RESOLUTION NO. 35
STONERIDGE COMMUNITY FACILITIES DISTRICT

A RESOLUTION OF THE DISTRICT BOARD OF THE STONERIDGE COMMUNITY FACILITIES DISTRICT, A COMMUNITY FACILITIES DISTRICT OF ARIZONA, APPROVING A TENTATIVE BUDGET FOR FISCAL YEAR 2015-2016 PURSUANT TO ARS §48-716; SETTING A PUBLIC HEARING DATE ON SAID TENTATIVE BUDGET; FILING STATEMENTS AND ESTIMATES OF THE OPERATION AND MAINTENANCE EXPENSES OF THE DISTRICT, AND THE AMOUNT OF ALL OTHER EXPENDITURES FOR PUBLIC INFRASTRUCTURE AND ENHANCED MUNICIPAL SERVICES PROPOSED TO BE PAID FROM THE TAX LEVY AND OF THE AMOUNT TO BE RAISED TO PAY GENERAL OBLIGATION BONDS OF THE DISTRICT (ALL OF WHICH SHALL BE PROVIDED FOR BY THE LEVY AND COLLECTION OF AD VALOREM TAXES ON THE ASSESSED VALUE OF ALL THE REAL AND PERSONAL PROPERTY IN THE DISTRICT); PROVIDING FOR NOTICE OF FILING THE STATEMENTS AND ESTIMATES, AND NOTICE OF A PUBLIC HEARING ON THE PORTIONS OF THE STATEMENTS AND ESTIMATES NOT RELATING TO DEBT SERVICE ON GENERAL OBLIGATION BONDS; PROVIDING THAT IF ANY PROVISION IN THIS RESOLUTION IS HELD INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED, BUT SHALL CONTINUE IN FULL FORCE AND EFFECT; AND PROVIDING THAT THIS RESOLUTION SHALL BE EFFECTIVE AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, on July 26, 2001, the Common Council of the Town of Prescott Valley ("Town") adopted Resolution No. 1031 creating within Sections 22, 26, 27 and 35, R1W, T14N, G&SRB&M of the Town, the StoneRidge Community Facilities District ("SRCFD"), a community facilities district in accordance with ARS §48-701 et seq. (see Exhibit “A” attached hereto and expressly made a part hereof); and

WHEREAS, SRCFD is a special purpose district for purposes of Article IX, Section 19, Constitution of Arizona, a tax-levying public improvement district for the purposes of Article XIII, Section 7, Constitution of Arizona, and a municipal corporation for all purposes of Title 35, Chapter 3, Articles 3, 3.1., 3.2, 4 and 5, Arizona Revised Statutes, as amended, and [except as otherwise provided in §48-708(B), as amended] is considered to be a municipal corporation and political subdivision of the State of Arizona, separate and apart from the Town; and

WHEREAS, a primary purpose for creating SRCFD was to finance construction and maintenance of certain public improvements needed for the StoneRidge development through assessment of ad valorem taxes on all real and personal property within the development; and

WHEREAS, in accordance with ARS §§48-719 and 48-723, a special election was held on November 13, 2001 wherein the qualified electors of SRCFD voted to issue general obligation bonds in the maximum amount of $33,000,000 to cover costs of constructing required public improvements, and to levy and collect an annual ad valorem tax at a rate not to exceed thirty cents (30¢) per one hundred dollars ($100) of assessed valuation for SRCFD operation and maintenance expenses; and

WHEREAS, by Resolution No. 3 (dated November 20, 2001), the SRCFD Board authorized the sale of up to $14,800,000 aggregate principal amount of general obligation bonds, Series 2001 ("2001 Bonds") to fund initial public improvements for the development; and

WHEREAS, SRCFD also entered into agreements with StoneRidge - Prescott Valley, L.L.C., a limited liability company of Arizona ("StoneRidge"), and with SunCor Development Company, an Arizona corporation ("SunCor") with respect to the 2001 Bonds whereby StoneRidge and SunCor (as developers of the development) would (a) make annual payments to SRCFD in order to maintain the tax rate at no more than three dollars ($3) per $100 of secondary assessed valuation for debt service, given the tax base of SRCFD in each tax year, (b) deposit twenty percent (20%) of the bond principal ($2,960,000) to supplement tax revenues if amounts available under the annual payments were insufficient, and (c) pay up to $45,000 annually in the event an additional ad valorem tax of 30¢ per $100 to pay costs to operate and maintain the public improvements was insufficient (until July 1, 2017 or July 1 after the 2,518th building permit was issued, whichever is earlier); and

