

RESOLUTION NO. 4060

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS APPROVING AND AUTHORIZING EXECUTION OF A JOINT COMMUNITY FACILITIES AGREEMENTS IN CONNECTION WITH THE FORMATION OF COMMUNITY FACILITIES DISTRICT 2007-2 (PACIFIC HERITAGE); AND MAKING FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH.

WHEREAS, the City of Perris (the “City”) is taking proceedings pursuant to the Mello-Roos Community Facilities Act of 1982 (constituting Sections 53311 et. seq. of the Government Code of the State of California) for the formation of Community Facilities District 2007-2 (Pacific Heritage) of the City of Perris (“District”) and for the issuance of bonds by the District; and

WHEREAS, the owners and developers of a majority of property within said District are Rvone Homes LLC and Magnolia LP (the “Developers”); and

WHEREAS, pursuant to Section 53316.2 of the Act, a community facilities district is authorized to finance facilities to be owned or operated by an entity other than the agency that created the community facilities district pursuant to a joint community facilities agreement; and

WHEREAS, there is attached hereto as Exhibit A, a Joint Community Facilities Agreement (the “EMWD Agreement”), among the Developers, the City, and Eastern Municipal Water District (“EMWD”); and

WHEREAS, the governing board of EMWD has approved the EMWD Agreement presented at this meeting; and

WHEREAS, the Developer has approved the EMWD Agreement; and

WHEREAS, the City has determined that it is necessary and desirable to enter into the EMWD Agreement;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Perris, California, as follows:

Section 1. That the recitals set forth hereinabove are true and correct in all respects.

Section 2. That said form of EMWD Agreement on file with the City Clerk be and is hereby approved. The Mayor, City Manager or Assistant City Manager is hereby authorized and directed to execute the EMWD Agreement on behalf of the City with such execution to be attested to by the City Clerk.

ADOPTED, SIGNED and APPROVED this 8th day of January, 2008.

Mayor, Daryl R. Busch

ATTEST:

City Clerk, Judy L. Haughney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Judy L. Haughney, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number 4060 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting held the 8th day of January, 2008, by the following called vote:

AYES:	COUNCILMEMBERS:	LANDERS, MOTTE, ROGERS, BUSCH
NOES:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	YARBROUGH
ABSTAIN:	COUNCILMEMBERS:	NONE

City Clerk, Judy L. Haughney

Exhibit A

JOINT COMMUNITY FACILITIES AGREEMENT

by and among

CITY OF PERRIS

and

RVONE HOMES, LLC

and

MAGNOLIA, LP

EASTERN MUNICIPAL WATER DISTRICT

relating to

CITY OF PERRIS COMMUNITY FACILITIES DISTRICT NO. 2007-2
(PACIFIC HERITAGE)

JOINT COMMUNITY FACILITIES AGREEMENT

THIS JOINT COMMUNITY FACILITIES AGREEMENT (the "Agreement") is entered into effective as of the ___ day of ___, 2007, by and among the CITY OF PERRIS, a municipal corporation organized and existing under the laws of the State of California ("City"), RVONE HOMES, LLC, a California limited liability company, MAGNOLIA, LP, a California limited partnership (collectively "Property Owner"), and EASTERN MUNICIPAL WATER DISTRICT, a public agency ("EMWD"), and relates to the proposed formation by the City of a community facilities district to be known as "City of Perris Community Facilities District No. 2007-2 (Pacific Heritage)" ("CFD No. 2007-2" or the "CFD") for the purpose of financing certain facilities to be owned and operated by EMWD from proceeds of bonds issued by the proposed CFD.

RECITALS:

A. The property described and depicted in Exhibit "A" hereto (the "Property") which is located in the City of Perris, State of California, is proposed to constitute the land within the boundaries of the CFD.

B. Property Owner intends to develop the Property for residential purposes and has obtained or intends to obtain the necessary development approvals to construct approximately 138 dwelling residential units on the Property, as such development may be modified from time to time (the "Project").

C. Property Owner petitioned the City to form CFD No. 2007-2 for the purpose of financing, among other things, the acquisition and/or construction of various public facilities to be owned and operated by EMWD as described in Exhibit "B" hereto, which facilities will benefit the Project including (i) certain public facilities to be constructed by or on behalf of Property Owner and ultimately owned and operated by EMWD (the "Acquisition Facilities") and (ii) certain public facilities to be constructed and owned and operated by EMWD and financed by EMWD Fees (the "EMWD Fee Facilities"). Upon the construction of the Acquisition Facilities by or on behalf of Property Owner and the inspection and acceptance thereof by EMWD as described herein, the Acquisition Facilities shall become part of the EMWD system. The Acquisition Facilities and EMWD Fee Facilities are collectively referred to herein as the "EMWD Facilities".

D. Property Owner has yet to determine whether it will finance any or all of the Acquisition Facilities, or EMWD Fees (defined below) with Bond Proceeds (defined below) available for such purpose. The parties hereto acknowledge that the purpose of this Agreement is to satisfy the requirements of the Act.

E. EMWD and Property Owner agree that any Acquisition Facilities to be constructed by Property Owner shall be eligible for acquisition by EMWD and the costs thereof shall be eligible for payment from Bond Proceeds pursuant to this Agreement.

