

**STANDBY CONTRIBUTION AGREEMENT**

**DATED AS OF \_\_\_\_\_ 1, 2017**

**BY AND AMONG**

**ESTRELLA MOUNTAIN RANCH  
COMMUNITY FACILITIES DISTRICT  
(CITY OF GOODYEAR, ARIZONA),**

**NNP III - ESTRELLA MOUNTAIN RANCH, LLC,**

**NNP III – ESTRELLA, LLC**

**AND**

**U.S. BANK NATIONAL ASSOCIATION,  
AS TRUSTEE**

**TABLE OF CONTENTS**  
**[TO BE UPDATED]**

<b>Parties .....</b>	<b>1</b>
<b>Recitals 1</b>	
<b>ARTICLE 1 REPRESENTATIONS AND WARRANTIES OF OWNER AND PARENT.....</b>	<b>1</b>
Section 1.1.    Representations and Warranties of Owner .....	1
Section 1.2.    Representations and Warranties of Parent .....	4
<b>ARTICLE 2 COVENANTS AND AGREEMENTS .....</b>	<b>5</b>
Section 2.1.    Payments and Information .....	5
Section 2.2.    Nature of Obligations.....	6
Section 2.3.    No Set Off.....	7
Section 2.4.    Remedies.....	8
Section 2.5.    Waiver of Notice; Payment of Expenses .....	8
Section 2.6.    Incorporation by Reference .....	8
Section 2.7.    Compliance with Financial Covenants .....	8
Section 2.8.    Financial Statements .....	9
<b>ARTICLE 3 AMENDMENTS .....</b>	<b>9</b>
Section 3.1.    Amendment.....	9
<b>ARTICLE 4 THE TRUSTEE AND THE ISSUER.....</b>	<b>10</b>
Section 4.1.    Acceptance of Trusts .....	10
Section 4.2.    Issuer Acceptance .....	10
<b>ARTICLE 5 RELEASE OF STANDBY CONTRIBUTION AGREEMENT .....</b>	<b>10</b>
Section 5.1.    Release .....	10
<b>ARTICLE 6 MISCELLANEOUS .....</b>	<b>10</b>
Section 6.1.    Obligations.....	10
Section 6.2.    Entire Agreement.....	10
Section 6.3.    Validity .....	10
Section 6.4.    Execution as Consent.....	10
Section 6.5.    Governing Law .....	11
Section 6.6.    Benefit of Parties .....	11
Section 6.7.    Cancellation .....	11
<b>Signatures .....</b>	<b>12</b>

**THIS STANDBY CONTRIBUTION AGREEMENT** dated as of \_\_\_\_\_ 1, 2017, by and among **ESTRELLA MOUNTAIN RANCH COMMUNITY FACILITIES DISTRICT (CITY OF GOODYEAR, ARIZONA)** (the "*Issuer*"), **NNP III - ESTRELLA MOUNTAIN RANCH, LLC**, a Delaware limited liability company (the "*Owner*"), **NNP III – ESTRELLA, LLC**, a Delaware limited liability company and sole member of the Owner (the "*Parent*") and **U.S. BANK NATIONAL ASSOCIATION**, as trustee (the "*Trustee*") under that certain Indenture of Trust and Security Agreement, dated as of \_\_\_\_\_ 1, 2017 (the "*Indenture*").

All initially capitalized terms used herein which are not otherwise defined shall have the meaning set forth in the Indenture.

### **RECITALS**

The Issuer is issuing its District General Obligation Refunding Bonds, Series 2017, in the aggregate principal amount of \$\_\_\_\_\_,000 (the "*Bonds*") concurrently herewith pursuant to the Indenture.

The Issuer previously issued its District General Obligation Bonds, Series 2005, and District General Obligation Bonds, Series 2007 (collectively the "*Prior Bonds*") to fund certain "public infrastructure" purposes as provided for in Title 48, Chapter 4, Article 6, Arizona Revised Statutes, as amended (hereinafter referred to as the "*Enabling Act*").

