

- g. Ratify/Approve Agreement with Orrick, Herrington and Sutcliffe, LLP (Orrick), to provide legal services in connection with Community Facilities District No. 2024-1, effective February 15, 2024 through July 25, 2025, not to exceed \$68,000, funded by Community Facility District Funds. Authorize Jason Hill, Deputy Superintendent, Business Services, to sign related documents on behalf of the Board (Appendix Item).**

**AGREEMENT
FOR
COMMUNITY FACILITIES DISTRICTS
COUNSEL SERVICES**

THIS AGREEMENT (this “Agreement”), dated December 17, 2024, is by and between the REDLANDS UNIFIED SCHOOL DISTRICT (the “School District”) and ORRICK, HERRINGTON & SUTCLIFFE LLP (“Orrick”).

W I T N E S S E T H

WHEREAS, certain landowners of undeveloped property within the School District propose to construct single family residential units on all or a portion of such property (the “Property”);

WHEREAS, the School District and such landowners have determined that the development of the Property will generate additional students in kindergarten through twelfth grade of the School District who cannot be housed in the existing school facilities of the School District and that additional school facilities for such students will be needed to adequately house such students;

WHEREAS, the School District and each such landowner propose to enter into a mitigation agreement (a “Mitigation Agreement”) to provide for the establishment of a community facilities district pursuant to the Mello-Roos Community Facilities Act of 1982, constituting Section 53311 *et seq.* of the California Government Code (the “Act”), proposed to be named “Redlands Unified School District Community Facilities District No. 2024-1” (“Community Facilities District No. 2024-1”);

WHEREAS, the territory within the boundaries of Community Facilities District No. 2024-1 will consist of the Property;

WHEREAS, the proceedings for the establishment of Community Facilities District No. 2024-1 will provide for the future annexation of territory to Community Facilities District No. 2024-1, which territory generally consists of the property within the boundaries of the School District, with the condition that parcels within such territory may be annexed only with the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed;

WHEREAS, each landowner of a parcel or parcel being annexed to Community Facilities District No. 2024-1 will enter into a Mitigation Agreement with the School District providing for such annexation;

WHEREAS, each landowner’s participation and cooperation in implementing the Mitigation Agreement to which it is a party will be intended to constitute complete mitigation of the impact upon the School District of the development of such landowner’s property in lieu of any fees, charges, dedications or other requirements that the School District might have imposed

upon such landowner for school facilities needed to adequately house additional students generated from the development of such landowner's property;

WHEREAS, Community Facilities District No. 2024-1 will be authorized to incur bonded indebtedness payable from special taxes levied within Community Facilities District No. 2024-1, the proceeds of which bonded indebtedness will be used to finance such school facilities;

WHEREAS, the Board of Education of the School District (the "Board of Education") has previously established certain community facilities districts pursuant to the Act (such community facilities districts, together with Community Facilities District No. 2024-1, the "Community Facilities Districts");

WHEREAS, each such previously established community facilities district is authorized to incur bonded indebtedness payable from special taxes levied within such community facilities district (any bonds issued pursuant to the authorized bonded indebtedness of a previously established community facilities district and any bonds issued pursuant to the authorized bonded indebtedness of Community Facilities District No. 2024-1, "Bonds");

WHEREAS, the School District desires to employ Orrick to provide legal services incident to the establishment of Community Facilities District No. 2024-1, the annexation of territory to Community Facilities District No. 2024-1 and the issuance of Bonds by the Community Facilities Districts; and

WHEREAS, Orrick possesses the necessary professional capabilities and resources to provide the legal services required by the School District and the Community Facilities Districts as described in this Agreement;

NOW, THEREFORE, it is mutually agreed by the parties hereto as follows:

Section 1. Scope of Services. (a) Orrick shall perform the following legal services (the "Formation Services") in connection with the establishment of Community Facilities District No. 2024-1:

(i) consultation with representatives of the School District, including School District Counsel, the School District's financial advisor, the special tax consultant, the property owners and their counsel and consultants, and others, concerning the formation of Community Facilities District No. 2024-1;

(ii) preparation or review of all legal proceedings necessary to establish Community Facilities District No. 2024-1 and to authorize the levy of special taxes therein and the incurrence of bonded indebtedness thereby, including preparation of necessary resolutions, ordinances, ballots and notices, and preparation of all other proceedings incidental to or in connection with such authorization;

(iii) preparation of the Mitigation Agreement to be entered into by each landowner within Community Facilities District No. 2024-1 in connection with the establishment of Community Facilities District No. 2024-1;

(iv) attendance at working group meetings and participation in conference calls as the School District may request, and assistance to the School District staff in preparation of such explanations or presentations to the Board of Education as such staff may request; and

(v) such other legal services as may be incidental to the foregoing.

