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**DISTRICT DEVELOPMENT, FINANCING PARTICIPATION, WAIVER
AND INTERGOVERNMENTAL AGREEMENT**

by and among

CITY OF APACHE JUNCTION, ARIZONA,

SUPERSTITION VISTAS COMMUNITY FACILITIES DISTRICT NO. 2,

and

D.R. HORTON, INC.

Dated as of _____, 2021

**DISTRICT DEVELOPMENT, FINANCING PARTICIPATION, WAIVER AND
INTERGOVERNMENTAL AGREEMENT**

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THIS DISTRICT DEVELOPMENT, FINANCING PARTICIPATION, WAIVER AND INTERGOVERNMENTAL AGREEMENT, dated as of _____, 2021 (this “*Agreement*”), by and among the City of Apache Junction, Arizona, an Arizona municipal corporation (the “*Municipality*”); Superstition Vistas Community Facilities District No. 2, a community facilities district formed by the Municipality, and duly organized and validly existing, pursuant to the laws of the State of Arizona (the “*District*”); and D.R. Horton, Inc., a Delaware corporation duly organized and validly existing pursuant to the laws of the State of Delaware (the “*Developer*”), which has an interest in certain property within the boundaries of the District and is an investor, developer, guarantor and indemnitor. The Property (as defined herein) is land granted to the Arizona State Land Department (“*ASLD*”), and ASLD has consented to the recordation of this Agreement on the Property.

RECITALS

A. Pursuant to Title 48, Chapter 4, Article 6, Arizona Revised Statutes, as amended (the “*Act*”), and § 9-500.05, Arizona Revised Statutes, as amended (“*A.R.S.*”), the Municipality, the District and the Developer are entering into this Agreement as a “development agreement” to specify, among other things, conditions, terms, restrictions and requirements for “public infrastructure” (as such term is defined in the Act) and the financing of public infrastructure and subsequent reimbursements or repayments over time.

B. With regard to the real property described in Exhibit A hereto (the “*Property*”), which makes up the real property included within the District, the Municipality, the District and the Developer have determined to specify certain matters in this Agreement relating to the acquisition, construction, financing, operation and maintenance of public infrastructure, including matters relating to the construction or acquisition of certain public infrastructure by the District, the acceptance thereof by the Municipality and the reimbursement or repayment of the Developer with respect thereto, all pursuant to the Act, such public infrastructure being necessary for the Developer to develop the Property prior to the time at which the District can itself pay for the construction or acquisition thereof.

C. On November 4, 2020, the Developer was the successful bidder at a public auction conducted by ASLD and is thereby entitled to purchase the Property from ASLD pursuant to the terms of Certificate of Purchase No. 53-120190 (the “*Certificate of Purchase*”) and subject to the terms of the Participation and Infrastructure Contract Regarding ASLD Sale No. 53-120190, executed on November 12, 2020 between ASLD and the Developer (the “*Participation Contract*”), with the express condition that the Developer entitle and develop the Property as a mixed-use master planned community.

D. Pursuant to the Participation Contract, the Property is a component of the Auction Property (as defined in the Participation Contract).

E. Pursuant to the Participation Contract, the Developer is required to acquire, construct and improve certain infrastructure benefitting the Property, and ASLD has certain consent and approval rights regarding the Developer’s development of the Property including the formation of the District.

F. This Agreement as a “development agreement” pursuant to A.R.S. § 9-500.05 is consistent with the “General Plan” of the Municipality, as defined in A.R.S. § 9-461, applicable to the Property on the date this Agreement is executed.

G. To perform and finance certain “public infrastructure purposes” (as such term is defined in the Act) the District Board (as defined herein) is expected to call an election to be held in and for the District, pursuant to the Act, to authorize the District Board to: (i) in its sole discretion, issue certain general obligation bonds of the District, in the amount of four hundred million dollars (\$400,000,000.00), provided however, the Developer shall not request the issuance of more than three hundred fifty million dollars (\$350,000,000.00), to provide monies for certain “public infrastructure purposes” described in the General Plan of the District approved by the Municipality and the District (the “*General Obligation Bonds*”) and to annually levy, assess and collect an ad valorem tax against all taxable property in the District, unlimited as to rate or amount therefor, to pay debt service on the General Obligation Bonds; and (ii) annually levy, assess and collect an ad valorem tax in an amount up to \$0.30 (or such higher amount approved at an election in accordance with the Act) per \$100.00 of net assessed limited property valuation against all taxable property in the District (the “*O/M Tax*”) to provide for amounts to pay the administrative, operation and maintenance expenses of the District.

H. The District Board, pursuant to the Act and the procedures prescribed by A.R.S. §§ 48-576 through 48-589, as nearly as practicable, or such other procedures as the District board provides, may in its sole discretion levy assessments of the costs of any public infrastructure purpose on any land in the District based on the benefit determined by the District Board to be received by such land (the “*Assessments*”).

I. If the District Board, in its sole discretion, adopts a resolution levying a special assessment on property in the District, pursuant to the Act, special assessment bonds of the District (the “*Assessment Bonds*”) may be issued and sold to provide monies for certain “public infrastructure purposes” described in the General Plan of the District.

J. This Agreement, together with the Land Development Agreement and the CFD Guidelines (each as defined herein) shall set forth some parameters and conditions pertaining to the use of the proceeds of any General Obligation Bonds, Assessment Bonds and amounts which will be collected with respect to the O/M Tax in the future.

K. Pursuant to the Act and the Land Development Agreement, the District is entering into this Agreement with the Developer with respect to, among other things, the expenditure of monies for public infrastructure purposes by the Developer and, if the District, in its sole discretion, sells General Obligation Bonds or Assessment Bonds, the reimbursement of all or part of such expenditures, and the security for, and disbursement and investment of proceeds of, the General Obligation Bonds and the Assessment Bonds.

L. The Municipality has adopted Policy Guidelines and Application Procedures for the Establishment of Community Facility Districts (the “*CFD Guidelines*”) in Resolution No. 21-05, as thereafter amended and adopted by the Municipality in Resolution No. 21-____, to establish certain requirements and procedures applicable to all community facility

districts within the Municipality, including the District except as otherwise provided in this Agreement.

M. Pursuant to the Act and A.R.S. Title 11, Chapter 7, Article 3, the District and the Municipality are entering into the specified sections of this Agreement as an “intergovernmental agreement” with one another for joint or cooperative action for services and to jointly exercise any powers common to them and for the purposes of the planning, design, inspection, ownership, control, maintenance, operation or repair of “public infrastructure,” including particularly to provide for the acceptance by the Municipality and other governmental entities of certain public infrastructure constructed or acquired by the District.

N. The District has entered into the IGA (as defined herein) with WUCFD, SMCFD (each as defined herein) and Superstition Vistas Community Facilities District No. 1 pursuant to Resolution No. ____ of the District Board pertaining to, among other things, public infrastructure to be financed by the District.

O. Nothing contained in this Agreement is intended to limit the District Board in exercising its sole discretion at any time with respect to the approval or rejection of a feasibility report or the issuance of General Obligations Bonds or Assessment Bonds.

AGREEMENT

NOW, THEREFORE, in the joint and mutual exercise of their powers, in consideration of the above premises and of the mutual covenants herein contained and for other valuable consideration, and subject to the conditions set forth herein, the parties hereto agree that:

ARTICLE I

DEFINED TERMS; MISCELLANEOUS MATTERS RELATING TO USE THEREOF; AND GENERAL DISTRICT MATTERS

Section 1.1. (a) For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in this Section have the meanings assigned to them in this Section and include, as appropriate, the plural as well as the singular:

“*Acquisition Project*” means each Project constructed by the Developer pursuant to a Construction Contract and which the Developer intends to preserve the ability to finance with the proceeds of District Bonds, and excludes Infrastructure that is a Construction Project approved by the District Board as described in Section 2.1.

“*Act*” means A.R.S. Title 48, Chapter 4, Article 6, as amended.

“*Agreement*” means this District Development, Financing Participation, Waiver and Intergovernmental Agreement, dated as of _____, 2021, by and among the Municipality, the District and the Developer.

“ASLD” means the Arizona State Land Department.

“*Assessed Property*” means all or a portion of the real property within the District subject to, from time to time, an Assessment.

“*Assessment Bonds*” means any series of special assessment bonds of the District authorized to be sold and issued by the District as described in this Agreement and the Act, payable from amounts collected from Assessments.

“*Assessment Diagram*” means the assessment diagram to be prepared by the District Engineer and the superintendent of streets (as described in A.R.S. § 48-589 and incorporated by reference in the Act pursuant to A.R.S. § 48-721.A.) showing the parcels and lots subject to Assessments.

“*Assessment District*” means the Assessed Property described in the Assessment Diagram which is benefited by the Work upon which Assessments will be levied.

“*Assessments*” means, as to be originally levied and as thereafter reallocated as described herein, the “not to exceed” proportionate share of costs and expenses of the Work levied against each parcel or lot of the Assessed Property pursuant to A.R.S. Title 48, Chapter 4, Article 6.

“*Auction Property*” has the meaning ascribed in the Participation Contract.

“*Bonds*” means, as applicable, any Assessment Bonds or any General Obligation Bonds issued by the District.

“*Certificate of Purchase*” means Certificate of Purchase No. 53-120190, pursuant to which the Developer is entitled to purchase the Property from ASLD.

“*Certificate of the Engineers*” means a certificate of the Developer’s Engineer and the District Engineer in substantially the form of Exhibit C hereto.

“*Community Plan*” means the Master Planned Community Zoning Ordinance and Development Plan for the Auction Property adopted by the Municipality on October 5, 2021, as Ordinance No. _____, together with any amendment thereto approved by the Municipality in the manner required by Community Plan and City Code.

“*Construction Contract*” means a construction or acquisition contract for a Project procured and awarded pursuant to the Public Bid Requirements.

“*Construction Cost*” means an amount equal to the sum of the amounts paid by the Developer or the District for: (1) the cost of any Plans and Specifications which have been approved pursuant to Section 2.6 of this Agreement and comply with Section 5.3 (including the costs of the review of such design by the District Engineer); (2) construction of the Project pursuant to the Construction Contract for such Project (such amount to be equal to the contract amount plus any increases to such contract amount approved as described in Section 3.5 less any change orders decreasing the contract amount); (3) independent third party inspection and

supervision of performance under such Construction Contract; and (4) other miscellaneous or incidental costs for such Project attributable to construction of the Project approved by the District Engineer and as certified in the Certificate of the Engineers for that Project.

“*Construction Project*” means each Project which is a part of Infrastructure constructed by the District as described in Section 2.1.

“*Conveyance*” means a conveyance for a Segment in substantially the form of Exhibit D hereto.

“*days*” means Justinian calendar twenty-four hour periods.

“*Developer*” means D.R. Horton, Inc., a Delaware corporation.

“*Developer’s Engineer*” means any firm of professional engineers procured using Public Procurement Requirements and hired by the Developer after approval thereof by the District Manager to perform the services required therefrom for the purposes hereof.

“*Disclosure Statement*” means the disclosure statement substantially in the form of Exhibit E hereto or such other form agreed to by the Developer and the Municipality.

“*District*” means Superstition Vistas Community Facilities District No. 2, a community facilities district formed by the Municipality, and organized and existing, pursuant to the laws of the State.

“*District Board*” means the board of directors for the District.

“*District Budget*” means the annual budget of the District adopted by the District Board for each Fiscal Year.

“*District Consulting Costs*” means the costs and expenses incurred by the District as described in Section 1.3 of this Agreement.

“*District Engineer*” means such engineer as is appointed or designated, from time to time, on behalf of the District by the District Manager.

“*District Expenses*” means the expenses and costs of the operation and administration of the District including, without limitation, the expenses and costs billed to the District by the Municipality for services relating directly or indirectly to the District, including but not limited to: overhead incurred by the Municipality in providing services to the District and the operation and maintenance of the District’s website including searchable electronic records database pursuant to A.R.S. § 48-727; the expenses and costs of administering and operating the District, including the District Consulting Costs, District Insurance Expense and the costs, time and expenses of staff and overhead incurred by the District; the costs of issuance and administration of Bonds not paid with the proceeds of Bonds; and Initial Expenses not paid pursuant to Section 9.3 of this Agreement.

“*District Indemnified Party*” means the Municipality and each council member, director, trustee, member, officer, official, agent or employee thereof or of the District.

“*District Insurance Expense*” means the annual or semi-annual premium costs and expenses incurred in obtaining a policy or policies of insurance in the form and coverage amounts described in Section 8.3(a) or as otherwise determined by the District Manager exercising his or her sole and absolute discretion, providing for commercial general liability coverage for, from and against the Municipality and the District, its directors, officers, agents and employees against any losses, claims, damages or liabilities, directly or indirectly, arising from or related to activities or administration of the District, including but not limited to, any losses, claims, damages or liabilities related to the offer and sale of the Bonds. District Insurance Expense also includes, to the extent necessary as a result of application to claims under such insurance, amounts to pay the deductible described in Section 8.3(a).

“*District Manager*” means the City Manager, or designee, serving independently from the Municipality as the manager of the District.

“*Engineers*” means, collectively, the Developer’s Engineer (as applicable) and the District Engineer.

“*Estimate*” means the estimate of the Financeable Amount indicated in the Report.

“*Financeable Amount*” means, with regard to any Project, the total of amounts necessary to pay: (1) the total of all Construction Costs or Segment Prices due pursuant to Construction Contracts for any such Project; and (2) (i) all other amounts indicated in this Agreement (including the cost of Plans and Specifications); (ii) all relevant issuance costs related to any Bonds; (iii) capitalized interest for a period not in excess of that permitted by the Act and federal law; and (iv) if requested by the Developer and approved by the District Board, in its sole discretion, an amount necessary to fund a debt service reserve fund in an amount not in excess of that permitted by the Act and federal law as described elsewhere herein.

“*Fiscal Year*” means the twelve (12) month period beginning on July 1 of any year and ending on June 30 of the following year.

“*Force Majeure*” means any condition or event not within the control of a party obligated to perform hereunder, including, without limitation, “acts of God”; strikes, lock-outs, or other disturbances of employer/employee relations; acts of public enemies; orders or restraints of any kind of the government of the United States or any state thereof or any of their departments, agencies, or officials, or of any civil or military authority; insurrection; civil disturbances; riots; epidemics; pandemics; quarantines; curfews; federal, State or local executive orders mandating public obedience to government emergency order mandates; landslides; lightning; earthquakes; subsidence; fires; hurricanes; storms; droughts; floods; arrests; restraints of government and of people; explosion; and partial or entire failure of utilities. Failure to settle strikes, lock-outs and other disturbances of employer/employee relations or to settle legal or administrative proceedings by acceding to the demands of the opposing party or parties, in either

case when such course is in the judgment of the party hereto unfavorable to such party, shall not constitute failure to use its commercially reasonable efforts to remedy such a condition or event.

“*General Obligation Bonds*” means any series of general obligation bonds of the District authorized to be sold and issued by the District.

“*General Plan of the District*” means the General Plan submitted by the Developer in connection with the petition for formation of the District in accordance with the Act.

“*IGA*” means the Intergovernmental Agreement by and among the Apache Junction Water Utilities Community Facilities District, the Superstition Mountains Community Facilities District No. 1, the Superstition Vistas Community Facilities District No. 1 and the Superstition Vistas Community Facilities District No. 2 Pertaining to Community Facilities District Operations, Infrastructure and Financings, dated as of ____, 2021 and recorded ____, 2021, in the Official Records of the Pinal County Recorder as Instrument No. _____.

“*Indemnified Party*” means the Municipality and the District and each council member, legislator, director, trustee, partner, member, officer, official, independent contractor, agent or employee thereof and each person, if any, who controls the Municipality and/or the District within the meaning of the Securities Act. Indemnified Party further includes SMCFD and WUCFD and each director, trustee, partner, member, officer, official, independent contractor, agent or employee thereof, but only in connection with any Infrastructure accepted by SMCFD or WUCFD, respectively.

“*Infrastructure*” means, collectively, the public infrastructure and public infrastructure purposes described in Exhibit B hereto and described in the General Plan of the District to be the subject of a Report.

“*Initial Expenses*” means, the expenses and costs incurred by the District and the Municipality in connection with the formation and initial operation of the District and budgeted District Expenses specifically allocated to the Initial Expenses.

“*Intergovernmental Agreement Act*” means Title 11, Chapter 7, Article 3, Arizona Revised Statutes, as amended.

“*Land Development Agreement*” means the Development Agreement for Superstition Vistas dated October 5, 2021, between the Municipality and the Developer and recorded on _____, 2021, in the Official Records of Pinal County as Instrument No. _____, as the same may be amended from time to time as expressly provided in Section 2.1 of this Agreement.