F. In conjunction with the recording of the final subdivision map(s) for the Project, the issuance of building permits for the construction of homes within the Project and/or receipt of water meters for such homes, Property Owner, or its successors or assigns, may elect to advance EMWD Fees (the “Advances”) before any Bond Proceeds are available to pay for EMWD Fee Facilities. In such case, Property Owner shall be entitled to (i) reimbursement of such Advances from EMWD following payment to EMWD by CFD No. 2007-2 of the EMWD Fees from Bond Proceeds and (ii) credit for payments made to EMWD from Bond Proceeds against EMWD Fees which would otherwise be due to EMWD in conjunction with the Project, all as further described herein.

G. In addition to the EMWD Facilities, certain facilities to be owned and operated by the City (the “City Facilities”) are expected to be funded from proceeds of bonds issued by proposed CFD No. 2007-2. The City Facilities and EMWD Facilities are sometimes referred to collectively herein as the “Facilities.”

H. The City will have sole discretion and responsibility for the formation and administration of CFD No. 2007-2.

I. The City Council of the City (the “City Council”) is undertaking proceedings to form and establish CFD No. 2007-2 pursuant to the provisions of the Act (defined below).

J. The City is authorized by Section 53313.5 of the Act to assist in the financing of the acquisition and/or construction of the EMWD Facilities. This Agreement constitutes a joint community facilities agreement, within the meaning of Section 53316.2 of the Act, by and among EMWD, Property Owner, and the City, pursuant to which CFD No. 2007-2, when and if formed, will be authorized to finance the construction and/or acquisition of all or a portion of the EMWD Facilities. As authorized by Section 53316.6 of the Act, responsibility for constructing, providing for and operating the EMWD Facilities is delegated to EMWD.

K. The parties hereto find and determine that the residents residing within the boundaries of EMWD, the City and CFD No. 2007-2 will be benefited by the construction and/or acquisition of the Facilities and that this Agreement is beneficial to the interests of such residents.

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. Definitions. Unless the context clearly otherwise requires, the terms defined in this Section shall, for all purposes of this Agreement, have the meanings herein specified.

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

(b) “Acquisition Facility or Facilities” means those sewer and water facilities listed on Exhibit “B” hereto, which are eligible to be constructed by the Property Owner, acquired by EMWD and paid for with Bond Proceeds.

(c) “Acquisition Price” means the amount to be paid out of Bond Proceeds for the acquisition of an Acquisition Facility.

(d) “Actual Costs” with respect to an Acquisition Facility includes: (i) the actual construction costs including labor, materials and equipment costs, (ii) the costs incurred in design, engineering and preparation of plans and specifications (iii) the fees paid to consultants and government agencies in connection with and for obtaining permits, licenses or other required governmental approvals and reviews including but not limited to plan check and inspection fees, (iv) actual reasonable construction management fee not to exceed 5% of the costs described in clause (i) above, (v) professional costs such as engineering, legal, accounting, inspection, construction staking, materials testing and similar professional services, (vi) costs of payment, performance of maintenance bonds, and insurance costs (including the costs of any title insurance) and (vii) the value of any real property or interests therein that (1) are required for the construction of the Acquisition Facility such as temporary construction easements, haul roads, etc. and (2) are required to be conveyed with such Acquisition Facility in an amount equal to the fair market value of such real property or interests therein.

(e) “Advances” means an amount advanced by Property Owner as a deposit and security for EMWD Fee Facilities in lieu of payment of EMWD Fees prior to the issuance and sale of Bonds and which are eligible for reimbursement to Property Owner by EMWD following payment from Bond Proceeds of EMWD Fees.

(f) “Bond Proceeds” or “Proceeds of the Bonds” shall mean those net funds generated by the sale of the Bonds.

(g) “Bond Resolution” means that Resolution, Resolution Supplement, Fiscal Agent Agreement, Indenture of Trust or other equivalent document(s) providing for the issuance of the Bonds.

(h) “Bonds” shall mean those bonds, or other securities, issued by, or on behalf of CFD No. 2007-2 in one or more series, as authorized by the qualified electors within CFD No. 2007-2.

(i) “City Facilities” means those public improvements to be owned, operated or maintained by the City identified in proceedings to form CFD No. 2007-2 that are to be financed with Bond Proceeds.

(j) “EMWD Engineer” means the engineering firm or in-house personnel used by EMWD to determine the value of an Acquisition Facility to be acquired with Bond Proceeds.

(k) “EMWD Fee Facilities” means those sewer and water facilities listed on Exhibit “B” hereto, which are necessary for the provision of water and sewer services to the Project and paid for with Bond Proceeds in lieu of the payment of EMWD Fees, and not including in-tract facilities.

(l) “EMWD Fees” means water backup fees, sewer backup fees, sewer treatment capacity charges and all components thereof imposed by EMWD upon the Project to finance EMWD Fee Facilities to the extent said EMWD Fees fund capital facilities with an estimated useful life of five (5) years or more.

(m) “EMWD Representative” means the EMWD Engineer or his designee.

(n) “Field Engineer” shall have the meaning ascribed to the term in Section 7(a)(i) of this Agreement.

