



Regular Meeting of the Calimesa City Council Meeting Agenda

Monday, November 6, 2023 – 6:00 p.m.



Norton Younglove Multipurpose Senior Center
908 Park Avenue, Calimesa, CA 92320

The Calimesa City Council will be conducting this meeting in the Norton Younglove Senior Center. Members of the public may attend this meeting in person at the Norton Younglove Senior Center, 908 Park Avenue, Calimesa, CA 92320, or the public may view the City Council meetings live at <https://www.facebook.com/cityof.calimesa> or <https://www.youtube.com/@calimesacity900/live> beginning at 6:00 p.m.

Submission of Public Comments: If attending the meeting, public comment will be allowed by completing a speaker slip and providing it to the City Clerk at the meeting. **Please observe a time limit of three (3) minutes when giving your presentation.** When called upon, please step forward to the microphone, state your name for the record, whom you represent and any statement you wish to make. **Please be advised that you may not defer your three (3) minutes to another speaker.**

William Davis, Mayor ♦ Wendy Hewitt, Mayor Pro Tem
Jeff Cervantez, Council Member ♦ John Manly, Council Member ♦ Linda Molina, Council Member
Will Kolbow, City Manager ♦ Quinn Barrow, City Attorney

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in a City meeting or other services offered by this City, please contact the City Clerk's Office, (909) 795-9801. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service. Any public writings distributed by the City to at least a majority of the Council Members regarding any item on this regular meeting agenda will be made available at the public counter at City Hall located at 908 Park Avenue, Calimesa, CA 92320.

CALL TO ORDER

ROLL CALL: MAYOR DAVIS, MAYOR PRO TEM HEWITT, COUNCIL MEMBER CERVANTEZ, COUNCIL MEMBER MANLY AND COUNCIL MEMBER MOLINA.

STAFF: CITY MANAGER KOLBOW, CITY ATTORNEY BARROW, CITY CLERK GERDES, FINANCE DIRECTOR REID, PLANNING DIRECTOR LUCIA, PUBLIC WORKS ASSOCIATE ENGINEER SHAKIR, CITY ENGINEER THORNTON, FIRE CHIEF O'CONNELL AND SHERIFF CAPTAIN PETERSON.

PLEDGE OF ALLEGIANCE

COMMUNICATIONS FROM THE PUBLIC

Pursuant to the Brown Act, this is the opportunity for members of the public to directly address the Council on any item within the Council's subject matter jurisdiction. Please note that this is also the time in which members of the public may address the Council on any item on the Consent Calendar. This is not the time for City Council discussion of non-agenda items. After receiving public comments, Council Members, or staff, after being recognized by the Mayor, may briefly respond to statements made by the public or questions posed by the public. In addition, Council Members may ask questions for clarification or make a referral to staff for factual information to be reported back to the Council at a later meeting.

APPROVAL OF THE AGENDA, CONSENT CALENDAR AND WAIVER OF FULL READING OF ORDINANCES

This is the time for the City Council to notify the public of any changes to the agenda; such as removal of an agenda item, rearrangement of the agenda, postponement of an agenda item or continuance of an item to a future meeting. This is also the time for the City Council to remove items from the Consent Calendar for individual consideration. Waiver of full reading of ordinances does not take policy action or approve or disapprove any ordinances on the agenda, it simply means that the entire text of the ordinance will not be read.

RECOMMENDATION: Move to approve the agenda and consent calendar

Motion _____ Second _____ Vote _____

CONSENT CALENDAR (Items 1 – 11)

The following items on the Consent Calendar are routine and customary items and are enacted by a single motion, with the exception of items previously removed during "Approval of the Agenda" for individual consideration. Any items removed shall be individually considered immediately after taking action on the Consent Calendar.

- 1. APPROVAL OF CITY COUNCIL ACTION MINUTES. Page 5
 - a) ***There are no minutes ready for approval at this time.***

- 2. RECEIVE AND FILE CITY COMMISSION & BOARD MINUTES. Page 6
 - a) ***There are no minutes ready for approval at this time.***

- 3. APPROVAL OF WARRANT REGISTERS. Page 7
 - a) ***Check Register Report with a total of \$895,288.71 (Check Nos. 41021 to 41124)***
 - b) ***October 12, 2023 Payroll of \$111,556.93***
October 26, 2023 Payroll of \$113,282.85

- 4. STATEMENT OF INVESTMENT POLICY. Page 18

RECOMMENDATION: That the City Council adopt Resolution No. 2022-68 a Resolution of the City Council of the City of Calimesa, California adopting a Statement of Investment Policy for Fiscal Year 2023-24.

- 5. CAL OES DESIGNATION OF APPLICANT’S AGENT. Page 35

RECOMMENDATION: That the City Council approve the Cal OES Designation of Applicant’s Agent.

- 6. CITY OF CALIMESA PROPERTY TAX – TAX YEAR 2023/24. Page 41

RECOMMENDATION: That the City Council receive and file the City of Calimesa Property Tax Newsletter Tax Year 2023/24.

- 7. SPECIAL TAX AND BOND ACCOUNTABILITY REPORTS FOR PUBLIC SERVICES COMMUNITY FACILITIES DISTRICT NO. 1, COMMUNITY FACILITIES DISTRICT NO. 2012-1(SINGLETON HEIGHTS), COMMUNITY FACILITIES DISTRICT NO. 2013-1(JP RANCH) AND COMMUNITY FACILITIES DISTRICT NO. 2018-1 (SUMMERWIND TRAILS) FOR FISCAL YEAR 2022-23. Page 44

RECOMMENDATION: That the City Council receive and file Special Tax and Bond Accountability Reports for Fiscal Year 2022-23.

8. SUMMERWIND TRAILS PLAN PHASE 1 PARK: REDUCTION OF FAITHFUL PERFORMANCE BOND. Page 79

RECOMMENDATION: That the City Council:

- a. Accept the Park Improvements Completed by the Developer.
- b. Authorize Staff to reduce the Park Improvement Faithful Performance Bonds to 10% of the total amount to be retained as the Warranty Bonds for a period of 1 year.
- c. Authorize Staff to release the Payment Bonds.

9. CALRECYCLE GRANT RESOLUTION. Page 80

RECOMMENDATION: That the City Council:

- a. Adopt Resolution No. 2023-69, a Resolution of the City Council of the City of Calimesa California, authorizing submittal of individual grant applications for all CalRecycle grant programs for which the City of Calimesa is eligible, and
- b. Identify the City Manager as the signature authority authorized to sign all grant-related documents necessary to implement and close out the grants.

10. APPROVE SUPPLEMENTAL AGREEMENT WITH RIVERSIDE COUNTY DEPARTMENT OF HOUSING, HOMELESS PREVENTION AND WORKFORCE SOLUTIONS (HHPWS) FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECT NO. 5.CM.04-23, NORTON YOUNGLOVE SENIOR CENTER ADA IMPROVEMENTS, PHASE III, PROJECT NO 2022-08 (PROJECT.) Page 82

RECOMMENDATION: That the City Council approve an amended agreement with Riverside County Department of Housing, Homeless Prevention and Workforce Solutions (HHPWS) for Community Development Block Grant (CDBG) Project No. 5.CM.01-21 for the amount of \$32,722 for the construction of the Norton Younglove Senior Center ADA Improvements, Phase III, Project No 2022-08 (Project).

11. TENTATIVE TRACT MAP 36583 IN THE CITY OF BEAUMONT – RELEASE OF CV COMMUNITIES, LLC BOND AND ACCEPT EXETER CHERRY VALLEY, LLC BOND FOR THE I-10/CHERRY VALLEY INTERCHANGE. Page 129

RECOMMENDATION: That the City Council authorize staff to release the CV Communities Bond (Bond No. 1000757382) in the amount of \$1,000,000.00 and accept Exeter Cherry Valley Bond (Bond No. 800113435) in the same amount for the Cherry Valley Interchange for plans, specifications, estimates and right-of-way acquisition.

SHERIFF CAPTAIN COMMENTS & REPORTS

FIRE CHIEF COMMENTS & REPORTS

BUSINESS ITEMS

12. SHOP LOCAL CALIMESA DIGITAL GIFT CARD PROGRAM. Page 169

RECOMMENDATION: That the City Council adopt Resolution No. 2023-70, approving a contract with Hinderliter, de Llamas and Associates, Inc. (HdL); a contract with Yiftee, Inc. for the development of a digital gift card program, and allocate \$50,000 from General Fund unreserved fund balance for the purpose of implementing a strategy to support local businesses with a shop local digital gift card program.

MAYOR & COUNCIL MEMBER REPORTING OF COUNTY & REGIONAL MEETINGS/CONFERENCES

This is the time for general comments, announcements, reports on meetings attended at public expense as required by AB 1234, requests of staff, and other issues of concern to Council Members may be presented briefly at this time. The Council may not legally take action on any item presented at this time other than to direct staff to investigate a complaint or place an item on a future agenda unless (1) by a majority vote, the Council determines that an emergency situation exists, as defined by Government Code § 54956.5 or (2) by a four-fifths vote, the Council determines that there is a need for immediate action and the need for action arose subsequent to the agenda being posted as required by Government Code § 54954.2(b).

CITY MANAGER COMMENTS & REPORTS

CLOSED SESSION ITEMS

A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code Section 54957

Title: City Manager

ADJOURNMENT

Adjourn to the Regular Meeting of the City Council on November 20, 2023, at 6:00 p.m.



City Council Meeting
Agenda Report

Agenda Item No. 1

SUBJECT: APPROVAL OF CITY COUNCIL MEETING MINUTES
MEETING DATE: November 6, 2023
PREPARED BY: Darlene Gerdes, Deputy City Manager/City Clerk

There are no minutes ready for approval at this time.



CALIMESA
California

City Council Meeting
Agenda Report

Agenda Item No. 2

SUBJECT: APPROVAL OF COMMISSION MEETING MINUTES
MEETING DATE: November 6, 2023
PREPARED BY: Darlene Gerdes, Deputy City Manager/City Clerk

There are not minutes ready for approval at this time.



CALIMESA
California

City Council Meeting Agenda Report

Agenda Item No. 3

SUBJECT: APPROVAL OF WARRANT REGISTER

MEETING DATE: November 6, 2023

PREPARED BY: Celeste Reid, Finance Director

RECOMMENDATION: That the City Council approve the Warrant Register as presented.

SUMMARY: The attached Check Register Report for City Council's approval is as follows:

- a) Check Register Report with a total of \$895,288.71 (Check Nos. 41021-41124)
- b) October 12, 2023 Payroll of \$111,556.93
October 26, 2023 Payroll of \$113,282.85

ATTACHMENT 3A

Council Date - November 06, 2023

Accounts Payable - Checks 41021 - 41124

Fund Distribution Breakdown

Fund	1	General Fund	\$	589,272.61
Fund	16	Capital Projects ARPA	\$	427.50
Fund	19	Library	\$	1,512.17
Fund	20	Capital Projects ADA Improvements	\$	1,870.00
Fund	24	Gas Tax	\$	6,628.14
Fund	28	LLMD	\$	5,841.25
Fund	32	Flood Facilities	\$	1,100.00
Fund	36	Traffic Improvement	\$	233,267.51
Fund	39	Park Improvement	\$	14,620.00
Fund	47	CFD	\$	1,516.36
Fund	49	CFD	\$	888.15
Fund	51	CFD	\$	2,007.73
Fund	52	CFD	\$	879.17
Fund	53	CFD	\$	888.15
Fund	54	CFD	\$	879.17
Fund	55	CFD	\$	3,741.01
Fund	56	CFD	\$	20,239.91
Fund	57	CFD	\$	2,928.65
Fund	59	CFD	\$	879.17
Fund	71	CA Recycling Grant	\$	5,902.06

Total \$ 895,288.71

Grand Total \$ 895,288.71

Check Register Report

Check Number	Check Date	Vendor Name	Check Description	Amount
BANK OF AMERICA Checks				
41021	10/11/2023	2 HOT UNIFORMS INC	Sep 23_FD_Uniforms_Shaw	675.25
41022	10/11/2023	8X8 INC.	Two new phones for FD_Barracks	36.52
41023	10/11/2023	A.B. LANDSCAPE	Sep 23_Weed Abatement Services	4,300.00
41024	10/11/2023	AFLAC-ENDORSED BENEFITS	Sep 23_Supp Insurance Prem	1,001.64
41025	10/11/2023	ALLIED ADMINISTRATORS	Nov 23_Dental Premiums	2,062.25
41026	10/11/2023	ALLSTAR FIRE EQUIPMENT INC	Sep 23_FD_Fire Equipment_AFG	197,173.34
41027	10/11/2023	ARCO AM-PM	Sep 23_Gasoline	1,870.04
41028	10/11/2023	AUTOZONE	Automotive Supplies	129.53
41029	10/11/2023	BARBARA OLSON	Sep 23_Cardmaking Supplies	145.00
41030	10/11/2023	BIO-TOX LABORATORIES, INC	Sep 23_Blood Draws	527.30
41031	10/11/2023	CALIMESA AUTO REPAIR	Fusion_Oil Change & Filter	92.19
41032	10/11/2023	CALPERS	09.28.23 Contribution	8,040.14
41033	10/11/2023	CHARLES ABBOTT ASSOC, INC	Aug 23_Pro Services	16,539.92
41034	10/11/2023	COBB'S PRINTING, LLC	Notice Forms/Business Cards	247.83
41035	10/11/2023	CRAIG & SONS TERMITE & PEST	Oct 23 Pest Control	150.00
41036	10/11/2023	CROWN ACE HARDWARE	Sep 23_Supplies	702.85
41037	10/11/2023	DINOSAUR TIRE SERVICE, INC.	Oct 23_FD_Repairs & Maint	25.00
41038	10/11/2023	DIVISION OF THE STATE	Qtr 3 2023	58.40
41039	10/11/2023	FAMILY SERVICE ASSOCIATION	July 23_Contract Services	5,928.33
41040	10/11/2023	FIRE APPARATUS SOLUTIONS	FY 23_FD_Repair & Maintenance	686.09
41041	10/11/2023	FIRE ETC	Oct 23_FD_Minor Equipment	101.20
41042	10/11/2023	H & S MOBILE FIRE EQUIPMENT	Oct 23_FD_Repairs & Maintenanc	1,816.19
41043	10/11/2023	INLAND EMPIRE LANDSCAPE, INC	Sep 23 Landscape & Irrigation	10,941.73
41044	10/11/2023	JEFF CERVANTEZ	Oct 23_Phone Reimbursement	55.00
41045	10/11/2023	JOHN HANCOCK LIFE	09.28.23_Contributions	

		INSURANCE CO		3,125.62
41046	10/11/2023	JOHN MANLY	Oct 23_Phone Reimbursement	55.00
41047	10/11/2023	JOHNSON EQUIPMENT CO	Sep 23_FD_Minor Equipment	1,821.42
41048	10/11/2023	KAISER FOUNDATION HEALTH PLAN	Nov 23_Premiums	11,728.48
41049	10/11/2023	KEN GRODY REDLANDS LLC	2006 F150 Repairs &Maintenance	1,157.92
41050	10/11/2023	KONICA MINOLTA	Sep 23_Equipment Rental	414.23
41051	10/11/2023	LIFE-ASSIST	Sep 23_FD_ALS Supplies	403.36
41052	10/11/2023	LINDA MOLINA	Oct 23_Phone Reimbursment	55.00
41053	10/11/2023	MISSION SQUARE	09.28.23_Contributions	11,171.18
41054	10/11/2023	O'REILLY AUTOMOTIVE, INC.	Sep 23_Auto Supplies	120.55
41055	10/11/2023	RED HELMET TRAINING	Fire Training	4,800.00
41056	10/11/2023	RENE'S COMMERCIAL MANAGEMENT	Sep 23_Gopher Control in City	325.00
41057	10/11/2023	RHA LANDSCAPE ARCHITECTS	Jul - Aug 23_Landscape Service	14,620.00
41058	10/11/2023	ROADWAY ENGINEERING &	Aug 23_Progress Payment #17	216,650.04
41059	10/11/2023	SOCAL GAS	Sep 23_Services	209.13
41060	10/11/2023	SOUTHERN CALIFORNIA EDISON	Aug - Sep 23_Service	14,103.08
41061	10/11/2023	STEWART TITLE	Calimesa Blvd Realignment	3,300.00
41062	10/11/2023	STUTZ PLUMBING	Senior Center Leak Repairs	301.70
41063	10/11/2023	SUPERIOR AUTOMOTIVE WAREHOUSE,	Aug 23_FD_Repairs & Maintenanc	72.73
41064	10/11/2023	SUTPHEN CORPORATION	Equipment & Radios Ladder	94,646.48
41065	10/11/2023	TWIN GRAPHICS	Oct 23_FD_Vehicle_FM2	1,146.27
41066	10/11/2023	VERIZON WIRELESS	Aug 17 - Sep 16, 2023	2,984.31
41067	10/11/2023	WEST COAST FIRE SALES	Sep 23_FD_Repairs	927.86
41068	10/11/2023	WILL KOLBOW	Oct 23_Phone Reimbursement	50.00
41069	10/11/2023	WILLIAM DAVIS	Oct 23_Phone Reimbursement	55.00
41070	10/11/2023	YUCAIPA VALLEY WATER DISTRICT	Sep 23_Water_Waste Water	3,313.81
41071	10/11/2023	YUCAIPA-CALIMESA NEWS MIRROR	RIPAOZ Public Hearing Notice	1,409.07

41072	10/18/2023	ACTION DOOR CONTROLS, INC	Calimesa Library Handicap Door	444.47
41073	10/18/2023	ALLSTAR FIRE EQUIPMENT INC	Oct 23_FD_Uniforms_Dietro	2,302.44
41074	10/18/2023	AMAZON CAPITAL SERVICES INC.	Sep 23_Orders	4,688.95
41075	10/18/2023	BANK OF AMERICA	Sep 1 - Sep 30, 2023	25,209.30
41076	10/18/2023	CA BUILDING STANDARDS COMMISSI	Jul - Sep 23_Green Fee	127.80
41077	10/18/2023	CALIFORNIA PPE RECON INC	Oct 23_FD_Turnouts	3,704.00
41078	10/18/2023	CALPERS	10.12.23_Contributions	8,266.08
41079	10/18/2023	CHARLES ABBOTT ASSOC, INC	Sep 23_Pro Services	33,796.25
41080	10/18/2023	CHARTER COMMUNICATIONS	Oct 23_TV Service Fire Station	12.69
41081	10/18/2023	CHEVRON AND TEXACO CARD SVCS	09.06.23 - 10.05.23_Fuel	4,870.73
41082	10/18/2023	CMAX COMMERCIAL MAINTENANCE	Oct 23 Street Sweeping	2,824.40
41083	10/18/2023	DEPARTMENT OF CONSERVATION	SMIP Jul-Sep 2023	369.98
41084	10/18/2023	DEPARTMENT OF JUSTICE	Sep 23_Fingerprint x1	64.00
41085	10/18/2023	FAMILY SERVICE ASSOCIATION	Aug 23_Contract Services	7,016.59
41086	10/18/2023	INLAND EMPIRE LANDSCAPE, INC	Sep 23 Irrigation Repair	1,507.00
41087	10/18/2023	KONICA MINOLTA	Oct 23_Equipment Rental	2,019.26
41088	10/18/2023	KOPPEL & GRUBER PUBLIC FINANCE	CFD No. 2012-1(Sig Heights)	11,221.67
41089	10/18/2023	LIBRARY SYSTEMS & SERVICES	Sep 23_City of Calimesa Materi	612.46
41090	10/18/2023	MISSION SQUARE	10.12.23_Contributions	10,972.25
41091	10/18/2023	OFFICE DEPOT	Sep 23_Office Supplies	82.92
41092	10/18/2023	PARS	Aug 23_Rep Fees	400.00
41093	10/18/2023	RENE'S COMMERCIAL MANAGEMENT	Oct 23_Additional Weed	2,432.00
41094	10/18/2023		Void Check	0.00
41095	10/18/2023	RICHARDS, WATSON & GERSHON	Aug 23_Pro Services	32,469.44
41096	10/18/2023	TWIN GRAPHICS	Oct 23_FD_Vehicles_Side Stripe	813.47

41097	10/18/2023	YUNEX, LLC	Jul 23_Routine Maintenance	68.00
41098	10/25/2023	2 HOT UNIFORMS INC	Oct 23_FD_Uniforms_Alanis	458.36
41099	10/25/2023	AFLAC-ENDORSED BENEFITS	Oct 23_Supp Insurance Prem	1,001.64
41100	10/25/2023	ALLSTAR FIRE EQUIPMENT INC	Oct 23_FD_Uniforms_Desoto	2,265.98
41101	10/25/2023	CAL PERS	10.12.23_Contributions	8,266.08
41102	10/25/2023	CALIFORNIA PPE RECON INC	Oct 23_FD_Turnouts	1,394.11
41103	10/25/2023	CHARTER COMMUNICATIONS	Oct 23_Fiber Internet Services	1,519.00
41104	10/25/2023	COUNTY OF RIVERSIDE	Sep 23_Animal Control Services	1,358.45
41105	10/25/2023	EASYPERMIT POSTAGE	Sep 23_Postage and shipping fe	600.00
41106	10/25/2023	H & S MOBILE FIRE EQUIPMENT	Oct 23_FD_Repairs & Maintenanc	500.00
41107	10/25/2023	HEALTH NET	Nov 23_Covered Members Rate	4,777.10
41108	10/25/2023	JEFF CERVANTEZ	Nov 23_Phone Reimbursement	55.00
41109	10/25/2023	JOHN HANCOCK LIFE INSURANCE CO	10.12.23_Contributions	3,584.27
41110	10/25/2023	JOHN MANLY	Nov 23_Phone Reimbursement	55.00
41111	10/25/2023	KONICA MINOLTA	Oct 23_Plotter Rental	652.53
41112	10/25/2023	LIFE-ASSIST	Oct 23_FD_ALS Supplies	195.37
41113	10/25/2023	LINDA MOLINA	Nov 23_Phone Reimbursement	55.00
41114	10/25/2023	OFFICE DEPOT	Oct 23_Office Supplies	319.79
41115	10/25/2023	RFJ & G INC DBA M4 OXYGEN	Oct 23_FD_Oxygen	330.15
41116	10/25/2023	RICHARDS, WATSON & GERSHON	Sep 23_Pro Services	37,288.45
41117	10/25/2023	RIVERSIDE COUNTY FIRE DEPT	Apr - Jun 22_FD_Pro Services	30,405.70
41118	10/25/2023	SANDRA G. HYATT	Sep & Oct 23_Summer Reading	260.24
41119	10/25/2023	VERIZON BUSINESS	Oct 23_Long Distance	40.00
41120	10/25/2023	VISION SERVICE PLAN - CA	Nov 23_Premiums	344.02
41121	10/25/2023	WEST COAST FIRE SALES	Oct 23_FD_Repairs	712.30
41122	10/25/2023	WILL KOLBOW	Nov 23_Phone Reimbursement	50.00
41123	10/25/2023	WILLIAM DAVIS	Nov 23_Phone Reimbursement	55.00
41124	10/25/2023	YUCAIPA AUTO ELECTRIC	Oct 23_FD_C1_Veicle Maintenanc	

	176.04
Checks Total (excluding void checks):	895,288.71
Bank Total (excluding void checks):	895,288.71
Grand Total (excluding void checks):	895,288.71

Liability Recap	Taxes Debited				
	Federal Income Tax			12,923.65	
	Earned Income Credit Advances			.00	
	Social Security - EE			.00	
	Social Security - ER			.00	
	Social Security Adj - EE			.00	
	Medicare - EE			1,789.54	
	Medicare - ER			1,789.54	
	Medicare Adj - EE			.00	
	Medicare Surtax - EE			.00	
	Medicare Surtax Adj - EE			.00	
	Federal Unemployment Tax			.00	
	FMLA-PSL Payments Credit			.00	
	FMLA-PSL ER FICA Credit			.00	
	FMLA-PSL Health Care Premium Credit			.00	
	Employee Retention Qualified Payments Credit			.00	
	Employee Retention Qualified Health Care Credit			.00	
	COBRA Premium Assistance Payments			.00	
	State Income Tax			5,865.76	
	State Unemployment Insurance - EE			.00	
	State Unemployment Insurance - ER			360.06	
	State Unemployment Insurance Adj - EE			.00	
	State Disability Insurance - EE			1,031.75	
	State Disability Insurance - ER			.00	
	State Disability Insurance Adj - EE			.00	
	State Family Leave Insurance - EE			.00	
	State Family Leave Insurance - ER			.00	
	State Family Leave Insurance Adj - EE			.00	
	State Medical Leave Insurance - EE			.00	
	State Medical Leave Insurance - ER			.00	
	State Medical Leave Insurance Adj - EE			.00	
	State LTCare - EE			.00	
	Workers' Benefit Fund Assessment - EE			.00	
	Workers' Benefit Fund Assessment - ER			.00	
	Transit Tax - EE			.00	
	Local Income Tax			.00	
	School District Tax			.00	
	Total Taxes Debited	Acct. No. XXXXXX5405	Tran/ABA XXXXXXXXXX	23,760.30	
Other Transfers	ADP Direct Deposit	Acct. No. XXXXXX5405	Tran/ABA XXXXXXXXXX	85,028.01	
	ADP Check	Acct. No. XXXXXX5405	Tran/ABA XXXXXXXXXX	1,650.76	
	Wage Garnishments	Acct. No. XXXXXX5405	Tran/ABA XXXXXXXXXX	1,117.86	
	Total Amount Debited From Your Accounts			111,556.93	
Bank Debits and Other Liability	Adjustments/Prepay/Voids			.00	
Taxes - Your Responsibility	None This Payroll				

Total Liability	111,556.93
	111,556.93
	111,556.93

Net Pay	Checks	1,650.76
	Direct Deposits	85,028.01
	Subtotal Net Pay	86,678.77
	Adjustments	.00
	Total Net Pay Liability (Net Cash)	86,678.77

Federal	Agency	Rate	You are responsible for Depositing these amounts		Amount debited from your account	
			EE withheld	ER contrib.	EE withheld	ER contrib.
	Federal Income Tax				12,923.65	
	Earned Income Credit Advances					
	Social Security					
	Medicare				1,789.54	1,789.54
	Medicare Surtax					
	Federal Unemployment Tax					
	Subtotal Federal				14,713.19	1,789.54
	FMLA-PSL Payments Credit					
	FMLA-PSL ER FICA Credit					
	FMLA-PSL Health Care Premium Credit					
	Employee Retention Qualified Payments Cre					
	Employee Retention Qualified Health Care					
	Cobra Premium Assistance Payments					
	Total Federal				14,713.19	1,789.54
State	CA State Income Tax				5,865.76	
	CA State Unemployment Insurance-ER	4.6000				360.06
	CA State Disability Insurance-EE				1,031.75	
	Subtotal CA				6,897.51	360.06
	Total Taxes		.00	.00	21,610.70	2,149.60

Amount ADP Debited From Account XXXXXX5405 Tran/ABA XXXXXXXXXX 23,760.30

Excludes Taxes That Are Your Responsibility

Other	ADP Direct Deposit	85,028.01
Transfers	ADP Check	1,650.76
	Wage Garnishments	1,117.86
	Amount ADP Debited From Account XXXXXX5405 Tran/ABA XXXXXXXXXX	87,796.63

41 Employee Transactions

Total Amount ADP Debited From Your Accounts 111,556.93

Statistical Summary

Company: EJZ - City of Calimesa Service Center: 0070 Southern California Status: Cycle Complete
 Week#: 43 Pay Date: 10/26/2023 P/E Date: 10/20/2023
 Qtr/Year: 4/2023 Run Time/Date: 16:00:45 PM EDT 10/24/2023

Taxes Debited	Federal Income Tax	13,205.68
	Earned Income Credit Advances	0.00
	Social Security - EE	0.00
	Social Security - ER	0.00
	Social Security Adj - EE	0.00
	Medicare - EE	1,815.58
	Medicare - ER	1,815.56
	Medicare Adj - EE	0.00
	Medicare Surtax - EE	0.00
	Medicare Surtax Adj - EE	0.00
	Federal Unemployment Tax	0.00
	FMLA-PSL Payments Credit	0.00
	FMLA-PSL ER FICA Credit	0.00
	FMLA-PSL Health Care Premium Credit	0.00
	Employee Retention Qualified Payments Credit	0.00
	Employee Retention Qualified Health Care Credit	0.00
	COBRA Premium Assistance Payments	0.00
	State Income Tax	6,020.51
	Non Resident State Income Tax	0.00
	State Unemployment Insurance - EE	0.00
	State Unemployment Insurance Adj - EE	0.00
	State Disability Insurance - EE	1,047.89
	State Disability Insurance Adj - EE	0.00
	State Unemployment/Disability Ins - ER	334.21
	State Family Leave Insurance - EE	0.00
	State Family Leave Insurance - ER	0.00
	State Family Leave Insurance Adj - EE	0.00
	State Medical Leave Insurance - EE	0.00
	State Medical Leave Insurance - ER	0.00
	State Medical Leave Insurance Adj - EE	0.00
	State Cares Fund - EE	0.00
	Transit Tax - EE	0.00
	Workers' Benefit Fund Assessment - EE	0.00
	Workers' Benefit Fund Assessment - ER	0.00
	Local Income Tax	0.00
	School District Tax	0.00
	Total Taxes Debited	24,239.43
Other Transfers	Full Service Direct Deposit Acct. No.XXXXXX5405Tran/ABAXXXXXXXX	87,910.59
	Wage Garnishments Acct. No.XXXXXX5405Tran/ABAXXXXXXXX	1,132.83

Total Liability

Statistical Summary

Total Amount Debited From Your Account		113,282.85	113,282.85
Bank Debits & Other Liability	Checks	0.00	113,282.85
	Adjustments/Prepay/Voids	0.00	113,282.85
Taxes- Your Responsibility	None this payroll		113,282.85



CALIMESA
California

City Council Meeting Agenda Report

Agenda Item No. 4

SUBJECT: STATEMENT OF INVESTMENT POLICY

MEETING DATE: November 6, 2023

PREPARED BY: Celeste Reid, Finance Director and Treasurer

RECOMMENDATION: That the City Council adopt Resolution No. 2022-68 a Resolution of the City Council of the City of Calimesa, California adopting a Statement of Investment Policy for Fiscal Year 2023-24.

BACKGROUND: Section 53646 of the Government Code of the State of California authorizes the Treasurer or the Chief Financial Officer of each local agency to annually render to the legislative body of the agency a Statement of Investment Policy at a public meeting.

The City's current policy was adopted on November 7, 2022 and is to be updated annually, including renewal of the City Council's annual delegation of investment authority to the City Treasurer. Currently, the Finance Director serves as the City Treasurer. The Investment Policy is reviewed annually to ensure the policy meets the City's needs and in compliance with all legal and government code requirements. The Investment policy has been updated for FY2023-24 to include SB 1489, Government Code 53646(b)(1) amending the deadline to file a quarterly report regarding investments from 30 days to 45 days following the end of quarter filed by the report.

The City's investments are invested with the Local Agency Investment Fund (LAIF) and BMO Bank. The LAIF balance as of October 12, 2023 is approximately \$22 million and the BMO Bank N.A. has a short-term CD balance of \$3 million which will mature on December 12, 2019. Staff evaluates investment options on an ongoing basis to ensure reasonable access to funds and reserves are set aside to maintain availability of cash position for general operations and capital projects.

FISCAL IMPACT: The investment instruments allowed in this policy are consistent with the City's current investment in the Local Agency Investment Fund (LAIF) and meets the stated investment policy objectives of safety, liquidity and return.

ATTACHMENTS:

Attachment A: Resolution No. 2022-68
Attachment B: Annual Investment Policy

RESOLUTION NO. 2023-68

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALIMESA, CALIFORNIA ADOPTING A STATEMENT OF INVESTMENT POLICY FOR THE FISCAL YEAR 2023-24

WHEREAS, Government Code Section 53646(a)(2) requires a Statement of Investment Policy rendered annually to the City Council for consideration during a public meeting, and

WHEREAS, the recommended Investment Policy is attached and reflects reporting schedules in compliance Government Code Section 53646(b)(1).

WHEREAS, Government Code Section 53607 authorizes the City Council to annually delegate to the City Treasurer the authority to invest or reinvest funds of the City and its related entities, and to sell and exchange securities so purchased; and

WHEREAS, the City Council desires to renew the delegation of such investment authority to the City Treasurer.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CALIMESA, AS FOLLOWS:

Section 1. The Statement of Investment Policy attached as Exhibit “A” is hereby adopted.

Section 2. Pursuant to Government Code Section 53607, the City Council, on behalf of the City and its related entities for which the City Councilmembers serve as the governing body, hereby renews for one year its delegation to the City Treasurer the authority to invest and reinvest funds of the City and its related entities, including without limitation the authority to sell and exchange securities.

PASSED, APPROVED AND ADOPTED this 6th day of November 2023.

WILLIAM DAVIS, MAYOR

ATTEST:

DARLENE GERDES, CITY CLERK

CITY OF CALIMESA



PREPARED BY THE CITY FINANCE DEPARTMENT

***Will Kolbow, City Manager
Celeste Reid, Finance Director and Treasurer***

STATEMENT OF INVESTMENT POLICY

Updated November 6, 2023

TABLE OF CONTENTS

INTRODUCTION.....	Page 3
PURPOSE/STANDARD OF CARE00.....	Page 3
OBJECTIVES	Page 3
INVESTMENT PARAMETERS.....	Page 5
SAFEKEEPING.....	Page 8
RESPONSIBILITIES.....	Page 9
REPORTING.....	Page 10
ANNUAL REVIEW.....	Page 12
GLOSSARY OF TERMS.....	Page 12

INTRODUCTION

It is the policy of the City of Calimesa, the Successor Agency of the City of Calimesa, and other related entities of the City for which the City Councilmembers serve as governing body (hereinafter collectively referred to as the “City”) to predicate their investment policies, procedures, and practices upon the limitations placed upon them by governing legislative bodies. Such policies, procedures, and practices shall embody the following three principles: (1) compliance with federal, state and local laws governing the investment of public monies under the City’s control; (2) protection of the principal monies entrusted to the City; (3) maximization of profit within the parameters of prudent risk management, as defined in this Statement of Investment Policy (“SOIP” or “Investment Policy”).

PURPOSE

To establish an overall policy and procedure for the management of the investment of unexpended funds.

STANDARD OF CARE

Prudence: Investment officials shall adhere to the “prudent investor” standard of Government Code Section 53600.3 when managing the City’s investment portfolio. The prudent investor standard provides that investments shall be made with the care, skill, prudence, and diligence under circumstances then prevailing, including but not limited to the general economic conditions and the anticipated needs of the City, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims to safeguard the principal of capital and maintain the liquidity needs of the City.

OBJECTIVES

Temporarily idle or surplus funds of the City shall be invested in accordance with principles of sound treasury management and in accordance with provisions of California Government Code Sections 53600 et seq., the Municipal Code, and this Investment Policy.

A. Overall Risk Profile

The basic objectives of Calimesa's investment program are, in order of priority:

1. Safety of invested funds (i.e., to safeguard the principal of the funds);
2. Maintenance of sufficient liquidity to meet cash flow needs; and
3. Attainment of the maximum return possible consistent with the first two objectives.

B. Achievement of Objectives

The achievement of these objectives shall be accomplished in the manner described below:

1. Safety

The City shall ensure the safety of its invested funds by limiting credit and interest rate risks. Credit risk is the risk of loss due to the failure of the security issuer or backer. Interest rate risk is the risk that the market value of portfolio securities will fall due to market conditions, such as an increase in general interest rates.

a. Credit Risk will be mitigated by:

- (1) Limiting investments to the safest types of securities;
- (2) Pre-qualifying with an established procedure the financial institutions with which it will do business;
- (3) Diversifying the investment portfolio so that the failure of any one issuer or backer will not place an undue financial burden on the City; and

b. Interest rate risk will be mitigated by:

- (1) Structuring the City's portfolio so that securities mature to meet the City's cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to their maturation to meet those specific needs;
- (2) Investing primarily in short-term securities; and
- (3) Occasionally restructuring the portfolio to minimize the loss of market value and/or to maximize cash flows.

c. The physical security or safe-keeping of the City's investments is also an important element of safety. Detailed safekeeping requirements are defined in the section of this Investment Policy entitled "Safekeeping of Securities".

2. Liquidity

The City's financial portfolio must be structured in a manner which will provide that securities mature at approximately the same time as cash is needed to meet anticipated demands. Additionally, since all possible cash demands cannot be anticipated, the portfolio should consist largely of securities with active secondary or resale markets. The specific percentage mix of different investment instruments and maturities is described herein.

3. Return

The investment portfolio shall be designed with the overall objective of obtaining a total rate of return throughout economic cycles, commensurate with investment risk constraints and cash flow needs.

C. Time Frame for Investment Decisions

The City's investment portfolio shall be structured to provide that sufficient funds from investments are available every month to meet the City's anticipated cash needs. Subject to the safety provisions outlined above, the choice of investment instruments and maturities shall be based upon an analysis of anticipated cash needs, existing and anticipated revenues, interest rate trends and specific market opportunities. As a general rule, and subject to annual review by the Investment Committee, the average

maturity of the investment portfolio will not exceed three years, and no investment will have a maturity of more than five years from its date of purchase.

D. Definition of Unexpended Funds

Unexpended funds for the purpose of this Investment Policy are all City funds which are available for investment at any time, including the estimated checking account float, excepting those minimum balances required by the City's banks to compensate them for the cost of banking services.

Investment Parameters

A. Types of Investments Authorized

The City may invest unexpended funds through national or state-chartered banks, savings and loans, authorized broker/dealers (each of the foregoing as more specifically described in California Government Code Section 53601.5), and the State Local Agency Investment Fund ("LAIF").

No investments shall have a maturity greater than five years. Combined investments with maturities greater than one year shall not exceed 70% of the total portfolio. Funds may be invested only in the following:

1. United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the full faith and credit of the United States are pledged for the payment of principal and interest.
2. The Local Agency Investment Fund (LAIF).
3. Collateralized and/or FDIC-insured demand deposits in nationally or state-chartered banks or state or federal associations (as defined by Section 5102 of the Financial Code) meeting the requirements of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the California Government Code).
4. Certificates of deposit issued by a nationally or state-chartered bank or a state or federal association (as defined by Section 5102 of the Financial Code), maturing in two years or less, the total of which shall not exceed 15% of the total portfolio, and which shall be insured by each institution at the maximum amount required by regulations of the F.D.I.C. and any amount above the insured amount must be collateralized in accordance with State law.
5. Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises, the total of which shall not exceed 75% of the total portfolio. Purchases shall be limited to senior issues as detailed below:

- a. Federal National Mortgage Association (Fannie Mae).
- b. Government National Mortgage Association (Ginnie Mae) in an amount not to exceed 20% of the total portfolio.
- c. Federal Home Loan Mortgage Corporation (Freddie Mac).
- d. Federal Home Loan Bank (FHLB).
- e. Federal Farm Credit Banks (FFCB).
- f. Federal Agricultural Mortgage Corporation (FAMC or Farmer Mac).
- g. Tennessee Valley Authority (TVA).

