

FUNDING AGREEMENT

THIS FUNDING AGREEMENT, dated as of December 10, 2019 is by and between the City of Rialto, California (the “City”), acting on behalf of City of Rialto Community Facilities District No. 2019-2 (Foothill/Spruce) (the “District”) and HNK Associates, LLC, an Illinois limited liability company (the “Owner”).

RECITALS

WHEREAS, the City has undertaken proceedings to form the District, and authorize (i) the levy of special taxes within the District for Facilities (the “Facilities Special Taxes”), (ii) the issuance of the Bonds secured by Facilities Special Taxes pursuant to The Mello-Roos Community Facilities Act of 1982 (the “Act”) to fund the payment of Public Fees (as defined herein) for public facilities associated with such fees (“Facilities”) and related costs and (iii) the levy of special taxes within the District to fund certain City services (the “Services Special Tax”); and

WHEREAS, Owner is the owner of the property located in the District described on the map on Exhibit A hereto, consisting of Tentative Tract No. 20217 approved for 184 residential dwelling units (“Property”) and has entered into an agreement with Christopher Development Group, Inc. to convey the Property; and

WHEREAS, the City and Owner will benefit from a coordinated plan of financing of the public facilities, the development of the land, and the payment of Public Fees in connection therewith and the authorized City services; and

WHEREAS, the Owner and the City wish to finance certain public facilities with the moneys from the payment of Public Fees by entering into this Agreement for the payment of certain Public Fees (as herein defined) as shown in Exhibit B hereto (as it may be amended and supplemented) with funds in the Improvement Fund (as defined herein); and

WHEREAS, the City intends to eventually authorize the issuance of the Bonds under the Act (as herein defines) and the Fiscal Agent Agreement, the proceeds of which shall be used, in part, by City to pay for public facilities in the amount of the Public Fees; and

WHEREAS, in consideration of the mutual promises and covenants set forth herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Owner agree that the foregoing recitals, as applicable to each, are true and correct and further make the agreements set forth herein;

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

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. The following terms shall have the meanings ascribed to them in this Section 1.01 for purposes of this Agreement. Unless otherwise indicated, any other terms, capitalized or not, when used herein shall have the meanings ascribed to them in the Fiscal Agent Agreement (as hereinafter defined).

“Act” means The Mello-Roos Community Facilities Act of 1982, being Chapter 2.5 of Part 1 of Division 2 of title 5 (commencing with Section 53311) of the California Government Code.

“Agreement” means this Funding Agreement, together with any Supplement hereto.

“Bonds” means the bonds, notes or other indebtedness of the District issued to generate proceeds for the Improvement Fund with respect to the District.

“City” means the City of Rialto, California.

“County” means the County of San Bernardino, California.

“Developed Property” shall have the meaning given to it in the Rate and Method.

“District” means City of Rialto Community Facilities District No. 2019-2 (Foothill/Spruce), a community facilities district organized and existing under the laws of the State of California.

“District Representative” means the City Manager, Assistant City Manager or Finance Director or his/her designee.

“Facilities Special Taxes” shall mean the special taxes of the District authorized to be levied and collected to fund the Public Fees in accordance with the Rate and Method.

“Fiscal Agent” means the fiscal agent identified in the Fiscal Agent Agreement, or any successor thereto acting as fiscal agent under the Fiscal Agent Agreement.

“Fiscal Agent Agreement” means a fiscal agent agreement between the City and/or District and the Fiscal Agent, providing for, among other matters, the issuance of the Bonds and the establishment of the Improvement Fund, as it may be amended or supplemented from time to time.

“Improvement Fund” means the Improvement Fund established by a Fiscal Agent Agreement relating to the issuance of the Bonds of the District), including any separate accounts or subaccounts from which the Public Fees or facilities shall be paid.

“Owner” means HNK Associates, LLC, an Illinois limited liability company, its successors and assigns, as applicable.

“Party” means either the City or the Owner.

“Parties” mean the Owner and the City.

“Payment Request” means a document, substantially in the form of Exhibit C hereto, to be used in requesting a payment of a Public Fee for a Public Facility.

“Public Facility” means a facility described in the resolution of intention relating to the District and in the fee programs of the City or another public entity, as applicable.

“Public Fees” means one or more of the public fees described in Exhibit B hereto which are eligible to be financed out of the Improvement Fund and which are authorized to fund the Facilities.

