of this Agreement, the Master Developer will advance to the County the sum of \$100,000. From time to time, the Master Developer shall make additional advances to the County within 15 days following receipt from the County of a request for an additional advance to cover the costs of forming one or more Districts and/or issuing bonds. In the event the Master Developer does not deliver the requested amount to the County within such 15-day period, the County will have no obligation to proceed with the

formation of any District and/or the issuance of bonds unless and until such additional advance is received. The Master Developer shall have the right to notify the County at any time, in writing, of its intention to abandon its request to have the County form the Districts and issue bonds. Upon receipt of such notice, the County shall instruct its consultants to cease work as soon as practicable. The Master Developer shall be responsible to pay all costs and expenses incurred by the County or any County consultant or advisor relating to the proposed formation and/or bond issuance for the Districts until work with respect to the proposed formation or bond issuance ceases following the receipt of the Master Developer's notice of abandonment. Notwithstanding a decision of the Master Developer to abandon the District formation process or the issuance of bonds, the County may, in its sole discretion, elect to proceed with formation of one or more Districts and/or the issuance of bonds with funds other than those of the Master Developer; provided, however, that, in executing this Agreement, the Master Developer shall not be deemed to have waived its right to object to the formation of a District or the issuance of bonds.

(c) The County will provide written notice to the Master Developer when the balance of the remaining advance is reduced to \$10,000. The County will provide to the Master Developer on request a summary of how the advances have been spent and the unexpended balance remaining. The amounts advanced by the Master Developer pursuant to this Agreement will be reimbursable to the Master Developer, without interest, from the proceeds of bonds issued by the Districts when and if formed and/or from the proceeds of special taxes collected by the Districts. In the event that bonds are not issued to provide a source of reimbursement to the Master Developer and special taxes are not collected by the Districts, the County shall have no liability to the Master Developer to reimburse it for any of amounts previously advanced by the Master Developer pursuant to this Agreement and expended by the County.

3. Reimbursement Procedure. In accordance with Government Code Section 53314.9, it is hereby agreed by the parties hereto that, if the qualified electors of any proposed District do not approve the proposed special tax to be levied within the District, the County shall return any funds which have been advanced by the Master Developer for such proposed District and have not been committed for any authorized purpose by the time of the election. Such returned funds shall be without interest. The Master Developer agrees that any work-in-kind to be performed by or on behalf of it and to be accepted by any District or the County shall be performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the County. In the event it is not so performed or constructed, the Master Developer shall not be entitled to reimbursement for it. It is the intention of the parties to make any work that is undertaken or expenses that are incurred by or on behalf of the Master Developer with respect to the Facilities eligible for reimbursement when and if a District is formed and bonds are sold for such Facilities or when special taxes are collected by a District for such purpose. It is agreed that any "cost" or "incidental expense" (as those terms are defined in Government Code Section 53317) incurred with respect to any of the Facilities shall be eligible for reimbursement when and if a District is formed and bonds are sold for such Facilities or when special taxes are collected by a District for such purpose. Any such costs or incidental expenses will be reimbursed only if all County

policies with respect to reimbursement have been satisfied as of the date that reimbursement is to be made.

4. Abandonment of Proposed Districts. The Master Developer understands that formation of the Districts shall be in the sole discretion of the County. No provision of this Agreement shall be construed as a promise, warranty or agreement by the County to form any District or to include any particular improvement as one of the Facilities to be financed or to issue bonds. The County shall have no liability to Master Developer for its decision not to form any of the Districts or issue any bonds.

5. Indemnification and Hold Harmless. The Master Developer hereby assumes the defense of, and indemnifies and saves harmless, the County and each of its officers, directors, employees and agents, 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 arising out of any acts or omissions taken by the Master Developer or any of the Master Developer's officers, employees, contractors and agents with respect to the formation of the Districts and the design, engineering and construction of the Facilities by Master Developer.

6. Notices. Any notice to be provided pursuant to this Agreement shall be delivered to the following addresses:

Master Developer: Rancho Mission Viejo
28811 Ortega Highway
San Juan Capistrano, California 92675
Attention: Cynthia Tessin

County: County of Orange
County Executive Office
333 W. Santa Ana Blvd.
Santa Ana, CA 92701
Attention: Public Finance Director

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

7. Assignment. The Master Developer may not assign its interest in this Agreement without the prior written consent of the County.

8. 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 permitted by law.

9. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the matters provided for herein.

10. Amendments. This Agreement may be amended or modified only by written instrument signed by all parties.

11. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

12. 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.

13. No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the County, the Districts and the Master Developer, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

14. 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.

15. Termination. This Agreement shall terminate and be of no further force and effect on December 31, 2025 unless expressly amended by the parties; provided, however, that the Master Developer's obligations under Section 5 shall survive the termination and the County's obligation to provide reimbursement in accordance with Section 3 for expenses incurred prior to the termination date shall also survive termination. Do we think we'll have formed the final District within 5 years? – No, but the county will only write the contract for five year.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

COUNTY OF ORANGE, CALIFORNIA

By: _____
County Executive Officer

ATTEST:

Clerk of the Board of Supervisors

APPROVED AS TO FORM:

Leon J. Page, County Counsel

By: _____
Deputy

Dated: 12/15/20

RMV PA 3 DEVELOPMENT, LLC, a
Delaware Limited Liability Company

By: Rancho Mission Viejo, LLC.,
a Delaware limited liability
Company, its authorized agent
and Manager

By: _____
Elise L. Millington,
Executive Vice President –
Chief Financial Officer

By: _____
Jeremy T. Laster,
Executive Vice President –
Chief Operating Officer

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

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APPROVED AS TO FORM:

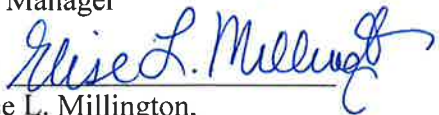
Leon J. Page, County Counsel

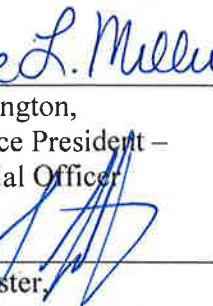
By: _____
Deputy

Dated: _____

RMV PA 3 DEVELOPMENT, LLC, a
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