(o) “Other Facilities Account of the Improvement Fund” means the fund, account or sub-account of CFD No. 2007-2 (regardless of its designation within the Bond Resolution) into which a portion of the Bond Proceeds may be deposited in accordance with the Bond Resolution to finance EMWD Facilities.

(p) “Party” or “Parties” shall mean any one or all of the parties to this Agreement.

(q) “Plans and Specifications” shall mean the plans and specifications for the design and construction of an Acquisition Facility as approved by EMWD, which approval shall not be unreasonably withheld.

(r) “Rate and Method” means the Rate and Method of Apportionment of the Special Tax authorizing the levy and collection of special taxes pursuant to proceedings undertaken for the formation of CFD No. 2007-2 pursuant to the Act.

(s) “Special Taxes” means the special taxes authorized to be levied and collected pursuant to the applicable Rate and Method.

(t) “State” means the State of California.

(u) “Substantially Complete” or “Substantial Completion” with respect to an Acquisition Facility means that such Acquisition Facility is substantially complete in accordance with its Plans and Specifications and is available for use by the public for its intended purpose, notwithstanding any final “punch list” items still required to be completed, unless such items are required for the safe operation of such Acquisition Facility, and shall be based upon approval of EMWD’s inspectors, which shall not be unreasonably withheld.

3. Proposed Formation of CFD No. 2007-2. The City will undertake to analyze the appropriateness of forming CFD No. 2007-2 to finance the Facilities. The City will retain, at the expense of the Property Owner, the necessary consultants to analyze the proposed formation of CFD No. 2007-2.

4. Sale of Bonds and Use of Proceeds. In the event that CFD No. 2007-2 is formed, the City Council, acting as the legislative body of CFD No. 2007-2 may, in its sole discretion, finance the EMWD Facilities by issuing the Bonds. To the extent that CFD No. 2007-2 determines, in its sole discretion, that Bond Proceeds are available to finance EMWD Facilities, the City Council shall notify EMWD of the amount of such Bond proceeds deposited in the Other Facilities Account of the Improvement Fund. As Bond Proceeds are transferred to EMWD

as described in Section 5 below to fund EMWD Fee Facilities, the Property with respect to which such transfer was made shall receive a credit in the amount transferred against the payment of EMWD Fees. Nothing herein shall supersede the obligation of an owner of the Property to pay EMWD Fees to EMWD when due. The purpose of this Agreement is to provide a mechanism by which CFD No. 2007-2 may issue the Bonds to provide a source of funds to finance EMWD Fee Facilities through the payment of EMWD Fees and fund the Acquisition Price of Acquisition Facilities. In the event that Bond Proceeds are not available or sufficient to satisfy the obligation, then such owner shall remain obligated to pay EMWD Fees to EMWD as a condition of receiving water and sewer service to the Property.

The Bonds shall be issued only if, in its sole discretion, the City Council determines that all requirements of State and Federal law and all City policies have been satisfied or have been waived by the City. In no event shall EMWD or any owner of the Property, including Property Owner, have a right to compel the issuance of the Bonds or the disbursement of Bond Proceeds to fund EMWD Facilities.

5. Disbursements.

(a) Bond Proceeds designated for the EMWD Facilities shall be held by CFD No. 2007-2 in the Other Facilities Account of the Improvement Fund.

(b) Upon the funding of the Other Facilities Account of the Improvement Fund, Property Owner and EMWD may execute and submit a payment request to the City or CFD No. 2007-2 in the form attached hereto as Exhibit "C" requesting disbursement to EMWD of an amount equal to all EMWD Fees for which Advances have been made from the Other Facilities Account of the Improvement Fund.

(c) From time to time following the funding of the Other Facilities Account of the Improvement Fund, Property Owner may notify EMWD in writing and request a disbursement from the Other Facilities Account of the Improvement Fund to fund EMWD Fees by executing and submitting a request for payment, in substantially the form attached hereto as Exhibit "C" (the "Disbursement Request"). Upon receipt of such Disbursement Request completed in accordance with the terms of this Agreement, CFD No. 2007-2 shall wire transfer or otherwise pay to EMWD such requested funds to the extent that Bond Proceeds are available in the Other Facilities Account of the Improvement Fund for such purpose. Upon such notice and EMWD's receipt of such disbursement relating to EMWD Fees, Property Owner shall be deemed to have satisfied the applicable EMWD Fees with respect to the number of dwelling units or lots for which the EMWD Fees would otherwise have been required in an amount equal to such disbursement.

(d) EMWD agrees that prior to submitting a Disbursement Request requesting payment from CFD No. 2007-2 it shall review and approve all costs in its request and will have already paid or incurred such costs of EMWD Facilities from its own funds subsequent to the date of this Agreement, or will disburse such amounts to pay the costs of the EMWD Facilities following receipt of funds from CFD No. 2007-2. EMWD will trace and report to CFD No. 2007-2 all earnings, if any, earned by EMWD, from the date of receipt of such Bond Proceeds by EMWD to the date of expenditure by EMWD for capital costs of the EMWD Facilities. Such

report shall be delivered at least semiannually until all Bond Proceeds are expended by EMWD. EMWD agrees that in processing the above disbursements it will comply with all legal requirements for the expenditure of Bond Proceeds under the Internal Revenue Code of 1986 and any amendments thereto.

