
JOINT COMMUNITY FACILITIES AGREEMENT

among

**COUNTY OF ORANGE
and
ORANGE COUNTY FIRE AUTHORITY
and
RMV PA 3 DEVELOPMENT, LLC,
a Delaware Limited Liability Company
relating to**

**COMMUNITY FACILITIES DISTRICT NO. 2021-1
OF THE COUNTY OF ORANGE
(Rienda)**

JOINT COMMUNITY FACILITIES AGREEMENT

THIS JOINT COMMUNITY FACILITIES AGREEMENT (the "Agreement") is entered into effective as of the ^{3rd} day of Nov-, 2021, by and among the COUNTY OF ORANGE, a political subdivision of the State of California (the "County"), the ORANGE COUNTY FIRE AUTHORITY, a California Joint Powers Authority (the "Fire Authority"), and RMV PA 3 DEVELOPMENT, LLC, a Delaware limited liability company (the "Company"), and relates to the proposed formation by the County of COMMUNITY FACILITIES DISTRICT NO. 2021-1 OF THE COUNTY OF ORANGE (Rienda) (the "District") for the purpose of financing certain facilities more particularly described on Exhibit A hereto (the "Fire Facilities") to be constructed and/or acquired by, or on behalf of, the Fire Authority.

RECITALS:

A. The Company is the master developer of the land described in Exhibit B hereto (the "Property") which is located in the unincorporated area of the County of Orange and is being developed into the master-planned community known as "Rienda."

B. The Company as the master developer of the Property intends to obtain, or has obtained, the necessary development approvals to construct approximately 950 residential units and approximately 10.577 acres of commercial development on the Property and to provide the required infrastructure for such units and development.

C. The County will have primary responsibility for the formation and administration of the District.

D. The Company has requested the Board of Supervisors of the County (the "Board") to form and establish the District on a portion of the Property pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part I of Division 2 of Title 5 of the California Government Code (the "Act").

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

F. The parties hereto intend to have the District assist in financing the construction and/or acquisition of the Fire Facilities by disbursing to the Fire Authority proceeds of bonds issued by the District up to the amount of \$3,000,000 (the "Fire Facilities Amount").

G. The District, when formed, is authorized by California Government Code Section 53313.5 to assist in the financing of the acquisition and/or construction of the Fire Facilities. This Agreement constitutes a joint community facilities agreement, within the meaning of California Government Code Section 53316.2, by and among the County, the Fire Authority and the Company, pursuant to which the District, when formed, will be authorized to finance the costs of the construction and/or acquisition of the Fire Facilities in the amount of up to the Fire Facilities Amount. As authorized by California Government Code Section 53316.6, responsibility for

constructing and/or acquiring, providing for and operating the Fire Facilities is delegated to the Fire Authority to the extent set forth herein.

H. The parties hereto intend to have the District assist in financing the Fire Facilities by transferring to the Fire Authority (or directly to others at the Fire Authority's request) a portion of the bond proceeds of the District, in accordance with the terms of this Agreement and pursuant to the Act.

AGREEMENT

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

1. Recitals. Each of the above recitals is incorporated herein and is true and correct.
2. Proposed Formation of the District. At the request of the Company, the County will undertake to analyze the appropriateness of forming the District to finance the Fire Facilities and other facilities. The County will retain, at the Company's expense, the necessary consultants to analyze the proposed formation of the District, including an engineer, special tax consultant, bond counsel, appraiser and other consultants deemed necessary by the County.
3. Sale of Bonds and Use of Proceeds. The purpose of this Agreement is to provide a mechanism by which the Company may request the District to issue bonds to provide funds to finance the Fire Facilities.

In the event that the District is formed, the Board of the County, acting as the legislative body of the District, may, in its sole discretion, finance the construction and acquisition of the Fire Facilities by issuing bonds (the "Bonds"). To the extent the District determines, in its sole discretion, that Bond proceeds are available to finance the Fire Facilities, it shall reserve an amount not to exceed the Fire Facilities Amount for such purpose; provided, however, that the Fire Authority agrees that, without the prior written consent of the Company, the Fire Facilities Amount to be funded by the District shall not exceed \$3,000,000. Upon consent of the Company, the Fire Facilities Amount may be increased. In the event that any proceeds of the Bonds (including interest earnings thereon) reserved to pay for Fire Facilities have not been disbursed by the date that is thirty-four (34) months following the date of issuance of the Bonds, the District may, in its sole discretion, apply any remaining undisbursed amount to pay principal due on the Bonds at maturity or by redemption.

