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sarabiam

When Recorded, Mail to:

Sherman & Howard L.L.C.
Attention: Zachary D. Sakas, Esq.
7033 E. Greenway Parkway, Suite 250
Scottsdale, Arizona 85254-2080

The attached document corrects the legal description and makes corresponding changes to the aggregate assessment calculation, and otherwise completely replaces the prior Eastmark Community Facilities District No. 2 (City of Mesa, Arizona) Waiver and Development Agreement Pertaining To The To Be Formed Assessment District A, in Instrument No. 2019-0963549 of the Official Records of Maricopa County Recorder. The attached document supersedes and completely replaces the previously recorded document at Instrument No. 2019-0963549 in its entirety.

WHEN RECORDED RETURN TO:

Sherman & Howard L.L.C.
 Attn: Zachary D. Sakas, Esq.
 7033 East Greenway Parkway, Suite 250
 Scottsdale, Arizona 85254-2080

**EASTMARK COMMUNITY FACILITIES DISTRICT NO. 2
 (CITY OF MESA, ARIZONA)
 WAIVER AND DEVELOPMENT AGREEMENT PERTAINING TO
 THE TO BE FORMED ASSESSMENT DISTRICT A**

This Eastmark Community Facilities District No. 2 (City of Mesa, Arizona) Waiver and Development Agreement Pertaining to the To Be Formed Assessment District A, dated as of November 27, 2019 (this "*Agreement*"), by and among the Eastmark Community Facilities District No. 2 (City of Mesa, Arizona) (the "*District*"), the undersigned owners of certain land within the District (collectively, the "*Landowners*") and DMB Mesa Proving Grounds LLC, a Delaware limited liability company (the "*Developer*"), and, if applicable, other owners executing this Agreement prior to formation of Assessment District A (as defined herein).

WHEREAS, the City of Mesa, Arizona, an Arizona municipal corporation (the "*City*") and the Developer are parties to that certain Pre-Annexation Development Agreement recorded November 13, 2008 as Instrument No. 2008-974930 in the Official Records of Maricopa County, as amended by that certain First Amendment to Pre-Annexation Development Agreement recorded May 31, 2011 as Instrument No. 2011-0456474, as further amended by that certain Second Amendment to Pre-Annexation Development Agreement recorded November 21, 2013 as Instrument No. 2013-1005620 in the Official Records of Maricopa County, as further amended by that certain Third Amendment to Pre-Annexation and Development Agreement recorded December 21, 2016 as Instrument No. 2016-0940133 in the Official Records of Maricopa County, and as further amended by that certain Fourth Amendment to Pre-Annexation and Development Agreement recorded August 30, 2018 as Instrument No. 2018-0657828 in the Official Records of Maricopa County, as the same may be further amended from time to time (collectively, the "*Development Agreement*") in connection with the planned community development project on the land subject thereto known as "Eastmark" (the "*Project*"); and

WHEREAS, pursuant to the Development, Financing Participation, Waiver and Intergovernmental Agreement for Eastmark Community Facilities District No. 2 (City of Mesa, Arizona), recorded July 24, 2019, as Instrument No. 2019-0561520 in the Official Records of Maricopa County (the "*District Agreement*"), the Developer intends to request the District to form assessment district A (the "*Assessment District A*") comprised of the real property legally

described on Exhibit A attached hereto (the “*Property*”) in order to provide for certain public infrastructure improvements plus all costs connected with the public infrastructure purposes related thereto (as defined in Title 48, Chapter 4, Article 6, Arizona Revised Statutes, as amended (the “*Act*”)), such public infrastructure improvements and public infrastructure purposes to be located on or off the *Property*; and

WHEREAS, the Developer, the Landowners and (if applicable) other owners executing this Agreement, and all persons hereafter taking an interest in the *Property*, or any portion thereof, shall be bound by the terms, waivers and agreements as set forth, and to the extent provided, in this Agreement and shall be bound by the Assessments (as defined herein) recorded against the *Property*; and

WHEREAS, subject to the terms of the District Agreement, the proposed public infrastructure improvements and public infrastructure purposes to be provided by the Assessment District A shall consist of:

- A. Acquisition, installation and/or construction of all or a portion of the public infrastructure (as such term is defined in the *Act*) described on Exhibit B attached hereto and all incidental improvements related thereto;
- B. All engineering, legal, financial and incidental costs and expenses incurred in completing the acquisition, installation and/or construction of the public infrastructure described in paragraph A above and the costs and expenses incurred in connection with the levy of the Assessments and the issuance and sale of the Assessment District A bonds;
- C. Capitalized interest on such Assessment District A bonds, if any, for a period not to exceed the aggregate time for completion of all construction of and acquisition of the public infrastructure described herein, plus six (6) months thereafter; and
- D. A debt service reserve fund created for such Assessment District A bonds.

Collectively, the public infrastructure improvements and public infrastructure purposes described in paragraphs A through D above and the costs and expenses thereof shall hereinafter be referred to as the “*Work*”; and

WHEREAS, persons having or hereafter acquiring only a lienholder’s interest or other security interest in the *Property* (“*Lienholder*” or “*Lienholders*”, as applicable) consent to these terms and provisions of the District Agreement and this Agreement and the recording thereof and acknowledge the levying of the Assessments against the *Property*;

NOW, THEREFORE, the District, the Developer, the Landowners and all future owners or holders of any interest in any portion of the *Property* hereby agree as follows:

1. **Development Agreement and Agreement Allocating Assessments.** This Agreement is a “development agreement” within the meaning of Arizona Revised Statutes (“*A.R.S.*”) § 9-500.05 and the written agreement allocating the Assessments is authorized pursuant to *A.R.S.* § 48-721, as amended.

2. **Reliance on Agreement.** This Agreement does not create a binding commitment on the part of the District to actually form the Assessment District A, or, if formed, of the District to sell or deliver such Assessment District A bonds or construct, install or acquire any or all of the Work, or if it does construct, install or acquire any of the Work, to construct, install or acquire it pursuant to any existing proposals. However, the District, the Landowners, and the Developer, in going forward with the Work, are doing so in reliance upon this Agreement to have the Property included within the to-be-formed Assessment District A and assessed for the costs thereof.

3. **Review and Approval of the Boundaries and Scope of Work; Acknowledgement of Assessment.**

a. The Landowners, as the sole owners of all the Property, have reviewed or have had the opportunity and right to review the boundaries of the Assessment District A, the preliminary plans and specifications detailing the Work and the current estimate of the costs of the Work. The undersigned Landowners agree the costs of the Work shall be spread among the parcels (residential lots) comprising the Property within the proposed Assessment District A utilizing a methodology determined by the District Engineer (the “*Engineer*”) based on the expected benefit to the residential lots to be developed on the Property, provided the Engineer’s estimate of the costs of Work (the “*Engineer’s Estimate*”) will not exceed \$707,000.00 and such Assessment amount shall be allocated and levied to each developable parcel (residential lot) within the Assessment District A in an amount not to exceed \$3,500.00 per parcel (residential lot).

b. The Developer and the Landowners, and all future owners or holders of any interest in any portion of the Property, expressly consent to the following: (i) the District may take all required actions as necessary to form the Assessment District A in accordance with the provisions of the District Agreement and the Act; and (ii) the District and, if formed, the Assessment District A, may incur costs and expenses necessary to complete or acquire the Work.

c. Furthermore, the Developer and the Landowners, and all future owners or holders of any interest in any portion of the Property, acknowledge that the District shall levy and collect an assessment on the Property sufficient to pay all costs and expenses of the Work (including Work benefitting the Property in the proposed Assessment District A, which Work may be constructed, installed or performed prior to or after the execution hereof) and the costs of levying the assessment and the issuance of the Assessment District A bonds, but not in excess of the Engineer’s Estimate prepared in accordance with the applicable requirements of the District and the Act (the “*Assessments*”).

4. **No Protest, Objection or Request for Hearings.** The Developer and the Landowners, and all future owners or holders of any interest in any portion of the Property, agree to allow the formation of the proposed Assessment District A and to acknowledge that the District shall take all steps necessary to levy, confirm and record Assessments against the Property and to issue such Assessment District A bonds supported by the Assessments. The Landowners, and all future owners of any portion of the Property, acknowledge and agree, to the fullest extent permitted by applicable law, that pursuant to A.R.S. § 9-500.05, the provisions of A.R.S. § 32-2181 do not apply and that pursuant to this Agreement the parties waive their right

to appear before the Board of Directors of the District (the “*District Board*”) on any hearing required at or prior to the confirmation of the Assessments and waive their right to: (a) protest and object to the extent of the Assessment District A pursuant to A.R.S. §§ 48-579 and 48-580; (b) protest the award of contract pursuant to A.R.S. § 48-584; and (c) object to the Assessments on procedural grounds, or as to the legality of the Assessments, pursuant to A.R.S. § 48-590.

5. **Waiver of Procedural Deficiencies and Irregularities.** The Developer and the Landowners, and all future owners or holders of any interest in any portion of the Property, with full knowledge of the provisions of Title 48, Chapter 4, Articles 2 and 6, Arizona Revised Statutes, as amended, and their rights thereunder (or having obtained counsel to advise them of the provisions and their rights), expressly waive any and all irregularities, illegalities or deficiencies which may now or hereafter exist in the acts or proceedings resulting in the formation of the District, the formation of the Assessment District A, the adoption of the resolution of intention and the resolution ordering the Work, the levying of the Assessments against the Property and the issuance of Assessment District A bonds secured by the Assessments levied against the Property.

6. **Waiver.** The Developer and the Landowners, and all future owners or holders of any interest in any portion of the Property, with full knowledge of the provisions and their rights under the provisions of law hereafter referenced, expressly waive the following:

a. any defect in the proceedings establishing the District, as required by A.R.S. § 48-702 through § 48-708, inclusive, and agree that, to the extent of any defect, this Agreement shall constitute the petitions required by law to form and establish the District without conducting an election;

b. the providing of any and all notices and response time periods related to such notices provided by A.R.S. § 48-576 *et seq.*, as amended, including but not limited to the following:

i. mailing, posting and publication, as applicable, of any notice required in connection with: (A) the adoption of the resolution of intention, (B) the notice of proposed improvements, (C) the adoption of the resolution ordering the Work, (D) notice of passage of the resolution ordering the Work, (E) notice of award of contract and (F) any other steps necessary in connection with the Assessment District A or the Work; and

ii. any and all notices pertaining to the levying of the Assessments, including notice of any hearing on the Assessments;

c. any and all objections and protests to the extent of the Assessment District A;

d. any and all objections to the adoption and approval by the District of the Assessment District A including, without limitation, the plans and specifications, the Engineer’s Estimate and the assessment diagram, all of which provide for and effectuate the completion of the Work;

- e. any and all protest rights against the Work and objections to the awarding of one or more acquisition or construction contracts for the Work;
- f. any and all claims or defenses, known or unknown, they may now or subsequently have against the Assessments or the Assessment District A bonds; and
- g. all demands for cash payment of the Assessments.

Nothing contained in this Agreement shall be construed as a waiver by any party to this Agreement of any notice required by A.R.S. §§ 48-600 or 48-601 of delinquent assessment installments.

7. **Work as More Than Local and Ordinary Benefit.** The Developer and the Landowners, and all future owners or holders of any interest in any portion of the Property, agree that the Work is of more than local or ordinary public benefit and that the Work constitutes public infrastructure improvements and public infrastructure purposes and that the Property which is subject to the Assessments receives the primary benefit from the Work in an amount not less than the Engineer's Estimate of the costs thereof, and not less than the portion of the Assessment levied against each parcel or lot comprising the Property.

8. **Public Bidding.** The public bidding requirements set forth in A.R.S. §§ 48-581 and 48-584 have been or will be complied with by the Developer or the Landowners, as applicable, on behalf of the District with respect to each contract comprising the Work.

9. **Acquisition of the Work.** The District may, immediately upon issuance of the Assessment District A bonds, acquire all or part of the Work.