WHEREAS, after initial success with the development, StoneRidge/SunCor eventually had economic difficulties as a consequence of the worldwide economic downturn and began taking steps to withdraw from residential development. It initially proposed to sell its remaining interests in the development to a single-purpose entity to be formed by Shea Homes and, on January 21, 2010, the Town Council and SRCFD Board approved assignments and certain amendments to various agreements (including the agreements described above) to that entity. Unfortunately, the sale was never completed; and

WHEREAS, in June of 2010, representatives of StoneRidge/SunCor informed SRCFD legal counsel that ongoing sale of SunCor assets had resulted in SunCor no longer complying with a Net Worth Test found in the agreements. However, StoneRidge/SunCor had made (and indicated it would continue to make) the annual payments under the agreements described above; and

WHEREAS, in September of 2010, representatives of StoneRidge/SunCor informed Town/SRCFD staff that it would now pursue a liquidation that would eventually include bankruptcy. Negotiations then ensued to find a resolution that would allow StoneRidge/SunCor to liquidate while mitigating the negative impacts on the Town, SRCFD and residents of the development. The Town and SRCFD hired bankruptcy counsel and council/board members met (along with staff) with development residents. Eventually, the focus settled on resolving the problem with the Net Worth Test, providing for continued annual payments in order to avoid increases in resident ad valorem taxes, and ensuring resident control of the StoneRidge Community Center; and

WHEREAS, on June 2, 2011, the SRCFD Board approved a lease agreement involving the Center. In relation thereto, the Center would be conveyed to SRCFD by StoneRidge/SunCor for the remaining term of the 2001 Bonds (2026), with a reverter to the StoneRidge HOA after that term. In the meantime, the HOA would lease the Center from SRCFD and would be solely responsible for its management and maintenance. Monthly rental payments (approximately $168,000 each year) would be irrevocably deposited into the same account that ad valorem taxes

from residents are paid into for 2001 Bond payments. In return, the SRCFD Manager would make a favorable determination by letter for SunCor (and any successor-in-interest) with regard to the Net Worth Test. Said letter was issued by the SRCFD Manager on June 24, 2011; and

WHEREAS, on July 28, 2011, the Town Council and SRCFD Board approved assignments and certain amendments to various agreements (including the agreements described above) to a single-purpose entity created by the M3 Companies. Unfortunately, M3 did not close on its deal with StoneRidge/SunCor; and

WHEREAS, on August 18, 2011, the Town Council and SRCFD Board approved assignments and certain amendments to various agreements (including the agreements described above) to two single-purpose entities (Univest-StoneRidge, LLC and Univest-StoneRidge Golf, LLC) created by Univest. Univest subsequently closed on its deal with StoneRidge/SunCor. That deal involved an unconditional assignment by StoneRidge/SunCor and acceptance by the Univest entities of all benefits and obligations under the agreements. However, the consent by the Town and SRCFD to the assignments expressly did not release StoneRidge/SunCor from any of its liabilities and obligations to the Town, SRCFD and the 2001 Bonds trustee under said agreements; and

WHEREAS, reductions in property values in the development had resulted in steady increases in the annual contributions under the above-described agreement. Because potential successors under the agreements had identified the uncertainty of the amount of this obligation as the chief impediment to growth within the development, the SRCFD Board increased the tax rate to approximately three dollars and ninety cents ($3.90) per $100 as part of its Fiscal Year 2011-2012 budget (Resolution No. 26, June 23, 2011) in an effort to maintain the actual collection amount at the level of the previous year; and

WHEREAS, on February 24, 2012, StoneRidge/SunCor filed a petition for Chapter 11 bankruptcy protection in U.S. Bankruptcy Court, District of Arizona (2:12-bk-03429-RTB). In its petition, StoneRidge/SunCor listed as an asset of the bankruptcy estate the cash deposit it had made earlier; and

WHEREAS, on March 1, 2012, the SRCFD Board heard a presentation from representatives of the StoneRidge HOA about results of a series of meetings with Univest and the residents to consider possible terms for refinancing the 2001 Bonds (using the $2,960,000 deposit to buy down principal), and subsequently directed staff to explore the potential for such refinancing. Unfortunately, the listing of the deposit as part of the bankruptcy estate (and uncertainty about any ongoing obligation by StoneRidge/SunCor to make future standby contributions) put a hold on any potential refinancing; and

WHEREAS, continued reductions in property values in the development led the SRCFD Board to increase the tax rate to approximately four dollars and forty-seven cents ($4.47) as part of its Fiscal Year 2012-2013 budget (Resolution No. 28, July 12, 2012); and