6. Money market mutual funds. Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), the total of which shall not exceed 5% of the total portfolio. To be eligible for purchase, the money fund shall be a "AAA" rated Government or U.S. Treasury money fund. In addition, the company shall have met either of the following criteria: (A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations. (B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars (\$500,000,000).

The percentage limitations listed above on the amount of the City's portfolio that may be invested in each investment category or issuer apply at time of purchase.

B. Prohibited Investments and Activities

Investments by the City in securities permitted by the California Government Code, but not specifically approved by this Investment Policy are prohibited without the prior approval of the City Council.

As required by California Government Code Section 53601.6, the City shall not invest any funds in inverse floaters, range notes, mortgage derived interest-only strips or any security that could result in zero interest accrual if held to maturity.

No representative of the City is authorized to engage in margin transactions, derivatives, nor reverse repurchase agreements on behalf of the City.

While it may occasionally be necessary or strategically prudent of the City to sell a security prior to maturity to either meet unanticipated cash needs or to restructure the portfolio, this Investment Policy specifically prohibits trading securities for the sole purpose of speculating or taking an unhedged position on the future direction of interest rates. Specifically, "when, as and if issued" trading and open-ended portfolio restructuring transactions are prohibited.

C. Qualification of Brokers, Dealers and Financial Institutions

United States Treasury issue transactions shall be conducted only with the Federal Reserve, or the bank providing banking services for the City, or broker/dealers currently authorized to provide investment services to the City.

The City Treasurer shall maintain a list of financial institutions and broker/dealers authorized to provide investment purchase and sale services to the City. The authorized financial institutions and broker/dealers shall meet the requirements of Government Code Section 53601.5, maintain an office in the State of California, and shall qualify under the Securities and Exchange Commission ("SEC") Rule 15C3-1 (uniform net capital rule). If at any time the City Treasurer learns that a financial institution or broker/dealer does not maintain an office in the State of California or no longer meets the requirements of Government Code Section 53601.5 or qualifies under the SEC Rule 15C3-1, the Treasurer shall immediately notify the City Council and shall place the item on the next agenda. Annually, all authorized firms must supply the City Treasurer with a current audited financial statement and documents verifying compliance with Rule 15C3-1. This information shall be transmitted annually to the City Council not later than July 31.

Annually, the investment advisory firms shall provide to the City, a list of Investment Brokers approved by the investment advisory firms. For transactions executed by the investment advisory firms engaged by the City, the firms' approved lists may be used, with the exception of any specific broker(s) that may be excluded by the City.

D. Collateralization Requirements

Uninsured time deposits with banks and savings and loans shall be collateralized in the manner prescribed by law (i.e., Government Code Section 53630 et seq.) for depositories accepting municipal investment funds.

E. Ethics & Conflicts of Interest

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Such employees and investment officials shall disclose to the City Council and the City Manager any material financial interests in financial institutions that conduct business within this jurisdiction, and they shall further disclose any large personal financial/investment positions that could be related to the performance of the City's portfolio. Such employees and officers shall subordinate their personal investment transactions to those of the City, particularly with regard to the time of purchases and sales.

F. Pre-formatted Wire Transfers

Wherever possible, the City shall use pre-formatted wire transfers to restrict the transfer of funds to pre-authorized accounts only. Authorized City officials are the City Manager and the Director of Finance/City Treasurer. Wire transfers between brokers and/or security dealers are prohibited. Wire transfers directly between LAIF and the City's safekeeping bank are permitted.

G. Notice of Investment Policy

The City shall send a copy of the current edition of this Investment Policy and enabling resolution upon opening an account and annually to all institutions which are approved to handle City investments. Receipt of the Investment Policy and authorizing resolution, including confirmation that it has been reviewed by persons handling the City's account, shall be acknowledged in writing within thirty days.

H. Investing Bond Proceeds

For the purpose of this section, "Bond Proceeds" shall include any notes, bonds or other instruments issued on behalf of the City, for which the members of the City Council serve as the governing body. Should the City elect to issue bonds for any purpose, the Indenture of Trust or Trust Agreement shall be the governing document specifying allowable investments for the proceeds of the issue as prescribed by law (i.e., Government Code Section 5922(d)). If the bond documents are silent as to the permitted investments, bond proceeds shall be invested in securities permitted by this Investment Policy. With respect to maximum maturities, if in the opinion of the City Treasurer matching the segregated investment portfolio of the bond reserve fund with the maturity schedule of an individual bond issue is prudent given current economic analysis, the Investment Policy authorizes extending beyond the five-year maturity limitation.

Safekeeping of Securities and Certificates of Deposit (CD)

A. Safekeeping Agreement

The City shall contract with a state or national bank or trust company located within the State of California for the safekeeping of securities, other than CDs, LAIF, and money market mutual funds, which are owned by the City as part of its investment portfolio.

B. Handling of City-Owned Securities and Certificates of Deposit

All CDs owned by the City shall be held by the City. The collateral for non-FDIC insured, non-negotiable CDs purchased from a nationally or state-chartered bank or state or federal association (as defined by Section 5102 of the Financial Code) shall be held pursuant to a depository contract between the City and the issuer of the CD per Government Code Section 53649. Pursuant to Government Code Sections 53649, 53656, 53657, and 53659, such collateral shall be held by the Federal Home Loan Bank of San Francisco, or a trust company located within the State of California or a trust department of a bank located within the State of California, that has been authorized pursuant to Government Code Section 53657 by the Administrator of Local Agency Security designated under Government Code Section 53661 (currently, the State Commissioner of Business Oversight) to act in such a capacity.

C. Security Transfers

All security transactions entered into by the City shall be conducted on a Delivery-Versus-Payment (DVP) basis. DVP is delivery of securities with an exchange of money for the securities, and with an exchange of a signed receipt for the securities. Pursuant to Government Code Section 53608, the City Council delegates to the City Treasurer the authority to deposit for safekeeping the City's securities, and all securities, except CDs and money market funds, shall be held in an account in the City's name by a third-party custodian designated by the City

Treasurer and meeting the requirements of Government Code Section 53608. LAIF accounts shall be held in the name of the City or related entity for which the members of the City Council serve as the governing body.

The authorization to release City securities shall be provided in writing signed by two authorized signatories. Authorized City officials are the City Manager/Director of Finance and the City Treasurer.

D. Verification of Certificates of Deposit Collateral

The collateral for non-FDIC insured certificates of deposits shall be an amount at least equal to the minimum specified in Government Code Section 53652 (currently ranging from 105% to 150% of the deposited funds, depending on the type of collateral). Per Government Code Section 53661, the Administrator of Local Agency Security designated thereunder (currently, the State Commissioner of Financial Protection and Innovation) will monitor the collateral held by the custodian of collateral pledged for local agency deposits.

Responsibilities

A. Responsibilities of the Finance Department

Subject to Government Code Section 53608 and the direction and supervision of the City Treasurer as the City Council's delegate thereunder, the Finance Department is charged with responsibility for maintaining custody of all public funds and securities belonging to or under the control of the City and for the deposit and investment of those funds in accordance with principles of sound treasury management and with applicable laws and ordinances. However, duties related to day-to-day investment activities shall be performed by an official other than the person responsible for accounting for those investments.

B. Responsibilities of the Director of Finance

The Finance Director is appointed by the City Manager and is subject to his or her direction and supervision, subject to Government Code Section 53607 and the direction and the supervision of the City Treasurer as the City Council's delegate thereunder with respect to investment authority. The Director of Finance is charged with responsibility for the conduct of all Finance Department functions, and the development of procedures to implement this Investment Policy as approved by the City Council.

C. Responsibilities of the City Manager

The City Manager is responsible for directing and supervising the Director of Finance. He or she is responsible further to keep the City Council fully advised as to the financial condition of the City.

D. Responsibilities of the City's Auditing Firm

The City's auditing firm's responsibilities shall include, but not be limited to, the examination and analyses of fiscal procedures and the examination, checking and verification of accounts and expenditures. A review of the City's investment program is a part of the responsibility described above.

E. Responsibilities of the City Council

The City Council shall annually consider and adopt a written investment policy. As provided in that policy, the Council shall receive, review, and accept monthly and quarterly Investment Reports.

G. Responsibilities of the City Treasurer

Pursuant to Government Code Section 53607, the City Council delegates to the City Treasurer for a one-year period the authority to invest or to reinvest funds of the City, and to sell or exchange securities so purchased, and the City Treasurer shall be responsible to carry out all investment transactions. Such delegation may be annually renewed by the City Council pursuant to Government Code Section 53607.

Pursuant to Government Code Section 53608, the City Council has delegated to the City Treasurer the authority to deposit for safekeeping the City's securities, and the City Treasurer shall be responsible for such safekeeping in accordance with applicable law, including but not limited to Government Code Section 53608 and, as to deposit accounts or non-negotiable certificates of deposit, Government Code Section 53630 et seq.

H. Responsibilities of Investment Advisors

The City Treasurer, as the City Council's delegate of investment authority under Government Code Section 53607, may select a third party investment advisor to assist with the investment of City funds, provided that the City Treasurer exercises prudence in the selection of the investment advisor, imposes suitable safeguards to prevent abuse in the exercise of discretion by the investment advisor, and remains responsible for any investment decisions made by the investment advisor. Approved investment advisors shall provide the service within the following parameters:

1. All investments made on behalf of the City shall be accomplished in accordance with this Investment Policy.
2. All investment advisors must be explicitly authorized by the City Council.
3. All investment advisors must provide services within the scope of responsibility consistent with their contract with the City.
4. All investment advisors must be duly registered with the U.S. Securities & Exchange Commission.

Reporting

So long as the City Council's annual delegation of investment authority to the City Treasurer pursuant to Government Code Section 53607 is effective, the City Treasurer shall make a monthly report of all investment transactions to the City Council.

The Director of Finance shall prepare a quarterly investment report containing the information required by Government Code Section 53646(b), including a succinct management summary that provides a clear picture of the status of the current investment portfolio and all security transactions made over the past three months. This report shall be submitted to the City Council members within forty-five (45) days following the end of the quarter as contemplated by Government Code Section 53646(b)(1);

provided, if the information required to be contained in the quarterly Investment Report (as described below) is not yet available from the applicable financial institutions, the quarterly Investment Report shall be submitted to the City Council members as soon as possible thereafter, not to exceed sixty (60) days following the end of the quarter.

The quarterly Investment Report shall include the following:

- A. A listing of individual securities and deposits held at the end of the reporting quarter;
- B. The type of investment, issuer, date of maturity, par amount, cost and market value of marketable securities at the end of the quarter; provided, for City investments that have been placed in the State of California Local Agency Investment Fund or in FDIC-insured accounts of an eligible bank or savings and loan association, the Director of Finance may supply to the City Council the most recent statement(s) received from these institutions in lieu of the foregoing information.
- C. All security transactions occurring during the quarter whether or not the transaction has been fully settled;
- D. Interest or dividend income credited to the account. If interest or dividends are not paid as earned, the interest amounts receivable should be shown;
- E. Realized gains or losses on sales of investments;
- F. Unrealized gains or losses during the period;
- G. The nature of all such investments in the portfolio should be described;
- H. With respect to interest bearing investments, the Investment Report shall indicate the face rate of interest and the effective yield to the City based on its cost of the investment.
- I. The following statement shall be included in each report prepared by the Director of Finance and signed by the City Treasurer:

“All City investments are shown above and conform to the City Investment Policy. All investment transactions during this period are included in this report. As City Treasurer of the City of Calimesa, I hereby certify that sufficient investment liquidity and anticipated revenue are available to meet the next six (6) months’ estimated expenditures.”

If the first sentence of the foregoing statement cannot be reasonably made, the City Treasurer shall include the disclosure statement required by J. below in lieu of such sentence. If the second sentence of the foregoing statement cannot be reasonably made, the City Treasurer shall provide in lieu of such sentence an explanation as to why sufficient money will or may not be available for the next six months’ estimated expenditures.

J. If a discrepancy exists between any restrictions in the Investment Policy, when compared to the period reflected on the Quarterly Investment Report, the following disclosure statement shall be included on the Report:

“I hereby certify that this report accurately reflects all investments, including pooled investments, and is in compliance with California Government Code Sections 53640 through 53646, as amended, and is in conformity with the City of Calimesa Investment Policy, except for the following deviation(s):”

Annual Review

This Investment Policy shall be reviewed each year by the City Council to ensure its consistency with respect to the overall objectives of safety, liquidity, and yield. Proposed amendments to the Investment Policy shall be prepared and be forwarded to the City Council for consideration.

GLOSSARY OF INVESTMENT TERMS

AGENCIES: Federal agency and instrumentality securities.

ASKED: The price at which securities are offered.

BANKERS’S ACCEPTANCE (“BA”): A draft, bill, or exchange accepted by a bank or a trust company. Both the issuer and the accepting institution guarantee payment of the bill.

BID: The price offered by a buyer of securities (when one sells securities, one asks for a bid).

BROKER: A broker brings buyers and sellers together so that he can earn a commission.

CERTIFICATE OF DEPOSIT (“CD”): A time deposit with a specific maturity, as evidenced by a certificate. Large-denomination CDs are typically negotiable.

COLLATERAL: Securities, evidence of deposit, or other property which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

COMPREHENSIVE ANNUAL FINANCIAL REPORT (“CAFR”): It includes combined statements for each individual fund and account group, that are prepared in conformity with GAAP. It also includes supporting schedules that are necessary to demonstrate compliance with finance-related legal and contractual provisions, extensive introductory material, and a detailed statistical section.

COUPON: (a) The annual rate of interest that a bond’s issuer promises to pay the bondholder on the bond’s face value. (b) A certificate attached to a bond that evidences interest due on a payment date.

DEALER: A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

DEBENTURE: A bond secured only by the general credit of the issuer.

DELIVERY VERSUS PAYMENT: There are two methods of delivery of securities: (1) delivery versus payment (DVP); and (2) delivery versus receipt (DVR). DVP is delivery of securities with an exchange of money for the securities. DVR is delivery of securities with an exchange of a signed receipt for the securities.

DERIVATIVES: (1) Financial instruments that are linked to, or derived from, the movement of one or more underlying indexes or securities, and may include a leveraging factor; or (2) financial contracts based upon a notional amount whose value is derived from an underlying index or security (e.g., interest rates, foreign exchange rates, equities, or commodities).

DISCOUNT: The difference between the acquisition cost of a security and its value at maturity, when quoted at lower than face value. A security that sells below original offering price shortly after sale, is also is considered to be at a discount.

DISCOUNT SECURITIES: Non-interest bearing money market instruments that are issued a discount and that are redeemed at maturity for full face value (e.g., U.S. Treasury Bills).

DIVERSIFICATION: Dividing investment funds among a variety of securities that offer independent returns.

FEDERAL CREDIT AGENCIES: Agencies of the Federal Government that were established to supply credit to various classes of institutions and individuals (e.g., S&Ls, small business firms, students, farmers, farm cooperatives, and exporters).

FEDERAL DEPOSIT INSURANCE CORPORATION (“FDIC”): A federal agency that insures bank deposits, currently up to \$250,000 per depositor per insured bank.

FEDERAL FUNDS RATE: The rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

FEDERAL HOME LOAN BANKS (“FHLB”): Government-sponsored wholesale banks (currently 11 regional banks) which lend funds and provide correspondent banking services to member commercial banks, thrift institutions, credit unions, and insurance companies. The mission of the FHLBs is to liquefy the housing-related assets of its members, who must purchase stock in their District Bank.

FEDERAL NATIONAL MORTGAGE ASSOCIATION (“FNMA” or “Fannie Mae”): FNMA, like GNMA, was chartered under the Federal National Mortgage Association Act in 1938. Due to its federal charter, FNMA is considered a U.S. government-sponsored enterprise. It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a publicly-traded stockholder-owned corporation that has also been under the conservatorship of the Federal Housing Finance Agency (FHFA) since September 6, 2008. The corporation’s purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA’s securities are also highly liquid and are widely accepted. For some securities issued by FNMA, FNMA provides guarantees as to the payment of principal and interest.

FEDERAL RESERVE SYSTEM: The central bank of the United States created by Congress and consisting of a seven-member Board of Governors in Washington, D.C., 12 regional banks, and about 5,700 commercial banks that are members of the system.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (“GNMA” or “Ginnie Mae”): Mortgage-backed securities that influence the volume of affordable housing loans and that are guaranteed by GNMA. A security holder is protected by the full faith and credit of the U.S. Government. Underlying mortgages for Ginnie Mae securities include those issued, insured, or guaranteed by the Federal Housing Administration (FHA), the U.S. Department of Veterans Affairs (VA), the U.S. Department of Agriculture’s Rural Development (RD), and the U.S. Department of Housing and Urban Development’s Office of Public and Indian Housing (PIH). The term “pass-throughs” is often used to describe Ginnie Maes.

LIQUIDITY: A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow, and reasonable size can be done at those quotes.

LOCAL AGENCY INVESTMENT FUND (“LAIF”): Monies from local governmental units may be remitted to the California State Treasurer for deposit in this special fund for the purpose of investment.

MARKET VALUE: The price at which a security is trading and could presumably be purchased or sold.

MATURITY: The date upon which the principal or stated value of an investment becomes due and payable.

MONEY MARKET: The market in which short-term debt instruments (e.g., bills, commercial paper, banker’s acceptances) are issued and traded.

OFFER: The price asked by a seller of securities (when one buys securities, one asks for an offer). See “Asked” and “Bid”.

PORTFOLIO: A collection of securities that an investor holds.

PRUDENT INVESTOR RULE: An investment standard. A fiduciary, such as a trustee, may invest in a security if it is one that would be bought by a prudent investor acting in like capacity, who is seeking reasonable income and preservation of capital. As to the City (including its related entities), the prudent investor standard is established by, and specifically described in, California Government Code Section 53600.3

RATE OF RETURN: The yield obtainable on a security based on its purchase price or its current market price.

REPURCHASE AGREEMENT (“RP” OR “REPO”): A holder of securities sells them to an investor with an agreement to repurchase the securities at a fixed price on a fixed date. The security “buyer”,

in effect, lends the “seller” money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: when the Fed is said to be doing RP, it is lending money (increasing bank reserves).

SAFEKEEPING: A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank’s vaults and/or a customer custodial account (as to non-certificated securities) for protection.

SECONDARY MARKET: A market made for the purchase and sale of outstanding issues following the initial distribution.

SECURITIES AND EXCHANGE COMMISSION: An agency created by Congress to administer securities legislation for the purpose of protecting investors in securities transactions.

SEC RULE 15c3-1: See “*Uniform Net Capital Rule*”.

TREASURY BILLS: A non-interest bearing discount security that is issued by the U.S. Treasury to finance the national debt. Most T-bills are issued to mature in three months, six months, or one year.

TREASURY BONDS: Long-term, coupon-bearing U.S. Treasury securities that are issued as direct obligations of the U.S. Government, and having initial maturities of more than 10 years.

TREASURY NOTES: Medium-term, coupon-bearing U.S. Treasury securities that are issued as direct obligations of the U.S. Government, and having initial maturities of two to 10 years.

UNIFORM NET CAPITAL RULE: SEC requirement that member firms, as well as non-member broker-dealers in securities, maintain a maximum ratio of indebtedness-to-liquid capital of 15 to one. Also called *net capital rule* and *net capital ratio*. Indebtedness covers all money that is owed to a firm, including margin loans and commitments to purchase securities (one reason that new public issues are spread among members of underwriting syndicates). Liquid capital includes cash and assets easily converted into cash.

YIELD: The rate of annual income return on an investment, expressed as a percentage. (a) **Income Yield** is obtained by dividing the current dollar income by the current market price for the security. (b) **Net Yield** or **Yield to Maturity** is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.



City Council Meeting Agenda Report

Agenda Item No. 5

SUBJECT: CAL OES DESIGNATION OF APPLICANT'S AGENT

MEETING DATE: November 6, 2023

PREPARED BY: Celeste Reid, Finance Director & City Treasurer

RECOMMENDATION: That the City Council approve the Cal OES Designation of Applicant's Agent.

DISCUSSION: The State of California Governor's Office of Emergency Services, requires all agencies provide an updated Designation of Applicant's Agent every three years for the purpose of obtaining federal financial assistance for any existing or future grant program including but not limited to -

- Federally declared Disaster, Fire Mitigation Assistance Grant, California State Only Disaster, Immediate Services Program, Hazard Mitigation Grant Program, Building Resilient Infrastructure and Communities, Legislative Pre-Disaster Mitigation Program
- Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and or state financial assistance under the California Disaster Assistance Act.
- Flood Mitigation Assistance Program
- National Earthquake Hazards Reduction Program
- California Early Earthquake Warning

Staff respectfully recommends the following positions be assigned as Applicant Agent's

- City Manager
- Public Works Director
- Finance Director

FISCAL IMPACT: There is no fiscal impact to Designation of Applicant Agent for Cal OES.

ATTACHMENTS:

Attachment A: Form Designation of Applicant's Agent Resolution and Instructions
Attachment B: Form List of Authorized Agent's



DESIGNATION OF APPLICANT'S AGENT RESOLUTION FOR NON-STATE AGENCIES

BE IT RESOLVED BY THE City Council OF THE City of Calimesa
 (Governing Body) (Name of Applicant)

THAT City Manager, OR
 (Title of Authorized Agent)

Public Works Director, OR
 (Title of Authorized Agent)

Finance Director
 (Title of Authorized Agent)

is hereby authorized to execute for and on behalf of the City of Calimesa
 (Name of Applicant)

a public entity established under the laws of the State of California, this application and to file it with the California Governor's Office of Emergency Services for the purpose of obtaining federal financial assistance for any existing or future grant program, including, but not limited to any of the following:

- **Federally declared Disaster (DR), Fire Mitigation Assistance Grant (FMAG), California State Only Disaster (CDAA), Immediate Services Program (ISP), Hazard Mitigation Grant Program (HMGP), Building Resilient Infrastructure and Communities (BRIC), Legislative Pre-Disaster Mitigation Program (LPDM)**, under
- Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the California Disaster Assistance Act.
- **Flood Mitigation Assistance Program (FMA)**, under Section 1366 of the National Flood Insurance Act of 1968.
- **National Earthquake Hazards Reduction Program (NEHRP)** 42 U.S. Code 7704 (b) ((2) (A) (ix) and 42 U.S. Code 7704 (b) (2) (B) National Earthquake Hazards Reduction Program, and also The Consolidated Appropriations Act, 2018, Div. F, Department of Homeland Security Appropriations Act, 2018, Pub. L. No. 115-141
- **California Early Earthquake Warning (CEEW)** under CA Gov Code – Gov, Title 2, Div. 1, Chapter 7, Article 5, Sections 8587.8, 8587.11, 8587.12

That the City of Calimesa, a public entity established under the
 (Name of Applicant)

laws of the State of California, hereby authorizes its agent(s) to provide to the Governor's Office of Emergency Services for all matters pertaining to such state disaster assistance the assurances and agreements required.



Please check the appropriate box below

- This is a universal resolution and is effective for all open and future disasters/grants declared up to three (3) years following the date of approval.
- This is a disaster/grant specific resolution and is effective for only disaster/grant number(s): _____

Passed and approved this ___ day of _____, 20__

William Davis, Mayor

 (Name and Title of Governing Body Representative)

Wendy Hewitt, Mayor ProTem

 (Name and Title of Governing Body Representative)

Jeff Cervantez, Council Member

 (Name and Title of Governing Body Representative)

CERTIFICATION

I, **Darlene Gerdes**, duly appointed and **Deputy City Manager** of

 (Name) (Title)

City of Calimesa, do hereby certify that the above is a true and

 (Name of Applicant)

correct copy of a resolution passed and approved by the **City Council**

 (Governing Body)

of the **City of Calimesa** on the _____ day of _____, 20__.

 (Name of Applicant)

 (Signature)

Deputy City Manager

 (Title)



Cal OES Form 130 Instructions

A Designation of Applicant's Agent Resolution for Non-State Agencies is required of all Applicants to be eligible to receive funding. A new resolution must be submitted if a previously submitted resolution is older than three (3) years from the last date of approval, is invalid, or has not been submitted.

When completing the Cal OES Form 130, Applicants should fill in the blanks on pages 1 and 2. The blanks are to be filled in as follows:

Resolution Section:

Governing Body: This is the group responsible for appointing and approving the Authorized Agents.

Examples include: Board of Directors, City Council, Board of Supervisors, Board of Education, etc.

Name of Applicant: The public entity established under the laws of the State of California.

Examples include: School District, Office of Education, City, County or Non-profit agency that has applied for the grant, such as: City of San Diego, Sacramento County, Burbank Unified School District, Napa County Office of Education, University Southern California.

Authorized Agent: These are the individuals that are authorized by the Governing Body to engage with the Federal Emergency Management Agency and the California Governor's Office of Emergency Services regarding grants for which they have applied. There are two ways of completing this section:

1. **Titles Only:** The titles of the Authorized Agents should be entered here, not their names. This allows the document to remain valid if an Authorized Agent leaves the position and is replaced by another individual. If "Titles Only" is the chosen method, this document must be accompanied by either a cover letter naming the Authorized Agents by name and title, or the Cal OES AA Names document. The supporting document can be completed by any authorized person within the Agency (e.g., administrative assistant, the Authorized Agent, secretary to the Director). It does not require the Governing Body's signature.
2. **Names and Titles:** If the Governing Body so chooses, the names **and** titles of the Authorized Agents would be listed. A new Cal OES Form 130 will be required if any of the Authorized Agents are replaced, leave the position listed on the document, or their title changes.



Checking Universal or Disaster-Specific Box: A Universal resolution is effective for all past disasters and for those declared up to three (3) years following the date of approval. Upon expiration it is no longer effective for new disasters, but it remains in effect for disasters declared prior to expiration. It remains effective until the disaster goes through closeout unless it is superseded by a newer resolution.

Governing Body Representative: These are the names and titles of the approving Board Members.

Examples include: Chairman of the Board, Director, Superintendent, etc. The names and titles **cannot** be one of the designated Authorized Agents. A minimum of three (3) approving board members must be listed. If less than three are present, meeting minutes must be attached in order to verify a quorum was met.

Certification Section:

Name and Title: This is the individual in attendance who recorded the creation and approval of this resolution.

Examples include: City Clerk, Secretary to the Board of Directors, County Clerk, etc. This person **cannot** be one of the designated Authorized Agents or Approving Board Member. If a person holds two positions (such as City Manager and Secretary to the Board) and the City Manager is to be listed as an Authorized Agent, then that person could sign the document as Secretary to the Board (not City Manager) to eliminate "Self-Certification."



List of Authorized Agents

Entity Name:

OES ID:

- Enter each Authorized Agent (AA) as listed on the Designation of Applicant's Agent Resolution (Cal OES 130) for Non-State Agencies **or** as it appears on the Signature Authority (Cal OES 130SA) for California State Agencies.
- Check box to receive electronic copies of Cal OES Notification of Obligation and/or Payment packages. (Minimum 1 AA.)
- Email addresses must use an email that shares the official entity URL.

Authorized Agent Name	Authorized Agent Title	Email Address	Email Pkg?
William Kolbow	City Manager	wkolbow@cityofcalimesa.net	<input checked="" type="checkbox"/>
Margaret Monson	Public Works Director	mmonson@cityofcalimesa.net	<input checked="" type="checkbox"/>
Celeste Reid	Finance Director	creid@cityofcalimesa.net	<input checked="" type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>

- An Approved Contact may be designated by an AA to request or receive information on grant payment status. Add them by inputting their information below. (Ex. Accounting/Admin offices) Must use an official email URL.

Approved Contact Name	Approved Contact Title	Email Address	Email Pkg?
Mari Shakir	Associate Engineer Public Works	pworks@cityofcalimesa.net	<input checked="" type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>

Please use a second page if more space is needed.



City Council Meeting
Agenda Report

Agenda Item No. 6

SUBJECT: CITY OF CALIMESA PROPERTY TAX – TAX YEAR 2023/24

MEETING DATE: November 6, 2023

PREPARED BY: Will Kolbow, City Manager
 Celeste Reid, Finance Director and Treasurer

RECOMMENDATION: That the City Council receive and file the City of Calimesa Property Tax Newsletter Tax Year 2023/24.

BACKGROUND: The City of Calimesa has a professional services contract with Hinderliter, de Llamas & Associates (hereinafter referred to as HDL) to provide compiled property tax data and analysis relating to property tax revenues within the City of Calimesa. The City Manager and Finance Director meet annually with the HDL professionals to review data provided in compiled reports to discuss data analytics in relation to assessed values, property transfers, sales price history, and trends with prior years. The attached report, appropriate for public consumption, is provided to the City Council for review and includes the top 10 property owners with primary use category, total value and percentage of all value.

It should be noted the attached report does not include an annual distribution of property tax increment funds from the Riverside County RPTTF (Redevelopment Property Tax Trust Fund). The RPTTF Funds were established 2012 with the state’s mandate to dissolve redevelopment agency funds. Due to a large portion of undeveloped residential land in Calimesa at the time of dissolution, the RFTTF distributions are significant as a proportional ratio of property tax collections for the City of Calimesa. Listed below are projections of RPTTF Revenue:

	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28
RPTTF Revenue Estimate	\$ 1,776,698	\$ 1,867,278	\$ 1,962,059	\$ 2,063,521	\$ 2,168,581

FISCAL IMPACT: None.

ATTACHMENTS:

Attachment A: City of Calimesa Property Tax Newsletter – Tax Year 2023/24

THE CITY OF CALIMESA

PROPERTY TAX NEWSLETTER

TAX YEAR 2023/24



TAXABLE ASSESSED VALUE
\$1.5 BILLION

+6.5%
CALIMESA

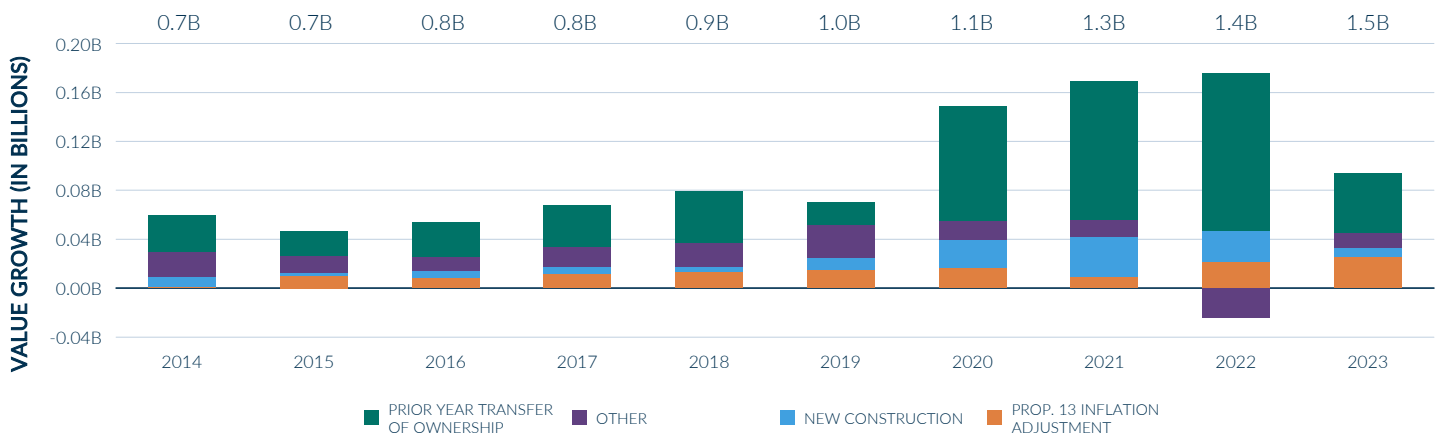


+9.6%
COUNTY



HISTORY OF VALUE CHANGES BY CAUSE

INCLUDING TOTAL ASSESSED VALUE



The Other change category may include effects of assessment appeals, multi parcel sales, and changes to secured exemptions, personal property, or utility-owned property values



PROPERTY HIGHLIGHTS

The largest assessed value increases were on two related parcels owned by Calimesa Retail Center (1000 and 1032 Cherry Valley Blvd.). New improvements added to both parcels increased the value by \$1.7 million this year.

Recent transfers of ownership also contributed to value growth between tax years. A vacant parcel owned by SJA Fields (109 W. County Line Road) increased by \$861,000 due to a recent sale. Similarly, a new single-family residential home located at 1201 Joshua Tree Road (Richmond Homes development) also sold, adding \$804,000.

There were two significant value declines between tax years. A single-family residential parcel located at 1366 Chestnut Road reported the largest assessed value decline. *(continued on next page)*



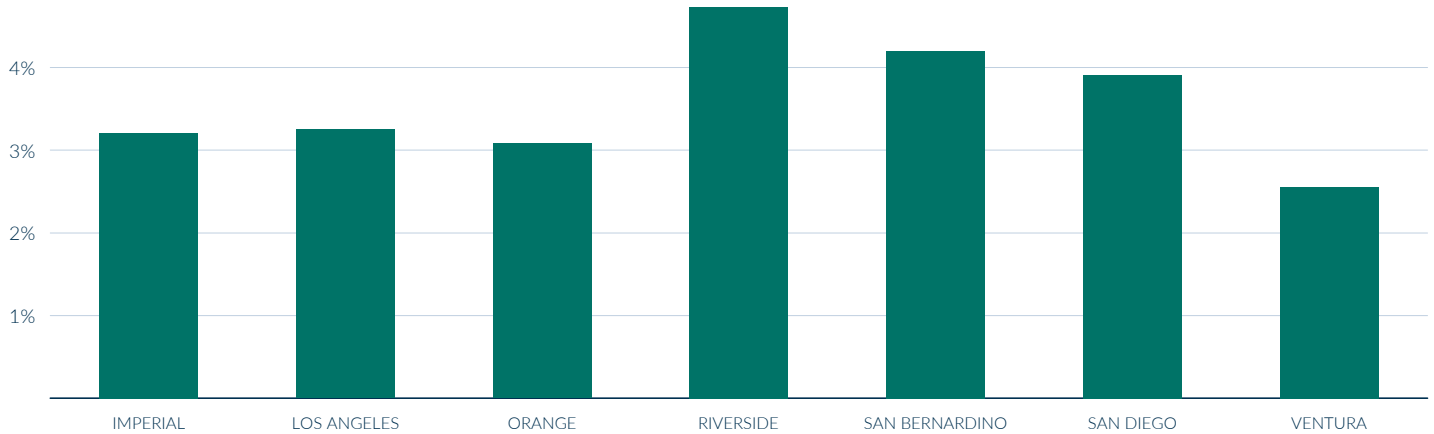
TOP 10 OWNERS WITH PRIMARY USE CATEGORY, TOTAL VALUE AND % OF ALL VALUE

1 MESA VERDE OWNER	AGRICULTURAL	\$46.2 MILLION	3.01%
2 CALIMESA RETAIL CENTER	COMMERCIAL	\$27.2 MILLION	1.77%
3 JEN SOCIAL 1	VACANT	\$16.2 MILLION	1.05%
4 STATER BROS MARKET	COMMERCIAL	\$11.6 MILLION	0.76%
5 PLANTATION COMPANY	RESIDENTIAL	\$10.8 MILLION	0.70%
6 RGC PROPERTIES	INDUSTRIAL	\$9.78 MILLION	0.64%
7 NEXTGEN CALIMESA LP	VACANT	\$8.85 MILLION	0.58%
8 RIC ORCUTT	VACANT	\$8.47 MILLION	0.55%
9 ADACHI PROPERTIES MANAGEMENT	COMMERCIAL	\$7.22 MILLION	0.47%
10 GEORGE L GILDRED	COMMERCIAL	\$7.06 MILLION	0.46%

TOP 10 TOTAL

\$153 MILLION 9.99%

ESTIMATED VALUE GROWTH FROM SALE TRANSFERS AS A PERCENTAGE OF TAXABLE VALUE BY COUNTY



PROPERTY HIGHLIGHTS

(continued from previous page)

The owner of the property transferred their base value to a property they recently purchased in Calimesa under Proposition 19. The transferred base value resulted in a \$530,500 decline from the sale price. A single-family residential parcel located at 1533 Yucca Court was granted a disabled veteran exemption, removing \$515,000 in assessed value from the roll.



PROPERTY TAX FACTS

- In 2023, 4,817 City parcels were taxable.
- 75.8% of the City's 2023 assessed values are residential use, from 67.2% of the parcels.