“*Municipality*” means the City of Apache Junction, Arizona, an Arizona municipal corporation.

“*Necessary Public Property*” has the meaning ascribed in Section 2.5.

“O/M Expenses” means any and all expenses and costs of the operation and maintenance of any Project and accumulating a Replacement Reserve Amount with respect to the Projects including any overhead incurred by the Municipality, or other governmental entity, with respect thereto and specifically allocated to the O/M Expenses.

“O/M Reserve” has the meaning ascribed in Section 9.4.

“O/M Tax” means an ad valorem tax levied at the rate of not to exceed \$0.30 per \$100.00 of net assessed limited property valuation against all real and personal taxable property in the District; provided that such O/M Tax rate may be increased in accordance with the Act.

“Participation Contract” means the Participation and Infrastructure Contract Regarding ASLD Sale No. 53-120190, executed on November 12, 2020, between ASLD and the Developer.

“Patented” has the meaning ascribed in the Participation Contract.

“Plans and Specifications” means the plans and specifications for a Project which, if the District acquires, shall be prepared and reviewed in accordance with the same standards and requirements for plans and specifications for construction projects of the Municipality, or other governmental entity, similar to the Project or the Acquisition Project, as applicable.

“Project” means each component or element which is a part of the Infrastructure on an individual basis and includes both Acquisition Projects and Construction Projects which are the subject of a Construction Contract in the name of the District.

“Property” means the real property described in Exhibit A to this Agreement.

“Public Procurement Requirements” means the public procurement and award processes established pursuant to A.R.S. Title 34, as amended from time to time, and the procurement policies of the Municipality, or other governmental entity, pertaining to projects of the Municipality, or other governmental entity, similar to the Infrastructure.

“Replacement Reserve Amount” means an amount calculated using generally acceptable accounting practices based on the useful life of the various assets comprising the Projects established by the Internal Revenue Code of 1986, as amended, to be used to replace such assets.

“Report” means the study of the feasibility and benefits required by the Act for each applicable Project or Acquisition Project.

“Securities Act” means the Securities Act of 1933, as amended.

“Segment” means a completed, discrete, functional portion of a Project as determined by the District Engineer and the District Manager, in their sole discretion.

“Segment Price” means an amount equal to the sum of the amounts paid by the Developer or the District for: (1) the Plans and Specifications for the Segment if approved by the

District Board as described in Section 2.6 and Section 5.3 of this Agreement, (including the costs of the review of such design by the District Engineer); (2) construction of the Segment pursuant to the Construction Contract for such Segment (such amount to be equal to the contract amount plus any increases to such contract amount approved as described in Section 3.5 less any change orders decreasing the contract amount); (3) independent third party inspection and supervision of performance under such Construction Contract; (4) the fair market value of any real property required for public purposes, other than right-of-way, utility, access easements or other land typically required to be dedicated by developers of infrastructure similar to the Project, if included in a Report approved by the District Board, in its sole discretion; and (5) other miscellaneous or incidental costs for such Segment attributable to design and construction of the Segment approved by the District Engineer and as certified in the Certificate of the Engineers for that Segment.

“*Shortfall*” has the meaning ascribed in Section 9.2(b).

“*SMCFD*” means Superstition Mountains Community Facilities District No. 1, a municipal corporation and political subdivision of the State.

“*State*” means the State of Arizona.

“*Work*” means the portion of the Infrastructure described in the resolution of intention pertaining to the formation of an Assessment District.

“*Work Plans and Specifications*” means, the descriptions of the Infrastructure in the Report and the Plans and Specifications for the corresponding Projects, which shall comprise the Work.

“*WUCFD*” means Apache Junction Water Utilities Community Facilities District, a municipal corporation and political subdivision of the State.

(b) All references in this Agreement to designated “Exhibits,” “Articles,” “Sections” and other subdivisions are to the designated Exhibits, Articles, Sections and other subdivisions of this Agreement as originally executed.

(c) The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Exhibit, Article, Section or other subdivision.

Section 1.2. Except as otherwise specifically provided in this Agreement, the District shall be subject to and governed by the terms and provisions of this Agreement and the applicable terms and provisions of the Land Development Agreement, Community Plan and the CFD Guidelines, as the same may be amended from time to time; provided, in the event of a conflict between the Land Development Agreement, Community Plan, this Agreement and the CFD Guidelines, the Land Development Agreement, Community Plan and this Agreement shall control; provided, further, in the event of a conflict between the Land Development Agreement and Community Plan and this Agreement, the Land Development Agreement and Community Plan shall control.

Section 1.3. The District may retain an independent financial advisor, legal counsel, bond counsel, underwriter, engineer and such other advisors and consultants as the District determines are necessary to assist in its operations, including but not limited to evaluating budgets, reports, financing documents, District construction documents and similar matters. District Consulting Costs shall be included as District Expenses, provided, however, all or certain District Consulting Costs may, if approved by the District Board, be paid with the proceeds of Bonds.

Section 1.4. The District shall maintain its records and conduct its affairs in accordance with the Act, the laws of the State, and this Agreement.

Section 1.5. The Municipality shall be paid by the District for costs and expenses relating to the District and the Infrastructure financed by the District, provided, however, in no event shall the Municipality be paid less than fifteen thousand (\$15,000.00) per fiscal year. The Municipality may request the District to allocate all or any portion of such amount to SMCFD and WUCFD in accordance with the IGA. Upon request of the Developer, the Municipality will provide the District and the District will provide the Developer with an invoice for the Municipality's costs and expenses.

Section 1.6. (a) All Infrastructure described in the District's General Plan (as defined in the Act) that is or expected to be financed with District moneys or proceeds of District Bonds: (i) shall be public infrastructure as described in the Act; and (ii) shall be publicly procured and awarded pursuant to the Public Procurement Requirements.

(b) The form of Notice Inviting Bids shall be in such form as agreed to by the Engineers and approved by the Municipality.

(c) Compliance with the Public Procurement Requirements shall be evidenced by the Certificate of the Engineers.

(d) All Construction Contracts relating to Infrastructure shall provide that the respective contractors or vendors shall not have recourse, directly or indirectly, against the Municipality or other governmental entity, as applicable. In the case of any initial financing provided by the Developer of any Construction Contract relating to Infrastructure for which reimbursement is expected, such Construction Contract shall provide that the respective contractors or vendors shall not have recourse, directly or indirectly, against the District for the payment of any costs under such contract or any liability, claim or expense arising therefrom and that the Developer shall have sole liability for payment under such Construction Contract of all such amounts.

Section 1.7. (a) The Developer, or, after the end of the Developer's Exclusive Period (as defined herein), the District or the Municipality or, if applicable, any third party owning real property within the District, shall have the right to submit to the District Board one or more Reports pertaining to the issuance of Bonds to finance the construction, acquisition or installation of all or a part of the Infrastructure described in the General Plan. The District Board, exercising its sole discretion, may thereafter approve or reject the Report and approve or reject the issuance of District Bonds. With respect to the issuance of Bonds, the District Board

may consider Reports submitted by: (1) the District or the Municipality and issue Bonds upon (and only upon) the earliest to occur of: (i) the twenty-fifth (25th) anniversary of the formation of the District, (ii) the date on which the District has issued seventy percent (70%) or more of the General Obligation Bonds authorized at the election referenced in the Recitals hereto, or (iii) the date on which the undeveloped property then owned (including ownership rights under the Participation Contract) by the Developer within the District represents less than fifteen percent (15%) of the land within the District; provided, further in any such event the District may consider Reports submitted for Assessment Bonds by parties other than the Developer only if no portion of the assessment to be levied to secure the Assessment Bonds will be levied on property owned by the Developer; or (2) parties other than Developer upon (and only upon) the earliest to occur of: (i) the twenty-fifth (25th) anniversary of the formation of the District, or (ii) the date on which undeveloped property then owned (including ownership rights under the Participation Contract) by the Developer within the District represents less than fifteen percent (15%) of the land within the District (the foregoing periods described in clauses (1) and (2) are collectively referred to herein as the “*Developer’s Exclusive Period*”). Any District financing not initiated by the Developer shall be in accordance with the CFD Guidelines and as otherwise approved by the District Board.

(b) Notwithstanding the provisions set forth above in paragraph (a) of this Section, the District Board, at any time, may approve a Report and authorize the issuance and sale of Bonds, notwithstanding whether the Report was submitted by the District or the Municipality, if the proceeds of such Bonds are necessary to: (1) alleviate or otherwise contain bona fide threats, as determined by the District Engineer (provided, however, the Developer may appeal such determination to the District Board and the District Board’s determination shall be conclusive), to public health and safety within the District; (2) construct Infrastructure required to be constructed by the Developer and the Developer has failed to construct such Infrastructure after a written request has been presented by the Municipality or other governmental entity; or (3) to repair or replace Infrastructure which the Municipality, or other applicable governmental entity, is responsible to maintain and which was not installed pursuant to or in conformance with approved plans or specifications or which the District Engineer and Developer’s Engineer mutually agree has failed prior to its expected useful life, as such useful life is established by usual and customary engineering principles, except if such failure is attributable to the failure of the Municipality, or other governmental entity, to maintain such Infrastructure to applicable standards.

(c) The Developer acknowledges and agrees as follows: (1) the approval of any Report, the issuance and sale of Bonds or the District’s levy of taxes, assessments, fees or charges are subject to the sole, absolute and unfettered discretion of the District and District Board; (2) nothing contained in this Agreement or any action or continued actions taken or not taken pursuant to this Agreement shall create any obligation, express or implied, of the District to issue or continue to issue Bonds of any type or amount or levy or continue to levy any tax or assessment of any type or amount; (3) the Developer has no rights and expressly waives any and all future rights, claims or causes of action, express or implied, created by this Agreement for any action or continued actions taken or not taken pursuant to this Agreement or under any other agreement with the District or the Municipality that would create any obligation of the District to issue or continue to issue Bonds of any type or amount or levy or continue to levy any tax or assessment (except as necessary to pay debt service on outstanding Bonds of the District); (4) the

Developer is not relying now or shall not rely in the future on Bonds, taxes, assessments, fees or other District actions for the development of the Property; and (5) upon expiration of the Developer's Exclusive Period, as referenced in Section 1.7(a), or the occurrence of an event described in Section 1.7(b), as applicable, the District may issue Bonds or levy taxes, assessments, fees or charges for purposes other than payment to the Developer for Acquisition Projects then eligible for financing pursuant to Article III of this Agreement. The District shall review submitted Reports in accordance with the time periods described in A.R.S. § 48-715.

Section 1.8. Notwithstanding Section 1.7 above, the Developer shall be permitted to withdraw any Report submitted by the Developer from consideration by the District at any time before the conclusion of the hearing thereon. In the event of such a withdrawal, the District Board shall not approve the Report or adopt any resolution which would effect an implementation of any part of the transaction described in such Report. The Developer shall be permitted to resubmit any such withdrawn Report or any Report which has been rejected by the District Board and then amended by the Developer, at such time as the Developer may, in its sole discretion, deem advisable. The Developer is responsible for the costs incurred prior to the withdrawal, including consultant fees.

ARTICLE II

CONSTRUCTION OF PROJECTS BY THE DISTRICT; ACQUISITION OF PLANS AND SPECIFICATIONS

Section 2.1. Upon a written request of the Developer and after approval by the District Board, exercising its sole discretion, the District may enter into a Construction Contract to construct a portion of the Infrastructure. The District may cause any portion of the Infrastructure to be constructed pursuant to the Plans and Specifications which, in the discretion of the District Manager, allows for development of the Property to proceed in accordance with the terms of the Participation Contract and the Land Development Agreement and any amendment thereto. The District shall not enter into a Construction Contract unless all Necessary Public Property has been conveyed to the Municipality or, if applicable, to the District or other governmental entity pursuant to Section 2.5 of this Agreement.

Section 2.2. (a) The procurement and preparation of the Plans and Specifications and the procurement of the contractor for a Construction Contract for Infrastructure shall be procured and awarded pursuant to the Public Procurement Requirements. The Infrastructure shall be designed and constructed in accordance with the requirements for constructing projects of the Municipality, or other applicable governmental entity, similar to the Projects.

(b) The Infrastructure (or any Project which is a part thereof) shall be procured in one or more parts by and in the name of the District, and Construction Contracts shall be entered into with the respondent selected in accordance with the requirements for awarding contracts pursuant to the Public Procurement Requirements and the requirements of the Municipality, or other applicable governmental entity, pertaining to projects of the Municipality or governmental entity similar to the Construction Contracts.

Section 2.3. None of the Developer or any corporation, partnership or other business entity that owns or controls, is owned or controlled by, or is under common ownership or control with Developer, have been or shall be compensated by any of the Municipality, another governmental entity, or the District for any costs of any Project except as provided herein.

Section 2.4. The public procurement of a Project or, at the sole discretion of the District Board, the award of a Construction Contract in the name of the District, shall occur only after the sale and delivery of the Bonds in an amount sufficient to produce Bond proceeds, together with any cash collections of Assessments or other lawfully available monies, to pay all the applicable Financeable Amounts.

Section 2.5. Unless the District Board, in its sole discretion, agrees such real property is to be acquired by the District as part of the construction of the Project, prior to publicly procuring any Construction Contract for the construction of a Project under this Article II, or at such other time as approved by the District Board or District Manager, in its or his discretion, the Developer or other landowner shall dedicate to the District or the Municipality, as directed by the District Manager, or, if directed by the District Manager, to such other governmental entity (as applicable), without cost, all necessary real property required for the construction, ownership and operation of the Project (the “*Necessary Public Property*”). The type, size and terms of the Necessary Public Property required for the Project shall be as provided for in the Participation Contract, Land Development Agreement and Community Plan, as applicable, and otherwise shall be in compliance with the requirements for public infrastructure projects of, as applicable, the Municipality, or other applicable governmental entity, similar to the Project. In addition, any such dedication to the District, the Municipality, or other governmental entity, as applicable, shall occur after receipt by the District Manager of the following with respect to such Necessary Public Property, in form and substance reasonably satisfactory to the District Manager:

(i) special warranty deed, easement or other conveyance instrument acceptable in form and substance to the Municipality (or other governmental entity) from the Developer or the applicable landowner for such Necessary Public Property executed by an authorized officer of the Developer or other landowner (as applicable),

(ii) such environmental assessments or other evidence satisfactory to the District Manager that such Necessary Public Property does not contain environmental contaminants, historical sites, burial grounds or other conditions which make such Necessary Public Property unsuitable for its intended use or to the extent such conditions are present, a plan satisfactory to the District Manager which sets forth the process by which such Necessary Public Property will be made suitable for its intended use, a plan for remediation of such conditions, if required by the District Manager and the sources of funds necessary to accomplish such purpose, and

(iii) such other documents, instruments, approvals or opinions as the District, Municipality, or other governmental entity, as applicable, may reasonably request including title reports, insurance, findings of no significant impact, etc.

Section 2.6. Plans and Specifications for the Projects which pertain to possible Construction Contracts to be entered into by the District pursuant to this Article II or to possible Acquisition Projects to be acquired pursuant to Article III shall be procured utilizing Public Procurement Requirements. The District shall not be liable for any payment or repayment to the Developer with respect to the Plans and Specifications except as provided by this Agreement.

ARTICLE III

CONSTRUCTION OF ACQUISITION PROJECTS BY THE DEVELOPER; CERTAIN MATTERS RELATED TO PLANS AND SPECIFICATIONS AND CHANGE ORDERS

Section 3.1. Subject to the terms of this Agreement including the obligation of the District under the circumstances described herein to pay the Segment Price for a Segment or the Construction Cost of any Acquisition Project as hereinafter provided, the Developer shall, at the sole cost and expense of the Developer, cause the Infrastructure (other than Infrastructure constructed by the District pursuant to Article II of this Agreement) to be constructed pursuant to the Plans and Specifications, in a fashion which allows for development of the Property to proceed in accordance with the terms of, and the timing provided by, the Community Plan and the Land Development Agreement on real property in which the Developer has an interest.

Section 3.2. (a) The procurement and preparation of the Plans and Specifications and the procurement of a contractor for the construction of an Acquisition Project shall be procured and awarded pursuant to the Public Procurement Requirements applicable to such Project. Construction Contracts and the construction of the Acquisition Project related thereto shall be in accordance with the requirements for constructing projects of the Municipality, or other applicable governmental entity, similar to the Acquisition Project.