10. **Landowner Acknowledgement of Assessment.** The Landowners, and all future owners or holders of any interest in any portion of the Property, acknowledge the District shall levy the Assessments in an amount not greater than the Engineer's Estimate against all developable parcels located within the boundaries of Assessment District A, as provided in Section 3.a, not in excess of \$3,500.00 per developable parcel (residential lot); and that such Assessments shall be collected and foreclosed in accordance with A.R.S. § 48-601 *et seq.*, as amended and in accordance with any other documents executed and delivered in connection with the delivery of the Assessment District A bonds.

11. **Recording and Validity of Assessments.** The Landowners, and all future owners or holders of any interest in any portion of the Property, acknowledge the District shall record the Assessments against the Property and acknowledge such recording of the Assessments shall constitute valid and enforceable first liens against the respective parcels comprising the Property as shown and the amounts set forth in the Assessments, subject only to the lien for ad valorem taxes and prior special assessments.

12. **Assessments to Go to Bond.** Except as the Landowners, or any future owner or holder of any interest in any portion of the Property, otherwise notifies the District in writing prior to the recording of the Assessments of their intent to pay all or part of their Assessment in cash, Assessments will not be paid in cash. With respect to Assessments not paid in cash, the Landowners request, and all future owners or holders of any interest in any portion

of the Property agree, that a certified list of unpaid Assessments be filed as soon as possible after the recording of the Assessments and that Assessment District A bonds amortizing the payment of the Assessments over not less than fifteen (15) years be issued and sold as soon as possible.

13. **No Reduction of Landowner Obligation.** The inability of the District to assess all or any portion of the costs of the Work shall not reduce the obligation of the Landowners, and all future owners or holders of any interest in any portion of the Property, so long as the Landowners or future owner or holder of any interest in any portion of the Property own all or part of any parcel comprising the Property, to pay the Assessment levied against such portion of the Property, and provided that the aggregate costs of the Work are not reduced.

14. **Waiver of Collateral Document Provisions.** The Landowners, and all future owners or holders of any interest in any portion of the Property, expressly waive any and all provisions of any collateral security instruments relating to the Property which prohibit the formation of the Assessment District A, completion of the Work and levying and recording of the Assessments against the Property.

15. **Dedication of Property Needed to Perform the Work.** The Landowners, and all future owners or holders of any interest in any portion of the Property, consent to the dedication, without cost, of the rights-of-way and easements and other property, as required pursuant to the applicable Final Plats listed on Exhibit A and those certain final approved infrastructure improvement plans for the Work, described on Exhibit C attached hereto. The undersigned Landowners, and all future owners or holders of any interest in any portion of the Property, agree to cooperate in effectuating any required dedication, including execution of any required document.

16. **Indemnification Under Securities Act.** The Developer hereby agrees to indemnify and hold the District and the City and each director, council member, officer, agent, legal counsel, independent contractor or employee thereof and each person, if any, who controls the District, and the City, its officers, employees and agents, within the meaning of the Securities Act of 1933, as amended (the “*Securities Act*”) (collectively, the “*Indemnified Persons*”) harmless for, from and against any and all losses, claims, damages or liabilities, including reasonable attorneys’ fees arising from any challenge to the formation, activities or administration of the District, or any losses, claims, damages or liabilities, including reasonable attorneys’ fees related to which any of the Indemnified Persons may become subject, under any statute or regulation at law or in equity or otherwise, insofar as such losses, claims, damages or liabilities, including attorneys’ fees (or actions in respect thereof) arise out of or are based upon any untrue statement or any alleged untrue statement or material fact set forth in any official statement applicable to the Assessment District A bonds or any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or which is necessary to make the statements therein, in light of the circumstances in which they were made, not misleading in any material respect. This Section 16 shall survive the termination hereof.

17. **General Indemnification of District and Directors.** The Developer hereby agrees to indemnify the District and each director, officer, agent, legal counsel, employee, and independent contractor thereof, and the City, and its officers, employees, agents, legal

counsel, independent contractors and council members (collectively, the “*Indemnified Parties*”) and shall hold the Indemnified Parties harmless from, for and against any and all losses, damages, liabilities, claims and reasonable costs incurred, including but not limited to reasonable attorneys’ fees and other administrative or out of pocket costs actually and directly incurred by the Indemnified Parties in connection with or as the result of acts of the District or the District Board which are (i) within the scope of the District or District Board’s authority under the Securities Act, or (ii) undertaken by the District or District Board in a properly advertised public meeting. This Section 17 shall survive the termination hereof.

18. **Disclosure Document.** The Landowners, and all future owners or holders of any interest in any portion of the Property, hereby agree that any potential purchaser of any real property subject hereto, including each potential purchaser of a residential lot within the Assessment District A, shall receive a concise disclosure document that discloses the existence, the estimated payment amount and the payment terms of any portion of the Assessment applicable to the real property to be purchased. Each potential purchaser shall acknowledge in writing that the purchaser received and understood the concise disclosure document and has agreed to the terms, waivers and agreements contained in this Agreement. The District agrees to maintain records of the written acknowledgments. The provisions of this Agreement shall not apply to the sale, transfer or other conveyance of any real property which is not subject to the Assessment.

19. **Encumbrance of the Property.** The provisions, terms and restrictions of this Agreement shall run with and bind the Property as equitable servitudes and also as covenants running with the land. Without limitation of the foregoing, in the event of any sale, transfer or other conveyance by the Landowners, and all future owners or holders of any interest in any portion thereof, the Property or such portion thereof shall continue to be bound by all of the terms, conditions and provisions hereof. Prior to the completion of the Work, the levy of the Assessments pertaining to the Work, the final hearing regarding the levy of the Assessments and the issuance of Assessment District A bonds secured by the Assessments, any purchaser, transferee or other subsequent owner shall execute and deliver to the District Exhibit D attached hereto, and shall take such property subject to all of the terms, conditions and provisions hereof and any purchaser, transferee or other subsequent owner shall take such property entitled to all of the rights, benefits and protections afforded the predecessor in interest thereof by the terms hereof.

20. **Recording.** This Agreement may be recorded in the office of the County Recorder of Maricopa County, Arizona.

21. **Continuing Disclosure.** So long as any of the Landowners, or any future owner or holder of any interest in any portion of the Property, is liable for twenty percent (20%) or more of the debt service on any Assessment District A bonds, such Landowner, or any such future owner or holder of any interest in of any portion of the Property, solely with respect to its assessed property, will provide any and all information needed as may be reasonably requested by the District, or required to comply with the information reporting requirements contemplated by Rule 240.15c2-12, General Rules and Regulations, Securities Exchange Act of 1934, as amended.

22. **Successors and Assigns.** This Agreement, when executed by each such party, shall inure to the benefit of and (except as otherwise expressly provided herein) be binding upon the Developer and the Landowners, and their respective future grantees, successors and assigns, and any future owner or holder of any interest in any portion of the Property. There shall be no third-party beneficiaries of this Agreement, except that solely for the purposes of receiving the benefits of the provisions of Sections 16 and 17 of this Agreement, the Developer and the Landowners hereby agree that the City shall be a third-party beneficiary of the terms and provisions of Sections 16 and 17 of this Agreement.

23. **Authority.** The Developer and the Landowners each warrant that it has the requisite authority to enter into this Agreement and bind the Property and, to the best of its knowledge, no other consents are required.

24. **Further Assurances.** Without limitation of the foregoing, the Developer and the Landowners, and all future owners and holders of any interest in any portion of the Property, shall execute and deliver to the Developer and the District, upon request but at no third-party cost, all further assurances and waivers as may be required by the District and the Act to give full effect to the provisions of this Agreement, each of which further assurances and waivers by this reference shall, upon such execution, delivery and recording, be deemed incorporated herein and have the same priority as this Agreement.

25. **Counterparts.** For convenience, this Agreement may be executed in one or more counterparts and each executed counterpart and all executed *Exhibit D*'s shall for all purposes be deemed an original and shall have the same force and effect as an original, but all of which together shall constitute in the aggregate but one and the same instrument. This Agreement will constitute the entire agreement between the parties, and supersedes all previous written or oral agreements or understandings regarding the subject matter of this Agreement.

26. **Waiver of Claims by Developer.**

a. Except as to certain payments or reimbursements applied for by the Developer pursuant to the District Agreement, the Developer knowingly and voluntarily forever releases and discharges the District and all of its past and present elected officials, officers, directors, agents, employees, successors, assigns, attorneys, and representatives from all legal and equitable claims, causes of action, debts, accounts and damages occurring and existing prior to the date of this Agreement whether known or unknown, asserted or unasserted, and of every nature and extent whatsoever, that the Developer has against the District in connection with the Project arising from actions, omissions, delays or other events that occurred prior to the date of this Agreement.

b. Except as to matters which are subject to the express terms of the Development Agreement and any other written agreement to which the City and the Developer are parties as of the date of this Agreement, the Developer knowingly and voluntarily forever releases and discharges the City and all of its past and present elected officials, officers, directors, agents, employees, successors, assigns, attorneys, and representatives from all legal and equitable claims, causes of action, debts, accounts and damages occurring and existing prior to the date of this Agreement whether known or unknown, asserted or unasserted, and of every

nature and extent whatsoever, that the Developer has against the City in connection with the Project arising from actions, omissions, delays or other events that occurred prior to the date of this Agreement.

c. None of the releases and discharges above are intended to, and do not, negate or otherwise relieve the District or the City of any executory contractual obligations under existing contracts or of any obligations under any applicable law, statute, or ordinance.

27. **Failure to Sell Bonds.** In the event the District fails or is otherwise unable to sell and/or deliver Assessment District A bonds in an amount sufficient to allow the District to pay the amounts needed to pay the costs of the Work, or if the final hearing regarding the levy of the Assessments does not occur on or before March 1, 2020, then, upon written request of the Developer acting on behalf of the owner or owners of the Property, the District agrees to adopt proceedings that dissolve and terminate Assessment District A or any Assessments (including termination of this Agreement), established by the District, encumbering the Property.

28. **Future Landowner Consent.** Until the later of the issuance of the Assessment District A bonds or the final hearing regarding the levy of the Assessments, each Landowner agrees that upon the sale of any portion of the Property owned by such Landowner, the Landowner will require the execution and delivery of Exhibit D by each purchaser, and upon request by the District, the Landowner will execute and deliver Exhibit D to the District.

29. **Additional Representations, Warranties and Covenants of Developer and Landowners.** Other than any agreement previously disclosed in writing to the District, as of the date of this Agreement, the Developer and the undersigned Landowners each represent and warrant, with respect to any portion of the Property owned by them, that no purchase and sale agreements, option agreements, deposit agreements, or other agreements conveying or intending to convey an interest in all or any portion of the Property have been entered into with any purchaser, optionee, depositor or other recipient of an interest in the Property, and that any purchaser, optionee, depositor or other recipient of an interest in the Property under a previously disclosed agreement shall consent to this Agreement. In accordance herewith, until the final hearing regarding the levy of the Assessments is complete, the Developer and the Landowners, and any future owners and holders of any interest in any portion of the Property, covenant and agree not to transfer title in any interest in the Property to any non-affiliated purchaser or other recipient, unless such interest is greater than ten (10) residential lots.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the undersigned have duly affixed their signatures, all as of the day and year first written above.

EASTMARK COMMUNITY FACILITIES
DISTRICT NO. 2 (CITY OF MESA, ARIZONA),
an Arizona political subdivision and municipal
corporation

By: John Giles
Chairman, Board of Directors

ATTEST:

Dee Ann Mickelson
District Clerk



APPROVED AS TO FORM:

Sherman D. Howard
Sherman & Howard L.L.C.,
Special District Counsel

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 25th day of November, 2019, by John Giles, Chairman of the Board of Directors of Eastmark Community Facilities District No. 2 (City of Mesa, Arizona), an Arizona political subdivision and municipal corporation.



