

DEPOSIT/REIMBURSEMENT AGREEMENT

**Proposed
Temecula Public Financing Authority
Community Facilities District No. 23-01
(Altair)**

THIS DEPOSIT/REIMBURSEMENT AGREEMENT (the "Agreement") is by and among the City of Temecula, California (the "City"), the Temecula Public Financing Authority (the "Authority") for itself and on behalf of the proposed Temecula Public Financing Authority Community Facilities District No. 23-01 (Altair) (the "CFD"), and SB Altair, LLC, a Delaware limited liability company (the "Developer").

R E C I T A L S :

WHEREAS, the Developer has advised the City and the Authority that it plans to acquire and develop property that is subject to a Development Agreement, entered into as of January 9, 2018, between the City and Temecula West Village, LLC ("TWV"), subsequently assigned by TWV to the Developer (the "Property"); and

WHEREAS, the Developer has requested that the Board of Directors of the Authority, with the assistance of City Staff and the Authority's and the City's consultants, form the CFD under the provisions of Sections 53311 et. seq. of the California Government Code (the "Act") to include the Property and that the Authority issue special tax bonds for the CFD in order to finance various public improvements necessitated by the development of the Property and otherwise authorized to be funded pursuant to the Act, as well as to fund an annual wildlife conservation fee and various municipal services, all as to be more fully specified in the proceedings of the Board of Directors of the Authority to form the CFD; and

WHEREAS, the Developer is willing to deposit funds with the Authority to ensure payment of the costs of the Authority and the City in forming the CFD and issuing special tax bonds for the CFD (the "Bonds"), provided that such funds are eligible to be reimbursed to the Developer from the proceeds of the Bonds when and if the Bonds are issued by the Authority for the CFD, all to the extent provided herein; and

WHEREAS, the Authority, the City and the Developer now desire to specify the terms of said deposit and reimbursement.

A G R E E M E N T :

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth herein, and for other consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. The Deposit: Additional Advances. The Developer hereby agrees to provide to the City, in the form of a check made payable to the "City of Temecula, California" \$150,000.00 (the "Deposit"), to be used by the City to pay the costs in conducting proceedings

for the formation of the CFD and, once the CFD is formed, the possible issuance of the Bonds (as more fully described in Section 2(a) below, the "Initial Costs"), said check to be delivered by the Developer to the Finance Director of the City. The City, by its execution hereof, acknowledges receipt by the City of the Deposit. The check representing the Deposit will be cashed by the City, and the Deposit may be commingled with other funds of the City for purposes of investment and safekeeping, but the City shall at all times maintain records as to the expenditure of the Deposit.

The Developer hereby agrees to advance any additional amounts necessary to pay any Initial Costs incurred by the City or the Authority, in excess of the amount of the Deposit, promptly upon written demand therefore by the Finance Director of the City stating that the then unspent and uncommitted balance of the Deposit is less than \$10,000 (the "Additional Deposits" and, collectively with the Deposit, the "Deposits"). In the event that the Developer shall fail to remit the full amount of any such demand for additional amounts to the Finance Director of the City within ten (10) days of such a written demand, the City Manager may, in his sole and absolute discretion, direct City and Authority staff and consultants to cease all work related to the formation of CFD and the possible future issuance of the Bonds until the full amount of any additional amounts so demanded has been received by the City.

Section 2. Use of Funds. The Deposits shall be administered as follows:

(a) The Finance Director of the City may draw upon the Deposits from time to time to pay the Initial Costs, including but not limited to: (i) the fees and expenses of any consultants to the City or the Authority employed in connection with the formation of the CFD, the issuance of the Bonds and the proposed expenditure of the proceeds of the Bonds to finance public improvements (such as legal counsel, including the City Attorney and Bond Counsel, and municipal advisor and special tax consultants); (ii) the costs of any price point study, market absorption study, an appraisal and other reports necessary or deemed advisable by City staff or consultants in connection with the Bonds; (iii) costs of publication of notices, preparation and mailing of ballots and other costs related to any election with respect to the formation of the CFD, the rate and method of apportionment of the special taxes to be levied therein and any bonded indebtedness thereof; (iv) a reasonable charge for City staff time, as determined by the City Manager in his sole discretion, in analyzing and participating in the formation of the CFD, the issuance of the Bonds and the expenditure of the proceeds thereof, including a reasonable allocation of City overhead expense related thereto; and (v) any and all other actual costs and expenses incurred by the City or the Authority with respect to the formation of the CFD or the issuance of the Bonds after the date of execution of this Agreement.

