

SETTLEMENT AGREEMENT
AND GENERAL RELEASES

This Settlement Agreement and General Releases ("Agreement") is made and entered into at Orange County, California, as of May __, 2011, by and among WHISPERING HILLS, LLC ("WHLLC"), RANCHO SAN JUAN DEVELOPMENT, LLC ("RSJD"), and CAPISTRANO UNIFIED SCHOOL DISTRICT ("CUSD"), with reference to the following facts:

RECITALS

A. On September 9, 2009, WHLLC commenced a civil action ("the Action") in the Superior Court of the State of California, County of Orange ("the Court") entitled "*WHISPERING HILLS, LLC, a Delaware Limited Liability Company, Plaintiff, vs. CAPISTRANO UNIFIED SCHOOL DISTRICT, a public body corporate and politic organized under the laws of the State of California; and DOES 1 through 50, inclusive, Defendants,*" bearing the case no. 30-2009 00300788 in the files and records of the Court. Among other things, the Action arises out of a written Purchase and Sale Agreement and Escrow Instructions entered into by and between WHLLC, as seller, and CUSD, as buyer, as of April 28, 2003 ("the Purchase Contract"), under the terms of which WHLLC agreed to sell to CUSD certain real property located in San Juan Capistrano, Orange County, California ("the High School Property"), which CUSD agreed to purchase for the express purpose of constructing a new high school, San Juan Hills High School. RSJD is not a party to the Action.

B. The operative pleadings in the Action are WHLLC's First Amended Complaint ("the First Amended Complaint") filed with the Court on January 14, 2010; CUSD's Answer and Affirmative Defenses to First Amended Complaint ("CUSD's Answer") filed with the Court on March 1, 2010; CUSD's Cross-Complaint ("the Cross-Complaint") filed with the Court on October 9, 2009; and WHLLC's Answer to Cross-Complaint ("WHLLC's Answer") filed with the Court on November 13, 2009.

C. Through the First Amended Complaint, WHLLC advances causes of action for breach of contract, breach of the implied covenant of good faith and fair dealing, declaratory relief, and unjust

enrichment. Among other things, these claims are based upon WHLLC's allegations (a) that under the terms of the Purchase Contract and the WHCFD Note entered into and executed in accordance with the terms of the Purchase Contract, there is currently due, owing and unpaid from CUSD to WHLLC the sum of \$6 million, representing the final installment of the purchase price specified in the Purchase Contract; (b) that CUSD intentionally delayed and refused to issue and sell bonds and assess special taxes from which the WHCFD Note was to be paid, with the improper purpose of preventing WHLLC from receiving the final \$6 million of the purchase price; (c) that CUSD has received the benefits of valuable real property without having paid for the same; (d) that WHLLC is entitled to immediate recovery of \$6 million plus interest and penalties owed under the Purchase Contract and WHCFD Note and additional damages of \$20 million for harm caused to WHLLC's development located on property generally adjacent to the High School Property ("the Adjacent Property"). CUSD denies all material allegations of the First Amended Complaint, and asserts various affirmative defenses.

D. Through the Cross-Complaint, CUSD advances causes of action for breach of contract, specific performance, unjust enrichment, and declaratory relief. Among other things, these claims are based upon CUSD's allegation that WHLLC breached the terms of the Purchase Contract, as amended, by (1) failing and refusing to consummate lot line adjustments required by the Purchase Contract ("the Lot Line Claim"); (2) falsely asserting that CUSD is presently obligated to pay \$6 million to WHLLC under the WHCFD Note; and (3) charging CUSD and causing CUSD to pay in excess of \$6 million for improvements to the High School Property, which WHLLC was obligated to complete at its sole expense (collectively, "the Overpayments Claim"). WHLLC denies all material allegations of the Cross-Complaint, and asserts various affirmative defenses.

E. In accordance with the terms of the Purchase Contract, CUSD Community Facilities District No. 2005-1 (Whispering Hills) ("the CFD") was formed in 2005. Contemporaneous with the formation of the CFD and effective as of July 1, 2005, CUSD and WHLLC entered into and executed a written Impact Mitigation Agreement Related to Proposed Community Facilities District No. 2005-1 ("the Mitigation Agreement"), which was recorded on October 31, 2005, in the Official Records of Orange County, California ("the Official Records"), as Instrument No. 05-000874473;

and CUSD, WHLLC, and the City of San Juan Capistrano (“City”) entered into and executed a written Joint Community Facilities Agreement (“the JCFA”).