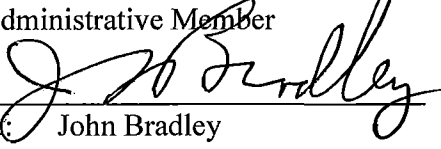
Ann Fantasia
Notary Public in and for the State of Arizona

Signature Page to Waiver and Development Agreement:**DEVELOPER:**

DMB MESA PROVING GROUNDS LLC, a
Delaware limited liability company

By: DMB/Brookfield Eastmark LLC, a Delaware limited liability company
Its: Manager

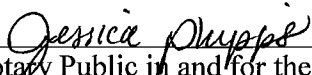
By: Brookfield Eastmark, LLC, a Delaware limited liability company
Its: Administrative Member

By: 
Name: John Bradley
Its: President

By: 
Name: Dea McDonald
Its: Vice President

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

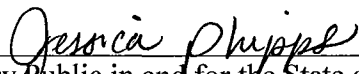
The foregoing instrument was acknowledged before me this 21st day of November, 2019, by John Bradley, the President of Brookfield Eastmark, LLC, a Delaware limited liability company, and the Administrative Member of DMB/Brookfield Eastmark LLC, a Delaware limited liability company, and a Member of DMB Mesa Proving Grounds LLC, a Delaware limited liability company.

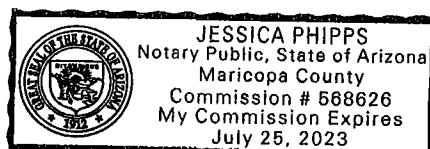

Notary Public in and for the State of Arizona

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)



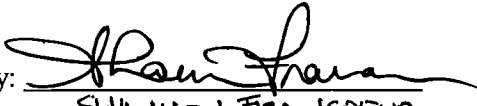
The foregoing instrument was acknowledged before me this 21st day of November, 2019, by Dea McDonald, the Vice President of Brookfield Eastmark, LLC, a Delaware limited liability company, and the Administrative Member of DMB/Brookfield Eastmark LLC, a Delaware limited liability company, and a Member of DMB Mesa Proving Grounds LLC, a Delaware limited liability company.


Notary Public in and for the State of Arizona



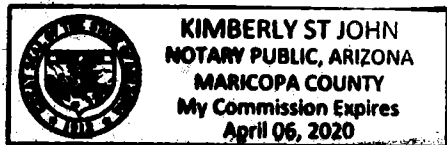
Signature Page to Waiver and Development Agreement:**LANDOWNER:**

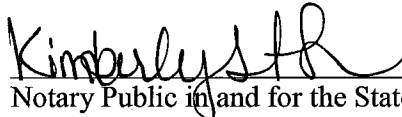
TAYLOR MORRISON/ARIZONA, INC.,
an Arizona corporation

By: 
Name: SHANNON FRANCOEUR
Its: VICE PRESIDENT

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 26th day of November, 2019, by Shannon Francoeur the Vice President of TAYLOR MORRISON/ARIZONA, INC., an Arizona corporation, for and on behalf thereof.




Notary Public in and for the State of Arizona

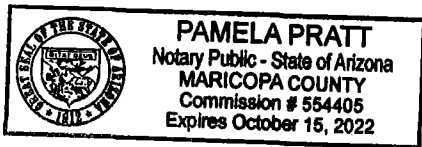
Signature Page to Waiver and Development Agreement:**LANDOWNER:**

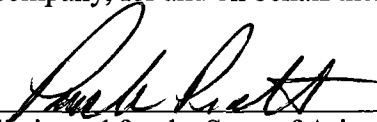
WOODSIDE HOMES SALES AZ, LLC,
a Delaware limited liability company

By: Name: ROGER C. GANNONIts: DIVISION PRESIDENT

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 25th day of November, 2019, by Roger Gannon, the President of WOODSIDE HOMES SALES AZ, LLC, a Delaware limited liability company, for and on behalf thereof.




Notary Public in and for the State of Arizona

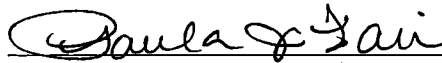
Signature Page to Waiver and Development Agreement:**LANDOWNER:**

JEN ARIZONA 31, LLC,
an Arizona limited liability company

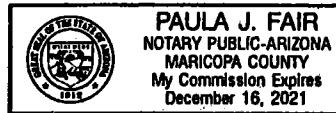
By: Name: Michael K. JesbergerIts: Authorized Signer

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 13th day of November, 2019, by Michael K. Jesberger, the Authorized Signer of JEN ARIZONA 31, LLC, an Arizona limited liability company, for and on behalf thereof.




Notary Public in and for the State of Arizona



Signature Page to Waiver and Development Agreement:**LANDOWNER:**

LENNAR ARIZONA, INC.
an Arizona corporation

By: 
Name: Erik Molina
Its: Authorized Agent

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

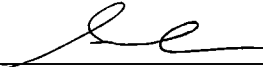
The foregoing instrument was acknowledged before me this 26th day of November, 2019, by ERIK MOLINA, the AUTHORIZED AGENT of LENNAR ARIZONA, INC., an Arizona corporation, for and on behalf thereof.


Notary Public in and for the State of Arizona




Signature Page to Waiver and Development Agreement:**LANDOWNER:**

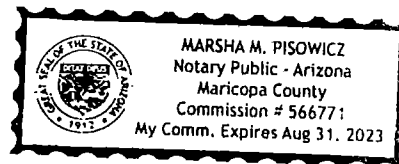
ASHTON WOODS ARIZONA L.L.C.,
a Nevada limited liability company

By: 
Name: Scott Moore
Its: Div. Pres.

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 26th day of November, 2019, by Scott Moore, the Division President of ASHTON WOODS ARIZONA L.L.C., a Nevada limited liability company, for and on behalf thereof.


Notary Public in and for the State of Arizona



Signature Page to Waiver and Development Agreement:**LANDOWNER:**

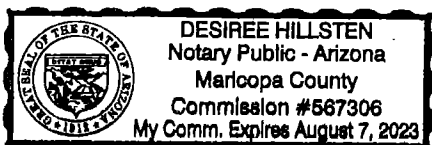
SHEA HOMES LIMITED PARTNERSHIP,
a California limited partnership

By: [Signature]
Name: DAVID Garcia
Its: Assistant Secretary

By: [Signature]
Name: Heather Sahnke
Its: Authorized Agent

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

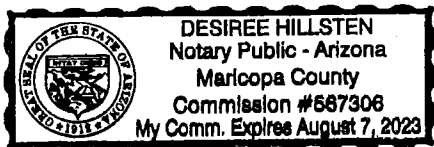
The foregoing instrument was acknowledged before me this 25th day of November, 2019, by DAVID Garcia, the Asst. Secretary of SHEA HOMES LIMITED PARTNERSHIP, a California limited partnership, for and on behalf thereof.



[Signature]
Notary Public in and for the State of Arizona

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 25th day of November, 2019, by Heather Sahnke, the Auth. Agent of SHEA HOMES LIMITED PARTNERSHIP, a California limited partnership, for and on behalf thereof.



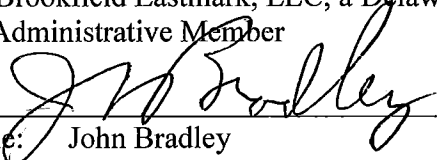
[Signature]
Notary Public in and for the State of Arizona

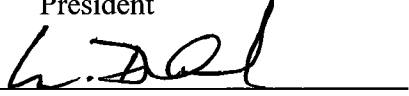
Signature Page to Waiver and Development Agreement:**LANDOWNER:**

DMB MESA PROVING GROUNDS LLC, a
Delaware limited liability company

By: DMB/Brookfield Eastmark LLC, a Delaware limited liability company
Its: Manager

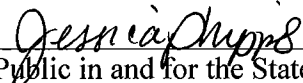
By: Brookfield Eastmark, LLC, a Delaware limited liability company
Its: Administrative Member

By: 
Name: John Bradley
Its: President

By: 
Name: Dea McDonald
Its: Vice President

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

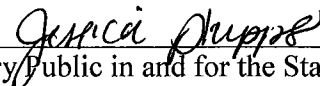
The foregoing instrument was acknowledged before me this 21st day of November, 2019, by John Bradley, the President of BROOKFIELD EASTMARK, LLC, a Delaware limited liability company, and the Administrative Member of DMB/Brookfield Eastmark LLC, a Delaware limited liability company, and a Manager of DMB Mesa Proving Grounds LLC, a Delaware limited liability company.

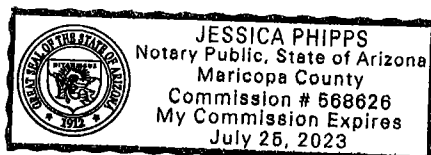

Notary Public in and for the State of Arizona

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)



The foregoing instrument was acknowledged before me this 21st day of November, 2019, by Dea McDonald, the Vice President of BROOKFIELD EASTMARK, LLC, a Delaware limited liability company, and the Administrative Member of DMB/Brookfield Eastmark LLC, a Delaware limited liability company, and a Manager of DMB Mesa Proving Grounds LLC, a Delaware limited liability company.


Notary Public in and for the State of Arizona



CONSENT, WAIVER AND AGREEMENT

Reference is made to that certain Eastmark Community Facilities District No. 2 (City of Mesa, Arizona) Waiver and Development Agreement Pertaining to the To Be Formed Assessment District A, dated as of November 27, 2019, initially by and among the Eastmark Community Facilities District No. 2 (City of Mesa, Arizona), the Developer (as defined therein) and the Landowners (as defined therein), to which this Consent, Waiver and Agreement is attached (the "Agreement"). All capitalized terms used and not otherwise defined in this Consent, Waiver and Agreement shall have the meanings set forth in the Agreement. The undersigned, on behalf of the optionee pursuant to that certain Rolling Option Agreement dated as of March 7, 2019 (the "Option Agreement"), pursuant to which the optionee has an interest in real property within the Assessment District A, hereby consents to, and agrees to be bound by, the terms, waivers and agreements set forth in the Agreement, acknowledges that the Agreement shall bind all the Property in which the optionee has an interest within the Assessment District A, and authorizes the recordation of the Agreement with respect to all such Property. Without limitation of the foregoing, the undersigned, on behalf of the optionee, acknowledges that the proceedings and related actions contemplated by the Agreement will not violate the Option Agreement; provided, the preceding is not intended to, and shall not apply, to any provision of such Option Agreement pertaining to the failure of the Landowners to pay any assessment levied on any parcel remaining subject to the Option Agreement in favor of the optionee. Further, in no event shall anything in this Consent, Waiver and Agreement constitute a personal assumption by the undersigned of the obligations of any party under the Agreement.

DATED AS OF: 11/26, 2019

OPTIONEE:

TM HOMES OF ARIZONA, INC.,
an Arizona corporation

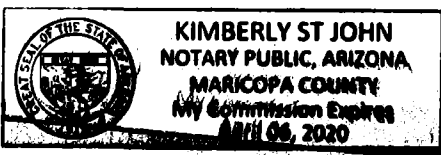
By: [Signature]

Name: SHANNON FRANCOEUR

Its: VICE PRESIDENT

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 26th day of November, 2019, by Shannon Francoeur the Vice President of TM HOMES OF ARIZONA, INC., an Arizona corporation.



[Signature]
Notary Public in and for the State of Arizona

CONSENT, WAIVER AND AGREEMENT

Reference is made to that certain Eastmark Community Facilities District No. (City of Mesa, Arizona) Waiver and Development Agreement Pertaining to the To Be Formed Assessment District A, dated as of November 27, 2019, initially by and among the Eastmark Community Facilities District No. 2 (City of Mesa, Arizona), the Developer (as defined therein) and the Landowners (as defined therein), to which this Consent, Waiver and Agreement is attached (the "Agreement"). All capitalized terms used and not otherwise defined in this Consent, Waiver and Agreement shall have the meanings set forth in the Agreement. The undersigned, on behalf of the optionee pursuant to that certain Option Agreement dated as of April 5, 2018 (the "Option Agreement"), pursuant to which the optionee has an interest in real property within the Assessment District A, hereby consents to, and agrees to be bound by, the terms, waivers and agreements set forth in the Agreement, acknowledges that the Agreement shall bind all the Property in which the optionee has an interest within the Assessment District A, and authorizes the recordation of the Agreement with respect to all such Property. Without limitation of the foregoing, the undersigned, on behalf of the optionee, acknowledges that the proceedings and related actions contemplated by the Agreement will not violate the Option Agreement; provided, the preceding is not intended to, and shall not apply, to any provision of such Option Agreement pertaining to the failure of the Landowners to pay any assessment levied on any parcel remaining subject to the Option Agreement in favor of the optionee. Further, in no event shall anything in this Consent, Waiver and Agreement constitute a personal assumption by the undersigned of the obligations of any party under the Agreement.