WHEREAS, efforts to have StoneRidge/SunCor voluntarily change its bankruptcy listing to no longer list the deposit were unsuccessful, so SRCFD's counsel filed an adversary

proceeding on July 11, 2012. SRCFD and the 2001 Bonds Trustee also jointly filed a claim for $6,335,802 (the estimated present value of potential StoneRidge/SunCor standby contributions until 2026), and SRCFD filed a separate claim for attorney fees. On September 13, 2012, StoneRidge/SunCor agreed to settle the adversary proceeding and to release its claim on the deposit. And, after negotiations with all bankruptcy creditors, a bankruptcy "plan" was eventually approved. Pinnacle West (StoneRidge/SunCor's parent company) agreed to make a cash payment of $7,000,000 and to subordinate its own claims as a creditor. Univest also agreed to contribute $100,000 into the plan. This allowed approximately $5,100,000 for claims by various community facilities districts in Arizona (including $1,358,436 for the joint claim by SRCFD and the 2001 Bonds Trustee). To help SRCFD accept this proposed amount, Univest agreed to make a separate payment of $100,000 directly to SRCFD in recognition of SRCFD's legal costs. The SRCFD Board voted to approve this plan on December 11, 2012. The plan was then confirmed by the bankruptcy court after a hearing on March 5, 2013, and became effective on March 25, 2013. Based on a Special Reserve Fund Agreement between SRCFD and the 2001 Bonds Trustee, said Trustee received the plan distribution and reimbursed its costs and those of SRCFD. This left $1,075,568.36 which was delivered to SRCFD on March 28, 2013; and

WHEREAS, Univest had operated as developer of StoneRidge (including operation of the golf course) since August 2011, and had made required standby contributions toward bond payments in January 2012 and July 2012. No standby contribution was needed for the January 2013 payment. However, Univest also indicated that its long-term economic model required that the 2001 Bonds be refinanced in order to remove the uncertainty of future standby contributions; and

WHEREAS, at a work/study session held April 11, 2013, the SRCFD Board heard a presentation from the 2001 Bonds underwriter about the potential for refinancing them before the payment due on July 15, 2013. The $2,960,000 deposit, the $1,075,568.36 bankruptcy distribution and the $100,000 Univest contribution would be used to buy down principal. The annual HOA payment would continue to be applied towards bond payments. And, the bond term would be extended to 2030. The underwriter indicated that current market conditions favored a private bond placement (rather than a public sale) and that anticipated interest rates suggested no increase in total tax amounts would be needed from current residents (despite no further standby contributions being made). There was even a prospect for future reductions in total tax amounts when additional residents moved into StoneRidge; and

WHEREAS, at the same work/study session, residents continued to express concern about the possibility of future bonds being issued based on the 2001 authorization of up to $33,000,000. Although the current SRCFD Board had indicated it would not consider issuing new SRCFD bonds (and would so state by formal resolution), bond counsel had advised that nothing could be done to legally revoke the earlier authorization. A more specific concern was also raised about references in the 2001 Bonds documents to reserving $19,000,000 of the $33,000,000 for the current StoneRidge development. Staff indicated that these documents did not require the Board to issue any more bonds (leaving in place language that expressly said the Board retains sole and absolute discretion as to whether it would issue other bonds during the period). It also indicated that some clarification of this issue might be possible in documents adopted as part of any refinancing the 2001 Bonds; and

WHEREAS, on May 23, 2013, the SRCFD Board adopted Resolution No. 30 approving issuance of $8,540,000 in SRCFD General Obligation Refunding Bonds, Series 2013 (through a private placement) to replace the 2001 Bonds, at an interest rate of four percent (4.0%) (with a slightly extended term to 2030), and no further reliance on standby contributions from the developer; and

WHEREAS, Resolution No. 30 affirmatively stated that no additional bonds would be issued by SRCFD under the 2001 authorization and approved a Restatement of the earlier District Development, Financing Participation and Intergovernmental Agreement to expressly remove any reference to issuing future SRCFD bonds for StoneRidge; and

WHEREAS, on May 23, 2013, the Town Council adopted Resolution No. 1833 also approving the Restatement of the earlier District Development, Financing Participation and Intergovernmental Agreement to expressly remove any reference to issuing future SRCFD bonds for StoneRidge (but retaining the language which provided for up to $45,000 in annual payments from the developer for a period of years to assist the Town with costs of operating and maintaining the public improvements); and