The Company and the Fire Authority acknowledge that the timing of the disbursement of the Fire Facilities Amount to the Fire Authority (or directly to others at the Fire Authority's request) shall be in all respects subject to the sole discretion and approval of the County. In no event will an act, or an omission or failure to act, by the County or the District with respect to the disbursement or non-disbursement of the Fire Facilities Amount subject the District or the County to pecuniary liability hereunder.

The Bonds shall be issued only if, in its sole discretion, the Board determines that all requirements of state and federal law and all County policies have been satisfied or have been waived by the County. In no event shall the Company or the Fire Authority have a right to compel

the issuance of the Bonds. This Agreement does not release Company from any obligation it may have to provide any Fire Facilities.

4. Disbursements.

(a) Bond proceeds of the District designated for the Fire Facilities shall be held by the District or the Trustee for the Bonds in a special fund (the "Fire Facilities Account of the Acquisition and Construction Fund") which shall be invested by the County Treasurer or the Trustee for the Bonds at the direction of the District, as applicable, and earn and accumulate its own interest. In the event that the District has deposited Bond proceeds to the Fire Facilities Account of the Acquisition and Construction Fund to fund all or a portion of the Fire Facilities Amount, the County shall notify the Fire Authority and the Company, in writing, as to the amount of Bond proceeds so deposited. All interest earnings on amounts in the Fire Facilities Account of the Acquisition and Construction Fund shall remain in the Fire Facilities Account of the Acquisition and Construction Fund and will be available for disbursement for the Fire Facilities as described below.

(b) The County Treasurer or the District shall cause the Trustee for the Bonds, as applicable, to make disbursements from the Fire Facilities Account of the Acquisition and Construction Fund in accordance with the terms of this Agreement and neither the County nor the District shall be responsible to the Fire Authority for costs incurred by the Fire Authority as a result of withheld or delayed disbursements.

(c) The Fire Authority agrees that it will request a disbursement of Bond proceeds only for costs related to the Fire Facilities that are eligible for financing under the Act, which include the cost of acquiring the Fire Facilities. The Fire Authority agrees that prior to requesting disbursement from the District it shall review and approve all costs included in its request, and either the Fire Authority or third parties involved with the acquisition of the Fire Facilities will have already paid or incurred such costs of the Fire Facilities. Bond proceeds shall be paid directly to the Fire Authority only to reimburse it for costs previously paid by the Fire Authority. All other Bond proceeds to be disbursed shall be paid at the direction of the Fire Authority to third parties, which may include the Company, who have previously paid or incurred costs of the Fire Facilities. The Fire Authority agrees that in processing disbursements it will comply with all legal requirements for the expenditure of Bond proceeds under the Act and the Internal Revenue Code of 1986 and any amendments thereto. Further, the Company agrees that if it requests that the Fire Authority make any submissions for a disbursement under this Agreement for any Fire Facilities constructed or acquired by the Company, the Company will have already paid for or incurred the costs included in such disbursement request, and the Company will comply with all legal requirements for the expenditure of Bond proceeds under the Act and the Internal Revenue Code of 1986 and any amendments thereto in connection with the construction and/or acquisition of such Fire Facilities. Without limiting the foregoing, if the Fire Authority elects to purchase the Fire Facilities from a third party, the Fire Authority may request disbursements in connection with improvements based upon the discrete portion or phases of a partially completed project as set forth on Exhibit A and as permitted by California Government Code Section 53313.51. In such event, (i) the discrete portions or phases shall be constructed and/or acquired (to the extent applicable) pursuant to plans, standards, specifications and other requirements that satisfy the provisions of Section 5 below, (ii) the price for each discrete portion or phase shall

equal the lesser of the cost or the value thereof, and shall be in no event in excess of the amount set forth on Exhibit A, and (iii) the Fire Authority shall have inspected and approved of such discrete portion or phase and accepted conveyance or dedication thereof (or shall have an irrevocable commitment to convey or dedicate for the Fire Authority's benefit), all pursuant to the Fire Authority's normal procedures and in accordance with California Government Code Section 53313.51.