DATED AS OF: November 27, 2019

OPTIONEE:

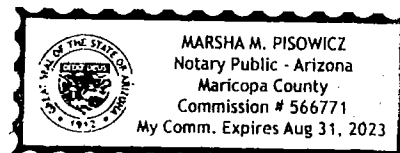
ASHTON WOODS ARIZONA L.L.C.,
a Nevada limited liability company

By: [Signature]
Name: Scott Moore
Its: Div. Pres

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 26th day of November, 2019, by Scott Moore, the Division President of ASHTON WOODS ARIZONA L.L.C., a Nevada limited liability company.

[Signature]
Notary Public in and for the State of ARIZONA.



**LIENHOLDER
CONSENT, WAIVER AND AGREEMENT**

Reference is made to that certain Eastmark Community Facilities District No. 2 (City of Mesa, Arizona) Waiver and Development Agreement Pertaining to the To Be Formed Assessment District A, dated as of November 27, 2019, initially by and among the Eastmark Community Facilities District, the Developer (as defined therein) and the Landowners (as defined therein), to which this Lienholder Consent, Waiver and Agreement is attached (the "*Agreement*"). All capitalized terms used and not otherwise defined in this Lienholder Consent, Waiver and Agreement shall have the meanings set forth in the Agreement. The undersigned, as a lienholder having an interest in real property within the Assessment District A, hereby consents to, and agrees to be bound by, the terms, waivers and agreements set forth in the Agreement, acknowledges that the Agreement shall bind all the Property in which the undersigned has an interest within the Assessment District A, and authorizes the recordation of the Agreement with respect to all such Property. Without limitation of the foregoing, the undersigned Lienholder acknowledges that the proceedings and related actions contemplated by the Agreement will not violate the various deeds of trust or other collateral security instruments by the Landowner in favor of the undersigned Lienholder; provided, the preceding is not intended to, and shall not apply, to any provision of such various deeds of trust or other security instrument pertaining to the failure of the Landowners to pay any assessment levied on any parcel remaining subject to the various deeds of trust in favor of the Lienholder. Further, in no event shall anything in this Lienholder Consent, Waiver and Agreement constitute a personal assumption by the undersigned of the obligations of any party under the Agreement.

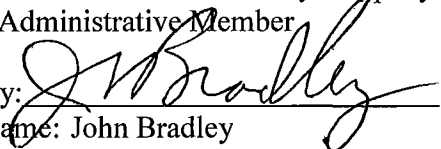
DATED AS OF: November 27, 2019

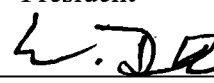
LIENHOLDER:

DMB MESA PROVING GROUNDS LLC, a
Delaware limited liability company

By: DMB/Brookfield Eastmark LLC, a
Delaware limited liability company
Its: Manager

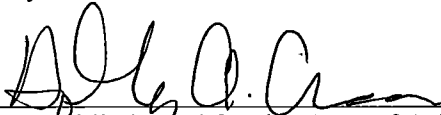
By: Brookfield Eastmark, LLC, a
Delaware limited liability company
Its: Administrative Member

By: 
Name: John Bradley
Its: President

By: 
Name: Dea McDonald
Its: Vice President

STATE OF ARIZONA)
) ss.
 COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 22nd day of November, 2019, by John Bradley, the President of BROOKFIELD EASTMARK, LLC, a Delaware limited liability company, and the Administrative Member of DMB/Brookfield Eastmark LLC, a Delaware limited liability company, and a Manager of DMB Mesa Proving Grounds LLC, a Delaware limited liability company.




 Notary Public in and for the State of Arizona



STATE OF ARIZONA)
) ss.
 COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 22nd day of November, 2019, by Dea McDonald, the Vice President of BROOKFIELD EASTMARK, LLC, a Delaware limited liability company, and the Administrative Member of DMB/Brookfield Eastmark LLC, a Delaware limited liability company, and a Manager of DMB Mesa Proving Grounds LLC, a Delaware limited liability company.



 Notary Public in and for the State of Arizona

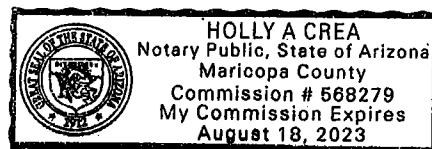


EXHIBIT A**LEGAL DESCRIPTION OF PROPERTY**

Lots 54, 56 and 57, and Lots 63 through 65, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-5, recorded in Book 1360 of Maps, Page 17, official records of Maricopa County, and

Lots 125, 127, Lots 131 through 134, inclusive, Lots 136 through 143, inclusive, and Lots 146 through 150, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-6, recorded in Book 1360 of Maps, Page 17, official records of Maricopa County, and

Lots 151 through 154, inclusive, Lot 156, Lots 158 through 162, inclusive, and Lots 164, 175, 189 and 192, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-9, recorded in Book 1360 of Maps, Page 17, official records of Maricopa County, and

Lots 212, 216, 220, 221, 223, 226, 228, Lots 232 through 236, inclusive, Lots 255 through 258, inclusive, and Lots 260, 261 and 266, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-17, recorded in Book 1360 of Maps, Page 17, official records of Maricopa County, and

Lots 95 and 114, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-18, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

Lots 115 through 120, inclusive, Lots 130 through 142, inclusive, Lots 144 through 146, inclusive, and Lots 150 through 161, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-18, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

Lots 162 through 165, inclusive, Lots 167, 172, 174, 176, 177, 179, and Lots 181 through 198, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-20, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

Lots 242 through 244, inclusive, and Lots 246 through 270, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-21, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

Lots 293 through 308, inclusive, and Lots 311 through 331, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-22, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

Lots 360 through 364, inclusive, Lots 366, 368, 395, and Lots 397 through 403, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-23, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County.

EXHIBIT B**PUBLIC INFRASTRUCTURE**

The Assessment District A bonds shall finance the acquisition of public infrastructure and public infrastructure purposes (as such terms are defined in the Act), including particularly the acquisition by the District of the following:

DESCRIPTION**COMPLETION*****1. S871 Everton Terrace (DU 5/6S Parcels 10-15)**

Construction of the continuation of a roadway within the District consisting of approximately one quarter mile of full street improvements. These improvements include water, water valves, fire hydrants, storm drains, storm drain manholes, concrete catch basins, storm drain bleed lines, concrete ribbon curb, concrete sidewalk, concrete ramps with truncated domes, paving, striping, street lights, public signage, hardscape, landscaping and irrigation. The roadway consists of two paved driving lanes made up of 3 1/2 inches of asphaltic concrete over 6 inches of aggregate base course. All improvements are shown on the plans sealed by Hoskin Ryan Consultants Inc., Daniel B. Hemken, P.E., on October 6, 2017 and approved by the City of Mesa, which may be amended from time to time to allow for additional property uses adjacent to Everton Terrace that are not yet known.

July 31, 2018**2. S878 Everton Terrace (DU 5/6S Parcels 4-6, 9, 17)**

Construction of the continuation of a roadway within the District consisting of approximately one-third of a mile of full street improvements. These improvements include sewer, sewer manholes, potable water, water valves, fire hydrants, storm drains, storm drain manholes, concrete catch basins, storm drain bleed lines, concrete ribbon curb, concrete sidewalk, concrete ramps with truncated domes, paving, striping, street lights, public signage, hardscape, landscaping and irrigation. The roadway consists of two paved driving lanes made up of 3 1/2 inches of asphaltic concrete over 6 inches of aggregate base course. All improvements are shown on the plans sealed by Hoskin Ryan Consultants, Inc., Ryan H. Raab, P.E., dated January 29, 2018 and approved by the City of Mesa, which may be amended from time to time to allow for additional property uses adjacent to Everton Terrace that are not yet known.

October 31, 2018

DESCRIPTION**COMPLETION*****3. S879 Everton Terrace (DU 5/6S Parcels 16, 18-23)**

Construction of the continuation of a roadway within the District consisting of approximately one-half mile of full street improvements. These improvements include sewer, sewer manholes, potable water, water valves, fire hydrants, storm drains, storm drain manholes, concrete catch basins, storm drain bleed lines, concrete ribbon curb, concrete sidewalk, concrete ramps with truncated domes, paving, striping, street lights, public signage, hardscape, landscaping and irrigation. The roadway consists of two paved driving lanes made up of 3 1/2 inches of asphaltic concrete over 6 inches of aggregate base course. All improvements are shown on the plans sealed by Sunrise Engineering, Christina Renee Christian, P.E., dated February 14, 2018 and approved by the City of Mesa, which may be amended from time to time to allow for additional property uses adjacent to Everton Terrace that are not yet known.

October 31, 2018

- * Completion represents the date by which the Developer expects the public infrastructure to be constructed, which may differ from the date that it is accepted by the District/City.

EXHIBIT C**FINAL PLATS/IMPROVEMENT PLANS
(CFD INFRASTRUCTURE)**

Final Plat: Final Plat for Eastmark Development Unit 6– Infrastructure for Parcels 4-6 and 9-23, recorded on September 20, 2017, as Instrument No. 2017-0694909, Book 1343, Page 15, of the Official Records of Maricopa County, Arizona.

Final Plat: Final Plat for Eastmark Development Unit 6– Infrastructure for Commercial Parcels, recorded on March 19, 2018, as Instrument No. 2018-0204997, Book 1376, Page 19, of the Official Records of Maricopa County, Arizona.

Improvement Plans (CFD Infrastructure):

Improvement Plans for Eastmark – CFD Project Segment No. S871 Everton Terrace, Approved by the City of Mesa on October 19, 2017, and

Improvement Plans for Eastmark – CFD Project Segment No. S878 Everton Terrace, Approved by the City of Mesa on February 8, 2018, and

Improvement Plans for Eastmark – CFD Project Segment No. S879 Everton Terrace, Approved by the City of Mesa on February 21, 2018.

EXHIBIT D

WHEN RECORDED RETURN TO:

Sherman & Howard L.L.C.
 Attn: Zachary D. Sakas, Esq.
 7033 East Greenway Parkway, Suite 250
 Scottsdale, Arizona 85254-2080

**[PROPERTY OWNER/LIENHOLDER]
 CONSENT, WAIVER AND AGREEMENT**

[To be executed by Owners of property/lienholders within Assessment District A]

Reference is made to that certain Eastmark Community Facilities District No. 2 (City of Mesa, Arizona) Waiver and Development Agreement Pertaining to the To Be Formed Assessment District A, initially by and among the District, Developer and Landowners (as defined therein), dated as of November 27, 2019, and recorded as Instrument No. 2019-_____ in the Official Records of Maricopa County (the "*Agreement*"), in respect of the Property, to which this [Property Owner/Lienholder] Consent, Waiver and Agreement now attaches to and becomes part of the Agreement. All capitalized terms used and not otherwise defined in this [Property Owner/Lienholder] Consent, Waiver and Agreement shall have the meanings set forth in the Agreement. The undersigned, as [an owner/lienholder in respect] of real property within the Assessment District A, legally described on Exhibit 1 hereto, hereby consents to, and agrees to be bound by, the terms, waivers and agreements set forth in the Agreement, acknowledges that the Agreement shall run with and bind all the real property in which the undersigned holds an interest within Assessment District A, and acknowledges the recordation of the Agreement with respect to all such real property.

DATED: _____, 20__.

[PROPERTY OWNER/LIENHOLDER]:

By: _____

Its: _____

STATE OF _____)
) ss.
 COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, the _____ of _____, an _____.