“Rate and Method” means the rate and method of apportionment of special taxes approved for the District.

“Services Special Taxes” means the special taxes of the District authorized to be levied and collected to fund City Services described in Resolution No. ____ of the City Council of the City of Rialto and in accordance with the Rate and Method.

“Supplement” means a written document amending, supplementing or otherwise modifying this Agreement and any exhibit hereto, including any amendments to the list of Public Fees in Exhibit B, and/or the addition to Exhibit B of additional Public Fees to be financed with the proceeds of the Bonds deposited in the Improvement Fund.

ARTICLE II

FUNDING

Section 2.01 Proceedings. The City shall, in its discretion, conduct all necessary proceedings under the Act for the formation of the District and the issuance, sale and delivery of the Bonds.

Section 2.02 Bonds. The City shall not be obligated to pay the Public Fees except from amounts on deposit in the Improvement Fund. The City makes no warranty, express or implied, that the proceeds of the Bonds deposited and held in the Improvement Fund, and any investment earnings thereon to remain in the Improvement Fund, will be sufficient to pay for all of the Public Fees.

Section 2.03 Proceeds. The proceeds of the Bonds shall be deposited, held, invested, reinvested and disbursed as provided in the Fiscal Agent Agreement and this Agreement. The Bonds shall be secured by the Facilities Special Taxes. A portion of the proceeds of the Bonds will be set aside in the Improvement Fund. Moneys in the Improvement Fund shall be deposited, held, invested, reinvested and disbursed therefrom in accordance with the provisions of the Fiscal Agent Agreement and the applicable provisions hereof for payment of all or a portion of the Public Fees. Neither the City nor the District shall incur any liability for the insufficiency of proceeds or allocation of proceeds with respect to a particular account or subaccount of the Improvement Fund.

The funds on deposit in the funds and accounts established by or pursuant to the Fiscal Agent Agreement including the Improvement Fund, shall be invested in accordance with the Fiscal Agent Agreement.

The Owner acknowledges that any lack of availability of amounts in the Improvement Fund to pay the Public Fees shall in no way diminish any obligation of the Owner with respect to the public facilities and mitigation measures required in connection with the project by any development or agreement to which the Owner is a party, or any governmental approval to which the Owner is subject (collectively, the “Improvement Agreements”). In addition, Owner acknowledges that payment of Public Fees hereunder shall in no manner diminish Owner’s obligation to pay any increases in said Public Fees otherwise applicable to Owner for its own property within the District pursuant to the ordinances and resolutions enacting such increased Public Fees.

Owner has entered into the Construction Fee Credit and Reimbursement Agreement, dated June 12, 2019 (“Fee Credit Agreement”) with the City whereby Owner is eligible for fee credits up to \$529,719.24 (“Fee Credits”) for the construction of certain public facilities by Owner. Owner is not eligible for reimbursement of any fees pursuant to this Agreement to the extent Owner receives Fee Credits related to the payment or reimbursement of fees requested under this Agreement.

Section 2.04 Continuing Disclosure Agreement and Cooperation. Owner agrees to provide to the City, and to require each transferee or assignee to provide to the City all information regarding the development within the District, including the financing plan for such development, which is necessary to ensure that the City complies with its continuing disclosure obligations under the Fiscal Agent Agreement and all other applicable federal and state securities laws. Owner shall cooperate with the City and the District with respect to any disclosure or other requirements related to the issuance of Bonds.

Section 2.05 Prevailing Wages. Owner shall comply with all applicable provisions of Labor Code Sections 1720 et seq. and implementing regulations of the Department of Industrial Relations in connection with its development and project in the City and the construction of public improvements. In connection herewith, Owner shall or shall cause its contractors and subcontractors to keep and retain such records as are necessary to determine that prevailing wages have been paid as required by law. Owner shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the City) the City, and the District against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Owner, its contractors and subcontractors) to pay prevailing wages as required by law or to comply with the other applicable provisions of Labor Code Sections 1720 et seq. and the implementing regulations of the Department of Industrial Relations in connection with construction of any public or private improvements related to its project. Any indemnification shall survive termination of this Agreement and completion of the project.

ARTICLE III

PAYMENT OF PUBLIC FEES

Section 3.01 Verification. No payment hereunder shall be made by the City to or on behalf of the Owner for a Public Fee until the amount has been verified by the District Representative.