(b) Orrick shall perform the following legal services (the “Annexation Services”) in connection with each annexation of territory to Community Facilities District No. 2024-1:

(i) consultation with representatives of the School District, including School District Counsel, the School District’s financial advisor, the special tax consultant, the property owner or owners and its or their counsel and consultants, and others, concerning such annexation of territory to Community Facilities District No. 2024-1;

(ii) preparation or review of all legal proceedings necessary to accomplish such annexation and to authorize the levy of Community Facilities District No. 2024-1 special taxes within such territory to be annexed, including preparation of necessary resolutions, consents and notices, and preparation of all other proceedings incidental to or in connection with such annexation;

(iii) preparation of the Mitigation Agreement to be entered into by each landowner within such territory to be annexed to Community Facilities District No. 2024-1 in connection with such annexation;

(iv) attendance at working group meetings and participation in conference calls as the School District may request, and assistance to the School District staff in preparation of such explanations or presentations to the Board of Education as such staff may request; and

(v) such other legal services as may be incidental to the foregoing.

(c) Orrick shall perform the following legal services (the “Bond Issuance Services”) in connection with each issuance of Bonds by a Community Facilities District:

(i) consultation with representatives of the School District, including School District Counsel, the School District’s financial advisor, the special tax consultant, the market absorption consultant, the appraiser, disclosure counsel, the underwriter, underwriter’s counsel, the property owner or owners and its or their counsel and consultants, and others, concerning the proposed financing and its timing, terms and structure, and including the rendering of legal advice with respect to the proceedings deemed necessary or desirable to comply with all requirements of law preliminary to the authorization, issuance and sale of such Bonds;

(ii) preparation or review of all legal proceedings incidental to or in connection with the authorization, issuance and sale of such Bonds;

(iii) preparation of documents to be adopted or entered into by such Community Facilities District required for the issuance of such Bonds, including preparation of the authorizing resolution and the indenture providing for the issuance of such Bonds (the “Major Legal Documents”);

(iv) preparation of the continuing disclosure agreement to be entered into by such Community Facilities District in connection with the issuance of such Bonds; provided, however, that, as Rule 15c2-12 applies only to underwriters, compliance with such rule will be the responsibility of underwriter’s counsel, and that if, as a result, such continuing disclosure agreement is prepared by underwriter’s counsel, all references to that document contained in this Agreement shall be deemed deleted;

(v) preparation of summaries of the Major Legal Documents included in the official statement for such Bonds;

(vi) attendance at such Board of Education meetings or working group meetings and participation in such conference calls as the School District may request, and assistance to the School District staff in preparation of such explanations or presentations to the Board of Education as such staff may request;

(vii) preparation of final closing papers to be executed by such Community Facilities District required to effect delivery of such Bonds (including the tax certificate) and coordination of the closing;

(viii) rendering of Orrick’s customary final legal opinion on the validity of such Bonds and the tax-exempt status of interest thereon; and

(ix) such other legal services as may be incidental to the foregoing.

(d) The School District shall and will rely on School District Counsel to render day to day and ongoing general counsel legal services. Orrick shall circulate documents to and coordinate its services with School District Counsel to the extent requested by the School District or School District Counsel. Orrick shall be entitled to assume that School District Counsel has reviewed all documents and matters submitted to the School District for adoption or approval or to officers of the School District for execution prior to such adoption, approval or execution.

In rendering opinions and performing legal services under this Agreement, Orrick shall be entitled to rely on the accuracy and completeness of information provided and certifications made by, and opinions provided by counsel to, the School District, a Community Facilities District and other parties and consultants, without independent investigation or verification.