(b) The Municipality, the District, or other applicable governmental entity shall not bear any risks, liabilities, obligations or responsibilities under any contract to prepare the Plans and Specifications, under any Construction Contract for Acquisition Projects, or any risk of loss of or damage to any Acquisition Project (or any part thereof) occurring prior to the later of: the time of acceptance or the time of acquisition of such Acquisition Project (or part thereof) pursuant to Article IV.

(c) The Municipality and the District shall each be named as an additional insured party on any and all insurance policies required under the bid specifications for procurement of the Plans and Specifications or the procurement and contract terms of a Construction Contract for any Acquisition Project and as a third party beneficiary with respect to all bonds, warranties and guarantees with respect thereto.

(d) Evidence of final payment, lien releases, assignments and such other documents as required by the District Manager or District Engineer shall be provided by the Developer to the District before any acquisition pursuant to Article IV. If any liens are placed on any portion of an Acquisition Project which is the subject of a Construction Contract or if litigation ensues between the Developer and any contractor or other person with respect to an Acquisition Project or Construction Contract pertaining to an Acquisition Project, the District

shall not acquire the Acquisition Project or any portion thereof until such liens are removed or such litigation is resolved.

Section 3.3. (a) Any advertisement for bids and a Construction Contract for any Acquisition Project or any advertisement for bids and a contract for services relating to the preparation of any Plans and Specifications for any Acquisition Project shall clearly indicate that the Developer will be the “OWNER” for purposes of the Construction Contract or contract for such Plans and Specifications and shall include the following language: **“THE WORK WHICH IS THE SUBJECT OF THE BID IS THE SUBJECT OF A DISTRICT DEVELOPMENT, FINANCING PARTICIPATION, WAIVER AND INTERGOVERNMENTAL AGREEMENT AMONG DEVELOPER, THE CITY OF APACHE JUNCTION, ARIZONA, AND SUPERSTITION VISTAS COMMUNITY FACILITIES DISTRICT NO. 2 PURSUANT TO WHICH SUCH WORK MAY BE ACQUIRED FROM OWNER BY SUCH COMMUNITY FACILITIES DISTRICT. THE SUCCESSFUL BIDDER WILL NOT HAVE RECOURSE, DIRECTLY OR INDIRECTLY, TO SUCH CITY OR COMMUNITY FACILITIES DISTRICT FOR ANY COSTS UNDER ANY CONTRACT OR ANY LIABILITY, CLAIM OR EXPENSE ARISING THEREFROM.”**

(b) Each Construction Contract or contract for such Plans and Specifications shall provide that the respective contractors shall not have recourse, directly or indirectly, against the Municipality, the District, or other applicable governmental entity, for the payment of any costs pursuant to such Construction Contract or contract for such Plans and Specifications or any liability, claim or expense arising therefrom and that the Developer shall have sole liability therefor. Notwithstanding the foregoing, each Construction Contract or contract for Plans and Specifications shall provide for the assignment of all insurance, warranties, guarantees and owner’s rights to the District, the Municipality or other governmental entity, as directed by the District Manager or designee, upon acquisition of the Acquisition Project.

Section 3.4. The Developer shall provide for inspection of Work performed under any Construction Contract by the Engineers and, if applicable the Municipality or other applicable governmental entity. The District and, if applicable, the Municipality, shall comply with the inspection review time periods described in A.R.S. § 48-728. In accordance with the IGA, to the extent applicable, SMCDF and WUCFD have agreed to comply with A.R.S. § 48-728.

Section 3.5. Any change order to any Construction Contract or contract for Plans and Specifications shall be subject to approval by the Engineers (which approval shall not be unreasonably withheld or delayed) and shall be certified to in the applicable Certificate of the Engineers; provided, however, that any change order or the aggregate of any change order and all previously approved change orders: (i) expected to increase the contract amount of a Construction Contract in excess of ten percent (10%); (ii) for work not reasonably related to the scope of work in the Construction Contract; or (iii) constituting a material change to the scope of the Project shall be the subject of the same approval requirements that a change order to a construction contract of, as applicable, the Municipality or other applicable governmental entity

would be subject unless modified by action of the District Board and, specifically, the approval of the District Manager.

ARTICLE IV

ACQUISITION OF ACQUISITION PROJECTS FROM THE DEVELOPER

Section 4.1. (a) Subject to the other terms of this Agreement and after the District Board, exercising its sole discretion, approves a Report, the Developer shall sell to the District, and the District shall acquire from the Developer, the Acquisition Project or Segments thereof, together with (if not previously conveyed or dedicated) the Necessary Public Property, for the Construction Costs or Segment Prices, as applicable.

(b) Acquisition of an Acquisition Project or a Segment shall be financed only pursuant to Section 5.2 hereof.

(c) None of the District, the Municipality, or other applicable governmental entity, shall be liable for any payment or repayment to the Developer with respect to the Acquisition Project except as provided by this Agreement.

Section 4.2. Unless the District, in its sole discretion, agrees such real property is to be acquired as part of the Project, the Developer or other landowner, as applicable, shall dedicate to the District or the Municipality, as directed by the District Manager, or if directed by the District Manager, to such other governmental entity (as applicable), without cost, all Necessary Public Property required for the Acquisition Project or the Segment, as applicable. The type, size and terms of such Necessary Public Property required for the Acquisition Project shall be in accordance with the Participation Contract, the Land Development Agreement and the Community Plan, as applicable, and otherwise shall be in compliance with the requirements for public infrastructure projects of the Municipality, or other governmental entity, similar to the Project. Following the conveyance or dedication of Necessary Public Property to the District, the Municipality or other governmental entity, the District, the Municipality or other governmental entity, as applicable, shall provide any required license or other use right in respect of the Necessary Public Property conveyed or dedicated, as necessary to permit the construction of all or any remaining portion of the Acquisition Project (including performing required warranty work).

Section 4.3. The District shall pay the Construction Cost or Segment Price, as applicable, and acquire from the Developer, and the Developer shall accept the Construction Cost or Segment Price for and sell to the District, the applicable Acquisition Project or Segment described in the approved Report as provided in Section 4.1 within sixty (60) days after receipt by the District Manager of the following with respect to such Acquisition Project or Segment, in form and substance reasonably satisfactory to the District Manager:

- (a) the Certificate of the Engineers;
- (b) the Conveyance;

(c) special warranty deed, easement, map of dedication, plat or other conveyance instrument for all Necessary Public Property, executed by an authorized officer of the Developer or other landowner, or, if applicable, evidence that all Necessary Public Property pertaining to the Segment or the Acquisition Project, as applicable, has been conveyed to the District or dedicated to the Municipality or other governmental entity, as applicable, pursuant to Section 2.5 of this Agreement;

(d) the assignment of all applicable contractors' and materialmen's warranties and guarantees as well as payment and performance bonds;

(e) a letter of acceptance issued by the Municipality, or other governmental entity, and by its terms subject specifically to recordation of the Conveyance which is the subject of such letter;

(f) if applicable, executed agreements pertaining to the Developer's maintenance obligation for such Acquisition Project or Segment; and

(g) such other documents, instruments, insurance, warranties or approvals as may reasonably be requested by the District Manager, or as may be required by the Municipality (if such requirements are consistent with the Land Development Agreement), or other governmental entity, for projects similar to the Acquisition Project, including, with respect to any real property related to the Acquisition Project or Segment, title reports and evidence satisfactory to the District Manager that such real property does not contain environmental contaminants, historical sites, burial grounds or other conditions which make such real property unsuitable for its intended use or, to the extent such conditions are present, a plan satisfactory to the District Manager which sets forth the process by which such real property will be made suitable for its intended use and the sources of funds necessary to accomplish such purpose.

ARTICLE V

FINANCING OF COSTS OF PROJECTS AND PLANS AND SPECIFICATIONS

Section 5.1. (a) Any amounts due pursuant to a Construction Contract wherein the District is the "owner" for purposes of such Construction Contract shall comply with the provisions of Article II of this Agreement.

(b) For any Construction Contract wherein the District is the "owner" for purposes thereof, until the requirements set forth in Article II of this Agreement are satisfied, the District shall not have any obligation to pay any amounts pertaining to any Work or Construction Contract or Plans and Specifications relating thereto.

Section 5.2. (a) To provide for the financing of the acquisition of an Acquisition Project or a Segment thereof as described in Article III of this Agreement, the Developer shall submit a Report pertaining to such Acquisition Project or Segment to the District Board for its approval, which Report the District Board may approve or reject, exercising its sole discretion. If the Report is rejected, explanations for the rejection shall be provided and the

Developer will be given the opportunity to address the District Board's concerns and resubmit the Report for the District Board's consideration. Notwithstanding the approval of the Report, the issuance of Bonds or the District's levy of taxes or assessments shall require District Board approval, which approval or denial may be exercised by the District Board in its sole discretion. Prior to the sale of the Bonds, the Segment Price of that Acquisition Project or Segment shall be paid by the Developer subject to the payment terms of this Agreement.

(b) If the District's issuance of Bonds for the financing of the acquisition of an Acquisition Project is approved, as soon as possible after the sale and delivery of the Bonds, the amount advanced by the Developer for the Construction Cost or Segment Price of an Acquisition Project or a Segment thereof shall, subject to the requirements of Sections 4.2 and 4.3, be paid to the Developer from, and only from, the available, unrestricted proceeds of the sale of the Bonds to the extent only of the remaining amounts thereof (and, if applicable, cash collections, if any, from the Assessments). The District, the Municipality, or, as applicable, other governmental entity, shall not be liable to the Developer or any other landowner (or any contractor or assigns under any Construction Contract) for payment of any Construction Cost or Segment Price except to the extent available, unrestricted proceeds of the sale of the Bonds (and, if applicable, cash collections, if any, from the Assessments) are available for such purpose, and no representation or warranty is given that Bonds will be issued, can be sold or that sufficient available, unrestricted proceeds from the sale of the Bonds shall be available to pay any Construction Cost or Segment Price. In the event there are not sufficient Bond proceeds to pay all of the Construction Cost or Segment Price, nothing contained herein shall preclude the Developer from including the unpaid portion in a future Report or preclude the District from including the unpaid portion in a future Bond financing.

Section 5.3. The costs of any Plans and Specifications for a Project to be constructed by the District pursuant to Article II of this Agreement or for an Acquisition Project pursuant to Article III of this Agreement, and the Construction Costs of any Acquisition Project or Segment Price of a Segment may be paid only after: (i) the District Board's approval of a Report submitted by the Developer, which Report the District Board may approve or reject exercising its sole discretion; (ii) the issuance, sale and delivery of the Bonds (and while there are remaining, available, unrestricted proceeds of the sale of the Bonds) produces Bond proceeds sufficient to pay all Construction Costs or Segment Prices; and (iii) the receipt by the District Manager of reasonable evidence of ownership of the Plans and Specifications including architectural or design materials (including memorandums, notes and preliminary and final drawings) and the related intellectual property rights (including copyright, if any) related to such Plans and Specifications, in all media, including electronic.

Section 5.4. The District, the Municipality or, as applicable, other governmental entity shall not be liable to the Developer or any other landowner (or any contractor or assigns under any Construction Contract) for payment of any Construction Costs or Segment Price or for the costs of Plans and Specifications except to the extent available, unrestricted proceeds of the sale of the Bonds (and, if applicable, cash collections, if any, from the Assessments) are available for such purpose, and no representation or warranty is given that the Bonds can be sold or that sufficient, available, unrestricted proceeds from the sale of the Bonds shall be available to pay such Construction Costs or Segment Price or the costs of such Plans and Specifications. In the event there are not sufficient Bond proceeds to pay all of the

Construction Costs or Segment Price, or the costs of such Plans and Specifications, nothing contained herein shall preclude the Developer from including the unpaid portion in a future Report or preclude the District from including the unpaid portion in a future Bond financing.

Section 5.5. If any cost component described in a Segment Price is procured or otherwise determined with reference to the Project of which the Segment is a part, without reference to particular Segments (e.g., Plans and Specifications), such cost shall be proportionately allocated among the Segments comprising the Project in a manner approved by the District Manager for purposes of determining the applicable Segment Price.

ARTICLE VI

MATTERS RELATING TO THE ASSESSMENT BONDS AND THE GENERAL OBLIGATION BONDS AND OTHER OBLIGATIONS OF THE DISTRICT

Section 6.1. (a) Upon dates established by the District Manager in his or her sole discretion at the request of the Developer and in accordance with the Act, the District Board shall consider Reports submitted by the Developer and if the District Board, exercising its sole discretion, approves such Report, the District Board, in its sole discretion, may take all such reasonable action necessary for the District to issue and sell, pursuant to the provisions of the Act, the Bonds in accordance with the expected method of financing, including the nature and timing of the issuance of the Bonds set forth in the Report.

(b) If the Assessment Bonds or the General Obligation Bonds, as applicable, are not issued or if the available, unrestricted proceeds of the sale of the Assessment Bonds or the General Obligation Bonds are insufficient to pay any or all of the amounts due described in Sections 5.1(a), or 5.2(b), there shall be no recourse against the District, the Municipality or other governmental entity for, and none of the District, the Municipality or other governmental entity shall have liability with respect to, such amounts so due or the Construction Costs or Segment Prices for the Acquisition Project, except from the available, unrestricted proceeds of the sale of the Bonds, if any and as applicable. In the event there are not sufficient Bond proceeds to pay all of the Construction Cost or Segment Price, nothing contained herein shall preclude the Developer from including the unpaid portion in a future Report or preclude the District from including the unpaid portion in a future Bond financing. Notwithstanding anything contained in this Agreement, any Report or the Land Development Agreement, Bonds shall not be issued to pay the Financeable Amount of any Project that does not meet the reimbursement eligibility requirements set forth in Section 7.1.

(c) The District Board shall, in its sole and absolute discretion, determine on a series by series basis the method of sale of the Bonds. The District will consider factors such as investment grade ratings (as assigned by a nationally recognized bond rating agency), public sale or placement and transfer restrictions, if any, at the time each series of Bonds is sold.

(d) All costs of issuance related to the issuance, sale and delivery of the General Obligation Bonds and the Assessment Bonds shall be paid by Developer, unless

otherwise approved by the District Board, in its sole and absolute discretion. On a case by case basis, the District Board may require the Developer to pay an additional amount related to an Assessment Bond or General Obligation Bond transaction for District staff time to process the transaction.

(e) The District may enter into agreements with the Treasurer of Pinal County, Arizona, for the collection of ad valorem property taxes, Assessment installment payments, and other fees and charges imposed by the District. The Developer shall consent, as applicable, to the modification of any Assessment Bond or General Obligation Bond financing transaction structure as necessary to comply with such collection agreement between the Treasurer of Pinal County, Arizona, and the District, including, without limitation, agreeing to the application of proceeds of the General Obligation Bonds and the Assessment Bonds to capitalized interest.

(f) The District shall only levy Assessments on such portion of the Property that is Patented in accordance with the Participation Contract.

Section 6.2. (a) The total aggregate principal amount of all of the series of the General Obligation Bonds shall not exceed \$400,000,000, during the term of this Agreement. The General Obligation Bond authorization shall not expire, but the Developer's ability to request reimbursement from proceeds of the sale of General Obligation Bonds is limited as described in Article VII.

(b) A series of the General Obligation Bonds shall only be issued if the debt service therefor is reasonably projected to be amortized from amounts generated by a tax rate of not to exceed \$3.85 per one hundred dollars (\$100.00) of net assessed limited property valuation of taxable property within the boundaries of the District as indicated on the certified tax roll for the current tax year; provided, however, and notwithstanding the foregoing, General Obligation Bonds may be issued if authorized by the District Board, in its sole discretion, where a tax rate greater than \$3.85 is necessary to pay the combined debt service of a proposed and any outstanding General Obligation Bonds if other financial assurances, sources of revenue or security acceptable to the District Board, in its sole discretion, are provided to secure the payment of debt service on the General Obligation Bonds.

(c) For purposes of the foregoing, a delinquency factor for tax collections equal to the greater of five percent (5%) or the historic, average, annual, percentage delinquency factor for the District calculated at or near the time of the issuance of the General Obligation Bonds shall be assumed; all property in the District owned by the Developer (including any ownership interest pursuant to the Participation Contract) or any entity owned or controlled (as such term is used in the Securities Act) by the Developer shall be assigned the last certified assessed value such property had when categorized as "vacant" for purposes of net assessed limited property valuation and the debt service for any outstanding series of the General Obligation Bonds theretofore issued shall be taken into account in determining whether such tax rate will produce adequate debt service tax collections; provided, however, and without limiting the District's sole discretion pertaining to a decision whether to issue Bonds, the District and the Developer shall use their best efforts to issue the first series of the General Obligation Bonds no later than necessary to have the debt service tax rate of \$3.85 appear on the first tax bill

applicable to any single family residential dwelling unit to be located within the boundaries of the District to be owned by other than the Developer or any entity owned or controlled (as such term is used in the Securities Act) by the Developer or any homebuilder to whom the Developer or any entity owned or controlled (as such term is used in the Securities Act) by the Developer sells property within the boundaries of the District.