Section 3.02 Requests. In order to cause a Public Fee to be paid from the Improvement Fund, the Owner, in accordance with the terms of Section 3.03 hereof, shall deliver to the District Representative: (i) a Payment Request in the form of Exhibit C hereto for such Public Fee and (ii) such invoices or documentation to evidence said Payment Request.

Section 3.03 Rights of Respective Parties. Owner shall be entitled to submit Payment Requests with respect to the Improvement Fund or accounts therein owned by said Owner within the District. City and District shall be entitled to rely completely on the Payment Request submitted by an Owner in the form of Exhibit C hereto, wherein the Owner certifies to its obligations and the ownership in the District in connection with payment of the Public Fees or otherwise.

Section 3.04 Payment Requests. Upon receipt of a Payment Request to pay the Public Fees (and all accompanying documentation), the District Representative shall conduct a review in order to confirm that such request is complete, and to verify and approve the amount of the Public Fee specified in such Payment Request. The District Representative shall conduct each such review in an expeditious manner and the Owner agrees to reasonably cooperate with the District Representative in conducting each such review and to provide the District Representative with such additional information and documentation as is reasonably necessary for the District Representative to conclude each such review. Within thirty (30) business days of receipt of any Payment Request, the District Representative shall notify the Owner whether such Payment Request is complete, and, if not, what additional documentation must be provided. If such Payment Request is complete, the District Representative will provide a written approval or denial of the request within thirty (30) days of its submittal. If the District Representative disapproves any Payment Request, it shall provide written notice of disapproval to the within such thirty (30) day period stating in reasonable detail the reasons for such disapproval and the changes to the Payment Request necessary to obtain the District Representative's approval. The District Representative's review of any Payment Request shall be made on an individual fee basis such that the District Representative shall approve for payment any Public Fee covered by a Payment Request that complies with the requirements of this Agreement even if the District Representative disapproves other Public Fees included as part of the same Payment Request; provided, however, that the District representative may request that a new Payment Request be submitted evidencing solely the approved Public Fees.

Following the issuance of the Bonds, the Owner shall cause a Payment Request to be submitted to the City for the payment of all of the Public Fees subject to this Agreement and requested by the City. The Owner agrees such Public Fees may be funded from the proceeds of the Bonds immediately upon issuance of the Bonds. Notwithstanding the previous sentence, Owner shall be responsible for any increases in Public Fees subsequent to payment hereunder to

the extent such increases apply to the Owner's property within the District pursuant to the ordinances and resolutions enacting such increased Public Fees. Owner shall not be entitled to any refunds of Public Fees paid by Bond proceeds should Owner not finish its project.

City agrees to levy the Facilities Special Tax on Developed Property at the Assigned Special Tax described in the Rate and Method until the earlier of (i) the initial bond issuance, or (ii) August 1, 2022. Any funds collected in excess of the administrative expenses levied and required for the District ("Surplus Funds") shall be held until the earlier of the two dates in the previous sentence. Upon bond issuance, the City shall determine how to credit such Surplus Funds to the bond issue. To the extent no bonds are issued by August 1, 2022, the Owner may cause one or more Payment Requests to be submitted for Public Fees or reimbursements of Deposits (as described herein) from such Surplus Funds and the City shall pay such Payment Request from the Surplus Funds.

Section 3.05 Payment. Upon approval of the Payment Request (or any portion thereof) by the District Representative, the District Representative shall sign the Payment Request and shall, within five (5) business days of receipt of the approved Payment Request, cause the same to be paid, to the extent of funds then on deposit in the Improvement Fund. Any approved Payment Request not paid due to an insufficiency of funds in the Improvement Fund shall be paid promptly following receipt of a new Payment Request for the funds following the deposit of additional proceeds of the Bonds, or corresponding subaccount or other funds transferred pursuant to the Fiscal Agent Agreement, if any. Upon the exhaustion of the Improvement Fund as a result of paying Public Fees to the governmental entity charging such Public Fees, all remaining Public Fees shall be paid directly by the Owner from other than proceeds from the sale of the Bonds at the time such fees are normally required to be paid. The District, may in its discretion (but is not required to) pay any Public Fees from surplus Facilities Special Taxes not needed to pay administrative expenses or Bonds following the issuance of Bonds.