As provided in § 48-719.E. of the Enabling Act, the Issuer may consider various sources of funds, including private contributions, in determining the Issuer's tax levy.

As provided in the Development, Financing Participation and Intergovernmental Agreement No. 1 by and among the Issuer, the City of Goodyear, Arizona (the "*City*") and SunChase Estrella Limited Partnership and Residential Funding Corporation (as predecessor in interest to the Owner) (the "*Development Agreement*"), and in certain feasibility reports approved in connection with the issuance of the Prior Bonds, the Issuer provided for a mechanism by which the Owner contributed certain amounts for the benefit of the Issuer which are considered by the Issuer in levying taxes to pay debt service on the Prior Bonds. In connection with the Prior Bonds, the Issuer, Owner, Parent and prior trustee entered into certain standby contribution agreements related to the Prior Bonds to satisfy the requirements of the Development Agreement.

The Issuer intends to refund all or a portion of the Prior Bonds with a portion of the proceeds of the Bonds. In connection with the prepayment and refunding of the Prior Bonds, the standby contribution agreements related to the Prior Bonds shall terminate. The parties hereto desire to enter into this Standby Contribution Agreement to provide for a mechanism by which the Owner shall contribute certain amounts for the benefit of the Issuer which shall be considered by the Issuer in levying taxes to pay Debt Service on the Bonds and satisfy the requirements of the Development Agreement.

In order to comply with the provisions of the Development Agreement in the issuance of the Bonds, the Owner does hereby covenant and agree with the Issuer and the Trustee as follows:

## ARTICLE 1

### REPRESENTATIONS AND WARRANTIES OF OWNER AND PARENT

**Section 1.1.** Representations and Warranties of Owner. The Owner represents, warrants and agrees as follows:

(A) The Owner is a duly formed and validly existing limited liability company under the laws of the State of Delaware and authorized to do business in the State of Arizona, (i) has no proceedings pending or contemplated with a view to liquidation or dissolution; and (ii) has the power and authority to execute and perform all the undertakings of this Standby Contribution Agreement.

(B) Approval to enter into agreements, instruments and documents related to the Bonds, including but not limited to, this Standby Contribution Agreement, as executed and delivered by the duly authorized officers of the Owner, was given by the Board of Directors of the Owner at a meeting necessary to approve and authorize execution and delivery of this Standby Contribution Agreement (the "*Owner Meeting*").

(C) (i) A resolution (the "*Owner Resolution*") authorizing among other things, the execution and delivery of this Standby Contribution Agreement, was duly adopted by a majority of the Board of Directors of the Owner at the Owner Meeting; the Owner Meeting was duly called and a quorum was present and acting throughout at the Owner Meeting; the Owner Resolution has not been altered, amended, repealed, revoked or rescinded as of the date hereof and notice of the Owner Meeting was provided as necessary.

(ii) The Owner has no rules of procedure which would invalidate or make ineffective the Owner Resolution and the Owner Resolution was adopted in accordance with the operating agreement of the Owner.

(D) The persons executing this Standby Contribution Agreement on behalf of the Owner are duly qualified to execute this Standby Contribution Agreement.

(E) The Owner is not in default in the payment of principal of or interest on any indebtedness for borrowed money and is not in default under any instruments or agreements under or subject to which any indebtedness for borrowed money has been incurred and no event has occurred and is continuing under the provisions of any such instrument or agreement which, with the lapse of time or the giving of notice, or both, would constitute an event of default thereunder.

(F) The consummation of the transactions contemplated hereby and compliance by the Owner with the provisions thereof will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, any indenture, agreement or other instrument to which the Owner is a party or by which the Owner may be bound.

(G) The performance of this Standby Contribution Agreement by the Owner and fulfillment of its terms does not and will not conflict with or result in any breach, default or violation of any regulation, order or decree of any court or governmental department, commission, board, bureau or agency to which the Owner is a party or is subject.

(H) The Owner is not in violation of or in default with respect to any applicable law or any applicable rules, regulation or order of any court or any governmental department, commission, board, bureau, agency or instrumentality which would prevent or limit the Owner from entering into or carrying out its obligations hereunder.