F. WHLLC has conveyed and transferred certain of its rights, benefits and entitlements with respect to the Adjacent Property to RSJD, which itself has assumed certain of WHLLC’s obligations. Such conveyance and transfer is memorialized by, among other documents, a Grant Deed dated March 27, 2009 (“the Grant Deed”) recorded in the Official Records on April 6, 2009, as Instrument No. 09-000163909.

G. WHLLC, RSJD, CUSD, and the CFD have separately negotiated and shall concurrently execute a First Amended Impact Mitigation Agreement Related to the Whispering Hills Project and Community Facilities District No. 2005-1 (“the Amended Mitigation Agreement”) which provides, among other things:

i. **EFFECTIVE DATE.** The Amended Mitigation Agreement shall not become effective until, among other things, completion of the Special Tax Revision Proceedings described in Section 3.4 of the Amended Mitigation Agreement (“Effective Date”);

ii. **TERMINATION OF MITIGATION AGREEMENT.** Upon becoming effective, the Amended Mitigation Agreement provides that it shall terminate, supersede, and replace the Mitigation Agreement and the parties shall each be obligated to perform their respective obligations under the Amended Mitigation Agreement, as specified therein; and

iii. **CANCELLATION OF WHCFD NOTE.** Upon becoming effective, the Amended Mitigation Agreement provides that WHLLC shall transfer the WHCFD Note to RSJD and RSJD shall cancel and return to CFD No. 2005-1 the WHCFD Note, and accept in its place as a special obligation only of CFD No. 2005-1, and not an obligation of CUSD, those “Incremental Payments,” as specified in the Amended Mitigation Agreement.

H. City, WHLLC, RSJD, CUSD, and the CFD have separately negotiated a First Amended and Restated Joint Community Facilities Agreement among Capistrano Unified School

District, Community Facilities District No. 2005-1 of Capistrano Unified School District (Whispering Hills), City of San Juan Capistrano, Rancho San Juan Development LLC and Whispering Hills, LLC (“the Amended JCFA”), which shall be executed by City, WHLLC, RSJD, CUSD, and the CFD concurrent with the execution of this Agreement and the Amended Mitigation Agreement.

I. The effectiveness of this Agreement, the Amended Mitigation Agreement, and the Amended JCFA is dependent, in each instance, upon the full execution of all three of said agreements.

J. Through this Agreement, WHLLC, RSJD, and CUSD (sometimes collectively “the Parties,” and each sometimes individually a “Party”) each desire and intend to resolve, settle, and compromise all of the claims and causes of action asserted by the First Amended Complaint and certain specified claims asserted by the Cross-Complaint, upon the terms memorialized in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the Parties agree as follows:

1. **NO ADMISSION OF LIABILITY**

This Agreement is entered into for purposes of settlement and resolution of disputes and controversies only, and nothing herein shall be deemed to imply, constitute, or be construed as an admission of liability or wrongdoing on the part of any of the Parties.

2. **AMENDED MITIGATION AGREEMENT; AMENDED JCFA**

Concurrently with the execution of this Agreement, the Parties shall execute the Amended Mitigation Agreement, a true copy of which is attached hereto and made a part hereof (Exhibit “1”); and the Parties and the City shall execute the Amended JCFA, a true copy of which is attached hereto and made a part hereof (Exhibit “2”). This Agreement and all provisions contained herein

are conditioned upon (a) the full execution of the Amended Mitigation Agreement and the Amended JCFA, and (b) the Amended Mitigation Agreement having an Effective Date of August 31, 2011, or earlier. In the event that Amended Mitigation Agreement has not become effective, pursuant to Section 3.4 of that agreement, by August 31, 2011, then WHLLC and RSJD may, in their sole discretion, terminate this Agreement and the Amended Mitigation Agreement by providing written notice pursuant to Paragraph 17, below, and then proceed to trial of the Action in its entirety.

3. **LOT LINE ADJUSTMENTS**

(a) Within three (3) business days following the Effective Date, RSJD shall open escrow with Fidelity National Title Company ("Escrow Agent").

(b) Within ten (10) business days following the Effective Date:

(i) RSJD agrees to convey and transfer to CUSD through Escrow Agent, without compensation, Parcel A ("Additional Parcel A"), as identified in Exhibit "3" attached hereto

(ii) CUSD agrees to convey and transfer to RSJD through Escrow Agent, without compensation, "Easement R" ("Easement R"), as described in Final Map No. 6634 and as identified in Exhibit "4" attached hereto.