Section 3.06 Payment For Facilities. Owner has petitioned the City to form the District for the purpose of financing the Public Fees in lieu of construction of certain public facilities, which fees shall be used pursuant to the law to finance, the acquisition and/or construction of various public facilities to be owned and operated by the City or other public entity. Owner shall not own any of the Facilities. City or other public agencies shall own the Facilities related to the Public Fees.

Section 3.07 Payment of Deposits Prior to Issuance of Bonds. In conjunction with the recording of the final subdivision map(s) for the project and/or the condominium plans, in phases for the project, the issuance of building permits for the construction of homes within the project and/or the issuance of occupancy permits for such homes, it may be necessary for an Owner, or its successors or assigns, to make deposits (the "Deposits") either prior to or subsequent to the date of this Agreement equal to the amount of Public Fees then required prior to the issuance of Bonds or the deposit of sufficient funds in the Improvement Fund. Owner may execute and submit a Payment Request to the District requesting payment of such Public Fees to the City of an amount equal to the Deposits made by the Owner from the proceeds of the Bonds deposited in the Improvement Fund. Within ten (10) business days of the City's receipt of funds pursuant to such Payment Request, the City shall return the Deposits to Owner. In the event Bonds are not issued within thirty six (36) months of the date of such Deposit, as determined by

the City, such Deposits may at the written discretion of the City no longer be reflected as a deposit on the accounts of City and shall not be eligible for payment or reimbursement through the proceeds of the Bonds or surplus Facilities Special Taxes. Notwithstanding the previous sentence, the City may in its discretion maintain the Deposit for any length of time and reimburse said deposit at any later date from Facilities Special Taxes and/or the proceeds of taxable or tax-exempt Bonds, as determined by the City. The City shall not be limited in the use of the Deposits as an advance to pay for the Facilities.

ARTICLE IV

REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 4.01 Covenants and Warranties of the Owner. Owner represents and warrants for the benefit of the City with respect to the Owner as follows:

A. Organization. Owner is an Illinois limited liability company, is in good standing and in compliance with the laws of the State of California, and has the power and authority to own its property and assets and to carry on its business as now being conducted and as now contemplated.

B. Authority. Owner has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by Owner.

C. Binding Obligation. This Agreement is a legal, valid and binding obligation of Owner, enforceable against each Owner in accordance with its terms.

D. Financial Records. Until three years after the final acceptance of all the public facilities to be constructed by Owner in connection with their project and final occupancy of the project within the District, Owner covenants to maintain proper books of record and account for the payment of Public Fees. Such accounting books shall be maintained in accordance with generally accepted accounting principles, and shall be available for inspection by the City or its agent at any reasonable time during regular business hours on reasonable notice.

E. Tax Exemption. The Owner shall not take any action with respect to this Agreement, or the Bonds which shall cause the interest on the Bonds to be included in gross income of the holders thereof for federal income tax purposes under the Internal Revenue Code of 1986, as amended; provided however, if the City issues the Bonds on a taxable basis, the Owner shall not be required to take such action.

Section 4.02 Indemnification and Hold Harmless. Owner shall assume the defense of, indemnify, and hold harmless the City, its officers, directors, employees and agents and each 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 this Agreement and the Bonds. Notwithstanding the foregoing, no indemnification is given hereunder for any action, damage, claim, loss or expense directly attributable to the intentional acts or gross negligence of the City, or its officers, directors, employees or agents hereunder or

otherwise with respect to the public facilities or payment therefor. Any indemnification shall survive termination of this Agreement and completion of the project.

No provision of this Agreement shall in any way limit an Owner's responsibility for payment of damages resulting from the operations of the Owner and its agents, employees or contractors.

ARTICLE V

DEFAULT AND REMEDIES

Section 5.01 Default Remedies. Subject to the extensions of time as agreed to in writing by the parties hereto, failure by either party to perform any action or covenant required by this Agreement within the time periods provided herein following Notice and failure to cure as described hereafter, constitutes a "Default" under this Agreement. A Party claiming a Default shall give written Notice of Default to the other Party specifying such Default. Except as otherwise expressly provided in this Agreement, the claimant shall not institute any proceeding against any other Party, and the other Party shall not be in Default if such party within thirty (30) days from receipt of such Notice immediately, with due diligence, commences to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with diligence.