(Seal and Expiration Date)

Notary Public in and for the State of _____

EXHIBIT 1**LEGAL DESCRIPTION OF PROPERTY**

Lots 54, 56 and 57, and Lots 63 through 65, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-5, recorded in Book 1360 of Maps, Page 17, official records of Maricopa County, and

Lots 125, 127, Lots 131 through 134, inclusive, Lots 136 through 143, inclusive, and Lots 146 through 150, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-6, recorded in Book 1360 of Maps, Page 17, official records of Maricopa County, and

Lots 151 through 154, inclusive, Lot 156, Lots 158 through 162, inclusive, and Lots 164, 175, 189 and 192, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-9, recorded in Book 1360 of Maps, Page 17, official records of Maricopa County, and

Lots 212, 216, 220, 221, 223, 226, 228, Lots 232 through 236, inclusive, Lots 255 through 258, inclusive, and Lots 260, 261 and 266, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-17, recorded in Book 1360 of Maps, Page 17, official records of Maricopa County, and

Lots 95 and 114, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-18, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

Lots 115 through 120, inclusive, Lots 130 through 142, inclusive, Lots 144 through 146, inclusive, and Lots 150 through 161, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-18, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

Lots 162 through 165, inclusive, Lots 167, 172, 174, 176, 177, 179, and Lots 181 through 198, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-20, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

Lots 242 through 244, inclusive, and Lots 246 through 270, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-21, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

Lots 293 through 308, inclusive, and Lots 311 through 331, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-22, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

Lots 360 through 364, inclusive, Lots 366, 368, 395, and Lots 397 through 403, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-23, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County.

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
ADRIAN FONTES
20190963549 11/27/2019 01:15
ELECTRONIC RECORDING

1574884538399-28-1-1--
Hoyp

WHEN RECORDED RETURN TO:

Sherman & Howard L.L.C.
Attn: Zachary D. Sakas, Esq.
7033 East Greenway Parkway, Suite 250
Scottsdale, Arizona 85254-2080

**EASTMARK COMMUNITY FACILITIES DISTRICT NO. 2
(CITY OF MESA, ARIZONA)
WAIVER AND DEVELOPMENT AGREEMENT PERTAINING TO
THE TO BE FORMED ASSESSMENT DISTRICT A**

This Eastmark Community Facilities District No. 2 (City of Mesa, Arizona) Waiver and Development Agreement Pertaining to the To Be Formed Assessment District A, dated as of November 27, 2019 (this "*Agreement*"), by and among the Eastmark Community Facilities District No. 2 (City of Mesa, Arizona) (the "*District*"), the undersigned owners of certain land within the District (collectively, the "*Landowners*") and DMB Mesa Proving Grounds LLC, a Delaware limited liability company (the "*Developer*"), and, if applicable, other owners executing this Agreement prior to formation of Assessment District A (as defined herein).

WHEREAS, the City of Mesa, Arizona, an Arizona municipal corporation (the "*City*") and the Developer are parties to that certain Pre-Annexation Development Agreement recorded November 13, 2008 as Instrument No. 2008-974930 in the Official Records of Maricopa County, as amended by that certain First Amendment to Pre-Annexation Development Agreement recorded May 31, 2011 as Instrument No. 2011-0456474, as further amended by that certain Second Amendment to Pre-Annexation Development Agreement recorded November 21, 2013 as Instrument No. 2013-1005620 in the Official Records of Maricopa County, as further amended by that certain Third Amendment to Pre-Annexation and Development Agreement recorded December 21, 2016 as Instrument No. 2016-0940133 in the Official Records of Maricopa County, and as further amended by that certain Fourth Amendment to Pre-Annexation and Development Agreement recorded August 30, 2018 as Instrument No. 2018-0657828 in the Official Records of Maricopa County, as the same may be further amended from time to time (collectively, the "*Development Agreement*") in connection with the planned community development project on the land subject thereto known as "Eastmark" (the "*Project*"); and

WHEREAS, pursuant to the Development, Financing Participation, Waiver and Intergovernmental Agreement for Eastmark Community Facilities District No. 2 (City of Mesa, Arizona), recorded July 24, 2019, as Instrument No. 2019-0561520 in the Official Records of Maricopa County (the "*District Agreement*"), the Developer intends to request the District to form assessment district A (the "*Assessment District A*") comprised of the real property legally

described on Exhibit A attached hereto (the “*Property*”) in order to provide for certain public infrastructure improvements plus all costs connected with the public infrastructure purposes related thereto (as defined in Title 48, Chapter 4, Article 6, Arizona Revised Statutes, as amended (the “*Act*”)), such public infrastructure improvements and public infrastructure purposes to be located on or off the *Property*; and

WHEREAS, the Developer, the Landowners and (if applicable) other owners executing this Agreement, and all persons hereafter taking an interest in the *Property*, or any portion thereof, shall be bound by the terms, waivers and agreements as set forth, and to the extent provided, in this Agreement and shall be bound by the Assessments (as defined herein) recorded against the *Property*; and

WHEREAS, subject to the terms of the District Agreement, the proposed public infrastructure improvements and public infrastructure purposes to be provided by the Assessment District A shall consist of:

A. Acquisition, installation and/or construction of all or a portion of the public infrastructure (as such term is defined in the *Act*) described on Exhibit B attached hereto and all incidental improvements related thereto;

B. All engineering, legal, financial and incidental costs and expenses incurred in completing the acquisition, installation and/or construction of the public infrastructure described in paragraph A above and the costs and expenses incurred in connection with the levy of the Assessments and the issuance and sale of the Assessment District A bonds;

C. Capitalized interest on such Assessment District A bonds, if any, for a period not to exceed the aggregate time for completion of all construction of and acquisition of the public infrastructure described herein, plus six (6) months thereafter; and

D. A debt service reserve fund created for such Assessment District A bonds.

Collectively, the public infrastructure improvements and public infrastructure purposes described in paragraphs A through D above and the costs and expenses thereof shall hereinafter be referred to as the “*Work*”; and

WHEREAS, persons having or hereafter acquiring only a lienholder’s interest or other security interest in the *Property* (“*Lienholder*” or “*Lienholders*”, as applicable) consent to these terms and provisions of the District Agreement and this Agreement and the recording thereof and acknowledge the levying of the Assessments against the *Property*;

NOW, THEREFORE, the District, the Developer, the Landowners and all future owners or holders of any interest in any portion of the *Property* hereby agree as follows:

1. **Development Agreement and Agreement Allocating Assessments.**
This Agreement is a “development agreement” within the meaning of Arizona Revised Statutes (“A.R.S.”) § 9-500.05 and the written agreement allocating the Assessments is authorized pursuant to A.R.S. § 48-721, as amended.

2. **Reliance on Agreement.** This Agreement does not create a binding commitment on the part of the District to actually form the Assessment District A, or, if formed, of the District to sell or deliver such Assessment District A bonds or construct, install or acquire any or all of the Work, or if it does construct, install or acquire any of the Work, to construct, install or acquire it pursuant to any existing proposals. However, the District, the Landowners, and the Developer, in going forward with the Work, are doing so in reliance upon this Agreement to have the Property included within the to-be-formed Assessment District A and assessed for the costs thereof.

3. **Review and Approval of the Boundaries and Scope of Work; Acknowledgement of Assessment.**

a. The Landowners, as the sole owners of all the Property, have reviewed or have had the opportunity and right to review the boundaries of the Assessment District A, the preliminary plans and specifications detailing the Work and the current estimate of the costs of the Work. The undersigned Landowners agree the costs of the Work shall be spread among the parcels (residential lots) comprising the Property within the proposed Assessment District A utilizing a methodology determined by the District Engineer (the "*Engineer*") based on the expected benefit to the residential lots to be developed on the Property, provided the Engineer's estimate of the costs of Work (the "*Engineer's Estimate*") will not exceed \$836,500.00 and such Assessment amount shall be allocated and levied to each developable parcel (residential lot) within the Assessment District A in an amount not to exceed \$3,500.00 per parcel (residential lot).

b. The Developer and the Landowners, and all future owners or holders of any interest in any portion of the Property, expressly consent to the following: (i) the District may take all required actions as necessary to form the Assessment District A in accordance with the provisions of the District Agreement and the Act; and (ii) the District and, if formed, the Assessment District A, may incur costs and expenses necessary to complete or acquire the Work.

c. Furthermore, the Developer and the Landowners, and all future owners or holders of any interest in any portion of the Property, acknowledge that the District shall levy and collect an assessment on the Property sufficient to pay all costs and expenses of the Work (including Work benefitting the Property in the proposed Assessment District A, which Work may be constructed, installed or performed prior to or after the execution hereof) and the costs of levying the assessment and the issuance of the Assessment District A bonds, but not in excess of the Engineer's Estimate prepared in accordance with the applicable requirements of the District and the Act (the "*Assessments*").

4. **No Protest, Objection or Request for Hearings.** The Developer and the Landowners, and all future owners or holders of any interest in any portion of the Property, agree to allow the formation of the proposed Assessment District A and to acknowledge that the District shall take all steps necessary to levy, confirm and record Assessments against the Property and to issue such Assessment District A bonds supported by the Assessments. The Landowners, and all future owners of any portion of the Property, acknowledge and agree, to the fullest extent permitted by applicable law, that pursuant to A.R.S. § 9-500.05, the provisions of A.R.S. § 32-2181 do not apply and that pursuant to this Agreement the parties waive their right

to appear before the Board of Directors of the District (the “*District Board*”) on any hearing required at or prior to the confirmation of the Assessments and waive their right to: (a) protest and object to the extent of the Assessment District A pursuant to A.R.S. §§ 48-579 and 48-580; (b) protest the award of contract pursuant to A.R.S. § 48-584; and (c) object to the Assessments on procedural grounds, or as to the legality of the Assessments, pursuant to A.R.S. § 48-590.

5. **Waiver of Procedural Deficiencies and Irregularities.** The Developer and the Landowners, and all future owners or holders of any interest in any portion of the Property, with full knowledge of the provisions of Title 48, Chapter 4, Articles 2 and 6, Arizona Revised Statutes, as amended, and their rights thereunder (or having obtained counsel to advise them of the provisions and their rights), expressly waive any and all irregularities, illegalities or deficiencies which may now or hereafter exist in the acts or proceedings resulting in the formation of the District, the formation of the Assessment District A, the adoption of the resolution of intention and the resolution ordering the Work, the levying of the Assessments against the Property and the issuance of Assessment District A bonds secured by the Assessments levied against the Property.

6. **Waiver.** The Developer and the Landowners, and all future owners or holders of any interest in any portion of the Property, with full knowledge of the provisions and their rights under the provisions of law hereafter referenced, expressly waive the following:

a. any defect in the proceedings establishing the District, as required by A.R.S. § 48-702 through § 48-708, inclusive, and agree that, to the extent of any defect, this Agreement shall constitute the petitions required by law to form and establish the District without conducting an election;

b. the providing of any and all notices and response time periods related to such notices provided by A.R.S. § 48-576 *et seq.*, as amended, including but not limited to the following:

i. mailing, posting and publication, as applicable, of any notice required in connection with: (A) the adoption of the resolution of intention, (B) the notice of proposed improvements, (C) the adoption of the resolution ordering the Work, (D) notice of passage of the resolution ordering the Work, (E) notice of award of contract and (F) any other steps necessary in connection with the Assessment District A or the Work; and

ii. any and all notices pertaining to the levying of the Assessments, including notice of any hearing on the Assessments;

c. any and all objections and protests to the extent of the Assessment District A;

d. any and all objections to the adoption and approval by the District of the Assessment District A including, without limitation, the plans and specifications, the Engineer’s Estimate and the assessment diagram, all of which provide for and effectuate the completion of the Work;

e. any and all protest rights against the Work and objections to the awarding of one or more acquisition or construction contracts for the Work;

f. any and all claims or defenses, known or unknown, they may now or subsequently have against the Assessments or the Assessment District A bonds; and

g. all demands for cash payment of the Assessments.

Nothing contained in this Agreement shall be construed as a waiver by any party to this Agreement of any notice required by A.R.S. §§ 48-600 or 48-601 of delinquent assessment installments.