(I) No litigation or administrative action or proceeding is pending or, to the knowledge of the undersigned, threatened, restraining or enjoining, or seeking to restrain or enjoin, the effectiveness of the Owner Resolution or this Standby Contribution Agreement, or contesting or questioning the proceedings and authority under which this Standby Contribution Agreement has been authorized and is delivered and executed.

(J) There is no action, suit proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, pending or, to the best of its knowledge, overtly threatened against or affecting the Owner nor is there a basis therefor, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by this Standby Contribution Agreement, or would adversely affect the net worth of the Owner.

(K) The 2015 and 2016 annual unaudited financial statements of the Owner and any subsidiaries and affiliates reported in the consolidated financial statements of the Parent (the "*Consolidated Financial Statements*") contain no untrue statement of a material fact and do not omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(L) The Owner agrees to maintain at all times while the Bonds and any Other Issuer Bonds (as defined herein) are outstanding, and covenants that, as of the date hereof, the aggregate Net Worth (as defined herein) of the Owner as shown in its Consolidated Financial Statements will not be less than and, as of the date hereof, is not less than five (5) times the sum of the portions of the principal amounts of the following: (i) that portion of the Bonds Outstanding whose debt service is paid by the amount paid pursuant to this Standby Contribution Agreement, (ii) other outstanding bonds of the Issuer whose debt service is paid pursuant to a standby contribution agreement or similar type or form of agreement executed by the Owner, any subsidiaries or affiliates ("*Other Issuer Bonds*"); and (iii) any other bonds issued by any other community facilities district located in the Municipality now or hereafter outstanding whose debt service is paid pursuant to a standby contribution agreement or similar type or form of agreement heretofore or hereafter executed by the Owner, any subsidiaries or affiliates ("*Other District Bonds*"). (Collectively, the portion of the principal amounts of each of the Bonds, Other Issuer Bonds and Other District Bonds whose debt service is paid pursuant to this Standby Contribution Agreement, other standby contribution agreement or similar type or form of agreement heretofore or hereafter executed by the Owner shall be referred to as "*Standby Contribution Bonds*".) Standby Contribution Bonds shall not include that portion of the principal amount of the Bonds, Other Issuer Bonds or Other District Bonds, the debt service for which will be provided for from tax collections collected solely for the payment of principal and interest and in amount not greater than the amount collected in the last full year of tax collections.

(M) The Owner agrees to maintain at all times while the Standby Contribution Bonds are outstanding, and covenants that, as of the date hereof, the aggregate Net Worth of the Owner as shown in its Consolidated Financial Statements will not be, in the next Bond Year (as defined herein), less than and, as of the date hereof, is not less than twenty-five (25) times the Maximum Annual Standby Liability. For purposes of this paragraph (M) "*Maximum Annual Standby Liability*" shall mean the sum of the Maximum Annual Debt Service (as defined herein) for each series of Standby

Contribution Bonds and each, if any, series of bonds or other indebtedness whose principal and/or interest is paid, guaranteed or otherwise secured by a standby contribution agreement, guaranty or similar type or form of agreement ("*Guaranteed Other Debt*") executed by the Owner, any subsidiaries or affiliates, less the aggregate amount of all tax collections collected solely for the payment of principal of or interest on Standby Contribution Bonds or Guaranteed Other Debt and received by the Issuer or the issuer of Guaranteed Other Debt during the last full year of tax collections. "*Maximum Annual Debt Service*" shall mean, with respect to any outstanding series of Standby Contribution Bonds or Guaranteed Other Debt, on the date of calculation, the highest principal and interest payment requirements with respect to such series of Standby Contribution Bonds or Guaranteed Other Debt for any succeeding Bond Year.

**Section 1.2** Representations and Warranties of Parent. The Parent represents, warrants and agrees as follows:

(A) The Parent is a duly formed and validly existing limited liability company under the laws of the State of Delaware and authorized to do business in the State of Arizona, (i) has no proceedings pending or contemplated with a view to liquidation or dissolution; and (ii) has the power and authority to execute and perform all the undertakings of this Standby Contribution Agreement.