Owner acknowledges that neither the District nor the City would have entered into this Agreement if it were to be liable in damages under or with respect to this Agreement. Any and all obligations of the District and the City hereunder shall be payable only from proceeds of Bonds, to the extent such proceeds may become available. Neither the District nor the City shall have any pecuniary liability for any act or omission of the District or the City, except as set forth in this Section 5.07. In no event will an act, or an omission or failure to act, by the District or the City with respect to the sale or proposed sale of Bonds subject the District or the City to pecuniary liability therefor.

In light of the foregoing, each Owner covenants not to sue for or claim any damages for any alleged breach of, or dispute which arises out of, this Agreement, other than to compel payment by the District to the Owner of the amount of Bond proceeds to be applied to the payment of Public Fees in accordance with the provisions hereof.

Section 5.02 Institution of Legal Actions. The Parties shall be entitled to seek any remedy available at law and in equity for the other Party's Default. All legal actions must be instituted in the Superior Court of the County of San Bernardino, State of California, in an appropriate municipal court in San Bernardino County, or in the United States District Court for the District of California in which San Bernardino County is located (or the closest United States District Court).

Section 5.03 Acceptance of Service of Process. In the event that any legal action is commenced by Owner against City, service of process on City shall be made by personal service upon the City Clerk or in such other manner as may be provided by law. In the event that any legal action is commenced by City against Owner, service of process on said Owner shall be made in such manner as may be provided by law.

Section 5.04 Rights and Remedies Are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Default or any other Default by the other Party.

Section 5.05 Inaction Not a Waiver of Default. Any failures or delays by either Party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies, or deprive either such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

Section 5.06 Applicable Law. The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

Section 5.07 Attorneys' Fees. In any action between the Parties to interpret, enforce, reform, modify, rescind or otherwise in connection with any of the terms or provisions of this Agreement, the prevailing party in the action or other proceeding shall be entitled, in addition to damages, injunctive relief or any other relief to which it might be entitled, reasonable costs and expenses including, without limitation, litigation costs, expert witness fees and reasonable attorneys' fees.

ARTICLE VI

GENERAL

Section 6.01 Mutual Consent. This Agreement may be amended or terminated by the mutual written consent of the City and the Owner, and Owner shall have no claim or right to any portions of moneys in the Improvement Fund except as otherwise may be provided in such written consent and subject to Federal and State law.

Section 6.02 Audit. The City shall have the right, during normal business hours and upon the giving of five (5) business days' prior written notice to the Owner, to review all books and records of the Owner pertaining to costs and expenses incurred by the Owner in relation to any of the public facilities, and any bids taken or received for the construction thereof or materials therefor.

Section 6.03 Notices, Demands and Communications Between the Parties. Any notices, requests, demands, documents, approvals or disapprovals given or sent under this Agreement from one Party to another (collectively, "Notices") may be personally delivered, transmitted by facsimile (FAX) transmission, electronic communication, or deposit with the United States Postal Service for mailing, postage prepaid, to the address of the other Party as stated in this Section, and shall be deemed to have been given or sent at the time of personal delivery or FAX transmission receipt, or electronic communication reply or receipt, or, if mailed, on the third day following the date of deposit in the course of transmission with the United States Postal Service. Notices shall be sent as follows:

If to City: City of Rialto
Attn: City Manager
101 N. "D" Street
Rialto, CA 92570
Fax No. (909) 943-4246
email:

If to Owner: HNK Associates LLC
Attn: CHENG TSUNG WU
23880 Canyon Vista Court
Diamond Bar, California 91765

Section 6.04 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. The Owner, upon consent of City, may assign its rights pursuant to this Agreement to a purchaser (an "Assignee") of a portion or portions of the property which is/are located within the District (the "Property"). The Owner and Assignee shall provide to City such reasonable proof as it may require that such Assignee is the purchaser of such portion(s) of the Property. Such Assignee shall, as a condition to receiving payment of a Public Fee, enter into an assignment and assumption agreement with the Owner and the reasonable consent of the City, in the form attached hereto as Exhibit D, whereby such Assignee agrees, except as may be otherwise specifically provided therein, to assume the obligations of the Owner pursuant to this Agreement with respect to this Agreement, the Property and to be bound thereby.