DETACHED SINGLE-FAMILY HOMES MEDIAN SALE PRICE HISTORY

YEAR	SALES	MEDIAN PRICE	CHG %
2014	114	\$260,000	18.2%
2015	103	\$300,000	15.4%
2016	132	\$320,000	6.7%
2017	139	\$357,500	11.7%
2018	118	\$357,500	0.0%
2019	165	\$380,000	6.3%
2020	231	\$400,000	5.3%
2021	297	\$465,500	16.4%
2022	124	\$550,000	18.2%
2023*	61	\$535,000	-2.7%

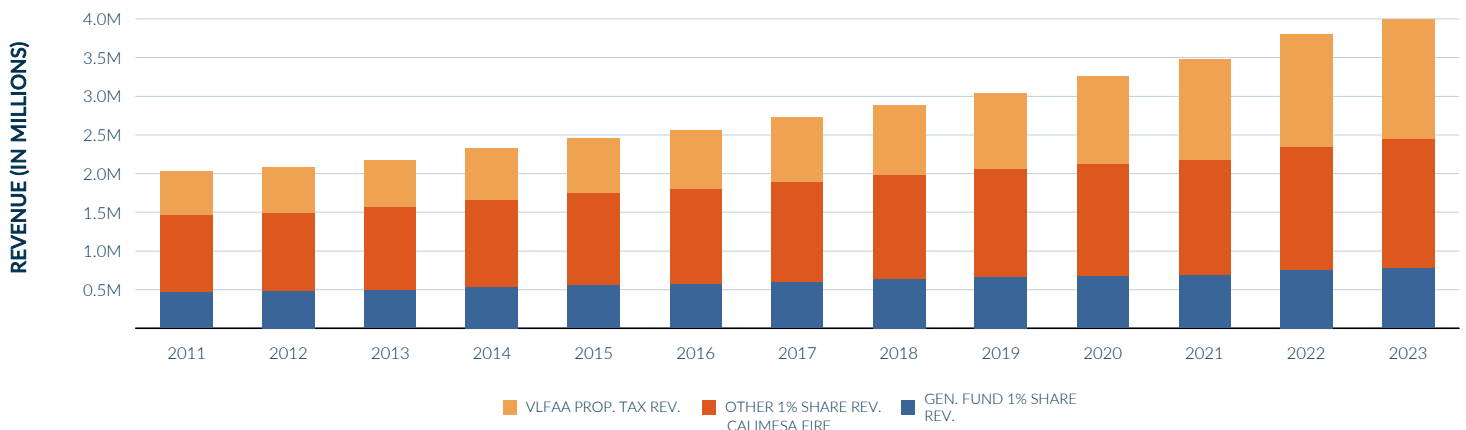
** Year-to-Date (through August 2023)*



REAL ESTATE TRENDS

As of June 2023, statewide home sales volume has declined for the last 9 months, due to high interest rates and low inventory. There were 19.7% fewer home sales in June than in June 2022; 46.5% fewer than at the peak in 2021. The state median home price in June was \$838,260. This is 2.4% below the median a year ago, a smaller annual decline than in recent months. 2022 sale prices impacted values on the 2023/24 tax rolls. Value changes from 2023 sales through June are trending up each month but are below 2022 levels. The median sale price of Calimesa detached single-family homes from January through August 2023 was \$535,000, a decrease of -\$15,000 (-2.7%) from 2022's median sale price.

ASSESSED VALUE-BASED REVENUE HISTORY BY COMPONENT





CITY COUNCIL MEETING AGENDA REPORT

Agenda Item No. 7

SUBJECT: SPECIAL TAX AND BOND ACCOUNTABILITY REPORTS FOR PUBLIC SERVICES COMMUNITY FACILITIES DISTRICT NO. 1, COMMUNITY FACILITIES DISTRICT NO. 2012-1(SINGLETON HEIGHTS), COMMUNITY FACILITIES DISTRICT NO. 2013-1(JP RANCH) AND COMMUNITY FACILITIES DISTRICT NO. 2018-1 (SUMMERWIND TRAILS) FOR FISCAL YEAR 2022-23

MEETING DATE: November 6, 2023

PRESENTED BY: Celeste Reid, Finance Director and Treasurer

RECOMMENDATION: It is recommended that the City Council receive and file Special Tax and Bond Accountability Reports for Fiscal Year 2022-23.

BACKGROUND/DISCUSSION: The Special Tax and Bond Accountability Reports provide financial information prepared in compliance with the Local Agency Special Tax and Bond Accountability Act (“Accountability Act”). The Accountability Act was enacted by California State Legislature through Senate Bill 165 to provide accountability measures for any local special tax and/or bond measure subject to voter approval on or after January 1, 2001. According to the requirements of the Accountability Act (Sections 50075.1 and 53410 of the Government Code of the State of California), an annual report must be filed by the local agency levying the special tax and or issuing a bond measure and shall contain a description of the following:

- (1) The amount of funds collected and expended.
- (2) The status of any project required or authorized to be funded by the special tax and/or bond measure.

In accordance with the requirements, the City has prepared an accountability report for active Community Facility Districts detailed below:

- Public Services Community Facilities District No. 1
- Community Facilities District No. 2012-1(Singleton Heights)
- Community Facilities District No. 2013-1(JP Ranch)
- Community Facilities District No. 2018-1 (Summerwind Trails)

ATTACHMENTS:

Attachment A: Special Tax and Bond Accountability Reports for Fiscal Year 2022-23



City of Calimesa
Public Services Community
Facilities District No. 1
(Law Enforcement, Fire, Paramedic,
and Park Maintenance)

Special Tax & Bond Accountability Report
Fiscal Year 2022/2023

KOPPEL & GRUBER
PUBLIC FINANCE

334 Via Vera Cruz, Suite 256
San Marcos, California 92078
760-510-0290
info@kgpf.net

Prepared for:

City of Calimesa
908 Park Avenue
Calimesa, CA 92320
T. 909.795.9801
Page 45 of 195

City of Calimesa

William Kolbow, City Manager
Celeste Reid, Finance Director
908 Park Avenue
Calimesa, CA 92320
T. 909.795.9801
F. 909.795.4399

Special Tax Administrator

Koppel & Gruber Public Finance
Lyn Gruber / Nick Farrel
334 Via Vera Cruz, Suite 256
San Marcos, CA 92078
T. 760.510.0290
F. 760.510.0288

TABLE OF CONTENTS

BACKGROUND.....1
SECTION I. SUMMARY..... 2
SECTION II. SPECIAL TAX COLLECTIONS & EXPENDITURES 3

BACKGROUND

The Local Agency Special Tax and Bond Accountability Act (“Accountability Act”) was enacted by California State Legislature through Senate Bill 165 to provide accountability measures for any local special tax and/or bond measure subject to voter approval on or after January 1, 2001. According to the requirements of the Accountability Act (*Sections 50075.1 and 53410 of the Government Code of the State of California*), an annual report must be filed by the local agency levying a special tax and/or issuing a bond measure by January 1, commencing January 1, 2002 and each year thereafter and shall contain a description of the following:

- (1) The amount of funds collected and expended.
- (2) The status of any project required or authorized to be funded by the special tax measure.

This report (“Accountability Report”) is being prepared for the Public Services Community Facilities District No. 1 (Law Enforcement, Fire, Paramedic and Park Maintenance Services) (“PSCFD No. 1”) of the City of Calimesa (“City”) for fiscal year ended June 30, 2023 pursuant to and in accordance with the requirements outlined in the Accountability Act.

I. SUMMARY

On September 18, 2006, the City Council (“Council”) of the City established the PSCFD No. 1 pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”). PSCFD No. 1 is authorized to levy a special tax to generally provide for law enforcement, fire, paramedic and park maintenance services (“Services”). Services costs that can be funded by PSCFD No. 1 include, but are not limited to (1) police protection services, (2) fire protection/paramedic services, and (3) park maintenance services that are in addition to those provided in the territory within PSCFD No. 1 prior to the formation of PSCFD No. 1 and (4) the incidental expenses related to financing, forming and administering PSCFD No. 1. The authorized costs of services include the costs of labor, material, administration, personnel, equipment and utilities.

II. SPECIAL TAX COLLECTIONS AND EXPENDITURES

The table below provides a summary of the Special Taxes received, interest accrued, transfers and expenditures within PSCFD No. 1 for the fiscal year specified.

DESCRIPTION	AMOUNT
BEGINNING BALANCE AS OF JULY 1, 2022	\$459,125.55
<i>Sources of Funds</i>	
Special Tax Receipts	\$810,505.14
Interest Accrued	9,112.61
<i>Subtotal: Sources</i>	<i>\$819,617.75</i>
<i>Uses of Funds</i>	
Administrative Expenses	(\$11,278.97)
Public Safety Services	(700,000.00)
<i>Subtotal: Uses</i>	<i>(\$711,278.97)</i>
ENDING BALANCE AS OF JUNE 30, 2023	\$567,464.33



City of Calimesa
Community Facilities District No. 2012-1
(Singleton Heights)

Special Tax & Bond Accountability Report
Fiscal Year 2022/2023

KOPPEL & GRUBER
PUBLIC FINANCE

334 Via Vera Cruz, Suite 256
San Marcos, California 92078
760-510-0290
info@kgpf.net

Prepared for:

City of Calimesa
908 Park Avenue
Calimesa, CA 92320
T 909.795.4801
Page 91 of 195

City of Calimesa

William Kolbow, City Manager
Celeste Reid, Finance Director
908 Park Avenue
Calimesa, CA 92320
T. 909.795.9801
F. 909.795.4399

Special Tax Administrator

Koppel & Gruber Public Finance
Lyn Gruber / Nick Farrel
334 Via Vera Cruz, Suite 256
San Marcos, CA 92078
T. 760.510.0290
F. 760.510.0288

TABLE OF CONTENTS

BACKGROUND.....	1
SECTION I. SUMMARY.....	2
SECTION II. BOND PROCEEDS.....	3
SECTION III. SPECIAL TAX COLLECTIONS & EXPENDITURES	4
SECTION IV. EXPENDITURES TO FUND AUTHORIZED FACILITIES.....	6

BACKGROUND

The Local Agency Special Tax and Bond Accountability Act (“Accountability Act”) was enacted by California State Legislature through Senate Bill 165 to provide accountability measures for any local special tax and/or bond measure subject to voter approval on or after January 1, 2001. According to the requirements of the Accountability Act (*Sections 50075.1 and 53410 of the Government Code of the State of California*), an annual report must be filed by the local agency levying a special tax and/or issuing a bond measure by January 1, commencing January 1, 2002 and each year thereafter and shall contain a description of the following:

- (1) The amount of funds collected and expended.
- (2) The status of any project required or authorized to be funded by the special tax measure.

This report (“Accountability Report”) is being prepared for the Community Facilities District No. 2012-1 (Singleton Heights) (“CFD 2012-1”) of the City of Calimesa (“City”) for fiscal year ended June 30, 2023 pursuant to and in accordance with the requirements outlined in the Accountability Act.

I. SUMMARY

On April 16, 2012, the City Council (“Council”) of the City established CFD No, 2012-1 which includes two Improvement Areas (“IA”), pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”). CFD No. 2012-1 is authorized to levy two special taxes; one to pay for facilities or debt service on bonds issued to acquire the facilities, and; one to pay maintenance services (“Services”).

Bonds were issued on August 20, 2014 in the amount of \$2,855,000 (the “2014 Bonds”). The annual debt service on the 2014 Bonds is being repaid by the facilities Special Tax A levied on properties within Improvement Area No. 1.

Bonds were issued on May 18, 2017 in the amount of \$4,205,000 (the “2017 Bonds”). The annual debt service on the 2017 Bonds is being repaid by the facilities Special Tax A levied on properties within Improvement Area No. 2.

Services costs that can be funded by CFD No. 2012-1 include, but are not limited to the irrigated open space areas; non-irrigated open space or fuel modification areas; streetscape landscaping; slope landscaping; landscape improvements associated with the drainage easement areas and/or detention basins (both irrigated and non-irrigated); and public street lighting within and associated with the development of properties within Singleton Heights (Tract 26811). Special Tax B, the services special tax, has been collected on both Improvement Areas.

II. BOND PROCEEDS

The 2014 Bonds were issued in the aggregate principal amount of \$2,855,000. Proceeds of the Bonds were used to finance certain capital facilities fees of the City of Calimesa (“City”) and Yucaipa Valley Water District relating to public facility improvements serving property within CFD No. 2012-1, IA No. 1, fund reserve fund, fund capitalized interest and pay cost of issuance of the 2014 Bonds. The table below summarizes the application of the Bond proceeds:

2014 BOND PROCEEDS

FUND/ACCOUNT/SUBACCOUNT	BOND PROCEEDS
Acquisition and Construction Fund	\$2,352,653.65
Reserve Fund	231,310.58
Costs of Issuance Fund	125,000.00
Interest Account	16,042.67
Original Issue Discount	77,175.60
Underwriter’s Discount	52,817.50
TOTAL	\$2,855,000.00

The 2017 Bonds were issued in the aggregate principal amount of \$4,205,000. Proceeds of the Bonds were used to finance certain capital facilities fees of the City and Yucaipa Valley Water District relating to public facility improvements serving property within CFD No. 2012-1, IA No. 2, fund reserve fund, fund capitalized interest and pay cost of issuance of the 2017 Bonds. The table below summarizes the application of the Bond proceeds:

2017 BOND PROCEEDS

FUND/ACCOUNT/SUBACCOUNT	BOND PROCEEDS
Acquisition and Construction Fund	\$3,621,338.75
Reserve Fund	327,293.58
Costs of Issuance Fund	134,500.00
Interest Account	7,946.62
Original Issue Discount	50,846.05
Underwriter’s Discount	63,075.00
TOTAL	\$4,205,000.00

III. SPECIAL TAX COLLECTIONS AND EXPENDITURES

The tables below provide a summary of the Special Taxes deposited, interest accrued, transfers and other transactions within the funds established for collection and disbursement of the Facilities and Services portions of the Special Tax.

FACILITIES SPECIAL TAX A IMPROVEMENT AREA NO. 1

DESCRIPTION	AMOUNT
BEGINNING BALANCE AS OF JULY 1, 2022	\$205,510.57
<i>Sources of Funds</i>	
Special Tax Receipts	\$172,396.93
Interest Accrued	3,399.93
Miscellaneous Transfers (in) ¹	20.43
<i>Subtotal: Sources</i>	<i>\$175,817.29</i>
<i>Uses of Funds</i>	
Administrative Expenses	(\$15,515.87)
Debt Service	(152,225.00)
Miscellaneous Transfers (out)	(0.00)
<i>Subtotal: Uses</i>	<i>(\$167,740.87)</i>
ENDING BALANCE AS OF JUNE 30, 2023	\$213,586.99

1. Transfer from Interest Account on February 21, 2023.

FACILITIES SPECIAL TAX A IMPROVEMENT AREA NO. 2

DESCRIPTION	AMOUNT
BEGINNING BALANCE AS OF JULY 1, 2022	\$129,522.77
<i>Sources of Funds</i>	
Special Tax Receipts	\$234,320.29
Interest Accrued	1,285.94
Miscellaneous Transfers (in) ¹	541.86
<i>Subtotal: Sources</i>	<i>\$236,148.09</i>
<i>Uses of Funds</i>	
Administrative Expenses	(\$13,660.62)
Debt Service	(210,175.03)
Miscellaneous Transfers (out)	(0.00)
<i>Subtotal: Uses</i>	<i>(\$223,835.65)</i>
ENDING BALANCE AS OF JUNE 30, 2023	\$141,835.21

1. Transfer from Interest Account on February 21, 2023.

**SERVICES SPECIAL TAX B (MAINTENANCE)
IMPROVEMENT AREA NO. 1 AND NO. 2**

DESCRIPTION	AMOUNT
BEGINNING BALANCE AS OF JULY 1, 2022	\$937,044.94
<u>Sources of Funds</u>	
Special Tax Receipts	\$207,209.54
Interest Accrued	20,977.38
<i>Subtotal: Sources</i>	<i>\$228,186.92</i>
<u>Uses of Funds</u>	
Administrative Expenses	(\$14,600.82)
Street Light Maintenance	(8,697.36)
Water and Sewer Maintenance	(18,676.57)
Services	(129,634.70)
<i>Subtotal: Uses</i>	<i>(\$171,609.45)</i>
ENDING BALANCE AS OF JUNE 30, 2023	\$993,622.41

IV. EXPENDITURES TO FUND AUTHORIZED FACILITIES

An account entitled “Construction Fund” was established in connection with the issuance of the 2015 Bonds, into which a portion of the proceeds from the 2015 Bonds were deposited and disbursed for the costs of the authorized facilities. The amount deposited in the Project Costs Account and interest accrued, transfers and expenditures made to fund the authorized facilities from the 2015 Bond are summarized below.

IA 1 CONSTRUCTION FUND

DESCRIPTION	AMOUNT
<i>Sources of Funds</i>	
Initial Bond Proceeds Deposited	\$2,352,653.65
Interest Accrued	2,778.71
Miscellaneous Transfers (in) ¹	168,753.45
<i>Subtotal: Sources</i>	<i>\$2,524,185.81</i>
<i>Uses of Funds</i>	
Facilities	(\$2,472,858.98)
Miscellaneous Transfers (out) ²	(4,813.27)
<i>Subtotal: Uses</i>	<i>(\$2,477,672.25)</i>
ENDING BALANCE AS OF JUNE 30, 2023	\$46,513.56

¹ Includes transfer from remaining unused funds held in the Cost of Issuance Account and excess funds transferred from the Reserve Fund.

² Includes transfer to satisfy the Reserve Requirement.

An account entitled “Project Costs Account” was established in connection with the issuance of the CFD No. 2012-1, IA No. 2 2017 Bonds, into which a portion of the proceeds from the 2017 Bonds were deposited and disbursed for the costs of the authorized facilities. The amount deposited in the Project Costs Account was fully expended for authorized facilities and the account was subsequently closed during FY 2019/2020.



City of Calimesa
Community Facilities District No. 2013-1
(JP Ranch)

Special Tax & Bond Accountability Report
Fiscal Year 2022/2023

KOPPEL & GRUBER
PUBLIC FINANCE

334 Via Vera Cruz, Suite 256

San Marcos, California 92078

760-510-0290

info@kgpf.net

Prepared for:

City of Calimesa
908 Park Avenue
Calimesa, CA 92320
T 909-795-9801
Page 60 of 195

City of Calimesa

William Kolbow, City Manager
Celeste Reid, Finance Director
908 Park Avenue
Calimesa, CA 92320
T. 909.795.9801
F. 909.795.4399

Special Tax Administrator

Koppel & Gruber Public Finance
Lyn Gruber / Nick Farrel
334 Via Vera Cruz, Suite 256
San Marcos, CA 92078
T. 760.510.0290
F. 760.510.0288

TABLE OF CONTENTS

BACKGROUND.....1
SECTION I. SUMMARY..... 2
SECTION II. BOND PROCEEDS..... 3
SECTION III. SPECIAL TAX COLLECTIONS & EXPENDITURES 4
SECTION IV. EXPENDITURES TO FUND AUTHORIZED FACILITIES..... 7

BACKGROUND

The Local Agency Special Tax and Bond Accountability Act (“Accountability Act”) was enacted by California State Legislature through Senate Bill 165 to provide accountability measures for any local special tax and/or bond measure subject to voter approval on or after January 1, 2001. According to the requirements of the Accountability Act (*Sections 50075.1 and 53410 of the Government Code of the State of California*), an annual report must be filed by the local agency levying a special tax and/or issuing a bond measure by January 1, commencing January 1, 2002 and each year thereafter and shall contain a description of the following:

- (1) The amount of funds collected and expended.
- (2) The status of any project required or authorized to be funded by the special tax measure.

This report (“Accountability Report”) is being prepared for the Community Facilities District No. 2013-1 (JP Ranch) (“CFD No. 2013-1”) of the City of Calimesa (“City”) for fiscal year ended June 30, 2023 pursuant to and in accordance with the requirements outlined in the Accountability Act.

I. SUMMARY

On August 5, 2013, the City Council (“Council”) of the City established CFD No. 2013-1 and three Improvement Areas (“IA”), pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”). CFD No. 2013-1 is authorized to levy two special taxes; one to pay for facilities or debt service on bonds issued to acquire the facilities, and; one to pay landscaping maintenance services (“Services”).

Bonds were issued on August 13, 2015 in the amount of \$1,565,000 (the “2015 Bonds”). The annual debt service on the 2015 Bonds is being repaid by the facilities Special Tax A levied on properties within IA No. 1.

Bonds were issued on November 6, 2016 in the amount of \$1,530,000 (the “2016 Bonds”). The annual debt service on the 2016 Bonds is being repaid by the facilities Special Tax A levied on properties within IA No. 2.

Bonds were issued on May 20, 2020 in the amount of \$3,038,475.84 (the “2020 Bonds”). The annual debt service on the 2020 Bonds is being repaid by the facilities Special Tax A levied on properties within IA No. 3.

Services that may be funded by CFD No. 2013-1 include but are not limited to the irrigated open space areas; non-irrigated open space or fuel modification areas; streetscape landscaping; slope landscaping; landscape improvements associated with the drainage easement areas and/or detention basins (both irrigated and non-irrigated); and public street lighting within and associated with the development of properties within Highpointe (Tracts 26925, 30386, 30386-1 and 30386-2).

II. BOND PROCEEDS

The 2015 Bonds were issued in the aggregate principal amount of \$1,565,000. Proceeds of the 2015 Bonds were used to finance certain capital facilities fees of the City relating to public facility improvements serving property within CFD 2013-1, IA No. 1, fund the reserve fund and pay cost of issuance for the 2015 Bonds. The table below summarizes the application of the 2015 Bond proceeds:

2015 BOND PROCEEDS

FUND/ACCOUNT/SUBACCOUNT	BOND PROCEEDS
Acquisition and Construction Fund	\$1,244,960.38
Reserve Fund	125,733.51
Costs of Issuance Fund	125,000.00
Original Issue Discount	40,147.70
Underwriter's Discount	29,158.41
TOTAL	\$1,565,000.00

The 2016 Bonds were issued in the aggregate principal amount of \$1,530,000. Proceeds of the Bonds were used to finance certain capital facilities fees of the City relating to public facility improvements serving property within CFD No. 2013-1, IA 2, fund the reserve fund and pay cost of issuance for the 2016 Bonds. The table below summarizes the application of the 2016 Bond proceeds:

2016 BOND PROCEEDS

FUND/ACCOUNT/SUBACCOUNT	BOND PROCEEDS
Acquisition and Construction Fund	\$1,140,307.06
Reserve Fund	109,016.44
Costs of Issuance Fund	201,800.00
Original Issue Discount	48,276.50
Underwriter's Discount	30,600.00
TOTAL	\$1,530,000.00

The 2020 Private Placement Bonds were issued in the aggregate principal amount of \$3,038,475.84. Proceeds of the Bonds were used to finance certain capital facilities fees of the City relating to public facility improvements serving property within CFD No. 2013-1, IA 3, pay Capitalized Interest on the 2020 Private Placement, fund the reserve fund and pay cost of issuance for the 2020 Private Placement The table below summarizes the application of the 2020 Private Placement Bond proceeds:

2020 PRIVATE PLACEMENT BOND PROCEEDS

FUND/ACCOUNT/SUBACCOUNT	BOND PROCEEDS
Acquisition and Construction Fund	\$2,684,623.86
Reserve Account	112,938.92
Capitalized Interest Fund	89,413.06
Costs of Issuance Account	151,500.00
TOTAL	\$3,038,475.84

III. SPECIAL TAX COLLECTIONS & EXPENDITURES

The tables below provide a summary of the Special Taxes deposited, interest accrued, transfers and other transactions within the funds established for collection and disbursement of the Facilities and Services Special Taxes.

FACILITIES SPECIAL TAX A IMPROVEMENT AREA 1

DESCRIPTION	AMOUNT
BEGINNING BALANCE AS OF JULY 1, 2022	\$102,261.83
<i>Sources of Funds</i>	
Special Tax Receipts	\$100,267.79
Interest Accrued	1,605.94
Miscellaneous Transfers (in) ¹	11.21
<i>Subtotal: Sources</i>	<i>\$101,884.94</i>
<i>Uses of Funds</i>	
Administrative Expenses	(\$10,044.76)
Debt Service	(84,372.50)
Miscellaneous Transfers (out)	(0.00)
<i>Subtotal: Uses</i>	<i>(\$94,417.26)</i>
ENDING BALANCE AS OF JUNE 30, 2023	\$109,729.51

1. Transfer from Interest Account on February 21, 2023.

FACILITIES SPECIAL TAX A IMPROVEMENT AREA 2

DESCRIPTION	AMOUNT
BEGINNING BALANCE AS OF JULY 1, 2022	\$104,347.74
<i>Sources of Funds</i>	
Special Tax Receipts	\$86,323.98
Interest Accrued	1,781.70
Miscellaneous Transfers (in) ¹	0.07
<i>Subtotal: Sources</i>	<i>\$88,105.75</i>
<i>Uses of Funds</i>	
Administrative Expenses	(\$9,480.18)
Debt Service	(70,618.78)
Miscellaneous Transfers (out)	(0.00)
<i>Subtotal: Uses</i>	<i>(\$80,098.96)</i>
ENDING BALANCE AS OF JUNE 30, 2023	\$112,354.53

1. Transfer from Interest Account on February 21, 2023.

**FACILITIES SPECIAL TAX A
IMPROVEMENT AREA 3**

DESCRIPTION	AMOUNT
BEGINNING BALANCE AS OF JULY 1, 2022	\$149,275.50
<u>Sources of Funds</u>	
Special Tax Receipts	\$155,436.42
Interest Accrued	2,799.73
Miscellaneous Transfers (in) ¹	250.82
<i>Subtotal: Sources</i>	<i>\$158,486.97</i>
<u>Uses of Funds</u>	
Administrative Expenses	(\$11,927.16)
Debt Service	(117,379.89)
Miscellaneous Transfers (out)	(0.00)
<i>Subtotal: Uses</i>	<i>(\$129,307.05)</i>
ENDING BALANCE AS OF JUNE 30, 2023	\$178,455.42

1. Transfer from Interest Account on February 21, 2023.

**SERVICES SPECIAL TAX B
IMPROVEMENT AREA NO. 1, NO. 2 AND NO. 3**

DESCRIPTION	AMOUNT
BEGINNING BALANCE AS OF JULY 1, 2022	\$567,971.36
<u>Sources of Funds</u>	
Special Tax Receipts	\$213,427.58
Interest Accrued	11,568.26
Miscellaneous Transfers (in)	0.00
<i>Subtotal: Sources</i>	<i>\$224,995.84</i>
<u>Uses of Funds</u>	
Administrative Expenses	(\$14,606.55)
Street Light Maintenance	(9,465.87)
Water and Sewer Maintenance	(6,948.76)
Services	(215,140.81)
<i>Subtotal: Uses</i>	<i>(\$246,161.99)</i>
ENDING BALANCE AS OF JUNE 30, 2023	\$546,805.21

IV. EXPENDITURES TO FUND AUTHORIZED FACILITIES

An account entitled “Construction Fund” was established in connection with the issuance of the CFD No. 2013-1, IA No. 1 2015 Bonds, into which a portion of the proceeds from the 2015 Bonds were deposited and disbursed for the costs of the authorized facilities. The amount deposited in the Construction Fund from the 2015 Bond issuance has been fully expended for authorized facilities and the account was subsequently closed during FY 2015/2016.

An account entitled “Acquisition and Construction Fund” was established in connection with the issuance of the 2016 Bonds, into which a portion of the proceeds from the 2016 Bonds were deposited and disbursed for the costs of the authorized facilities. The amount deposited in the Construction Fund and interest accrued, transfers and expenditures made to fund the authorized facilities from the 2016 Bond issuance through June 30, 2023 are summarized below.

IA 2 ACQUISITION AND CONSTRUCTION FUND

DESCRIPTION	AMOUNT
<i>Sources of Funds</i>	
Initial Bond Proceeds Deposited	\$1,140,307.06
Interest Accrued	876.43
Miscellaneous Transfers (in) ¹	7,370.63
<i>Subtotal: Sources</i>	<i>\$1,148,554.12</i>
<i>Uses of Funds</i>	
Facilities	(\$1,144,703.41)
Miscellaneous Transfers (out) ²	(2,539.24)
<i>Subtotal: Uses</i>	<i>(\$1,147,242.65)</i>
ENDING BALANCE AS OF JUNE 30, 2023	\$1,311.47

¹ Includes excess earnings transferred from the Reserve Fund.

² Includes excess earnings transferred to the Reserve Fund.

An account entitled “Acquisition and Construction Fund” was established in connection with the issuance of the CFD No. 2013-1, IA No. 3 2020 Private Placement Bonds, into which a portion of the proceeds from the 2020 Bonds were deposited and disbursed for the costs of the authorized facilities. The amount deposited in the Acquisition and Construction Fund and interest accrued, transfers and expenditures made to fund the authorized facilities from the 2020 Private Placement Bond issuance through June 30, 2023 are summarized below. The amount deposited in the Construction Fund from the 2020 Bond issuance has been fully expended for authorized facilities and the account was subsequently closed during FY 2022/2023.

IA 3 ACQUISITION AND CONSTRUCTION FUND

DESCRIPTION	AMOUNT
<u>Sources of Funds</u>	
Initial Bond Proceeds Deposited	\$2,684,623.86
Interest Accrued	812.57
Miscellaneous Transfers (in) ¹	4,376.74
<i>Subtotal: Sources</i>	\$2,689,813.17
<u>Uses of Funds</u>	
Facilities	(\$2,686,243.66)
Miscellaneous Transfers (out) ²	(3,569.51)
<i>Subtotal: Uses</i>	(\$2,689,813.17)
ENDING BALANCE AS OF JUNE 30, 2023	\$0.00

¹ Includes excess earnings transferred from the Reserve Fund and \$1,000.00 transferred from the Cost of Issuance fund to close the account.

² Includes excess earnings transferred to the Reserve Fund and a transfer of \$319.12 to the Interest Account to close this account.



City of Calimesa
Community Facilities District No. 2018-1
(Summerwind Trails)

Special Tax & Bond Accountability Report
Fiscal Year 2022/2023

KOPPEL & GRUBER
PUBLIC FINANCE

334 Via Vera Cruz, Suite 256
San Marcos, California 92078
760-510-0290
info@kgpf.net

Prepared for:

City of Calimesa
908 Park Avenue
Calimesa, CA 92320
T 909.795.4801
Page 71 of 195

City of Calimesa

William Kolbow, City Manager
Celeste Reid, Finance Director
908 Park Avenue
Calimesa, CA 92320
T. 909.795.9801
F. 909.795.4399

Special Tax Administrator

Koppel & Gruber Public Finance
Lyn Gruber / Nick Farrel
334 Via Vera Cruz, Suite 256
San Marcos, CA 92078
T. 760.510.0290
F. 760.510.0288

TABLE OF CONTENTS

BACKGROUND.....	1
SECTION I. SUMMARY.....	2
SECTION II. BOND PROCEEDS.....	3
SECTION III. SPECIAL TAX COLLECTIONS & EXPENDITURES	4
SECTION IV. EXPENDITURES TO FUND AUTHORIZED FACILITIES.....	5

BACKGROUND

The Local Agency Special Tax and Bond Accountability Act (“Accountability Act”) was enacted by California State Legislature through Senate Bill 165 to provide accountability measures for any local special tax and/or bond measure subject to voter approval on or after January 1, 2001. According to the requirements of the Accountability Act (*Sections 50075.1 and 53410 of the Government Code of the State of California*), an annual report must be filed by the local agency levying a special tax and/or issuing a bond measure by January 1, commencing January 1, 2002 and each year thereafter and shall contain a description of the following:

- (1) The amount of funds collected and expended.
- (2) The status of any project required or authorized to be funded by the special tax measure.

This report (“Accountability Report”) is being prepared for the Community Facilities District No. 2018-1 (Summerwind Trails) (“CFD No. 2018-1”) of the City of Calimesa (“City”) for fiscal year ended June 30, 2023 pursuant to and in accordance with the requirements outlined in the Accountability Act.

I. SUMMARY

On July 16, 2018, the City Council (“Council”) of the City established the CFD which includes one Improvement Area (“IA”) and a designated Future Annexation Area, pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”). CFD No. 2018-1 is authorized to levy two special taxes; one to pay for facilities or debt service on bonds issued to acquire the facilities, and; one to pay maintenance services (“Services”).

Bonds were issued on September 2, 2020 in the amount of \$14,325,000 (the “2020 Bonds”). The annual debt service on the 2020 Bonds is being repaid by Special Tax A levied on properties within IA No. 1. Services that may be funded through the collection of Special Tax B of CFD No. 2018-1, IA No. 1 include, but are not limited to the cost of providing park landscape maintenance, lighting maintenance, streets and sidewalk maintenance, street landscape maintenance, storm drain and detention basin maintenance services within and associated with the development of properties within Summerwind Trails (Tracts 32702-1 through 32702-6).

II. BOND PROCEEDS

The 2020 Bonds were issued in the aggregate principal amount of \$14,325,000. Proceeds of the Bonds were used to finance certain capital facilities fees of the City of Calimesa (“City”) and Yucaipa Valley Water District relating to public facility improvements serving property within CFD No. 2018-1, IA No. 1, fund reserve fund, fund capitalized interest and pay cost of issuance of the 2020 Bonds. The table below summarizes the application of the Bond proceeds:

2020 BOND PROCEEDS

FUND/ACCOUNT/SUBACCOUNT	BOND PROCEEDS
Acquisition and Construction Fund	\$14,078,084.75
Reserve Fund	1,097,276.95
Costs of Issuance Fund	194,400.00
TOTAL¹	\$15,369,761.70

¹ Total Bond proceeds deposited are net of the Original Issue Premium and Underwriter’s Discount.

III. SPECIAL TAX COLLECTIONS AND EXPENDITURES

The tables below provide a summary of the Special Taxes deposited, interest accrued, transfers and other transactions within the funds established for collection and disbursement of the Facilities and Services portions of the Special Tax.

FACILITIES SPECIAL TAX A IMPROVEMENT AREA NO. 1

DESCRIPTION	AMOUNT
BEGINNING BALANCE AS OF JULY 1, 2022	\$835,615.14
<i>Sources of Funds</i>	
Special Tax Receipts	\$698,441.55
Interest Accrued	\$13,729.63
Miscellaneous Transfers (in) ¹	\$162.59
<i>Subtotal: Sources</i>	<i>\$712,333.76</i>
<i>Uses of Funds</i>	
Administrative Expenses	(\$14,982.13)
Debt Service	(658,200.00)
Miscellaneous Transfers (out) ²	(0.01)
<i>Subtotal: Uses</i>	<i>(\$673,182.13)</i>
ENDING BALANCE AS OF JUNE 30, 2023	\$874,766.77

1. Transfer from Interest Account on February 22, 2023.
2. \$0.01 was transferred to the Interest account to correct a rounding difference.

SERVICES SPECIAL TAX B MAINTENANCE

DESCRIPTION	AMOUNT
BEGINNING BALANCE AS OF JULY 1, 2022	\$351,564.38
<i>Sources of Funds</i>	
Special Tax Receipts	\$222,954.58
Interest Accrued	10,056.78
<i>Subtotal: Sources</i>	<i>\$233,011.36</i>
<i>Uses of Funds</i>	
Administrative Expenses	(\$21,372.22)
Service Costs	(0.00)
Miscellaneous Transfers (out)	(0.00)
<i>Subtotal: Uses</i>	<i>(\$21,372.22)</i>
ENDING BALANCE AS OF JUNE 30, 2023	\$563,203.52

IV. EXPENDITURES TO FUND AUTHORIZED FACILITIES

An account entitled “Acquisition and Construction Fund” was established in connection with the issuance of the 2020 Bonds, into which a portion of the proceeds from the 2020 Bonds were deposited and disbursed for the costs of the authorized facilities. The amount deposited into the Acquisition and Construction Fund from the 2020 Bond issuance was fully expended for authorized facilities during FY 2020/2021 and the account was subsequently closed.



City Council Meeting Agenda Report

Agenda Item No. 8

SUBJECT: SUMMERWIND TRAILS PLAN PHASE 1 PARK: REDUCTION OF FAITHFUL PERFORMANCE BOND.

MEETING DATE: November 6, 2023

PREPARED BY: Will Kolbow, City Manager
Michael Thornton, City Engineer

RECOMMENDATION: Staff recommends that City Council take the following actions:

- Accept the Park Improvements Completed by the Developer.
- Authorize Staff to reduce the Park Improvement Faithful Performance Bonds to 10% of the total amount to be retained as the Warranty Bonds for a period of 1 year.
- Authorize Staff to release the Payment Bonds.

BACKGROUND: The Summerwind Ranch at Oak Valley Specific Plan (approved in 2005) required the Master Developer (Developer) to construct a 6.32-acre public park located in Planning Area A-5 at the southwest corner of Chestnut Road and Engleman Road. Subsequently, the Developer submitted conceptual park plans to the City's Community Development Department which performed a Substantial Conformance Review (SC 20-01) of the plans that were approved by the Planning Manager on April 14th 2021. This approval included a condition of approval requiring the Developer to provide bond/sureties covering the cost of park improvements prior to start of construction.

On December 20, 2021, City Council approved and executed a Project Improvement Agreement between the City and Developer for the Summerwind Trails Phase 1 Park Improvements. The Bond amounts are summarized below:

- Faithful Performance in the amount of \$2,303,000.00 (Bond No. 1087128)
- Payment (Labor and Materials) in the amount of \$1,151,500.00 (Bond No. 1087128)

The Developer has completed the work and therefore requests the faithful performance bonds be reduced (10% of the total bond amount to be maintained as Warranty for a period of 1 year).

In accordance with Section 2 of the Project Improvement Agreement, the City Engineer hereby notifies the City Council that the Developer has completed the park improvements in compliance with approved improvement plans and all applicable City standards. City Staff recommends that Council authorize the reduction of the faithful performance bond to \$230,300.00 and release the payment bond.

- Faithful Performance in the amount of \$230,300.00 (Bond No. 1087128)



City Council Meeting Agenda Report

Agenda Item No. 9

SUBJECT: CALRECYCLE GRANT RESOLUTION

MEETING DATE: November 6, 2023

PREPARED BY: Mari Shakir, Associate Engineer

RECOMMENDATION: That the City Council:

- a. Adopt Resolution No. 2023-69, a Resolution of the City Council of the City of Calimesa California, authorizing submittal of individual grant applications for all CalRecycle grant programs for which the City of Calimesa is eligible, and
- b. Identify the City Manager as the signature authority authorized to sign all grant-related documents necessary to implement and close out the grants.

BACKGROUND: Grant Resolutions are required to apply for all CalRecycle grant programs. CalRecycle has now notified grant applicants that grant resolutions must identify the time period during which the authorizations are valid, with the minimum duration allowable as the grant term and the maximum duration as five years. The City of Calimesa adopted its prior grant resolution in May of 2017 without a specified time period, so a new resolution must be adopted for the City to continue to apply for CalRecycle grants.

The City applies annually to the Beverage Container Recycling City/County Payment Program and will be applying for the second round of SB 1383 Local Assistance Grant Program.

FISCAL IMPACT: There is no fiscal impact at this time.

ATTACHMENTS:

Attachment A: Resolution No. 2023-69

RESOLUTION 2023-69

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALIMESA CALIFORNIA, AUTHORIZING SUBMITTAL OF INDIVIDUAL GRANT APPLICATIONS FOR ALL CALRECYCLE GRANT PROGRAMS FOR WHICH THE CITY OF CALIMESA IS ELIGIBLE

WHEREAS, Public Resources Code sections 48000 et seq. authorize the Department of Resources Recycling and Recovery (CalRecycle) to administer various grant programs (grants) in furtherance of the State of California's (state) efforts to reduce, recycle and reuse solid waste generated in the state thereby preserving landfill capacity and protecting public health and safety and the environment; and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the application, awarding, and management of the grants; and

WHEREAS, CalRecycle grant application procedures require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of CalRecycle grants.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALIMESA HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:

Section 1: Authorize the submittal of applications to CalRecycle for all grants for which the City of Calimesa is eligible; and

Section 2: That the City Manager, or their designee, is hereby authorized and empowered to execute in the name of the City of Calimesa all grant documents, including but not limited to, applications, agreements, amendments and requests for payment, necessary to secure grant funds and implement the approved grant project; and

Section 3: That these authorizations are effective for five years from the date of adoption.