(B) Approval to enter into this Standby Contribution Agreement, as executed and delivered by the duly authorized officers of the Parent, was given by the Board of Directors of the Parent at a meeting necessary to approve and authorize execution and delivery of this Standby Contribution Agreement (the "*Parent Meeting*").

(C) (i) A resolution (the "*Parent Resolution*") authorizing among other things, the execution and delivery of this Standby Contribution Agreement, was duly adopted by a majority of the Board of Directors of the Parent at the Parent Meeting; the Parent Meeting was duly called and a quorum was present and acting throughout at the Parent Meeting; the Parent Resolution has not been altered, amended, repealed, revoked or rescinded as of the date hereof and notice of the Parent Meeting was provided as necessary.

(ii) The Parent has no rules of procedure which would invalidate or make ineffective the Parent Resolution and the Parent Resolution was adopted in accordance with the operating agreement of the Parent.

(D) The persons executing this Standby Contribution Agreement on behalf of the Parent are duly qualified to execute this Standby Contribution Agreement.

(E) The Parent is not in default in the payment of principal of or interest on any indebtedness for borrowed money and is not in default under any instruments or agreements under or subject to which any indebtedness for borrowed money has been incurred and no event has occurred and is continuing under the provisions of any such instrument or agreement which, with the lapse of time or the giving of notice, or both, would constitute an event of default thereunder.

(F) The consummation of the transactions contemplated hereby and compliance by the Parent with the provisions thereof will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, any indenture, agreement or other instrument to which the Parent is a party or by which the Parent may be bound.

(G) The performance of this Standby Contribution Agreement by the Parent and fulfillment of its terms does not and will not conflict with or result in any breach, default or violation of any regulation, order or decree of any court or governmental department, commission, board, bureau or agency to which the Parent is a party or is subject.

(H) The Parent is not in violation of or in default with respect to any applicable law or any applicable rules, regulation or order of any court or any governmental department, commission, board, bureau, agency or instrumentality which would prevent or limit the Parent from entering into or carrying out its obligations hereunder.

(I) No litigation or administrative action or proceeding is pending or, to the knowledge of the undersigned, threatened, restraining or enjoining, or seeking to restrain or enjoin, the effectiveness of the Parent Resolution or this Standby Contribution Agreement, or contesting or questioning the proceedings and authority under which this Standby Contribution Agreement has been authorized and is delivered and executed.

(J) There is no action, suit proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, pending or, to the best of its knowledge, overtly threatened against or affecting the Parent nor is there a basis therefor, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by this Standby Contribution Agreement, or would adversely affect the net worth of the Parent.

(K) The 2015 and 2016 annual unaudited financial statements of the Parent and any subsidiaries and affiliates reported in the Consolidated Financial Statements contain no untrue statement of a material fact and do not omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

## ARTICLE 2

### COVENANTS AND AGREEMENTS

#### Section 2.1. Payments and Information.

(A) In any tax year while this Standby Contribution Agreement is in effect and so long as the Issuer has adopted a resolution which fixes, levies and assesses a tax rate for such tax year of \$1.00 per \$100 of net assessed limited property valuation on property within the boundaries of the Issuer with respect to Debt Service (or such lesser tax rate as may be permitted in Section 10.01 of the Indenture), the Owner and/or Parent shall pay to the Trustee for the benefit of the Bondholders on or, if such day is not a Business Day, before March 15 of each year, commencing March 15, 201[8], the Annual Owner Payment (as defined below):

