

**REIMBURSEMENT AGREEMENT
FOR CITY OF BEAUMONT
COMMUNITY FACILITIES DISTRICT NO. 2023-1 (FAIRWAY CANYON)**

THIS REIMBURSEMENT AGREEMENT FOR CITY OF BEAUMONT COMMUNITY FACILITIES DISTRICT NO. 2023-1 (FAIRWAY CANYON) (the “Agreement”) dated as of April 1, 2023 is entered into by and between the City of Beaumont, a general law city duly organized and validly existing under the laws of the State of California (the “City”), and Meritage Homes of California, Inc., a California corporation (the “Owner”).

RECITALS

A. The Owner desires to form the City of Beaumont Community Facilities District No. 2023-1 (Fairway Canyon) (the “District”) for the purpose of financing various facilities and services required as a condition of developing a residential community consisting of single-family residential dwelling units and other uses (the “Development”). The authorized list of facilities (the “Facilities”) and services (the “Services”) that may be financed by the District is described in Exhibit B to Resolution No. _____ (the “Resolution of Intention”) adopted on April 4, 2023.

B. Pursuant to Government Code Section 53314.9, the City Council is authorized to accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or that work-in-kind for any authorized purpose, including, but not limited to, paying any costs incurred by the local agency and creating a district. The legislative body may also enter into an agreement, by resolution, with the person or entity advancing the funds or work-in-kind, to repay all or a portion of the funds advanced or to reimburse the person or entity for the cost or value of the work-in-kind, provided that certain conditions are met. The conditions to be satisfied require that (1) the proposal to repay the funds or the value or cost of the work-in-kind must be included in the resolution of intention for the proposed district and in the resolution of formation for the proposed district, (2) that any proposed special tax is approved by the qualified electors of the district pursuant to the Mello Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (the “Act”) and that, if not approved, any funds which have not been committed for any authorized purpose by the time of the election must be returned to the person or entity advancing funds, and (3) any work-in-kind accepted shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the local agency. The conditions set forth in (1) and (2) above have been satisfied with the formation of the District.

C. The City and the Owner desire to enter into this Agreement in accordance with Government Code Section 53314.9 in order to provide a mechanism by which the Owner may advance certain costs related to the Facilities and Services to be financed by the District and to provide that the District, when and if bonds are issued and/or special tax revenues are available, will reimburse the Owner for the amounts advanced.

AGREEMENT

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

1. Recitals. Each of the above recitals is incorporated herein and is true and correct.
2. Deposit and Use of Funds.

(a) The City has received a petition from the owner of at least 10% of the territory within the District requesting to establish the District. In accordance therewith, the City has adopted the Resolution of Intention for the purpose of initiating the process of forming the District pursuant to the Act.

(b) In order to assist the City in establishing the District, the Owner has advanced \$50,000 to the City for the purpose of covering expenses relating thereto. In addition to costs incurred by the City (including City staff time) in resolving issues relating to the formation of the District, this Agreement shall cover the costs of retaining the necessary consultants to assist in the formation of the District, including an engineer, special tax consultant, financial advisor, special counsel and other consultants deemed necessary by the City.

(c) In addition to the initial advance of \$50,000, from time to time, the Owner shall make additional advances to the City within 15 days following receipt from the City of a written request for an additional advance to cover such costs. In the event the Owner does not deliver the requested amount to the City within such 15-day period, the City will have no obligation to proceed with the issuance of bonds unless and until such additional advance is received. The Owner shall have the right to notify the City at any time, in writing, of its desire to have the City abandon the proceedings for the formation of the District. Upon receipt of such notice, the City shall instruct its consultants to cease work as soon as practicable. The Owner shall be responsible to pay all costs and expenses incurred by the City or any City consultant or advisor relating to the formation of the District until work with respect to the bond issuance ceases following the receipt of the Owner's notice of abandonment.

(d) The City will provide written notice to the Owner when the balance of the remaining advance is reduced to \$5,000. The City will provide to the Owner on request a summary of how the advances have been spent and the unexpended balance remaining. The amounts advanced by the Owner will be reimbursable to the Owner, without interest, from the proceeds of bonds issued by the District and/or from special tax revenues collected from the District. In the event that bonds are not issued to provide a source of reimbursement to the Owner or special tax revenues are unavailable to provide a source of reimbursement to the Owner, the City shall have no liability to the Owner to reimburse it for any of amounts previously advanced by the Owner and expended by the City.

3. Reimbursement Procedure. In accordance with Government Code Section 53314.9, the Owner agrees that any work-in-kind to be performed by or on behalf of it and to be accepted by the District or the City shall be performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the City. In the event such work is not so performed or constructed, the Owner shall not be entitled to reimbursement for such work. It is the intention of the parties to make any work that is undertaken or expenses that are

incurred by or on behalf of the Owner with respect to the Facilities eligible for reimbursement. It is agreed that any “cost” or “incidental expense” (as those terms are defined in Government Code Section 53317) incurred with respect to any of the Facilities shall be eligible for reimbursement. Any such costs or incidental expenses will be reimbursed only if all City policies with respect to reimbursement have been satisfied as of the date that reimbursement is to be made.

4. Abandonment of Bond Issuance or Special Tax Levy. The Owner understands that the issuance of bonds as described herein is subject to sound municipal finance practices. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to issue bonds or levy special taxes within the District. This Agreement shall not create any independent obligation of the City or the District to issue bonds or to levy special taxes.

5. Indemnification and Hold Harmless. The Owner hereby assumes the defense of, and indemnifies and saves harmless, the City and each of its officers, directors, employees and agents, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of, or arising out of any acts or omissions taken by the Owner or any of the Owner’s officers, employees, contractors and agents with respect to the design, engineering and construction of the Facilities by Owner; provided, however, this indemnification and hold harmless shall not include any action, damages, claims, losses or expenses arising out of the sole negligence or willful misconduct of the City, its officers, directors, employees or agents.

6. Notices. Any notice to be provided pursuant to this Agreement shall be delivered to the following addresses:

Owner: Meritage Homes of California, Inc.
5 Peters Canyon Road, Suite 310
Irvine, CA 92606
Attention: Forward Planning Manager

City: City of Beaumont
550 East 6th Street
Beaumont, California 92223
Attention: City Manager

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

7. Assignment. The Owner may not assign its interest in this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld.

8. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent permitted by law.

9. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the matters provided for herein.

10. Amendments. This Agreement may be amended or modified only by written instrument signed by all parties.

11. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

12. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

13. No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City, the District and the Owner, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

14. Singular and Plural; Gender. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

15. Termination. The provisions of Section 2 of this Agreement shall terminate and be of no further force and effect on the earlier of (i) the date of issuance of the first series of bonds or (ii) December 31, 2028 unless expressly amended by the parties. Notwithstanding the forgoing, the Owner's obligations under Section 5 shall survive the termination and the City's obligation to provide reimbursement in accordance with Section 3 for expenses incurred prior to the termination date shall also survive termination.

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

CITY OF BEAUMONT, CALIFORNIA

By: _____
City Manager

MERITAGE HOMES OF CALIFORNIA, INC.,
a California corporation

By: _____
Authorized Officer