WHEREAS, with this refunding in place (and with the stabilization of real property values due to economic recovery), on July 11, 2013, the SRCFD Board was able to lower the tax rate to approximately three dollars and thirty-four cents ($3.34) per $100 secondary assessed value for the Fiscal Year 2013-2014 budget by Resolution No. 31; and

WHEREAS, despite these efforts, on February 10, 2014, residents of StoneRidge submitted petitions with approximately three hundred thirty (330) signatures of owners of property in SRCFD calling for an election of owners to consider rescinding the authority for the remaining, unissued bonds. The petitions referred to "court rulings" that authorization of bonds that have not been issued may be rescinded by a vote of the affected parties. The petitions also suggested that enough signatures thereon by affected parties could require the SRCFD Board to hold such an election; and

WHEREAS, on April 12, 2013, the HOA President had been given for circulation the written opinion of bond counsel that any authority to issue bonds granted to SRCFD by voters at an appropriate election could not subsequently be revoked absent a specific statute to that effect. This included calling another election for that purpose. If properly litigated before a court of appropriate jurisdiction, his opinion was that such a court would likely hold that any resulting revocation (with limited exceptions) would not be enforceable. In response, on May 7, 2013, the HOA President provided SRCFD counsel with an opinion from a Flagstaff law firm which asserted that an Arizona Supreme Court case (*Members of the Board of Education of the Pearce Union High School District v. Leslie*, 112 Ariz. 463 (1975)) had found a general, inherent right for citizens to vote to rescind earlier votes taken to authorize bonds. After reviewing that opinion, SRCFD counsel had explained that the *Leslie* decision appeared to only apply to a specific statute relating to school bonds and did not necessarily apply to the SRCFD bonds. He also noted that some of the $33,000,000 in SRCFD bonds had already been issued (a fact situation different from that in *Leslie* where none of the bonds had been issued before the second

vote). For that reason, the language in Resolution No. 30 was put forward as the most reasonable solution to the concerns of residents about any future bonds being issued; and

WHEREAS, in anticipation of the petition from residents, SRCFD counsel had reminded the SRCFD Board about the opinion solicited by StoneRidge residents and his concerns (and those of bond counsel) about that opinion, and had explained that any vote called by the SRCFD Board to consider the question of rescinding the remaining unissued authority to issue bonds might later be found by a court to be "ultra vires" (without authority). If the SRCFD Board chose to go forward with such a vote, it would have to do so based on an argument that ARS §48-719(A) inherently allowed the Board to call such a vote, generally conducted as set forth in ARS §48-707. Since the SRCFD budget adopted on July 11, 2013 did not specifically include money for such a vote, the Town would have to cover the cost under its intergovernmental agreement with SRCFD and then SRCFD would have to budget to reimburse the Town in the Fiscal Year 2014-2015 SRCFD budget process. SRCFD residents would then be taxed to cover those costs; and

WHEREAS, SRCFD counsel further explained that the statute discussed in *Leslie* did not apply to SRCFD and there was no applicable statutory mechanism for a mandatory vote based on signatures by electors on a petition submitted by SRCFD residents. Nor did the petitions which had been submitted comply with the requirements for an "initiative". To the extent such an election could be held, it would have to be held at the discretion of the SRCFD Board under inherent authority in ARS §48-719(A); and

WHEREAS, bond counsel and SRCFD counsel had also explained that any such election could only involve "resident electors". Under ARS §48-719(A) any question related to ad valorem tax bonds had to be submitted to either the qualified electors or those persons qualified to vote pursuant to ARS §48-707(G). That latter subsection related only to situations where no-one had registered to vote in SRCFD within fifty (50) days immediately preceding the election date. In such a situation, only owners of land within SRCFD could vote (in accordance with ARS §48-3043). Back in 2001 (when the vote on SRCFD formation, bond issuance, and ad valorem taxation for maintenance was held) there were no resident electors in SRCFD. Now, however, there were nearly one thousand three hundred (1,300) electors and ARS §48-707(B) said any elections besides formation elections (and besides elections where there are no resident electors in SRCFD) will involve precinct registers that show the resident electors who would be eligible to vote. Since SRCFD covers on part of a precinct, voters who come to the polls must execute an affidavit saying they live in the CFD. This is all consistent with the longstanding ruling of the U.S. Supreme Court in *City of Phoenix v Kolodziejski* (399 U.S. 240 (1970) that Arizona's prior constitutional provisions and statutes that excluded non-property owners from voting in elections to approve issuance of general obligation bonds violated the Equal Protection Clause; and