**Payment on or before March 15:** On February 15 of each year, or if such day is not a Business Day, the immediately preceding Business Day, the Issuer shall certify to the Trustee the amount of Issuer property taxes which would be produced based upon a tax rate of \$1.00 per \$100 (or such lower rate as may be permitted in Section 10.01 of the Indenture) of net assessed limited property valuation (assuming 95% collection of taxes) based upon such current net assessed limited property valuation (the "*Tax Year Tax Amount*"). On February 20 of each year, or if such day is not a Business Day, the immediately preceding Business Day, the Trustee shall determine (a) the Debt Service (without

regard to any optional redemption) due in the next succeeding calendar year on January 15 and July 15 (the "*Next Annual Debt Service Payment*"), (b) the amount in the Bond Fund estimated to be available to pay Next Annual Debt Service Payment, if any, after payment of the current year's July 15<sup>th</sup> debt service payment (the "*Available Moneys*"), and (c) the remainder, if any, of (i) the Next Annual Debt Service Payment less (ii) the sum of (A) the Available Moneys and (B) the Tax Year Tax Amount (such remainder being referred to as the "*Annual Owner Payment*"). On March 10 (or the immediately preceding Business Day as described above), the Trustee shall submit a request for payment to the Owner and/or Parent for payment of the Annual Owner Payment, which shall be paid by the Owner and/or Parent to the Trustee on or before March 15 and shall be deposited in the Bond Fund pursuant to the Indenture.

(B) In addition to the requirements set forth in Section 2.1(A) hereof, in any tax year while the Standby Contribution Agreement is in effect and so long as the Issuer has adopted a resolution which fixes, levies and assesses a tax rate for such tax year of \$1.00 per \$100 of net assessed limited property valuation on property within the boundaries of the Issuer with respect to Debt Service (or such lesser tax rate as may be permitted in Section 10.01 of the Indenture), the Trustee shall submit a request for payment to the Owner and/or Parent for payment of the December Owner Payment and the June Owner Payment (each as defined herein), respectively, which shall be paid by the Owner and/or Parent to the Trustee before December 24 and June 24 of each year and shall be deposited in the Bond Fund pursuant to the Indenture:

(i) **Payment on or before December 24:** On December 15 of each year, or if such day is not a Business Day, the immediately preceding Business Day, the Trustee shall determine the difference between the amount in the Bond Fund on such date and the amount necessary to pay Debt Service (without regard to any optional redemption) on the next succeeding January 15 (such difference being the "*December Owner Payment*").

(ii) **Payment on or before June 24:** On June 15 of each year, or if such day is not a Business Day, the immediately preceding Business Day, the Trustee shall determine the difference between the amount in the Bond Fund on such date and the amount necessary to pay Debt Service (without regard to any optional redemption) on the next succeeding June 15 (such difference being the "*June Owner Payment*").

(C) All payments by the Owner under this Section 2.1 shall be paid by the Owner and/or Parent to the Trustee in immediately available funds composed of lawful money of the United States of America and deposited in the Bond Fund.

(D) For the purpose of calculating the amounts due from the Owner and/or Parent hereunder, tax collections shall be allocated first to the payment of principal and interest on the Bonds.

**Section 2.2. Nature of Obligations.** The obligations of the Owner and/or Parent under this Standby Contribution Agreement shall be absolute and unconditional (except as set forth in Section 2.1 hereof) and shall remain in full force and effect until the Owner and/or Parent is released pursuant to Article 5 hereof. Such obligations shall not be affected, modified or impaired upon the happening from time to time of any event, including, without limitation, any of the following, whether or not with notice to, or the consent of, the Owner and/or Parent:



(A) the compromise, settlement, release or termination of any or all of the obligations, covenants or agreements of the Issuer or of the Owner under the Development Agreement; or

(B) the failure to give notice to the Owner of the occurrence of an event of default under the terms and provisions of this Standby Contribution Agreement, the Indenture or the Development Agreement; or

(C) the waiver of the payment, performance or observance by the Issuer or the Owner of any of the obligations, covenants or agreements of any of them contained in the Indenture, the Development Agreement or this Standby Contribution Agreement; or

(D) the extension of the time for payment of any principal of, premium, if any, or interest on any Bond or the extension or renewal of the time for performance of any other obligations, covenants or agreements under or arising out of the Indenture, the Development Agreement or this Standby Contribution Agreement, whether or not with notice to the Owner; or