(e) EMWD agrees to maintain adequate internal controls over its payment function and to maintain accounting records in accordance with generally accepted accounting procedures. EMWD will, upon request, provide the City and/or Property Owner with access to EMWD's records related to the EMWD Facilities and will provide to the City its annual financial report certified by an independent certified public accountant for purposes of assisting the City in calculating the arbitrage rebate obligation of CFD No. 2007-2, if any.

(f) The City or CFD No. 2007-2 agrees to maintain full and accurate records of all amounts, and investment earnings, if any, expended from the Other Facilities Account of the Improvement Fund. The City or CFD No. 2007-2 will, upon request, provide EMWD and/or Property Owner with access to the City's or CFD No. 2007-2's records related to the Other Facilities Account of the Improvement Fund.

6. Ownership of EMWD Facilities. The EMWD Facilities shall be and remain the property of EMWD.

7. Acquisition Facilities. The Parties acknowledge that EMWD may require the Property Owner, pursuant to the EMWD Rules and Regulations, to design, construct and dedicate to EMWD Acquisition Facilities as a condition to providing water and sewer service to the Property. To the extent the Acquisition Facilities are to be acquired by the Bond Proceeds, the City shall provide a form of Disbursement Request to the Property Owner and EMWD. The following provisions of this Section 7 shall apply solely with respect to those Acquisition Facilities to be constructed by Property Owner and acquired by EMWD with Bond Proceeds:

(a) Construction and Acquisition of Acquisition Facilities.

(i) The Property Owner will complete the Plans and Specifications for such Acquisition Facilities. The Plans and Specifications shall include EMWD's standard specifications and shall be subject to EMWD approval, which shall not be unreasonably withheld. EMWD agrees to process any Plans and Specifications for approval with reasonable diligence and in a timely manner. The Property Owner may proceed with the construction of any such Acquisition Facilities in accordance with the provisions of Section 7(b) hereof. A qualified engineering firm (the "Field Engineer") shall be employed by Property Owner to provide all field engineering surveys determined to be necessary by EMWD inspection personnel. Field Engineer shall promptly furnish to EMWD a complete set of grade sheets listing all locations, offsets, etc., in accordance with good engineering practices, and attendant data and reports resulting from the Field Engineer's engineering surveys and/or proposed facility design changes. EMWD shall have the right, but not the obligation, to review, evaluate and analyze whether such results comply with applicable specifications.

(ii) A full-time soils testing firm, approved by EMWD, shall be employed by Property Owner to conduct soil compaction testing and certification. Property

Owner shall promptly furnish results of all such compaction testing to EMWD for its review, evaluation and decision as to compliance with applicable specifications. In the event the compaction is not in accordance or compliance with applicable specifications, Property Owner shall be fully liable and responsible therefor. A final report shall be required fully certifying trench compaction efforts prior to acceptance of each of the Acquisition Facilities.

(iii) The cost of all surveying, compaction testing and report costs associated with such Acquisition Facilities furnished and constructed by any contractors or sub-contractors (collectively, "Contractors") shall be included among the costs which are eligible to be paid from the Other Facilities Account of the Improvement Fund.

(iv) EMWD shall not be responsible for conducting any environmental, archaeological, biological, or cultural studies or any mitigation requirements related to the Acquisition Facilities to be constructed by Property Owner that may be requested by appropriate Federal, State, and/or local agencies. Any such work shall be paid for and such work shall be conducted by, or on behalf of Property Owner and the costs of such work shall be eligible to be paid from the Other Facilities Account of the Improvement Fund.

(b) Public Works Requirements. In order to insure that the Acquisition Facilities to be constructed by the Property Owner and acquired with Bond Proceeds will be constructed as if they had been constructed under the direction and supervision, or under the authority of, EMWD, so that they may be acquired by EMWD pursuant to Government Code Section 53313.5, the Property Owner shall comply with all of the following requirements:

(i) Property Owner shall submit the Specifications (Bid Documents) to EMWD for review and approval prior to utilizing the documents for the bid process.

(ii) Property Owner shall make arrangements with EMWD to schedule the bid opening, which is to be held at EMWD headquarters, conducted by Property Owner and witnessed by EMWD staff.

(iii) The Property Owner shall obtain a minimum of three (3) bids from firms reasonably determined to be qualified to construct the Acquisition Facilities in conformance with the Plans and Specifications.

(iv) The contract or contracts for the construction of such Acquisition Facilities shall be awarded to the responsible bidder(s) submitting the lowest responsive bid(s) for the construction of such Acquisition Facilities.

(v) The Property Owner shall require, and the specifications and bid and contract documents shall require all such Contractors to pay prevailing wages and to otherwise comply with applicable provisions of the State Labor Code, Government Code and Public Contract Code relating to public works projects to the extent expressly applicable to a non-governmental entity constructing infrastructure to be acquired by a public entity.

(vi) Said Contractors shall be required to furnish labor and material payment bonds and contract performance bonds in an amount equal to 100 percent of the contract price naming the Property Owner and EMWD as obligees and issued by insurance or

surety companies approved by EMWD. All such bonds shall be in a form approved by EMWD Representative. Rather than requiring its Contractors to provide such bonds, the Property Owner may elect to provide the same for the benefit of its Contractors.