Section 6.05 Relationship Between City and Owner. It is hereby acknowledged by Owner that the relationship between City and Owner is not that of a partnership or joint venture and that City and Owner shall not be deemed or construed for any purpose to be the agent of the other. Accordingly, except as expressly provided herein or in the Attachments hereto, City shall have no rights, powers, duties or obligations with respect to the development, operation, maintenance or management of the project. Owner agrees to indemnify, hold harmless and defend City from any claim made against City arising from a claimed relationship of partnership or joint venture between City and Owner with respect to the development, operation, maintenance or management of the site or the project.

Section 6.06 No Third Party Rights. The Parties intend that no rights nor remedies be granted to any third party as a beneficiary of this Agreement or of any covenant, duty, obligation or undertaking established herein.

Section 6.07 Counterparts. This Agreement may be signed in multiple counterparts which, when signed by all Parties, shall constitute a binding agreement. This Agreement is executed in three (3) originals, each of which is deemed to be an original.

Section 6.08 Other Agreements. The obligations of the Owner hereunder shall be that of parties hereto. Nothing herein shall be construed as affecting the City's or Owner's rights, or duties to perform their respective obligations, under other agreements, use regulations or subdivision requirements relating to the development. This Agreement shall not confer any

additional rights, or waive any rights given, by either party hereto under any development or other agreement to which they are a party.

Section 6.09 Titles and Captions. Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or of any of its terms. Reference to section numbers are to sections in this Agreement, unless expressly stated otherwise.

Section 6.10 Interpretation. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word “including” shall be construed as if followed by the words “without limitation.” This Agreement shall be interpreted as though prepared jointly by both Parties.

Section 6.11 No Waiver. A waiver by either Party of a breach of any of the covenants, conditions or agreements under this Agreement to be performed by the other Party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Agreement.

Section 6.12 Modifications. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each Party.

Section 6.13 Severability. If any term, provision, condition or covenant of this Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

Section 6.14 Computation of Time. The time in which any act is to be done under this Agreement is computed by excluding the first day (such as the day escrow opens), and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded. The term “holiday” shall mean all holidays as specified in Section 6700 and 6701 of the California Government Code. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

Section 6.15 Legal Advice. Each Party represents and warrants to the other the following: they have carefully read this Agreement, and in signing this Agreement, they do so with full knowledge of any right which they may have; they have received independent legal advice from their respective legal counsel as to the matter set forth in this Agreement, or have knowingly chosen not to consult legal counsel as to the matters set forth in this Agreement; and, they have freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other Party, or their respective agents, employees, or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

Section 6.16 Cooperation. Each Party agrees to cooperate with the other in this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful, or appropriate to carry out the purposes and intent of this Agreement including, but not limited to, releases or additional agreements.

Section 6.17 Conflicts of Interest. No member, official or employee of City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested.

Section 6.18 Non-Liability of Officials and Employees of City. No member, official or employee of City shall be personally liable to Owner, or any successor in interest, in the event of any Default or breach by City or for any amount which may become due to Owner or its successors, or on any obligations under the terms of this Agreement. Owner hereby waives and releases any claim it may have against the members, officials or employees of City with respect to any Default or breach by City or for any amount which may become due to Owner or its successors, or on any obligations under the terms of this Agreement. Owner makes such release with full knowledge of Civil Code Section 1542 and hereby waives any and all rights thereunder to the extent of this release, if such Section 1542 is applicable. Section 1542 of the Civil Code provides as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

Section 6.19 Effectiveness of Agreement. This Agreement shall be effective when authorized and executed by Owner and City.

[Signatures on following pages]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the respective date set forth above.

“CITY”

CITY OF RIALTO, a municipal
corporation

By: _____
City Manager

ATTEST:

By: _____
City Clerk

HNK ASSOCIATES, LLC,
an Illinois limited liability company

By:_____

Name:_____

Title:_____

By:_____

Name:_____

Title:_____

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Real property in the City of Rialto, County of San Bernardino, State of California, described as follows:

PARCEL 1: (APN: 0128-051-10)

