

**REIMBURSEMENT AGREEMENT  
RE PROPOSED  
COMMUNITY FACILITIES DISTRICT  
FOR  
MONTE BELLA**

THIS REIMBURSEMENT AGREEMENT RE PROPOSED COMMUNITY FACILITIES DISTRICT FOR MONTE BELLA (the "Agreement") dated as of October 18, 2016 is entered into by and between the City of Salinas, a political subdivision of the State of California (the "City"), and Canadian Pacific Land, LLC, a Florida limited liability company and Strack Farms Land, LLC, a Delaware limited liability company (collectively, the "Owner").

**RECITALS**

A. The Owner has filed an application requesting the City to form a community facilities district (the "District") pursuant to the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 *et seq.*) (the "Act") to finance infrastructure improvements and development impact fees related to the development of certain property owned by the Owner and located entirely in the City, referred to as "Monte Bella." Certain of the proposed public facilities and development impact fees to be financed (the "Facilities") are set forth in Exhibit A hereto, which is incorporated by reference herein.

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 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.

C. The City and the Owner are desirous of entering 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 formation of the District and the Facilities to be financed by the District, when and if formed, 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. Proposed Formation of the District and Issuance of Bonds.

(a) At the request of the Owner, the City will undertake to analyze the appropriateness of forming the District to finance, among other items, the Facilities. The City will retain, at the Owner's expense, the necessary consultants to analyze the proposed formation of the District and issuance of bonds, including an engineer, special tax consultant, financial advisor, bond counsel, market absorption consultant, appraiser and other consultants deemed necessary by the City. In addition, City staff time spent in connection with the formation of the District and bond issuance shall be at the Owner's expense.

(b) In order to begin the process of analyzing the formation of the District, the Owner has previously advanced to the City \$25,000 and, within 10 days following execution of this Agreement, the Owner will advance to the City the sum of \$30,000. From time to time, the Owner shall make additional advances to the City within 15 days following receipt from the City of a request for an additional advance to cover the costs of forming the District and/or issuing bonds. 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 formation of the District and/or 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 intention to abandon the formation of the District or the issuance of bonds. 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 proposed formation and/or bond issuance for the District until work with respect to the proposed formation or bond issuance ceases following the receipt of the Owner's notice of abandonment. Notwithstanding a decision of the Owner to abandon the District formation process or the issuance of bonds, the City may, in its sole discretion, elect to proceed with formation of the District and/or the issuance of bonds with funds other than those of the Owner; provided, however, that, in executing this Agreement, the Owner shall not be deemed to have waived its right to object to the formation of a District or the issuance of bonds.

(c) 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 when and if formed and/or from the proceeds of special taxes collected by the District. In the event that bonds are not issued to provide a source of reimbursement to the Owner and special taxes are not collected by the District, 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, it is hereby agreed by the parties hereto that, if the qualified electors of the proposed District do not approve the proposed special tax to be levied within the District, the City shall return any funds which have been advanced by the Owner for such proposed District and have not been committed for

any authorized purpose by the time of the election. Such returned funds shall be without interest. 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 it is not so performed or constructed, the Owner shall not be entitled to reimbursement for it. 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 when and if the District is formed and bonds are sold or special taxes are collected for such Facilities. 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 when and if a District is formed and bonds are sold for such Facilities or when special taxes are collected by the District for such purpose. 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 Proposed District. The Owner understands that formation of the District shall be in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to form a District or to issue bonds. The City shall have no liability to Owner for its decision not to form the District or issue bonds.

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 formation of the District and the design, engineering and construction of the Facilities by Owner.

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

Owner: Canadian Pacific Land, LLC and Strack Farms Land, LLC  
c/o Richland Communities, Inc.  
801 Ygnacio Valley Road, Suite 110  
Walnut Creek, CA 94596  
Attention: Aaron Ross-Swain

City: City of Salinas  
200 Lincoln Avenue  
Salinas, California 93901  
Attention: Finance Director

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 assign its interest in this Agreement without the prior written consent of the City provided the assignee assumes all obligations of the Owner under this Agreement and the Owner provides the City with written notice of the date of the assignment and the name and address of the assignee.

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.

