

When Recorded, Return To:

City of Maricopa
Attn: City Clerk
39700 West Civic Center Plaza
Maricopa, AZ 85138

With a copy to:

Kirton McConkie
Attn: Jessica Rancie
50 East South Temple #400
Salt Lake City, Utah 84111

**THIRD AMENDMENT TO DEVELOPMENT AGREEMENT
FOR THE AVALEA MASTER PLAN DEVELOPMENT**

This THIRD AMENDMENT TO DEVELOPMENT AGREEMENT (this “*Third Amendment*”) is made this ____ day of May, 2022, by and between the CITY OF MARICOPA, an Arizona municipal corporation (the “*City*”), and PROPERTY RESERVE ARIZONA, LLC, an Arizona limited liability company (the “*Owner of the Property*” or “*Owner*”), as successor-in-interest to TRILOGY MARICOPA CONSTRUCTION, LLC, a Delaware limited liability company, FULTON HOMES CORPORATION, an Arizona corporation, and SECURITY TITLE AGENCY, INC., an Arizona corporation, AS TRUSTEE UNDER ITS TRUST NO. TR006-54236. The City and the Owner shall be referred to herein collectively as the “*Parties*” and individually as a “*Party*”.

RECITALS

A. The Parties entered into that certain Development Agreement dated September 25, 2008, and recorded September 26, 2008, as Fee No. 2008-092239 in the official records of the Pinal County recorder’s office (the “*Original Development Agreement*”), that certain First Amendment to Development Agreement dated September 16, 2014, and recorded October 14, 2014, as Fee No. 2014-059122 in the official records of the Pinal County recorder’s office (the “*First Amendment*”), and that certain Second Amendment to Development Agreement dated April 6, 2021, and recorded on May 11, 2021, as Fee No. 2021-059051 in the official records of the Pinal County recorder’s office (the “*Second Amendment*”), all in connection with the development of the Avalea Property. The Original Development Agreement, the First Amendment, and the Second Amendment shall be referred to herein collectively as the “*Development Agreement*”.

B. The City has now finalized its design for the East-West Parkway adjacent to the Avalea Property, as depicted in the 100% Plan Set for the East West Corridor SR 347 to Porter Road, prepared by EPS Group, Inc. (the “*100% Plans*”) which requires the dedication of

additional right-of-way on the Avalea Property above and beyond what is contemplated in the Second Amendment.

C. The Parties now desire to amend the Development Agreement to address the City's need for additional right-of-way for the East-West Parkway according to the terms and conditions set forth herein.

AGREEMENT

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated into this Third Amendment and made a part hereof.

2. Ratification of Development Agreement. Except as expressly modified by this Third Amendment, the Parties hereby ratify the Development Agreement and agree that the Development Agreement shall remain in full force and effect.

3. East-West Parkway. Section 6.9 (b) to the Development Agreement is hereby deleted and replaced as follows:

“6.9 East-West Parkway. In addition to its existing dedication obligations in the Development Agreement, Owner hereby agrees to quitclaim to the City up to 29.26 acres of property for dedication as the East-West Parkway, in the location described and depicted on Exhibit C, attached hereto and incorporated herein (the “*Additional East West Parkway ROW*”) In exchange for Owner's agreement to dedicate the Additional East-West Parkway ROW, the Parties hereby agree as follows:

(b) Within thirty (30) calendar days of Owner's conveyance of the Additional East-West Parkway ROW to City, City shall pay to Owner the sum of One Million One Hundred Seventy Thousand Four Hundred and 00/100 Dollars (\$1,170,400.00) pursuant to the appraised value for the Additional East-West Parkway ROW stated in the Appraisal Report Estimating Market Value of Partial Takings, prepared by Agave Realty Advisors, dated June 9, 2020 (the “*Appraisal Report*”). Additionally, within thirty (30) calendar days of Owner's submittal to City of supporting paid invoices, City shall reimburse Owner up to a maximum of Five Thousand and 00/100 Dollars (\$5,000.00) for additional costs incurred by Owner related to Owner's review and evaluation of City's request for the Additional East-West Parkway ROW.”

All other terms and conditions of Section 6.9 shall remain in full force and effect.

4. Amendment to Development Agreement. To the extent that the terms and conditions of this Third Amendment modify or conflict with any provisions of the Development Agreement, including prior addenda, schedules and exhibits, the terms of this Third Amendment

shall control. All other terms of the Development Agreement, including all prior addenda, schedules, and exhibits, not modified by this Third Amendment shall remain the same.

5. Defined Terms. Capitalized terms used in this Third Amendment which are not otherwise defined herein shall have the same meanings given to such terms in the Development Agreement.

6. Counterparts; Signatures. This Third Amendment may be signed in multiple counterparts, all of which taken together shall constitute one and the same agreement. Further, copied or electronically or facsimile transmitted signatures of an original signature shall be treated for all purposes as an original signature. After execution and delivery of this Third Amendment, a copy of the signed Third Amendment shall be considered for all purposes as an original of the Third Amendment to the maximum extent permitted by law, and no party to this Third Amendment shall have any obligation to retain a version of the Third Amendment that contains original signatures in order to enforce the Third Amendment, or for any other purpose, except as otherwise required by law.

[Signatures and Acknowledgements to Follow]

IN WITNESS WHEREOF, the parties have executed this Third Amendment to be effective as of the date and year this Third Amendment is recorded.

The City: CITY OF MARICOPA,
an Arizona municipal corporation

By: _____
Christian Price, Mayor

ATTEST:

APPROVED AS TO FORM:

Vanessa Bueras, MMC
City Clerk

Denis Fitzgibbons
City Attorney

STATE OF ARIZONA)
 :ss.
COUNTY OF PINAL)

On this _____ day of _____, 2022, personally appeared before me _____, as _____ of the CITY OF MARICOPA, an Arizona municipal corporation, and acknowledged to me that said corporation executed the same.

NOTARY PUBLIC

[SIGNATURES CONTINUE ON NEXT PAGE]

Owner: PROPERTY RESERVE ARIZONA, LLC,
an Arizona limited liability company

By: _____

Name (Print): _____

Its: _____

STATE OF UTAH)
 :ss.
COUNTY OF SALT LAKE)

On this _____ day of _____, 2022, personally appeared before me _____, as _____ of PROPERTY RESERVE ARIZONA, LLC, an Arizona limited liability company, and acknowledged to me that said corporation executed the same

NOTARY PUBLIC