(E) the modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in the Indenture or the Development Agreement; or

(F) the taking or the omission of any of the actions referred to in the Indenture, the Development Agreement or this Standby Contribution Agreement (other than as set forth in Section 2.1 hereof); or

(G) any failure, omission, delay or lack on the part of the Issuer or the Trustee to enforce, assert or exercise any right, power or remedy conferred on the Issuer or the Trustee in this Standby Contribution Agreement (except as set forth in Section 2.1 hereof), the Indenture or the Development Agreement, or any other act or acts on the part of the Issuer, the Trustee or any of the owners from time to time of the Bonds; or

(H) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshaling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or re-adjustment of, or other similar proceedings affecting either of the Owner, the Parent or the Issuer or any of the assets of either of them or any allegation or contest of the validity of this Standby Contribution Agreement, the Indenture or the Development Agreement, in any such proceeding; or

(I) the release or discharge of the Owner or the Issuer from the performance or observance of any obligation, covenant or agreement contained in the Development Agreement or the Indenture, by operation of and to the extent permitted by law; or

(J) to the extent permitted by law, the release or discharge of the Owner or Parent from the performance or observance of any obligation, covenant or agreement contained in this Standby Contribution Agreement by operation of law; or

(K) the default or failure of the Owner or Parent fully to perform any of its obligations set forth in this Standby Contribution Agreement or the Development Agreement; or

(L) the invalidity of the Development Agreement, the Indenture or the Bonds.

**Section 2.3. No Set Off.** Except as otherwise provided herein, no monetary set-off, reduction or diminution of an obligation, or any defense of any kind or nature which the Owner or Parent has or may have against the Issuer or the Trustee or which the Issuer may have against the Trustee shall be available hereunder to the Owner or Parent against the Trustee.

**Section 2.4. Remedies.** Upon the occurrence of any failure to pay amounts due hereunder, the Trustee, in its sole discretion, shall have the right to proceed first directly against the Owner and/or Parent under this Standby Contribution Agreement without proceeding against or exhausting any other remedies which it may have against the Issuer, the Owner, the Parent or any other person, firm or corporation and without resorting to any other security held by the Issuer or the Trustee.

Before taking any action hereunder, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses and to protect against all liability, except liability which is adjudicated to have resulted from its negligence or willful default by reason of any action so taken.

**Section 2.5. Waiver of Notice; Payment of Expenses.** The Owner and Parent hereby expressly waive notice from the Trustee or the owners from time to time of any of the Bonds of their acceptance and reliance on this Standby Contribution Agreement. To the extent permitted by applicable law, the Owner and Parent agree to pay all costs, expenses and fees, including all reasonable attorneys' fees, which may be incurred by the Trustee in enforcing or attempting to enforce this Standby Contribution Agreement following any default on the part of the Owner or Parent hereunder, whether the same shall be enforced by suit or otherwise.

**Section 2.6. Incorporation by Reference.** This Standby Contribution Agreement is entered into by the Owner and Parent with the Trustee and the Issuer for the benefit of the Issuer, the Trustee and the owners from time to time of the Bonds, all of whom shall be entitled to enforce performance and observance of this Standby Contribution Agreement to the same extent provided for the enforcement of remedies under the Indenture.

**Section 2.7. Compliance with Financial Covenants.**

(A) For purposes of this Standby Contribution Agreement, the following terms have the meanings set forth below:

"*Net Worth*" means the total tangible assets (as defined by GAAP) minus total liabilities and determined as of the end of the applicable period.

"*Bond Year*" means the one year period beginning on July 15 of each year and ending on July 14 of the succeeding year.