(vii) All such Contractors shall be required to provide proof of insurance coverage throughout the term of the construction of such Acquisition Facilities which they will construct in conformance with the approved Plans and Specifications.

(viii) The Property Owner and all such Contractors shall comply with such other requirements relating to the construction of such Acquisition Facilities which EMWD may impose by written notification delivered to the Property Owner and each such Contractor at any time either prior to the receipt of bids by the Property Owner for the construction of such Acquisition Facilities or, to the extent required as a result of changes in applicable laws, during the progress of construction thereof. In accordance with this Section 7(b), the Property Owner shall be deemed the awarding body and shall be solely responsible for compliance and enforcement of the provisions of the State Labor Code, Government Code, and Public Contract Code to the extent expressly applicable to a non-governmental entity constructing infrastructure to be acquired by a public entity.

(ix) The Property Owner shall provide proof to EMWD, at such intervals and in such form as the EMWD Representative may require, that the foregoing requirements have been satisfied as to all of the Acquisition Facilities constructed by Property Owner, acquired by EMWD and paid for with Bond Proceeds.

(c) Inspection; Completion of Construction.

(i) EMWD shall have primary responsibility for providing inspection of the construction of the Acquisition Facilities constructed by the Property Owner to insure that the construction is accomplished in accordance with the Plans and Specifications. EMWD's personnel shall have access to the site of the work at all reasonable times for the purpose of accomplishing such inspection. Upon Substantial Completion of the construction of such Acquisition Facilities by Property Owner, the Property Owner shall notify EMWD in writing that the construction of such Acquisition Facilities has been Substantially Completed.

(ii) Upon receiving such written notification from the Property Owner, and upon receipt of written notification from its inspectors that construction of any of the Acquisition Facilities by Property Owner has been Substantially Completed, EMWD shall within 15 days notify the Property Owner in writing that the construction of such Acquisition Facilities has been satisfactorily completed. Upon receiving such notification, the Property Owner shall forthwith file with the County Recorder of the County of Riverside a Notice of Completion pursuant to the provisions of Section 3093 of the Civil Code. The Property Owner shall furnish to EMWD a duplicate copy of each such Notice of Completion showing thereon the date of filing with the County Recorder. Any actual costs reasonably incurred by EMWD in inspecting and approving the construction of any Acquisition Facilities by Property Owner not previously paid by the Property Owner shall be eligible to be reimbursed from the Other Facilities Account of the Improvement Fund or paid directly by Property Owner.

(d) Liens. Upon the expiration of the time for the recording of claim of liens as prescribed by Sections 3115 and 3116 of the Civil Code, the Property Owner shall provide to EMWD such evidence or proof as EMWD shall require that all persons, firms and corporations supplying work, labor, materials, supplies and equipment on behalf of Property Owner for the construction of any Acquisition Facilities have been paid, and that no claims of liens have been recorded by or on behalf of any such person, firm or corporation. Rather than await the expiration of the said time for the recording of claims of liens, the Property Owner may elect to provide to EMWD a title insurance policy or other security acceptable to EMWD guaranteeing that no such claims of liens will be recorded or become a lien upon the Property with priority over the lien of the special taxes to be levied thereon in the proceedings for the formation of CFD No. 2007-2.

(e) Acquisition, Acquisition Price; Source of Funds.

(i) Provided the Property Owner has complied with the requirements of this Agreement, EMWD agrees to acquire the Acquisition Facilities from the Property Owner. Notwithstanding the above, nothing herein shall be construed as requiring Property Owner to construct and deliver any Acquisition Facility. The price to be paid by CFD No. 2007-2 for the acquisition of such Acquisition Facilities by EMWD (the "Acquisition Price") shall be the lesser of (i) the value of the Acquisition Facilities or (ii) the total of the Actual Costs of the Acquisition Facilities. The Property Owner shall transfer ownership of the Acquisition Facilities to EMWD by grant deed, bill of sale or such other documentation as EMWD may require. Upon the transfer of ownership of the Acquisition Facilities or any portion thereof from the Property Owner to EMWD, EMWD shall be responsible for the maintenance of the Acquisition Facilities or the portion transferred.

(ii) For purposes of determining the Acquisition Price to be paid by CFD No. 2007-2 for the acquisition of the Acquisition Facilities by EMWD, the value of such improvements shall be the amount determined by the EMWD Engineer to be the value of the Acquisition Facilities based on the Actual Costs submitted by the Property Owner, as hereinbefore specified; provided, however, that if the EMWD Engineer determines that such Actual Costs, or any of them, are excessive and that the value of the Acquisition Facilities is less than the total amount of such Actual Costs, the Acquisition Price to be paid by CFD No. 2007-2 for the acquisition of the Acquisition Facilities shall be the value thereof as determined by the EMWD Engineer.