(d) The Fire Authority will not use or permit the Fire Facilities to be used for any activity that would constitute a "Private Use" in violation of legal requirements for the expenditure of Bond proceeds under the Act and the Internal Revenue Code of 1986 and any amendments thereto. The Fire Authority understands (i) that the term "Private Use" means any activity that constitutes a trade or business that is carried on by persons or entities, other than governmental entities; (ii) that the leasing of the Fire Facilities or access by persons or entities other than a governmental unit on a basis other than as a member of the general public ("General Public Use") would constitute a Private Use; and (iii) that the use of the Fire Facilities in a trade or business would constitute a General Public Use only if the Fire Facilities are intended to be available and are in fact reasonably available for use on the same basis by natural persons not engaged in a trade or business. The Fire Authority represents to the District that the Fire Authority's employer identification number is 330743140. If any proceeds of a series of Bonds will be applied to finance the Fire Facilities, in connection with the issuance of such Bonds, the Fire Authority agrees that it shall provide to the District a certificate confirming the representations contained in clauses (i) and (ii) of this Section 4(d) and such other matters as the District may reasonably request upon which the District and its bond counsel may rely in connection with the issuance of such Bonds and their conclusion that interest on such Bonds is not included in gross income for purposes of federal income taxation.

(e) The Fire Authority agrees to maintain adequate internal controls over its payment function and to maintain accounting records in accordance with generally accepted accounting procedures. The District and the County shall have the right to conduct their own audit of the Fire Authority's records related to the expenditure of the Fire Facilities Amount at reasonable times during normal business hours.

(f) The Fire Authority shall submit a request for payment to the District along with adequate supporting documentation acceptable to the District which shall be in the form attached hereto as Exhibit C (a "Disbursement Request"), which shall be signed by the Fire Chief, or written designee, and which shall be for the exact amount to be reimbursed to the Fire Authority (or to other parties, with the name and address to which such reimbursement should be made), which costs shall in no event exceed the amount remaining on deposit in the Fire Facilities Account of the Acquisition and Construction Fund. Upon receipt of an approved Disbursement Request completed in accordance with the terms of this Agreement, the District shall make an electronic transfer of such portion of requested funds as are then available for release pursuant to the documents pursuant to which the Bonds are issued to the Fire Authority's bank account (or to such other party or such other parties' bank account, as directed by the Fire Authority).

(g) If, for any reason whatsoever, there are insufficient funds to complete the Fire Facilities, or any portion thereof, neither the County nor the District shall have any obligation to fund any such shortfall under this Agreement.

5. Construction and Ownership of Facilities. The Fire Authority will be responsible for acquiring the Fire Facilities, and will be responsible for inspecting the Fire Facilities. The Fire Authority covenants and agrees that with respect to the Fire Facilities it will comply with all statutory provisions applicable to the design, construction and/or acquisition of public works projects (to the extent applicable). The Fire Facilities shall be and remain the property of the Fire Authority.

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

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

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

9. 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.

10. Notices. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to any 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:

County: County of Orange
601 N. Ross Street, 3rd Floor

Santa Ana, California 92701
Attn: Land Development Division Manager

With a copy to: County Executive Office
333 West Santa Ana Blvd., Third Floor
Santa Ana, California 92701
Attn: Public Finance Director

Fire Authority: Orange County Fire Authority
1 Fire Authority Road
P.O. Box 57115
Irvine, California 92619-7115
Attn: Brian Fennessy, Fire Chief

Company: RMV PA 3 Development, LLC
c/o Rancho Mission Viejo
28811 Ortega Highway
San Juan Capistrano, California 92693
Attn: Elise Millington

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

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

12. 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.

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

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

15. No Third Party Beneficiaries. No person or entity other than the District, when and if formed, shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the Fire Authority, the County, the District and the Company (and their respective successors and assigns), any rights, remedies, obligations or liabilities under or by reason of this Agreement.

16. 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.

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

[SIGNATURE PAGES FOLLOW]

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

COUNTY OF ORANGE

By: [Signature]
Chair of the Board of Supervisors

APPROVED AS TO FORM
Office of County Counsel
Orange County California



SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIR OF THE BOARD PER
G.C. SEC 25103, RESOLUTION 79-1535

By: [Signature]
Deputy

By: [Signature] Chief Deputy
Clerk of the Board of Supervisors
County of Orange, California

ORANGE COUNTY FIRE AUTHORITY

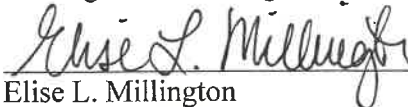
[Signature]
By: David John Shawver
Its: Chairman of the Board

APPROVED AS TO FORM:

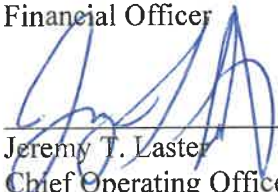
By: [Signature]
David E. Kendig
General Counsel

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 and Chief
Financial Officer

By: 

Jeremy T. Laster
Chief Operating Officer

EXHIBIT A
DESCRIPTION OF FIRE FACILITIES

Fire Facilities	Prices
a) Ladder Truck #1	\$2,100,000
b) Engine Truck #2	\$ 900,000
Grand Total	<u>\$3,000,000</u>