(B) If at any time during the term hereof, the Owner or Parent is in breach of the financial covenants set forth in Section 1.1(L) or (M) hereof, the Owner shall immediately notify the Trustee and the Issuer and the Owner or Parent shall, within 10 Business Days, either:

(i) deposit with the Trustee cash sufficient to cause the payment or redemption on the next redemption date of the Bonds for which notice can be given pursuant to the terms of the

Indenture, a sufficient amount so that when the principal has been prepaid or the redeemed Bonds are no longer treated as outstanding, the audited Net Worth of the Owner complies with the financial covenants set forth in Section 1.1(L) and (M) hereof; or

(ii) deposit with the Trustee the Substitute Collateral (as defined herein), upon satisfaction of the following conditions:

(a) The Owner provides the Issuer and the Trustee with a written request to provide Substitute Collateral in lieu of the payment or redemption of all or a portion of the Bonds;

(b) The Owner is not in breach of any of the representations, warranties, or agreements contained in this Standby Contribution Agreement except the financial covenants set forth in Section 1.1(L) and (M);

(c) The Issuer, acting through its District Manager, approves the deposit with the Trustee of the Substitute Collateral; and

(d) The Owner or Parent deposit with the Trustee, Substitute Collateral in form, substance and amount satisfactory to the Issuer exercising its sole and absolute discretion.

For purposes of this Standby Contribution Agreement, "*Substitute Collateral*" shall mean: (i) cash or Government Obligations; or (ii) a full recourse letter of credit, surety bond, investment agreement, guaranty or other financial assurance instrument approved by the District Manager, such approval shall not be unreasonably withheld and is issued or unconditionally guaranteed by an entity that has a Net Worth that meets the financial covenants set forth in Section 1.1(L) and (M) of this Standby Contribution Agreement or has a long term obligation rating by S&P or Moody's of at least the higher of: (x) the then-current rating on the Bonds, if any, or (y) "A".

**Section 2.8. Financial Statements.** The Owner and Parent shall on or before one hundred twenty (120) days after the end of each fiscal year of the Owner and Parent submit to the Issuer and the Trustee their Consolidated Financial Statements for the previous year. In addition, concurrent with the submission of the Consolidated Financial Statements, the chief financial officer of the Owner and Parent shall submit to the Issuer and the Trustee a certificate stating: (i) whether or not the Owner and Parent is in default under this Standby Contribution Agreement, including but not limited to the financial covenants set forth in Section 1.1(L) and (M) hereof; (ii) the outstanding principal amount of the Standby Contribution Bonds and Guaranteed Other Debt; (iii) the Maximum Annual Debt Service for each series of Standby Contribution Bonds and Guaranteed Other Debt; (iv) the tax collections collected for payment of principal and interest on Standby Contribution Bonds and Guaranteed Other Debt in the last full tax year; (v) the Maximum Annual Standby Liability; and (vi) the Net Worth of the Owner and Parent as reported in its most recent Consolidated Financial Statements and the Owner's and Parent's Net Worth as of the last day of the month preceding the date of the certificate.

## ARTICLE 3

### AMENDMENTS

**Section 3.1.** Amendment. The Owner, the Issuer and the Trustee, at any time and from time to time, may enter into one or more instruments supplemental hereto, under the conditions set forth in Article IX of the Indenture.

## ARTICLE 4

### THE TRUSTEE AND THE ISSUER

**Section 4.1.** Acceptance of Trusts. The Trustee hereby accepts the trusts imposed upon it by this Standby Contribution Agreement and agrees to perform said trusts as a corporate trustee ordinarily would perform said trusts under a corporate indenture but only upon and subject to the terms and conditions set forth in Article VIII of the Indenture.

**Section 4.2.** Issuer Acceptance. The Issuer hereby accepts the application of the amounts contributed by the Owner pursuant to the provisions of this Standby Contribution Agreement and shall take such actions as are necessary to accomplish the purposes set forth herein.

## ARTICLE 5

### RELEASE OF STANDBY CONTRIBUTION AGREEMENT

**Section 5.1.** Release. This Standby Contribution Agreement shall be released by the Trustee upon direction by the Issuer in accordance with Section 6.04 of the Indenture. Upon release hereof, any monies paid by the Owner and/or Parent pursuant hereto that are held by the Trustee and are not required to pay Debt Service on the Bonds shall be returned to the Owner and/or Parent.