PASSED, APPROVED, and ADOPTED this 6th day of November 2023.

WILLIAM DAVIS, MAYOR

ATTEST:

DARLENE GERDES, CITY CLERK



City Council Meeting Agenda Report

Agenda Item No. 10

SUBJECT: APPROVE SUPPLEMENTAL AGREEMENT WITH RIVERSIDE COUNTY DEPARTMENT OF HOUSING, HOMELESS PREVENTION AND WORKFORCE SOLUTIONS (HHPWS) FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECT NO. 5.CM.04-23, NORTON YOUNGLOVE SENIOR CENTER ADA IMPROVEMENTS, PHASE III, PROJECT NO 2022-08 (PROJECT.)

MEETING DATE: November 6, 2023

PREPARED BY: Will Kolbow, City Manager
Margaret Monson, Public Works Director

RECOMMENDATION: That the City Council approve an amended agreement with Riverside County Department of Housing, Homeless Prevention and Workforce Solutions (HHPWS) for Community Development Block Grant (CDBG) Project No. 5.CM.01-21 for the amount of \$32,722 for the construction of the Norton Younglove Senior Center ADA Improvements, Phase III, Project No 2022-08 (Project).

BACKGROUND: The City Council approved an application for funding from the federal Community Development Block Grant (CDBG) and a plan for the Norton Younglove Senior Center ADA Improvements, Phase III, Project No 2022-08 (Project) in January of 2021. This plan would provide for the reconstruction to current standards of the ADA accessible walkway from the existing ADA accessible parking space to the front entrance of the City Hall to the Senior Center. HHPWS has awarded CDBG FY 2023-2024 funding in the amount of \$32,372.

DISCUSSION: HHPWS awarded the funding on August 23, 2023 for the Project to the City and the County Board of Supervisors requires a Supplemental Agreement for the Project.

FISCAL IMPACT: No additional appropriation is necessary at this time.

ATTACHMENTS:

Attachment A: HHPWS Supplemental Agreement



October 12, 2023

Will Kolbow, City Manager
City of Calimesa
908 Park Avenue
Calimesa, CA 92320

RE: SUPPLEMENTAL AGREEMENT FOR THE 2023-2024 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM

Dear Mr. Kolbow:

Enclosed, please find two (2) copies of the above-referenced Supplemental Agreement for your city's 2023-2024 CDBG program year. This agreement covers the following activities:

5.CM.04-23 Norton Younglove Senior Center ADA Improvements Project Phase III \$32,722

Upon review of the agreement, please have all copies executed and returned to this office, together with the following documentation:

1. Your City Council's approval of the Agreement and authorization to execute (Adopted Resolution and/or Certified Minute Order);
2. Evidence of Workmen's Compensation Insurance pursuant to *Section 14 A* of the Supplemental Agreement; and
3. Original Certificates of Insurance and certified copies of endorsements pursuant to *Section 14 D (3)* of the Supplemental Agreement.

In order for the County to comply with HUD's CDBG program timeliness requirements, your city's fully-executed agreements and required documentation must be returned to this office no later than sixty (60) days from the date of this letter.

Supplemental Agreement Notice

October 12, 2023

Page 2

In the event that the properly executed agreements and documentation are not received by the deadline date, your city will be in jeopardy of forfeiting your 2023-2024 CDBG funding. The County will then consider reprogramming these funds to other activities within the Urban County program area.

A fully executed Supplemental Agreement will be forwarded to you, as well as the authorization to incur costs. Please be advised that this is not a notice to proceed. The County will not reimburse the City of Calimesa for any expenditure prior to the issuance of the *Authorization to Incur Costs*.

Furthermore, the County will not issue the Notice to Proceed until an appropriate representative of the City has completed the CDBG Subrecipient training.

Should you have any questions or to schedule a CDBG Subrecipient Training, please contact your CDBG Program Manager Anna Varona Doromal at (951) 955-1113.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susana Orozco".

Susana Orozco

Principal Program Manager CDBG/ESG Programs

**SUPPLEMENTAL AGREEMENT FOR THE USE OF
2023-2024 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS**

This Supplemental Agreement (“Agreement”) is entered into this _____ day of _____, 2023, by and between the COUNTY OF RIVERSIDE, a political subdivision of the State of California, herein called, "COUNTY," and the **CITY OF CALIMESA**, herein called "CITY." COUNTY and CITY are collectively referred to as “Parties” and individually as “Party.”

The COUNTY and CITY mutually agree as follows:

1. GENERAL. COUNTY and CITY have executed a Cooperation Agreement, dated November 10, 2020 (“Cooperation Agreement”), whereby CITY elected to participate with COUNTY, which has qualified as an "Urban County" for purposes of receiving Community Development Block Grant (CDBG) funds (“CDBG”), and to assist and undertake essential community development and housing assistance activities pursuant to the Housing and Community Development Act of 1974, Title 1, as amended, Public Law 93-383 hereinafter referred to as "Act." Said Cooperation Agreement, dated November 10, 2020, is incorporated herein by reference and made a part of this Agreement as if each and every provision was set forth herein.

2. PURPOSE. CITY has been allocated **\$32,722** in CDBG Entitlement funds for the 2023-2024 CDBG program year. CITY promises and agrees to undertake and assist with the community development activities, within its jurisdiction, by utilizing the sum of **\$32,722** CDBG Entitlement Funds, as specifically identified in Exhibit(s) A, attached hereto, and are incorporated herein by this reference, for the following project(s) (collectively, the “Projects”):

A) 5.CM.04-23 Norton Younglove Senior Center ADA Improvements Project Phase III, \$32,722.

3. TERM OF AGREEMENT. The term of this Agreement for the implementation of the Project(s) shall be for a period of one (1) year from July 1, 2023, to termination on June 30, 2024.

4. COMPLETION SCHEDULE. CITY shall proceed consistent with the completion schedule set forth in Exhibit(s) A, attached hereto and incorporated herein.

5. EXTENSION OF TIME. In the event the Project(s) are not substantially completed by the

1 time set forth in the applicable completion schedule(s) due to a force majeure event (See Section 40
2 below), the COUNTY may consider extending the schedule for the completion of the project(s). Times
3 of performance for other activities may also be extended in writing by COUNTY. If substantial progress
4 toward completion in conformance with the completion schedule, as determined by COUNTY in its
5 discretion, of the project(s) not made during the term of this Supplemental Agreement, COUNTY may
6 suspend or terminate this Supplemental Agreement pursuant to the termination procedures set forth in
7 the section titled "Termination," and the entitlement funds associated with the Project(s) may be
8 reprogrammed by the COUNTY after appropriate notice is provided to the City.

9 6. LETTER TO PROCEED. CITY shall not initiate nor incur expenses for the CDBG-
10 funded Projects or activities covered under the terms of this Supplemental Agreement as set forth in
11 Exhibit(s) A, attached hereto, prior to receiving written authorization from COUNTY to proceed.

12 7. NOTICES. Each notice, request, demand, consent, approval or other communication
13 (hereinafter in this Section referred to collectively as "notices" and referred to singly as a "notice") which
14 the CITY or COUNTY is required or permitted to give to the other party pursuant to this Agreement
15 shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally
16 delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received
17 at the time so delivered); or (b) sent by Federal Express (or other similar national overnight courier)
18 designating early morning delivery (any notice so delivered shall be deemed to have been received on
19 the next Business Day following receipt by the courier); or (c) sent by United States registered or certified
20 mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States
21 Postal Service (any notice so sent shall be deemed to have been received two days after mailing in the
22 United States), addressed to the respective parties as follows:

<u>COUNTY</u>	<u>CITY</u>
Heidi Marshall, Director	Will Kolbow, City Manager
Riverside County HWS	City of Calimesa
P.O. Box 1528	908 Park Avenue
Riverside, CA 92502	Calimesa, CA 92320

8. DISBURSEMENT OF FUNDS.

A. COUNTY's Board of Supervisors shall determine the final disposition and distribution of all funds received by COUNTY under the Act consistent with Sections 2 and 3 of this Supplemental Agreement. COUNTY, through its Department of Housing, and Workforce Solutions, shall make payment of the CDBG funds to CITY as set forth in the attached Exhibit(s) A. It is the CITY's responsibility to monitor all project activities set forth in the attached Exhibit(s) A, and to ensure compliance with applicable federal regulations and the terms of this Supplemental Agreement.

B. CITY shall comply with timely drawdown of CDBG Entitlement funding by expeditiously implementing and completing the COUNTY-approved, CDBG-funded Projects. CITY acknowledges that CITY's drawdown performance directly impacts the COUNTY's overall program drawdown rate. If the CITY's unobligated CDBG fund balance, as of January 31, 2024, exceeds one hundred and seventy-five percent (175%) of the CITY's 2023-2024 CDBG allocation, the COUNTY may, in its sole discretion, take the necessary administrative actions to reduce the CITY's CDBG fund balance. Necessary actions include, but are not limited to, reprogramming the excess CDBG fund balance to other eligible activities as selected by COUNTY. COUNTY may, in its sole and absolute discretion, authorize CITY in writing, prior to January 31, 2024, to exceed the CDBG fund balance requirement.

C. CITY shall comply with timely drawdown of CDBG funds by submitting monthly requests for reimbursement or other COUNTY approved reimbursement schedules. All disbursements of CDBG funds will be on a reimbursement basis and made within thirty (30) days after the COUNTY has received the CITY's reimbursement request including documentation supporting expenditures.

D. All authorized obligations incurred in the performance of the Supplemental Agreement for projects eligible under the following CDBG regulations must be reported in writing to COUNTY no later than June 1, 2024:

- 1 1. Acquisition [24 Code of Federal Regulations (CFR) 570.201 (a)]
- 2 2. Clearance Activities [24 CFR 570.201 (d)]
- 3 3. Interim Assistance [24 CFR 570.201 (f)]
- 4 4. Code Enforcement [24 CFR 570.202 (c)]

5 All public service activities [24 CFR 570.201 (e)] and other eligible activities under this
6 Supplemental Agreement must be implemented, completed, and obligations reported in writing to the
7 COUNTY by the CITY no later than the completion schedules set forth in the attached Exhibits to this
8 Supplemental Agreement. "CFR" as used herein refers to the Code of Federal Regulations.

9 9. RECORDS AND INSPECTIONS.

10 A. CITY shall establish and maintain financial, programmatic, statistical, and other
11 supporting records of its operations and financial activities in accordance with the Uniform
12 Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part
13 200), and 24 CFR Section 570.502 (a), as they relate to the acceptance and use of federal funds under
14 this Agreement. Said records shall be retained for a period of four (4) years from the date that the activity
15 or program funded with the CDBG Grant is closed out by the COUNTY and reported as complete in the
16 Comprehensive Annual Performance and Evaluation Report (CAPER). Exceptions to the four (4) year
17 retention period requirement, pursuant to 2 CFR 200.333 include, but not limited to, the following:

- 18 i. if any litigation, claim, or audit is started prior to the expiration of the four
19 (4) year period;
- 20 ii. when the CITY is notified in writing by the COUNTY, HUD, or other
21 Federal agency to extend the retention period;
- 22 iii. records for real property and equipment acquired with CDBG funds must
23 be retained for four (4) years after final disposition;
- 24 iv. when the records are transferred by the CITY to the COUNTY, HUD, or
25 other Federal agency, the four (4) year period is not applicable.

26 B. CITY shall obtain an external audit in accordance with the Uniform
27 Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR
28 Section 200.500). Audits shall usually be performed annually but not less frequently than every two

1 years. Nonprofit institutions and government agencies that expend less than \$750,000 a year in Federal
2 awards are exempt from Federal audit requirements, but records must be available for review by
3 appropriate officials of the Federal grantor agency or subgranting entity. The audit report shall be
4 submitted to the COUNTY within 180 days after the end of the COUNTY'S fiscal year.

5 C. CITY shall maintain a separate account for the CITY'S CDBG Entitlement funds
6 received as set forth in Exhibit(s) A attached hereto.

7 D. Pursuant to 2 CFR 200.336, CITY shall, during the normal business hours, make
8 available to COUNTY, the U.S. Department of Housing and Urban Development (HUD), or other
9 authorized representative, for the examination and copying, all of its records and other materials with
10 respect to matters covered by this Agreement and provide reasonable access to CITY staff for the purpose
11 of interview and discussion related to the records and documents.

12 E. CITY shall not retain any program income as defined in 24 CFR 570.500. Said
13 program income shall be used only for the activities that are the subject of this Agreement. Further, all
14 provisions of this Agreement shall apply to such activities.

15 F. The CITY shall ensure that at least fifty-one percent (51%) of the persons
16 benefiting from all CDBG-funded activities or projects designated as serving limited clientele [24 CFR
17 570.208(a)(2)(i)] are of low and moderate-income and meet the applicable household income guidelines.
18 The CITY shall provide the required income certification and direct benefit documentation, in writing,
19 to the COUNTY pursuant to the reporting requirement of each activity as set forth in Exhibit(s) A,
20 attached hereto. In the event that CITY engages the services of a sub-contractor to implement CDBG-
21 funded activities, the CITY must collect, in writing, all required income certification and direct benefit
22 documentation from subcontractors prior to submittal to the COUNTY pursuant to the reporting
23 requirement of each activity as set forth in Exhibit(s) A, attached hereto.

24 10. COMPLIANCE WITH LAWS. CITY shall comply with all applicable federal, state, and
25 local laws, regulations, and ordinances and any amendments thereto and the federal regulations and
26 guidelines now or hereafter enacted pursuant to the Act. More particularly, CITY is to comply with those
27 regulations found in the Uniform Administrative Requirements, Cost Principles, and Audit
28 Requirements for Federal Awards (2 CFR Part 200), and 24 CFR Part 570. CITY is to abide by the

1 provisions of the Community Development Block Grant Manual, prepared by COUNTY and cited in the
2 above-mentioned Cooperation Agreement. CITY shall comply, if applicable, with Section 3 of the
3 Housing & Urban Development Act of 1968 (12 U.S.C.A. Section 1701u), as amended, a copy of which
4 is attached hereto as Exhibit “S”, and incorporated herein by this reference. CITY shall adhere to the
5 regulations as set forth in Exhibit “R”, attached hereto and incorporated herein by this reference,
6 pertaining to inherently religious activities. Further, CITY must comply with the requirements of the
7 Build America, Buy America (“BABA”) Act, 41 USC 8301 note, and all applicable rules and notices,
8 as may be amended, if applicable to the CITY’s infrastructure project. Pursuant to HUD’s Notice,
9 “Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America
10 Provisions as Applied to Recipients of HUD Federal Assistance”(88 FR 17001), any funds obligated by
11 HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless expected
12 by a waiver. Finally, CITY shall comply with the Additional Federal Requirements, if applicable,
13 attached hereto as Exhibit “AFR”, and incorporated herein by this reference.

14 11. COOPERATION WITH HOUSING ACTIVITIES. CITY shall cooperate with
15 COUNTY in undertaking essential community development and housing assistance activities,
16 specifically urban renewal and public assistance housing, and shall assist COUNTY in implementing
17 and undertaking the goals and strategies identified in the 2019-2024 Five Year Consolidated Plan,
18 pursuant to 24 CFR Part 91 and other requirements of the Community Development Block Grant
19 Program.

20 12. LEAD AGENCY FOR COMPLIANCE WITH THE CALIFORNIA
21 ENVIRONMENTAL QUALITY ACT (CEQA). Pursuant to Title 14 CCR Section 1501(d), the CITY
22 is designated as the lead agency for the projects that are the subject matter of this Supplemental
23 Agreement.

24 13. HOLD HARMLESS AND INDEMNIFICATION. In contemplation of the provisions of
25 Section 895.2 of the California Government Code imposing certain tort liability jointly upon public
26 entities solely by reason of such entities being parties to an agreement as defined by Section 895 of the
27 Code, the Parties hereto, pursuant to the authorization contained in Section 895.4 and 895.6 of the Code,
28 agree that each Party shall be liable for any damages including, but not limited to, claims, demands,

1 losses, liabilities, costs and expenses including reasonable attorneys' fees, resulting from the negligent
2 or wrongful acts or omissions of their employees or agents in the performance of this Agreement, and
3 each Party shall indemnify, defend and hold harmless the other Parties from such claims, demands,
4 damages, losses or liabilities for their negligence.

5 The hold harmless and indemnification obligations set forth herein shall survive the termination
6 and expiration of this Agreement. In the event there is conflict between this clause and California Civil
7 Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation
8 shall not relieve the CITY from indemnifying the Indemnitees to the fullest extent allowed by law.

9 14. INSURANCE. Without limiting or diminishing the CITY's obligation to indemnify or
10 hold the COUNTY harmless, CITY shall procure and maintain or cause to be maintained, at its sole cost
11 and expense, the following insurance coverage's during the term of this Agreement. As respects to the
12 insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts,
13 Special Districts, and Departments, their respective directors, officers, Board of COUNTY OF
14 RIVERSIDE Supervisors, employees, elected or appointed officials, agents, or representatives as
15 Additional Insureds

16 a. Workers' Compensation:

17 If the CITY has employees as defined by the State of California, the CITY shall maintain
18 statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of
19 California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with
20 limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive
21 subrogation in favor of the County of Riverside.

22 b. Commercial General Liability:

23 Commercial General Liability insurance coverage, including but not limited to, premises
24 liability, contractual liability, products and completed operations liability, personal and advertising
25 injury, and cross liability coverage, covering claims which may arise from or out of CITY'S performance
26 of its obligations hereunder. Policy shall name the County of Riverside as Additional Insured. Policy's
27 limit of liability shall not be less than \$2,000,000 per occurrence combined single limit. If such insurance
28

1 contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2)
2 times the occurrence limit.

3 b.1. If the work will include contact with minors, and the Commercial General Liability
4 policy is not endorsed to include affirmative coverage for sexual abuse or molestation,
5 Vendor/Contractor shall obtain and maintain a policy covering Sexual Abuse and Molestation with a
6 limit no less than \$2,000,000 per occurrence or claim.

7
8 c. Vehicle Liability:

9 If vehicles or mobile equipment are used in the performance of the obligations under this
10 Agreement, then CITY shall maintain liability insurance for all owned, non-owned or hired vehicles so
11 used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance
12 contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2)
13 times the occurrence limit. Policy shall name the County of Riverside as Additional Insured.

14 d. General Insurance Provisions - All lines:

15 (i). Any insurance carrier providing insurance coverage hereunder shall be
16 admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless
17 such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager
18 waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only
19 for one policy term.

20 (ii). The CITY must declare its insurance self-insured retentions. If such self-
21 insured retentions exceed \$500,000 per occurrence such retentions shall have the prior written consent
22 of the County Risk Manager before the commencement of operations under this Agreement. Upon
23 notification of self-insured retention unacceptable to the COUNTY, and at the election of the County's
24 Risk Manager, CITY'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects
25 this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related
26 investigations, claims administration, and defense costs and expenses.

27 (iii). CITY shall cause CITY'S insurance carrier(s) to furnish the County of
28 Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original

1 copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in
2 writing by the County Risk Manager, provide original Certified copies of policies including all
3 Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further,
4 said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that
5 thirty (30) days written notice shall be given to the County of Riverside prior to any material
6 modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a
7 material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate
8 forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed
9 original Certificate of Insurance and original copies of endorsements or certified original policies,
10 including all endorsements and attachments thereto evidencing coverage's set forth herein and the
11 insurance required herein is in full force and effect. CITY shall not commence operations until the
12 COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of
13 endorsements and if requested, certified original policies of insurance including all endorsements and
14 any and all other attachments as required in this Section. An individual authorized by the insurance
15 carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of
16 Insurance.

17
18 (iv). It is understood and agreed to by the parties hereto that the CITY'S
19 insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles
20 and/or self-insured retention's or self-insured programs shall not be construed as contributory.

21 (v). If, during the term of this Agreement or any extension thereof, there is a
22 material change in the scope of services; or, there is a material change in the equipment to be used in the
23 performance of the scope of or, the term of this Agreement, including any extensions thereof, exceeds
24 five (5) years, the COUNTY reserves the right to adjust the types of insurance required under this
25 Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if;
26 in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CITY
27 has become inadequate.

28 (vi). CITY shall pass down the insurance obligations contained herein to all

1 tiers of subcontractors working under this Agreement.

2 (vii). The insurance requirements contained in this Agreement may be met with
3 a program(s) of self-insurance acceptable to the COUNTY.

4 (viii). CITY agrees to notify COUNTY of any claim by a third party or any
5 incident or event that may give rise to a claim arising from the performance of this Agreement.

6 15. INDEPENDENT CONTRACTOR. The CITY is, for purposes relating to this
7 Supplemental Agreement, an independent contractor and shall not be deemed an employee of the
8 COUNTY. It is expressly understood and agreed that the CITY (including its employees, agents and
9 subcontractor's) shall in no event be entitled to any benefits to which the COUNTY employees are
10 entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits,
11 and injury leave or other leave benefits. There shall be no employer-employee relationship between the
12 parties; and the CITY shall hold the COUNTY harmless from any and all claims that may be made
13 against the COUNTY based upon any contention by a third party that an employer-employee relationship
14 exists by reason of this Supplemental Agreement. It is further understood and agreed by the parties that
15 the CITY in the performance of this Supplemental Agreement is subject to the control or direction of the
16 COUNTY merely as to the results to be accomplished and not as to the means and methods for
17 accomplishing the results.

18 16. NONDISCRIMINATION. CITY shall abide by 24 CFR Sections 570.601 and 570.602
19 of Title 24 of the Code of Federal Regulations which requires that no person in the United States shall
20 on the grounds of race, color, national origin, sex, sexual orientation, gender identity, or veterans status
21 be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any
22 program or activity funded in whole or in part with Community Development funds.

23 CITY shall abide by and include in any subcontracts to perform work under this Supplemental
24 Agreement, the following clause:

25 "During the performance of this Supplemental Agreement, CITY and its subcontractors shall not
26 unlawfully discriminate against any employee or applicant for employment because of race,
27 religion, color, national origin, ancestry, physical disability, medical condition, marital status,
28 veterans status, sexual orientation, gender identity, age (over 40) or sex. CITY and

1 subcontractors shall insure that the evaluation and treatment of their employees and applicants
2 for employment are free of such discrimination. CITY and subcontractors shall comply with the
3 provisions of the Fair Employment and Housing Act (California Government Code Section
4 12900 et seq.). The applicable regulations of the Fair Employment and Housing Commission
5 are implementing California Government Code Section 12990 et seq., set forth in Chapter 1 of
6 Division 4.1 of Title 2 of the California Administrative Code are incorporated into this
7 Agreement by reference and made a part hereof as if set forth in full. CITY and its subcontractors
8 shall give written notice of their obligations under this clause to labor organizations with which
9 they have a collective bargaining or other agreement."

10 17. PROHIBITION AGAINST CONFLICTS OF INTEREST

11 A. CITY and its assigns, employees, agents, consultants, officers and elected and
12 appointed officials shall become familiar with and shall comply with the Uniform Administrative
13 Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) and the
14 CDBG regulations prohibiting conflicts of interest contained in 24 CFR 570.611.

15 B. The Subrecipient shall maintain a written code or standards of conduct that shall
16 govern the performance of its officers, employees or agents engaged in the award and administration of
17 contracts supported by Federal funds.

18 C. No employee, officer or agent of the Subrecipient shall participate in the
19 selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of
20 interest, real or apparent, would be involved.

21 D. No covered persons who exercise or have exercised any functions or
22 responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a
23 decision-making process or gain inside information with regard to such activities, may obtain a financial
24 interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect
25 to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either
26 for themselves or those with whom they have business or immediate family ties, during their tenure or
27 for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any
28 person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the
Subrecipient, or any designated public agency.

1 E. CITY understands and agrees that no waiver of exception can be granted to the
2 prohibition against conflict of interest except upon written approval of HUD pursuant to 24 CFR
3 570.611(d). Any request by CITY for an exception shall first be reviewed by COUNTY to determine
4 whether such request is appropriate for submission to HUD in the COUNTY'S sole and absolute
5 discretion. In determining whether such request is appropriate for submission to HUD, COUNTY will
6 consider the factors listed in 24 CFR 570.611(d)(2).

7 F. Prior to the distribution of any CDBG funding under this Supplemental
8 Agreement, CITY shall provide COUNTY, in writing, a list of all employees, agents, consultants,
9 officers and elected and appointed officials who are in a position to participate in a decision making
10 process, exercise any functions or responsibilities, or gain inside information with respect to the CDBG
11 activities funded under this Agreement. CITY shall also promptly disclose to COUNTY any potential
12 conflict, including even the appearance of conflict that may arise with respect to the CDBG activities
13 funded under this Supplemental Agreement.

14 G. Any violation of this Section 17 shall be deemed a material breach of this
15 Supplemental Agreement, and the Supplemental Agreement shall be immediately terminated by the
16 COUNTY.

17 18. LOBBYING. CITY certifies to the best of its knowledge and belief, that:

18 a. No federally-appropriated funds have been paid or will be paid, by or on behalf
19 of the CITY, to any person for influencing or attempting to influence an officer or employee of any
20 agency, a member of Congress, an officer or employee of Congress, or an employee of a member of
21 Congress in connection with the awarding of any federal contract, the making of any federal grant, the
22 making of any federal loan, the entering into of any cooperative agreement, and the extension,
23 continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative
24 agreement.

25 b. If any funds other than federally-appropriated funds have been paid or will be paid
26 to any person for influencing or attempting to influence an officer or employee of any agency, a member
27 of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection
28 with this federal contract, grant, loan, or cooperative agreement, the CITY shall complete and submit
Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

1 c. CITY shall require that the language of this certification be included in the award
2 documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants,
3 loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
4 This certification is a material representation of fact upon which reliance was placed when this
5 transaction was made or entered into.

6 19. TERMINATION.

7 A. CITY. CITY may not terminate this Agreement except upon express written
8 consent of COUNTY, pursuant to 2 CFR 200.339 (a)(3).

9 B. COUNTY. Notwithstanding the provisions of Paragraph 19a above, COUNTY
10 may suspend or terminate this Supplemental Agreement upon a ten (10) day written notice to CITY of
11 action being taken and the reason for such action including, but not limited to, the following reasons:

12 (1) In the event CITY fails to perform the covenants herein contained at such
13 times and in such manner as provided in this Supplemental Agreement; and

14 (2) In the event there is a conflict with any federal, state or local law,
15 ordinance, regulation or rule rendering any of the provisions of this Supplemental Agreement invalid or
16 untenable; or

17 (3) In the event the funding from the Department of Housing and Urban
18 Development referred to in Sections 1 and 2 above is terminated or otherwise becomes unavailable.

19 C. This Agreement may be terminated and/or funding suspended, in whole or in part,
20 for cause in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit
21 Requirements for Federal Awards (2 CFR 200.339). Cause shall be based on the failure of the CITY to
22 materially comply with either the terms or conditions of this Agreement. Upon suspension of funding,
23 the CITY agrees not to incur any costs related thereto, or connected with, any area of conflict from which
24 the COUNTY has determined that suspension of funds is necessary. CITY acknowledges that failure to
25 comply with Federal statutes, regulations, or the terms and conditions of this Agreement may be
26 considered by the COUNTY in evaluating future CDBG and non-CDBG funding applications submitted
27 by CITY.

28 D. Upon suspension or termination of this Supplemental Agreement, CITY shall
return any unencumbered funds which it has been provided by COUNTY. In accepting said funds,

1 COUNTY does not waive any claim or cause of action it may have against CITY for breach of this
2 Supplemental Agreement.

3 E. Reversion of Assets

4 1. Upon expiration or termination of this Supplemental Agreement, the
5 CITY shall transfer to the COUNTY any CDBG funds on hand at the time of expiration of the
6 Supplemental Agreement as well as any accounts receivable held by CITY which are attributable to the
7 use of CDBG funds awarded pursuant to this Supplemental Agreement.

8 2. Any real property under the CITY'S control that was acquired or improved
9 in whole or in part with CDBG funds (including CDBG funds provided to the CITY in the form of a
10 loan) in excess of \$25,000 is either:

11 (i) Used to meet one of the National Objectives pursuant to 24 CFR
12 570.208 until five years after expiration of this agreement, or for such longer period of time as determined
13 to be appropriate by the COUNTY; or

14 (ii) Not used in accordance with Clause (i) above, in which event the
15 CITY shall pay the COUNTY an amount equal to the current market value of the property less any
16 portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or
17 improvement to, the property.

18 20. PUBLICITY. Any publicity generated by CITY for the Projects funded pursuant to this
19 Supplemental Agreement will make reference to the contribution of the COUNTY, the Department of
20 Housing, and Workforce Solutions, and the Community Development Block Grant Program in making
21 the project possible.

22 21. PROGRAM MONITORING AND EVALUATION. CITY and its subcontractors shall
23 be monitored and evaluated in terms of its effectiveness and timely compliance with the provisions of
24 this Supplemental Agreement and the effective and efficient achievement of the CDBG National
25 Objectives as set forth in Exhibit(s)A, attached hereto. Quarterly reports shall be due on the last day of
26 the month immediately following the end of the quarter being reported. The quarterly written reports
27 shall include, but shall not be limited to, the following data elements:

- 28 A. Title of program, listing of components, description of activities/operations.
B. The projected goals, indicated numerically, and also the goals achieved (for each

1 report period). In addition, identify by percentage and description, the progress achieved towards
2 meeting the specified goals and identify any problems encountered in meeting goals.

3 C. If the CDBG-funded activity meets a National Objective under 24 CFR 570.208
4 (a)(2)(i), CITY will report the following:

5 1) Total number of direct beneficiaries (clientele served) with household
6 incomes at:

- 7 • Above 80% MHI
- 8 • Between 50% and 80% MHI (Low-Income)
- 9 • Between 30% and 50% MHI (Very Low-Income)
- 10 • Less than 30% MHI (Extremely Low-Income)

11 2) Total number and percent (%) of the clientele served that have household
12 incomes at or below 80% MHI

13 3) Racial ethnicity of clientele

14 4) Number of Female-Headed Households

15 D. CITY shall report, in writing, and cause its subcontractors to report, in writing,
16 beneficiary statistics monthly to Housing and Workforce Solutions (HWS) on the pre-approved *Direct*
17 *Benefit Form* and *Self-Certification Form* (certifying income, family size, and racial ethnicity) as
18 required by HUD. Updated forms are to be provided to CITY by HWS should HUD implement changes
19 during the term of this Supplemental Agreement. CITY and subcontractors will collect and provide all
20 necessary data required by HUD pertaining to the Specific Outcome Indicators as identified in HUD's
21 Community Planning and Development (CPD) Outcome Performance Measurement System.

22 22. PRIOR AUTHORIZATION. CITY shall obtain COUNTY's written approval from
23 HWS prior to implementing the following "high risk" activities funded with CDBG assistance:

- 24 A. Construction of public facilities (project plans and specifications);
- 25 B. Acquisition of real property;
- 26 C. Historic Preservation;
- 27 D. Relocation; and
- 28 F. Economic Development

1 23. PRIOR COUNTY APPROVAL (CONSTRUCTION ACTIVITIES). CITY shall obtain
2 COUNTY's written approval, through its HWS, of the project plans, specifications, and construction
3 documents prior to CITY'S construction of same for all projects consisting of CDBG-funded
4 construction activities . The COUNTY neither undertakes nor assumes nor will have any responsibility
5 or duty to CITY or to any third party to review, inspect, supervise, pass judgment upon or inform CITY
6 or any third party of any matter in connection with the development or construction of the
7 improvements, whether regarding the quality, adequacy or suitability of the plans, any labor, service,
8 equipment or material furnished to the property, any person furnishing the same, or otherwise. CITY
9 and all third parties shall rely upon its or their own judgment regarding such matters, and any review,
10 inspection, supervision, exercise of judgment or information supplied to CITY or to any third party by
11 the COUNTY in connection with such matter is for the public purpose of assisting with a community
12 development and housing activity pursuant to the Act, and neither CITY (except for the purposes set
13 forth in this Agreement) nor any third party is entitled to rely thereon. The COUNTY shall not be
14 responsible for any of the work of construction, improvement, or development of the property.

15 It is the responsibility of CITY, without cost to COUNTY, to ensure that all applicable local
16 jurisdiction land use requirements will permit development of the property and construction of the
17 improvements and the use, operation, and maintenance of such Improvements in accordance with the
18 provisions of this Agreement. Nothing contained herein shall be deemed to entitle Sponsor to any
19 local jurisdiction or County permit or other local jurisdiction or County approval necessary for the
20 development of the Property, or waive any applicable local jurisdiction or County requirements
21 relating thereto. This Agreement does not (a) grant any land use entitlement to CITY, (b) supersede,
22 nullify, or amend any condition which may be imposed by the local jurisdiction in connection with
23 approval of the development described herein, (c) guarantee to CITY or any other party any profits
24 from the development of the Property, or (d) amend any local jurisdiction or County laws, codes or
25 rules.
26

27 24. PRIOR COUNTY APPROVAL (AQUISITION ACTIVITIES). CITY shall obtain
28 COUNTY's written approval and authorization to proceed, through HWS, of all CDBG-funded real

1 property acquisition activities.

2 25. REAL PROPERTY ACQUIRED OR PUBLIC FACILITY CONSTRUCTED WITH
3 CDBG FUNDS. When CDBG funds are used, in whole or in part, by CITY to acquire real property or
4 to construct a public facility, CITY will comply with the Uniform Administrative Requirements, Cost
5 Principles, and Audit Requirements for Federal Awards (2 CFR Section 200.311); National
6 Environmental Policy Act of 1969 (42 U.S.C.A. §4321, et seq.); the California Environmental Quality
7 Act (Cal. Pub. Resources Code §21000, et seq.); the Uniform Relocation Assistance and Real Property
8 Acquisition Policies Act of 1970, as amended (42 U.S.C.A. §4630, et seq.); and the COUNTY's Five
9 Year Consolidated Plan. In addition, the following is to occur:

10 a. Title to the real property shall vest in CITY;

11 b. The real property will be held by CITY, or the constructed facility will be
12 maintained by the CITY, for a minimum period of five (5) years from the date the CDBG-funded
13 activity is closed-out and reported as complete by the COUNTY through the Comprehensive Annual
14 Performance and Evaluation Report (CAPER);

15 c. While held by CITY, the real property or the constructed facility is to be used
16 exclusively for the purposes for which acquisition or construction was originally approved by
17 COUNTY;

18 d. Written approval from COUNTY must be secured if the property or the facility is
19 to be put to an alternate use that is consistent with the COUNTY'S Five Year Consolidated Plan or the
20 applicable federal regulations governing CDBG funds;

21 e. Should CITY desire to use the real property or the constructed facility, prior to
22 the completion of the mandatory five-year period, for a purpose not consistent with applicable federal
23 regulations governing CDBG funds or to sell the real property or facility, then:

24 (1) If CITY desires to retain title, CITY will reimburse COUNTY the amount
25 that represents the percentage of current fair market value that is identical to the percentage that CDBG
26 funds initially comprised of monies paid to acquire the property or construct the facility; or

27 (2) If CITY sells the property or facility or is required to sell the property or
28

1 facility, CITY shall reimburse COUNTY the amount that represents the percentage of proceeds
2 realized by the sale that is identical to the percentage that CDBG funds initially comprised of monies
3 paid to acquire the property or construct the facility. This percentage amount will be calculated after
4 deducting all actual and reasonable cost of sale from the sale proceeds.

5 26. ENTIRE AGREEMENT. This Supplemental Agreement, including any attachments or
6 exhibits hereto constitutes the entire Supplemental Agreement of the parties with respect to its subject
7 matter and supersedes all prior and contemporaneous representations, proposals, discussions and
8 communications, whether oral or in writing. No oral understanding or agreement not incorporated herein
9 shall be binding on any of the parties hereto. Each of the attachments and exhibits attached hereto is
10 incorporated herein by this reference.

11 27. SEVERABILITY. Each section, paragraph and provision of this Supplemental
12 Agreement is severable from each other provision, and if any provision or part thereof is declared invalid,
13 the remaining provisions shall remain in full force and effect.

14 28. EMPLOYMENT OPPORTUNITIES TO BE CAUSED BY PROJECT. CITY agrees to
15 notify in writing, and to cause any subcontractor implementing CDBG-funded Projects to notify, in
16 writing, the Riverside County Workforce Development Center of any and all job openings that are caused
17 by the CDBG-funded Projects under this Supplemental Agreement.

18 29. MINISTERIAL ACTS. The Director of Housing and Workforce Solutions or designee(s)
19 are authorized to take such ministerial actions as may be necessary or appropriate to implement the terms,
20 provisions, and conditions of this Supplemental Agreement as it may be amended from time-to-time by
21 COUNTY.

22 30. PROJECT ELIGIBILITY. As to CITY or its claimants, COUNTY shall bear no liability
23 for any later determination by the United States Government, the U.S. Department of Housing and Urban
24 Development, or any other person or entity that CITY is or is not eligible under 24 CFR Part 570 to
25 receive CDBG entitlement funds from the COUNTY.

26 31. SOURCE OF FUNDING. CITY acknowledges that the source of funding pursuant to this
27 Supplemental Agreement is Community Development Block Grant funds (CFDA 14.218), and the Grant
28 Award Number is B-23-UC-06-0506.

1 32. ASSIGNMENT. The CITY shall not make any assignment or transfer in any form with
2 respect to this Supplemental Agreement, without prior written approval of the COUNTY.

3 33. INTERPRETATION AND GOVERNING LAW. This Supplemental Agreement and any
4 dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State
5 of California. This Supplemental Agreement shall be construed as a whole according to its fair language
6 and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of
7 construction to the effect that ambiguities are to be resolved against the drafting party shall not be
8 employed in interpreting this Supplemental Agreement, all parties having been represented by counsel
9 in the negotiation and preparation hereof.

10 34. WAIVER. Failure by a party to insist upon the strict performance of any of the
11 provisions of this Supplemental Agreement by the other party, or the failure by a party to exercise its
12 rights upon the default of the other party, shall not constitute a waiver of such party's rights to insist and
13 demand strict compliance by the other party with the terms of this Supplemental Agreement thereafter.

