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**AMENDED AND RESTATED**

**JOINT COMMUNITY FACILITIES AGREEMENT**

**by and among**

**MORENO VALLEY UNIFIED SCHOOL DISTRICT**

**and**

**COMMUNITY FACILITIES DISTRICT NO. 2015-3**  
**OF THE MORENO VALLEY UNIFIED SCHOOL DISTRICT**

**and**

**RSI COMMUNITIES-CALIFORNIA LLC**

**and**

**EASTERN MUNICIPAL WATER DISTRICT**

**relating to**

**MORENO VALLEY UNIFIED SCHOOL DISTRICT**  
**COMMUNITY FACILITIES DISTRICT NO. 2015-3**

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## **AMENDED AND RESTATED JOINT COMMUNITY FACILITIES AGREEMENT**

THIS AMENDED AND RESTATED JOINT COMMUNITY FACILITIES AGREEMENT (“EMWD JCFA”) is entered into effective as of the \_\_\_ day of January, 2019, by and among MORENO VALLEY UNIFIED SCHOOL DISTRICT, a California school district (“School District”), COMMUNITY FACILITIES DISTRICT NO. 2015-3 OF THE MORENO VALLEY UNIFIED SCHOOL DISTRICT (“CFD No. 2015-3”), a community facilities district formed by the School District pursuant to the provisions of California law, RSI COMMUNITIES-CALIFORNIA LLC, a Delaware limited liability company (“Owner”), and EASTERN MUNICIPAL WATER DISTRICT, a public agency organized and existing pursuant to Division 20 of the California Water Code (“EMWD”), and relates to CFD No. 2015-3 for the purpose of funding certain public facilities to be owned and operated by the School District and by EMWD from proceeds of bonds of CFD No. 2015-3 to serve development within the boundaries of the School District and EMWD, including Owner’s property included in CFD No. 2015-3. The foregoing named parties may be referred to herein as either party or parties (“Party” or “Parties”).

### ***RECITALS***

A. In 2015, the School District, WSI Lincoln Property Holdings, LLC (“Prior Owner”), and EMWD entered into and executed an agreement entitled, “Joint Community Facilities Agreement By and Among Moreno Valley Unified School District, WSI Lincoln Property Holdings, LLC and Eastern Municipal Water District Relating to Moreno Valley Unified School District Community Facilities District No. 2015-3” (“Prior JCFA”). The Prior JCFA is attached hereto as Exhibit “A.”

B. Since the date of the Prior JCFA, CFD No. 2015-3 has been formed by the School District pursuant to the provisions of the Act (as defined in the Prior JCFA).

C. Subsequent to executing the prior JCFA, Owner acquired that certain real property comprising CFD No. 2015-3.

D. Pursuant to its terms, the Prior JCFA would terminate and become null and void if bonds relating to CFD No. 2015-3 were not sold within a three (3) year period following the date of the Prior JCFA or any mutually agreed extension. As of the date of this EMWD JCFA, Bonds relating to CFD No. 2015-3 have not yet been sold.

E. Owner, School District, CFD No. 2015-3, and EMWD now desire to enter into this EMWD JCFA to reinstate and to incorporate the terms of the Prior JCFA.

### ***AGREEMENT***

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

1. Each of the above recitals is incorporated herein and is true and correct.
2. The Prior JCFA is attached to this EMWD JCFA as Exhibit “A.” Each and every clause, unless otherwise specified herein within this EMWD JCFA, is reinstated and incorporated herein by reference as of the date hereof.

3. Section 5(g) is hereby added to EMWD JCFA to read as follows:

“(g) In connection with the issuance of any Bonds, EMWD agrees to execute and deliver a Certificate Concerning Use of Bond Proceeds (“Water District Certificate”), the form of which is attached to the EMWD JCFA as Exhibit “B,” in order for bond counsel to conclude that interest on such Bonds will be excluded from gross income under Section 103 of the Internal Revenue Code of 1986, as amended, and any other provision of law. Each such Water District Certificate shall be provided by bond counsel prior to the pricing of the Bonds, and shall be executed by a duly authorized officer of EMWD within fifteen (15) calendar days of receipt of each such Water District Certificate. Should EMWD fail to execute and deliver the applicable Water District Certificate within fifteen (15) calendar days, the School District may issue federally taxable Bonds to fund the Water District Facilities and federally tax-exempt Bonds to fund the School Facilities.”