(b) If the CFD is successfully formed and the Bonds are issued under the Act by the Authority secured by special taxes levied upon the Property, the Authority shall provide for reimbursement to the Developer, without interest, of all amounts charged against the Deposits, said reimbursement to be made to the Developer solely from the proceeds of the Bonds and only to the extent otherwise permitted under the Act. On or within ten (10) business days after the date of issuance and delivery of any Bonds, the Finance Director of the City shall return the then unexpended Deposits to the Developer, without interest, less an amount equal to any costs incurred by the City or the Authority or that the City or the Authority is otherwise committed to pay, which costs would be subject to payment under Section 2(a) above, but have not yet been so paid.

(c) If the CFD is not successfully formed and/or the Bonds are not issued, the Finance Director of the City shall, within ten (10) business days after adoption of a resolution stating the

intent of the Authority to terminate proceedings under the Act with respect to the formation of the CFD and/or the issuance of the Bonds, return the then unexpended Deposits to the Developer, without interest, less an amount equal to any costs incurred by the City or the Authority or that the City or the Authority is otherwise committed to pay, which costs would be subject to payment under Section 2(a) above but have not yet been so paid.

Section 3. Reimbursement of Other Developer Costs. Nothing contained herein shall prohibit reimbursement of other costs and expenses of the Developer incurred in connection with the formation of the CFD and the issuance of the Bonds, from the proceeds of the Bonds, including, but not limited to fees and expenses of its legal counsel and any special tax or other consultant expenses incurred by it. Any such reimbursement shall be made solely from the proceeds of the Bonds, when and if issued, and only to the extent otherwise permitted under the Act and otherwise provided for, at the reasonable discretion of the Authority, in the proceedings for the issuance of the Bonds.

Section 4. Agreement Not Debt or Liability of City or Authority. It is hereby acknowledged and agreed that this Agreement is not a debt or liability of the City or the Authority, as provided in Section 53314.9(b) of the Act. Neither the City nor the Authority shall in any event be liable hereunder other than to return the unexpended and uncommitted portions of the Deposits as provided in Section 2 above and provide an accounting under Section 7 below. Neither the City nor the Authority shall be obligated to advance any of their own funds with respect to the formation of the CFD, or the issuance of any Bonds or the expenditures of the proceeds thereof, or for any of the other purposes listed in Section 2(a) hereof. No member of the City Council, the Board of Directors of the Authority or officer, employee or agent of the City or the Authority shall to any extent be personally liable hereunder.

Section 5. No Obligation to Form the CFD or to Issue the Bonds. The provisions of this Agreement shall in no way obligate the City or the Authority to form the CFD, to issue any Bonds, or to expend any of their own funds in connection with the formation of the CFD, or the issuance or expenditure of the proceeds of any Bonds. The Developer acknowledges that the formation of the CFD and the authority to issue the Bonds are subject to public hearings and a vote of the owner of the Property.

Section 6. 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.

Section 7. Accounting. The City Finance Director shall provide the Developer with a written accounting of proceeds of the Deposits expended pursuant to this Agreement, within ten (10) business days of receipt by the Finance Director of the City of a written request therefore submitted by the Developer. No more than one accounting will be provided in any calendar month and the cost of providing the accounting shall be charged to the Deposits.

Section 8. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

Section 9. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

IN WITNESS THEREOF, the parties hereto have executed this Agreement as of the day and year written alongside their signature line below.

Executed on:
_____, 2023

DEVELOPER:

SB ALTAIR, LLC,
a Delaware limited liability company

By: Brookfield Temecula, LLC, a
Delaware limited liability company,
its Operations Manager

By: _____
Name: _____
Its: _____

Executed on:
_____, 2023

CITY:

CITY OF TEMECULA

By: _____
Aaron Adams, City Manager

Executed on:
_____, 2023

AUTHORITY:

TEMECULA PUBLIC FINANCING
AUTHORITY, for itself and on behalf of the
proposed Temecula Public Financing Authority
Community Facilities District 23-01 (Altair)

By: _____
Aaron Adams, Executive Director

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[Signature page to Deposit/Reimbursement Agreement for Community Facilities District 23-01]