14 35. JURISDICTION AND VENUE: Any action at law or in equity arising under this
15 Supplemental Agreement or brought by a party hereto for the purpose of enforcing, construing or
16 determining the validity of any provision of this Supplemental Agreement shall be filed only in the
17 Superior Court of the State of California, located in Riverside, California, and the parties hereto waive
18 all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction

19 36. USE OF PROPERTY. Whenever federal CDBG funds or program income are used, in
20 whole or in part, for the purchase of equipment or personal property, the property shall not be transferred
21 from its originally funded use, by CITY or the CITY'S subcontractor implementing the CDBG-funded
22 activity, for a period of five (5) years from the close-out date of the grant from which CDBG assistance
23 was provided. The CITY shall maintain a current inventory for COUNTY monitoring and review.

24 37. AUTHORITY TO EXECUTE. The persons executing this Supplemental Agreement or
25 exhibits attached hereto on behalf of the parties to this Supplemental Agreement hereby warrant and
26 represent that they have the authority to execute this Supplemental Agreement and warrant and represent
27 that they have the authority to bind the respective parties to this Supplemental Agreement to the
28 performance of its obligations hereunder.

 38. EFFECTIVE DATE. The effective date of this Supplemental Agreement is the date the

1 parties sign the Supplemental Agreement. If the parties sign the Supplemental Agreement on more than
2 one date, then the last date the Supplemental Agreement is signed by a party shall be the effective date.

3 39. COUNTERPARTS. This Supplemental Agreement may be signed by the different
4 parties hereto in counterparts, each of which shall be an original but all of which together shall constitute
5 one and the same agreement.

6 40. FORCE MAJEURE.

7 A. Performance by either party hereunder shall not be deemed to be in default where
8 delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires,
9 casualties, acts of God, acts of the public enemy, epidemics, pandemic, quarantine restrictions, freight
10 embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe
11 weather, inability to secure necessary labor, material or tools, delays of any contractor, sub-contractor
12 or supplier, acts of the other party, acts or failure to act of a public or governmental agency or entity, or
13 any causes beyond the control or without the fault of the party claiming an extension of time to perform.

14 B. An extension of time for any such cause (a "Force Majeure Delay") shall be for
15 the period of the enforced delay and shall commence to run from the time of the commencement of the
16 cause, if notice by the party claiming such extension is sent to the other party within thirty (30) calendar
17 days of knowledge of the commencement of the cause. Notwithstanding the foregoing, none of the
18 foregoing events shall constitute a Force Majeure Delay unless and until the party claiming such delay
19 and interference delivers to the other party written notice describing the event, its cause, when and how
20 such party obtained knowledge, the date the event commenced, and the estimated delay resulting
21 therefrom. Any party claiming a Force Majeure Delay shall deliver such written notice within thirty (30)
22 calendar days after it obtains knowledge of the event.

23 41. MODIFICATION OF AGREEMENT. This Supplemental Agreement may be modified
24 or amended only by a writing signed by the duly authorized and empowered representative of COUNTY
25 and CITY respectively.

26 42. DIGITAL AND ELECTRONIC SIGNATURES. The parties agrees to the use of electronic
27 signatures, such as digital signatures that meet the requirements of the California Uniform Electronic
28 Transactions Act ("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17). The parties further agree that the

1 electronic signatures of the parties included in this Agreement are intended to authenticate this writing
2 and to have the same force and effect as manual signatures. Electronic signature means an electronic
3 sound, symbol, or process attached to or logically associated with an electronic record and executed or
4 adopted by a person with the intent to sign the electronic record pursuant to CUETA as amended from
5 time to time. Digital signature means an electronic identifier, created by computer, intended by the party
6 using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied
7 upon by the parties. For purposes of this section, a digital signature is a type of "electronic signature"
8 as defined in subdivision (i) of Section 1633.2 of the Civil Code.
9

10
11 [Remainder of Page Intentionally Blank]

12 [Signatures on Following Page]
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 IN WITNESS WHEREOF, the COUNTY and the CITY have executed this Agreement as of the
2 dates set forth below.

3
4 COUNTY OF RIVERSIDE,
5 a political subdivision of the
6 State of California

CITY OF CALIMESA,
a General law City

7 BY: _____
8 Michael Walsh,
9 Assistant Director HWS

BY: _____
Name:
Title:

10 Date: _____

Date: _____

11
12 APPROVED AS TO FORM:

ATTEST:

13
14 MINH C. TRAN

15
16 COUNTY COUNSEL

17 By: _____
18 Paula S. Salcido,
19 Deputy County Counsel

BY: _____
City Clerk

20 APPROVED AS TO FORM:

21 BY: _____
22 City Attorney

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT "R"

24 C.F.R. § 5.109

**Equal participation of faith-based organizations in
HUD programs and activities.**

Effective: May 4, 2016

(a) Purpose.

Consistent with [Executive Order 13279](#) (issued on December 12, 2002, [67 FR 77141](#)), entitled “Equal Protection of the Laws for Faith-Based and Community Organizations,” as amended by [Executive Order 13559](#) (issued on November 17, 2010, [75 FR 71319](#)), entitled “Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood Organizations,” and further amended by Executive Order 13831 (issued on May 3, 2018, 83 FR 20715) entitled “Establishment of a White House Faith and Opportunity Initiative,” this section describes requirements for ensuring the equal participation of faith-based organizations in HUD programs and activities. These requirements apply to all HUD programs and activities, including all of HUD’s Native American Programs, except as may be otherwise noted in the respective program regulations in title 24 of the Code of Federal Regulations (CFR), or unless inconsistent with certain HUD program authorizing statutes.

b) Definitions. The following definitions apply to this section:

Direct Federal financial assistance means Federal financial assistance provided when a Federal Government agency or an intermediary, as defined in this section, selects the provider and either purchases services from that provider (i.e., via a contract) or awards funds to that provider to carry out an activity (e.g., via grant, sub-grant, sub-award, or cooperative agreement). The recipients of sub-grants or sub-awards that receive Federal financial assistance through State-administered programs (e.g., flow-through programs) are considered recipients of direct Federal financial assistance. In general, Federal financial assistance shall be treated as direct, unless it meets the definition of indirect Federal financial assistance.

Federal financial assistance means assistance that non-Federal entities receive or administer in the forms of grants, contracts, loans, loan guarantees, property, cooperative agreements, food commodities, direct appropriations, or other assistance, but does not include a tax credit, deduction, or exemption.

Indirect Federal financial assistance means Federal financial assistance provided when the choice of the provider is placed in the hands of the beneficiary, and the cost of that service is paid through a voucher, certificate, or other similar means of Government-funded payment. Federal financial assistance provided to an organization is considered indirect when the Government program through which the beneficiary receives the voucher, certificate, or other similar means of Government-funded payment is neutral toward religion meaning that it is [available](#) to providers without regard to the religious or non-religious nature of the institution and there are no program incentives that deliberately skew for or against religious or secular providers; and the organization receives the assistance as a result of a genuine, independent choice of the beneficiary.

Intermediary means an entity, including a nongovernmental organization, acting under a contract, grant, or other agreement with the Federal Government or with a State, tribal or local government that accepts Federal financial assistance and distributes that assistance to other entities that, in turn, carry out activities under HUD programs.

(c) Equal participation of faith-based organizations in HUD programs and activities.

1 Faith-based organizations are eligible, on the same basis as any other organization, to participate in any HUD
2 program or activity, considering any permissible accommodations, particularly under the Religious Freedom
3 Restoration Act. Neither the Federal Government, nor a State, tribal or local government, nor any other entity that
4 administers any HUD program or activity, shall discriminate against an organization on the basis of the
5 organization's religious character, affiliation, or lack thereof, or on the basis of the organization's religious
6 exercise. For purposes of this part, to discriminate against an organization on the basis of the organization's
7 religious exercise means to disfavor an organization, including by failing to select an organization, disqualifying
8 an organization, or imposing any condition or selection criterion that otherwise disfavors or penalizes an
9 organization in the selection process or has such an effect:

- 6 (1) Because of conduct that would not be considered grounds to disfavor a secular organization;
- 7 (2) Because of conduct that must or could be granted an appropriate accommodation in a manner consistent with
8 RFRA ([42 U.S.C. 2000bb](#) through [2000bb-4](#)) or the Religion Clauses of the [First Amendment](#) to the Constitution;
9 or
- 10 (3) Because of the actual or suspected religious motivation of the organization's religious exercise.
- 11 (4) In addition, decisions about awards of [Federal financial assistance](#) must be free from political interference or
12 even the appearance of such interference and must be made on the basis of merit, not based on the organization's
13 religious character, affiliation, or lack thereof, or based on the organization's religious exercise. Notices of funding
14 availability, grant agreements, and cooperative agreements shall include language substantially similar to that in
15 appendix A to this subpart, where faith-based organizations are eligible for such opportunities.

12 (d) Independence and identity of faith-based organizations.

13 (1) A faith-based organization that applies for, or participates in, a HUD program or activity supported with
14 Federal financial assistance retains its autonomy, right of expression, religious character, authority over its
15 governance, and independence, and may continue to carry out its mission, including the definition, development,
16 practice, and expression of its religious beliefs. A faith-based organization that receives Federal financial
17 assistance from HUD does not lose the protections of law.

17 (2) A faith-based organization that receives direct Federal financial assistance may use space (including a
18 sanctuary, chapel, prayer hall, or other space) in its facilities (including a temple, synagogue, church, mosque, or
19 other place of worship) to carry out activities under a HUD program without concealing, altering, or removing
20 religious art, icons, scriptures, or other religious symbols. In addition, a faith-based organization participating in
21 a HUD program or activity retains its authority over its internal governance, and may retain religious terms in its
22 organization's name, select its board members and employees on the basis of their acceptance of or adherence to
23 the religious tenets of the organization consistent with paragraph (i) of this section), and include religious
24 references in its organization's mission statements and other governing documents.

22 (e) Explicitly religious activities.

23 If an organization engages in explicitly religious activities (including activities that involve overt religious content
24 such as worship, religious instruction, or proselytization), the explicitly religious activities must be offered
25 separately, in time or location, from the programs or activities supported by direct Federal financial assistance and
26 participation must be voluntary for the beneficiaries of the programs or activities that receive direct Federal
27 financial assistance. The use of indirect Federal financial assistance is not subject to this restriction. Nothing in
28 this part restricts HUD's authority under applicable Federal law to fund activities, that can be directly funded by
the Government consistent with the Establishment Clause of the U.S. Constitution.

27 (f) Intermediary responsibilities to ensure equal participation of faith-based organizations in HUD programs.

28 If an intermediary - acting under a contract, grant, or other agreement with the Federal Government or with a
State, tribal or local government that is administering a program supported by Federal financial assistance - is

1 given the authority to select a nongovernmental organization to receive Federal financial assistance under a
2 contract, grant, sub-grant, sub-award, or cooperative agreement, the intermediary must ensure that such
3 organization complies with the requirements of this section. If the intermediary is a nongovernmental
4 organization, it retains all other rights of a nongovernmental organization under the program's statutory and
5 regulatory provisions.

6 (g) Nondiscrimination requirements.

7 Any organization that receives [Federal financial assistance](#) under a [HUD](#) program or activity shall not, in
8 providing services with such assistance or carrying out activities with such assistance, discriminate against a
9 beneficiary or prospective beneficiary on the basis of religion, religious belief, a refusal to hold a religious
10 belief, or a refusal to attend or participate in a religious practice. However, an organization that participates in a
11 program funded by indirect Federal financial assistance need not modify its program or activities to
12 accommodate a beneficiary who chooses to expend the indirect aid on the organization's program and may
13 require attendance at all activities that are fundamental to the program.

14 (h) No additional assurances from faith-based organizations.

15 A faith-based organization is not rendered ineligible by its religious nature to access and participate
16 in [HUD](#) programs. Absent regulatory or statutory authority, no notice of funding availability, grant agreement,
17 cooperative agreement, covenant, memorandum of understanding, policy, or regulation that is used by [HUD](#) or a
18 recipient or [intermediary](#) in administering [Federal financial assistance](#) from [HUD](#) shall require otherwise eligible
19 faith-based organizations to provide assurances or notices where they are not required of similarly situated secular
20 organizations. All organizations that participate in [HUD](#) programs or activities, including organizations with
21 religious character or affiliations, must carry out eligible activities in accordance with all program requirements,
22 subject to any required or appropriate accommodation, particularly under the Religious Freedom Restoration [Act](#),
23 and other applicable requirements governing the conduct of [HUD](#)-funded activities, including those prohibiting
24 the use of direct financial assistance to engage in explicitly religious activities. No notice of funding availability,
25 grant agreement, cooperative agreement, covenant, memorandum of understanding, policy, or regulation that is
26 used by [HUD](#) or a recipient or [intermediary](#) in administering financial assistance from [HUD](#) shall disqualify
27 otherwise eligible faith-based organizations from participating in [HUD](#)'s programs or activities because such
28 organization is motivated or influenced by religious faith to provide such programs and activities, or because of
its religious character or affiliation, or on grounds that discriminate against an organization on the basis of the
organization's religious exercise, as defined in this part.

(i) Exemption from Title VII employment discrimination requirements.

A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of
religion, set forth in section 702(a) of the Civil Rights Act of 1964 ([42 U.S.C. 2000e-1](#)), is not forfeited when the
organization participates in a HUD program. Some HUD programs, however, contain independent statutory
provisions that impose certain nondiscrimination requirements on all grantees. Accordingly, grantees should
consult with the appropriate HUD program office to determine the scope of applicable requirements.

(j) Acquisition, construction, and rehabilitation of structures.

Direct Federal financial assistance may be used for the acquisition, construction, or rehabilitation of structures
only to the extent that those structures are used for conducting eligible activities under a HUD program or activity.
Where a structure is used for both eligible and explicitly religious activities (including activities that involve overt
religious content such as worship, religious instruction, or proselytization), direct Federal financial assistance may
not exceed the cost of the share of acquisition, construction, or rehabilitation attributable to eligible activities in
accordance with the cost accounting requirements applicable to the HUD program or activity. However,

1 acquisition, construction, or rehabilitation of sanctuaries, chapels, or other rooms that a HUD-funded faith-based
2 organization uses as its principal place of worship, may not be paid with direct Federal financial assistance.
3 Disposition of real property by a faith-based organization after its use for an authorized purpose, or any change in
4 use of the property from an authorized purpose, is subject to Government-wide regulations governing real property
5 disposition (2 CFR part 200, subpart D) and the HUD program regulations, as directed by HUD.

6 (k) Commingling of Federal and State, tribal, and local funds.

7 If a State, tribal, or local government voluntarily contributes its own funds to supplement direct Federal financial
8 assistance for an activity, the State, tribal or local government has the option to segregate those funds or
9 commingle them with the direct Federal financial assistance. However, if the funds are commingled, the
10 requirements of this section apply to all of the commingled funds. Further, if a State, tribal, or local government
11 is required to contribute matching funds to supplement direct Federal financial assistance for an activity, the
12 matching funds are considered commingled with the direct Federal financial assistance and, therefore, subject to
13 the requirements of this section. Some HUD programs' requirements govern any activity assisted under those
14 programs. Accordingly, recipients should consult with the appropriate HUD program office to determine the scope
15 of applicable requirements.

16 (l) Tax exempt organizations.

17 In general, HUD does not require that a recipient, including a faith-based organization, obtain tax-exempt status
18 under section 501(c)(3) of the Internal Revenue Code to be eligible for funding under HUD programs. Many grant
19 programs, however, do require an organization to be a nonprofit organization in order to be eligible for funding.
20 Notices of funding availability that require organizations to have nonprofit status will specifically so indicate in
21 the eligibility section of the notice of funding availability. In addition, if any notice of funding availability requires
22 an organization to maintain tax-exempt status, it will expressly state the statutory authority for requiring such
23 status. Applicants should consult with the appropriate HUD program office to determine the scope of any
24 applicable requirements. In HUD programs in which an applicant must show that it is a nonprofit organization but
25 this is not statutorily defined, the applicant may do so by any of the following means:

- 26 (1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which
27 contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code;
- 28 (2) A statement from a State or other governmental taxing body or the State secretary of State certifying that -
 - (i) The organization is a nonprofit organization operating within the State; and
 - (ii) No part of its net earnings may benefit any private shareholder or individual;
- (3) A certified copy of the applicant's certificate of incorporation or similar document that clearly establishes the
nonprofit status of the applicant;
- (4) Any item described in paragraphs (l)(1) through (3) of this section, if that item applies to a State of national
parents organization, together with a statement by the State of parent organization that the applicant is a local
nonprofit affiliate; or
- (5) For an entity that holds a sincerely held religious belief that it cannot apply for a determination as an entity
that is tax-exempt under section 501(c)(3) of the Internal Revenue Code, evidence sufficient to establish that the
entity would otherwise qualify as a nonprofit organization under paragraphs (l)(1) through (4) of this section.

(m) Rule of construction.

Neither HUD nor any recipient or other intermediary receiving funds under any HUD program or activity shall
construe these provisions in such a way as to advantage or disadvantage faith-based organizations affiliated with
historic or well-established religions or sects in comparison with other religions or sects.

Credits

1 [[69 FR 41717](#), July 9, 2004; [80 FR 75934](#), Dec. 7, 2015; [81 FR 19416](#), April 4, 2016; 85 FR 82315, Dec 17, 2020]

2 SOURCE: [61 FR 5202](#), Feb. 9, 1996; [61 FR 9041](#), March 6, 1996; [61 FR 9537](#), March 8, 1996; [61 FR 11113](#),
3 March 18, 1996; [61 FR 13616](#), March 27, 1996; [61 FR 54498](#), Oct. 18, 1996; [70 FR 77743](#), Dec. 30, 2005; [73 FR](#)
4 [72340](#), Nov. 28, 2008; [75 FR 66258](#), Oct. 27, 2010; [77 FR 5674](#), Feb. 3, 2012; [80 FR 42352](#), July 16, 2015; [81](#)
5 [FR 19416](#), April 4, 2016; [81 FR 80798](#), Nov. 16, 2016; [81 FR 90657](#), Dec. 14, 2016, unless otherwise noted.

6 AUTHORITY: [12 U.S.C. 1701x](#); [42 U.S.C. 1437a](#), [1437c](#), [1437d](#), [1437f](#), [1437n](#), [3535\(d\)](#); Sec. 327, [Pub.L. 109–](#)
7 [115](#), [119 Stat. 2936](#); Sec. 607, [Pub.L. 109–162](#), [119 Stat. 3051](#) ([42 U.S.C. 14043e et seq.](#)); [E.O. 13279](#), [67 FR](#)
8 [77141](#), [3 CFR](#), 2002 Comp., p. 258; and [E.O. 13559](#), [75 FR 71319](#), [3 CFR](#), 2010 Comp., p. 273.; [29 U.S.C. 794](#),
9 [42 U.S.C. 1437a](#), [1437c](#), [1437c–1\(d\)](#), [1437d](#), [1437f](#), [1437n](#), [3535\(d\)](#), and Sec. 327, [Pub.L. 109–115](#), [119 Stat.](#)
10 [2936](#); [42 U.S.C. 3600–3620](#); [42 U.S.C. 5304\(b\)](#); [42 U.S.C. 12101 et seq.](#); [42 U.S.C. 12704–12708](#); [E.O. 11063](#),
11 [27 FR 11527](#), [3 CFR](#), 1958–1963 Comp., p. 652; [E.O. 12892](#), [59 FR 2939](#), [3 CFR](#), 1994 Comp., p. 849.

**Economic Opportunities for Low- and Very Low-Income Persons
CONTRACT REQUIREMENTS
24 CFR Part 75**

RIVERSIDE COUNTY

Section 75.1 Purpose

This part establishes the requirements to be followed to ensure the objectives of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

Section 75.3 Applicability

(a) General applicability. Section 3 applies to public housing financial assistance and Section 3 projects, as follows:

(1) Public housing financial assistance. Public housing financial assistance means:

(i) Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);

(ii) Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;

(iii) Development, modernization, and management assistance provided pursuant to section 9(d) of the 1937 Act; and

(iv) The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined in paragraphs (a)(1)(i) through (iii) of this section.

(2) Section 3 projects. (i) Section 3 projects means housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C 4801 et seq.); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.). The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.

1 (ii) The Secretary must update the thresholds provided in paragraph (a)(2)(i) of this section not
2 less than once every 5 years based on a national construction cost inflation factor through Federal
3 Register notice not subject to public comment. When the Secretary finds it is warranted to ensure
4 compliance with Section 3, the Secretary may adjust, regardless of the national construction cost
5 factor, such thresholds through Federal Register notice, subject to public comment.

6 (iii) The requirements in this part apply to an entire Section 3 project, regardless of whether the
7 project is fully or partially assisted under HUD programs that provide housing and community
8 development financial assistance.

9 (b) Contracts for materials. Section 3 requirements do not apply to material supply contracts.

10 (c) Indian and Tribal preferences. Contracts, subcontracts, grants, or subgrants subject to Section
11 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or
12 subject to tribal preference requirements as authorized under 101(k) of the Native American
13 Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences
14 in employment, training, and business opportunities to Indians and Indian organizations, and are
15 therefore not subject to the requirements of this part.

16 (d) Other HUD assistance and other Federal assistance. Recipients that are not subject to Section
17 3 are encouraged to consider ways to support the purpose of Section 3.

18 **Section 75. 5 Definitions.**

19 The terms HUD, Public housing, and Public Housing Agency (PHA) are defined in 24 CFR part
20 5. The following definitions also apply to this part:

21 ***1937 Act*** means the United States Housing Act of 1937, 42 U.S.C. 1437 et seq.

22 ***Contractor*** means any entity entering into a contract with:

23 (1) A recipient to perform work in connection with the expenditure of public housing
24 financial assistance or for work in connection with a Section 3 project; or

25 (2) A subrecipient for work in connection with a Section 3 project.

26 ***Labor hours*** means the number of paid hours worked by persons on a Section 3 project or by
27 persons employed with funds that include public housing financial assistance.

28 ***Low-income person*** means a person as defined in Section 3(b)(2) of the 1937 Act.

Material supply contracts means contracts for the purchase of products and materials, including,
but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office
supplies.

Professional services means non-construction services that require an advanced degree or
professional licensing, including, but not limited to, contracts for legal services, financial

1 consulting, accounting services, environmental assessment, architectural services, and civil
2 engineering services.

3 **Public housing financial assistance** means assistance as defined in §75.3(a)(1).

4 **Public housing project** is defined in 24 CFR 905.108.

5 **Recipient** means any entity that receives directly from HUD public housing financial assistance
6 or housing and community development assistance that funds Section 3 projects, including, but
7 not limited to, any State, local government, instrumentality, PHA, or other public agency, public
or private nonprofit organization.

8 **Section 3** means Section 3 of the Housing and Urban Development Act of 1968, as amended (12
9 U.S.C. 1701u).

10 **Section 3 business concern** means:

11 (1) A business concern meeting at least one of the following criteria, documented within the last
12 six-month period:

13 (i) It is at least 51 percent owned and controlled by low- or very low-income persons;

14 (ii) Over 75 percent of the labor hours performed for the business over the prior three-
15 month period are performed by Section 3 workers; or

16 (iii) It is a business at least 51 percent owned and controlled by current public housing
17 residents or residents who currently live in Section 8-assisted housing.

18 (2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or
conviction of its owner(s) or employees.

19 (3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section
20 3 business concern. Section 3 business concerns are not exempt from meeting the specifications
21 of the contract.

22 **Section 3 project** means a project defined in §75.3(a)(2).

23 **Section 3 worker** means:

24 (1) Any worker who currently fits or when hired within the past five years fit at least one of the
25 following categories, as documented:

26 (i) The worker's income for the previous or annualized calendar year is below the income
27 limit established by HUD.

28 (ii) The worker is employed by a Section 3 business concern.

1 (iii) The worker is a YouthBuild participant.

2 (2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

3 (3) Nothing in this part shall be construed to require the employment of someone who meets this
4 definition of a Section 3 worker. Section 3 workers are not exempt from meeting the
5 qualifications of the position to be filled.

6 **Section 8-assisted housing** refers to housing receiving project-based rental assistance or tenant-
7 based assistance under Section 8 of the 1937 Act.

8 **Service area or the neighborhood of the project** means an area within one mile of the Section 3
9 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle
10 centered on the Section 3 project that is sufficient to encompass a population of 5,000 people
11 according to the most recent U.S. Census.

12 **Small PHA** means a public housing authority that manages or operates fewer than 250 public
13 housing units.

14 **Subcontractor** means any entity that has a contract with a contractor to undertake a portion of
15 the contractor's obligation to perform work in connection with the expenditure of public housing
16 financial assistance or for a Section 3 project.

17 **Subrecipient** has the meaning provided in the applicable program regulations or in 2 CFR 200.93.

18 **Targeted Section 3 worker** has the meanings provided in §§75.11, 75.21, or 75.29, and does not
19 exclude an individual that has a prior arrest or conviction.

20 **Very low-income person** means the definition for this term set forth in section 3(b)(2) of the 1937
21 Act.

22 **YouthBuild programs** refers to YouthBuild programs receiving assistance under the Workforce
23 Innovation and Opportunity Act (29 U.S.C. 3226).

24 **Subpart C—Additional Provisions for Housing and Community Development 25 Financial Assistance**

26 **§75.19 Requirements.**

27 (a) *Employment and training.* (1) To the greatest extent feasible, and consistent with existing
28 Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure that
employment and training opportunities arising in connection with Section 3 projects are provided to
Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is
located.

(2) Where feasible, priority for opportunities and training described in paragraph (a)(1) of this
section should be given to:

1 (i) Section 3 workers residing within the service area or the neighborhood of the project, and

2 (ii) Participants in YouthBuild programs.

3 (b) *Contracting.* (1) To the greatest extent feasible, and consistent with existing Federal, state, and
4 local laws and regulations, recipients covered by this subpart shall ensure contracts for work awarded
5 in connection with Section 3 projects are provided to business concerns that provide economic
6 opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county)
7 in which the project is located.

8 (2) Where feasible, priority for contracting opportunities described in paragraph (b)(1) of this
9 section should be given to:

10 (i) Section 3 business concerns that provide economic opportunities to Section 3 workers residing
11 within the service area or the neighborhood of the project, and

12 (ii) YouthBuild programs.

13 **§75.21 Targeted Section 3 worker for housing and community development financial assistance.**

14 (a) *Targeted Section 3 worker.* A Targeted Section 3 worker for housing and community
15 development financial assistance means a Section 3 worker who is:

16 (1) A worker employed by a Section 3 business concern; or

17 (2) A worker who currently fits or when hired fit at least one of the following categories, as
18 documented within the past five years:

19 (i) Living within the service area or the neighborhood of the project, as defined in §75.5; or

20 (ii) A YouthBuild participant.

21 (b) [Reserved]

22 **§75.23 Section 3 safe harbor.**

23 (a) *General.* Recipients will be considered to have complied with requirements in this part, in the
24 absence of evidence to the contrary if they:

25 (1) Certify that they have followed the prioritization of effort in §75.19; and

26 (2) Meet or exceed the applicable Section 3 benchmark as described in paragraph (b) of this
27 section.

28 (b) *Establishing benchmarks.* (1) HUD will establish Section 3 benchmarks for Section 3 workers
or Targeted Section 3 workers or both through a document published in the FEDERAL REGISTER. HUD
may establish a single nationwide benchmark for Section 3 workers and a single nationwide

1 benchmark for Targeted Section 3 workers, or may establish multiple benchmarks based on geography,
2 the nature of the Section 3 project, or other variables. HUD will update the benchmarks through a
3 document published in the FEDERAL REGISTER, subject to public comment, not less frequently than
4 once every 3 years. Such notice shall include aggregate data on labor hours and the proportion of
recipients meeting benchmarks, as well as other metrics reported pursuant to §75.25 as deemed
appropriate by HUD, for the 3 most recent reporting years.

5 (2) In establishing the Section 3 benchmarks, HUD may consider the industry averages for labor
6 hours worked by specific categories of workers or in different localities or regions; averages for labor
7 hours worked by Section 3 workers and Targeted Section 3 workers as reported by recipients pursuant
8 to this section; and any other factors HUD deems important. In establishing the Section 3 benchmarks,
HUD will exclude professional services from the total number of labor hours as such hours are
excluded from the total number of labor hours to be reported per §75.25(a)(4).

9 (3) Section 3 benchmarks will consist of the following two ratios:

10 (i) The number of labor hours worked by Section 3 workers divided by the total number of labor
11 hours worked by all workers on a Section 3 project in the recipient's program year.

12 (ii) The number of labor hours worked by Targeted Section 3 workers as defined in §75.21(a),
13 divided by the total number of labor hours worked by all workers on a Section 3 project in the
14 recipient's program year.

15 **§75.25 Reporting.**

16 (a) *Reporting of labor hours.* (1) For Section 3 projects, recipients must report in a manner
17 prescribed by HUD:

18 (i) The total number of labor hours worked;

19 (ii) The total number of labor hours worked by Section 3 workers; and

20 (iii) The total number of labor hours worked by Targeted Section 3 workers.

21 (2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years
22 from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to
23 §75.31.

24 (3) The labor hours reported under paragraph (a)(1) of this section must include the total number
25 of labor hours worked on a Section 3 project, including labor hours worked by any subrecipients,
26 contractors and subcontractors that the recipient is required, or elects pursuant to paragraph (a)(4) of
this section, to report.

27 (4) Recipients reporting under this section, as well as subrecipients, contractors and
28 subcontractors who report to recipients, may report labor hours by Section 3 workers, under paragraph
(a)(1)(ii) of this section, and labor hours by Targeted Section 3 workers, under paragraph (a)(1)(iii) of
this section, from professional services without including labor hours from professional services in the

1 total number of labor hours worked under paragraph (a)(1)(i) of this section. If a contract covers both
2 professional services and other work and the recipient or contractor or subcontractor chooses not to
3 report labor hours from professional services, the labor hours under the contract that are not from
4 professional services must still be reported.

5 (5) Recipients may report their own labor hours or that of a subrecipient, contractor, or
6 subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-
7 time employee informed by the employer's existing salary or time and attendance based payroll
8 systems, unless the project or activity is otherwise subject to requirements specifying time and
9 attendance reporting.

10 (b) *Additional reporting if Section 3 benchmarks are not met.* If the recipient's reporting under
11 paragraph (a) of this section indicates that the recipient has not met the Section 3 benchmarks
12 described in §75.23, the recipient must report in a form prescribed by HUD on the qualitative nature of
13 its activities and those its contractors and subcontractors pursued. Such qualitative efforts may, for
14 example, include but are not limited to the following:

15 (1) Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.

16 (2) Provided training or apprenticeship opportunities.

17 (3) Provided technical assistance to help Section 3 workers compete for jobs (*e.g.*, resume
18 assistance, coaching).

19 (4) Provided or connected Section 3 workers with assistance in seeking employment including:
20 drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job
21 placement services.

22 (5) Held one or more job fairs.

23 (6) Provided or referred Section 3 workers to services supporting work readiness and retention
24 (*e.g.*, work readiness activities, interview clothing, test fees, transportation, child care).

25 (7) Provided assistance to apply for/or attend community college, a four-year educational
26 institution, or vocational/technical training.

27 (8) Assisted Section 3 workers to obtain financial literacy training and/or coaching.

28 (9) Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.

(10) Provided technical assistance to help Section 3 business concerns understand and bid on
contracts.

(11) Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.

(12) Provided bonding assistance, guaranties, or other efforts to support viable bids from Section
3 business concerns.

1 (13) Promoted use of business registries designed to create opportunities for disadvantaged and
2 small businesses.

3 (14) Outreach, engagement, or referrals with the state one-stop system as defined in Section
4 121(e)(2) of the Workforce Innovation and Opportunity Act.

5 (c) *Reporting frequency.* Unless otherwise provided, recipients must report annually to HUD
6 under paragraph (a) of this section, and, where required, under paragraph (b) of this section, on all
7 projects completed within the reporting year in a manner consistent with reporting requirements for the
8 applicable HUD program.

9 **§75.27 Contract provisions.**

10 (a) Recipients must include language applying Section 3 requirements in any subrecipient
11 agreement or contract for a Section 3 project.

12 (b) Recipients of Section 3 funding must require subrecipients, contractors, and subcontractors to
13 meet the requirements of §75.19, regardless of whether Section 3 language is included in recipient or
14 subrecipient agreements, program regulatory agreements, or contracts.

15 **Subpart D—Provisions for Multiple Funding Sources, Recordkeeping, and
16 Compliance**

17 **§75.29 Multiple funding sources.**

18 (a) If a housing rehabilitation, housing construction or other public construction project is subject
19 to Section 3 pursuant to §75.3(a)(1) and (2), the recipient must follow subpart B of this part for the
20 public housing financial assistance and may follow either subpart B or C of this part for the housing
21 and community development financial assistance. For such a project, the following applies:

22 (1) For housing and community development financial assistance, a Targeted Section 3 worker is
23 any worker who meets the definition of a Targeted Section 3 worker in either subpart B or C of this
24 part; and

25 (2) The recipients of both sources of funding shall report on the housing rehabilitation, housing
26 construction, or other public construction project as a whole and shall identify the multiple associated
27 recipients. PHAs and other recipients must report the following information:

28 (i) The total number of labor hours worked on the project;

(ii) The total number of labor hours worked by Section 3 workers on the project; and

(iii) The total number of labor hours worked by Targeted Section 3 workers on the project.

(b) If a housing rehabilitation, housing construction, or other public construction project is subject
to Section 3 because the project is assisted with funding from multiple sources of housing and
community development assistance that exceed the thresholds in §75.3(a)(2), the recipient or recipients

1 must follow subpart C of this part, and must report to the applicable HUD program office, as
2 prescribed by HUD.

3 **§75.31 Recordkeeping.**

4 (a) HUD shall have access to all records, reports, and other documents or items of the recipient
5 that are maintained to demonstrate compliance with the requirements of this part, or that are
6 maintained in accordance with the regulations governing the specific HUD program by which the
7 Section 3 project is governed, or the public housing financial assistance is provided or otherwise made
8 available to the recipient, subrecipient, contractor, or subcontractor.

9 (b) Recipients must maintain documentation, or ensure that a subrecipient, contractor, or
10 subcontractor that employs the worker maintains documentation, to ensure that workers meet the
11 definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting
12 period, as follows:

13 (1) For a worker to qualify as a Section 3 worker, one of the following must be maintained:

14 (i) A worker's self-certification that their income is below the income limit from the prior calendar
15 year;

16 (ii) A worker's self-certification of participation in a means-tested program such as public housing
17 or Section 8-assisted housing;

18 (iii) Certification from a PHA, or the owner or property manager of project-based Section 8-
19 assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a
20 participant in one of their programs;

21 (iv) An employer's certification that the worker's income from that employer is below the income
22 limit when based on an employer's calculation of what the worker's wage rate would translate to if
23 annualized on a full-time basis; or

24 (v) An employer's certification that the worker is employed by a Section 3 business concern.

25 (2) For a worker to qualify as a Targeted Section 3 worker, one of the following must be
26 maintained:

27 (i) For a worker to qualify as a Targeted Section 3 worker under subpart B of this part:

28 (A) A worker's self-certification of participation in public housing or Section 8-assisted housing
programs;

(B) Certification from a PHA, or the owner or property manager of project-based Section 8-
assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a
participant in one of their programs;

(C) An employer's certification that the worker is employed by a Section 3 business concern; or

1 (D) A worker's certification that the worker is a YouthBuild participant.

2 (ii) For a worker to qualify as a Targeted Section 3 worker under subpart C of this part:

3 (A) An employer's confirmation that a worker's residence is within one mile of the work site or, if
4 fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site
5 that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;

6 (B) An employer's certification that the worker is employed by a Section 3 business concern; or

7 (C) A worker's self-certification that the worker is a YouthBuild participant.

8 (c) The documentation described in paragraph (b) of this section must be maintained for the time
9 period required for record retentions in accordance with applicable program regulations or, in the
10 absence of applicable program regulations, in accordance with 2 CFR part 200.

11 (d) A PHA or recipient may report on Section 3 workers and Targeted Section 3 workers for five
12 years from when their certification as a Section 3 worker or Targeted Section 3 worker is established.

12 §75.33 Compliance.

13 (a) *Records of compliance.* Each recipient shall maintain adequate records demonstrating
14 compliance with this part, consistent with other recordkeeping requirements in 2 CFR part 200.

15 (b) *Complaints.* Complaints alleging failure of compliance with this part may be reported to the
16 HUD program office responsible for the public housing financial assistance or the Section 3 project, or
17 to the local HUD field office.

18 (c) *Monitoring.* HUD will monitor compliance with the requirements of this part. The applicable HUD
19 program office will determine appropriate methods by which to oversee Section 3 compliance. HUD
20 may impose appropriate remedies and sanctions in accordance with the laws and regulations for the
21 program under which the violation was found
22
23
24
25
26
27
28

**SUPPLEMENTAL AGREEMENT
SCOPE OF WORK
(NON-PUBLIC SERVICE)**

I. GENERAL INFORMATION

CITY NAME: City of Calimesa UEI #: LGKAFGWH22K3

ADDRESS: 908 Park Avenue
Calimesa, CA 92320

PROGRAM CONTACTS: Will Kolbow, City Manager

PHONE: 909-795-9801 FAX: (909) 795-4399

E-MAIL: wkolbow@cityofcalimesa.net

PROJECT NAME: Norton Younglove Senior Center ADA Improvements Project Phase III

PROJECT LOCATION: 908 Park Ave., Calimesa CA 92320

LEVEL OF ENVIRONMENTAL CLEARANCE: Categorical Exclusion §58.35(a)(1)

CDBG ELIGIBILITY CODE: 570.201 (c)

PROJECT FUNDING SUMMARY: **\$32,722**

Project to be administered by County (HWS) on behalf of City: YES NO

II. SCOPE OF SERVICE

A. Activities

City will be responsible for administering a **2023-2024** Community Development Block Grant for the **Norton Younglove Senior Center ADA Improvements Project Phase III** in a manner satisfactory to the County of Riverside and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant program:

Activity #1 *The City of Calimesa will use CDBG funds associated with the construction of ADA improvements to the Norton Younglove Senior Center. All improvements are recommended in the City's ADA Transition Plan Report. CDBG funds will be used to pay for the design, construction, project management, compliance monitoring, inspection, and other related expenses.*

B. National Objective

All activities funded with CDBG funds must comply with one of more of the CDBG program's National Objective Criteria as required under 24 CFR 570.200(a)(2). City certifies that the activity(ies) carried out under this Agreement will meet the following National Objective:

National Objective Criteria: 570.208 (a)(2)(i)(A)

CFR Reference: Low Mod Limited Clientele Presumed

C. Levels of Accomplishment – Goals and Performance Measures

The City agrees to implement and complete the following activity(ies):

Activity #1 *Perform ADA upgrades to the Norton Younglove Senior Center*

Activity #2 *Design, construction, project management, compliance monitoring, inspection, and other related expenses*

CPD OUTCOME PERFORMANCE MEASUREMENT

Objectives (select one): Creating Suitable Living Environments
 Providing Decent Affordable Housing
 Creating Economic Opportunities

Outcome (select one): Availability/Accessibility
 Affordability
 Sustainability (promoting livable or viable communities)

D. City Capacity

By executing this Supplemental Agreement, the City certifies that it has the appropriate number of trained and knowledgeable staff, adequate facilities, proper equipment, required licensing and permitting, and sufficient amount of financial resources necessary to implement and carry out the activities funded with CDBG funds.