(iii) CUSD and RSJD also agree to convey and transfer, without compensation to either Party, through Escrow Agent, the strips of land within or bordering the access road described in Exhibit "5" attached hereto, with CUSD taking ownership of the crosshatched strip of land highlighted in blue ("Blue Strip") and RSJD taking ownership of the dotted land highlighted in orange ("Orange Strip").

(c) The consummation of the contemplated real property transactions described in this Paragraph 3 shall be held at the offices of Escrow Agent. The Parties shall cooperate in executing and delivering to Escrow Agent any escrow instructions that might be prepared from time to time to facilitate and consummate this transaction; provided, however, in the event of any inconsistency between the provisions and conditions of this Agreement and any such escrow instructions, the provisions and conditions of this Agreement shall prevail. The close of escrow of each transfer shall

be concurrent and shall occur on or before ten (10) business days from the Effective Date. At least two (2) business days prior to the close of escrow, RSJD and CUSD shall deliver to Escrow Agent, in a form and substance reasonably satisfactory to the other Party, the following:

(i) Recordable deeds executed by the appropriate Party, the forms of which are collectively attached hereto as Exhibit "6", (A) conveying Additional Parcel A to CUSD in fee simple, (B) conveying Easement R to RSJD, whereby CUSD relinquishes all right, title and interest in Easement R to RSJD, (C) conveying the Blue Strip to CUSD in fee simple, and (D) conveying the Orange Strip to RSJD in fee simple.

(ii) Any and all other documents, instruments, and agreements necessary or appropriate in the reasonable opinion of a Party to transfer and convey the real property as described above in accordance with this Agreement and as may be required by the title insurer.

(d) Such transfers shall be subject to the following conditions:

(i) Title to each piece of property shall be subject to any and all easements, covenants and restrictions of record, as shown on the preliminary title reports collectively attached hereto as Exhibit "7". Each transferor shall be obligated to remove any and all monetary liens and encumbrances, except for the lien of non-delinquent real property taxes. Escrow Agent shall issue title policies and/or endorsements to existing policies with respect to Additional Parcel A, Easement R, the Blue Strip and the Orange Strip, as more particularly detailed below.

(ii) RSJD shall pay the cost of preparing the deeds, the escrow fees, the cost of a Standard ALTA owner's policy of title insurance issued to CUSD by Escrow Agent for the Additional Parcel A in the amount of \$_____ and the cost of an endorsement to RSJD's existing policy adding the Orange Strip to the policy and showing Easement R as no longer subject to an easement in favor of CUSD.

4. **DISMISSAL OF THE FIRST AMENDED COMPLAINT**

Within three (3) business days following the Effective Date, WHLLC shall cause its attorneys to execute and file with the Court a Request for Dismissal of the First Amended Complaint, with

prejudice.

5. **ENFORCEMENT OF THIS AGREEMENT**

The Parties each agree that the terms of this Agreement and the attached Amended Mitigation Agreement shall be specifically enforceable by the Court, pursuant to *Code of Civil Procedure*, § 664.6. Pursuant to *Code of Civil Procedure*, § 664.6, the Parties each hereby request that the Court retain jurisdiction over them for the purpose of specifically enforcing this Agreement and the Amended Mitigation Agreement, until such time as the terms of this Agreement and the Amended Mitigation Agreement are fully performed. Among other things, the Court may issue relief that specifically requires the issuance and sale of bonds.

6. **RESERVATION OF SPECIFIED CLAIMS IN CROSS-COMPLAINT**

The following claims, and only these specific claims, alleged in the Cross-Complaint shall be reserved to CUSD (collectively, “the Reserved Claims”), which shall be entitled to proceed to Court trial of such claims:

(a) Compensation for CUSD’s payment of \$1,053,000, pursuant to Change Order No. 012104-01;

(b) Compensation for CUSD’s payment of \$134,649.90, pursuant to Change Order No. 042904-1;

(c) Compensation for CUSD’s payment of \$453,775 to City respecting the grading plans for the Property;

(d) Compensation for CUSD’s payment of \$2,264,333, in impact fees to City, which are described in City’s letter to CUSD dated September 29, 2008; and

(e) The Parties’ claims for recovery of attorneys’ fees and costs expended in connection with the prosecution or defense of the Cross-Complaint, from and after the date this Agreement is executed, which claim shall be subject to *Civil Code*, § 1717.