(iii) Upon completion of the construction of any Acquisition Facilities by Property Owner, the Property Owner shall deliver to EMWD copies of the contract(s) with the Contractor(s) who have constructed the Acquisition Facilities or other relevant documentation with regard to the payments made to such Contractor(s) and each of them for the construction of such Acquisition Facilities, and shall also provide to EMWD copies of all invoices and purchase orders with respect to all supplies and materials purchased for the construction of such Acquisition Facilities. EMWD shall require the EMWD Engineer to complete its determination of the value of the Acquisition Facilities as promptly as is reasonably possible.

(iv) To the extent funds are available therein, the Acquisition Price of any Acquisition Facilities may be determined and paid out of the Other Facilities Account of the Improvement Fund prior to transfer of ownership of the Acquisition Facilities to EMWD upon a determination of Substantial Completion and acceptance by EMWD of such Acquisition Facility so long as the transfer of the property will take place within a reasonable time thereafter. Property Owner and EMWD shall submit a payment request form to the City or CFD No. 2007-2 in the form to be provided by the City.

(v) Notwithstanding the preceding provisions of this section, the sole source of funds for the acquisition by EMWD of the Acquisition Facilities or any portion thereof shall be the Bond Proceeds made available by CFD No. 2007-2 pursuant to Section 4 above. If for any reason beyond EMWD's control, the proceedings for the formation of CFD No. 2007-2 are not completed or the Bonds are not sold, EMWD shall not be required to acquire any Acquisition Facilities from the Property Owner. In such event, the Property Owner shall complete the design and construction and offer to EMWD ownership of such portions of Acquisition Facilities as are required to be constructed by the Property Owner as a condition to recordation of subdivision maps for the Property or any other agreement between Property Owner and EMWD, but need not construct any portion of the Acquisition Facilities which it is not so required to construct.

(vi) Any credits to be applied against EMWD Fees or reimbursements of payments made to EMWD for EMWD Fees that Property Owner may receive as a result of constructing Acquisition Facilities shall be addressed in a separate agreement between Property Owner and EMWD. Property Owner shall not receive any reimbursements for payments for EMWD Fees paid from Bond Proceeds. Draft copies of any such agreements shall be provided to the City for its review. Property Owner and EMWD agree to negotiate in good faith any such agreement providing for credit or reimbursement of EMWD Fees.

(f) Easements. The Property Owner shall, at the time EMWD acquires the Acquisition Facilities as provided in Section 7(e) hereof, grant to EMWD, by appropriate instruments prescribed by EMWD, all easements on private property which may be reasonably necessary for the proper operation and maintenance of such Acquisition Facilities, or any part thereof.

(g) Maintenance. Prior to the transfer of ownership of an Acquisition Facility by the Property Owner to EMWD, as provided in Section 7(e) hereof, the Property Owner shall be responsible for the maintenance thereof and shall maintain and transfer such Acquisition Facility to EMWD in as good condition as the Acquisition Facility was in at the time the Property Owner notified EMWD that construction of same had been completed in accordance with the Plans and Specifications.

(h) Responsibility for Acquisition Facilities. The Parties acknowledge and agree that all responsibility and obligation for the design, construction and dedication of such Acquisition Facilities to EMWD, in accordance with all applicable statutes and the EMWD Rules and Regulations, shall be and remain the responsibility of the Property Owner. The Parties also acknowledge and agree that the construction and acquisition of the Acquisition Facilities to be constructed by Property Owner is a matter between Property Owner and EMWD only, and that the

City and CFD No. 2007-2 shall have no responsibility or liability for on-site inspection or monitoring or for certifying that the provisions of this Section 7 be satisfied.

8. Indemnification.

(a) **Indemnification by City.** The City shall assume the defense of, indemnify and save harmless, EMWD, its officers, employees and agents, and each and every one of them, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of, or resulting from, any act or omission of the City with respect to this Agreement and the issuance of the Bonds; provided, however, that the City shall not be required to indemnify any person or entity as to damages resulting from negligence or willful misconduct of such person or entity or their officers, agents or employees.

(b) **Indemnification by Property Owner.** Property Owner shall assume the defense of, indemnify and save harmless, the City, CFD No. 2007-2 and EMWD, their respective officers, employees and agents, and each and every one of them, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of, or resulting from, any act or omission of Property Owner with respect to this Agreement, and the design, engineering and construction of the Acquisition Facilities constructed by Property Owner; provided, however, that Property Owner shall not be required to indemnify any person or entity as to damages resulting from negligence or willful misconduct of such person or entity or their officers, agents or employees.

(c) **Indemnification by EMWD.** EMWD shall assume the defense of, indemnify and save harmless, the City, CFD No. 2007-2 and Property Owner, their respective officers, employees and agents, and each and every one of them, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of, or resulting from, any act or omission of EMWD with respect to this Agreement, and the design, engineering and construction of the EMWD Facilities constructed by EMWD; provided, however, that EMWD shall not be required to indemnify any person or entity as to damages resulting from negligence or willful misconduct of such person or entity or their officers, agents or employees.

9. Allocation of Special Taxes. The City Council, as the legislative body of CFD No. 2007-2, shall annually levy the Special Tax as provided for in the formation proceedings of CFD No. 2007-2.

10. Amendment and Assignment. This Agreement may be amended at any time but only in writing signed by each party hereto. This Agreement may be assigned, in whole or in part, by the Property Owner to the purchaser of any parcel of land within the Property provided, however, such assignment shall not be effective unless and until EMWD and the City have been notified, in writing, of such assignment.

11. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the matters provided for herein and supersedes all prior agreements and negotiations between the parties with respect to the subject matter of this Agreement.

12. Notices. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to either party shall be deemed to have been received when personally delivered or seventy-two hours following deposit of the same in any United States Post Office in California, registered or certified, postage prepaid, addressed as follows:

City/CFD:	City of Perris 101 North "D" Street Perris, California 92570-1998 Facsimile: (951) 943-4246 Attn: Finance Director
EMWD:	Eastern Municipal Water District P.O. Box 8300 2270 Trumble Road Perris, California 92572-8300 Facsimile: (909) 928-6177 Attn: Special Funding District Manager
Property Owner:	RVONE HOMES, LLC MAGNOLIA, LP c/o Pacific Communities 1000 Dove Street, Suite 100 Newport Beach, CA 92660 Facsimile: (949) 474-1436 Attn: Nelson Chung

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

13. Exhibits. All exhibits attached hereto are incorporated into this Agreement by reference.

14. Attorneys' Fees. In the event of the bringing of any action or suit by any Party against any other Party arising out of this Agreement, the Party in whose favor final judgment shall be entered shall be entitled to recover from the losing Party all costs and expenses of suit, including reasonable attorneys' fees.

15. 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 reasonably possible.

16. 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.

17. Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party hereto, or the failure by a party to exercise its rights upon the default of another party, shall not constitute a waiver of such party's right to

insist and demand strict compliance by such other party with the terms of this Agreement thereafter.

18. No Third Party Beneficiaries. No person or entity other than CFD No. 2007-2, when and if formed, 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 EMWD, the City, CFD No. 2007-2, and Property Owner (and their respective successors and assigns, exclusive of individual homebuyers), any rights, remedies, obligations or liabilities under or by reason of this Agreement.

19. 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.

20. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute but one instrument.

[Signature page follows]

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

CITY OF PERRIS

By:

ATTEST:

By: _____
Clerk of the City of Perris

EASTERN MUNICIPAL WATER DISTRICT

Anthony J. Pack, General Manager

ATTEST:

By: _____
Secretary of the Board of Directors

RVONE HOMES, LLC,
a California limited liability company

By: Pacific Communities Builder, Inc.
a California Corporation
ITS: MANAGING CORPORATION

BY: _____

NAME: NELSON CHUNG

TITLE: PRESIDENT

(Signature continue next page)

MAGNOLIA, LP,
a California limited partnership

By: Pac Homes, LLC
a California limited liability company
ITS: GENERAL PARTNER

BY: _____

NAME: CHRISTINE CHUNG

TITLE: MANAGER

DRAFT

EXHIBIT A
DESCRIPTION OF PROPERTY

LEGAL DESCRIPTION

Real property in the City of Perris, County of Riverside, State of California, described as follows:

Lots 1 through 81 of Tract No. 31226 recorded March 28, 2007, County of Riverside recorded document no. 2007-0209515.

Tentative Tract No. 31225 consisting of assessor parcel numbers;

311-030-012
311-030-013

BOUNDARY MAP

DRAFT

EXHIBIT B

EMWD FACILITIES DESCRIPTIONS

1. Acquisition Facilities. The type of Acquisition Facilities eligible to be financed by CFD No. 2007-2 under the Act are as follows:

“Acquisition Facilities” means those facilities constructed by or on behalf of Property Owner and needed by EMWD in order to provide services to the Project and also includes any of the following: EMWD sewer and water transmission lines, sewer and water pump stations, water reservoirs, including all costs of site acquisition, planning, design, engineering legal services, materials testing, coordination, surveying, construction, staking, construction inspection and any and all appurtenant facilities relating to the foregoing.

The Acquisition Facilities listed above are representative of the types of facilities eligible to be financed by CFD No. 2007-2. Detailed scope and limits of specific projects will be determined as appropriate, consistent with the standards of EMWD.

The list of Acquisition Facilities is substantially attached as Exhibit “B-1”. The City shall provide to EMWD and the Property Owner the appropriate Disbursement Request Form to be used in connection with the Acquisition Facilities hereunder.

2. EMWD Fee Facilities. The type of EMWD Fee Facilities eligible to be financed by CFD No. 2007-2 under the Act are as follows:

“EMWD Fee Facilities” means those water and sewer facilities included in EMWD’s water and sewer capacity and connection fee programs used to finance expansion projects, exclusive of in-tract facilities contributed by Property Owner. EMWD Fee Facilities include, but are not limited to, the following: water and sewer transmission pipelines, sewer treatment plants, disposal ponds, pumping plants, lift stations, and water reservoirs, including all costs of site acquisition, planning, design, engineering, legal services, materials testing, coordination, surveying, construction staking, construction, inspection and any and all appurtenant facilities and appurtenant work relating to the foregoing.