THAT PORTION OF THE EAST 659.89 FEET OF THE WEST 1,319.78 FEET OF BLOCKS 1 AND 2 (MEASURED ALONG THE NORTH LINE OF SAID BLOCK 1) TRACT NO. 2663, IN THE CITY OF RIALTO COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA AS PER MAP RECORDED IN BOOK 37 OF MAPS, PAGE(S) 86, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EASTERLY LINE OF SAID EAST 659.89 FEET WITH THE NORTHERLY LINE OF FOOTHILL BOULEVARD, 100 FEET WIDE, AS SHOWN ON SAID MAP OF TRACT NO. 2663; THENCE ALONG SAID EASTERLY LINE NORTH 0° 08' WEST 620.00 FEET TO THE CENTER LINE OF PARSONS AVENUE, 60 FEET WIDE, AS SHOWN ON SAID MAP OF TRACT NO. 2663; THENCE ALONG SAID CENTER LINE, WEST 150.00 FEET; THENCE LEAVING SAID CENTERLINE SOUTH 0° 08' EAST 150.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 300.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE 193.05 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 300.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE 193.05 FEET; THENCE TANGENT TO SAID CURVE SOUTH 0° 08' EAST 109.72 FEET, MORE OR LESS, TO A POINT IN SAID NORTHERLY LINE OF FOOTHILL BOULEVARD; THENCE ALONG SAID NORTHERLY LINE EAST 270.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA BY GRANT DEED RECORDED MARCH 16, 2006, AS INSTRUMENT NO. 2006-0177775 OF OFFICIAL RECORDS.

PARCEL 2: (APN: 0128-051-27)

THE EAST 659.85 FEET OF THE WEST 1319.78 FEET OF BLOCK 2, TRACT NO. 2663, IN THE CITY OF RIALTO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA AS PER MAP RECORDED IN BOOK 37 OF MAPS, PAGE 86, RECORDS OF SAID COUNTY.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EASTERLY LINE OF SAID EAST 659.89 FEET WITH THE NORTHERLY LINE OF FOOTHILL BOULEVARD, 100 FEET WIDE, AS SHOWN ON SAID MAP OF TRACT NO. 2663, THENCE ALONG SAID EASTERLY LINE

NORTH 0° 08' WEST 620.00 FEET TO THE CENTER LINE OF PARSONS AVENUE, 60 FEET WIDE, AS SHOWN ON SAID MAP OF TRACT NO. 2663; THENCE ALONG SAID CENTER LINE, WEST 150.00 FEET; THENCE LEAVING SAID CENTER LINE SOUTH 0° 08' EAST 150.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 300.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE 193.05 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 300.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE 193.05 FEET; THENCE TANGENT TO SAID CURVE SOUTH 0° 08' EAST 109.72 FEET, MORE OR LESS, TO A POINT IN SAID NORTHERLY LINE OF FOOTHILL BOULEVARD; THENCE ALONG SAID NORTHERLY LINE EAST 270.00 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THE NORTH 110 FEET THEREOF AS CONVEYED BY DEED RECORDED DECEMBER 9, 1977 IN BOOK 9321 PAGE 828, OFFICIAL RECORDS.

PARCEL 3: (APN: 0128-051-34)

PARCEL 1 OF PARCEL MAP NUMBER 8551, IN THE CITY OF RIALTO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA AS PER MAP RECORDED IN BOOK 105, OF PARCEL MAPS, PAGE 50, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXHIBIT B
ELIGIBLE PUBLIC FEES LIST
CITY OF RIALTO
COMMUNITY FACILITIES DISTRICT NO. 2019-2
(FOOTHILL/SPRUCE)
BOND FINANCED FACILITIES SUMMARY

Description		
Park Development	\$5,893	\$1,084,379
Fire Facilities	1,028	189,076
General Facilities	1,965	361,536
Library Facilities	351	64,618
Law Enforcement	1,396	256,802
Open Space	306	56,312
Storm Drain	2,295	422,275
Street Medians **	0	0
Transportation Facilities Fee **	0	0
Fairshare Signal Contribution	304	55,983
Wastewater Collection	764	140,498
Wastewater Treatment	1,779	327,292
<u>Water Facilities Fees</u>		
Domestic Meter	3,147	579,133
Water Meter Fee - 3/4"	286	52,642
Common Area/Landscape (2")	182	33,552
Fire Line Service Development Fee (1")	600	110,400
Total	\$20,296	\$3,734,497

*Represents the fee amounts as of the date of this Agreement. Fees are only reimbursable to the extent they are impact fees.