Except as provided in this Paragraph 7 and subject to the obligations of WHLLC and RSJD under the provisions of this Agreement, CUSD relinquishes and agrees not to pursue any other claims for relief under the Cross-Complaint, which other claims for relief shall be deemed fully satisfied by the compromise memorialized in this Agreement and/or the Amended Mitigation Agreement. Furthermore, through the terms of this Paragraph 6, each of the Parties hereby knowingly waives and relinquishes all rights to trial by jury of each and all of the Reserved Claims.

7. **RSJD'S GUARANTY**

RSJD hereby unconditionally guaranties payment in full of any monetary judgment obtained by CUSD against WHLLC at trial of the Reserved Claims if WHLLC fails to satisfy such judgment after exhaustion of appeal or expiration of the time to appeal. Under such circumstances, RSJD agrees to satisfy the judgment on behalf of WHLLC, within thirty (30) calendar days of written demand by CUSD.

8. **RSJD'S ENVIRONMENTAL MITIGATION OBLIGATIONS**

(a) Upon the Effective Date of the Amended Mitigation Agreement, RSJD on behalf of itself and any and all successors, assigns, and transferees, unconditionally accepts and assumes all duties and obligations of CUSD under the Department of Army Permit No. 20001593-RLK executed by CUSD and WHLLC on January 8, 2003, as "Permitees" ("Permit 404"), excluding only those obligations relating to:

- i) The High School Property (exclusive of the real property conveyed to RSJD in accordance with Paragraph 3 of this Agreement, above); and
- ii) All real property conveyed to CUSD in accordance with Paragraph 3 of this Agreement, above.

RSJD agrees to submit all documents to federal and state regulatory agencies, including but not limited to the U. S. Army Corp of Engineers, evidencing RSJD's intent to assume and release CUSD from all such obligations. RSJD represents and warrants it will fulfill all requirements under Permit 404 other than those excluded by this Paragraph.

9. **CONTINUANCE OF TRIAL AND LIMITATION OF DISCOVERY**

So long as none of the conditions to this Agreement's effectiveness have been repudiated, failed, or rendered impossible, the Parties shall submit a stipulation to the Court which provides for a continuance of the April 4, 2011 trial of the Action for not less than 60 days, in order to allow the conditions of this settlement to occur, or to fail. Such stipulation shall further provide that the December 13, 2010 trial date shall continue to operate as the date originally set for trial, except with respect to the discovery which has been timely commenced, though not completed as of the date of this Agreement. Such stipulation shall be executed and delivered to the Court within 30 days of the execution of this Agreement by all of the Parties.

10. **GENERAL RELEASES**

(a) **"Claim" and "Claims" Defined.** As used in the following provisions of this Paragraph 10, and wherever else such terms appear in this Agreement, the terms "Claim" and "Claims" mean any and all manner of action or actions, cause or causes of action, suits, damages (whether general, special or punitive), debts, liabilities, demands, obligations, costs, expenses, losses, attorneys' fees (whether incurred prior to or after the Effective Date), liens, and indemnities of every kind and nature whatsoever, whether known or unknown, suspected or unsuspected, whether based on contract, tort, statute or other legal or equitable theory of recovery, and whether based on federal, state or local law.

(b) **General Releases by WHLLC and RSJD.** Except as otherwise provided in this Agreement and the Amended Mitigation Agreement (Exhibit "1" hereto), WHLLC and RSJD, and each of them, for themselves, and their respective members (including, but not limited to, IHP Investment Fund II, L.P.), predecessors, successors, assigns, managers, employees, agents, and representatives, and each of them, do hereby fully release, relinquish, and forever discharge CUSD and its trustees, officers, employees, agents, and representatives, and each of them, of and from any and all Claims that WHLLC and RSJD, or either of them, might have, own or hold, or at any time heretofore had, owned or held, arising out of, in connection with, or in any way relating to (a) the transactions and occurrences forming the basis and the specific allegations of the First Amended

Complaint, (b) the claims for relief asserted by the First Amended Complaint; and (c) the claims for relief asserted by the Cross-Complaint other than the Reserved Claims.

