

PCCP CSGF RB PORTFOLIO, LLC DEVELOPER DEPOSIT AGREEMENT

This Agreement is made and entered into by and between Rancho Murieta Community Services District (“District”) and PCCP CSGF RB PORTFOLIO, LLC (“PCCP”). The purpose of this Agreement is to provide a mechanism whereby PCCP will fund the District’s attorneys’ fees and costs associated with the negotiation, preparation, and completion of a Financing and Services Agreement (“FSA”), which FSA is intended to provide a framework for providing water and wastewater services to PCCP and/or other landowner/developers’ development projects. This Agreement provides for payment of past due legal expenses due to the District, as well as a payment of future costs associated with the FSA.

1. PCCP OBLIGATION TO ADVANCE FUNDS

- A. For the purpose of funding the District’s legal counsel services, including all attorneys’ fees and associated costs, to complete the negotiations and preparation of an FSA for PCCP’s and/or other landowner/developers’ proposed development project(s), and subject to the terms and conditions of this Agreement, PCCP will provide the District one hundred percent (100%) of the legal fees to review, negotiate, draft, and/or complete the FSA as identified below in subsections B and C.
- B. The parties estimate that PCCP’s funding for the District’s legal counsel services to review, negotiate, draft, and/or complete the FSA will total approximately \$15,000 (based on \$5,000 a month estimate for three (3) months) for future District legal costs to complete the FSA (“Future District Legal Costs”). All parties acknowledge and agree that this amount is only an estimate of the fees and costs of the District’s legal services and that, notwithstanding any other provision of this Agreement, PCCP will fund the actual Future District Legal Costs, whether greater or lesser than the estimate set forth herein subject to the termination rights of PCCP in Section 4 below. All Future District Legal Costs advanced by PCCP to the District shall be recorded and accounted for by the District in a separate general ledger account (“Project Fund”).
- C. On behalf of certain landowners, PCCP will be paying District’s legal costs for the FSA attributable, in whole or part, to other landowners’ projects, in the amount of \$109,000, as set forth in Exhibit A, attached hereto and incorporated herein (“Past Due Legal Costs”). Lakeview (Village Properties), shall separately arrange for payment to the District in the amount of \$19,000 as part of the Past Due Legal Costs, as set forth in Exhibit A. In addition to the Future District Legal Costs paid by PCCP pursuant to Section 1.B. above and the amounts to be paid by PCCP on behalf of other landowners for the FSA, PCCP’s funding of District’s legal fees hereunder will include funding of a portion of District’s Past Due Legal Costs in the amounts set forth in Exhibit A, which costs are attributable to certain other projects that may become subject to the FSA. PCCP’s funding of a portion of Past Due Legal Costs attributable to other projects may benefit such other landowner’s and/or developer’s projects that may become parties to the FSA. All Past Due Legal Costs paid by PCCP hereunder (which excludes the \$19,000 attributable to Lakeview) shall be held by District in a separate escrow account (“Escrow 1”) and, except for the \$19,000 to be paid separately by Lakeview, as indicated on

Exhibit A, the amounts shall not be used by District unless and until the FSA is executed by District and PCCP. Deposit of the amounts set forth in this paragraph shall be made upon execution of this Agreement, and such payment is a condition precedent to the exercise of any rights of PCCP, or any obligations of the District, under this Agreement.

2. **INITIAL DEPOSIT**

Upon execution of this Agreement, PCCP shall provide the District an initial deposit of \$15,000 for Future District Legal Costs, which amount will be deposited into the Project Fund. Payment of such deposit is a condition precedent to the exercise of any rights of PCCP, or any obligations of the District, under this Agreement. The Project Fund shall be used by District solely for District's legal counsel services to review, negotiate, draft, and/or complete the FSA.