City will immediately notify County of any significant changes in organizational management, assigned staff, change in facilities, loss or change in matching funds, or any other event that could potentially impact the City or subrecipient's performance under this Agreement.

Any changes in the above items are subject to the prior approval of the County.

E. Performance Monitoring

The County of Riverside will monitor the performance of the City and its subrecipients against goals and performance standards as stated above. Substandard performance as determined by the County will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the City within a reasonable period of time after being notified by the County, contract suspension or termination procedures will be initiated.

F. Program Budget

It is expressly agreed and understood that the total amount to be paid by the County under this Agreement shall not exceed **\$32,722** Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in this Section and in accordance with performance. Payments may be contingent upon certification of the Subrecipient’s financial management system in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200).

The County may require a more detailed budget breakdown than the one contained herein, and the City shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the County. Any amendments to the budget must be approved in writing by both the County and City.

Line Item	CDBG Granted Funds	Total of Non-CDBG Funds	Total Activity/Project Budget	Notes
Design/Engineering Costs	X	\$50,000	\$82,722	
Project Administration Costs	X			
Construction Costs	X			
Acquisition Costs				
Relocations Costs				
Capital Equipment Costs				
Code Enforcement				
Clearance				
Interim Assistance				
Indirect Costs:				
TOTAL CDBG BUDGET	\$32,722	\$50,000	\$82,722	

G. Total Amount of Non- CDBG Leveraging

TYPE	SOURCE	AMOUNT	SOURCE	AMOUNT	SOURCE	AMOUNT	TOTAL
FEDERAL	CDBG PI	\$40,000					\$40,000
STATE/LOCAL	City funds	\$10,000					\$10,000
PRIVATE							
OTHER							
TOTAL: _\$50,000_							

III. ADMINISTRATIVE REQUIREMENTS

A. Accounting Standards

The City agrees to comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

B. Cost Principles

The City shall administer its program in conformance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200). These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

C. Documentation and Record Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- I Records providing a full description of each activity undertaken;
- ii. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- iii. Records required to determine the eligibility of activities;
- iv. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- v. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- vi. Financial records as required by 24 CFR 570.502, and 2 CFR 200; and
- vii. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Records Retention

The City shall retain all CDBG-related financial records, supporting documents, contracts, and agreements for a period of four (4) years. The retention period begins on the date of the submission of the County's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported for the final time. The City will retain all National Objective documentation, including low-moderate income certification, ethnicity, and other pertinent data for a period of four (4) years after submission of the County's annual performance and evaluation report to HUD. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues.

3. Client Data

The City shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to County monitors or their designees for review upon request.

4. Disclosure

The City understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the County's or City's responsibilities with respect to services provided under this contract, is prohibited by applicable federal and State law unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The City's obligation to the County shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the County), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the City has control over CDBG funds, including program income.

6. Audits & Inspections

All City records with respect to any matters covered by this Agreement shall be made available to the County, HUD, and the Controller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the City within 30 days after receipt by the City. Failure of the City to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The City hereby agrees to have an annual agency audit conducted in accordance with current County policy concerning subrecipient audits the Single Audit Act, and the Office of Management and Budget (OMB) Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards (Uniform Guidance).

IV. PROJECT IMPLEMENTATION AND SCHEDULE

Unless pre-approved by County, City will perform and complete the activities described in Section II in conformance with the schedule of tasks and milestones listed below:

<u>Tasks / Milestone</u>	<u>Start Date</u>	<u>Completion Date</u>
Complete CDBG Training	September 2023	September 2023
Implement Project Activities	Upon Notification from HWS	
Execute Supplemental Agreement & Notice to Incur Cost	September 2023	January 2024

<u>Tasks / Milestone</u>	<u>Start Date</u>	<u>Completion Date</u>
Submit Quarterly Performance Reports to County	October 2023	Through June 2025
County Monitoring of City Program/Performance	To be determined by Program Manager	

Specific Project Activities

1. City executes Supplemental Agreement; receives Authorization to Incur Cost letter
2. City prepares final construction documents (incorporating Special Federal Provisions) for HWS review and approval
3. HWS authorizes City to advertise for bids
4. HWS reviews and approves bidding process
5. City awards construction contract
6. City and HWS conduct “pre-construction meeting”
7. HWS authorizes City to issue “Notice to Proceed”

City Submits Reimbursement Requests

Monthly Submittal

Other Schedule

To be determined by Program Manager

CDBG-funded Project Complete

June 15, 2025

V. SPECIAL CONDITIONS /PERFORMANCE REQUIREMENTS

The City must follow proper procurement and construction policies and procedures of the City and CDBG regulations. Construction shall commence using CDBG funding with a Notice to Proceed. A pre-construction meeting is required. The City must contact the CDBG Program Manager for review before submitting RFP, construction activity, or cost without prior written approval. The County must be contacted 10 (ten) days in advance for attendance of the Pre-Construction meeting. Original signed Certified payrolls are to be submitted on a weekly basis to the HWS-CDBG program manager once construction starts.

Once the Notice to Incur Cost letter is received, City must submit monthly reimbursement requests unless another schedule is approved, in writing, by HWS. Further, at least 75% of all 2023-24 CDBG funds must be drawn down by January 12, 2024, and 100% of all 2023-24 CDBG funds must be drawn down by March 29, 2024.



City Council Meeting Agenda Report

Agenda Item No. 11

SUBJECT: TENTATIVE TRACT MAP 36583 IN THE CITY OF BEAUMONT –
RELEASE OF CV COMMUNITIES, LLC BOND AND ACCEPT
EXETER CHERRY VALLEY, LLC BOND FOR THE I-10/CHERRY
VALLEY INTERCHANGE

MEETING DATE: November 6, 2023

PREPARED BY: Will Kolbow, City Manager
Michael Thornton, City Engineer

RECOMMENDATION: That City Council authorize staff to release the CV Communities Bond (Bond No. 1000757382) in the amount of \$1,000,000.00 and accept Exeter Cherry Valley Bond (Bond No. 800113435) in the same amount for the Cherry Valley Interchange for plans, specifications, estimates and right-of-way acquisition.

BACKGROUND: On November 18, 2014, the City Council for the City of Beaumont approved Tentative Tract Map (TTM) 36583 and Environmental Impact Report (EIR) for CV Communities, LLC (CV Communities) to construct approximately 500 residential units. The Final EIR for TTM 36583 included Mitigation Measure T-1, requiring the Developer to participate in TUMF or construct off site facilities to mitigate the Projects traffic impacts, including impacts to the I-10/Cherry Valley Blvd interchange. Calimesa filed for a CEQA challenge to ensure that Mitigation Measure T-1 was included with the project conditions of approval and funds collected under this mitigation measure will be used for the preparation of the I-10/Cherry Valley Interchange Improvements plans, specifications, and estimates (PS&E) and right-of-way acquisition phases.

On September 12, 2016, a settlement agreement was executed by the City of Calimesa, City of Beaumont, and CV Communities. As part of this settlement, the Developer furnished the City of Calimesa with a Faithful Performance Bond (Bond No. 1000757382) in the amount of \$1,000,000.00 for I-10/Cherry Valley Interchange Improvements plans, specifications, and estimates (PS&E) and right-of-way acquisition phases.

Exeter Cherry Valley, LLC (Exeter) has acquired the property and has requested that the City of Calimesa accept a replacement bond. Staff recommends that Council authorize the release of the CV Communities Faithful Performance Bond (Bond No. 1000757382) in the amount of \$1,000,000.00 and accept the Exeter Faithful Performance Bond (Bond No. 800113435) in the same amount (\$1,000,000.00).

Exeter, an Industrial Warehouse Developer, will be processing an entitlement application with the City of Beaumont. Included with its application, Exeter will prepare a Traffic Impact Analysis (TIA)

that will identify the project fair share cost related to the new interchange. Calimesa Staff will review the project TIA to ensure that project impacts are properly mitigated including fair share contribution toward the I-10/Cherry Valley Boulevard Interchange.

FISCAL IMPACT: None

ATTACHMENTS:

- Attachment 1: Sunny-Cal Final Settlement Agreement
- Attachment 2: CV Communities Faithful Performance Bond (Bond No. 1000757382)
- Attachment 3: Exeter Faithful Performance Bond (Bond No. 800113435)

SETTLEMENT, WAIVER AND RELEASE AGREEMENT
Between the City of Calimesa,
the City of Beaumont, Sunny-Cal 1 Inv, LLC, and CV Communities, LLC.

THIS SETTLEMENT, WAIVER AND RELEASE AGREEMENT (this "Agreement") is made and entered into as of the 2 day of September, 2016 ("Effective Date"), by and between the CITY OF CALIMESA, CALIFORNIA, a general law city ("Calimesa"), the CITY OF BEAUMONT, CALIFORNIA, a general law city ("Beaumont"), SUNNY-CAL 1 INV, LLC, a Delaware limited liability company with its principal place of business at 3121 Michelson Drive, Suite 150, Irvine, CA 92612 ("Developer"), and CV COMMUNITIES, LLC, a Delaware limited liability company ("CV Communities"), with reference to the following facts and circumstances. Calimesa, Beaumont, Sunny-Cal 1 and CV Communities may hereinafter be referred to individually as "Party" and collectively as "Parties."

RECITALS

A. Developer owns that certain real property in the County of Riverside generally located north of the existing city limits of Beaumont between Brookside Avenue and Cherry Valley Boulevard, east of Interstate 10 (hereinafter "the Property"), and sometimes referred to generally as Assessor Parcel Number ("APN") 407190016-6, APN 407190017-7, APN 407230022-4, APN 407230023-5, APN 407230024-6, APN 407230025-7, APN 407230026-8 and APN 407230028-0. The Property is legally described on Exhibit "A", attached hereto and incorporated herein by this reference. Developer is the successor in interest to CV Communities' ownership of the Property.

B. The Property is within the boundaries of the Sunny-Cal Specific Plan, and subject to a related General Plan Amendment, pre-zoning, development agreement and Final Environmental Impact Report ("FEIR"), which were approved by Beaumont in 2007. In early 2014, CV Communities submitted an application to Beaumont for approval of Tentative Tract Map 36583 (13-TM-05) (or "Tentative Map"), and EIR Addendum 14-EIR-01 (or "EIR Addendum"). On or about July 24, 2014, CV Communities also submitted an application to the Riverside Local Agency Formation Commission ("LAFCO") for an amendment to Beaumont's sphere of influence and annexation of the Property into Beaumont (LAFCO 2014-10-5- Reorganization to Include Annexation 05-ANX-01 to the City of Beaumont (Sunny Cal Specific Plan), Concurrent Annexation to the Beaumont Cherry Valley Water District, and Concurrent Detachments from County Service Area 27 and the Riverside County Waste Resources Management District) (collectively "LAFCO Application"). The Sunny-Cal Specific Plan, related General Plan Amendment, pre-zoning, development agreement, FEIR, EIR Addendum, Tentative Map, and LAFCO application are sometimes collectively referred to as the "Project." Developer is the successor in interest to CV Communities for the development of the Project.

C. On November 18, 2014, the City Council of Beaumont approved the Tentative Map and EIR Addendum.

D. Developer's application to LAFCO for a sphere of influence amendment and annexation is presently undergoing review by LAFCO staff.

E. The Western Riverside Council of Governments ("WRCOG") is the Administrator of the Transportation Uniform Mitigation Fee Program of Western Riverside County ("TUMF Program"). As part of the TUMF Program, WRCOG has adopted the "Transportation Uniform Mitigation Fee Nexus Study: 2009 Update" ("2009 Nexus Study"). For projects and developers subject to the TUMF Program, developers are required to pay the TUMF in accordance with the TUMF Program, which covers the developer's fair share of the costs to deliver those TUMF Improvements that help mitigate a project's traffic impacts and burdens on the Regional System of Highways and Arterials (also known as the "TUMF Network") generated by the project and that are necessary to protect the safety, health and welfare of persons that travel to and from the project using the TUMF Network. The TUMF Program also provides for certain credits against the TUMF by offsetting certain costs incurred by developers for the planning and construction of TUMF Improvements in the TUMF Network against the TUMF that would otherwise be due and payable to WRCOG.

F. FEIR Mitigation Measure T-1 requires Developer, prior to issuance of the Project's first occupancy permit, to pay a Beaumont impact fee and participate in TUMF, or construct offsite facilities, to mitigate Project impacts, including impacts to the Cherry Valley Boulevard/Interstate 10 Interchange, as provided in FEIR Mitigation Measure T-1.

G. Calimesa desires that Developer comply with Mitigation Measure T-1 in part by preparing and paying for plans, specifications and estimates ("PS&E") and right-of-way acquisition ("ROW Acquisition") in an amount not less than one million dollars (\$1,000,000.00). The PS&E and ROW Acquisition are for improvements to the Cherry Valley Boulevard/Interstate 10 Interchange ("Interchange"). The improvements to the Interchange will require the future realignment of the intersection of Cherry Valley Boulevard and Calimesa Boulevard, and therefore are part of, necessary to, and within the scope of the Interchange improvements authorized under the WRCOG Program Agreement. Therefore, all of the PS&E and ROW Acquisition described in this Recital G and Agreement are collectively referred to as the "Calimesa Work". The Calimesa Work is within the scope of EIR Mitigation Measure T-1 and qualifies for TUMF Credits under the TUMF Program.

H. There is presently a dispute pending between Calimesa, Beaumont, Developer and CV Communities ("Dispute") with respect to the Project. Calimesa asserts that the Project will have traffic and other impacts in Calimesa that have not been addressed or mitigated and contends that the Project cannot be approved by Beaumont or LAFCO on the grounds that the environmental impacts of the Project have not been adequately evaluated and disclosed as required by the California Environmental Quality Act, Cal. Pub. Res. Code § 21000 et seq. ("CEQA"), and the CEQA Guidelines (14 Cal. Code Reg. § 15000 et seq.). Developer, CV Communities and Beaumont dispute each of those contentions in their entirety and contend, among other things, that the Project and the FEIR are sufficient under CEQA and the CEQA Guidelines and otherwise fully

compliant with California law. Calimesa disputes each of Developer's, CV Communities' and Beaumont's contentions.

I. Subsequent to Beaumont's approval of the Tentative Map and EIR Addendum, CV Communities, Beaumont and Calimesa entered into discussions in an effort to resolve the Dispute between them. On December 17, 2014, CV Communities, Beaumont and Calimesa entered into a tolling agreement (the "Tolling Agreement") with reference to the facts set forth in the Recitals of that Tolling Agreement. Due to ongoing settlement discussions between the Parties, the Tolling Agreement was extended by Amendment No. 1, to and including October 1, 2015, extended by Amendment No. 2, to and including February 1, 2016, extended by Amendment No. 3, to and including March 1, 2016, extended by Amendment No. 4, to and including April 15, 2016, and then extended by Amendment No. 5 to and including June 15, 2016 (the "Tolling Agreement, as Amended"). Developer is the successor-in-interest to CV Communities under the Tolling Agreement, as Amended.

J. Since approval of the Tentative Map and EIR Addendum applications, CV Communities and thereafter Developer have also been engaged in discussions with the WRCOG to enter into agreements, generally as follows:

1. WRCOG and CV Communities have negotiated a Transportation Uniform Mitigation Fee Program Agreement for the Project ("TUMF Program Agreement"), wherein CV Communities shall participate in the TUMF Program and pay TUMF to WRCOG, or earn TUMF credits to offset TUMF, prior to issuance of building permits for the Project ("TUMF Payment Obligation"). Developer is the successor in interest to CV Communities under the TUMF Program Agreement and the TUMF Payment Obligation thereunder.

2. Developer and Calimesa have negotiated an Improvement and Credit Agreement for the Transportation Uniform Mitigation Fee Program ("TUMF Credit Agreement"), wherein Developer shall (i) comply with certain obligations totaling One Million Dollars (\$1,000,000.00) (hereinafter collectively "Developer TUMF Calimesa Obligation"), and with a contingency up to an additional \$100,000.00, to perform the Calimesa Work as described in Recital G AND (ii) with any funds expended above the \$1,000,000.00 sum to be reimbursed to Developer by City, up to a maximum of One Hundred Thousand Dollars (\$100,000.00), as provided in the TUMF Credit Agreement. Under no circumstances shall Developer be obligated to pay more than \$1,100,000.00. For reference purposes, a true and correct copy of the TUMF Credit Agreement is attached hereto as Exhibit "B".

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises and covenants hereinafter set forth, it is hereby agreed by and among the Parties hereto that all claims, contentions, allegations and causes of action which are contained or alleged, or which could have been raised, in connection with the Dispute, are to be compromised and settled without any admission of liability or concession by any Party that the contentions of the other Party are correct, on the following terms:

I. INCORPORATION OF RECITALS. All of the foregoing Recitals A through J, inclusive, are hereby incorporated herein by reference as part of this Agreement; provided that, in the event of any conflict between the terms of the foregoing Recitals and this Agreement, the terms of this Agreement shall control.

II. EFFECTIVE DATE. This Agreement shall be effective upon the occurrence of each and every one of the following events: (a) execution of this Agreement by all Parties hereto, (b) execution by Developer and Calimesa of the TUMF Credit Agreement dated 4/12, 2016 between Calimesa and Developer, attached hereto as Exhibit "B"; and (c) execution by Developer, Calimesa, and Beaumont of Amendment No. 6 to the Tolling Agreement, attached hereto as Exhibit "C" ("Effective Date").

III. SETTLEMENT REQUIREMENTS. The Parties shall comply with each of the following provisions, each of which constitutes a material term of this Agreement. A failure or refusal to comply with any of the following provisions, or any other provision of this Agreement, shall constitute a material breach of this Agreement.

A. Provision of Calimesa Work by Developer. Developer shall provide and pay for the Calimesa Work, as more specifically set forth in Recital G and the TUMF Credit Agreement and Developer's full performance thereunder.

B. Recordation of TUMF Credit Agreement. Within ten (10) days from the Effective Date of this Agreement, Developer shall cause to be recorded the fully executed and notarized TUMF Credit Agreement with the Office of the Riverside County Recorder and shall cause a copy of that recorded TUMF Credit Agreement to be delivered to the Calimesa City Clerk.

C. Compliance with TUMF Program Agreement and TUMF Credit Agreement. Developer shall comply with all provisions of the TUMF Program Agreement. The Parties shall comply with the TUMF Credit Agreement.

D. Traffic Signal Payment. Within ten (10) days after the LAFCO Application is approved by LAFCO, Developer shall pay Calimesa the sum of Thirteen Thousand Dollars (\$13,000.00) as Developer's fair share cost of the traffic signal and related improvements at the intersection of Desert Lawn Drive and Brookside Avenue (the "Signal Payment"). The Signal Payment is not eligible for TUMF credit, and as such, the Signal Payment shall not count against the \$1.1 million (\$1,100,000.00) payments by Developer pursuant to the TUMF Credit Agreement nor shall Calimesa have any obligation to reimburse Developer for such Signal Payment. The Signal Payment shall be paid by delivery of cash, or a cashier's check or money order made payable to the City of Calimesa, to Bonnie Johnson, City Manager, 908 Park Avenue, Calimesa, CA 92320.

E. Performance Bond. In order to secure Developer's obligation to provide and pay for its obligation to provide the Calimesa Work as provided in Section III(A) of this Agreement and the TUMF Credit Agreement, Developer shall post security

in accordance with the requirements of this Section. Within ten (10) days of the Effective Date of this Agreement, Developer shall deliver to the Calimesa City Clerk a faithful performance bond naming Calimesa as the beneficiary in the amount of One Million Dollars (\$1,000,000.00) ("Security"), in the form and meeting the requirements as set forth in the TUMF Credit Agreement. In the event the LAFCO Application is denied or a court of competent jurisdiction issues a final order overturning or invalidating the LAFCO Application, Developer shall have the unconditional right to cancel the performance bond and recover the full amount of the Security, and Calimesa shall provide reasonable assistance to Developer in recovering the full amount of the Security. Calimesa shall have the right to execute upon the performance bond, in any amount up to and including the sum of \$1,000,000.00 (One Million Dollars) as a result of Developer's failure or refusal to fully or partially perform its duties and obligations in accordance with the requirements of this Agreement as implemented by the TUMF Credit Agreement.

IV. AGREEMENTS WITH WRCOG. Within ten (10) days of the Effective Date of this Agreement, copies of the fully executed TUMF Agreement and fully executed and recorded TUMF Credit Agreement shall be delivered by Developer to Calimesa and received by the Calimesa City Clerk.

V. RELEASE BY CALIMESA.

A. Subject to the provisions of Subsection (B) of this Section, and except as otherwise provided in Section XIII ("DEVELOPER'S DEFENSE AND INDEMNITY OF CALIMESA") and Section XI (RESERVED GOVERNMENT AUTHORITY), this Agreement shall serve as a full release and discharge by Calimesa, on behalf of itself, its City Council, officers, employees and agents, in consideration of the mutual covenants and promises contained herein, of, Developer, CV Communities and Beaumont, and each of them, and Beaumont's City Council and each present and former member thereof, and Developer's, CV Communities' and Beaumont's officials, employees, consultants, contractors, attorneys, agents, assigns, Trustors, Trustees, beneficiaries, heirs, owners, officers, directors, employees, agents, contractors, attorneys, and successors in interest, (collectively the "Calimesa Releasees"), from any and all claims or cross-claims and from any and all causes of action, attorneys' fees, injunctive or declaratory relief, or for relief by way of writ of mandate, or for demands, damages, refunds, debts, reimbursements, liabilities, reckonings, accounts, obligations, costs, expenses, liens, actions, causes, and causes of action of whatever kind, known or unknown, at law or in equity, that Calimesa has or could have asserted against Beaumont, Developer and/or CV Communities, or any of them, in connection with or arising out of the Dispute, the Property, and the Project, individually and collectively ("Released Calimesa Claims").

B. Calimesa's release of Developer and CV Communities, as provided in Subsection (A) of this Section, shall not be effective unless and until both of the following have occurred: (i) Developer has recorded the TUMF Credit Agreement as provided in Section III (A) of this Agreement and provided a copy of that recorded TUMF Credit Agreement to the Calimesa City Clerk; and (ii) Developer has filed the

performance bond with the Calimesa City Clerk as provided in Section III (D) of this Agreement (the "Calimesa Release Date").

VI. RELEASE BY DEVELOPER AND CV COMMUNITIES. Concurrent with the date of the Calimesa Release Date, and only upon and after that Date, this Agreement shall serve as a full release and discharge by Developer and CV Communities, and each of them, on behalf of itself/themselves, its/their partners, Trustors, Trustees, beneficiaries, heirs, owners, officers, directors, employees, agents, contractors, attorneys, assigns, beneficiaries, heirs, and successors in interest, in consideration of the mutual covenants and promises contained herein, of Calimesa and Beaumont, and each of its/their City Council and each present and former member thereof, and its/their officials, employees, officers, directors, consultants, contractors, attorneys, agents, assigns, beneficiaries, heirs, and successors in interest (collectively the "Developer's/CV Communities' Releasees"), from all claims or cross-claims and from all causes of action, attorneys' fees, injunctive or declaratory relief, or for relief by way of writ of mandate, or for demands, damages, refunds, debts, reimbursements, liabilities, reckonings, accounts, obligations, costs, expenses, liens, actions, causes, and causes of action of whatever kind, known or unknown, at law or in equity, including, but not limited to inverse condemnation, that Developer and/or CV Communities, or any of Developer's/CV Communities' Releasees has or could have asserted in connection with or arising out of the Dispute, the Property, and the Project, individually and collectively.

VII. RELEASE BY BEAUMONT. Concurrent with the date of the Calimesa Release Date, and only upon and after that Date, this Agreement shall serve as a full release and discharge by Beaumont, on behalf of itself, its City Council, officers, employees and agents, in consideration of the mutual covenants and promises contained herein, of Calimesa, and its City Council and each present and former member thereof, and its officials, employees, officers, directors, consultants, contractors, attorneys, agents, assigns, beneficiaries, heirs, and successors in interest, (collectively the "Beaumont Releasees"), from all claims or cross-claims and from all causes of action, attorneys' fees, injunctive or declaratory relief, or for relief by way of writ of mandate, or for demands, damages, refunds, debts, reimbursements, liabilities, reckonings, accounts, obligations, costs, expenses, liens, actions, causes, and causes of action of whatever kind, known or unknown, at law or in equity, including, but not limited to inverse condemnation, that Beaumont has or could have asserted in connection with or arising out of the Dispute, the Property, and the Project, individually and collectively.

VIII. EXTENSION OF TOLLING OF STATUTE OF LIMITATIONS. The Tolling Agreement, as Amended, between the Parties, as referred to in Recital I of this Agreement is hereby incorporated herein by this reference into this Agreement as if set forth in full and is attached hereto as Exhibit "C." Section 2 of the Tolling Agreement, as Amended, provides that the tolling date set forth in that Section is extended from June 15, 2016 to 11:59 p.m. on the Calimesa Release Date, as defined in Subsection B of Section V of this Agreement.

IX. NO ADMISSION OF LIABILITY. Each of the Parties acknowledges that this Agreement relates to the settlement of disputed claims. Therefore, it is agreed

that this Agreement is not to be construed as an admission of liability by any of the Parties to this Agreement, which liability is specifically denied and each Party acknowledges that the other Party has denied any and all wrongdoing and liability relating to the Dispute.

X. AFTER DISCOVERED FACTS OR LAW. Each Party acknowledges that it is aware that it may hereafter discover claims or facts in addition to or different from those it now knows or believes to be true with respect to the Dispute resolved hereby. Nevertheless, this Agreement shall be, and remain, in effect as a full and complete release as to the Dispute, notwithstanding the discovery or existence of any such additional claims or facts.

XI. RESERVED GOVERNMENTAL AUTHORITY. Except as otherwise expressly provided in this Agreement, and subject to the releases contained in Sections V through VII above, nothing in this Agreement shall exempt or immunize Developer and/or CV Communities from compliance with any applicable city, county, state, or federal ordinance, regulation, statute, or other law, including but expressly not limited to, any applicable city, county, state or federal agency, court decision or other regulatory body which requires Beaumont and/or Calimesa to enforce against the Property and/or the implementation of the Project to protect the health, safety or welfare of the public. Notwithstanding the foregoing, the Parties acknowledge and agree that the provisions of this Section XI shall not apply to any claim that Calimesa may raise, based upon any alleged violation of CEQA, the California Planning and Zoning Law or the Subdivision Map Act, if the Project is modified, unless the modification generates new significant traffic impacts in Calimesa that are not mitigated to a level of insignificance. Similarly, except as otherwise expressly provided in this Agreement, and subject to the releases contained in Sections V through VII above, nothing contained in this Agreement shall preclude Beaumont or Calimesa, and/or either of them, from seeking and obtaining any civil or criminal court order for violation of any such city, county, state, or federal ordinance, regulation, statute, or other law with respect to the Property and/or the implementation of the Project, if such action is required to protect the health, safety or welfare of the public or is required to comply with applicable county, state or federal law, court order or the order of any city, county, state or federal agency or public agency.

XII. WAIVER OF CIVIL CODE § 1542. The Parties hereby expressly waive the provisions of Section 1542 of the California Civil Code, which provides:

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

Notwithstanding the foregoing, nothing in this Agreement, including but not limited to the releases or the waiver of Civil Code § 1542 herein, shall apply to waive or limit Calimesa's ability to enforce any term or condition of this Agreement or the Project, the TUMF Agreement, or the TUMF Credit Agreement, or to seek remedies for breach of

this Agreement or for violation of any of the terms and conditions of the Project, the TUMF Agreement, the TUMF Credit Agreement or any other provision of law.

XIII. DEVELOPER'S DEFENSE AND INDEMNITY OF CALIMESA.

Notwithstanding Section V, Developer agrees to defend, indemnify, and hold harmless Calimesa, at Developer's collective and sole expense, with counsel reasonably acceptable to Calimesa, any claim, lawsuit, or cause of action brought to challenge to any action by Calimesa, and/or its City Council, and/or any appointed official and/or employee, agent, or representative, to the extent arising out of the Calimesa Work prepared or completed by Developer or Developer's contractors, employees or agents, based upon the negligence, gross negligence or willful misconduct of Developer or Developer's contractors, employees or agents, except to the extent caused by Calimesa's sole negligence, gross negligence or willful misconduct. Developer further agrees individually and collectively to reimburse Calimesa for any costs and/or attorneys' fees which Calimesa may incur as a result of any such action, or which may be awarded against Calimesa in connection with any such action. Calimesa may, at its sole discretion, participate in the defense of any such action at Calimesa's cost, but such participation shall not relieve Developer of their obligations under this Section.

XIV. GOOD FAITH COMPLIANCE. Each party hereby pledges to implement and carry out their obligations under this Agreement in good faith, and to take all steps necessary to effectuate the terms and conditions of this Agreement.

XV. MISCELLANEOUS.

A. No Admissions. No admission is made by any Party as a result of the execution or performance of this Agreement. Nothing contained in this Agreement shall be construed as an admission by any Party of any liability to any other Party, nor shall anything in this Agreement be construed as a waiver, retraction, or modification of the positions of any Party except as expressly provided herein. .

B. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, assigns, legal representatives, parent, subsidiary, affiliated and related entities, officers, directors, principals, agents, servants, employees, representatives, and all persons, firms, associations and/or corporations connected with them, including, without limitation, their insurers, sureties and/or attorneys having any interest in the Property.

C. Attorneys' Fees. In the event that any action, suit or other proceeding is instituted to remedy, prevent or obtain relief from a breach of this Agreement, or arising out of a breach of this Agreement, or contesting the validity or enforceability of this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees and costs incurred in such action, suit or other proceeding, including any and all appeals or petitions therefrom.

D. Integrated Agreement. This Agreement is an integrated agreement and, together with the TUMF Credit Agreement and TUMF Agreement,

constitutes the entire agreement of the Parties hereto with respect to the Dispute, the Property, and the Project, both individually and collectively, and supersedes any and all prior agreements, communications, representations, or warranties, whether oral or written, by any Party or any agent, officer, partner, employee, or representative of any Party.

E. Amendments. This Agreement may not be modified, altered, amended, or rescinded except by an instrument in writing, which is signed by all Parties affected by any such modification, alteration, amendment or rescission.

F. Severability. Should any part, term or provision of this Agreement be declared or determined by any court of competent jurisdiction to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.

G. Construction. This Agreement is the product of negotiation, drafting and preparation by and among the Parties and their respective attorneys. The Parties expressly acknowledge and agree that this Agreement shall not be deemed prepared or drafted by one Party or another and its attorneys, and will be construed accordingly. 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.

H. Notices. All notices that are required to be delivered under this Agreement shall be in writing and personally delivered, or sent by overnight delivery, registered or certified mail, postage prepaid, addressed as follows:

**FOR SUNNY-CAL 1 AND
CV COMMUNITIES:**

Michael J. White
CV Communities, LLC
3121 Michelson Drive, Suite 150
Irvine, California 92612
Telephone: (949) 258-7555

With a copy to:

John Condas, Esq.
Allen Matkins Leck Gamble Mallory &
Natsis, LLP
1900 Main Street, 5th Floor
Irvine, California 92614
Telephone: (949) 553-1313

**FOR CITY OF
CALIMESA:**

Bonnie Johnson, City Manager
City of Calimesa
908 Park Avenue
Calimesa, California 92320
Telephone: (909) 795-9801

With a copy to:

Kevin Ennis, City Attorney

Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, California 90071
Telephone: (213) 626-8484

**FOR CITY OF
BEAUMONT:**

Elizabeth Gibbs-Urtiaga, City Manager
City of Beaumont
550 East 6th Street
Beaumont, California 92223
Telephone (951) 769-8515

With a copy to:

John O. Pinkney, Esq.
Slovak Baron Empey Murphy &
Pinkney LLP
1800 E. Tahquitz Canyon Way
Palm Springs, California 92262
Telephone (760) 322-2275

Such addresses may be changed from time to time by the addressee by serving notice as heretofore provided. Service of such notice or demand shall be deemed complete on the date of actual delivery as shown by the addressee's registry or certification receipt or at the expiration of the third day after the date of mailing (whether or not actually received by the addressee), whichever is earlier in time.

I. Governing Law and Venue. This Agreement is made, entered into, and executed in the County of Riverside, California, and the laws of the State of California shall govern its interpretation and enforcement. Any action, suit or proceeding related to, or arising from, this Agreement shall be filed in the appropriate court having jurisdiction in the County of Riverside. Each Party waives the benefit of any provision of state or federal law providing for a change of venue to any other court or jurisdiction including, without limitation, a change of venue based on the fact that a governmental entity is a party to the action or proceeding, or that a federal right or question is involved or alleged to be involved in the action or proceeding. Without limiting the generality of the foregoing waiver, Developer expressly waives any right to have venue transferred pursuant to California Code of Civil Procedure Section 394.

J. Further Assurances. Each Party shall from and after the date hereof execute, acknowledge and deliver such further instruments and perform such additional acts as any other Party may reasonably request to effectuate this Agreement.

K. Time of Essence. The Parties hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that failure to timely perform any of the terms, conditions, obligations or provisions hereof by either Party shall constitute a material breach of this Agreement by the Party so failing to perform.

L. Third Party Beneficiaries. No term or provision of this Agreement or the exhibits hereto is intended to or shall be for the benefit of any person or entity not a party hereto, and no such other person or entity shall have any right or cause of action hereunder.

M. Assistance of Counsel. The Parties each acknowledge that: (i) they have been represented by independent counsel in connection with this Agreement; (ii) they have executed this Agreement with the advice of such counsel; and (iii) this Agreement is the result of negotiations between the Parties and the advice and assistance of their respective counsel.

N. Waiver. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding, unless it is executed in writing by a duly authorized representative of the Party against whom enforcement of the waiver is sought.

O. Admissibility. Except to enforce the TUMF Agreement, the TUMF Credit Agreement, and/or this Agreement, no Party may use this Agreement as evidence in a proceeding concerning the Dispute between the Parties.

P. Rules of Construction; Precedence. The captions and headings of the various sections and subsections of this Agreement are for convenience of reference only, and they shall not constitute a part of this Agreement for any other purpose or affect interpretation of the Agreement. Should any provision of this Agreement be found to be in direct conflict with the Project, including but not limited to, the Project development agreement, conditions of approval or mitigation measures, the provisions of this Agreement shall prevail.

Q. Warranty of Authorized Signatories. Each of the signatories hereby warrants and represents that he or she is competent and authorized to execute this Agreement on behalf of the Party for whom he or she purports to sign.

R. Execution of Counterparts. This Agreement may be executed in counterparts which, when taken together, shall constitute one original agreement. Facsimile or electronic counterparts shall be effective as if the original signed counterpart were delivered.

S. Force Majeure. If delays are caused by unforeseen events beyond the reasonable control of any Party to which an obligation of this Agreement is required to be performed in a particular period of time, such delays will entitle that Party to an extension of time as provided in this Section. Such unforeseen events ("Force Majeure Event") shall mean war, insurrection, acts of God, local, state or national emergencies, third party litigation involving the Property or Project, strikes, excessive permit processing delay caused by other governmental agencies aside from Calimesa, and other labor difficulties beyond the party's control, which Force Majeure Event substantially interferes with the commencement or completion of the Calimesa Work. In the case of a

Force Majeure Event, any and all time periods referred to in this Agreement shall be extended for a period equal to any delay caused by any such Force Majeure Event. Force Majeure Events shall not be: (i) delays of three days or less or (ii) for delays due to Developer's inability to obtain financing with respect to commencement or completion of the Calimesa Work.

IN WITNESS WHEREOF, the undersigned each has executed this Agreement as of the Effective Date.


SUNNY-CAL 1 INV, LLC, a Delaware limited liability company

By: **CV COMMUNITIES, a Delaware limited liability company**

By: 

Name: August Belmont

Title: President

By: 

Name: Michael J. White

Title: Vice-President

APPROVED AS TO FORM:


By: _____
John Condas, Esq.

CV COMMUNITIES, a Delaware limited liability company,

By: 

Name: August Belmont

Title: President

By: 

Name: Michael J. White

Title: Vice-President

APPROVED AS TO FORM:

By: _____
John Condas, Esq.

CITY OF BEAUMONT, a California municipal corporation

By: 

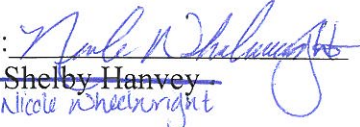
~~Elizabeth Gibbs-Urriaga, City Manager~~

Richard Warner, Interim City Manager

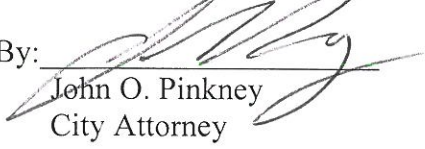
ATTEST:

DEPUTY CITY CLERK
CITY OF BEAUMONT

By: 
Mike Lara, Mayor

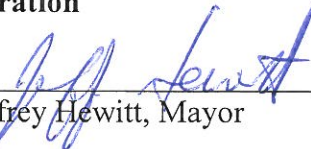
By: 
~~Shelby Hanvey~~
Nicole Sheehy


APPROVED AS TO FORM:

By: 
John O. Pinkney
City Attorney

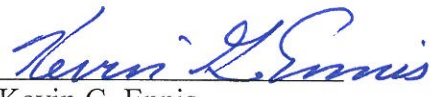
**CITY OF CALIMESA, a California municipal
corporation**

ATTEST:
CITY CLERK
CITY OF CALIMESA

By: 
Jeffrey Hewitt, Mayor

By: 
Darlene Gerdes

APPROVED AS TO FORM:

By: 
Kevin G. Ennis
City Attorney

Attachments: Exhibit "A", "B" and "C"

EXHIBIT "A"
(LEGAL DESCRIPTION OF THE PROPERTY)

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

PARCEL A:

THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE QUARTER SECTION LINE RUNNING EAST AND WEST THROUGH SECTIONS 29 AND 30 OF SAID TOWNSHIP AND RANGE, 23 CHAINS AND 90 LINKS EAST OF THE QUARTER SECTION CORNER OF SAID SECTIONS 29 AND 30;

THENCE EAST ON SAID QUARTER SECTION LINE, 10 CHAINS;

THENCE SOUTH 0° 8' EAST, 10 CHAINS; THENCE WEST 10 CHAINS;

THENCE NORTH 0° 8' WEST 10 CHAINS TO THE POINT OF BEGINNING;

EXCEPTING THEREFROM A RIGHT OF WAY OVER CHERRY VALLEY BOULEVARD;

ALSO EXCEPTING THEREFROM THAT PORTION DEEDED TO THE COUNTY OF RIVERSIDE BY DEEDS RECORDED MARCH 8, 1974 AS INSTRUMENT NO. 27055 AND 27056 RESPECTIVELY.