(c) **General Releases by CUSD.** Except as otherwise provided in this Agreement and the Amended Mitigation Agreement (Exhibit “1” hereto), CUSD, for itself and its trustees, officers, employees, agents, and representatives, and each of them, does hereby fully release, relinquish, and forever discharge WHLLC and RSJD, and their respective members (including, but not limited to IHP Investment Fund II, L.P.), predecessors, successors, assigns, managers, employees, agents, and representatives, and each of them, of and from any and all Claims that CUSD might have, own or hold, or at any time heretofore had, owned or held, arising out of, in connection with, or in any way relating to (a) the filing, service and prosecution of the Action, (b) the claims for relief asserted by the First Amended Complaint, and (c) the claims for relief asserted by the Cross-Complaint other than the Reserved Claims.

11. **ACKNOWLEDGEMENTS AND WAIVERS**

The Parties each acknowledge their joint intention that, upon execution by all of the Parties, this Agreement shall be effective as a full and final accord and satisfaction, and settlement of, and as a bar to, each and every Claim released under the terms of the preceding Paragraph 10. In connection with such waiver and relinquishment, the Parties each acknowledge that they or their attorneys might hereafter discover facts different from or in addition to the facts that they or their attorneys now know or believe to be true with respect to the subject matters of this Agreement, but that it is their joint intention that the general releases herein given shall be and remain in full force and effect, notwithstanding the discovery of any such different or additional facts. Therefore, the Parties each acknowledge that they have been informed by their attorneys of, and that they are familiar with, *Civil Code*, § 1542, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her, must have materially affected his or her settlement with the debtor.

The Parties each hereby waive and relinquish all rights and benefits they have, or might have, under

Civil Code, § 1542, to the full extent that they may lawfully waive all such rights and benefits pertaining to the subject matters of this Agreement.

12. **NO PRIOR ASSIGNMENT OF CLAIMS**

The Parties each represent and warrant to each other that they have not heretofore assigned or transferred, or purported to assign or transfer, to any individual or entity any Claim released herein. Each of the Parties hereby acknowledges and agrees that its said warranties and representations to one another are a material inducement to each of the Parties to enter into this Agreement.

13. **BINDING EFFECT**

The provisions of this Agreement shall be deemed to obligate, extend to, and inure to the benefit of the legal predecessors, successors, assigns, transferees, grantees, administrators, principals, trustees, and beneficiaries of each of the Parties.

14. **INTEGRATION CLAUSE**

This Agreement and the exhibits attached hereto contain the entire agreement and understanding among the Parties concerning the subject matters hereof, and supersede and replace all prior negotiations, proposed agreements and agreements, whether written or oral. The Parties each acknowledge that no other Party, and no agent or attorney of another Party, has made any promise, representation or warranty whatsoever, express or implied, not contained herein concerning the subject matters hereof, to induce such Party to execute this Agreement; and further acknowledge that they have not executed this Agreement in reliance upon any such promise, representation or warranty not contained herein.

15. **ATTORNEYS' FEES AND COSTS**

(a) **Attorneys' Fees and Costs Incurred in the Action.** Except as provided in Paragraph 6 of this Agreement, the Parties shall bear their own, respective attorneys' fees and costs incurred through the execution date of this Agreement, in connection with the Action, and the negotiation, drafting and execution of this Agreement.

(b) **Attorneys' Fees and Costs Incurred in Enforcement of This Agreement.** If any of the Parties shall bring any action or proceeding to enforce, protect, preserve or establish any right or remedy under this Agreement, the prevailing party shall be entitled to recover, as part of such action or proceeding, such prevailing party's actual attorneys' fees and costs incurred in good faith, including any appeals. Unless judgment goes by default, the award of attorneys' fees shall not be computed in accordance with any court schedule, but shall be such as to fully reimburse all attorneys' fees and costs actually incurred in good faith, regardless of the size of the judgment, it being the intention of the Parties to fully compensate the prevailing party for all attorneys' fees, experts' fees, and costs paid or incurred in good faith.