3. **PERIODIC ADVANCES BY PCCP**

When charges against the Project Fund for Future District Legal Costs reduce the fund below \$1,000, the District shall prepare a written estimate of the expenditures necessary to complete the FSA and shall submit this estimate to PCCP. If the estimate exceeds the amount remaining in the Project Fund, PCCP shall either (i) promptly pay the District the amount needed to pay all currently due and unpaid obligations (excluding any past due amounts existing as of the date of this Agreement) and in addition to such amount, to increase the Project Fund to the lesser of (a) the amount needed to complete the FSA (excluding any past due amounts existing as of the date of this Agreement) or (b) \$10,000; or (ii) terminate this Agreement in accordance with Section 4 below.

4. **PCCP RIGHT TO TERMINATE ITS OBLIGATIONS**

- A. PCCP may terminate its obligation to provide funding under this Agreement by written notice delivered to the District. The District shall thereafter promptly notify all individuals and entities working on the FSA that the Agreement has been terminated and shall otherwise promptly take action to stop all work on the FSA that is chargeable to PCCP under this Agreement.
- B. In any contract between District and a third party which obligates funds from PCCP pursuant to this Agreement, the District will include a provision that the District may terminate such contract by written notice and the District shall have no obligation to fund any costs relating to work done after receipt of the notice. The District shall not be required by this Agreement to enter into any contract with a third party if the party refuses to include such a provision.
- C. Upon the delivery by PCCP of a notice to terminate, PCCP shall have no obligation to fund any FSA costs for services performed after the District's receipt of the notice to terminate except those services performed by District's legal counsel prior to District's receipt of actual notice to termination of this Agreement and winding-up expenses. Winding-up expenses shall be limited to costs incurred by the District to stop the work on the FSA, to pay and terminate FSA obligations to District's legal counsel incurred prior to the notice of termination, and to perform accountings or other obligations of the District to PCCP under the Agreement. Winding-up expenses shall not include the cost to

complete work in progress when the notice of termination was delivered. Notwithstanding anything to the contrary herein, in the event this Agreement is terminated by PCCP prior to execution of the FSA by District and PCCP, all Past Due Legal Costs paid by PCCP in Escrow 1 shall be refunded to PCCP.

- D. Within thirty (30) days after receipt of a notice to terminate, the District shall refund to PCCP (i) any Future District Legal Costs paid by PCCP to the District pursuant to this Agreement after deduction of amounts properly chargeable to PCCP pursuant to this Agreement and (ii) all Past Due Legal Costs paid by PCCP and held in Escrow 1.
- E. Upon execution of the FSA by District and PCCP all amounts held in Escrow 1 shall be released and available to District to pay District's Past Due Legal Costs for the FSA. To the extent permitted by law, District shall require any landowner/developer desiring to be a party to the FSA to provide their project's fair share of District's legal costs for the FSA to the District prior to such landowner/developer becoming a party to the FSA and/or receiving any rights or benefits thereunder, all as determined by the District in the exercise of their reasonable discretion. The amounts set forth in Exhibit A attached hereto, have been considered by District, and District has determined that such amounts currently represent each landowner/developer's fair share contribution. In the event District later determines the fair share contributions due from any project are different than as set forth in Exhibit A, due to changes in entitlements or otherwise, District shall provide written documentation substantiating such determination and setting forth the methodology used to determine the projects' fair share of District's legal costs. If any such amounts have been paid by PCCP hereunder, such amounts shall be reimbursed to PCCP, without interest, within thirty (30) days following receipt of such funds by District.

5. **DISTRICT'S RIGHT TO TERMINATE**

Should PCCP default in any of its obligations under this Agreement, or if District determines, in its reasonable discretion, that PCCP has not proceeded with reasonable diligence under this Agreement, the District may terminate this Agreement with written notice delivered to PCCP. Should the District terminate this Agreement, the District will refund (i) any unused Future District Legal Costs paid by PCCP remaining in the Project Fund, without interest, and (ii) all Past Due Legal Costs in Escrow 1 to PCCP within thirty (30) days of termination of the Agreement.