7. **Work as More Than Local and Ordinary Benefit.** The Developer and the Landowners, and all future owners or holders of any interest in any portion of the Property, agree that the Work is of more than local or ordinary public benefit and that the Work constitutes public infrastructure improvements and public infrastructure purposes and that the Property which is subject to the Assessments receives the primary benefit from the Work in an amount not less than the Engineer's Estimate of the costs thereof, and not less than the portion of the Assessment levied against each parcel or lot comprising the Property.

8. **Public Bidding.** The public bidding requirements set forth in A.R.S. §§ 48-581 and 48-584 have been or will be complied with by the Developer or the Landowners, as applicable, on behalf of the District with respect to each contract comprising the Work.

9. **Acquisition of the Work.** The District may, immediately upon issuance of the Assessment District A bonds, acquire all or part of the Work.

10. **Landowner Acknowledgement of Assessment.** The Landowners, and all future owners or holders of any interest in any portion of the Property, acknowledge the District shall levy the Assessments in an amount not greater than the Engineer's Estimate against all developable parcels located within the boundaries of Assessment District A, as provided in Section 3.a, not in excess of \$3,500.00 per developable parcel (residential lot); and that such Assessments shall be collected and foreclosed in accordance with A.R.S. § 48-601 *et seq.*, as amended and in accordance with any other documents executed and delivered in connection with the delivery of the Assessment District A bonds.

11. **Recording and Validity of Assessments.** The Landowners, and all future owners or holders of any interest in any portion of the Property, acknowledge the District shall record the Assessments against the Property and acknowledge such recording of the Assessments shall constitute valid and enforceable first liens against the respective parcels comprising the Property as shown and the amounts set forth in the Assessments, subject only to the lien for ad valorem taxes and prior special assessments.

12. **Assessments to Go to Bond.** Except as the Landowners, or any future owner or holder of any interest in any portion of the Property, otherwise notifies the District in writing prior to the recording of the Assessments of their intent to pay all or part of their Assessment in cash, Assessments will not be paid in cash. With respect to Assessments not paid in cash, the Landowners request, and all future owners or holders of any interest in any portion

of the Property agree, that a certified list of unpaid Assessments be filed as soon as possible after the recording of the Assessments and that Assessment District A bonds amortizing the payment of the Assessments over not less than fifteen (15) years be issued and sold as soon as possible.

13. **No Reduction of Landowner Obligation.** The inability of the District to assess all or any portion of the costs of the Work shall not reduce the obligation of the Landowners, and all future owners or holders of any interest in any portion of the Property, so long as the Landowners or future owner or holder of any interest in any portion of the Property own all or part of any parcel comprising the Property, to pay the Assessment levied against such portion of the Property, and provided that the aggregate costs of the Work are not reduced.

14. **Waiver of Collateral Document Provisions.** The Landowners, and all future owners or holders of any interest in any portion of the Property, expressly waive any and all provisions of any collateral security instruments relating to the Property which prohibit the formation of the Assessment District A, completion of the Work and levying and recording of the Assessments against the Property.

15. **Dedication of Property Needed to Perform the Work.** The Landowners, and all future owners or holders of any interest in any portion of the Property, consent to the dedication, without cost, of the rights-of-way and easements and other property, as required pursuant to the applicable Final Plats listed on Exhibit A and those certain final approved infrastructure improvement plans for the Work, described on Exhibit C attached hereto. The undersigned Landowners, and all future owners or holders of any interest in any portion of the Property, agree to cooperate in effectuating any required dedication, including execution of any required document.

16. **Indemnification Under Securities Act.** The Developer hereby agrees to indemnify and hold the District and the City and each director, council member, officer, agent, legal counsel, independent contractor or employee thereof and each person, if any, who controls the District, and the City, its officers, employees and agents, within the meaning of the Securities Act of 1933, as amended (the "*Securities Act*") (collectively, the "*Indemnified Persons*") harmless for, from and against any and all losses, claims, damages or liabilities, including reasonable attorneys' fees arising from any challenge to the formation, activities or administration of the District, or any losses, claims, damages or liabilities, including reasonable attorneys' fees related to which any of the Indemnified Persons may become subject, under any statute or regulation at law or in equity or otherwise, insofar as such losses, claims, damages or liabilities, including attorneys' fees (or actions in respect thereof) arise out of or are based upon any untrue statement or any alleged untrue statement or material fact set forth in any official statement applicable to the Assessment District A bonds or any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or which is necessary to make the statements therein, in light of the circumstances in which they were made, not misleading in any material respect. This Section 16 shall survive the termination hereof.

17. **General Indemnification of District and Directors.** The Developer hereby agrees to indemnify the District and each director, officer, agent, legal counsel, employee, and independent contractor thereof, and the City, and its officers, employees, agents, legal

counsel, independent contractors and council members (collectively, the “*Indemnified Parties*”) and shall hold the Indemnified Parties harmless from, for and against any and all losses, damages, liabilities, claims and reasonable costs incurred, including but not limited to reasonable attorneys’ fees and other administrative or out of pocket costs actually and directly incurred by the Indemnified Parties in connection with or as the result of acts of the District or the District Board which are (i) within the scope of the District or District Board’s authority under the Securities Act, or (ii) undertaken by the District or District Board in a properly advertised public meeting. This Section 17 shall survive the termination hereof.

18. **Disclosure Document.** The Landowners, and all future owners or holders of any interest in any portion of the Property, hereby agree that any potential purchaser of any real property subject hereto, including each potential purchaser of a residential lot within the Assessment District A, shall receive a concise disclosure document that discloses the existence, the estimated payment amount and the payment terms of any portion of the Assessment applicable to the real property to be purchased. Each potential purchaser shall acknowledge in writing that the purchaser received and understood the concise disclosure document and has agreed to the terms, waivers and agreements contained in this Agreement. The District agrees to maintain records of the written acknowledgments. The provisions of this Agreement shall not apply to the sale, transfer or other conveyance of any real property which is not subject to the Assessment.

19. **Encumbrance of the Property.** The provisions, terms and restrictions of this Agreement shall run with and bind the Property as equitable servitudes and also as covenants running with the land. Without limitation of the foregoing, in the event of any sale, transfer or other conveyance by the Landowners, and all future owners or holders of any interest in any portion thereof, the Property or such portion thereof shall continue to be bound by all of the terms, conditions and provisions hereof. Prior to the completion of the Work, the levy of the Assessments pertaining to the Work, the final hearing regarding the levy of the Assessments and the issuance of Assessment District A bonds secured by the Assessments, any purchaser, transferee or other subsequent owner shall execute and deliver to the District Exhibit D attached hereto, and shall take such property subject to all of the terms, conditions and provisions hereof and any purchaser, transferee or other subsequent owner shall take such property entitled to all of the rights, benefits and protections afforded the predecessor in interest thereof by the terms hereof.

20. **Recording.** This Agreement may be recorded in the office of the County Recorder of Maricopa County, Arizona.

21. **Continuing Disclosure.** So long as any of the Landowners, or any future owner or holder of any interest in any portion of the Property, is liable for twenty percent (20%) or more of the debt service on any Assessment District A bonds, such Landowner, or any such future owner or holder of any interest in of any portion of the Property, solely with respect to its assessed property, will provide any and all information needed as may be reasonably requested by the District, or required to comply with the information reporting requirements contemplated by Rule 240.15c2-12, General Rules and Regulations, Securities Exchange Act of 1934, as amended.

22. **Successors and Assigns.** This Agreement, when executed by each such party, shall inure to the benefit of and (except as otherwise expressly provided herein) be binding upon the Developer and the Landowners, and their respective future grantees, successors and assigns, and any future owner or holder of any interest in any portion of the Property. There shall be no third-party beneficiaries of this Agreement, except that solely for the purposes of receiving the benefits of the provisions of Sections 16 and 17 of this Agreement, the Developer and the Landowners hereby agree that the City shall be a third-party beneficiary of the terms and provisions of Sections 16 and 17 of this Agreement.

23. **Authority.** The Developer and the Landowners each warrant that it has the requisite authority to enter into this Agreement and bind the Property and, to the best of its knowledge, no other consents are required.

24. **Further Assurances.** Without limitation of the foregoing, the Developer and the Landowners, and all future owners and holders of any interest in any portion of the Property, shall execute and deliver to the Developer and the District, upon request but at no third-party cost, all further assurances and waivers as may be required by the District and the Act to give full effect to the provisions of this Agreement, each of which further assurances and waivers by this reference shall, upon such execution, delivery and recording, be deemed incorporated herein and have the same priority as this Agreement.

25. **Counterparts.** For convenience, this Agreement may be executed in one or more counterparts and each executed counterpart and all executed Exhibit D's shall for all purposes be deemed an original and shall have the same force and effect as an original, but all of which together shall constitute in the aggregate but one and the same instrument. This Agreement will constitute the entire agreement between the parties, and supersedes all previous written or oral agreements or understandings regarding the subject matter of this Agreement.

26. **Waiver of Claims by Developer.**

a. Except as to certain payments or reimbursements applied for by the Developer pursuant to the District Agreement, the Developer knowingly and voluntarily forever releases and discharges the District and all of its past and present elected officials, officers, directors, agents, employees, successors, assigns, attorneys, and representatives from all legal and equitable claims, causes of action, debts, accounts and damages occurring and existing prior to the date of this Agreement whether known or unknown, asserted or unasserted, and of every nature and extent whatsoever, that the Developer has against the District in connection with the Project arising from actions, omissions, delays or other events that occurred prior to the date of this Agreement.

b. Except as to matters which are subject to the express terms of the Development Agreement and any other written agreement to which the City and the Developer are parties as of the date of this Agreement, the Developer knowingly and voluntarily forever releases and discharges the City and all of its past and present elected officials, officers, directors, agents, employees, successors, assigns, attorneys, and representatives from all legal and equitable claims, causes of action, debts, accounts and damages occurring and existing prior to the date of this Agreement whether known or unknown, asserted or unasserted, and of every

nature and extent whatsoever, that the Developer has against the City in connection with the Project arising from actions, omissions, delays or other events that occurred prior to the date of this Agreement.

c. None of the releases and discharges above are intended to, and do not, negate or otherwise relieve the District or the City of any executory contractual obligations under existing contracts or of any obligations under any applicable law, statute, or ordinance.

27. **Failure to Sell Bonds.** In the event the District fails or is otherwise unable to sell and/or deliver Assessment District A bonds in an amount sufficient to allow the District to pay the amounts needed to pay the costs of the Work, or if the final hearing regarding the levy of the Assessments does not occur on or before March 1, 2020, then, upon written request of the Developer acting on behalf of the owner or owners of the Property, the District agrees to adopt proceedings that dissolve and terminate Assessment District A or any Assessments (including termination of this Agreement), established by the District, encumbering the Property.

28. **Future Landowner Consent.** Until the later of the issuance of the Assessment District A bonds or the final hearing regarding the levy of the Assessments, each Landowner agrees that upon the sale of any portion of the Property owned by such Landowner, the Landowner will require the execution and delivery of Exhibit D by each purchaser, and upon request by the District, the Landowner will execute and deliver Exhibit D to the District.

29. **Additional Representations, Warranties and Covenants of Developer and Landowners.** Other than any agreement previously disclosed in writing to the District, as of the date of this Agreement, the Developer and the undersigned Landowners each represent and warrant, with respect to any portion of the Property owned by them, that no purchase and sale agreements, option agreements, deposit agreements, or other agreements conveying or intending to convey an interest in all or any portion of the Property have been entered into with any purchaser, optionee, depositor or other recipient of an interest in the Property, and that any purchaser, optionee, depositor or other recipient of an interest in the Property under a previously disclosed agreement shall consent to this Agreement. In accordance herewith, until the final hearing regarding the levy of the Assessments is complete, the Developer and the Landowners, and any future owners and holders of any interest in any portion of the Property, covenant and agree not to transfer title in any interest in the Property to any non-affiliated purchaser or other recipient, unless such interest is greater than ten (10) residential lots.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the undersigned have duly affixed their signatures, all as of the day and year first written above.