PARCEL B:

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE LAND DESCRIBED IN THE DEED OF J. VINCENT HANNON, RECORDED JANUARY 28 1909 IN BOOK 276, PAGE 324 OF DEEDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY;

THENCE SOUTHERLY, 313.50 FEET ON THE WEST LINE OF SAID LAND;

THENCE WESTERLY, 395.50 FEET; PARALLEL WITH THE NORTH LINE OF SAID SOUTHWEST QUARTER;

THENCE NORTHERLY, 313.50 FEET, PARALLEL WITH SAID WEST LINE TO THE NORTH LINE OF SAID SOUTHWEST QUARTER;

THENCE EASTERLY 395.50 FEET ON SAID NORTH LINE TO THE POINT OF BEGINNING.

EXCEPT THE WEST 150.00 FEET OF THE NORTH 145.50 FEET THEREOF;

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE COUNTY OF RIVERSIDE BY INSTRUMENT RECORDED FEBRUARY 13, 1974 AS INSTRUMENT NO. 17483 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL C:

THE WESTERLY 150.00 FEET OF THE NORTHERLY 145.50 FEET OF THAT CERTAIN PARCEL OF LAND IN THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED TO J. VINCENT HANNON BY JEREMIAH C. HANNON, BY DEED RECORDED JANUARY 28, 1909 IN BOOK 276, PAGE 324 OF DEEDS, RIVERSIDE COUNTY RECORDS;

THENCE SOUTHERLY ON THE WESTERLY LINE OF SAID TRACT OF LAND SO CONVEYED TO HANNON, 313 FEET, 6 INCHES;

THENCE WESTERLY, PARALLEL WITH THE NORTHERLY LINE OF SAID SOUTHWEST QUARTER, 395 FEET, 6 INCHES;

THENCE NORTHERLY, PARALLEL WITH THE WESTERLY LINE OF SAID TRACT SO CONVEYED TO HANNON, 313 FEET, 6 INCHES, TO THE NORTHERLY LINE OF THE SOUTHWEST QUARTER;

THENCE EASTERLY ON THE NORTHERLY LINE OF THE SOUTHWEST QUARTER, 395 FEET, 6 INCHES, TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED FEBRUARY 13, 1974 AS INSTRUMENT NO. 17484.

PARCEL D:

THAT PORTION OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION, A DISTANCE OF 395.50 FEET WEST OF THE NORTHWEST CORNER OF THAT CERTAIN PARCEL DESCRIBED IN DEED TO J. VINCENT HANNON, RECORDED JANUARY 28, 1909 IN BOOK 276, PAGE 324 OF DEEDS,

THENCE CONTINUING WEST, A DISTANCE OF 215.00 FEET ON SAID NORTH LINE TO THE NORTHEAST CORNER OF THAT CERTAIN PARCEL DESCRIBED IN DEED TO SEBASTIANO CONSALYO, ET UX, RECORDED MARCH 15, 1968 AS INSTRUMENT NO. 23714, OFFICIAL RECORDS;

THENCE SOUTH, A DISTANCE OF 313.58 FEET ON THE EAST LINE OF SAID PARCEL TO THE SOUTHEAST CORNER THEREOF;

THENCE EAST, A DISTANCE OF 215.00 FEET, PARALLEL WITH THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION;

THENCE NORTH, A DISTANCE OF 313.58 FEET, PARALLEL WITH THE WEST LINE OF SAID HANNON PARCEL, HEREIN ABOVE REFERRED TO, TO THE POINT OF BEGINNING;

EXCEPT THEREFROM THAT PORTION LYING NORTHERLY OF THE SOUTHERLY LINE OF CHERRY VALLEY BOULEVARD AS DESCRIBED IN THE DEED TO THE COUNTY OF RIVERSIDE, RECORDED FEBRUARY 13, 1974 AS INSTRUMENT NO. 17482 OF OFFICIAL RECORDS OF THE COUNTY OF RIVERSIDE.

PARCEL E:

THE WESTERLY 208.71 FEET OF THE NORTHERLY 1,073.55 FEET OF THE SOUTH HALF OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THE NORTHERLY 30 FEET IN WOODLAND AVENUE, NOW CHERRY VALLEY BOULEVARD.

ALSO EXCEPTING THAT PORTION CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED NOVEMBER 14, 1975 AS INSTRUMENT NO. 146636

PARCEL F-1:

THAT PORTION OF THE SOUTH HALF OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SOUTH HALF OF SECTION 29, SAID POINT BEING ALSO A POINT IN THE CENTER OF WOODLAND AVENUE;

THENCE NORTH 89° 33' 30" EAST ON THE CENTER LINE OF WOODLAND AVENUE, 786.12 FEET, MORE OR LESS, TO A POINT DISTANT SOUTH 89° 33' 30" WEST, 791 FEET, FROM THE NORTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO J. VINCENT HANNON AND JEREMIAH C. HANNON BY DEED RECORDED JANUARY 28, 1909 IN BOOK 276, PAGE 324 OF DEEDS, RIVERSIDE COUNTY RECORDS;

THENCE SOUTH 0° 28' 50" WEST AND PARALLEL WITH THE WESTERLY LINE OF SAID PARCEL CONVEYED TO HANNON, 1975 FEET TO A POINT ON THE NORTHERLY LINE OF THAT CERTAIN PARCEL CONVEYED TO MELVIN F. KLAGUOS AND PAULINE M. KLAGUOS, HUSBAND AND WIFE BY DEED RECORDED AUGUST 4, 1959 AS INSTRUMENT NO. 67500;

THENCE WESTERLY ON THE NORTHERLY LINE OF SAID PARCEL CONVEYED TO KLAGUOS TO A POINT IN THE WEST LINE OF SAID SECTION 29;

THENCE NORTH 0° 07' 40" EAST ON THE WEST LINE OF SAID SECTION 29, TO THE POINT OF BEGINNING;

EXCEPTING THEREFROM THE WESTERLY 208.71 FEET OF THE NORTHERLY 1,073.55 FEET;

ALSO EXCEPTING THEREFROM THE NORTHERLY 30 FEET IN WOODLAND AVENUE, NOW CHERRY VALLEY BOULEVARD.

ALSO EXCEPTING THAT PORTION CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED NOVEMBER 14, 1974 AS INSTRUMENT NO. 146646.

PARCEL F-2:

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHERLY LINE OF SAID SOUTHWEST QUARTER DISTANT SOUTH 89° 33' 30" WEST, 791 FEET FROM THE NORTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO J. VINCENT HANNON BY DEED RECORDED JANUARY 28, 1909 IN BOOK 276, PAGE 324 OF DEEDS, RIVERSIDE COUNTY RECORDS; SAID POINT ALSO BEING DISTANT NORTH 89° 33' 30" EAST 786.12 FEET FROM THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION;

THENCE SOUTH 0° 28' 50" WEST, PARALLEL WITH THE WEST LINE OF THE PARCEL CONVEYED TO J. VINCENT HANNON 313.5 FEET TO THE TRUE POINT OF BEGINNING;

THENCE EASTERLY ON SAID SOUTHERLY LINE OF THE PARCEL CONVEYED TO GEORGEOS GEORGE AND ELIZABETH B. GEORGE, BY DEED FILED FOR RECORD AUGUST 21, 1952 AS INSTRUMENT NO. 35786, IN BOOK 1394 PAGE 352 OFFICIAL RECORDS, 11 FEET;

THENCE SOUTHERLY 1,221.5 FEET TO A POINT ON THE SOUTHERLY LINE OF THAT CERTAIN PARCEL CONVEYED TO FRANK J. FABIAN AND MARY R. FABIAN BY DEED RECORDED NOVEMBER 4, 1939 IN BOOK 434, PAGE 587 OF OFFICIAL RECORDS, RIVERSIDE COUNTY RECORDS, 20.5 FEET OF THE SOUTHWEST CORNER OF SAID PARCEL SO CONVEYED TO FRANK J. FABIAN AND WIFE;

THENCE WEST ON SAID SOUTH LINE 20.5 FEET;

THENCE NORTH 1,221.5 FEET TO THE POINT OF BEGINNING.

PARCEL F-3:

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID SOUTHWEST QUARTER DISTANT SOUTH 89° 33' 30" WEST, 791 FEET FROM THE NORTHWEST CORNER OF THAT CERTAIN PARCEL CONVEYED TO J. VINCENT HANNON BY DEED RECORDED JANUARY 28, 1909 IN BOOK 276, PAGE 324 OF DEEDS, RIVERSIDE COUNTY RECORDS; SAID POINT ALSO BEING DISTANT NORTH 89° 33' 30" EAST 786.12 FEET FROM THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER;

THENCE SOUTH 0° 28' 50" WEST, PARALLEL WITH THE WEST LINE OF THE PARCEL CONVEYED TO J. VINCENT HANNON 313.4 FEET;

THENCE NORTH 89° 33' 30" EAST, 30 FEET;

THENCE NORTH 0° 28' 50" EAST, 313.4 FEET, TO THE NORTH LINE OF SAID SOUTHWEST QUARTER;

THENCE SOUTH 89° 33' 30" WEST, 30 FEET TO THE POINT OF BEGINNING;

EXCEPTING THEREFROM THE NORTH 30 FEET IN WOODLAND AVENUE, NOW CHERRY VALLEY BOULEVARD.

ALSO EXCEPTING THAT PORTION CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED NOVEMBER 14, 1974 AS INSTRUMENT NO. 146646.

PARCEL G:

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 395.50 FEET WESTERLY FROM THE NORTHWEST CORNER OF THAT CERTAIN TRACT, DESCRIBED BY DEED TO J. VINCENT HANNON BY JEREMIAH C. HANNON, RECORDED JANUARY 28, 1909 IN BOOK 276, PAGE 324 OF DEEDS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE WESTERLY ON THE NORTHERLY LINE OF SAID SOUTHWEST QUARTER, 395.50 FEET;

THENCE SOUTHERLY, PARALLEL WITH THE WESTERLY LINE OF THE TRACT OF LAND SO DESCRIBED TO J. VINCENT HANNON, 313.50 FEET;

THENCE EASTERLY, PARALLEL WITH THE NORTHERLY LINE OF SAID SOUTHWEST QUARTER, 395.50 FEET;

THENCE NORTHERLY, PARALLEL WITH THE WESTERLY LINE OF TRACT OF LAND DESCRIBED TO J. VINCENT HANNON, 313.50 FEET TO THE POINT OF BEGINNING;

EXCEPT THAT PORTION DESCRIBED BY DEED TO GEORGEUS GEORGE, ET UX RECORDED AUGUST 21, 1952 IN BOOK 1394, PAGE 352 AS INSTRUMENT NO. 35786 OF OFFICIAL RECORDS; SAID WESTERLY PORTION THEREOF BEING DESCRIBED IN SAID DEED TO GEORGEUS GEORGE AS FOLLOWS:

THE PORTION OF THE SOUTH HALF OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, AS SHOWN BY UNITED STATES GOVERNMENT SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTH LINE OF SAID SOUTH HALF OF SECTION 29, DISTANT SOUTH $89^{\circ} 33' 30''$ WEST, 791.00 FEET FROM THE NORTHWEST CORNER OF THE LAND DESCRIBED BY DEED TO J. VINCENT HANNON BY JEREMIAH C. HANNON RECORDED JANUARY 28, 1909 IN BOOK 276, PAGE 324 OF DEEDS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, SAID POINT BEING DISTANT NORTH $89^{\circ} 33' 30''$ EAST, 786.12 FEET, FROM THE NORTHWEST CORNER OF SAID <SOUTH HALF OF SECTION 29;

THENCE SOUTH $0^{\circ} 28' 50''$ WEST, AND PARALLEL WITH THE WESTERLY LINE OF SAID PARCEL DESCRIBED TO J. VINCENT HANNON 313.50 FEET;

THENCE NORTH $89^{\circ} 33' 30''$ EAST AND PARALLEL WITH SAID NORTH LINE OF THE SOUTH HALF OF SECTION 29, 30.00 FEET;

THENCE NORTH $0^{\circ} 28' 50''$ EAST, 313.50 FEET TO SAID NORTH LINE;

THENCE SOUTH $89^{\circ} 33' 30''$ WEST, 30.00 FEET TO THE POINT OF BEGINNING;

ALSO EXCEPT THE EASTERLY 215.00 FEET THEREOF;

ALSO EXCEPT THAT PORTION IN CHERRY VALLEY BOULEVARD FORMERLY KNOWN AS WOODLAND ROAD.

ALSO EXCEPT THAT PORTION DESCRIBED IN THE DEED TO THE COUNTY OF RIVERSIDE RECORDED JANUARY 20, 1975 AS INSTRUMENT NO. 6757 OF OFFICIAL RECORDS.

PARCEL H:

PARCELS 1 TO 7 INCLUSIVE, AND LOTS A TO K, INCLUSIVE OF PARCEL MAP NO. 12218, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN PARCEL MAP BOOK 85, PAGE 66 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXHIBIT "B"

**(IMPROVEMENT AND CREDIT AGREEMENT FOR THE TRANSPORTATION
UNIFORM MITIGATION FEE PROGRAM BETWEEN SUNNY-CAL 1 INV LLC
AND CITY OF CALIMESA)**

("TUMF CREDIT AGREEMENT")

EXHIBIT "C"

(TOLLING AGREEMENT, INCLUDING AMENDMENT NO. 6)

AMENDMENT NO. 6 TO THE TOLLING AGREEMENT

This Amendment No. 6 to the Tolling Agreement (“Amendment No. 6”) is entered into this ___ day of _____, 2016, by and between SUNNY-CAL 1 INV. LLC, a Delaware limited liability company, with its principal place of business at 3121 Michelson Drive, Suite 150, Irvine, CA 92612 (“DEVELOPER”), CV COMMUNITIES, LLC, a Delaware limited liability company (“CV COMMUNITIES”), the CITY OF BEAUMONT, a California municipal corporation (“BEAUMONT”), and the CITY OF CALIMESA, a California municipal corporation (“CALIMESA”). DEVELOPER, CV COMMUNITIES, BEAUMONT and CALIMESA are sometimes referred to hereinafter individually as “Party” and collectively as “Parties.”

Recitals

The Parties are entering into this Amendment No. 6 to the Tolling Agreement with reference to the following facts:

A. On December 17, 2014, CV COMMUNITIES, BEAUMONT and CALIMESA entered into a tolling agreement (the “Tolling Agreement”) with reference to the facts set forth in the Recitals of that Tolling Agreement. DEVELOPER is the successor-in-interest to CV COMMUNITIES’ ownership of the subject property and all rights and liabilities thereto.

B. In order to allow CV COMMUNITIES, BEAUMONT and CALIMESA the opportunity to attempt to resolve the dispute over the Project while at the same time protecting CALIMESA’s rights to seek redress in court by the filing of a lawsuit naming BEAUMONT and CV COMMUNITIES as the respondent and real party in interest, respectively, to challenge the Project as approved by BEAUMONT, CV COMMUNITIES, BEAUMONT and CALIMESA entered into the tolling agreement to extend the statute of limitations until June 1, 2015.

C. Since the Tolling Agreement was executed by the Parties, the Parties have been engaged in settlement discussions and intend to continue to explore the possibility of settling the dispute and believe that the possibility of settlement will be enhanced if settlement negotiations can be conducted before litigation is filed. Since approval of the Tentative Map and EIR Addendum applications, CV COMMUNITIES and thereafter DEVELOPER have been engaged in discussions with the Western Riverside Council of Governments (“WRCOG”) to enter into agreements to implement portions of the Project, but those agreements have not yet been finalized.

D. In order to allow further negotiations, CV COMMUNITIES, BEAUMONT and CALIMESA subsequently entered into Amendment No. 1 to the Tolling Agreement (“Amendment No. 1”), extending the Tolling Agreement for an additional four months, or until October 1, 2015. Thereafter, CV COMMUNITIES,

BEAUMONT and CALIMESA entered into Amendment No. 2 of the Tolling Agreement (“Amendment No. 2”), extending the Tolling Agreement for an additional four months, or until February 1, 2016. CV COMMUNITIES, BEAUMONT and CALIMESA then entered into Amendment No. 3 of the Tolling Agreement (“Amendment No. 3”), extending the Tolling Agreement for an additional month, or until March 1, 2016. Thereafter, CV COMMUNITIES, BEAUMONT and CALIMESA entered into Amendment No. 4 of the Tolling Agreement (“Amendment No. 4”), extending the Tolling Agreement until April 15, 2016. Thereafter, CV COMMUNITIES, BEAUMONT and CALIMESA entered into Amendment No. 5 of the Tolling Agreement (“Amendment No. 5”), extending the Tolling Agreement until June 15, 2016. Consequently, pursuant to Amendment No. 5, the Tolling Agreement will expire at 11:59 p.m. on June 15, 2016.

E. The Parties wish to further toll the running of the applicable statutes of limitations to allow for certain terms of a Settlement Agreement between the Parties, which Settlement Agreement is to be executed concurrently with this Amendment No. 6, to be accomplished. Those terms are the execution and recording of the TUMF Credit Agreement with the Riverside County Recorder’s Office and the delivery of a performance bond to CALIMESA to secure DEVELOPER’S and CV COMMUNITIES’ obligation to perform certain improvements to roads in CALIMESA, as such terms are provided in the TUMF Credit Agreement between CALIMESA and DEVELOPER and the Settlement Agreement between the Parties. The date on which these actions have both occurred is defined in the Settlement Agreement to be the Calimesa Release Date. At the same time, the Parties, and each of them, wish to preserve all of their rights and defenses relating to potential litigation regarding the approval of the Project by BEAUMONT.

Agreement

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth in this Amendment No. 6 to the Tolling Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

Section I. All recitals set forth in the Tolling Agreement are hereby incorporated into this Amendment No. 5 by this reference as though set forth in full.

Section II. Sunny-Cal 1 Inv, LLC, a Delaware limited liability company (“DEVELOPER”) is hereby added to the definition of “Party” and “Parties” as used in the Tolling Agreement, and as amended by Amendment No. 1, Amendment No. 2, Amendment No. 3 and Amendment No. 4, thereto.

Section III. Section 2 of the Tolling Agreement, as previously amended by Amendment No.4, is hereby further amended to read as follows:

“2. The Parties hereby toll, for the period from the Effective Date through and including the earlier of the Calimesa Release Date, defined below, or termination of this Tolling Agreement (the “Tolling Period”), the running of time of any and all legal or equitable statutes of limitations, statutes of repose, periods of limitation, laches, waiver, estoppel, delay or any other statutory or equitable time limitations (collectively “Statutes of Limitations”) arising out of and/or applicable to claims CALIMESA may have against BEAUMONT, DEVELOPER, CV COMMUNITIES and/or any of them (collectively, the “Claims”), associated with or related to BEAUMONT’s approval of Tentative Tract Map 36583 and the approval of EIR Addendum 14-EIR-01. This Tolling Agreement shall be applicable for purposes of any and all Statutes of Limitation during the Tolling Period and shall preclude any and all defenses based upon the lapse of time occurring during the period tolled by virtue of this Tolling Agreement. The Parties agree that, as a result of the Tolling Agreement, the Tolling Period shall not be counted for any purpose in determining the amount of time that has elapsed before the filing of judicial proceedings on the Claims, and that none of the Parties will seek to assert a statute of limitations defense, or any similar defense, based on the passage of time during the Tolling Period. The term “Calimesa Release Date” is defined as the date that both of the following have occurred: (i) DEVELOPER has recorded the TUMF Credit Agreement as provided in Section III (A) of the Settlement Agreement and provided a copy of that recorded TUMF Credit Agreement to the Calimesa City Clerk; and (ii) DEVELOPER has filed the performance bond with the Calimesa City Clerk as provided in Section III (D) of the Settlement Agreement.


Section IV. The effective date of this Amendment No.6 shall be the date that the last of the four Parties hereto execute this Amendment No. 6.

Section V. Except as herein amended, the terms and conditions of the Tolling Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 6 to Tolling Agreement as of the effective date set forth in Section IV above.

DATED: **SUNNY-CAL 1 INV, LLC, a Delaware limited liability company**

By: CV COMMUNITIES, a Delaware limited liability company

By: 
Name: August Belmont
Title: President

By: _____

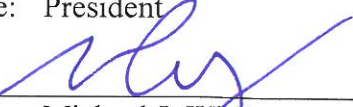
Name: Michael J. White
Title: Vice-President

DATED:

CV COMMUNITIES, a Delaware limited liability company

By: 

Name: August Belmont
Title: President

By: 

Name: Michael J. White
Title: Vice-President

DATED:

CITY OF BEAUMONT, a California
municipal corporation

By: Richard W. Warne
~~Elizabeth Gibbs-Urriaga, Acting City~~
~~Manager~~
Richard Warne, Interim City Manager

ATTEST:
DEPUTY CITY CLERK
CITY OF BEAUMONT

By: [Signature]
Mike Lara, Mayor

By: [Signature]
~~Shelby Hanvey~~
Nicole Wheelwright

DATED:

CITY OF CALIMESA, a California
municipal corporation

By: Jeff Hewitt
Jeffrey Hewitt, Mayor

ATTEST:
CITY CLERK
CITY OF CALIMESA

By: [Signature]
Darlene Gerdes

BOND NO. 1000757382
 INITIAL PREMIUM: \$6,000.00
 SUBJECT TO RENEWAL

PERFORMANCE BOND

WHEREAS, the City of Calimesa ("AGENCY") has executed an agreement with SUNNY-CAL 1 INV, LLC, a Delaware limited liability company (hereinafter "Developer"), requiring Developer to perform certain work consisting of but not limited to, furnishing all labor, materials, tools, equipment, services, and incidentals for the construction of street and transportation system improvements (hereinafter the "Work"); and

WHEREAS, the Work to be performed by Developer is more particularly set forth in that certain TUMF Improvement and Credit Agreement between the City of Calimesa and Sunny-Cal 1 Inv, LLC, dated April 12, 2016, (hereinafter the "Agreement"); and

WHEREAS, the Agreement is hereby referred to and incorporated herein by this reference; and

WHEREAS, Developer or its contractor is required by the Agreement to provide a good and sufficient bond for performance of the Agreement, and to guarantee and warranty the Work constructed thereunder.

NOW, THEREFORE, we the undersigned,
SUNNY-CAL 1 INV, LLC, as Principal and
 American Contractors Indemnity Insurance Company, a corporation organized and existing under the laws of the State of California and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the AGENCY in the sum of One Million Dollars (\$ 1,000,000.00), said sum being not less than one hundred percent (100%) of the total cost of the Work as set forth in the Agreement, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such, that if Developer and its contractors, or their heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, agreements, guarantees, and warranties in the Agreement and any alteration thereof made as therein provided, to be kept and performed at the time and in the manner therein specified and in all respects according to their intent and meaning, and to indemnify and save harmless AGENCY, its officers, employees, and agents, as stipulated in the Agreement, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby, and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by AGENCY in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

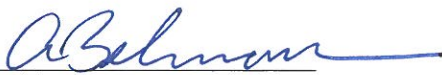
The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or additions to the terms of the said Agreement or to the Work to be performed thereunder or the specification accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the Work.

IN WITNESS WHEREOF, we have hereto set our hands and seals this 14th day on April, 2016.

SUNNY-CAL 1 INV, LLC

Principal

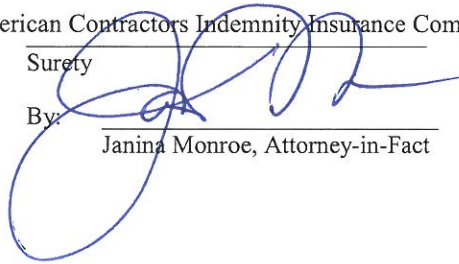
By:

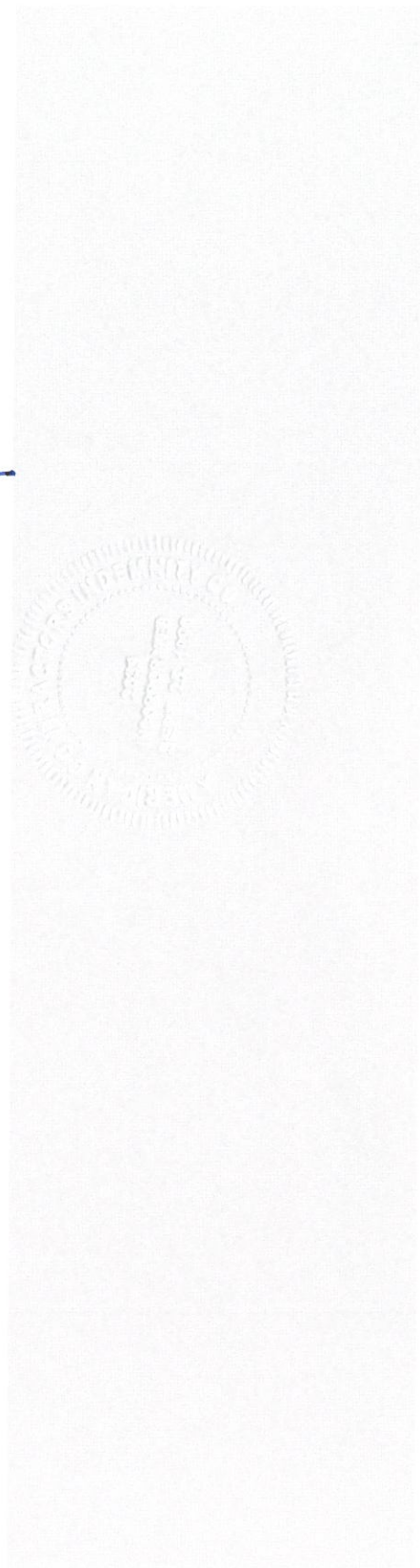

President

American Contractors Indemnity Insurance Company

Surety

By:


Janina Monroe, Attorney-in-Fact



ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Orange }

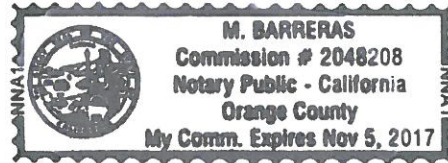
On APR 14 2016 before me, M. Barreras, Notary Public,
(Here insert name and title of the officer)

personally appeared Janina Monroe,
who proved to me on the basis of satisfactory evidence to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that
~~he/she/they~~ executed the same in his/her/their authorized capacity(ies) and that by
~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

M. Barreras
Notary Public Signature (Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

Individual (s)

Corporate Officer

(Title)

Partner(s)

Attorney-in-Fact

Trustee(s)

Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

POWER OF ATTORNEY

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

KNOW ALL MEN BY THESE PRESENTS: That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

Janina Monroe or Michelle Hasse of Irvine, California

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed *****Three Million***** Dollars (\$ **3,000,000.00**). This Power of Attorney shall expire without further action on December 20, 2017. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 1st day of December, 2014.

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

Corporate Seals



By:

Daniel P. Aguilar, Vice President

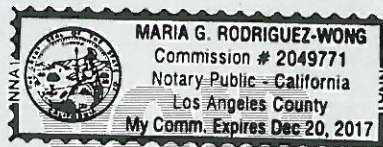
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles SS:

On this 1st day of December, 2014, before me, Maria G. Rodriguez-Wong, a notary public, personally appeared Dan P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal.

Signature _____ (Seal)



I, Michael Chalekson, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

APR 14 2016

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this _____ day of _____,

Corporate Seals



Bond No. 100075732
Agency No. 19268

Michael Chalekson, Assistant Secretary

ALL PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

STATE OF CALIFORNIA }

COUNTY OF ORANGE }

ON April 18, 2016 before me Athena Bowyer, Notary Public, personally appeared _____
August Belmont

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

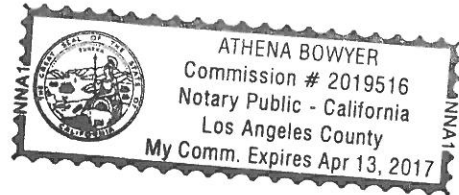
Signature: Athena Bowyer (seal)

Athena Bowyer

Commission Number: 2019516

Commission Expires: April 13, 2017

Cell Phone: (949) 395-5823



BOND NO. 800113435INITIAL PREMIUM: \$11,250.00

SUBJECT TO RENEWAL

PERFORMANCE BOND

WHEREAS, the City of Calimesa ("AGENCY") has executed an agreement with Exeter Cherry Valley Land, LLC, a Delaware limited liability company (hereinafter "Developer"), requiring Developer to perform certain work consisting of but not limited to, furnishing all labor, materials, tools, equipment, services, and incidentals for the construction of street and transportation system improvements (hereinafter the "Work"); and

WHEREAS, the Work to be performed by Developer is more particularly set forth in that certain TUMF Improvement and Credit Agreement between the City of Calimesa and Sunny-Cal I INV, LLC, a DE limited Liability company, dated April 12, 2016 and Assigned 4/3/2023, (hereinafter the "Agreement"); and to Exeter Cherry Valley, LAND LLC

WHEREAS, the Agreement is hereby referred to and incorporated herein by this reference; and

WHEREAS, Developer or its contractor is required by the Agreement to provide a good and sufficient bond for performance of the Agreement, and to guarantee and warranty the Work constructed thereunder.

NOW, THEREFORE, we the undersigned, Exeter Cherry Valley Land, LLC, as Principal and Atlantic Specialty Insurance Company, a corporation organized and existing under the laws of the State of New York and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the AGENCY in the sum of One Million 00/100 (\$ 1,000,000.00), said sum being not less than one hundred percent (100%) of the total cost of the Work as set forth in the Agreement, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such, that if Developer and its contractors, or their heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, agreements, guarantees, and warranties in the Agreement and any alteration thereof made as therein provided, to be kept and performed at the time and in the manner therein specified and in all respects according to their intent and meaning, and to indemnify and save harmless AGENCY, its officers, employees, and agents, as stipulated in the Agreement, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby, and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by AGENCY in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or additions to the terms of the said Agreement or to the Work to be performed thereunder or the specification accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the Work.

IN WITNESS WHEREOF, we have hereto set our hands and seals this 27th day on September, 2023.

ASSIGNEE/PRINCIPAL:

EXETER CHERRY VALLEY LAND, LLC,
a Delaware limited liability company

By: Exeter Operating Partnership V, L.P.,
a Delaware limited partnership, its sole member

By: Exeter Operating Partnership V GP LLC,
a Delaware limited liability company, its sole general partner

By: Exeter Industrial REIT V LLC,
a Delaware limited liability company, its sole member

By: [Signature]
Name: JASON A HENRY
Its: VICE PRESIDENT

ATLANTIC SPECIALTY INSURANCE COMPANY

Surety

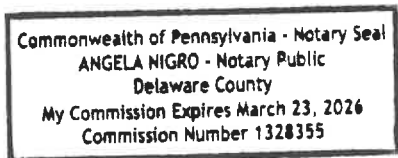
By: [Signature]
Attorney-in-Fact Wendy Lee Wadkins

PRINCIPAL ACKNOWLEDGMENT

State of Pennsylvania:

County of Delaware:

On this 29th day of September, 2023, before me personally came Jason A Honesty, to me known, who, being by me duly sworn, deposed and says that (s)he is the Vice President of the entity described in and which executed the following instrument; that (s)he knows the seal of the said corporation/company; that the seal affixed to the said instrument is such corporate/company seal; that it was so affixed by the order of the Board of Directors of said corporation/company, that (s)he signed his/her name thereto by like order.



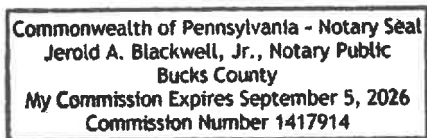
Angela Nigro
Notary Public

SURETY ACKNOWLEDGMENT

State of Pennsylvania:

County of Bucks:

On this 27th day of September, 2023, before me personally came Wendy Lee Wadkins known to me to be the duly authorized Attorney-In-Fact of the Atlantic Specialty Insurance Company, and the said Wendy Lee Wadkins duly acknowledged to me that she subscribed the name of the Atlantic Specialty Insurance Company thereto as Surety and her own name as Attorney-In-Fact.



Jerold A Blackwell Jr
Notary Public
Jerold A. Blackwell, Jr.

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the _____
Secretary of the corporation named as principal in the attached bond, that
_____ who signed the said bond on behalf of the
principal was then _____ of said corporation; that I know
his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed and
attested for and in behalf of said corporation by authority of its governing Board.

(Corporate Seal)

Signature

Date

NOTE: A copy of the power of attorney to local representatives of the bonding company may be attached hereto.

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
SAN FRANCISCO

No 08950

Amended
Certificate of Authority

THIS IS TO CERTIFY THAT, Pursuant to the Insurance Code of the State of California,

Atlantic Specialty Insurance Company

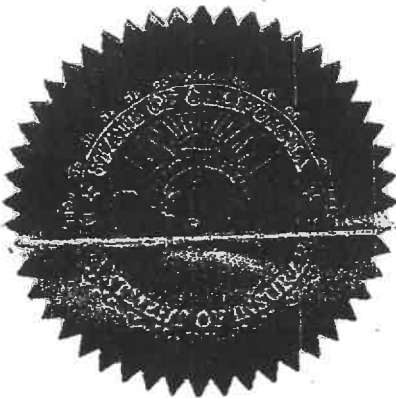
of New York, organized under the
laws of New York, subject to its Articles of Incorporation or
other fundamental organizational documents, is hereby authorized to transact within the State, subject to
all provisions of this Certificate, the following classes of insurance:

Fire, Marine, Surety, Disability, Plate Glass, Liability, Workers' Compensation,
Common Carrier Liability, Boiler and Machinery, Burglary, Credit,
Sprinkler, Train and Vehicle, Automobile, and Miscellaneous

as such classes are now or may hereafter be defined in the Insurance Laws of the State of California.

THIS CERTIFICATE is expressly conditioned upon the holder hereof now and hereafter being in
full compliance with all, and not in violation of any, of the applicable laws and lawful requirements made
under authority of the laws of the State of California as long as such laws or requirements are in effect
and applicable, and as such laws and requirements now are, or may hereafter be changed or amended.

IN WITNESS WHEREOF, effective as of the 16th
day of September, 2011, I have hereunto
set my hand and caused my official seal to be affixed this
16th day of September, 2011.



Dave Jones
Insurance Commissioner

By

Valerie J. Sarfaty
for Nettie Hoge
Chief Deputy

NOTICE:

Qualification with the Secretary of State must be accomplished as required by the California Corporations Code promptly after issuance of this Certificate of Authority. Failure to do so will be a violation of Insurance Code Section 701 and will be grounds for revoking this Certificate of Authority pursuant to the covenants made in the application therefor and the conditions contained herein.



Atlantic Specialty Insurance Company
Period Ended 12/31/2022

Dollars displayed in thousands

Admitted Assets		Liabilities and Surplus	
Investments:		Liabilities	
Bonds	\$ 2,216,201	Loss Reserves	\$ 1,093,968
Preferred Stocks	-	Loss Adjustment Expense Reserves	347,884
Common Stocks	752,567	Total Loss & LAE Reserves	1,441,852
Mortgage Loans	-	Unearned Premium Reserve	735,813
Real Estate	-	Total Reinsurance Liabilities	42,785
Contract Loans	-	Commissions, Other Expenses, and Taxes due	88,767
Derivatives	-	Derivatives	-
Cash, Cash Equivalents & Short Term Investments	308,498	Payable to Parent, Subs or Affiliates	-
Other Investments	20,805	All Other Liabilities	832,508
Total Cash & Investments	3,298,071	Total Liabilities	2,921,725
Premiums and Considerations Due	332,718	Capital and Surplus	
Reinsurance Recoverable	39,231	Common Capital Stock	9,001
Receivable from Parent, Subsidiary or Affiliates	2,250	Preferred Capital Stock	-
All Other Admitted Assets	79,777	Surplus Notes	-
Total Admitted Assets	3,750,047	Unassigned Surplus	174,558
		Other Including Gross Contributed	644,763
		Capital & Surplus	828,322
		Total Liabilities and C&S	3,750,047

State of Minnesota
County of Hennepin

I, Kara L.B. Barrow, Secretary of Atlantic Specialty Insurance Company do hereby certify that the foregoing statement is a correct exhibit of the assets and liabilities of the said Company, on the 31st day of December, 2022, according to the best of my information, knowledge and belief.

Secretary

Subscribed and sworn to, before me, a Notary Public of the State of Minnesota on this 16th day of March, 2023.

Notary Public





Power of Attorney

KNOW ALL MEN BY THESE PRESENTS, that ATLANTIC SPECIALTY INSURANCE COMPANY, a New York corporation with its principal office in Plymouth, Minnesota, does hereby constitute and appoint: **Christopher F. Mulvaney, Kaitlyn Malkowski, Pablo Rios, Jr., Wendy Lee Wadkins**, each individually if there be more than one named, its true and lawful Attorney-in-Fact, to make, execute, seal and deliver, for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof; provided that no bond or undertaking executed under this authority shall exceed in amount the sum of: **unlimited** and the execution of such bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof in pursuance of these presents, shall be as binding upon said Company as if they had been fully signed by an authorized officer of the Company and sealed with the Company seal. This Power of Attorney is made and executed by authority of the following resolutions adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the President, any Senior Vice President or Vice-President (each an "Authorized Officer") may execute for and in behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and affix the seal of the Company thereto; and that the Authorized Officer may appoint and authorize an Attorney-in-Fact to execute on behalf of the Company any and all such instruments and to affix the Company seal thereto; and that the Authorized Officer may at any time remove any such Attorney-in-Fact and revoke all power and authority given to any such Attorney-in-Fact.