16. **NOTICES**

All notices, demands, tenders and deliveries pertaining to this Agreement shall be delivered, as follows:

TO CUSD:

Ron Lebs, Deputy Superintendent
Capistrano Unified School District
33122 Valle Rd.
San Juan Capistrano CA 92675
E-mail: rlebs@capousd.org

With a copy to:

George C. Rudolph, Esq.
Law Offices of George Cooper Rudolph
15212 Davenport Street
Tustin, CA 92782-1752
E-mail: gcrudolph@cox.net

TO WHLLC

AND TO RSJD:

Jay W. Pruitt, Partner/Senior Vice President
IHP Capital Partners
19800 MacArthur Blvd., Suite 700
Irvine, CA 92612
E-mail: jpruitt@ihpinc.com

With a copy to:

Thomas A. Pistone, Esq.
Pistone & Wolder LLP
2020 Main Street, Suite 900
Irvine, CA 92614
E-mail: tpistone@pistonewolder.com

All such notices, demands, tenders and deliveries shall be delivered by hand at the addresses listed above, and shall be deemed delivered at 5:00 p.m. on the date of such hand delivery; or if delivered by express mail or another method of delivery providing for overnight delivery, the same shall be deemed delivered at 5:00 p.m. on the day following the date of such mailing, with postage prepaid, to the address specified above. In the case of notices and demands only, such notices and demands may also be delivered by e-mail to the e-mail addresses listed above, and shall be deemed delivered at 5:00 p.m. on the date of such e-mail, if the same is transmitted at or before 5:00 p.m., or on the day following such e-mail, if the same is transmitted after 5:00 p.m. The Parties shall give notice of change of address or at which notices, demands, tenders and deliveries shall be directed, in accordance with the procedure established by this Paragraph 16.

17. **LEGAL CONSTRUCTION**

(a) **Governing Law.** This Agreement is made and entered into in the State of California and shall in all respects be interpreted, enforced and governed by and under the laws of that State.

(b) **No Presumption Against Drafting Party.** This Agreement shall be construed without regard to the identity of the persons who drafted its various provisions; each and every provision of this Agreement shall be construed as though all of the Parties participated equally in the drafting of the same, and any rule of construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

(c) **Headings Not Controlling.** The section and paragraph headings herein have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

(d) **No Waiver.** The failure of any of the Parties to insist upon strict adherence to any term or condition of this Agreement on any occasion shall not be considered to be a waiver, or to otherwise deprive that Party of the right thereafter to insist upon strict adherence to that term or condition, or to any other term or condition of this Agreement.

(e) **Amendment.** This Agreement may be modified or amended only by an instrument in writing executed by all of the Parties; and no oral or unsigned modification or amendment of this Agreement shall have any force or effect.

(f) **Gender; Number.** Whenever in this Agreement the context may so require, the masculine gender shall be deemed to refer to and include the feminine and neuter, and the singular shall refer to and include the plural, and vice versa.

(g) **Future Cooperation.** Each of the Parties shall hereafter execute and deliver, or cause their respective attorneys to execute and deliver, any and all further documents and instruments, furnish any information, and perform any other act reasonably necessary or convenient to effectuate the terms of this Agreement.

(h) **Counterparts; Duplicate Originals.** This Agreement may be executed in any number of counterparts and duplicate originals, any of which shall be deemed to be the original; provided, however, that this Agreement shall be effective *only if executed by all of the Parties*. Counterpart signature pages may be delivered electronically, and such electronic signatures shall be deemed and construed for all purposes to be originals.

18. **INDEPENDENT REPRESENTATION; VOLUNTARY EXECUTION**

Each of the Parties represents and agrees that (a) it has been represented by independent counsel in connection with the negotiation, drafting, and execution of this Agreement; (b) it has consulted with such independent counsel with respect to the content, meaning, and effect of the terms of this Agreement; and (c) it has read and fully understands the foregoing terms of this Agreement, and willingly enters into and signs this Agreement.

19. **AUTHORITY OF SIGNATORIES**

Each of the individuals signing this Agreement on behalf of a Party warrants and represents that (a) he has full authority to execute this Agreement on behalf of such Party; and (b) he is acting within the course and scope of such authority in executing this Agreement.

WHEREFORE, the Parties execute this Agreement and make it fully effective and binding.

Dated: _____

WHISPERING HILLS, LLC, a Delaware limited liability company

By: _____

Authorized Representative

By: _____

Authorized Representative

Dated: _____

RANCHO SAN JUAN DEVELOPMENT, LLC

By: Woodbridge Builders, LLC, a Delaware limited liability company
Its Managing Member

By: Woodbridge Communities II, LLC,
a Delaware limited liability company
Its Manager

By: _____
Todd S. Cunningham
Its Manager

Dated: _____

CAPISTRANO UNIFIED SCHOOL DISTRICT

By: _____

Its: _____