EXHIBIT B-1
EMWD ACQUISITION FACILITIES *

Tract 31226 - Offsite Public Water Improvements	Tract 31226 - Onsite Public Water Improvements
<p><u>ITEM</u> MOBILIZATION TRAFFIC CONTROL 12" PVC CL200 WITH FITTINGS 16" PVC CL200 WITH FITTINGS 12" CML&W WITH FITTINGS 16" CML&W WITH FITTINGS 18" CML&W WITH FITTINGS 24" CML&W WITH FITTINGS 16" GATE VALVE HOT TAP 18" TO 4" HOT TAP 18" TO 8" HOT TAP 18" TO 12" HOT TAP 18" TO 16" RAISE VALVES TO GRADE REMOVE AND REPLACE PAVING REMOVE AND REPLACE 8" CMLDIP REMOVE AND REPLACE 12" CMLDIP PLAN CHECK, STAKING, INSPECTION DESIGN, PLANNING, ENGINEERING CONTINGENCY</p>	<p><u>ITEM</u> MOBILIZATION TRAFFIC CONTROL 8" PVC CL150 WITH FITTINGS 8" PVC CL200 WITH FITTINGS 8" GATE VALVE 2" Air Release/Air Vacuum Valve 1" Air Release / Air Vacuum Valve 6" FIRE HYDRANT ASSEMBLY RAISE VALVE COVERS TO GRADE 2ND LIFT REMOVE PLUGS AND JOIN HOT TAP 1" TO 8" HOT TAP 6" TO 8" NON DOMESTIC INTERTIE STANDARD HOUSE 1" SERVICE HOT TAP 1" SERVICE REMOVE AND REPLACE 8" CMLDIP REMOVE PLUGS AND JOIN OTHER PLAN CHECK, STAKING, INSPECTION DESIGN, PLANNING, ENGINEERING CONTINGENCY</p>
Tract 31225 - Offsite Public Water Improvements	Tract 31225 - Onsite Public Water Improvements
<p><u>ITEM</u> MOBILIZATION TRAFFIC CONTROL 8" PVC CL200 WITH FITTINGS 8" GATE VALVE 6" FIRE HYDRANT ASSEMBLY RAISE VALVE COVERS TO GRADE 1ST LIFT RAISE VALVE COVERS TO GRADE 2ND LIFT HOT TAP 6" TO 8" REMOVE PLUGS AND JOIN PLAN CHECK, STAKING, INSPECTION DESIGN, PLANNING, ENGINEERING CONTINGENCY</p>	<p><u>ITEM</u> MOBILIZATION TRAFFIC CONTROL 8" PVC CL200 WITH FITTINGS 8" GATE VALVE 2" BLOWOFF ASSEMBLY SERVICE CONNECTION 1" Air Release / Air Vacuum Valve 6" FIRE HYDRANT ASSEMBLY Tee's 8"x8"x8", 10"x8"x10", 12"x8"x12" RAISE VALVE COVERS TO GRADE 1ST LIFT RAISE VALVE COVERS TO GRADE 2ND LIFT HOT TAP 8" TO 10" PLAN CHECK, STAKING, INSPECTION DESIGN, PLANNING, ENGINEERING CONTINGENCY</p>

* The Acquisition Facilities listed above are representative of the types of facilities eligible to be financed by CFD No. 2007-2. Detailed scope and limits of specific projects will be determined upon the preparation of final plans, consistent with the standards of EMWD.

EXHIBIT C
DISBURSEMENT REQUEST FORM

1. City of Perris Community Facilities District No. 2007-2 (Pacific Heritage) (“CFD No. 2007-2”) is hereby requested to pay from the Other Facilities Account of the Improvement Fund established by CFD No. 2007-2 in connection with its special tax bonds (the “Bonds”) to Eastern Municipal Water District (“EMWD”), as Payee, the sum set forth in 3 below.

2. The undersigned certifies that the amount requested hereunder is for the payment of EMWD Fees for EMWD Facilities and will be expended or encumbered for capital costs related to the construction and completion of the EMWD Fee Facilities incurred on or after the date hereof. The amount requested is due and payable, has not formed the basis of prior request or payment and is being made with respect to the connection of the property described in paragraph 3 below to the EMWD system. EMWD agrees to trace and report to CFD No. 2007-2 all earnings, if any, accruing from the investment of such Bond Proceeds, from the date of receipt by EMWD of such amounts to the date of expenditure of such amounts for capital costs of the EMWD Fee Facilities.

3. Amount requested: \$ _____
For Lot Nos. _____

4. The amount set forth in 3 above is authorized and payable pursuant to the terms of the Joint Community Facilities Agreement by and among the City of Perris, EMWD, RVONE HOMES, LLC, and Magnolia, LP dated as of _____, 2007 (the “Agreement”). Capitalized terms not defined herein shall have the meaning set forth in the Agreement.

5. All conditions precedent to the payment hereunder pursuant to the Agreement have been satisfied. Attached hereto are invoices or other evidence of the obligation hereof.

EASTERN MUNICIPAL WATER DISTRICT

RVONE HOMES, LLC,
a California limited liability company

By: _____

By: Pacific Communities Builder, Inc.
a California Corporation
Its: Manager Corporation

Name: _____

By: _____

Title: _____

Name: _____

Date: _____

Title: _____

Magnolia, LP,

a California limited partnership

By: Pac Homes, LLC
a California limited liability company
Its: General Partner

By: _____

Name: _____

Title: _____

cc: EMWD Finance Dept.

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