## ARTICLE 6

### MISCELLANEOUS

**Section 6.1.** Obligations. The obligations of the Owner and Parent hereunder shall arise absolutely and unconditionally when the Bonds shall have been issued, sold and delivered by the Issuer.

**Section 6.2.** Entire Agreement. This Standby Contribution Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof and may be executed simultaneously in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

**Section 6.3.** Validity. The invalidity or unenforceability of any one or more phrases, sentences, clauses or Sections in this Standby Contribution Agreement shall not affect the validity or enforceability of the remaining portions of this Standby Contribution Agreement, or any part thereof.

**Section 6.4. Execution as Consent.** Any consent, approval, direction or other instrument required by this Standby Contribution Agreement to be signed and executed by the Bondholders may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed in writing. Proof of the execution of any such consent, approval, direction or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made pursuant to the Indenture, shall be sufficient for any of the purposes of this Standby Contribution Agreement and shall be conclusive in favor of the Trustee with regard to any action taken under such request or other instrument.

**Section 6.5. Governing Law.** This Standby Contribution Agreement shall be governed exclusively by the laws of the State of Arizona.

**Section 6.6. Benefit of Parties.** With the exception of rights herein expressly conferred, nothing herein expressed or mentioned in or to be implied from this Standby Contribution Agreement is intended or shall be construed to give to any person other than the parties hereto and the owners of the Bonds any legal or equitable right, remedy or claim under or in respect of this Standby Contribution Agreement. This Standby Contribution Agreement and all of the covenants, conditions and provisions hereof are intended to be and are for the sole and exclusive benefit of the parties hereof and the owners of the Bonds herein provided and shall inure to the benefit of and bind their respective successors and assigns.

**Section 6.7. Cancellation.** To the extent applicable by provision of law, the parties acknowledge that this Standby Contribution Agreement is subject to cancellation pursuant to A.R.S. Section 38-511, the provisions of which are incorporated herein.

**Section 6.8. E-verify Requirements.** To the extent applicable under Arizona Revised Statutes, Section 41-4401, the Trustee and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to its employees and compliance with the E-verify requirements under Arizona Revised Statutes, Section 23-214(A). The Trustee's or its subcontractor's breach of the above-mentioned warranty shall be deemed a material breach of this Standby Contribution Agreement and may result in the termination of this Standby Contribution Agreement. The Issuer retains the legal right to randomly inspect the papers and records of the Trustee and its subcontractors who work on the Standby Contribution Agreement to ensure that the Trustee and its subcontractors are complying with the above-mentioned warranty.

The Trustee and its respective subcontractors warrant to keep the papers and records open for random inspection by the Issuer during the Trustee's normal business hours. The Trustee and its respective subcontractors shall cooperate with the Issuer's random inspections including granting the Issuer entry rights onto its property to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

**Section 6.9. No Boycott of Israel.** Pursuant to A.R.S. §35-393 et seq., the Trustee certifies it is not currently engaged in, and for the duration of this Standby Contribution Agreement will not engage in, a boycott of Israel. The term "boycott" has the meaning set forth in A.R.S. §35-393.

**IN WITNESS WHEREOF**, the parties hereto have caused this Standby Contribution Agreement to be executed in their respective corporate names by their respective officers, thereunto duly authorized and their respective corporate seals to be hereto affixed as of the date first above written.

**ESTRELLA MOUNTAIN RANCH  
COMMUNITY FACILITIES DISTRICT (CITY  
OF GOODYEAR, ARIZONA)**

By \_\_\_\_\_  
District Manager

**ATTEST:**

\_\_\_\_\_  
District Clerk

**NNP III - ESTRELLA MOUNTAIN RANCH, LLC,**  
a Delaware limited liability company

By: NNP III – Estrella, LLC, a Delaware limited  
liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**NNP III – ESTRELLA, LLC**, a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**U.S. BANK NATIONAL ASSOCIATION**, as Trustee

By \_\_\_\_\_  
Its \_\_\_\_\_