The legal services to be performed by Orrick pursuant to this Agreement are limited to those specifically set forth above. Such legal services do not include any services beyond those set forth above, including, without limitation (i) any representation of the School District or any other party to the transaction in any litigation or other legal or administrative proceeding involving a Community Facilities District, any of the Bonds or any related matter, (ii) the preparation of any bond purchase agreement or credit enhancement agreement or the preparation or review of any investment agreement, (iii) any responsibility for compliance with federal or

state securities laws, environmental, land use, real estate, any tax laws (except as required with respect to the tax exemption of the interest on the Bonds), insurance or similar laws or matters or for title to or perfection of security interests in real or personal property, or (iv) any financial advice or analysis. Orrick will not be responsible for the services performed or acts or omissions of any other participant. Also, Bond Issuance Services for an issue of Bonds will not extend past the date of issuance of such Bonds and will not, for example, include services related to rebate compliance or continuing disclosure (although Orrick may be available for separate engagement to provide such services pursuant to separate contract) or otherwise related to such Bonds.

Section 2. Compensation and Reimbursements. (a) The School District and Orrick recognize the structure of Community Facilities District No. 2024-1 is unique for the School District, presents a number of new issues and involves a number of variables that cannot be determined at this time. Therefore, once the efforts involved become ascertainable and such variables are determined, the School District and Orrick shall agree on a fee for the Formation Services in such amount as the School District and Orrick shall mutually agree to be appropriate; provided, however, that such fee shall not exceed \$68,000. Such fee shall be payable upon the formation of Community Facilities District No. 2024-1.

(b) For Annexation Services, Orrick shall be paid (i) for the initial annexation of territory to Community Facilities District No. 2024-1, a fee of \$25,000, (ii) for each subsequent annexation of territory to Community Facilities District No. 2024-1 (A) if such annexation involves a single landowner, \$15,000, (B) if such annexation involves two or three landowners, \$10,000 for each landowner, and (C) if such annexation involves more than three landowners, \$8,000 for each landowner, up to a maximum fee of \$48,000. Each such fee shall be payable upon the completion of the annexation of the subject territory to Community Facilities District No. 2024-1.

(c) For the Bond Issuance Services for each issue of Bonds by a Community Facilities District, Orrick shall be compensated a fee based on the percentage of the principal amount of such Bonds issued and sold, as follows (with a minimum fee of \$60,000):

- (i) Two percent (2%) of the first \$3,000,000 principal amount of Bonds; plus
- (ii) One-half percent (0.5%) of the next \$2,000,000 principal amount of Bonds; plus
- (iii) One-tenth percent (0.1%) of the principal amount of Bonds in excess of \$5,000,000.

In addition to such fee, Orrick shall be paid a flat amount of \$1,000 for such issue of Bonds to cover costs and expenses (direct and indirect) incurred in connection with such services rendered pursuant hereto, including (without limitation) filing, document reproduction and delivery, travel, telecopy, word processing, computer research, secretarial overtime, final transcripts and other similar expenses.

Each such fee and amount to cover costs and expenses shall be paid upon issuance of the subject Bonds.

Orrick's fee for Bond Issuance Services for an issue of Bonds are based, in part, upon the assumption that the scope of services will conform to the description thereof contained in Section

1(c) of this Agreement, the transaction will not have an extraordinary amount of problems or issues, Orrick will be required to attend no more than the usual number of meetings and conference calls, Orrick will not be required to generate an inordinate number of drafts of the Major Legal Documents, the structure of the transaction will not materially change (particularly after preparation of the Major Legal Documents has commenced), and such Bonds will be issued not later than four months from the date the drafting of the Major Legal Documents has commenced. If any part of this assumption is incorrect, or if any unusual or unforeseen circumstances arise, and occasions substantial additional work or responsibility on the part of Orrick, Orrick will be entitled to seek additional compensation in such amount as the School District and Orrick shall mutually agree to be appropriate.

(d) For ad hoc legal services related to a Community Facilities District or Bonds not constituting Formation Services, Annexation Services or Bond Issuance Services that the School District requests that Orrick provide, Orrick shall be compensated a fee in such amount as the School District and Orrick may mutually agree.