(d) If requested in the Report or determined to be necessary in the sole discretion of the District Board, the “sale proceeds” of the sale of such series of General Obligation Bonds shall include an amount sufficient to fund a reserve fund, which shall be a reserve to secure payment of debt service on that series of the General Obligation Bonds, in an amount not to exceed the maximum amount permitted by the Internal Revenue Code of 1986, as amended, and the Treasury Regulations applicable thereto.

(e) At the sole discretion of the District Board, until such time as all of the Property is Patented pursuant to the Participation Contract, in connection with the issuance of any series of General Obligation Bonds requested in a Report submitted by the Developer, the District Board may require any such series of General Obligation Bonds to have redemption features or final maturity dates as determined appropriate by the District Board in its sole and absolute discretion, and further the District Board may require the projected debt service of any such series of General Obligation Bonds to be calculated using a net assessed limited property valuation which excludes any portion of the Property that is not Patented.

Section 6.3. (a) The District Board shall, from time to time and in its sole discretion, take all such reasonable action necessary for the District to levy Assessments and to issue and sell, pursuant to the provisions of the Act, the CFD Guidelines, and this Agreement, Assessment Bonds, in an amount not to exceed the Financeable Amount. The Developer and any landowners shall consent to and assist with necessary actions for the District to levy Assessments and issue and sell Assessment Bonds, including, without limitation, entering into waiver and development agreements pertaining to formation of assessment districts and levying Assessments. The Developer’s ability to request reimbursement from proceeds of the Assessment Bonds is limited as described in Article VII. Assessments shall only be levied on portions of the Property that have been Patented pursuant to the Participation Contract.

(b) (1) The Assessments shall be levied based on the Financeable Amount, but in any case shall, subject to Section 6.3(d), not exceed \$5,000 per single family residential lot. Upon the request of the District, the Developer shall submit data and other information pertaining to the expected average full cash value of the improved residential parcel, such as comparable sales prices, per foot construction costs, or independent estimates or appraisals.

(2) The Assessments may be levied pursuant to the procedures prescribed by A.R.S. §§ 48-576 through 48-589, as amended, as nearly as practicable and except as otherwise provided herein, upon all of the Assessed Property in an amount equal to the Financeable Amount based on the benefits to be received by and as allocated to the Assessed Property and shall be collected pursuant to the procedures prescribed by A.R.S. §§ 48-599 and 48-600 as nearly as practicable.

(3) The Developer and any other landowners shall accept the Assessments which are in an amount not more than the Financeable Amount against the Assessed Property and have the Assessments allocated and recorded against the Assessed Property; provided, however, that the District Board may modify the Assessments after the Assessments have been assessed to correspond to subsequent changes, modifications or subdividing of the Assessed Property but in no case shall the aggregate total of all Assessments be reduced below a total necessary to provide for debt service for the corresponding Assessment Bonds.

(4) In the event of nonpayment of any of the Assessments, the procedures for collection thereof and sale of the applicable portion of the Assessed Property prescribed by A.R.S. §§ 48-601 through 48-607 shall apply, as nearly as practicable, except that pursuant to A.R.S. § 48-721 neither the District nor the Municipality is required to purchase any of the Assessed Property at the sale if there is no other purchaser.

(5) Assessments on single family residential lots may be prepaid at any time and the Assessment Bonds secured by such Assessments shall provide for redemption on any interest payment date, without penalty or premium, unless the District approves different prepayment terms, such approval shall be deemed granted if different prepayment terms are set forth in approved bond proceedings. To prepay in whole or in part the applicable portion of any of the Assessments, the following shall be paid in cash to the District: (I) the interest on such portion to the next date Bonds may be redeemed plus (II) the unpaid principal amount of such portion rounded up to the next highest multiple of \$1,000 plus (III) any premium due on such redemption date with respect to such portion plus (IV) any administrative, engineering or other fees charged by the District with respect thereto.

(6) The Developer and any other landowners hereby acknowledge that lenders and other parties involved in financing future improvements on the Assessed Property (including mortgages for single family residences) may require that liens associated with the Assessments (or applicable portions thereof) be paid and released prior to accepting a lien with respect to any such financing.

(c) (1) This Agreement shall be construed to be an express consent by the Developer and all landowners that with respect to the issuance of any Assessment Bonds that: (I) the District may, with respect to the Assessed Property, incur costs and expenses necessary to complete the Work and (II) the District may levy and collect the Assessments in amounts sufficient to pay the Financeable Amount, including the Work, but not in excess of the Financeable Amount.

(2) The mailing to the governing body of the Municipality of the Estimate and the Plans and Specifications in the form of the Report pursuant to A.R.S. § 48-715, shall satisfy the filing requirements of A.R.S. § 48-577.

(d) At the time of a limited or a private sale of the Assessment Bonds, an appraisal prepared by an MAI appraiser must show that the bulk, wholesale value of each parcel comprising the Assessed Property with all of the Infrastructure described in the Report, and to be financed by the Assessment Bonds and/or for which performance bonds have been

obtained, in place as of the date of valuation has a value to lien ratio at least four (4) times as much as the principal amount of the Assessment Bonds assessed to such parcel. In the case of a public sale of Assessment Bonds, an appraisal prepared by an MAI appraiser must show that the bulk, wholesale value of each parcel comprising the Assessed Property with all of the Infrastructure described in the Report, and to be financed by the Assessment Bonds and/or for which performance bonds have been obtained, in place as of the date of valuation has a value to lien ratio at least six (6) times as much as the principal amount of the Assessment Bonds assessed to such parcel.

(e) If requested in the Report or determined to be necessary in the sole discretion of the District Board, the proceeds of the Assessment Bonds shall include an amount sufficient to fund a reserve fund, which shall be a reserve to secure payment of debt service on the Assessment Bonds, in an amount not to exceed the maximum amount permitted by the Internal Revenue Code of 1986, as amended, and the Treasury Regulations applicable thereto. Payment from such reserve shall not effect a reduction in the amount of the Assessments, and any amount collected with respect to the Assessments thereafter shall be deposited to such reserve to the extent the Assessments are so paid therefrom.

(f) The proceeds of the sale of the Assessment Bonds may include an amount sufficient to fund interest accruing on such series of the Bonds in accordance with the Act.

Section 6.4. In the event any portion of the Property is not eligible for an Assessment for any reason, including, without limitation, a determination by the District Board in its sole and absolute discretion, the Developer shall not assess fees or other costs against any of the Property as an alternative to, or in lieu of, the Assessments that would otherwise be paid by owners of the Property related to Bonds without the prior written approval of the District Board, in its sole and absolute discretion. Provided, however, that if the fees or other costs assessed by the Developer as an alternative to, or in lieu of, the Assessments does not exceed the Assessments for other comparable property within the applicable Assessment District, then the District Manager, in his or her sole and absolute discretion, may approve such fees or costs without action by the District Board.

Section 6.5. Other than (1) this Agreement, (2) the Assessment Bonds and the General Obligation Bonds and (3) any obligations necessary in connection with either of the foregoing, the District shall not incur, or otherwise become obligated with respect to, any other obligations.

ARTICLE VII

ACCEPTANCE BY THE MUNICIPALITY AND REIMBURSEMENT ELIGIBILITY

Section 7.1. Upon satisfaction of the terms for acceptance of the Infrastructure established by the Municipality or other applicable governmental entity and compliance with the provisions set forth in this Agreement and in the Land Development Agreement, the Municipality, or as applicable, other governmental entity, shall accept such Infrastructure. Unless previously paid by the proceeds of the District's Bonds, if sufficient Bond proceeds are

available, the District shall, simultaneously with the acceptance, pay the related Project Construction Cost or Segment Price. If sufficient Bond proceeds are not available, the Municipality or, as applicable, other governmental entity, shall accept such Infrastructure, subject to the right of the Developer within the immediately succeeding ten (10) years from the date of acceptance to seek reimbursement from the District for the advance of Project Construction Costs and/or Segment Prices made by the Developer for the benefit of the District from future Bond proceeds; provided, if the Developer seeks reimbursement there shall be deducted from the reimbursement amount the amount, if any, expended by the Municipality, the District or, as applicable, the other governmental entity, for the purposes described in Section 1.7(b)(3). The Project shall be accepted by the Municipality or, as applicable, other governmental entity, subject to the conditions pursuant to which facilities such as the Projects so constructed are typically accepted by the Municipality or, as applicable, other governmental entity, including for purposes of the maintenance and operation thereof, except as otherwise provided in the Land Development Agreement, and all warranties. Unless previously dedicated and approved for public use by the Municipality or, as applicable, other governmental entity, after acceptance the Project or Segment shall be made available for use by the general public.

ARTICLE VIII

INDEMNIFICATION AND INSURANCE

Section 8.1. (a) The Developer (1) shall indemnify and hold harmless each Indemnified Party for, from and against any and all losses, claims, damages or liabilities, joint or several, arising from any challenge or matter relating to the formation, activities or administration of the District (including the establishment of the Assessed Property), or the carrying out of the provisions of this Agreement (but not for any matters which are related to infrastructure which is not part of the Infrastructure), including particularly but not by way of limitation for any losses, claims or damages or liabilities (A) related to the levy or collection of any tax or assessment which pays or secures any Bonds; (B) to which any such Indemnified Party may become subject, under any statute or regulation at law or in equity or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact set forth in any offering document relating to the 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 statement therein, in light of the circumstances in which they were made, not misleading in any material respect; (C) to the extent of the aggregate amount paid in any settlement of any litigation commenced or threatened arising from a claim based upon any such untrue statement or alleged untrue statement or omission or alleged omission if such settlement is effected with the written consent of the Developer (which consent shall not be unreasonably withheld); and (D) related to any Construction Contract or Project constructed pursuant to a Construction Contract, including claims of any contractor, vendor, subcontractor or supplier and (2) shall reimburse any legal or other expenses reasonably incurred by any such Indemnified Party in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however that the foregoing shall not apply to any loss, claim, damage or liability to the extent arising from the activities or administration of

the District with respect to any portion of the Infrastructure that has been accepted by the Municipality, or, as applicable, other governmental entity, pursuant to Section 7.1.

(b) Section 8.1(a) shall, however, not be applicable to any of the following:

(1) to the extent matters involve any gross negligence or willful misconduct of any Indemnified Party,

(2) subject to Section 8.3(c), to the extent any loss, claim, damage or liability for which and to the extent there is insurance coverage, procured for the benefit of the District (excluding any self-insurance or coverage provided pursuant to any insurance contracts obtained by the Municipality in the course of its normal business and not specifically for community facilities district purposes) which names the District as an insured or beneficiary, in order to provide insurance against the errors and omissions of the District Board or the other representatives, agents or employees of the District and, subject to Section 8.3(c), to the extent any loss, claim, damage or liability that is covered by any commercial general liability insurance policy or other financial security instrument actually procured which names the District as an insured or beneficiary. In the event that the insurance available to the Indemnified Party is insufficient to reimburse the Indemnified Party for its actual losses, claims, damages or liabilities, then the Indemnified Party has a right to indemnification from the Developer, but only to the extent that indemnification by the Developer will be secondary to, and in excess of, the insurance available pursuant to this Section 8.1(b)(2) of the Indemnified Party; provided, however, that indemnification by the Developer will not be secondary to any available insurance procured pursuant to Section 8.3(c) or in the event the District is otherwise unable to procure insurance because of a breach by the Developer to pay amounts due pursuant to Section 9.2 or Section 9.3,

(3) to the extent any loss, claim, damage or liability arises from or relates to defects in any Infrastructure (i) not constructed by the Developer, or (ii) constructed by the Developer that are not known to the Developer and are discovered after any applicable warranty period following acceptance thereof by the Municipality or, if applicable, other governmental entity, pursuant to Section 7.1,

(4) matters arising from or involving any material breach of this Agreement by the District or any other Indemnified Party,

(5) the activities or administration of the District with respect to Bonds or Infrastructure that is not the result of a Report submitted by the Developer,

(6) the levy and collection of any tax or assessment in order to pay O/M Expenses which the Developer is not obligated to pay or any such levy and collection in order to provide for the payment of Bonds which were not issued and sold as the result of a Report submitted by the Developer,

(7) the offer or sale of any Bonds which are not the result of a Report submitted by the Developer, or

(8) the claims of any contractor, vendor, subcontractor or supplier under any Acquisition Project Construction Contract or Construction Contract which is not initiated by, or is not the subject of an approved Report submitted by, the Developer.

(c) An Indemnified Party shall, promptly after the receipt of notice of a written threat of the commencement of any action against such Indemnified Party in respect of which indemnification may be sought against the Developer, notify the Developer in writing of the commencement thereof and provide a copy of the written threat received by such Indemnified Party. Failure of the Indemnified Party to give such notice shall reduce the liability of the Developer by the amount of damages attributable to the failure of the Indemnified Party to give such notice to the Developer but the omission to notify the Developer of any such action shall not relieve the Developer from any liability that it may have to such Indemnified Party otherwise than under this section. In case any such action shall be brought against an Indemnified Party and such Indemnified Party shall notify the Developer of the commencement thereof, the Developer may, or if so requested by such Indemnified Party shall, participate therein or defend the Indemnified Party therein, with counsel satisfactory to such Indemnified Party and the Developer (it being understood that, except as hereinafter provided, the Developer shall not be liable for the expenses of more than one counsel representing the Indemnified Parties in such action), and after notice from the Developer to such Indemnified Party of an election so to assume the defense thereof, the Developer shall not be liable to such Indemnified Party under this section for any legal or other expenses subsequently incurred by such Indemnified Party in connection with the defense thereof, subject to the Developer's obligations under Section 8.1(a) of this Agreement; provided, however, that unless and until the Developer defends any such action at the request of such Indemnified Party, the Developer shall have the right to participate at its own expense in the defense of any such action. If the Developer shall not have employed counsel to defend any such action within a reasonable period of time after receipt of written notice of such action or if an Indemnified Party shall have reasonably concluded that there may be defenses available to it and/or other Indemnified Parties that are different from or additional to those available to the Developer (in which case the Developer shall not have the right to direct the defense of such action on behalf of such Indemnified Party, which right may be exercised by an Indemnified Party) or to other Indemnified Parties, the legal and other expenses, including the expense of separate counsel, incurred by such Indemnified Party shall be borne by the Developer.

Section 8.2. To the extent permitted by applicable law, the District shall indemnify, defend and hold harmless each Indemnified Party who is not an independent contractor for, from and against any and all liabilities, claims or demands for injury or death to persons or damage to property arising from in connection with, or relating to the performance of this Agreement by the District and any of its officials, officers, employees and agents. The District shall not, however, be obligated to indemnify the District Indemnified Parties with respect to damages caused by the negligence or willful misconduct of the District Indemnified Parties. The District shall not indemnify, defend and hold harmless the Municipality or any other governmental entity with respect to matters relating to public infrastructure owned by the Municipality or any other governmental entity.

Section 8.3. (a) The District shall procure and maintain general liability and public official liability insurance for the District and each member of the District Board with

limits of \$1,000,000 per occurrence or claim, an annual aggregate liability of \$3,000,000, with defense costs not included in the limits, and terms and conditions acceptable to the Developer in its reasonable discretion. The District shall maintain an additional \$2,000,000 of excess insurance above such primary underlying limits. The deductible associated with the insurance obtained for the District and the members of the District Board shall not be more than \$25,000 per occurrence or claim (provided that if such insurance is obtained in accordance with Section 8.3(c), the deductible associated with the insurance shall not be more than \$75,000 per occurrence). Otherwise, such insurance shall be procured in accordance with the CFD Guidelines and may include different terms than described in this Section if approved by the District Manager in his or her sole discretion.

(b) Subject to the provisions of Section 8.3(c), the insurance required by Section 8.3(a) shall be primary to, and will not seek contribution from, any insurance available to the District as an additional insured pursuant to Section 8.4. Any insurance benefit of the District as an additional insured pursuant to Section 8.4 shall be in excess of any insurance required by Section 8.3(a). Subject to the provisions of Section 8.3(c), if any of the Municipality, or other applicable governmental entities expected to accept Infrastructure, qualify as an insured under the insurances required by Section 8.3(a), then the insurances described in Section 8.3(a) shall be primary to, and will not seek contribution from, any insurance that is available to the Municipality or other applicable governmental entities, as an additional insured pursuant to Section 8.4, and any insurance for the benefit of the Municipality or other applicable governmental entity as an additional insured pursuant to Section 8.4 shall be excess of any insurance required by Section 8.3(a). The District shall obtain all endorsements to its policies of insurance that are needed to cause its policies to comply with this requirement.