Resolved: That the Attorney-in-Fact may be given full power and authority to execute for and in the name and on behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and any such instrument executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed and sealed by an Authorized Officer and, further, the Attorney-in-Fact is hereby authorized to verify any affidavit required to be attached to bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof.

This power of attorney is signed and sealed by facsimile under the authority of the following Resolution adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the signature of an Authorized Officer, the signature of the Secretary or the Assistant Secretary, and the Company seal may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing an Attorney-in-Fact for purposes only of executing and sealing any bond, undertaking, recognizance or other written obligation in the nature thereof, and any such signature and seal where so used, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

IN WITNESS WHEREOF, ATLANTIC SPECIALTY INSURANCE COMPANY has caused these presents to be signed by an Authorized Officer and the seal of the Company to be affixed this first day of January, 2023.

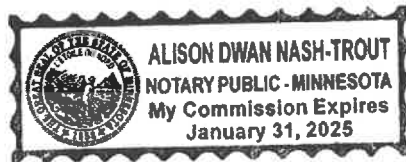
STATE OF MINNESOTA
HENNEPIN COUNTY



By

Sarah A. Kolar, Vice President and General Counsel

On this first day of January, 2023, before me personally came Sarah A. Kolar, Vice President and General Counsel of ATLANTIC SPECIALTY INSURANCE COMPANY, to me personally known to be the individual and officer described in and who executed the preceding instrument, and she acknowledged the execution of the same, and being by me duly sworn, that she is the said officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the seal of said Company and that the said seal and the signature as such officer was duly affixed and subscribed to the said instrument by the authority and at the direction of the Company.



Notary Public

I, the undersigned, Secretary of ATLANTIC SPECIALTY INSURANCE COMPANY, a New York Corporation, do hereby certify that the foregoing power of attorney is in full force and has not been revoked, and the resolutions set forth above are now in force.

Signed and sealed. Dated 27th day of September, 2023.



Kara L.B. Barrow, Secretary

This Power of Attorney expires
January 31, 2025



City Council Meeting Agenda Report

Agenda Item No. 12

SUBJECT: SHOP LOCAL CALIMESA DIGITAL GIFT CARD PROGRAM

MEETING DATE: November 6, 2023

PREPARED BY: Will Kolbow, City Manager

RECOMMENDATION: That the City Council approve Resolution No. 2023-70, approving a contract with Hinderliter, de Llamas and Associates, Inc. (HdL); a contract with Yiftee, Inc. for the development of a digital gift card program, and allocate \$50,000 from General Fund unreserved fund balance for the purpose of implementing a strategy to support local businesses with a shop local digital gift card program.

BACKGROUND: Although the COVID-19 pandemic is largely behind us, there are still lingering effects of the pandemic, particularly in the small business sector. Many such businesses have experienced significant financial strains due to the shutdowns, labor shortages, and supply chain inflation costs. Small businesses make up over 99% of businesses in the nation and account for 60 million jobs. Due to the pandemic, over 200,000 of those businesses closed their doors permanently in 2020 and that number continues to rise two years later. In Calimesa, small businesses account for a super majority of businesses in town.

DISCUSSION: Small businesses in Calimesa continue to struggle three years after the pandemic began and have been dealing with inflation for the past year. Our businesses depend on local foot traffic to be successful. It may take years for the small business sector to recover, as it did from the 2008-09 recession. The Digital Gift Card Program is an innovative way to stimulate local consumer spending, thereby supporting locally owned small and independently owned businesses in Calimesa. When dollars are spent locally, most are reinvested in the local community in the form of jobs and taxes. The HdL/Yiftee digital gift card program is being used by the cities of South Gate, San Leandro, Murrieta, Oakley, Hercules, Hawthorne, Canyon Lake, Angles Camp, Pinole just to name a few. The Yiftee Community Digital Gift Card Program is a cost-effective way to stimulate the local economy and assist small businesses in recovery. It also provides additional savings to residents who shop locally. As an example, the proposed digital gift card program would have the resident buy a gift card valued at \$25, and the program would provide another \$25 gift card for a combined \$50 in gift card dollars to be spent locally. In other words, it is a buy one and get one free for residents.

To initiate the program, the City would enter into Yiftee's Community Card Customer Agreement (Exhibit A). There is no set-up or monthly costs. The costs paid to Yiftee are:

1. The value of the bonus card provided,
2. The \$1 plus 5% eDelivery fee (purchaser fee) plus a \$1 gift fee per card, and
3. The Participating Merchant fees charged by MasterCard.

To assist with the branding costs associated with the development of the "Shop Local Calimesa" campaign, marketing of the digital gift card, and related signage and posters for participating businesses, we are proposing an agreement with HdL Companies through their EconSolutions division. HdL has partnered and brought this program to several of their clients over the last year. HdL would work with staff and the Calimesa Chamber of Commerce to help ensure a successful program. HdL Companies' costs for their services would be in a not to exceed contract of \$17,000. HdL Companies has been a critical partner with the City of Calimesa providing information on sales tax and property tax for numerous years.

Staff has spoken to the Calimesa Chamber of Commerce Executive Assistant and presented this program and to seek their assistance in supporting the program and help with the marketing efforts to the Calimesa business community. The discussion was positive and felt it would help drive business to Calimesa's small business community.

The goal of having the program operational in time for the holiday shopping season to help promote a shop local campaign and small business Saturday. The digital gift card can only be used at participating Calimesa Businesses that are independently owned, not corporate owned nor multi-franchisee owned. The City can limit the type of business categories that can participate. Most cities have limited the type of participating businesses to:

1. Retail
2. Restaurant/Café, and
3. Personal Services, such as:
 - a. Hair Stylists
 - b. Barbers,
 - c. Estheticians,
 - d. Nail salons,
 - e. Dry cleaners,
 - f. Auto repair,
 - g. Pet groomers, and
 - h. Fitness/specialty studios, including martial arts, yoga, dance, and music.

The business must also operate in a physical storefront location, have a current City business license, and have no current code enforcement actions pending against them. The values for the Digital Gift Cards will include \$25, \$50, and \$100 amounts.

FISCAL IMPACT: The fiscal impact of this action will be up to \$50,000 in the General Fund. This action will appropriate \$50,000 to General Fund account 01-1200-7210, which has been used for economic development purposes previously.

ATTACHMENTS:

Attachment A: Resolution No. 2023-70 with Exhibit A & B

RESOLUTION NO. 2023-70

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALIMESA, CALIFORNIA APPROVING A SHOP LOCAL DIGITALGIFT CARD PROGRAM WITH COMPONENTS AND IMPLEMENTATION MEASURES TO SUPPORT LOCAL MERCHANTS IN CALIMESA

WHEREAS, the COVID-19 pandemic has resulted in numerous detrimental impacts on a global scale and include national, regional, and local impacts; and

WHEREAS, the Calimesa business community have experienced these impacts; and

WHEREAS, the Calimesa City Council seeks ways to assist the Calimesa small business community in their recovery from the impact of the pandemic, inflation, and supply chain challenges; and

WHEREAS, to support this pilot program the City Council is appropriating \$50,000 from the General Fund to pay for:

1. The \$1 plus 5% eDelivery fee (purchaser fee) plus a \$1 bonus gift fee per card,
2. A bonus gift card to incentivize the use of the program and provide a benefit to all community members,
3. Branding costs associated with the development of the "Shop Local Calimesa" campaign, and
4. Marketing costs for advertisement and promotion of the program and related point-of sale signage and posters for participating businesses; and

WHEREAS, working with Yiftee, Inc. and HdL Companies who have significant experience in starting up such shop local programs using digital gift cards that have proven extremely successful for participating businesses and residents will be a cost-effective way to stimulate the local economy and assist small businesses.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALIMESA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City Council hereby declares that the recitals set forth above are true and correct and are incorporated herein by reference.

Section 2. The City Council hereby appropriates \$50,000 in General Fund unreserved fund balance for purposes of carrying out a pilot digital gift card program to support local small businesses in Calimesa.

Section 3. The City Council does hereby authorize the City Manager to sign a Professional Services Agreement with Yiftee, Inc., attached hereto as Exhibit "A", to provide the community with a digital gift card program.

Section 4. The City Council does hereby authorize the City Manager to sign a Professional Services Agreement with HdL Companies, attached hereto as Exhibit "B", to assist in marketing, advertising, and other support services to implement the digital gift card pilot program.

PASSED, APPROVED AND ADOPTED this 6th day of November, 2023.

WILLIAM DAVIS, MAYOR

ATTEST:

DARLENE GERDES, CITY CLERK

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF CALIMESA AND
HINDERLITER, DE LLAMAS AND ASSOCIATES, INC.**

1. PARTIES AND DATE.

This Professional Services Agreement ("Agreement") is made and entered into this ____ day of November, 2023 ("Effective Date"), by and between the **City of Calimesa**, a California municipal corporation ("City") and **Hinderliter, De Llamas and Associates, Inc.**, a California Corporation, with its principal place of business at 120 S. State College Blvd., Suite 200, Brea, CA 92821 ("Consultant"). City and Consultant are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. RECITALS.

2.1 Consultant.

Consultant desires to perform and assume responsibility for the provision of certain professional services required by the City on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing professional economic development consulting services to public clients, is licensed in the State of California, and is familiar with the plans of City.

2.2 Project.

City desires to engage Consultant to render such professional services for the planning of and administrative support for a digital gift card program with Yiftee ("Project") as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional economic development consulting necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations. Additionally, Consultant shall comply with all Federal requirements applicable to the Services as set forth in Exhibit "A-I." attached hereto and incorporated herein by reference.

3.1.2 Term. The term of this Agreement shall commence on the Effective Date and continue for a 18-month period unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Responsibilities of Consultant.

3.2.1 Independent Contractor; Control and Payment of Subordinates. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Consultant on an independent contractor basis and not as an employee. Any personnel performing the Services on behalf of Consultant shall not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Consultant shall perform the Services in a prompt and timely manner and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel required to perform the Services expeditiously. Upon request of City, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of City.

3.2.4 Substitution of Key Personnel. Consultant has represented to City that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. In the event that City and Consultant cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. The key personnel for performance of this Agreement are as follows: **Barry Foster, Principal/Managing Director, Ken Duran, Senior Advisor and Tim Campbell, Analyst.**

3.2.5 City's Representative. The City hereby designates **Will Kolbow, City Manager**, or his designee, to act as its representative in all matters pertaining to the administration and performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for review and approval of all products submitted by Consultant but not the authority to enlarge the Scope of Services or change the total compensation due to Consultant under this Agreement. The City Administrator shall be authorized to act on City's behalf and to execute all necessary documents which enlarge the Scope of Services or change the Consultant's total compensation subject to the provisions contained in Section 3.3 of this Agreement. Consultant shall not accept direction or orders from any person other than the City Administrator, City's Representative or his/her designee.

3.2.6 Consultant's Representative. Consultant hereby designates **Barry Foster, Principal/Managing Director**, or his designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his/her best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and

procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its subconsultants who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Period of Performance. Consultant shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Consultant shall also perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be separately agreed upon in writing by the City and Consultant ("Performance Milestones"). Consultant agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such Performance Milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the City will suffer damage.

3.2.10 Laws and Regulations; Employee/Labor Certification. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with the Services and this Agreement. All violations of such laws and regulations shall be grounds for the City to terminate the Agreement for cause.

3.2.10.1 Employment Eligibility; Consultant. Consultant certifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time and shall require all subconsultants and sub-subconsultants to comply with the same. Consultant certifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the term of the Agreement.

3.2.10.2 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.2.10.3 Air Quality. To the extent applicable, Consultant must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the South Coast Air Quality Management District (SCAQMD) and/or California Air Resources Board (CARB). Consultant shall indemnify City against any fines or penalties imposed by SCAQMD, CARB, or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Consultant, its subconsultants, or others for whom Consultant is responsible under its indemnity obligations provided for in this Agreement.

3.2.10.4 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed.

3.2.11 Insurance.

3.2.11.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to the City that it has secured all insurance required under this section. In addition, Consultant shall not allow any subconsultant to commence work on any subcontract until it has provided evidence satisfactory to the City that the subconsultant has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Agreement for cause.

3.2.11.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement for work to be performed hereunder, and without limiting the indemnity provisions of the Agreement, the Consultant, in partial performance of its obligations under such Agreement, shall procure and maintain in full force and effect during the term of the Agreement the following policies of insurance. If the existing policies do not meet the insurance requirements set forth herein, Consultant agrees to amend, supplement or endorse the policies to do so.

(A) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 0001, or the exact equivalent, with limits of not less than \$1,000,000 per occurrence and no less than \$2,000,000 in the general aggregate. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions (1) limiting coverage for contractual liability; (2) excluding coverage for claims or suits by one insured against another (cross-liability); (3) products/completed operations liability; or (4) containing any other exclusion(s) contrary to the terms or purposes of this Agreement.

(B) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1), or the exact equivalent, covering bodily injury and property damage for all activities with limits of not less than \$1,000,000 combined limit for each occurrence.

(C) Workers' Compensation: Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than \$1,000,000 per accident for bodily injury and disease.

3.2.11.3 Insurance Endorsements. Required insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the City to add the following provisions to the insurance policies:

(A) Commercial General Liability:

(1) Additional Insured: The City, its officials, officers, employees, agents, and volunteers shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement. Additional Insured Endorsements shall not: (i) be restricted to "ongoing operations"; (ii) exclude "contractual liability"; (iii) restrict coverage to "sole" liability of Consultant; or (iv) contain any other exclusions contrary to the terms or purposes of this Agreement.

(2) For all policies of Commercial General Liability insurance, Consultant shall provide endorsements in the form of ISO CG 20 10 10 01 and 20 37 10 01 (or endorsements providing the exact same coverage) to effectuate this requirement.

(3) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

(B) Automobile Liability – Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

(C) Workers' Compensation:

(1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

(2) Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the City, its officials, officers, employees, agents, and volunteers.

3.2.11.4 Primary and Non-Contributing Insurance. All policies of Commercial General Liability and Automobile Liability insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the City, its officials, officers, employees, agents, or volunteers shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

3.2.11.5 Waiver of Subrogation. All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the City, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

3.2.11.6 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by the City and shall protect the City, its officials, officers, employees, agents, and volunteers in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

3.2.11.7 Evidence of Insurance. The Consultant, concurrently with the execution of the Agreement, and as a condition precedent to the effectiveness thereof, shall deliver either certified copies of the required policies, or original certificates on forms approved by the City, together with all endorsements affecting each policy. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for approval. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15 days) prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

3.2.11.8 Acceptability of Insurers. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to transact business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

3.2.11.9 Enforcement of Agreement Provisions (non estoppel). Consultant acknowledges and agrees that actual or alleged failure on the part of the City to inform Consultant of non-compliance with any requirement imposes no additional obligation on the City nor does it waive any rights hereunder.

3.2.11.10 Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance.

3.2.11.11 Additional Insurance Provisions

(A) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the City, is not intended to and shall not in any manner limit or qualify the liabilities and obligations

otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(B) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

(C) The City may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(D) Neither the City nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

(E) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the City and shall not preclude the City from taking such other actions available to the City under other provisions of the Agreement or law.

(F) Consultant shall report to the City, in addition to Consultant's insurer, any and all insurance claims submitted by Consultant in connection with the Services under this Agreement.

3.2.11.12 Insurance for Subconsultants. Consultant shall include all subconsultants engaged in any work for Consultant relating to this Agreement as additional insureds under the Consultant's policies, or the Consultant shall be responsible for causing subconsultants to purchase the appropriate insurance in compliance with the terms of these Insurance Requirements, including adding the City, its officials, officers, employees, agents, and volunteers as additional insureds to the subconsultant's policies. All policies of Commercial General Liability insurance provided by Consultant's subconsultants performing work relating to this Agreement shall be endorsed to name the City, its officials, officers, employees, agents and volunteers as additional insureds using endorsement form ISO CG 20 38 04 13 or an endorsement providing equivalent coverage. Consultant shall not allow any subconsultant to commence work on any subcontract relating to this Agreement until it has received satisfactory evidence of subconsultant's compliance with all insurance requirements under this Agreement, to the extent applicable. The Consultant shall provide satisfactory evidence of compliance with this section upon request of the City.

3.2.12 Water Quality Management and Compliance. Consultant shall keep itself and all subcontractors, staff, and employees fully informed of and in compliance with all local, state and federal laws, rules and regulations that may impact, or be implicated by the performance of the Services including, without limitation, all applicable provisions of the City's ordinances regulating water quality and storm water; the Federal Water Pollution Control Act (33 U.S.C. § 1251, *et seq.*); the California Porter-Cologne Water Quality Control Act (Water Code § 13000 *et seq.*); and any and all regulations, policies, or permits issued pursuant to any such authority.

Consultant must additionally comply with the lawful requirements of the City, and any other municipality, drainage district, or other local agency with jurisdiction over the location where the Services are to be conducted, regulating water quality and storm water discharges. City may seek damages from Consultant for delay in completing the Services caused by Consultant's failure to comply with the laws, regulations and policies described in this Section, or any other relevant water quality law, regulation, or policy.

3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation shall not exceed **Seventeen Thousand Dollars** (\$17,000.00) without written approval of the City Council or City Manager as applicable. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement. The City Manager will have authority to approve Extra Work within 10% of the total compensation.

3.3.2 Payment of Compensation. Consultant shall submit to City a quarterly invoice, no later than the fifteenth (15th) calendar day of each quarter, which indicates work completed and hours of Services rendered by Consultant during the prior month. The invoice shall describe the amount of Services provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the invoice. City shall, within 30 days of receiving such invoice, review the invoice and pay all non-disputed and approved charges. If the City disputes any of Consultant's fees, the City shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth therein. Payment shall not constitute acceptance of any Services completed by Consultant. The making of final payment shall not constitute a waiver of any claims by the City for any reason whatsoever.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by City, or included in Exhibit "C" of this Agreement.

3.3.4 Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from the City.

3.3.5 Rate Increases. In the event that this Agreement is renewed pursuant to Section 3.1.2, the rate set forth in Exhibit "C" may be adjusted at the time of renewal as set forth in Exhibit "C."

3.4 Labor Code Requirements.

3.4.1 Prevailing Wages. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is

\$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. It is the intent of the parties to effectuate the requirements of sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code within this Agreement, and Consultant shall therefore comply with such Labor Code sections to the fullest extent required by law. Consultant shall defend, indemnify and hold the City, its officials, officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.4.2 Registration/DIR Compliance. If the Services are being performed on a public works project of over \$25,000 when the project is for construction, alteration, demolition, installation, or repair work, or a public works project of over \$15,000 when the project is for maintenance work, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations ("DIR"). Consultant shall maintain registration for the duration of the project and require the same of any subconsultants. This project may also be subject to compliance monitoring and enforcement by the DIR. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR. Any stop orders issued by the DIR against Consultant or any subconsultant that affect Consultant's performance of services, including any delay, shall be Consultant's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the DIR against Consultant or any subconsultant.

3.4.3 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.5 Accounting Records.

3.5.1 Maintenance. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable.

3.5.2 Inspection. Consultant shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.6 General Provisions.

3.6.1 Termination of Agreement.

3.6.1.1 Grounds for Termination. City may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to City, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

3.6.1.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

3.6.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.6.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

If to Consultant: HdL Companies
120 S. State College Blvd. Suite 200
Brea, CA 91821
ATTN: Barry Foster, Principal/Managing Director

If to City: City of Calimesa
908 Park Avenue
Calimesa, California 92320
ATTN: Will Kolbow, City Manager

With a courtesy copy to:
Quinn M. Barrow, City Attorney
908 Park Avenue
Calimesa, California 92320

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.6.3 Ownership of Materials and Confidentiality.

3.6.3.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or

sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). All Documents & Data shall be and remain the property of City, and shall not be used in whole or in substantial part by Consultant on other projects without the City's express written permission. Within thirty (30) days following the completion, suspension, abandonment or termination of this Agreement, Consultant shall provide to City reproducible copies of all Documents & Data, in a form and amount required by City. City reserves the right to select the method of document reproduction and to establish where the reproduction will be accomplished. The reproduction expense shall be borne by City at the actual cost of duplication. In the event of a dispute regarding the amount of compensation to which the Consultant is entitled under the termination provisions of this Agreement, Consultant shall provide all Documents & Data to City upon payment of the undisputed amount. Consultant shall have no right to retain or fail to provide to City any such documents pending resolution of the dispute. In addition, Consultant shall retain copies of all Documents & Data on file for a minimum of fifteen (15) years following completion of the Project, and shall make copies available to City upon the payment of actual reasonable duplication costs. Before destroying the Documents & Data following this retention period, Consultant shall make a reasonable effort to notify City and provide City with the opportunity to obtain the documents.

3.6.3.2 Subconsultants. Consultant shall require all subconsultants to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or its subconsultants, or those provided to Consultant by the City.

3.6.3.3 Right to Use. City shall not be limited in any way in its use or reuse of the Documents and Data or any part of them at any time for purposes of this Project or another project, provided that any such use not within the purposes intended by this Agreement or on a project other than this Project without employing the services of Consultant shall be at City's sole risk. If City uses or reuses the Documents & Data on any project other than this Project, it shall remove the Consultant's seal from the Documents & Data and indemnify and hold harmless Consultant and its officers, directors, agents and employees from claims arising out of the negligent use or re-use of the Documents & Data on such other project. Consultant shall be responsible and liable for its Documents & Data, pursuant to the terms of this Agreement, only with respect to the condition of the Documents & Data at the time they are provided to the City upon completion, suspension, abandonment or termination. Consultant shall not be responsible or liable for any revisions to the Documents & Data made by any party other than Consultant, a party for whom the Consultant is legally responsible or liable, or anyone approved by the Consultant.

3.6.3.4 Indemnification. Consultant shall defend, indemnify and hold the City, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by City of the Documents & Data, including any method, process, product, or concept specified or depicted.

3.6.3.5 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of City, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

3.6.3.6 Confidential Information. The City shall refrain from releasing Consultant's proprietary information ("Proprietary Information") unless the City's legal counsel determines that the release of the Proprietary Information is required by the California Public Records Act or other applicable state or federal law, or order of a court of competent jurisdiction, in which case the City shall notify Consultant of its intention to release Proprietary Information. Consultant shall have five (5) working days after receipt of the Release Notice to give City written notice of Consultant's objection to the City's release of Proprietary Information. Consultant shall indemnify, defend and hold harmless the City, and its officers, directors, employees, and agents from and against all liability, loss, cost or expense (including attorney's fees) arising out of a legal action brought to compel the release of Proprietary Information. City shall not release the Proprietary Information after receipt of the Objection Notice unless either: (1) Consultant fails to fully indemnify, defend (with City's choice of legal counsel), and hold City harmless from any legal action brought to compel such release; and/or (2) a final and non-appealable order by a court of competent jurisdiction requires that City release such information.

3.6.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.6.5 Indemnification.

3.6.5.1 To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses except such loss or damage caused by the sole negligence or willful misconduct of the City. Consultant's obligation to indemnify shall survive expiration or termination of this Agreement and shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers.

3.6.5.2 If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is

defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

3.6.6 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements.

3.6.7 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Consultant must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the City. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Consultant. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Consultant shall be barred from bringing and maintaining a valid lawsuit against the City.

3.6.8 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

3.6.9 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.6.10 City's Right to Employ Other Consultants. City reserves right to employ other consultants in connection with this Project.

3.6.11 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.6.12 Assignment; Subcontracting. Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Consultant shall not subcontract any portion of the Services required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.6.13 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work

days. All references to Consultant include all personnel, employees, agents, and subconsultants of Consultant, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.6.14 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.6.15 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.6.16 No Third-Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.6.17 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.6.18 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subconsultants to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.6.19 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.6.20 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.6.21 Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification obligations, shall survive any such expiration or termination.

SIGNATURE PAGE TO

**PROFESSIONAL SERVICES AGREEMENT BY AND BETWEEN
THE CITY OF CALIMESA AND HINDERLITER, DE LLAMAS
AND ASSOCIATES, INC.**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CITY:

City of Calimesa,
a California municipal corporation

CONSULTANT:

Hinderliter, De Llamas and Associates,
Inc.,
a California corporation

By: _____

Name: Will Kolbow
Title: City Manager

By: _____

Name: Andrew Nickerson
Title: President/CEO

ATTEST:

**PROOF OF AUTHORITY TO BIND
CONTRACTING PARTY REQUIRED**

By: _____

Name: Darlene Gerdes
Title: City Clerk

APPROVED AS TO FORM:

By: _____

Name: Quinn M. Barrow
Title: City Attorney

EXHIBIT "A"

SCOPE OF SERVICES

Consultant shall provide services pursuant to the terms set forth in this agreement and formulate a plan for and the administration of a shop local digital gift card program with Yiftee, including but not limited to the following components.

- Assist the City in designing, developing, marketing and/or refining, plus administrative support for implementing and operating a digital gift card program with Yiftee.
- Helping the City to develop a strategy for spending limits, targeted business participants, plus marketing and outreach coordination with City staff and local business representatives for implementing and operating a shop local digital gift card program with Yiftee.
- Provide the City with administrative services to successfully operate the shop local digital gift card program, including needed reports to measure the success of the program and if necessary make adjustments or refinements.

EXHIBIT "B"

SCHEDULE OF SERVICES

Consultant shall complete the Services within the schedules agreed upon by the City and Consultant to complete the Services within the term of the Agreement.

EXHIBIT "C"

COMPENSATION

Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth below for a total compensation amount not to exceed Fifteen Thousand Dollars (\$15,000.00) over the term of the Agreement.

Hourly Consulting Rates

<i>Staff Position</i>	Hourly Rate
<i>Principal</i>	\$250
<i>Sr. Advisor</i>	\$180
<i>Analyst</i>	\$100

Community Card Customer Agreement

THIS AGREEMENT (the "Agreement") is made effective as of _____, 2023 (the "Effective Date") by and between Yiftee Inc., a Delaware corporation, with an address at 325 Sharon Park Drive #215, Menlo Park, CA 94025 ("Yiftee") and _____ with an address at _____ ("Customer"). The parties agree as follows:

1. Definitions.

- 1.1 "Merchant" means a merchant, prospect or other contact that may be using or desire to use Yiftee Services to redeem Community Cards.
- 1.2 "Participant" means a Merchant who has opted to participate in a Community Card by running an Activation Card and agreeing to the Merchant Agreement.
- 1.3 "Yiftee Services" means Yiftee's Community Card-giving platform. It is the technology foundation for Community Cards.
- 1.4 "Purchaser" means a person or entity that purchases or redeems Community Cards.
- 1.5 "Community Card" means a digital virtual gift voucher used as payment for goods or services at a Participant.
- 1.6 "Offer" or "Offers" mean specific benefits that Participants provide to consumers who use their Community Cards in their store, as determined by the Participants and posted on their Community Card web page.
- 1.7 "Chargeback" means a purchase that has been disputed by the person who owns the credit card used to purchase a Community Card. Chargebacks cause the amount of the purchase to be refunded to the cardholder out of Yiftee's bank account and often also include an associated fee.

2. Merchant Enrollment.

2.1 Merchant Enrollment Obligations

- (a) Customer will collect a set of Merchants who have elected to participate in the Yiftee Services. Merchants must all be located in the same state in the USA, due to varying gift card laws by state. Each Merchant must agree to the Yiftee Merchant Agreement located on the Yiftee.com website. Merchants who have not agreed to the Merchant Agreement will not be able to utilize the Yiftee Services to redeem Community Cards. Customer will upload into the Yiftee Services or provide the names of the Merchants who intend to participate to Yiftee. Upon the agreed upon launch date, the billing for the Yiftee Services will begin ("Commencement Date"). This billing will include the agreed-upon cost for each Participant or group thereof as defined in Appendix A.
- (b) Yiftee will provide to Customer or directly to Merchants, upon receipt of the set of Merchant names in 2.1a, a set of unique Activation Cards to be run by each Merchant. Customer will inform Merchants of their individual Activation Card and provide instructions on its use. Additionally, Customer will inform Merchants that running the Activation Card implies consent to the Merchant Agreement located on the Yiftee.com website.

(c) As Merchants run the Activation Cards, they will be included in the set of Merchants enabled to participate in the Yiftee Services, i.e. the Participants. Participant may also post their Offers to be available for Community Card holders who redeem Community Cards in their stores.

(d) Yiftee will bill Customer or Merchants as described in Appendix A. Customer can add or remove Participants and fees will be adjusted accordingly, if applicable. There will be no retroactive adjustments allowed by Yiftee (that is, a canceled Participant's billing obligation will result in that Participant's cost to Customer, as defined in Appendix A, to be eliminated beginning only on the next annual billing cycle). A Participant may be added to the list of Participants at any time ("Enrollment Time"), with billing adjustment for said Participant to begin immediately and to be included in the current month's billing.

(e) Each party shall comply with good, ethical and moral business practices and all applicable laws and regulations in engaging in any activities here under.

(f) Fees and payment terms applicable to the subject matter here under shall be as set forth in Appendix A. Customer is not entitled to compensation other than what is described in Appendix A.

(g) Customer is responsible and liable for any disputes or liability arising out of its relationships with Merchants and Participants, except with respect to any liability of Yiftee under this agreement.

2.2 Yiftee Materials.

Yiftee may provide Customer with certain materials for use in conjunction with promoting the Yiftee Services here under ("Yiftee Materials"). No rights or licenses, express or implied, are granted in those Yiftee Materials or otherwise, except as expressly and unambiguously set forth in this Agreement.

2.3 Limited Licenses.

Subject to the terms and conditions of this Agreement, Yiftee hereby grants to Customer, a non-exclusive, non-transferable, non-assignable, non-sublicensable right and license to access and use the Yiftee Services and Yiftee Materials solely for the purposes of Customer's performance of this Agreement.

2.4 Trademark License.

Subject to the terms and conditions of this Agreement, Yiftee hereby grants Customer and Customer hereby grants Yiftee a non-exclusive, non-transferable, non-assignable, non-sublicensable, royalty-free license to use Yiftee's or Customer's name, trade names, trademarks, service marks, and logos (collectively, a party's "Marks") solely in connection with Customer's and Yiftee's promotion and marketing of the Yiftee Services, subject to written usage guidelines, if any, made mutually available.

3. Chargebacks. When purchasing Community Cards using Purchasers' credit cards or other forms of payment using the Yiftee "Order Desk" functionality, or any purchase using Customer's Community Card account with a third party credit card that is not Customer's, Customer is responsible for verifying that the Purchaser owns the payment instrument and has authority to use it for said purchase. Should Yiftee receive a Chargeback, Yiftee will attempt to cancel any outstanding value on the Community Card purchased and Customer will be liable for any remaining balance and fees incurred by Yiftee. Customer is not liable for Chargebacks for Community Cards purchased through the normal Yiftee Community Card process where Customer is not party to the purchase.

4. Ownership. As between the parties, Yiftee owns all right, title and interest in and to the Yiftee Services, Yiftee's Marks and the Yiftee Materials. Customer owns all right, title and interest in and to Customer's Marks.

5. Warranties Disclaimer. YIFTEE AND ITS LICENSORS MAKE NO WARRANTIES TO CUSTOMER, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE, AND ALL WARRANTIES ARISING OUT OF USAGE OR TRADE, COURSE OF DEALING AND COURSE OF PERFORMANCE.

6. Liability Limitation. EXCEPT FOR LIABILITY ARISING UNDER SECTION 8, NEITHER PARTY (NOR ITS LICENSORS) WILL BE LIABLE OR OBLIGATED WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR UNDER ANY CONTRACT, TORT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY, WHETHER OR NOT ADVISED OF THE POSSIBILITY OF SUCH DAMAGES WHATSOEVER, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, RELIANCE OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, REVENUE, DATA OR USE AND IN NO EVENT SHALL EITHER PARTY'S LIABILITY EXCEED THE GREATER OF \$500 OR THE AMOUNTS PAID AND/OR PAYABLE BY YIFTEE TO CUSTOMER (AND/OR BY CUSTOMER TO YIFTEE, IF PAYMENTS ARE PAYABLE BY CUSTOMER TO YIFTEE IN ACCORDANCE WITH PROPOSAL) HEREUNDER IN THE TWELVE (12) MONTH PERIOD PRECEDING THE APPLICABLE CLAIM.

7. Term and Termination.

7.1 Term. This Agreement shall be effective as of the Effective Date and shall continue in full force on an annual period from the Effective Date, and thereafter shall automatically renew annually, unless and until either party terminates this Agreement pursuant to Section 7.2.

7.2 Termination.

(a) Either party may, at its option, terminate this Agreement upon thirty (30) days written notice to the other party for any reason or for no reason whatsoever.

(b) Either party may terminate this Agreement if the other party materially breaches a term of this Agreement and fails to cure such breach within fifteen (15) days after receipt of written notice of such breach from the non-breaching party.

(c) Participants are obligated to honor all outstanding Community Cards issued by Yiftee for the entire duration of those Community Cards' validity periods. Termination does not relieve Participants from honoring conditions outlined in the Merchant Agreement.

7.3 Effect of Termination. Upon any termination: (a) Customer shall immediately cease all promotion of the Yiftee Services and shall immediately return to Yiftee, or at the option of Yiftee, destroy, all Confidential Information (as defined below) of Yiftee disclosed to Customer, Yiftee Materials, and any Yiftee Services, hardware and software provided to Customer here under, (b) Yiftee shall immediately return to Customer, or at the option of Customer, destroy, all Confidential Information of Customer disclosed to Yiftee here under, and (c) all licenses granted under this Agreement shall immediately cease. The following Sections shall survive termination and remain in effect 1, 4, 5, 6, 7.3, 8 and 9. Any termination of this Agreement shall be without prejudice to any other rights or remedies available under this Agreement or at law.

8. Confidentiality. Because of this Agreement, the parties may have access to information that is confidential to the disclosing party ("Confidential Information"). Confidential Information shall include,

without limitation, Purchaser lists and information relating to the parties' products and pricing and all information designated as confidential by the disclosing party at the time of disclosure. A party's Confidential Information shall not include any information which (i) becomes generally publicly available through no wrongful act or omission of the receiving party; (ii) is lawfully acquired by the receiving party from a third party without any breach of a confidentiality obligation; or (iii) is independently developed without use of or reference to the disclosing party's Confidential Information. Each party agrees to maintain the confidentiality of the other party's Confidential Information using the same degree of care that it uses with regard to its confidential information of like nature, but in no event less than reasonable care, and to protect as a trade secret any portion of the other party's Confidential Information by preventing any unauthorized copying, use, distribution, installation or transfer of possession of such information. If required by law, the receiving party may disclose Confidential Information of the disclosing party, but will give adequate prior notice of such disclosure to the disclosing party to permit the disclosing party to intervene and to request protective orders or other confidential treatment therefor. The parties acknowledge that money damages will not be an adequate remedy if this Section 8 is breached and, therefore, either party may, in addition to any other legal or equitable remedies, seek an injunction or other equitable relief against such breach or threatened breach without the necessity of posting any bond or surety.

9. Non-solicitation

During the term of this Agreement, neither party will (on behalf of itself or any other person or entity) solicit any Purchaser or Merchant of the other party to restrict, limit, or terminate such Purchaser's or Merchant's participation in the other party's products and services.

10. Miscellaneous

10.1 Notices. Any notice or other communication required or permitted in this Agreement shall be in writing and shall be deemed to have been duly given on the day of service if served personally or by facsimile transmission with confirmation, or three (3) days after mailing if mailed by First Class mail, registered or certified, postage prepaid, and addressed to the respective parties at the addresses set forth above, or at such other addresses as may be specified by either party pursuant to the terms and provisions of this section.

10.2 Assignment. Customer may not assign or otherwise transfer, without the prior written consent of Yiftee, its rights, duties or obligations under this Agreement to any person or entity, in whole or in part. Yiftee may freely assign or otherwise transfer this Agreement in connection with the sale of all or substantially all of its business or assets. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

10.3 Severability. Any provision of this Agreement that is determined to be unenforceable or unlawful shall not affect the remainder of the Agreement and shall be severable therefrom, and the unenforceable or unlawful provision shall be limited or eliminated to the minimum extent necessary to that this Agreement shall otherwise remain in full force and effect and enforceable.

10.4 Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any and all prior agreements between them, whether written or oral, with respect to the subject matter hereof, and may not be amended, modified or provision hereof waived, except in a writing signed by the parties hereto. No waiver by either party, whether express or implied, of any provision of this Agreement, or of any breach thereof, shall constitute a continuing waiver of such provision or a breach or waiver of any other provision of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

Customer's organization (Print): YIFTEE, INC.

Authorized signature: Authorized signature:

Name, Title: Name, Title: Donna Novitsky, Yiftee CEO

Community Card Customer Agreement

APPENDIX A - Pricing

Customer and Participants are not required to pay Yiftee a subscription fee or a revenue share.

Purchasers pay the face value of the Community Card plus a \$1+5% of the Community Card value eDelivery fee at the time of purchase. Bulk purchases of one thousand dollars (\$1000) or more, and enterprise accounts may, at Yiftee's sole discretion, qualify for a reduced eDelivery fee by depositing funds into their Yiftee accounts by check or ACH and disabling credit cards. The ability for Customer or a sponsor to pay the eDelivery fee is available.

Participants receive full value of redemptions less credit card processing fees for a card-not-present (CNP) transaction upon redemption. Yiftee does not control these fees; they are set by the Merchant Acquirer who is their credit card processor.

Where permitted by law, Yiftee will implement a monthly maintenance fee on Community Cards that have been inactive (i.e. no spending on the Card) for periods of greater than 12 consecutive months.

Yiftee Community Cards do not generally expire. Subject to applicable laws, in some cases Community Cards given by corporations or merchants as promotions, rewards and awards may have expiration dates. In the case of Community Cards expiring, Yiftee retains 10% of the original Community Card value not to exceed the remaining unspent funds and refunds the balance to the purchaser's Yiftee Community Card account. eDelivery fees are not refunded. Expiring Community Cards do not incur maintenance fees.

Participants may choose, at their discretion, to post Offers to encourage Purchasers to use their Community Cards in their stores.

Participants may choose, at their discretion, to offer rebates as fund raisers to local groups such as schools, churches and other non-profits. Such programs are an incentive for the local groups to sell Community Cards to their members, and for the Purchasers to use them in specific stores who are offering rebates. Yiftee will work with the Participants and Purchasers to execute such programs.

No tipping is allowed on Yiftee Community Cards.

The maximum and minimum prices of Community Cards are determined by Yiftee in its sole discretion.