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

CITY OF SALINAS, CALIFORNIA

By: \_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
Clerk of the City Council

APPROVED AS TO FORM:

CHRISTOPHER CALLIHAN, ESQ.

By: \_\_\_\_\_  
City Attorney

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

CANADIAN PACIFIC LAND, LLC,  
a Florida limited liability company

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

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

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

STRACK FARMS LAND, LLC,  
a Delaware limited liability company

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

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

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

## **EXHIBIT A**

### **LIST OF FACILITIES ELIGIBLE FOR REIMBURSEMENT**

Direct and indirect costs related to the following: certain infrastructure needed for new development, such as roadway, bridge, sewer, water, reclaimed water, dry utilities, storm drain, street and parkway landscaping, curb and gutter, medians, median landscaping, traffic signals, entry signage, parks, trails, and appurtenances and appurtenant work, and development impact fees that are used by the City to construct infrastructure.

**Exhibit B**  
**Monte Bella - Salinas**  
**Preliminary List of Potential Eligible Facilities**

<b>Facility Description</b>	<b>Amount<sup>1</sup></b>
<b><u>Phase 5A - 85 Lots</u></b>	
Sanitary Sewer	\$307,150
Storm Drain	\$149,470
Water Distribution	\$375,614
Concrete R/W Improvements	\$362,019
Finish / AC Improvements	\$759,210
<b>Total Phase 5A</b>	<b>\$1,953,463</b>
<b><u>Phase 5B - 71 Lots</u></b>	
Sanitary Sewer	\$213,315
Storm Drain	\$86,422
Water Distribution	\$225,250
Concrete R/W Improvements	\$186,050
Finish / AC Improvements	\$387,690
<b>Total Phase 5B</b>	<b>\$1,098,727</b>
<b><u>Phase 6 - 78 Lots</u></b>	
Sanitary Sewer	\$261,445
Storm Drain	\$67,336
Water Distribution	\$340,810
Concrete R/W Improvements	\$421,952
Finish / AC Improvements	\$507,625
<b>Total Phase 6</b>	<b>\$1,599,168</b>
<b><u>Off-Site Improvements</u></b>	
Water Distribution	\$512,735
Concrete R/W Improvements	\$378,159
Finish / AC Improvements	\$839,864
Miscellaneous	\$970,000
Detention Basin	\$120,002
<b>Total Off-Site Improvements</b>	<b>\$2,820,760</b>
<b>TOTAL ESTIMATED ELIGIBLE FACILITIES</b>	<b>\$7,472,118</b>
<b>TOTAL PER LOT ESTIMATED ELIGIBLE FACILITIES</b>	<b>\$31,528</b>
<b><u>Preliminary List of Potential Eligible Fees</u></b>	
<b>Permit Fee Category</b>	<b>Fee Amount</b>
<b><u>City Fees</u></b>	
Storm Sewer Trunk Line Fee (\$506/Bedroom) <sup>2</sup>	\$2,024
Sanitary Sewer Trunk Line Fee (\$472/Bedroom) <sup>2</sup>	\$1,888
Traffic Fee	\$2,160
<b>Total City Fees</b>	<b>\$6,072</b>
<b><u>School Fees</u></b>	
SUHSD Fee (\$1.83/SF)	\$4,354
AUHD Fee (\$2.98/SF)	\$7,089
<b>Total CSD Fees</b>	<b>\$11,443</b>
<b>Total Per Unit Fees</b>	<b>\$17,515</b>
Number of Lots	237
<b>TOTAL ESTIMATED ELIGIBLE FEES:</b>	<b>\$4,151,053</b>
<b>TOTAL ESTIMATED ELIGIBLE FACILITIES</b>	<b>\$7,472,118</b>
<b>TOTAL ESTIMATED ELIGIBLE FEES &amp; FACILITIES</b>	<b>\$11,623,170</b>
<b>TOTAL PER LOT ESTIMATED ELIGIBLE FEES &amp; FACILITIES</b>	<b>\$49,043</b>

**Footnotes:**

<sup>1</sup> Per Land Development Cost Estimate, prepared by LJConsultants dated March 22, 2016.

<sup>2</sup> Assumes 4 bedrooms.