(c) At any time when the Developer is in breach of its payment obligations pursuant to Section 9.2 or Section 9.3, or at any time when no Bonds that are the result of a Report submitted by the Developer are outstanding, the District Manager, in his or her sole discretion, may obtain the insurance required by Section 8.3(a) through a risk retention pool available to certain political subdivisions of the State. If the District obtains insurance through a risk retention pool, then, so long as such insurance is provided by a risk retention pool, Section 8.3(b) shall be of no force and effect and in no event shall any insurance coverage provided by such risk retention pool be primary to the insurance available to the District pursuant to Section 8.4 or the indemnification available to the District pursuant to Section 8.1.

Section 8.4. The Developer, in connection with its development activities and operation for development of the Property pursuant to the Participation Contract, the Land Development Agreement, the Community Plan and this Agreement, and at its own expense, shall maintain “occurrence” form commercial general liability insurance which names the District, the Municipality, and other governmental entities anticipated to accept Infrastructure, with limits of not less than \$1,000,000 for each occurrence, \$2,000,000 products and completed operations aggregate, and \$2,000,000 general aggregate. Proof of such insurance shall be provided to the District Manager annually by July 1 of each calendar year as long as development activities and operations for development of the Property pursuant to the Participation Contract, the Land Development Agreement, the Community Plan and this Agreement are, from time to time, occurring. In no event shall the Developer be required to maintain insurance specified in this

Section 8.4 after the District has acquired from the Developer public infrastructure from proceeds of the sale of the General Obligation Bonds in the amount of \$350,000,000.

ARTICLE IX

PAYMENT OF CERTAIN EXPENSES AND COSTS

Section 9.1. (a) To provide for expenses and costs required to administer the General Obligation Bonds and the levy and collection of ad valorem taxes for payment of the debt service for any General Obligation Bonds and any purposes otherwise related to such activities of the District, amounts shall be budgeted by the District Board each Fiscal Year in the District Budget for such purposes and may be paid from amounts available from the tax levy described in Section 6.2(b).

(b) To provide for the payment of expenses and costs required to administer the Assessment Bonds and the levy and collection of the Assessments and any purposes otherwise related to such activities of the District, amounts shall be budgeted by the District Board each Fiscal Year in the District Budget for such purposes and may be paid from amounts collected for such purposes as a portion of the interest portion of the installments due with respect to the Assessments.

Section 9.2. (a) To provide for the payment of the District Expenses and the O/M Expenses, the District Board shall levy all or a portion of the O/M Tax and shall apply the collections of the O/M Tax *first* to pay the District Expenses and *second* to pay any remaining O/M Expenses.

(b) Provided the District has levied or will levy in the Fiscal Year the maximum authorized tax rate for the O/M Tax, and to the extent the collections of the O/M Tax are not sufficient to pay the District Expenses, the Developer or, if approved by the District Manager in his or her sole discretion, in lieu of the Developer, a homeowners' association, property owners' association or similar association (an "*HOA*"), shall be liable and obligated to pay to the District on May 1 of each year of the District the amount of any shortfall indicated in the District Budget for the next Fiscal Year between the projected O/M Tax revenues for the Fiscal Year and the aggregate amount of the District Expenses for such Fiscal Year (the "*Shortfall*"), including any amount required because of any Shortfall in the prior Fiscal Year as provided in such District Budget and no matter how such Shortfall was otherwise funded. The obligation of the Developer or HOA to pay the Shortfall pursuant to this Section shall only be effective until May 1 after the levy of the O/M Tax at \$0.30 per \$100.00 of net assessed limited property value results in actual collections equal to or greater than \$250,000 for three consecutive Fiscal Years, and such collections are sufficient to pay all District Expenses reflected in the respective District Budget for such three consecutive Fiscal Years. The District shall only levy the O/M Tax in an amount necessary for the District Expenses and the O/M Expenses reflected in the District Budget for the applicable Fiscal Year of the District and only in reasonable amounts therefor.

Section 9.3. The Developer shall be obligated to promptly deposit with the District such amounts and, at such times as are required by the CFD Guidelines (for example, without limitation, a \$60,000 initial deposit, additional \$25,000 deposits (or such other additional deposit amount approved by the District Manager or designee not less than \$5,000) from time to time, and at no time shall the balance fall below \$25,000, all as further described in the CFD Guidelines), provided, in no event shall the Developer be required, after the second full Fiscal Year in which the O/M Tax is levied, to deposit amounts in excess of the estimated Shortfall, or portion thereof, which the Developer is obligated to pay for the next succeeding Fiscal Year. The District shall provide written notice to the Developer when additional deposits are required. Upon the request of the Developer, an accounting will be made to the Developer of all amounts spent for the Initial Expenses, to date. Amounts paid pursuant to this Section by the Developer which may be reimbursed under applicable law to the Developer from the proceeds of the sale of Bonds shall, at the request of the Developer and to the extent of available amounts therefor, be included as part of the uses of the Bond proceeds.

Section 9.4. (a) Within twenty (20) days of formation of the District, the Developer shall be obligated to deposit \$100,000 with the District (the “*O/M Reserve*”). The District shall maintain the O/M Reserve in a non-interest bearing account separate from the general operating accounts of the District.

(b) In the event the Developer fails to pay the amounts to the District required by Section 9.2(b) or Section 9.3, the District may apply the O/M Reserve to Initial Expenses and District Expenses, as applicable. If the Participation Contract is terminated, or if at any time the District applies any portion of the O/M Reserve to Initial Expenses or District Expenses due to the Developer’s nonpayment described in the preceding sentence, then (i) Section 9.4(c) shall not apply, (ii) the District shall transfer any unspent balance of the O/M Reserve to the general operating accounts of the District and (iii) close the separate non-interest bearing account.

(c) Not later than 180 days after all Property has been Patented in accordance with the Participation Contract and receipt by the District of a written request from the Developer, the District shall disburse \$100,000 to the Developer.

(d) The O/M Reserve may not be used for the payment of principal or interest on the District’s Bonds, and is not a reserve or replacement fund for federal tax law purposes.

ARTICLE X

MISCELLANEOUS

Section 10.1. Federal Tax Law Compliance. The Municipality, the District and the Developer shall not knowingly take, or cause to be taken, any action which would cause interest on any Bond to be includable in gross income for federal income tax purposes of the Internal Revenue Code of 1986, as amended.

Section 10.2. **Disclosure Statement.** (a) To provide evidence satisfactory to the District Manager that any prospective purchaser of land within the boundaries of the District has been notified that such land is within the boundaries of the District and that the Bonds may be then or in the future be outstanding, the Disclosure Statement shall be produced by the Developer or each homebuilder to whom the Developer has sold land and signed by each subsequent owner of real property in the District, and such executed Disclosure Statement shall be provided to the District as set forth below; provided, however, that the Disclosure Statement may be modified as necessary in the future to adequately describe the District and the Bonds and source of payment for debt service therefor as agreed by the District Manager and the Developer or any homebuilder to whom the Developer has sold land. The failure to provide any subsequent owner of real property in the District the Disclosure Statement will not relieve the Developer or any other owner of real property in the District from the payment of any District tax, assessment, fee or charge.

(b) The Developer or each homebuilder to whom the Developer has sold land shall:

(1) cause any purchaser of land to sign the Disclosure Statement upon entering into a contract for purchasing such land;

(2) provide a copy of each fully executed Disclosure Statement to be filed with the District Manager; and

(3) provide such information and documents, including audited financial statements, to any necessary repository or depository, but only to the extent necessary for the underwriters of the Bonds to comply with Rule 15c2-12 of the Securities Exchange Act of 1934, as amended.

(c) Any seller of a property in the District who is otherwise required to obtain a subdivision public report as prescribed by A.R.S. § 32-2183 shall disclose to a prospective purchaser the existence of the District, the purpose for which the District was formed as set forth in the resolution forming the District, the estimated tax rate and the estimated annual tax amount that is based on applying that tax rate to a hypothetical residential property.

Section 10.3. **Binding Effect.** (a) Subject to Section 10.3(b), this Agreement shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective legal representatives, successors and assigns and the rights, title, interest, duties, liabilities and obligations under this Agreement are attached to and run with the Property; provided, however, that except as provided in Section 10.3(c), none of the parties hereto shall be entitled to assign its rights and obligations hereunder or under any document contemplated hereby without the prior written consent of the other parties to this Agreement, which consent shall not be unreasonably withheld.

(b) In the event of the Developer's default and forfeiture of its interest under the Certificate of Purchase prior to the Developer acquiring all of the Property in accordance with the Certificate of Purchase, the Developer shall, if so directed by ASLD and without any consent or approval required from the Municipality or the District, concurrently

relinquish and assign to ASLD, coupled with an appointment of ASLD as Developer's attorney-in-fact for such purpose, all right and interest of the Developer under this Agreement and with respect to the District, and shall execute and deliver such further consents and documents as ASLD may request to evidence such relinquishment and assignment. Upon Developer's relinquishment and assignment of all right and interest of the Developer under this Agreement and with respect to the District, Developer will be relieved of all duties, obligations, and liabilities arising after the effective date of such relinquishment and assignment, except for any continuing or future obligations and liabilities with respect to Bonds issued, or Projects or Infrastructure acquired, by the District pursuant to a Report submitted by D.R. Horton, Inc. to the District Board, and including the activities or administration of the District related thereto. The Municipality and the District each hereby agree, in respect of ASLD's and the Developer's rights and obligations under this Section to take all steps necessary to accommodate the assignment and relinquishment by the Developer. Prior to, or promptly after, such relinquishment and assignment, D.R. Horton, Inc. shall prepare a list of Acquisition Projects or Segments thereof that are eligible for acquisition by the District in accordance with Article IV and Article VII, and submit such list to the District and ASLD (the "*Horton Residual Project List*"). Following the relinquishment and assignment described above, D.R. Horton, Inc. may submit Reports to the District Board pertaining to Projects described in the Horton Residual Project List, and the District may, in its sole discretion, issue Assessment Bonds or General Obligation Bonds to finance the acquisition of such Projects (and any Projects that were the subject of Reports submitted by the Developer to the District Board prior to the relinquishment and assignment described above) in accordance with Section 5.2; provided that the proceeds of any General Obligation Bonds shall be equitably allocated, in accordance with Section 2.7 of the Participation Contract, between D.R. Horton, Inc. and any other party or parties eligible to receive proceeds of the General Obligation Bonds. Notwithstanding the foregoing, the District shall not issue Bonds pertaining to Reports submitted by or on behalf of D.R. Horton, Inc. related to Projects included in the Horton Residual Project List (or Projects that were the subject of Reports submitted by the Developer to the District Board prior to the relinquishment and assignment described above) unless D.R. Horton, Inc. has provided financial assurances and indemnifications to the District substantially similar to the financial assurances and indemnifications required from the Developer under this Agreement. This Section 10.3(b) shall survive the termination of this Agreement and may not be amended, modified, supplemented, restated, replaced, or terminated without the prior written consent of the District, the Municipality, ASLD, and D.R. Horton, Inc., and, upon execution and delivery by Brookfield Homes Holdings LLC, a California limited liability company ("*Brookfield*"), of the Assignment and Assumption Agreement referenced in Section 10.3(c) below, Brookfield, which consent may be given or withheld in such party's sole and absolute discretion.

(c) Notwithstanding the foregoing, if (i) Developer and ASLD execute an amendment to the Participation Contract allowing Developer to convey the Property to a third party and (ii) Developer enters into a purchase agreement to convey the Property to Brookfield, as evidenced by a recorded memorandum thereof (the "*Purchase Agreement*"), Developer shall have the right, without further approvals, to assign all of its rights and obligations under this Agreement to Brookfield, and Developer, Brookfield, the District and the Municipality shall execute an amendment, assignment, and assumption of this Agreement, a form of which is attached as Exhibit F (the "*Assignment and Assumption*"). Upon the effective date of the Assignment and Assumption, Developer will be relieved of all duties, obligations, and liabilities

arising after the effective date of the Assignment and Assumption, except for any continuing or future obligations and liabilities with respect to Bonds issued, or Projects or Infrastructure acquired by the District pursuant to a Report submitted by D.R. Horton, Inc. to the District Board, and including the activities or administration of the District related thereto.

(d) In the event the Purchase Agreement is terminated due to a default by Brookfield, Brookfield shall, if so directed by Developer, assign all of its rights and obligations under this Agreement to Developer, and Developer, Brookfield, the District and the Municipality shall execute an amendment, assignment, and assumption of this Agreement. Upon the effective date of such assignment, Brookfield will be relieved of all duties, obligations, and liabilities arising after the effective date of such assignment, except for any continuing or future obligations and liabilities with respect to Bonds issued, or Projects or Infrastructure acquired, by the District pursuant to a Report submitted by Brookfield to the District Board, and including the activities or administration of the District related thereto.

(e) To the extent applicable and subject to the Participation Contract and Section 10.3(b), upon any bankruptcy or dissolution of the Developer, the Developer's interest herein may be assigned by a bankruptcy judge or other court of competent jurisdiction to a subsequent purchaser, receiver or trustee, who shall have the ability to seek reimbursement from the District's Bonds as otherwise described herein.

Section 10.4. Acknowledgment and Effect. Each party hereto shall, promptly upon the request of any other, have acknowledged and delivered to the other any and all further instruments and assurances reasonably requested or appropriate to evidence or give effect to the provisions of this Agreement.

Section 10.5. Entire Agreement; No Exception to Title. This Agreement sets forth the entire understanding of the parties as to the matters set forth herein as of the date this Agreement is executed and cannot be altered or otherwise amended except pursuant to an instrument in writing signed by each of the parties hereto; provided, however, that an amendment signed by only the Developer and the District shall be effective against the Developer and the District only if such amendment does not amend any right, benefit or obligation of the Municipality and an amendment signed by the Developer, the District and the Municipality shall be effective against the Developer, the District and the Municipality, as applicable, with respect to any amendment that does amend the Municipality's rights, benefits or obligations under this Agreement. This Agreement is intended to reflect the mutual intent of the parties with respect to the subject matter hereof, and no rule of strict construction shall be applied against any party. This Agreement shall not create conditions or exceptions to title to or, except with regard to waivers, consents and other matters relating to Assessments, covenants running with any individual lots into which the Property is subdivided. Any title insurer can rely on this Section when issuing any commitment to insure title to any individual lot or when issuing a title insurance policy for any individual lot. For this section "lot" shall be any lot upon which a home or commercial building has been completely constructed and approved to be occupied that is contained in a recorded subdivision plat that been approved by the Municipality or any parcel of land conveyed to a public entity, such as a school district or fire district.

Section 10.6. **Diminution in Value and Land Use Laws Waiver; Development Not Dependent on CFD Financing.** (a) The Developer on behalf of itself and all other parties having an interest in the Property intends to encumber the Property with the agreements and waivers described in this Section 10.6. The Developer hereby waives and releases the District and the Municipality from any and all claims under A.R.S. § 12-1134, *et seq.*, including any right to compensation for reduction to the fair market value to the Property, as a result of the approval of this Agreement by the Municipality or the District. The terms of this waiver shall run with the land and shall be binding upon all subsequent landowners and shall survive the expiration or earlier termination of this Agreement.

(b) The Developer acknowledges and agrees that Developer's development of the Property is not dependent upon the formation of the District or District financing. The Developer is not in any manner relying, to its detriment or otherwise, on the Municipality forming the District or, if the District is formed, to issue Bonds or, if Bonds are issued, issue any additional series of Bonds, levy any tax or assessment, or otherwise in any manner finance the costs of any Project.

Section 10.7. **Applicable Law; Venue and Jurisdiction.** The terms and conditions of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona. Any action at law or in equity brought by the parties hereto for the purpose of enforcing a right or rights provided for in this Agreement shall be tried in a court of competent jurisdiction in Pinal County, Arizona. The parties hereto hereby waive all provisions of law providing for a change of venue in such proceeding to any other county. In the event a party brings suit to enforce any term of this Agreement or to recover any damages for and on account of the breach of any term or condition in this Agreement, it is mutually agreed that the prevailing party in such action shall recover all costs including reasonable attorneys' fees, court costs, expert witness fees, and other litigation related expenses to be determined by the court in such action.