EASTMARK COMMUNITY FACILITIES
DISTRICT NO. 2 (CITY OF MESA, ARIZONA),
an Arizona political subdivision and municipal
corporation

By: John Giles
Chairman, Board of Directors

ATTEST:

Dee Ann Mickelson
District Clerk



APPROVED AS TO FORM:

Sherman D. Howard
Sherman & Howard L.L.C.,
Special District Counsel

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 25th day of November, 2019, by John Giles, Chairman of the Board of Directors of Eastmark Community Facilities District No. 2 (City of Mesa, Arizona), an Arizona political subdivision and municipal corporation.



Ann Fantasia
Notary Public in and for the State of Arizona

20190963549

Signature Page to Waiver and Development Agreement:**DEVELOPER:**

DMB MESA PROVING GROUNDS LLC, a
Delaware limited liability company

By: DMB/Brookfield Eastmark LLC, a Delaware limited liability company
Its: Manager

By: Brookfield Eastmark, LLC, a Delaware limited liability company
Its: Administrative Member

By: *John Bradley*
Name: John Bradley
Its: President

By: *Dea McDonald*
Name: Dea McDonald
Its: Vice President

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 21st day of November, 2019, by John Bradley, the President of Brookfield Eastmark, LLC, a Delaware limited liability company, and the Administrative Member of DMB/Brookfield Eastmark LLC, a Delaware limited liability company, and a Member of DMB Mesa Proving Grounds LLC, a Delaware limited liability company.

Jessica Phipps
Notary Public in and for the State of Arizona

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)




The foregoing instrument was acknowledged before me this 21st day of November, 2019, by Dea McDonald, the Vice President of Brookfield Eastmark, LLC, a Delaware limited liability company, and the Administrative Member of DMB/Brookfield Eastmark LLC, a Delaware limited liability company, and a Member of DMB Mesa Proving Grounds LLC, a Delaware limited liability company.

Jessica Phipps
Notary Public in and for the State of Arizona



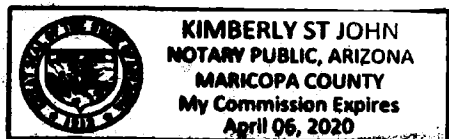
Signature Page to Waiver and Development Agreement:**LANDOWNER:**

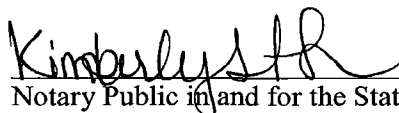
TAYLOR MORRISON/ARIZONA, INC.,
an Arizona corporation

By: 
Name: SHANNON FRANCOEUR
Its: VICE PRESIDENT

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 26th day of November, 2019, by Shannon Francoeur the Vice President of TAYLOR MORRISON/ARIZONA, INC., an Arizona corporation, for and on behalf thereof.




Notary Public in and for the State of Arizona

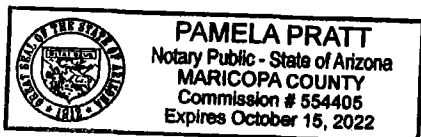
Signature Page to Waiver and Development Agreement:**LANDOWNER:**

WOODSIDE HOMES SALES AZ, LLC,
a Delaware limited liability company

By: [Signature]
Name: ROGER C. GANNON
Its: DIVISION PRESIDENT

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 25th day of November, 2019, by Roger Gannon, the President of WOODSIDE HOMES SALES AZ, LLC, a Delaware limited liability company, for and on behalf thereof.



[Signature]
Notary Public in and for the State of Arizona

Signature Page to Waiver and Development Agreement:**LANDOWNER:**

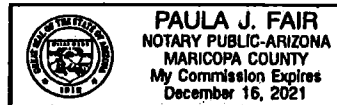
JEN ARIZONA 31, LLC,
an Arizona limited liability company

By: [Signature]
Name: Michael TESBERGER
Its: Authorized Signer

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

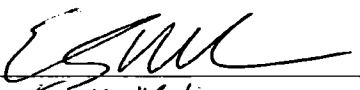
The foregoing instrument was acknowledged before me this 13th day of November, 2019, by Michael K Jesberger, the Authorized Signer of JEN ARIZONA 31, LLC, an Arizona limited liability company, for and on behalf thereof.

[Signature]
Notary Public in and for the State of Arizona



Signature Page to Waiver and Development Agreement:**LANDOWNER:**

LENNAR ARIZONA, INC.
an Arizona corporation

By: 
Name: Erik Molina
Its: Authorized Agent

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)


The foregoing instrument was acknowledged before me this 20th day of November, 2019, by ERIK MOLINA, the AUTHORIZED AGENT of LENNAR ARIZONA, INC., an Arizona corporation, for and on behalf thereof.


Notary Public in and for the State of Arizona



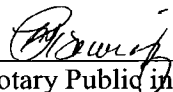
Signature Page to Waiver and Development Agreement:**LANDOWNER:**

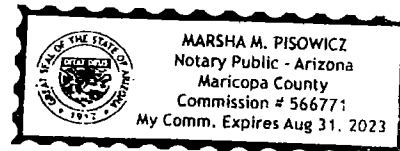
ASHTON WOODS ARIZONA L.L.C.,
a Nevada limited liability company

By: 
Name: Scott Moore
Its: Div. Pres.

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 26th day of November, 2019, by Scott Moore, the Division President of ASHTON WOODS ARIZONA L.L.C., a Nevada limited liability company, for and on behalf thereof.


Notary Public in and for the State of Arizona



20190963549

Signature Page to Waiver and Development Agreement:**LANDOWNER:**

SHEA HOMES LIMITED PARTNERSHIP,
a California limited partnership

By: [Signature]
Name: DAVID garcia
Its: Assistant Secretary

By: [Signature]
Name: Heather Jahnke
Its: Authorized Agent

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

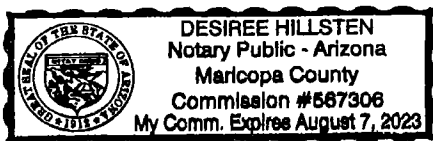
The foregoing instrument was acknowledged before me this 25th day of November, 2019, by DAVID garcia, the Asst. Secretary of SHEA HOMES LIMITED PARTNERSHIP, a California limited partnership, for and on behalf thereof.



[Signature]
Notary Public in and for the State of Arizona

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 25th day of November, 2019, by Heather Jahnke, the Auth. Agent of SHEA HOMES LIMITED PARTNERSHIP, a California limited partnership, for and on behalf thereof.



[Signature]
Notary Public in and for the State of Arizona

Signature Page to Waiver and Development Agreement:**LANDOWNER:**

DMB MESA PROVING GROUNDS LLC, a
Delaware limited liability company

By: DMB/Brookfield Eastmark LLC, a Delaware limited liability company
Its: Manager

By: Brookfield Eastmark, LLC, a Delaware limited liability company
Its: Administrative Member

By: *John Bradley*
Name: John Bradley
Its: President

By: *Dea McDonald*
Name: Dea McDonald
Its: Vice President

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 21st day of November, 2019, by John Bradley, the President of BROOKFIELD EASTMARK, LLC, a Delaware limited liability company, and the Administrative Member of DMB/Brookfield Eastmark LLC, a Delaware limited liability company, and a Manager of DMB Mesa Proving Grounds LLC, a Delaware limited liability company.

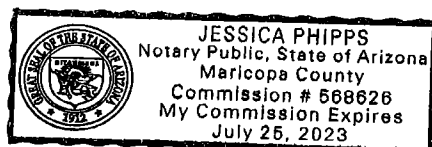
Jessica Phipps
Notary Public in and for the State of Arizona

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)



The foregoing instrument was acknowledged before me this 21st day of November, 2019, by Dea McDonald, the Vice President of BROOKFIELD EASTMARK, LLC, a Delaware limited liability company, and the Administrative Member of DMB/Brookfield Eastmark LLC, a Delaware limited liability company, and a Manager of DMB Mesa Proving Grounds LLC, a Delaware limited liability company.

Jessica Phipps
Notary Public in and for the State of Arizona



20190963549

CONSENT, WAIVER AND AGREEMENT

Reference is made to that certain Eastmark Community Facilities District No. 2 (City of Mesa, Arizona) Waiver and Development Agreement Pertaining to the To Be Formed Assessment District A, dated as of November 27, 2019, initially by and among the Eastmark Community Facilities District No. 2 (City of Mesa, Arizona), the Developer (as defined therein) and the Landowners (as defined therein), to which this Consent, Waiver and Agreement is attached (the "Agreement"). All capitalized terms used and not otherwise defined in this Consent, Waiver and Agreement shall have the meanings set forth in the Agreement. The undersigned, on behalf of the optionee pursuant to that certain Rolling Option Agreement dated as of March 7, 2019 (the "Option Agreement"), pursuant to which the optionee has an interest in real property within the Assessment District A, hereby consents to, and agrees to be bound by, the terms, waivers and agreements set forth in the Agreement, acknowledges that the Agreement shall bind all the Property in which the optionee has an interest within the Assessment District A, and authorizes the recordation of the Agreement with respect to all such Property. Without limitation of the foregoing, the undersigned, on behalf of the optionee, acknowledges that the proceedings and related actions contemplated by the Agreement will not violate the Option Agreement; provided, the preceding is not intended to, and shall not apply, to any provision of such Option Agreement pertaining to the failure of the Landowners to pay any assessment levied on any parcel remaining subject to the Option Agreement in favor of the optionee. Further, in no event shall anything in this Consent, Waiver and Agreement constitute a personal assumption by the undersigned of the obligations of any party under the Agreement.

DATED AS OF: 11/26, 2019

OPTIONEE:

TM HOMES OF ARIZONA, INC.,
an Arizona corporation

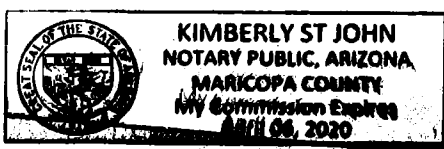
By: [Signature]

Name: SHANNON FRANCOEUR

Its: VICE PRESIDENT

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 26th day of November, 2019, by Shannon Francoeur the Vice President of TM HOMES OF ARIZONA, INC., an Arizona corporation.



[Signature]
Notary Public in and for the State of Arizona

20190963549

CONSENT, WAIVER AND AGREEMENT

Reference is made to that certain Eastmark Community Facilities District No. (City of Mesa, Arizona) Waiver and Development Agreement Pertaining to the To Be Formed Assessment District A, dated as of November 27, 2019, initially by and among the Eastmark Community Facilities District No. 2 (City of Mesa, Arizona), the Developer (as defined therein) and the Landowners (as defined therein), to which this Consent, Waiver and Agreement is attached (the "Agreement"). All capitalized terms used and not otherwise defined in this Consent, Waiver and Agreement shall have the meanings set forth in the Agreement. The undersigned, on behalf of the optionee pursuant to that certain Option Agreement dated as of April 5, 2018 (the "Option Agreement"), pursuant to which the optionee has an interest in real property within the Assessment District A, hereby consents to, and agrees to be bound by, the terms, waivers and agreements set forth in the Agreement, acknowledges that the Agreement shall bind all the Property in which the optionee has an interest within the Assessment District A, and authorizes the recordation of the Agreement with respect to all such Property. Without limitation of the foregoing, the undersigned, on behalf of the optionee, acknowledges that the proceedings and related actions contemplated by the Agreement will not violate the Option Agreement; provided, the preceding is not intended to, and shall not apply, to any provision of such Option Agreement pertaining to the failure of the Landowners to pay any assessment levied on any parcel remaining subject to the Option Agreement in favor of the optionee. Further, in no event shall anything in this Consent, Waiver and Agreement constitute a personal assumption by the undersigned of the obligations of any party under the Agreement.