4. Section 12 is deleted entirely and replaced with the following:

“**Notices.** Any notice, payment or instrument required or permitted by this EMWD JCFA to be given or delivered to either Party shall be deemed to have been received when personally delivered or seventy-two (72) hours following deposit of the same in any United States Post office in California, registered or certified, postage prepaid, addressed as follows:

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

With a copy to:                   Atkinson, Andelson, Loya, Ruud & Romo  
20 Pacifica, Suite 1100  
Irvine, CA 92618  
Attn: Wendy Wiles, Esq.

To Owner:                         RSI Communities-California LLC  
680 Newport Center Drive, 3<sup>rd</sup> Floor  
Newport Beach, CA 92660  
Attn: Jeri Ni

To EMWD:                         Eastern Municipal Water District  
P.O. Box 8300  
2270 Trumble Road  
Perris, CA 92572-8300

Each Party may change its address for delivery of notice by delivering written notice of such change of address to the other Parties hereto.”

5. Section 21 is deleted entirely and replaced with the following:

**Termination**. This EMWD JCFA shall terminate on **September 1, 2025**. Any mutually agreed upon extension(s) shall not require further approval by the Parties' governing body and may be approved by the appropriate Chief Executive Officer, if otherwise consistent with the terms of this EMWD JCFA."

6. Exhibit "E" of the Prior JCFA is deleted in its entirety and replaced by Exhibit "C," attached hereto.

7. The School District shall limit the Special Taxes, as defined in the School District JCFA, of CFD No. 2015-3 such that: a) the total cumulative burden of the Special Taxes and other overlapping general property taxes and assessments applicable to the homes within the Property (hereinafter referred to as the "overlapping tax rate") will be at or below 2.0 percent (2%) of the average sales price at the time CFD No. 2015-3 is formed as represented by the Owner; and b) the overlapping tax rate will be at or below 2.0 percent (2%) of the average sales price at the time any debt issuance is approved by the Board of Education of the School District. The School District agrees not to include references to EMWD in the information provided to the County of Riverside that is to be included in the property tax bills for taxpayers within CFD No. 2015-3.

8. Prior to execution and delivery of this EMWD JCFA, each Party has received, or had unqualified opportunities to receive, independent legal advice from its legal counsel with respect to the advisability of executing this EMWD JCFA and the meaning of the provisions herein. Therefore, the provisions of this EMWD JCFA shall be construed based on their fair and reasonable meaning, and not for or against any Party based on whether such Party or its legal counsel was primarily responsible for drafting this EMWD JCFA or any particular provision herein.

9. This EMWD JCFA constitutes the entire understanding and agreement between the Parties pertaining to the rights and obligations described in this EMWD JCFA. Except as expressly provided for herein, all prior and contemporaneous agreements, representations and understandings of the Parties relating to such subject matter, whether oral or written, are hereby superseded and replaced by this EMWD JCFA.

10. If a court of competent jurisdiction determines, for any reason, that any provision or requirement of this EMWD JCFA is invalid or unenforceable, such determination shall not invalidate or render unenforceable any other provision or requirement of this EMWD JCFA. In such event, the provisions and requirements that are not the subject of the court's determination shall be interpreted, to the extent permitted by law, in a manner that is consistent with the intent and purpose underlying the invalid or unenforceable provisions or requirement. Likewise, if a court of competent jurisdiction determines, for any reason, that any provision or requirement of this EMWD JCFA is invalid or unenforceable as applied to a specific person or entity, such determination shall not affect the applicability of such provision or requirement to other persons or entities. In such event, the provisions and requirements that are not the subject of the court's determination shall be interpreted, to the extent permitted by law, in a manner that is consistent with the intent and purpose underlying the inapplicable provision or requirement.

11. The Parties have entered into this EMWD JCFA solely for their own purposes, and this agreement shall not be deemed or construed to: (i) benefit any third party; (ii) create any right or any third party; or (iii) except as provided by law, provide a basis for any claim, demand, action, or other proceeding by any third party.

12. This EMWD JCFA may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, taken together, shall constitute one and the same instrument. Signature pages may be detached from counterpart originals and combined to physically form one or more copies of this agreement having original signatures of both Parties.