Section 10.8. **Waivers.** The waiver by any party hereto of any right granted to it under this Agreement shall not be deemed to be a waiver of any other right granted in this Agreement nor shall the same be deemed to be a waiver of a subsequent right obtained by reason of the continuation of any matter previously waived under or by this Agreement.

Section 10.9. **Counterpart Executions.** This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, but all of which taken together shall constitute one of the same instrument. Each party hereto shall, promptly upon the request of any other, have acknowledged and delivered to the other any and all further instruments and assurances reasonably requested or appropriate to evidence or give effect to the provisions of this Agreement.

Section 10.10. **Cancellation Due To Conflict of Interest.** The Municipality and the District may, within three years after its execution, cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Municipality or the District, respectively, is, at any time while this Agreement is in effect, an employee or agent of the Developer in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of

this Agreement and may recoup any fee or commission paid or due any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Municipality or the District, respectively, from the Developer arising as the result of this Agreement. The Developer has not taken and shall not take any action which would cause any person described in the preceding sentence to be or become an employee or agent of the Developer in any capacity or a consultant to any party to this Agreement with respect to the subject matter of this Agreement.

Section 10.11. Term; Expiration. The term of this Agreement shall be as of the date of the execution and delivery hereof by each of the parties hereto and shall expire upon the earlier of the agreement of the District, the Municipality and the Developer to the termination hereof, December 31, 2056, or the date on which all of the Bonds are paid in full or defeased to the fullest extent possible pursuant to the Act.

Section 10.12. Notices. All notices, certificates or other communications hereunder (including in the Exhibits hereto) shall be sufficiently given and shall be deemed to have been received 48 hours after deposit in the United States mail in registered or certified form with postage fully prepaid addressed as follows:

If to the Municipality: City of Apache Junction, Arizona
Attn: City Manager
300 E. Superstition Boulevard
Apache Junction, Arizona 85119

If to the District: Superstition Vistas Community Facilities District No. 2
c/o City of Apache Junction, Arizona
Attn: City Manager
300 E. Superstition Boulevard
Apache Junction, Arizona 85119

If to Developer: D.R. Horton, Inc.
Attn: Legal Department
20410 N. 19th Avenue, Suite 100
Phoenix, Arizona 85027

With a copy to: Dana Stagg Belknap, Esq.
Gallagher & Kennedy, P.A.
2575 East Camelback Road
Phoenix, Arizona 85016

If to ASLD: Arizona State Land Department
Attn: State Land Commissioner
1616 W. Adams
Phoenix, Arizona 85007

With a copy to: Arizona Attorney General
Attn: Natural Resources Division
2005 N. Central Avenue
Phoenix, Arizona 85004

Any of the foregoing, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 10.13. Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof.

Section 10.14. Headings. The headings or titles of the several Articles and Sections hereof and in the Exhibits hereto, and any table of contents appended to copies hereof and thereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Agreement.

Section 10.15. Governing Terms. This Agreement does not relieve any party hereto of any obligation or responsibility imposed upon it by law; provided, further, the provisions of this Agreement shall be subject to and governed by the terms and provisions of the terms and provisions of this Agreement and the applicable terms and provisions of the Land Development Agreement, Community Plan and the CFD Guidelines, as provided in Section 1.2 hereof.

Section 10.16. Recording. No later than ten (10) days after this Agreement is executed and delivered by each of the parties hereto, the Municipality shall record a copy of this Agreement with the County Recorder of Pinal County, Arizona. Furthermore, the Municipality shall, on behalf of the Developer and the District, file a copy of the recorded Agreement that contains thereon the Pinal County Recorder's Office recording information with ASLD.

Section 10.17. Materiality and Continuing Effect. Unless otherwise expressly provided, the representations, covenants, indemnities and other agreements contained herein shall be deemed to be material and continuing, shall not be merged and shall survive any conveyance or transfer provided herein.

Section 10.18. Force Majeure. No party hereto shall be considered not to have performed its obligations under this Agreement in the event of enforced delay (an “Enforced Delay”) due to causes beyond its control and without its fault or negligence or failure to comply with applicable laws, including, but not restricted to, acts of God, fires, floods, epidemics, pandemics, quarantines, governor’s executive orders, restrictions, embargoes, labor disputes, and unusually severe weather or the delays of subcontractors or materialmen due to such causes, acts of a public enemy, war, terrorism or act of terror (including but not limited to bio-terrorism or eco-terrorism), nuclear radiation, blockade, insurrection, riot, labor strike or interruption, extortion, sabotage, or similar occurrence or any exercise of the power of eminent domain of any governmental body on behalf of any public entity, or a declaration of moratorium or similar hiatus (whether permanent or temporary) by any public entity directly affecting the obligations under this Agreement. In no event will an Enforced Delay include any delay resulting from unavailability for any reason of labor shortages, or the unavailability for any reason of particular contractors, subcontractors, vendors or investors desired by the Developer in connection with the obligations under this Agreement. In the event of the occurrence of any such Enforced Delay, the time or times for performance of the obligations of the party claiming delay shall be extended for a period of the Enforced Delay; provided, however, that the party seeking the benefit of the provisions of this Section shall, within thirty (30) calendar days after such party knows or should know of any such Enforced Delay, first notify the other parties of the specific delay in writing and claim the right to an extension for the period of the Enforced Delay; and provided further that in no event shall a period of an Enforced Delay exceed ninety (90) calendar days.

Section 10.19. Consent. Whenever the consent or approval of any party hereto, or of any agency therefor, shall be required under the provisions hereof, such consent or approval shall not be unreasonably withheld, conditioned or delayed unless specifically otherwise limited as provided herein.

Section 10.20. City Council/District Board Final Actions; Remedies and Arbitration. (a) Notwithstanding any provision of this Agreement to the contrary, no act, requirement, payment, or other agreed upon action to be done or performed by the Municipality or the District shall be required to be done or performed by the Municipality or the District, respectively, unless and until said formal action of the City Council and the District Board, respectively, has been taken and completed. This Agreement in no way acquiesces to or obligates the Municipality or the District to perform a legislative act.

(b) Failure or unreasonable delay by any party to perform or otherwise act in accordance with any term or provision of this Agreement for a period of thirty (30) days (hereinafter referred to as the “*Cure Period*”) after written notice thereof from any other party, shall constitute a default under this Agreement; provided, however, that if the failure or delay is such that more than thirty (30) days would reasonably be required to perform such action or comply with any term or provision hereof, then such party shall have such additional time as may be necessary to perform or comply so long as such party commences performance or compliance within said thirty (30) day period and diligently proceeds to complete such performance or fulfill such obligation. Said notice shall specify the nature of the alleged default and the manner in which said default may be satisfactorily cured, if possible. In the event such default is not cured within the Cure Period, any non-defaulting party shall have all rights and remedies that are set forth in the next subsection.

(c) Except as provided in subsection (b), the parties shall be limited to the remedies and the dispute resolution procedure set forth in this subsection and subsection (d). Any decision rendered by the Panel (as hereinafter defined) pursuant to the provisions of subsection (d) shall be binding on the parties unless and until a court of competent jurisdiction renders its final decision on the disputed issue, and if any party does not abide by the decision rendered by the Panel during the pendency of an action before the court of competent jurisdiction or otherwise (if no court action), any other party may institute an action for money damages on the issues that were the subject of the Panel's decision and/or any other relief as may be permitted by law.

(d) (1) If an event of default is not cured within the Cure Period, any non-defaulting party may institute the dispute resolution process set forth in this subsection (hereinafter referred to as the "*Process*") by providing written notice initiating the Process (hereinafter referred to as the "*Initiation Notice*") to the defaulting party.

(2) Within fifteen (15) days after delivery of the Initiation Notice, each involved party shall appoint one person to serve on an arbitration panel (herein referred to as the "*Panel*"). Within twenty-five (25) days after delivery of the Initiation Notice, the persons appointed to serve on the Panel shall themselves appoint a separate neutral person to serve as a member of the Panel. Such person shall function as the chairman of the Panel.

(3) The remedies available for award by the Panel shall be limited to specific performance, declaratory relief and injunctive relief.

(4) Any party can petition the Panel for an expedited hearing if circumstances justify it. Such circumstances shall be similar to what a court would view as appropriate for injunctive relief or temporary restraining orders. In any event, the hearing of any dispute not expedited shall commence as soon as practicable, but in no event later than forty-five (45) days after selection of the chairman of the Panel. This deadline can be extended only with the consent of all parties to the dispute or by decision of the Panel upon a showing of emergency circumstances.

(5) The chairman of the Panel shall conduct the hearing pursuant to the Center For Public Resources' Rules for Non-Administered Arbitration of Business Disputes then in effect. The chairman of the Panel shall determine the nature and scope of discovery, if any, and the manner of presentation of relevant evidence, consistent with the deadlines provided herein, and the parties' objective that disputes be resolved in a prompt and efficient manner. No discovery may be had of privileged materials or information. The chairman of the Panel upon proper application shall issue such orders as may be necessary and permissible under law to protect confidential, proprietary or sensitive materials or information from public disclosure or other misuse. Any party may make application to the Pinal County Superior Court (hereinafter referred to as the "*Court*") to have a protective order entered as may be appropriate to confirm such orders of the chairman of the Panel.

(6) The hearing, once commenced, shall proceed from business day to business day until concluded, absent a showing of emergency circumstances. Except as

otherwise provided herein, the Process shall be governed by the Uniform Arbitration Act as enacted in the State.

(7) The Panel shall, within fifteen (15) days from the conclusion of any hearing, issue its decision. The decision shall be rendered in accordance with this Agreement and the laws of the State.

(8) Any involved party may appeal the decision of the Panel to the Court for a *de novo* review of the issues decided by the Panel, if such appeal is made within thirty (30) days after the Panel issues its decision. The remedies available for award by the Court shall be limited to specific performance, declaratory relief and injunctive relief. The decision of the Panel shall be binding on both parties until the Court renders a binding decision. If a non-prevailing party in the Process fails to appeal to the Court within the time frame set forth herein, the decision of the Panel shall be final and binding. If one party does not comply with the decision of the Panel during the pendency of the action before the Court or otherwise, then another party shall be entitled to exercise all rights and remedies that may be available under law or equity, including without limitation the right to institute an action for money damages related to the default that was the subject of the Panel's decision and the provisions of this subsection shall not apply to such an exercise of rights and remedies.

(9) All fees and costs associated with the Process before the Panel, including without limitation the fees of the Panel, other fees, and the prevailing party's attorneys' fees, expert witness fees and costs, shall be paid by the non-prevailing party or parties. The determination of prevailing and non-prevailing parties, and the appropriate allocation of fees and costs, shall be included in the decision by the Panel. Similarly, all fees and costs associated with an appeal to the Court or any appellate court thereafter, including without limitation, the prevailing party's attorneys' fees, expert witness fees and costs, shall be paid by the non-prevailing party. The determination of prevailing and non-prevailing parties, and the appropriate allocation of fees and costs, shall be included in the decision by the Court.

Section 10.21. No Boycott of Israel. To the extent applicable, the Developer certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in § 35-393, Arizona Revised Statutes, of Israel.

Section 10.22. E-verify Compliance. To the extent applicable under A.R.S. § 41-4401, the Developer and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under A.R.S. § 23-214(A). The Developer's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the District.

Section 10.23. SMCFD and WUCFD. (a) The parties to this Agreement anticipate that certain Projects will be accepted by SMCFD (generally, sewer Projects) or WUCFD (generally, potable and non-potable water Projects) (the "Utility Projects" or "Utility Acquisition Project"), and not accepted by the Municipality. In connection with such Utility Projects:

(1) SMCFD or WUCFD, as applicable, will review any Plans and Specifications for the Utility Projects.

(2) The Utility Projects will be subject to the Public Procurement Requirements, including the procurement policies of SMCFD or WUCFD, as applicable, pertaining to projects similar to the Utility Projects. Construction Contracts shall be entered into with the respondent selected in accordance with the requirements of awarding contracts pursuant to the Public Procurement Requirements and the requirements of SMCFD or WUCFD, as applicable.

(3) The District Manager may appoint an engineer of SMCFD or WUCFD as the District Engineer in connection with such Utility Projects.

(4) Construction Contracts relating to such Utility Projects shall provide that the respective contractors or vendors shall not have recourse, directly or indirectly, to SMCFD or WUCFD, as applicable. Construction Contracts and the construction of Utility Projects shall be in accordance with the requirements for constructing projects of SMCFD or WUCFD, as applicable. Neither SMCFD nor WUCFD will bear any risks, liabilities, obligations or responsibilities under any contract to prepare Plans and Specifications, under any Construction Contract for Utility Projects, or any risk of loss of or damage to any Utility Project (or any part thereof) occurring prior to the later of: the time of acceptance by SMCFD or WUCFD, as applicable, or the time of acquisition by the District of such Utility Project (or part thereof) pursuant to Article IV.

(5) With respect to any Utility Project, SMCFD or WUCFD, as applicable, shall be named as an insured on any and all insurance policies required under the bid specifications for procurement of the pertinent Plans and Specifications or the procurement and contract terms of a Construction Contract, and as a third party beneficiary with respect to all bonds, warranties and guarantees with respect to the Utility Projects. The District Manager shall direct that any Construction Contract or Plans and Specifications for Utility Projects shall provide for the assignment of all insurance, warranties, guarantees and owner's rights to SMCFD or WUCFD, as applicable, upon the District's acquisition of the Utility Projects.

(6) With respect to any change order described in Section 3.5 pertaining to a Utility Project, the District Manager shall confirm compliance with the requirements of SMCFD or WUCFD, as applicable, prior to approving such change order.

(7) With respect to the acquisition of any Necessary Public Property in connection with Utility Projects, the type, size and terms of the Necessary Public Property shall be in compliance with the requirements for public infrastructure projects of SMCFD or WUCFD similar to the Utility Project. Prior to any conveyance or dedication of Necessary Public Property to SMCFD or WUCFD, the District Manager shall confirm with SMCFD or WUCFD as to the sufficiency of the materials received pursuant to Section 2.5. Prior to the District Manager directing the conveyance or dedication of any Necessary Public Property in accordance with Sections 4.2 and 4.3 pertaining to any Utility Acquisition Projects, the

District Manager shall confirm with SMCFD or WUCFD, as applicable, as to the fulfillment of any requirements of SMCFD or WUCFD for such conveyance or dedication.

(8) Prior to the District paying the Construction Cost or Segment Price, as applicable, and acquiring a Utility Acquisition Project or Segment, the District Manager shall confirm fulfillment of the requirements in Section 4.3 to the satisfaction of SMCFD or WUCFD, as applicable.

(9) For any Utility Projects to be accepted by either of SMCFD or WUCFD, the District Manager shall, in accordance with the provisions of Section 7.1, receive confirmation from SMCFD or WUCFD, as applicable, as to acceptance of the Utility Projects before such Utility Projects are eligible for reimbursement from proceeds of the District's Bonds.

(b) For purposes of Article VIII, each of SMCFD and WUCFD are anticipated to accept Infrastructure and should be named as additional insureds pursuant to Sections 8.3 and 8.4 in connection with Utility Projects.

(c) Each of SMCFD and WUCFD shall be third-party beneficiaries of the provisions hereof which grant rights and obligations to them.

IN WITNESS WHEREOF, the officers of the Municipality and of the District have duly affixed their signatures and attestations, and the officers of the Developer their signatures, all as of the day and year first written above.

[Signature Pages to Follow]

CITY OF APACHE JUNCTION, ARIZONA,
a municipal corporation

By: _____
Walter "Chip" Wilson, Mayor

STATE OF ARIZONA)
)ss.
COUNTY OF PINAL)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Walter "Chip" Wilson, as Mayor of the City of Apache Junction, Arizona, a municipal corporation under the laws of the State of Arizona.

Notary Public

(Affix Seal Here)

ATTEST:

Jennifer Pena, City Clerk

Pursuant to A.R.S. Section 11-952(D), this Agreement has been reviewed by the undersigned attorney for the Municipality who has determined that this Agreement is in proper form and is within the powers and authority granted pursuant to the laws of this State to the Municipality.

Richard Joel Stern, City Attorney

**SUPERSTITION VISTAS COMMUNITY
FACILITIES DISTRICT NO. 2**

By: _____
Walter "Chip" Wilson, Chairman, District
Board

STATE OF ARIZONA)
)ss.
COUNTY OF PINAL)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Walter "Chip" Wilson, as Chairman of the Board of Directors of Superstition Vistas Community Facilities District No. 2, an Arizona community facilities district.

Notary Public

(Affix Seal Here)

ATTEST:

Jennifer Pena, District Clerk

Pursuant to A.R.S. Section 11-952(D), this Agreement has been reviewed by the undersigned attorney for the District, who has determined that this Agreement is in proper form and is within the powers and authority granted pursuant to the laws of this State to the District.