DATED AS OF: November 27, 2019

OPTIONEE:

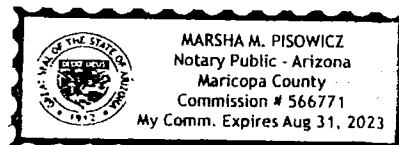
ASHTON WOODS ARIZONA L.L.C.,
a Nevada limited liability company

By: [Signature]
Name: Scott Moore
Its: Div. Pres

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 26th day of November, 2019, by Scott Moore, the Division President of ASHTON WOODS ARIZONA L.L.C., a Nevada limited liability company.

[Signature]
Notary Public in and for the State of ARIZONA.



**LIENHOLDER
CONSENT, WAIVER AND AGREEMENT**

Reference is made to that certain Eastmark Community Facilities District No. 2 (City of Mesa, Arizona) Waiver and Development Agreement Pertaining to the To Be Formed Assessment District A, dated as of November 27, 2019, initially by and among the Eastmark Community Facilities District, the Developer (as defined therein) and the Landowners (as defined therein), to which this Lienholder Consent, Waiver and Agreement is attached (the "*Agreement*"). All capitalized terms used and not otherwise defined in this Lienholder Consent, Waiver and Agreement shall have the meanings set forth in the Agreement. The undersigned, as a lienholder having an interest in real property within the Assessment District A, hereby consents to, and agrees to be bound by, the terms, waivers and agreements set forth in the Agreement, acknowledges that the Agreement shall bind all the Property in which the undersigned has an interest within the Assessment District A, and authorizes the recordation of the Agreement with respect to all such Property. Without limitation of the foregoing, the undersigned Lienholder acknowledges that the proceedings and related actions contemplated by the Agreement will not violate the various deeds of trust or other collateral security instruments by the Landowner in favor of the undersigned Lienholder; provided, the preceding is not intended to, and shall not apply, to any provision of such various deeds of trust or other security instrument pertaining to the failure of the Landowners to pay any assessment levied on any parcel remaining subject to the various deeds of trust in favor of the Lienholder. Further, in no event shall anything in this Lienholder Consent, Waiver and Agreement constitute a personal assumption by the undersigned of the obligations of any party under the Agreement.

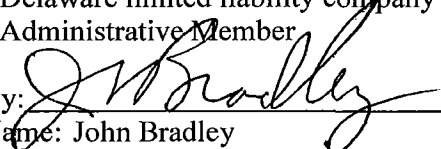
DATED AS OF: November 27, 2019

LIENHOLDER:

DMB MESA PROVING GROUNDS LLC, a
Delaware limited liability company

By: DMB/Brookfield Eastmark LLC, a
Delaware limited liability company
Its: Manager

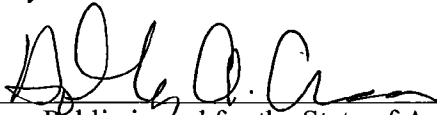
By: Brookfield Eastmark, LLC, a
Delaware limited liability company
Its: Administrative Member

By: 
Name: John Bradley
Its: President

By: 
Name: Dea McDonald
Its: Vice President

STATE OF ARIZONA)
) ss.
 COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 22nd day of November, 2019, by John Bradley, the President of BROOKFIELD EASTMARK, LLC, a Delaware limited liability company, and the Administrative Member of DMB/Brookfield Eastmark LLC, a Delaware limited liability company, and a Manager of DMB Mesa Proving Grounds LLC, a Delaware limited liability company.

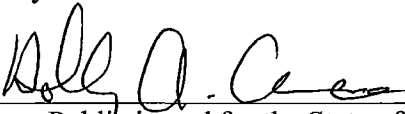


 Notary Public in and for the State of Arizona



STATE OF ARIZONA)
) ss.
 COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 22nd day of November, 2019, by Dea McDonald, the Vice President of BROOKFIELD EASTMARK, LLC, a Delaware limited liability company, and the Administrative Member of DMB/Brookfield Eastmark LLC, a Delaware limited liability company, and a Manager of DMB Mesa Proving Grounds LLC, a Delaware limited liability company.



 Notary Public in and for the State of Arizona



EXHIBIT A**LEGAL DESCRIPTION OF PROPERTY**

Lots 53 and 54, Lots 56 through 58, inclusive, and Lots 60 through 68, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-5, recorded in Book 1360 of Maps, Page 17, official records of Maricopa County, and

Lots 101 through 143, inclusive, and Lots 146 through 150, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-6, recorded in Book 1360 of Maps, Page 17, official records of Maricopa County, and

Lots 151 through 154, inclusive, Lot 156, Lots 158 through 162, inclusive, and Lots 164, 175, 189 and 192, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-9, recorded in Book 1360 of Maps, Page 17, official records of Maricopa County, and

Lots 212, 216, 220, 221, 223, 226, 228, Lots 232 through 236, inclusive, Lots 255 through 258, inclusive, and Lots 260, 261 and 266, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-17, recorded in Book 1360 of Maps, Page 17, official records of Maricopa County, and

Lots 95 and 114, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-18, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

Lots 115 through 120, inclusive, Lots 130 through 142, inclusive, Lots 144 through 146, inclusive, and Lots 150 through 161, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-18, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

Lots 162 through 165, inclusive, Lots 167, 172, 174, 176, 177, 179, and Lots 181 through 198, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-20, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

Lots 242 through 244, inclusive, and Lots 246 through 270, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-21, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

Lots 293 through 308, inclusive, and Lots 311 through 331, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-22, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

Lots 360 through 364, inclusive, Lots 366, 368, 395, and Lots 397 through 403, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-23, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County.

EXHIBIT B**PUBLIC INFRASTRUCTURE**

The Assessment District A bonds shall finance the acquisition of public infrastructure and public infrastructure purposes (as such terms are defined in the Act), including particularly the acquisition by the District of the following:

DESCRIPTION**COMPLETION*****1. S871 Everton Terrace (DU 5/6S Parcels 10-15)**

Construction of the continuation of a roadway within the District consisting of approximately one quarter mile of full street improvements. These improvements include water, water valves, fire hydrants, storm drains, storm drain manholes, concrete catch basins, storm drain bleed lines, concrete ribbon curb, concrete sidewalk, concrete ramps with truncated domes, paving, striping, street lights, public signage, hardscape, landscaping and irrigation. The roadway consists of two paved driving lanes made up of 3 1/2 inches of asphaltic concrete over 6 inches of aggregate base course. All improvements are shown on the plans sealed by Hoskin Ryan Consultants Inc., Daniel B. Hemken, P.E., on October 6, 2017 and approved by the City of Mesa, which may be amended from time to time to allow for additional property uses adjacent to Everton Terrace that are not yet known.

July 31, 2018**2. S878 Everton Terrace (DU 5/6S Parcels 4-6, 9, 17)**

Construction of the continuation of a roadway within the District consisting of approximately one-third of a mile of full street improvements. These improvements include sewer, sewer manholes, potable water, water valves, fire hydrants, storm drains, storm drain manholes, concrete catch basins, storm drain bleed lines, concrete ribbon curb, concrete sidewalk, concrete ramps with truncated domes, paving, striping, street lights, public signage, hardscape, landscaping and irrigation. The roadway consists of two paved driving lanes made up of 3 1/2 inches of asphaltic concrete over 6 inches of aggregate base course. All improvements are shown on the plans sealed by Hoskin Ryan Consultants, Inc., Ryan H. Raab, P.E., dated January 29, 2018 and approved by the City of Mesa, which may be amended from time to time to allow for additional property uses adjacent to Everton Terrace that are not yet known.

October 31, 2018

DESCRIPTION**COMPLETION*****3. S879 Everton Terrace (DU 5/6S Parcels 16, 18-23)**

Construction of the continuation of a roadway within the District consisting of approximately one-half mile of full street improvements. These improvements include sewer, sewer manholes, potable water, water valves, fire hydrants, storm drains, storm drain manholes, concrete catch basins, storm drain bleed lines, concrete ribbon curb, concrete sidewalk, concrete ramps with truncated domes, paving, striping, street lights, public signage, hardscape, landscaping and irrigation. The roadway consists of two paved driving lanes made up of 3 1/2 inches of asphaltic concrete over 6 inches of aggregate base course. All improvements are shown on the plans sealed by Sunrise Engineering, Christina Renee Christian, P.E., dated February 14, 2018 and approved by the City of Mesa, which may be amended from time to time to allow for additional property uses adjacent to Everton Terrace that are not yet known.

October 31, 2018

- * Completion represents the date by which the Developer expects the public infrastructure to be constructed, which may differ from the date that it is accepted by the District/City.

EXHIBIT C**FINAL PLATS/IMPROVEMENT PLANS
(CFD INFRASTRUCTURE)**

Final Plat: Final Plat for Eastmark Development Unit 6– Infrastructure for Parcels 4-6 and 9-23, recorded on September 20, 2017, as Instrument No. 2017-0694909, Book 1343, Page 15, of the Official Records of Maricopa County, Arizona.

Final Plat: Final Plat for Eastmark Development Unit 6– Infrastructure for Commercial Parcels, recorded on March 19, 2018, as Instrument No. 2018-0204997, Book 1376, Page 19, of the Official Records of Maricopa County, Arizona.

Improvement Plans (CFD Infrastructure):

Improvement Plans for Eastmark – CFD Project Segment No. S871 Everton Terrace, Approved by the City of Mesa on October 19, 2017, and

Improvement Plans for Eastmark – CFD Project Segment No. S878 Everton Terrace, Approved by the City of Mesa on February 8, 2018, and

Improvement Plans for Eastmark – CFD Project Segment No. S879 Everton Terrace, Approved by the City of Mesa on February 21, 2018.

EXHIBIT D

WHEN RECORDED RETURN TO:

Sherman & Howard L.L.C.
 Attn: Zachary D. Sakas, Esq.
 7033 East Greenway Parkway, Suite 250
 Scottsdale, Arizona 85254-2080

**[PROPERTY OWNER/LIENHOLDER]
 CONSENT, WAIVER AND AGREEMENT**

[To be executed by Owners of property/lienholders within Assessment District A]

Reference is made to that certain Eastmark Community Facilities District No. 2 (City of Mesa, Arizona) Waiver and Development Agreement Pertaining to the To Be Formed Assessment District A, initially by and among the District, Developer and Landowners (as defined therein), dated as of November 27, 2019, and recorded as Instrument No. 2019-_____ in the Official Records of Maricopa County (the "*Agreement*"), in respect of the Property, to which this [Property Owner/Lienholder] Consent, Waiver and Agreement now attaches to and becomes part of the Agreement. All capitalized terms used and not otherwise defined in this [Property Owner/Lienholder] Consent, Waiver and Agreement shall have the meanings set forth in the Agreement. The undersigned, as [an owner/lienholder in respect] of real property within the Assessment District A, legally described on Exhibit 1 hereto, hereby consents to, and agrees to be bound by, the terms, waivers and agreements set forth in the Agreement, acknowledges that the Agreement shall run with and bind all the real property in which the undersigned holds an interest within Assessment District A, and acknowledges the recordation of the Agreement with respect to all such real property.

DATED: _____, 20__.

[PROPERTY OWNER/LIENHOLDER]:

By: _____
 Its: _____

STATE OF _____)
) ss.
 COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, the _____ of _____, an _____.

(Seal and Expiration Date)

 Notary Public in and for the State of _____

EXHIBIT 1**LEGAL DESCRIPTION OF PROPERTY**

Lots 53 and 54, Lots 56 through 58, inclusive, and Lots 60 through 68, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-5, recorded in Book 1360 of Maps, Page 17, official records of Maricopa County, and

Lots 101 through 143, inclusive, and Lots 146 through 150, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-6, recorded in Book 1360 of Maps, Page 17, official records of Maricopa County, and

Lots 151 through 154, inclusive, Lot 156, Lots 158 through 162, inclusive, and Lots 164, 175, 189 and 192, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-9, recorded in Book 1360 of Maps, Page 17, official records of Maricopa County, and

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Lots 95 and 114, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-18, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

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Lots 242 through 244, inclusive, and Lots 246 through 270, inclusive, according to the Final Plat for Eastmark Development Unit 5/6 South, Parcel 6-21, recorded in Book 1379 of Maps, Page 8, official records of Maricopa County, and

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