** Pursuant to the Fee Credit Agreement, it is expected that Owner shall receive credit against these Fees. Such fees are not reimbursable to the extent Owner receives credit. Owner shall not receive reimbursement for any fees owner receives credit for.

Note: Bond Counsel may determine that only a portion of the fee is payable or reimbursable. In the event a portion of the above fees are used for ongoing services or administrative costs not related to construction of capital facilities, such amount may not be reimbursable from bond proceeds.

EXHIBIT C
PAYMENT REQUEST NO. _____

The undersigned _____, a _____ (the "Owner") hereby requests payment to the City _____ in the total amount of \$_____ for the Public Fees (as defined in the Funding Agreement, dated as of _____, by and between the City of Rialto (the "City") and Owner and described in Exhibit B to that Agreement), all as more fully described in Attachment 1 hereto. In connection with this Payment Request, the undersigned hereby represents and warrants to the City and the District as follows:

1. He (she) is a duly authorized officer of the Owner, qualified to execute this Payment Request for payment on behalf of the Owner and is knowledgeable as to the matters set forth herein.

2. Owner is the owner of the property subject to this request and located in the District.

3. All costs of the Public Fees for which payment is requested hereby are now due and payable, and have not been inflated in any respect. The items for which payment is requested have not been the subject of any prior payment request submitted to the City.

4. Supporting documentation is attached with respect to each Public Fee for which payment is requested.

5. The Owner is in compliance with the terms and provisions of the Funding Agreement and no portion of the amount being requested to be paid was previously paid.

6. [If items have been assigned-description here]

7. This payment is to made to the ____ ____.

8. Owner has not received any fee credits with respect to the amounts requisitioned hereunder and will not request any credits with respect to such amounts.

I hereby declare under penalty of perjury that the above representations and warranties are true and correct.

OWNER:

By: _____
Authorized Representative of Owner

CITY:

Payment Request Approved for Submission to
Fiscal Agent

By: _____
City Manager

Date: _____

Date: _____

ATTACHMENT 1
SUMMARY OF PUBLIC FEES
TO BE PAID AS PART OF PAYMENT REQUEST NO. _____

Charging Entity	Title of Fee	Actual Cost	Disbursement Requested	Tract Account/Subaccount	Pay to (Owner or Charging Entity)

[List here all Fees for which payment is requested,
and attach support documentation]

EXHIBIT D
FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

Pursuant to a Funding Agreement dated as of _____, 2019 (the “Agreement”) by and between the City of Rialto (“City”) and _____, (the “Owner”), which Agreement is hereby incorporated herein by this reference, and for good and valuable consideration, receipt of which is hereby acknowledged, the undersigned agree as follows:

1. The assignment and assumption provided for under this Assignment and Assumption Agreement (“Assignment”) is made together with the sale, transfer or assignment of all or a part of the property subject to the Agreement. The property sold, transferred or assigned together with this Assignment is included within the District and described in “Attachment 1” attached hereto and incorporated herein by this reference (the “Subject Property”).

2. _____, as the assignor hereof (the “Assignor”) hereby grants, sells, transfers, conveys assigns and delegates to _____ (“Assignee”), all of Assignor’s rights, title, interest, benefits, privileges, duties and obligations arising under or from the Agreement with respect to the Subject Property and the public facilities and fees authorized to be funded with respect to the District except for the following:_____

3. Assignee hereby accepts the foregoing assignment and unconditionally assumes and agrees to perform all of the duties and obligations and liabilities of Assignor arising under or from the Agreement as owner of the Subject Property.

4. The sale, transfer or assignment of the Subject Property and the assignment and assumption provided for under this Assignment are the subject of additional agreements between Assignor and Assignee. Notwithstanding any term, condition or provision of such additional agreements, the rights of the City arising under or from the Agreement and this Assignment shall not be affected, diminished or defeated in any way, except upon the express written agreement of the City.

5. Assignor and Assignee execute this Assignment pursuant to Section 8.7 of the Agreement, and the City evidences its consent to this Assignment by signing below.

IN WITNESS WHEREOF, the parties have executed this Assignment on _____.

ASSIGNOR:

[_____]r

By: _____

Name: _____

Title: _____

ASSIGNEE:

By: _____

Name: _____

Title: _____

CONSENT OF CITY:

CITY OF RIALTO

By: _____

Its: City Manager