13. The persons executing this EMWD JCFA on behalf of the Parties are duly authorized to execute this Amendment.

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

**MORENO VALLEY UNIFIED SCHOOL DISTRICT**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**COMMUNITY FACILITIES DISTRICT NO. 2015-3  
OF THE MORENO VALLEY UNIFIED SCHOOL  
DISTRICT**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM:**

Atkinson, Andelson, Loya, Ruud & Romo,  
Legal Counsel to Moreno Valley Unified School District

By: \_\_\_\_\_

**RSI COMMUNITIES-CALIFORNIA LLC**, a Delaware  
limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EASTERN MUNICIPAL WATER DISTRICT**

By: \_\_\_\_\_  
General Manager

**EXHIBIT “A”**

**COPY OF PRIOR JOINT COMMUNITY FACILITIES AGREEMENT**

**EXHIBIT “B”**

\$ \_\_\_\_\_  
**COMMUNITY FACILITIES DISTRICT NO. 2015-3 OF THE  
MORENO VALLEY UNIFIED SCHOOL DISTRICT  
SERIES \_\_\_\_\_ SPECIAL TAX BONDS  
(Riverside County, California)**

**CERTIFICATE CONCERNING USE OF BOND PROCEEDS**

I, the undersigned, hereby certify that I am a duly authorized officer of Eastern Municipal Water District (“Water District”), and am authorized to sign this Certificate Concerning Use of Bond Proceeds (“Certificate”) on behalf of the Water District in connection with the issuance of the above-captioned Series \_\_\_\_\_ Special Tax Bonds (“Bonds”). All capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Amended and Restated Joint Community Facilities Agreement by and between the Moreno Valley Unified School District (“School District”), Community Facilities District No. 2015-3 of the Moreno Valley Unified School District, the Water District, and RSI Communities-California LLC (“JCFA”).

I further certify on behalf of the Water District that:

1. Water District is a municipal water district formed and operating pursuant to California law.
2. Water District provides water and wastewater services within its boundaries.
3. Water District has been informed by the School District and the Community Facilities District that they are in the process of issuing the Bonds on behalf of the Community Facilities District.
4. Water District is informed that a portion of the net Bond proceeds are being allocated in order to finance the costs of certain facilities to be owned and operated by the Water District, as further described in Attachment “1” attached herein.
5. The financing of the Water District Facilities is in satisfaction of the requirements of the Water District to provide services to the property within the boundaries of the Community Facilities District.
6. The Water District represents that the Water District Facilities financed with proceeds of the Bonds will not be used for any activity that constitutes a trade or business that is carried on by persons or entities, other than governmental entities (“Private Use”). The leasing of the Water District Facilities or the access of a person or entity other than a governmental unit to the Water District Facilities or services provided thereby on a basis other than as a member of the general public (“General Public Use”) shall constitute a Private Use unless the Water District obtains an opinion of bond counsel to the contrary. Use of the Water District Facilities in a trade or business constitutes General Public Use only if the property

is intended to be available and is in fact reasonably available for use on the same basis by natural persons not engaged in a trade or business.

- 7. With respect to management and service contracts, the determination of whether a particular use of the Water District Facilities constitutes Private Use shall be determined on the basis of applying Revenue Procedure 2017-13. The Water District represents that, as of the date hereof, no portion of the Water District Facilities is expected to be subject to contracts or other arrangements with persons or entities engaged in a trade or business (other than governmental units) that involve the management of property or the provision of services that do not comply with the standards of Revenue Procedure 2017-13.

This Certificate may be relied upon by the School District, the Community Facilities District, and bond counsel in reaching its terms of confirmation of the tax-exempt status of the Bonds.

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

Dated: \_\_\_\_\_

EASTERN MUNICIPAL WATER DISTRICT

By: \_\_\_\_\_  
*[Authorized Official Title]*

## ATTACHMENT “1”

The types of facilities to be owned and operated by the Water District and financed by the Community Facilities District are:

(a) “Capacity Improvements,” consisting of water and sewer facilities included in EMWD’s water and sewer capacity and connection fee programs used to finance expansion projects, exclusive of previously tax-exempt financed facilities. Includes, but is not limited to water and sewer transmission pipelines, sewer treatment plants, disposal ponds, pumping plants, lift stations, and water reservoirs, including all costs of site acquisition, planning, design, engineering, legal services, materials testing, coordination, surveying, construction staking, construction, inspection and any and all appurtenant facilities and appurtenant work relating to the foregoing.