EXHIBIT B

DESCRIPTION OF PROPERTY

Real property in the Unincorporated Area, County of Orange, State of California, described as follows:

TENTATIVE TRACT NO. 17931, BEING A DIVISION OF THE FOLLOWING:

BEING PORTIONS OF PARCELS 59, 60 92, 93, 98, 99, 100 AND 101 OF CERTIFICATE OF COMPLIANCE CC 2011-01, IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, RECORDED DECEMBER 27, 2011 AS INSTRUMENT NO. 2011000677171 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING ANY AND ALL RIPARIAN, APPROPRIATIVE, OVERLYING OR OTHER WATER AND WATER RIGHTS AND ANY AND ALL INTERESTS IN SUCH WATER, INCLUDING SURFACE WATER, SUBSURFACE UNDERFLOW, AND PERCOLATING GROUNDWATER APPURTENANT OR RELATING TO SAID LAND, CONVEYED TO RANCHO MISSION VIEJO MUTUAL WATER COMPANY, A CALIFORNIA NONPROFIT MUTUAL BENEFIT CORPORATION IN DEED RECORDED APRIL 23, 2012 AS INSTRUMENT NO. 2012000230675 OF OFFICIAL RECORDS.

APN: PORTION OF 125-165-34 THROUGH 125-165-45, INCLUSIVE

AND

TENTATIVE TRACT NO. 17932, BEING A DIVISION OF THE FOLLOWING:

PORTIONS OF PARCELS 90, 91, 92, 93, 94, 99 & 100, IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON CERTIFICATE OF COMPLIANCE CC 2011-01, RECORDED DECEMBER 27, 2011 AS INSTRUMENT NO. 2011000677171 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; TOGETHER WITH LOTS U, AA, R1 AND R2 OF TRACT NO. 17931, AS SHOWN ON A MAP FILED IN BOOK 991, PAGES 9 THROUGH 35, OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING ANY AND ALL RIPARIAN, APPROPRIATIVE, OVERLYING OR OTHER WATER AND WATER RIGHTS AND ANY AND ALL INTERESTS IN SUCH WATER, INCLUDING SURFACE WATER, SUBSURFACE UNDERFLOW, AND PERCOLATING GROUNDWATER APPURTENANT OR RELATING TO SAID LAND, CONVEYED TO RANCHO MISSION VIEJO MUTUAL WATER COMPANY, A CALIFORNIA NONPROFIT MUTUAL BENEFIT CORPORATION IN DEED RECORDED APRIL 23, 2012 AS INSTRUMENT NO. 2012000230675 OF OFFICIAL RECORDS.

APN: 125-165-37; 125-165-38; 125-165-39; 125-165-40; 125-165-41; 125-165-44 AND 125-165-45

EXHIBIT C

DISBURSEMENT REQUEST FORM

1. Community Facilities District No. 2021-1 of the County of Orange (Rienda) (“CFD No. 2021-1”) is hereby requested to pay from the Fire Facilities Account of the Acquisition and Construction Fund established by the Board of Supervisors of the County of Orange (the “County”) in connection with its CFD No. 2021-1 Special Tax Bonds (the “Bonds”), directly to the person or entity listed below, as Payee, the sum set forth below in payment of project costs described below:

Payee: _____ Amount: \$ _____

Payee: _____ Amount: \$ _____

Payee: _____ Amount: \$ _____

2. The undersigned certifies that the amount requested has been expended for the purposes of constructing, acquiring and/or completing Fire Facilities. The amount requested is (or was) due and payable under a purchase order, contract or other authorization with respect to the project costs described below and has not formed the basis of a prior request or payment. The Fire Authority has confirmed that the Fire Facilities are comprised of fire trucks and other equipment eligible under the Act.

3. Description of Fire Facilities Costs:

4. The amount set forth is authorized and payable pursuant to the terms of the Joint Community Facilities Agreement among the County, RMV PA 3 Development, LLC and the Fire Authority dated as of _____ 1, ____ (the “Agreement”). Capitalized terms not defined herein shall have the meaning set forth in the Agreement.

5. Total payments from CFD No. 2021-1, including the amount to be paid under paragraph 1 above, will not exceed the maximum amount to be disbursed from the Fire Facilities Account of the Acquisition and Construction Fund for the Fire Facilities under the Agreement.

Executed by an authorized representative of the Fire Authority.

By: _____

Name: _____

Title: _____

Date: _____

Request No. _____