Section 3. Termination of Agreement and Legal Services. This Agreement and all legal services to be rendered hereunder may be terminated at any time by written notice from either party, with or without cause. In that event, all finished and unfinished documents prepared for adoption or execution by the School District or a Community Facilities District shall, at the option of the School District, become its property and shall be delivered to it or to any party it may designate; provided that Orrick shall have no liability whatsoever for any subsequent use of such documents. In the event of termination by the School District, Orrick shall be paid for all satisfactory work at its usual hourly rates unless the termination is made for cause, in which event compensation, if any, shall be adjusted in the light of the particular facts and circumstances involved in the termination. If not sooner terminated as aforesaid, all legal services to be rendered hereunder with respect to an issue of Bonds shall terminate upon the issuance of such Bonds; provided that the School District shall remain liable for any unpaid compensation or reimbursement due under Section 2 hereof. Upon termination of this Agreement, Orrick shall have no future duty of any kind to or with respect to a Community Facilities District, the Bonds or the School District. For various cost and other reasons, Orrick reserves the right to dispose, in any manner it chooses, of any documents or other materials retained by it after such termination.

Section 4. Nature of Engagement; Relationships With Other Parties. The role of bond counsel, generally, is to prepare or review the procedures for issuance of the bonds, notes or other evidence of indebtedness and to provide an expert legal opinion with respect to the validity thereof and other subjects (usually including the tax status of interest on the bonds) addressed by the opinion. Consistent with the historical origin and unique role of bond counsel, and reliance thereon by the public finance market, Orrick's role in providing Bond Issuance Services under this Agreement is to provide opinions and related legal services that represent an objective judgment on the matters addressed rather than the partisan position of an advocate.

In performing Bond Issuance Services in connection with an issue of Bonds, Orrick will act as special counsel to the School District with respect to the issuance of such Bonds; that is, Orrick will assist School District Counsel in representing the School District but only with respect to the validity of the Major Legal Documents and the tax status of interest on such

Bonds, and in a manner not inconsistent with the role of bond counsel described in the first sentence of this Section.

The School District acknowledges that Orrick regularly performs legal services for many private and public entities in connection with a wide variety of public finance related matters. For example, Orrick has represented, is representing or may in the future represent other public entities, underwriters, trustees, rating agencies, insurers, credit enhancement providers, lenders, contractors, suppliers, financial and other consultants/advisors, accountants, investment providers/brokers, providers/brokers of derivative products and others who may have a role or interest in the financing or that may be involved with or adverse to the School District in this or some other matter. Orrick agrees not to represent any such entity in connection with the issuance of Bonds, during the term of this Agreement, without the consent of the School District, except possibly with respect to investment or derivative products where, because Orrick has assisted a number of the providers/brokers in designing and developing their products and provides general and transactional advice with respect to such products, it is not practical to seek specific consent in each case, and instead Orrick agrees to separate the attorneys working on a Bond issue pursuant to this Agreement from the attorneys working on the investment or derivative products. Given the special, limited role of bond counsel described above, the School District acknowledges that no conflict of interest exists or would exist, and waives any actual or potential conflict of interest that might be deemed to arise, now or in the future, from this Agreement or any such other relationship that Orrick may have had, have or enter into, and the School District specifically consents to any and all such relationships.

Section 5. Limitation of Rights to Parties; Successor and Assigns. (a) Nothing in this Agreement or in any of the documents contemplated hereby, expressed or implied, is intended or shall be construed to give any person other than the School District and Orrick any legal or equitable right or claim under or in respect of this Agreement, and this Agreement shall inure to the sole and exclusive benefit of the School District and Orrick.

(b) Orrick may not assign its obligations under this Agreement without written consent of the School District, except to a successor partnership or corporation to which all or substantially all of the assets and operations of Orrick are transferred. The School District shall not assign its rights and obligations under this Agreement without written consent of Orrick. All references to Orrick and the School District in this Agreement shall be deemed to refer to any such successor of Orrick and to any such assignee of the School District and shall bind and inure to the benefit of such successor and assignee whether so expressed or not.

Section 6. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California.

Section 7. Counterparts. This Agreement may be executed in any number of counterparts and each counterpart shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

REDLANDS UNIFIED SCHOOL DISTRICT

By: _____
Jason Hill,
Assistant Superintendent, Business Services

ORRICK, HERRINGTON & SUTCLIFFE LLP

By:  _____
Greg Harrington
Partner