Richard Joel Stern, District Counsel

[Signature Page to Superstition Vistas Community Facilities District No. 2
District Development, Financing Participation,
Waiver and Intergovernmental Agreement]

DEVELOPER:

D.R. HORTON, INC., a
Delaware corporation

By: _____
Name: _____
Its: _____

CORPORATE APPROVAL:

D.R. HORTON, INC., a Delaware corporation

By: _____
Name: _____
Its: _____

STATE OF _____)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by _____, the _____ of D.R. Horton, Inc., a Delaware corporation.

(Seal and Expiration Date)

Notary Public in and for the State of _____

STATE OF _____)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by _____, the _____ of D.R. Horton, Inc., a Delaware corporation.

(Seal and Expiration Date)

Notary Public in and for the State of _____

ACKNOWLEDGMENT AND CONSENT OF SMCFD AND WUCFD

Reference is made to that certain District Development, Financing Participation, Waiver and Intergovernmental Agreement, dated as of _____, 2021 (the “*CFD Development Agreement*”), by and among the City of Apache Junction, Arizona (the “*Municipality*”), Superstition Vistas Community Facilities District No. 2 (the “*District*”), and D.R. Horton, Inc. (the “*Developer*”), to which this Acknowledgment and Consent (this “*Acknowledgment and Consent*”) is attached. All capitalized terms used and not otherwise defined in this Acknowledgment and Consent shall have the meanings set forth in the CFD Development Agreement, or, as applicable, the Intergovernmental Agreement by and among the Apache Junction Water Utilities Community Facilities District, the Superstition Mountains Community Facilities District No. 1, the Superstition Vistas Community Facilities District No. 1 and the Superstition Vistas Community Facilities District No. 2 Pertaining to Community Facilities District Operations, Infrastructure and Financings, dated as of [REDACTED], 2021 and recorded [REDACTED], 2021, in the Official Records of the Pinal County Recorder as Instrument No. [REDACTED] (the “*IGA*”). The undersigned representatives of SMCFD and WUCFD have had the opportunity and right to review the terms and provisions of the CFD Development Agreement and the General Plan of the District, and, in accordance with the IGA, SMCFD and WUCFD each hereby acknowledges and consents to the terms of Section 10.23 of the CFD Development Agreement, including, without limitation, accepting Infrastructure acquired by the District in accordance with the CFD Development Agreement and A.R.S. Title 48, Chapter 4, Article 6, as amended.

Dated: _____, 2021

**APACHE JUNCTION WATER UTILITIES
COMMUNITY FACILITIES DISTRICT,**
an Arizona community facilities district

By: _____
Walter "Chip" Wilson, Chairman, Board of
Directors

STATE OF ARIZONA)
)ss.
COUNTY OF PINAL)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by Walter "Chip" Wilson, as Chairman of the Board of Directors of the Apache Junction Water Utilities Community Facilities District, an Arizona community facilities district.

Notary Public

ATTEST:

Jennifer Pena, District Clerk

**SUPERSTITION MOUNTAINS COMMUNITY
FACILITIES DISTRICT NO. 1,**
an Arizona community facilities district

By: _____
Kathleen Waldron, Chairperson,
Board of Directors

STATE OF ARIZONA)
) ss.
COUNTY OF PINAL)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by Kathleen Waldron, as the Chairperson of the Board of Directors of Superstition Mountains Community Facilities District No. 1, an Arizona community facilities district.

Notary Public

ATTACHMENTS TO DISTRICT DEVELOPMENT, FINANCING PARTICIPATION,
WAIVER AND INTERGOVERNMENTAL AGREEMENT:

- EXHIBIT A - Legal Description Of The Property To Be Included in the District
- EXHIBIT B - Description Of Infrastructure
- EXHIBIT C - Form Of Certificate Of Engineers For Conveyance Of Acquisition Project
or Segment Of Project
- EXHIBIT D - Form Of Conveyance Of Acquisition Project or Segment Of Project
- EXHIBIT E - Form Of Disclosure Statement

EXHIBIT A

**LEGAL DESCRIPTION OF THE PROPERTY
TO BE INCLUDED IN THE DISTRICT**

PARCEL DESCRIPTION
Superstition Vistas
Brookfield Parcel

Sections 17 and 20, a portion of General Land Office (GLO) Lot 12 and a portion of the east half of Section 18, a portion of GLO Lots 1 and 2 and a portion of the east half of Section 19, Township 1 South, Range 8 East, of the Gila and Salt River Meridian, Pinal County, Arizona, more particularly described as follows:

BEGINNING at the northwest corner of said Section 17, a 3-inch Pinal County brass cap in handhole, from which the north quarter corner of said Section 17, a 2 1/2-inch GLO brass cap in concrete, bears North 89°45'04" East (basis of bearing), a distance of 2642.33 feet;

THENCE along the north line of said Section 17, North 89°45'04" East, a distance of 2642.33 feet, to said north quarter corner;

THENCE North 89°47'06" East, a distance of 2643.88 feet, to the northeast corner of said Section 17;

THENCE leaving said north line, along the east line of said Section 17, South 00°17'17" East, a distance of 2641.26 feet, to the east quarter corner of said Section 17;

THENCE South 00°17'39" East, a distance of 2641.38 feet, to the northeast corner of said Section 20;

THENCE leaving said east line, along the east line of said Section 20, South 00°16'25" East, a distance of 2640.88 feet, to the east quarter corner of said Section 20;

THENCE South 00°15'30" East, a distance of 2641.53 feet, to the southeast corner of said Section 20;

THENCE leaving said east line, along the south line of said Section 20, South 89°46'59" West, a distance of 2643.36 feet, to the south quarter corner of said Section 20;

THENCE South 89°48'18" West, a distance of 2643.78 feet, to the southwest corner of said Section 20;

THENCE leaving said south line, along the west line of said Section 20, North 00°17'01" West, a distance of 2640.28 feet, to the west quarter corner of said Section 20;

THENCE North 00°17'35" West, a distance of 2641.12 feet, to the northeast corner of said Section 19;

THENCE leaving said west line, along the north line of said Section 19, South 89°46'31" West, a distance of 500.00 feet, to the beginning of a curve;

THENCE leaving said north line, westerly along said curve to the left, having a radius of 2500.00 feet, concave southerly, through a central angle of 22°55'06", a distance of 1000.00 feet, to the curves end;

THENCE South 66°51'25" West, a distance of 540.51 feet, to the beginning of a curve;

THENCE westerly along said curve to the right, having a radius of 3000.00 feet, concave northerly, through a central angle of 30°39'58", a distance of 1605.68 feet, to the curves end;

**Legal Description
Superstition Vistas
Brookfield Parcel**

January 8, 2021
WP# 205166.01
Page 2 of 4
See Exhibit "A"

THENCE North 82°28'36" West, a distance of 583.29 feet, to the northerly line of that certain Maricopa County Flood Control District Easement, recorded in Document 2011-0619607, Pinal County Records (PCR);

THENCE along said northerly line, North 53°29'13" East, a distance of 910.07 feet, to said north line of Section 19;

THENCE leaving said north line, North 53°29'26" East, a distance of 4200.33 feet, to the west line of said Section 17;

THENCE leaving said northerly line, along said west line, North 00°17'10" West, a distance of 155.64 feet, to the west quarter corner of said Section 17;

THENCE North 00°13'51" West, a distance of 2639.88 feet, to the **POINT OF BEGINNING**.

Containing 61,348,819 square feet or 1,408.3751 acres, more or less.

Subject to existing right-of-ways and easements.

This parcel description is based on client provided information and is located within an area surveyed by Wood, Patel & Associates, Inc. during the month of December, 2020. Any monumentation noted in this parcel description is within acceptable tolerance (as defined in Arizona Boundary Survey Minimum Standards dated 02/14/2002) of said positions based on said survey.

Y:\WP\Parcel Descriptions\2020\205166.01 Superstition Vistas Brookfield Parcel L02 01-08-21.docx



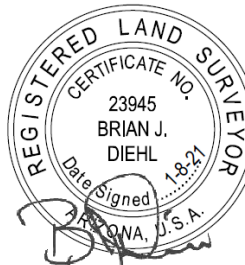
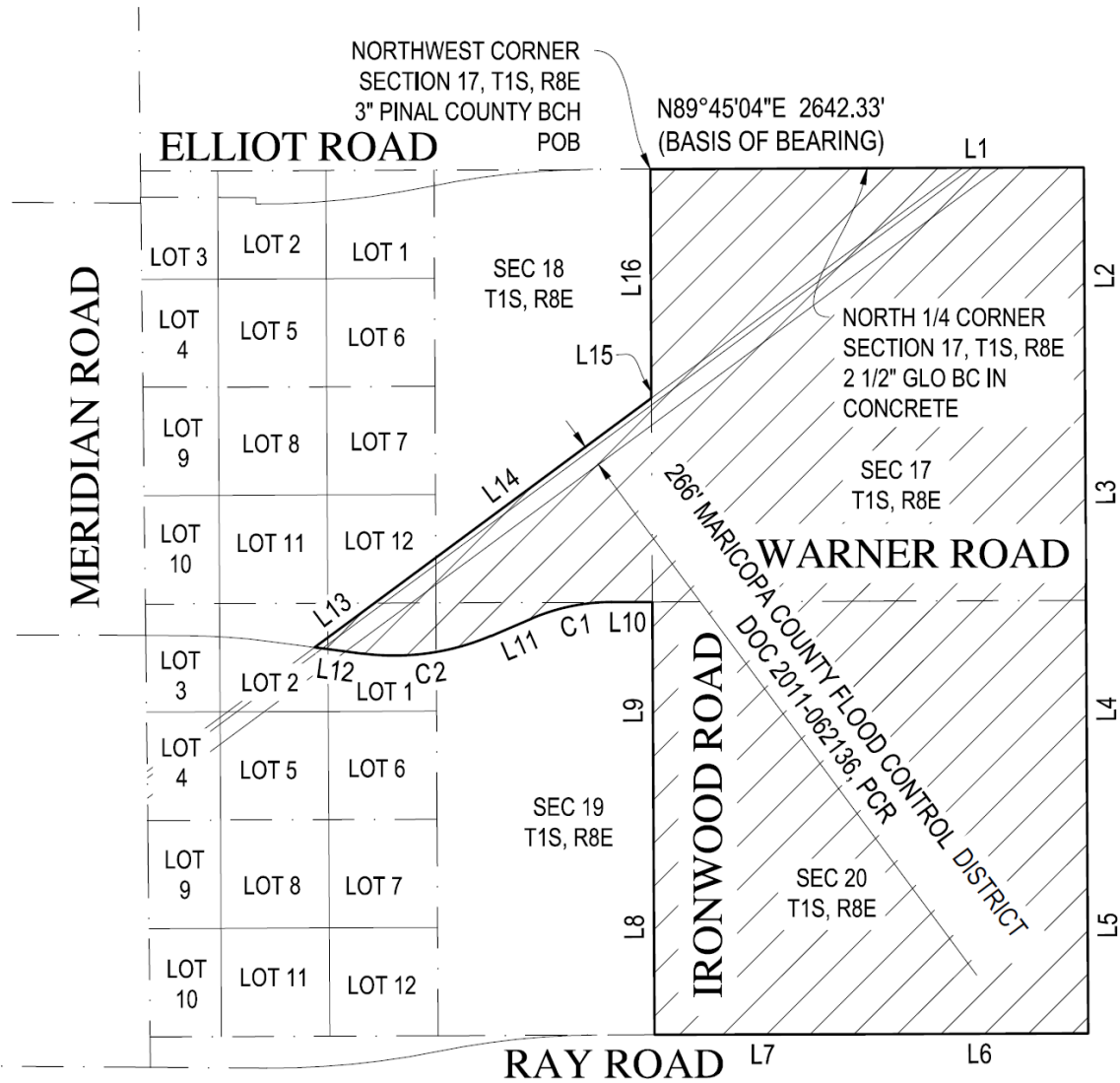


EXHIBIT "A"
 SUPERSTITION VISTAS
 BROOKFIELD PARCEL
 01/08/2021
 WP #205166.01
 PAGE 3 OF 4
 NOT TO SCALE

EXPIRES 09-30-23

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LINE TABLE		
LINE	BEARING	DISTANCE
L1	N89°47'06"E	2643.88'
L2	S00°17'17"E	2641.26'
L3	S00°17'39"E	2641.38'
L4	S00°16'25"E	2640.88'
L5	S00°15'30"E	2641.53'
L6	S89°46'59"W	2643.36'
L7	S89°48'18"W	2643.78'
L8	N00°17'01"W	2640.28'
L9	N00°17'35"W	2641.12'
L10	S89°46'31"W	500.00'
L11	S66°51'25"W	540.51'
L12	N82°28'36"W	583.29'
L13	N53°29'13"E	910.07'
L14	N53°29'26"E	4200.33'
L15	N00°17'10"W	155.64'
L16	N00°13'51"W	2639.88'

CURVE TABLE			
CURVE	DELTA	RADIUS	ARC
C1	22°55'06"	2500.00'	1000.00'
C2	30°39'58"	3000.00'	1605.68'

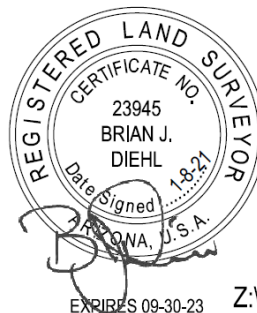


EXHIBIT "A"
 SUPERSTITION VISTAS
 BROOKFIELD PARCEL
 01/08/2021
 WP #205166.01
 PAGE 4 OF 4
 NOT TO SCALE

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EXHIBIT B

DESCRIPTION OF INFRASTRUCTURE

- (a) Sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge.
- (b) Drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge.
- (c) Water systems for domestic, industrial, irrigation, municipal or fire protection purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal, but not including facilities for agricultural irrigation purposes unless for the repair or replacement of existing facilities when required by other improvements permitted by A.R.S. Title 48, Chapter 4, Article 6.
- (d) Highways, streets, roadways and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking.
- (e) Areas for pedestrian, equestrian, bicycle or other nonmotor vehicle use for travel, ingress, egress and parking.
- (f) Pedestrian malls, parks, recreational facilities other than stadiums, and open space areas for the use of members of the public for entertainment, assembly and recreation.
- (g) Landscaping, including earthworks, structures, lakes and other water features, plants, trees and related water delivery systems.
- (h) Public buildings, public safety facilities and fire protection facilities.
- (i) Lighting systems.
- (j) Traffic control systems and devices, including signals, controls, markings and signage.
- (k) Equipment, vehicles, furnishings and other personalty related to the items listed in this Exhibit B.
- (l) Any other public infrastructure now or hereafter included in the definition of “Public Infrastructure” in A.R.S. Title 48, Chapter 4, Article 6.
- (m) Operation and maintenance of the items listed in clauses (a) through and including (l) above.

**FORM OF CERTIFICATE OF ENGINEERS FOR
CONVEYANCE OF ACQUISITION PROJECT
OR SEGMENT OF ACQUISITION PROJECT**

(insert description of Acquisition Project/Segment)

We the undersigned, being Registered Engineers in the State of Arizona and, respectively, the duly appointed District Engineer for Superstition Vistas Community Facilities District No. 2 (the “District”), and the engineer employed by D.R. Horton, Inc. (hereinafter referred to as the “Developer”), each hereby certify for purposes of the District Development, Financing Participation, Waiver and Intergovernmental Agreement, dated as of _____, 2021 (the “Development Agreement”), by and among the District, the City of Apache Junction, Arizona, and D.R. Horton, Inc., a Delaware corporation, as the Developer, that:

4. The Developer filed all construction plans, specifications, contract documents, and supporting engineering data for the construction or installation of such

Acquisition Project or Segment with the District Engineer and the Municipality or other governmental entity, as applicable.

5. The Developer obtained and has supplied to the District evidence of good and sufficient performance and payment bonds or such other equivalent payment and performance financial guarantees acceptable to the District Manager and the District Engineer in connection with such Acquisition Project or Contract.

DATED AND SEALED THIS _____ DAY OF _____, 20__.

By _____
District Engineer

[P.E. SEAL]

By _____
Engineer for the Developer

[P.E. SEAL]

[Confirmed for purposes of Section 3.5 of the
Development Agreement by

District Manager for Superstition Vistas
Community Facilities District No. 2¹]

***[THIS WILL BE REQUIRED
FOR EVERY SEGMENT ACQUIRED
WITH PROCEEDS OF THE
SALE OF THE BONDS]***

¹ To be inserted if the provisions of Section 3.5 of the Development Agreement are applicable to the respective Segment of the Project.

