

**THIRD AMENDMENT  
TO  
REIMBURSEMENT AGREEMENT**

**(Mountain View Whisman School District Employee Housing Project)**

This Third Amendment to the Reimbursement Agreement (“**Third Amendment**”) is executed as of this Twenty first day of September, 2023, by and between the Mountain View Whisman School District (“**District**”), and Mountain View Owners LLC (“**Developer**”). District and Developer may be referred to individually herein as a “**Party**” and collectively as the “**Parties**”.

**RECITALS**

**WHEREAS**, District and Developer are parties to that certain Reimbursement Agreement dated November 29, 2020, as amended by a first amendment dated June 9, 2021, (collectively the “**Agreement**”), as amended by the second amendment dated June 2, 2022, with respect to the development of a project commonly known as Employee Housing Project located at 777 West Middlefield Road in Mountain View, California (the “**Project**”); and

**WHEREAS**, District and Developer desire to further amend and revise **Exhibit A** to the Agreement entitled “EH Project Scope Breakdown and Design, Preconstruction and Construction Costs” to accurately indicate the Guaranteed Maximum Price (“**GMP**”) that Palisade Builders, Inc., (“**Palisade**”) will construct the Project pursuant to a construction agreement with District (“**EH Construction Contract**”); and

**WHEREAS**, the Parties expressly acknowledge and agree that the GMP payable to Palisades pursuant to the EH Construction Contract shall be reduced from any amounts owed by District to Developer under the Agreement for all scope of work included in the EH Construction Contract;

**WHEREAS**, District and the Developer are willing to make the amendments to the Exhibit A to the Agreement as set forth more particularly herein.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the premises and mutual covenants and agreements herein set forth, and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the District and Developer hereby agree as follows:

1. **Definitions**. The Agreement, as amended, supplemented and affected hereby, is referred to herein as the “Agreement.” Capitalized terms used herein without definition shall have the meanings ascribed to them in the Agreement.
2. **Amendments to the Agreement**. The Agreement is hereby amended as follows:
  - 2.1. **Exhibit A** to the Agreement is hereby deleted and replaced with **Exhibit A** attached hereto and incorporated herein by this reference.

- 2.2. Notwithstanding any other provision of the Agreement, because the EH Construction Contract will be between the District and Palisade and not a three-party agreement as originally contemplated by the Parties and Palisade, the GMP described in **Exhibit A** shall be payable solely to Palisade.
  
- 3. District’s Notice of Authorization and Appropriation of Funds. Following District’s Governing Board’s approval of this Third Amendment, District will approve a change order to the EH Construction Contract, in the amount of the reduction in the Developer’s Contingency from the earlier amount in the second amendment to this Agreement. That remaining amount of the Developer’s Contingency is reflected in the new **Exhibit A** attached hereto.
  
- 4. Need for Further Amendments. The Parties agree that, because the District is making all payments for Construction to Palisade pursuant to the EH Construction Contract, the District may use, at its discretion, the remaining Developer’s Contingency, without further amending the Reimbursement Agreement, but will document the District’s use pursuant to change orders or other appropriate documentation related to the EH Construction Contract.
  
- 5. Miscellaneous.
  - 5.1. This Third Amendment and the Agreement shall be governed by the laws of the State of California.
  
  - 5.2. This Third Amendment may be executed in one or more counterparts, each of which shall be deemed an original binding on the Parties.
  
  - 5.3. Except as otherwise provided herein, the Agreement shall remain unmodified and in full force and effect. District and Developer hereby ratify and confirm the Agreement as modified hereby. The execution of this Second Amendment shall not be deemed a waiver by any Party of any of the terms, covenants and conditions contained in the Agreement, except as otherwise expressly provided herein.

IN WITNESS WHEREOF, the Parties have entered into this Second Amendment as of the date of the last signature below.

**Mountain View Whisman School District**

**Mountain View Owner, LLC**

Signature : \_\_\_\_\_

Signature: \_\_\_\_\_

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

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

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

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

**EXHIBIT A**  
**EH PROJECT SCOPE BREAKDOWN AND DESIGN, PRE-CONSTRUCTION AND**  
**CONSTRUCTION COSTS**

<b>Design and Pre-construction:</b>		
Full Service Architectural Fee:		
Schematic Design Phase		\$20,000.00
Design Documents (40%, 14 weeks)		\$225,000.00
Construction Documents (40%, 12 weeks)		\$275,000.00
Construction Admin. (20%, 20 months)		\$145,000.00
SMEP Design Fee		\$387,000.00
Consultants		\$310,000.00
Development Overhead for Design and Preconstruction Phase		\$1,403,240.00
CO1 Permits & Fees		\$2,198,638.00
CO1 Soft Cost Contingency		\$623,282.00
CO1 Professional & Legal Fees		\$100,000.00
<b>Total Design and Pre-Preconstruction</b>		<b>\$5,687,160.00</b>
<b>Construction:</b>		
Direct Costs		\$58,303,161.18
GC General Conditions		\$3,659,500.00
GC Fee		\$3,027,390.43
Insurance + Bond		\$1,383,225.57
Hard Costs Contingency		\$1,545,772.46
Permits & Fees		\$681,362.00
Developer Overhead for Construction Phase		\$5,357,825.00
Professional & Legal Fees		\$100,000.00
Insurance & Bonds		\$2,685,044.00
Soft Costs Contingency (5%)		\$448,697.62
Developer Contingency		\$1,901,855.82
<b>Total Construction</b>		<b>\$79,093,834.08</b>
<b>Total Design, Pre-construction &amp; Construction:</b>		<b>\$84,780,994.08</b>