(b) “Acquisition Improvements,” consisting of sewer and water transmission lines, sewer and water pump stations, water reservoirs, including all costs of site acquisition, planning, design, engineering, legal services, materials testing, coordination, surveying, construction staking, construction inspection and any and all appurtenant facilities to the foregoing required to serve the Property. The facilities listed above are representative of the types of facilities eligible to be financed by CFD No. 2019-1 as Acquisition Improvements. Detailed scope and limits of specific projects will be determined as appropriate, consistent with the standards of the EMWD.

**EXHIBIT C**

**PAYMENT REQUEST FORM – EMWD FACILITIES ACCOUNT**

[All such payments shall be made by check or wire transfer in accordance with payment instructions submitted with this form and the Fiscal Agent shall have no duty or obligation to authenticate such payment instructions or the authorization thereof.]

( )

**PROGRESS PAYMENT**

( )

**FULL/FINAL PAYMENT**

The Fiscal Agent is hereby requested to pay from the EMWD Facilities Account of the Construction Fund, as established by Resolution No. 2018-19-\_\_\_ of the Legislative Body of the District, adopted on \_\_\_\_\_, 2019, and the Fiscal Agent Agreement dated as of \_\_\_\_\_ 1, 2019, executed in accordance therewith, to the person, corporation, or other entity designated below as Payee, the sum set forth below such designation, in payment of the Project Costs for Water Facilities Costs described below. The amount shown below is (i) due and payable to the EMWD for the [check as applicable]: [ ] Water Service Fees/ [ ] Water Facilities Costs) described below or (ii) payable to reimburse the Developer for (check as applicable: [ ] Water Service Fees/ [ ] Water Facilities Costs) advanced to EMWD as described below and, in any case, has not formed the basis of any prior request for payment. **Certification of Authorized Representatives of EMWD and Developer are required to process this request-see Attachment #1.**

Payee: \_\_\_\_\_  
Address: \_\_\_\_\_

Amount: \$ \_\_\_\_\_

Description of Project Costs for EMWD Facilities Account or portion thereof accepted by Community Facilities District No. 2015-3 and authorized to be paid to the Payee: **Attach documentation of amounts paid and identification of parcels.** By requisitioning Bond proceeds as described herein, EMWD is not passing upon, determining or assuming the tax-exempt status of the Bonds for federal or California income tax purposes.

Project Costs: \_\_\_\_\_

Executed by Authorized Representative for  
Community Facilities District No. 2015-3\*\*:

***-EXHIBIT-***

Signature \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

Payment Request No.: \_\_\_\_\_

\*\*This signature will constitute the School District's written consent under the EMWD Facilities Agreement for the allocation of Bond proceeds for Project Costs as provided in this and other duly-authorized Payment Request Forms for payment from the applicable account(s) of the Construction Fund.

**ATTACHMENT NO. 1 TO EXHIBIT C**

**CERTIFICATION OF AUTHORIZED REPRESENTATIVES OF  
DEVELOPER AND EMWD**

The undersigned authorized representative of \_\_\_\_\_, certifies the following: (a) The fee amounts listed in the attached documentation are (*check [✓] one*):  (i) due and payable to EMWD for the EMWD Fees described below; or  (ii) payable to reimburse the Developer for EMWD Fees advanced to EMWD; and, in any case, has not formed the basis of any prior request for payment; and (b) the connection fees fund capital public facilities of EMWD under the fee ordinances of EMWD setting the fees.

Authorized Representative of Developer:

***-EXHIBIT-***

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

The undersigned authorized representative of the Eastern Municipal Water District, certifies the following: (a) The fees amounts listed in the attached documentation are (*check [✓] one*):  (i) due and payable to EMWD for the EMWD Fees described below; or  (ii) payable to reimburse the Developer for EMWD Fees advanced to EMWD; and, in any case, has not formed the basis of any prior request for payment; and (b) the connection fees fund capital public facilities of EMWD under the fee ordinances/resolutions of EMWD setting the fees.

Authorized Representative of EMWD:

***-EXHIBIT-***

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_