FORM OF CONVEYANCE OF SEGMENT OF ACQUISITION PROJECT

(Insert description of Acquisition Project/Segment)

KNOW ALL MEN BY THESE PRESENTS THAT:

[Insert description of Acquisition Project/Segment]

² Insert with respect to any acquisition financed pursuant to Section 5.2(a) of the Development Agreement.

public record including all obligations, leases, liabilities and other matters of record or as set forth on Schedule 1 hereto (collectively, the “Property”).

TO HAVE AND TO HOLD the Property, as described above, unto the Municipality [or other governmental entity], its successors and assigns forever; and the Developer does hereby bind itself and its successors and assigns to forever warrant and defend the title against the acts of the Developer and no others, subject to the matters set forth above.

The Developer further binds itself and its successors and assigns to execute and deliver at the request of the District such other or additional instruments of transfer, bills of sale, conveyances or other instruments or documents which may be necessary or desirable to evidence more completely or to perfect the conveyance to the District of the Property as described above, subject to the matters set forth above.

This Conveyance is made pursuant to such Development Agreement and the Developer hereby agrees that the amounts specified above and paid [or promised to be paid³] to the Developer hereunder satisfy in full the obligations of the District under such Development Agreement and hereby releases the District from any further responsibility to make payment to the Developer under such Development Agreement except as above provided.

The Developer, in addition to the other representations and warranties herein, specifically makes the following representations and warranties:

1. The Developer has the full legal right and authority to make the sale, transfer, and assignment herein provided.
2. The Developer is not a party to any written or oral contract which adversely affects this Conveyance.
3. The Developer is not subject to any bylaw, agreement, mortgage, lien, lease, instrument, order, judgment, decree, or other restriction of any kind or character which would prevent the execution of this Conveyance.
4. The Developer is not engaged in or threatened with any legal action or proceeding, nor is it under any investigation, which prevents the execution of this Conveyance.
5. The person(s) executing this Conveyance on behalf of the Developer has full authority to do so, and no further official action need be taken by the Developer to validate this Conveyance.
6. The facilities conveyed hereunder are all located within public rights-of-way or public utility or other public easements dedicated by deed or dedicated by map of dedication, plat or otherwise.

³ Insert with respect to any acquisition financed pursuant to Section 5.2(a) of the Development Agreement.

IN WITNESS WHEREOF, the Developer has caused this Conveyance to be executed and delivered this ____ day of _____, 20__.

By _____

Title _____

STATE OF ARIZONA)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 20__ by _____, of _____, a _____, on behalf of said corporation.

Notary Public

Typed/Printed Name of Notary

(Affix Seal Here)

EXHIBIT E

FORM OF DISCLOSURE STATEMENT SUPERSTITION VISTAS COMMUNITY FACILITIES DISTRICT NO. 2 DISCLOSURE STATEMENT

D.R. Horton, Inc., a Delaware corporation (“**Developer**”), in conjunction with the City of Apache Junction, Arizona (the “**City**”), have established a community facilities district (the “**CFD**”) within the planned community development known as Superstition Vistas. The CFD has financed and, in the future, will finance certain public infrastructure improvements, which will result in a property tax liability and a separate special assessment lien liability for each residential property owner in Superstition Vistas.

HOW THE CFD WORKS

On October 5, 2021, the Mayor and Council of the City formed the CFD consisting of approximately 1,408 acres of land. An election was held on ____, 2021, at which time the owners of the property within the CFD voted to authorize up to \$400,000,000 of ad valorem tax bonds to be issued over time by the CFD to finance the acquisition or construction of public infrastructure improvements benefitting principally land within the CFD. The proceeds of separate special assessment revenue bonds will be used to finance acquisition or construction of public infrastructure improvements benefitting principally designated areas within the CFD. Such improvements have been or will be dedicated to the City or other governmental entity upon acquisition or construction of such public infrastructure by the CFD. The City or other governmental entity will operate and maintain such improvements.

WHAT WILL BE FINANCED?

The CFD has been established to finance, at the request of Developer, not more than \$350,000,000 in public infrastructure improvements within the CFD, including financing costs related to such improvements, through ad valorem tax bonds to be issued to finance the acquisition and construction of public infrastructure benefitting principally land within the CFD. [The CFD issued \$____,000 of its General Obligation Bonds, Series 20__ on _____, 20__.

In addition, a special assessment bond has been issued in the amount of \$____,000 to finance the acquisition of completed public infrastructure, consisting of roadway, sewer, water, storm drain, signage, street light, landscape and related improvements benefitting principally the land area depicted on Attachment 1 hereto (“**Assessment District** __”). The lot and residence for which this Disclosure Statement is provided is located in Assessment District __.

Developer may be reimbursed from CFD bond proceeds for eligible public infrastructure improvements for up to ten (10) years after the date of acceptance of such infrastructure by the City or other governmental entity.

PROPERTY OWNERS' TAX AND ASSESSMENT LIABILITY

The obligation to retire the ad valorem tax bonds will become the responsibility of all property owners in the CFD through the payment of ad valorem property taxes collected by the Pinal County Treasurer in addition to all other property tax payments. The CFD has levied a \$_.__ per \$100.00 of net assessed limited property value tax rate for the District's current fiscal year 20__- 20__ to provide for repayment of the ad valorem tax bonds. The CFD has also levied up to a \$0.30 per \$100.00 of net assessed limited property value tax rate to provide for the payment of certain administrative expenses and operation and maintenance of the public infrastructure improvements financed by the CFD ("**O/M Tax**").

Although the ad valorem tax rate levied by the CFD to retire the ad valorem tax bonds is not limited by law, beginning this fiscal year, the rate of the ad valorem tax is not expected to exceed a rate of \$3.85 per \$100.00 of net assessed limited property value for as long as any ad valorem tax bonds are outstanding. However, in the event of declining assessed values or significant delinquencies in the collection of ad valorem taxes, the ad valorem tax rate could increase above the rate that would generate the same levy as would have been generated under a rate of \$3.85 per \$100.00 of net assessed limited property value. **Accordingly, there can be no guarantee ad valorem tax rates will not be increased, and may be increased significantly, to provide for repayment of such ad valorem tax bonds in the future. Developer is acquiring certain land within the boundaries of the District from the Arizona State Land Department. Should Developer default on its obligations to the Arizona State Land Department in connection with such land acquisition, portions of the property within the District may revert to the Arizona State Land Department and no longer be subject to ad valorem taxes. In such situation, the ad valorem taxes levied on taxable property within the District, including the lot which is the subject of this Disclosure Statement, may increase significantly above a rate of \$3.85 per \$100 of net assessed limited property value.**

The obligation to retire the special assessment bonds issued to finance the acquisition of the completed public infrastructure benefitting principally Assessment District __ will be the responsibility of all property owners in Assessment District __ through the collection of installments of assessment liens of \$__,00 per lot levied by the CFD. It is anticipated that such assessment lien installment payments will be collected by the Pinal County Treasurer through its standard ad valorem property tax collection process.

IMPACT OF ADDITIONAL CFD PROPERTY TAX AND ASSESSMENTS

The following illustrates the estimated additional annual ad valorem tax liability imposed by the CFD, based on a range of residential values within Superstition Vistas and a combined \$4.15 tax rate for the current fiscal year 20__-20__ (the \$3.85 tax rate to retire the ad valorem tax bonds plus the \$0.30 O/M Tax rate):

**Assumed Value
of Residence**

**Estimated Annual
Additional CFD Tax Liability***

\$____,000
\$____,000
\$____,000
\$____,000
\$____,000
\$____,000
\$____,000

\$

***Assumptions:**

1. *Improved residential property assessment ratio will remain at 10%.*
2. *The estimated total ad valorem tax amount is computed by multiplying the \$4.15 per \$100 of assessed limited property value times the estimated limited tax rate of property value times the improved residential property assessment ratio. The actual limited property value is determined by the Pinal County Assessor.*

The estimated annual assessment lien liability imposed by the CFD in Assessment District __, in addition to the ad valorem tax liability described above, is \$____.

Additional information regarding the description of public infrastructure improvements to be financed by the CFD, bond issue public disclosure documents and other documents and agreements (including a copy of this Disclosure Statement) are available for review in the City of Apache Junction City Clerk's office.

Your signature below acknowledges that you have read this Disclosure Statement at the time you made your decision to purchase property at Superstition Vistas and signed your purchase contract and that you understand the property you are purchasing will be taxed and separately assessed to pay the CFD bonds described above and issued in the future and taxed to pay the CFD operation, administration and maintenance expenses.

Home Buyer Signature/Date

Home Buyer Printed Name

IF PURCHASING JOINTLY OR OTHERWISE WITH ANOTHER PARTY:

Home Buyer Signature/Date

Home Buyer Printed Name

Builder Name: _____

Parcel No. _____

Lot No. _____

**UPON EXECUTION, MAIL DIRECTLY
TO: CFD DISTRICT CLERK,
CITY OF APACHE JUNCTION
300 E. SUPERSTITION BLVD
APACHE JUNCTION, AZ 85119**

EXHIBIT F

**FORM OF AMENDMENT, ASSIGNMENT, AND ASSUMPTION OF DISTRICT
DEVELOPMENT, FINANCING PARTICIPATION, WAIVER AND
INTERGOVERNMENTAL AGREEMENT**

WHEN RECORDED, RETURN TO:

**ASSIGNMENT AND ASSUMPTION OF
DISTRICT DEVELOPMENT, FINANCING PARTICIPATION, WAIVER, AND
INTERGOVERNMENTAL AGREEMENT
(SUPERSTITION VISTAS COMMUNITY FACILITIES DISTRICT NO. 2)**

**THIS ASSIGNMENT AND ASSUMPTION OF DISTRICT DEVELOPMENT,
FINANCING PARTICIPATION, WAIVER, AND INTERGOVERNMENTAL
AGREEMENT (SUPERSTITION VISTAS COMMUNITY FACILITIES DISTRICT NO.
2)** (this “Assignment”) is made as of this _____ day of _____, 202__ (the
“Effective Date”) by and between **D.R. HORTON, INC.**, a Delaware corporation (“Assignor”),
and **BROOKFIELD HOMES HOLDINGS LLC**, a California limited liability company
(“Assignee”).

RECITALS:

A. Assignor is the “Developer” under that certain District Development, Financing Participation, Waiver, and Intergovernmental Agreement, dated as of _____, 202__, and recorded as Fee No. 202__-_____, Records of Pinal County, Arizona, (the “CFD Development Agreement”).

B. Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of the Developer’s rights, title, interest, duties, obligations, and liabilities under the CFD Development arising after the Effective Date.

C. Section 10.3 of the CFD Development Agreement provides, among other things, that upon the occurrence of certain events that have occurred, Assignor shall have the right, without further approvals, to assign all of its rights and obligations under the CFD Development Agreement to Assignee and upon Assignee’s execution and delivery of this Assignment, Assignor will be relieved of all duties, obligations, and liabilities arising after the Effective Date of this Assignment.

NOW, THEREFORE, in consideration of the premises above and the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee, intending to be legally bound, for themselves and their successors and assigns, agree as follows:

1. Definitions; Recitals. Except as otherwise defined herein, all capitalized terms used herein shall have the meanings given in the CFD Development Agreement. The Recitals set forth above are true and correct and incorporated herein by this reference.

2. Assignment. Assignor hereby assigns to Assignee, without representation or warranty, all of Assignor's right, title, and interest as the "Developer" in, to, and under the CFD Development Agreement.

3. Assumption. Assignee hereby accepts such assignment and agrees to be bound by all of the terms and provisions of the CFD Development Agreement, and assumes and agrees to perform all of the Developer's duties, obligations, and liabilities under the CFD Development Agreement to the extent arising or occurring from and after the Effective Date, including, without limitation, Developer's indemnification obligations under Article VIII of the CFD Development Agreement for matters arising or occurring from and after the Effective Date.

4. Notice of Assignment and Assumption. Assignee shall promptly deliver a copy of this Assignment to the Municipality and the District, and Assignee will deliver a copy of this Assignment to ASLD to be filed in the official records of ASLD.

5. CFD Development Agreement Notices. For purposes of Section 10.12 of the CFD Development Agreement, Assignee's notice address is as follows:

Brookfield Homes Holdings LLC
14646 N. Kierland Rd., Ste. 270
Scottsdale, AZ 85254
Attn: John Bradley

With copies to:

Brookfield Homes Holdings LLC
3200 Park Center Drive, Suite 1000
Costa Mesa, CA 92626
Attn: Ted McKibben

and

Snell & Wilmer L.L.P.
One Arizona Center
400 E. Van Buren
Phoenix, AZ 85020
Attn: Jody K. Pokorski

6. Binding Effect. This Assignment shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

7. Governing Law. This Assignment shall be construed in accordance with and governed by the laws of the State of Arizona.

8. Additional Agreements. Assignor and Assignee, at no cost or liability to such party, shall promptly upon the request of the other party, have acknowledged and delivered to the other party any and all further instruments and assurances reasonably requested or appropriate to evidence or give effect to the provisions of this Assignment.

9. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original instrument, but all of which when taken together shall constitute one and the same instrument.

[Signatures on following pages]

IN WITNESS WHEREOF, this Assignment is executed as of the day and year first above written.

ASSIGNOR:

D.R. HORTON, INC., a Delaware corporation

By: _____

Name: _____

Title: _____

STATE OF ARIZONA)

) §§

County of Maricopa)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this _____ day of _____, 202__ by _____, the _____ of **D.R. HORTON, INC.**, a Delaware corporation, on behalf thereof.

Notary Public

(Seal)

IN WITNESS WHEREOF, this Assignment is executed as of the day and year first above written.

ASSIGNEE:

BROOKFIELD HOMES HOLDINGS LLC, a
California limited liability company

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

STATE OF ARIZONA)
) §§
County of Maricopa)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this _____ day of _____, 202__ by _____, the _____ of **BROOKFIELD HOMES HOLDINGS LLC**, a California limited liability company, on behalf thereof.

Notary Public

(Seal)

STATE OF ARIZONA)
) §§
County of Maricopa)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this _____ day of _____, 202__ by _____, the _____ of **BROOKFIELD HOMES HOLDINGS LLC**, a California limited liability company, on behalf thereof.

Notary Public

(Seal)

ACKNOWLEDGEMENT

The undersigned hereby acknowledges to the assignment and assumption of all of the Developer's rights, title, interest, duties, obligations, and liabilities under the CFD Development Agreement arising after the Effective Date, as more particularly described in the Assignment to which this Acknowledgement is attached. The undersigned hereby releases and relieves Assignor of all duties, obligations, and liabilities arising after the Effective Date of the attached Assignment.

CITY OF APACHE JUNCTION, ARIZONA,
a municipal corporation

By: _____
Walter “Chip” Wilson, Mayor

STATE OF ARIZONA)
)ss.
COUNTY OF PINAL)

The foregoing instrument was acknowledged before me this ____ day of _____, 202__, by Walter “Chip” Wilson, as Mayor of the City of Apache Junction, Arizona, a municipal corporation under the laws of the State of Arizona.

Notary Public

(Affix Seal Here)

ATTEST:

Jennifer Pena, City Clerk

Pursuant to A.R.S. Section 11-952(D), this Agreement has been reviewed by the undersigned attorney for the Municipality who has determined that this Agreement is in proper form and is within the powers and authority granted pursuant to the laws of this State to the Municipality.

Richard Joel Stern, City Attorney

CONSENT

The undersigned hereby consents to the assignment and assumption of all of the Developer's rights, title, interest, duties, obligations, and liabilities under the CFD Development arising after the Effective Date, as more particularly described in the attached Assignment. The undersigned hereby releases and relieves Assignor of all duties, obligations, and liabilities arising after the Effective Date of the attached Assignment.

SUPERSTITION VISTAS COMMUNITY FACILITIES DISTRICT NO. 2

By: _____
Walter "Chip" Wilson, Chairman, District
Board

STATE OF ARIZONA)
)ss.
COUNTY OF PINAL)

The foregoing instrument was acknowledged before me this ____ day of _____, 202__, by Walter "Chip" Wilson, as Chairman of the Board of Directors of Superstition Vistas Community Facilities District No. 2, an Arizona community facilities district.

Notary Public

(Affix Seal Here)

ATTEST:

Jennifer Pena, District Clerk

Pursuant to A.R.S. Section 11-952(D), this Agreement has been reviewed by the undersigned attorney for the District, who has determined that this Agreement is in proper form and is within the powers and authority granted pursuant to the laws of this State to the District.

Richard Joel Stern, District Counsel