6. **PERIODIC ACCOUNTING**

The District shall provide an accounting to PCCP of expenditures for the FSA when PCCP is requested to make a payment to the Project Fund, when three (3) months has expired since the last accounting, and when the Agreement is terminated or the FSA is completed. The accounting shall describe the nature and amount of all expenditures for the FSA that is chargeable to PCCP under this Agreement.

7. **MISCELLANEOUS**

- A. The District and PCCP agree that nothing in this Agreement shall be construed to constitute approval or favorable action with respect to approvals of the financing plan and/or county entitlement approvals. PCCP acknowledges and agrees that notwithstanding its reimbursement obligations under this Agreement, the District retains all authority and discretion granted to it by law with respect to approval of any entitlements for PCCP or other parties.
- B. PCCP shall have no right hereunder, by virtue of providing funds hereunder, to recommend, approve or deny District's selection of any District staff members, consultants or advisors that it may retain with regard to the FSA.
- C. In consideration of the funding obligations of PCCP hereunder, District agrees to act reasonably prompt and further agrees to instruct its staff and legal counsel to act reasonably diligent to review and complete the FSA, and to process the FSA for final approval by District's Board in a reasonably expeditious manner.
- D. In any action to enforce the provisions of this Agreement, the prevailing party shall be entitled to its reasonable attorneys fees.
- E. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together shall constitute but one and the same instrument.
- F. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.
- G. The waiver or failure to enforce any provisions of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.
- H. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any legal action or proceeding brought relative to this Agreement shall be heard in a court of competent jurisdiction in the County of Sacramento, California
- I. This Agreement constitutes the entire understanding between all of the parties relating to the transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein and shall be of no further force or effect. Extrinsic or parol evidence shall be inadmissible to show agreement by and between the parties to any term or condition contrary to or in addition to the terms and conditions contained in this Agreement. This Agreement shall be deemed jointly drafted by the parties, no one party shall be considered the draftsperson, and any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement.

K. If any term or provision of this Agreement is found to be invalid or unenforceable, the parties agree that they would have executed this Agreement notwithstanding the invalidity of such term or provision. The invalid term or provision may be severed from the Agreement and the remainder of the Agreement may be enforced in its entirety.

L. Each party signing this Agreement hereby represents and warrants to the other party that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that he or she is authorized to sign this Agreement and bind the party on whose behalf he or she signs.

This Agreement is executed and effective as of the last date signed below by the parties.

Dated: 7/20, 2011

**RANCHO MURIETA COMMUNITY
SERVICES DISTRICT**

By: Roberta J. Belton
Name: Roberta J. Belton
Its: Pres, MCSD BOB

Dated: JULY 13, 2011

PCCP CSGF RB PORTFOLIO, LLC

By: Brian Heafey
Name: Brian Heafey
Its: Authorized Signatory

Exhibit A

**Rancho Murieta
FSA Advanced Funding Summary**

May 6, 2011

	Share of Past Due CSD Legal Bills	Status
Riverview (PCCP)	\$ 27,000	PCCP to pay into Escrow #1
Murieta Hills East (PCCP)	\$ 19,000	PCCP to pay into Escrow #1
Murieta Gardens (Regency)	\$ 28,000	PCCP to pay into Escrow #1
(Advance Funded by PCCP)		Developer to reimburse at FSA
Murieta Retreats (CK Homes)	\$ 16,000	PCCP to pay into Escrow #1
(Advance Funded by PCCP)		Developer to reimburse at FSA
SubTotal Initial PCCP Payments to Escrow #1: \$ 90,000		
Murieta Hills West (JDI)	\$ 19,000	JDI to pay into Escrow #1
Total Payments to Escrow #1: \$ 109,000		
Lakeview (Village Properties)	\$ 19,000	CSD has \$27,000 from R&B Assume \$19k to Lakeview Share of Past CSD Bills \$8k to FSA Cost to Complete Account
FSA Completion	\$ 15,000	\$5000 per month for 3 months
(Lakeview)	\$ 8,000	
(Advance Funded by PCCP)	\$ 7,000	initial deposit.
Total Initial PCCP Payments (Esc#1 & FSA): \$ 97,000		