WHEREAS, the SRCFD Board adopted Resolution No. 32 at a regular meeting held February 27, 2014 to call for an election on April 8, 2014 by registered voters in SRCFD to decide whether or not the remaining authority for unissued bonds (previously authorized by vote on November 13, 2001) should be rescinded; and

WHEREAS, the Town Clerk had learned that Yavapai County would not conduct such election and an independent consultant would be needed. Thus, the Clerk arranged with a firm headed by longtime election expert Bill Doyle to conduct the election and arranged to hold it in the Center on April 8, 2014 (since the four (4) standard election dates which typically apply to municipal corporations do not apply to SRCFD); and

WHEREAS, said election was duly held and canvassed by the SRCFD Board on April 8, 2014, and the vote was ninety-five per cent (95%) in favor of rescinding the remaining authority for unissued bonds (previously authorized by vote on November 13, 2001); and

WHEREAS, on July 10, 2014, the SRCFD Board voted to adopt the Final Budget for Fiscal Year 2014-2015 by Resolution No. 35, which included a tax rate of approximately three dollars and eighteen cents ($3.18) per $100 secondary assessed value; and

WHEREAS, the bond refinancing has substantially reduced and stabilized the ad valorem tax revenues that must be obtained in order to make bond payments. Thus, the potential for litigation in this matter has been substantially reduced. Nevertheless, since there is no longer a bond reserve or a developer standby contribution, until the bonds are paid off, property owners will be solely responsible for bond payments and the Board will be obligated to raise the necessary tax revenues to make the payments; and

WHEREAS, in accordance with ARS §§48-716 and 48-723, the SRCFD Treasurer has now submitted to the SRCFD Board a proposed budget for Fiscal Year 2015-2016, which includes statements and estimates of the operation and maintenance expenses of SRCFD, and the amount of all other expenditures for public infrastructure proposed to be paid from the tax levy and of the amount to be raised to pay SRCFD general obligation bonds, all of which shall be provided for by the levy and collection of ad valorem taxes on the assessed value of all the real and personal property within SRCFD; and

WHEREAS, the SRCFD Board desires to approve said Tentative Budget for Fiscal Year 2015-2016, to publish notice of having filed the required statements and estimates, and to set a date (and publish a notice thereof) for a public hearing to receive comment on the Tentative Budget and, particularly, on the portions of the statements and estimates not relating to debt service on general obligation bonds; and

WHEREAS, after said public hearing (and on or before October 1), the SRCFD Board expects to adopt a Final Budget by resolution; and

WHEREAS, on or before the third Monday in August, the SRCFD Board also expects to order the fixing, levying and assessment of required ad valorem taxes and to cause certified copies of the order to be delivered to the Yavapai County Board of Supervisors and the Arizona Department of Revenue;

NOW, THEREFORE, BE IT RESOLVED BY THE DISTRICT BOARD OF THE STONERIDGE COMMUNITY FACILITIES DISTRICT, AS FOLLOWS:

1. That that certain proposed budget prepared by the SRCFD Treasurer for Fiscal Year 2015-2016, attached hereto and expressly made a part hereof as Exhibit "B", is hereby tentatively approved.

2. That the statements and estimates of the operation and maintenance expenses of SRCFD, and the amount of all other expenditures for public infrastructure and enhanced municipal services proposed to be paid from the tax levy and of the amount to be raised to pay SRCFD general obligation bonds in Fiscal Year 2015-2016 are hereby filed on forms of the Auditor General in accordance with ARS §§42-17101(3) and 48-723(C), and are attached hereto and expressly made a part hereof as Exhibit "C".

3. That a public hearing date of July 9, 2015, beginning at or after 5:25 p.m. in the Auditorium of the Prescott Valley Public Library at 7401 East Civic Circle, Prescott Valley, Arizona, is hereby set to consider said Tentative Budget (including, but expressly not limited to, consideration of those portions of the statements and estimates not relating to debt service on SRCFD general obligation bonds), and said notice (attached hereto and expressly made a part hereof as Exhibit "D") shall be published once in the Daily Courier no later than ten (10) days prior to said hearing date.

4. That if any provision in this Resolution is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

5. That this Resolution shall be effective after its passage and approval according to law.

RESOLVED by the District Board of the StoneRidge Community Facilities District this 4th day of June 2015.

_____
Harvey Skoog, Chairman, District Board
StoneRidge Community Facilities District

ATTEST:

_____
Diane Russell, District Clerk
StoneRidge Community Facilities District

APPROVED AS TO FORM:

_____
Ivan Legler, Legal Counsel
StoneRidge Community Facilities District