

WHEN RECORDED, RETURN TO:

City Clerk
City of Maricopa
39700 W Civic Center Plaza
Maricopa, AZ 85138

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT FOR
THE SORRENTO PLANNED AREA DEVELOPMENT

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (this "Amendment") is made on August 16, 2016, by and among the CITY OF MARICOPA, ARIZONA, an Arizona municipal corporation ("City") and AZALTA, LLLP, an Arizona limited liability limited partnership ("Developer"). The City and Developer may be referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

A. The City, Developer and Sorrento Phoenix Return, LLC, a Missouri limited liability company entered into that certain Development Agreement dated December 15, 2009, and recorded on December 22, 2009, as Fee No. 2009-132435 in the official records of the Pinal County recorder's office (the "Development Agreement"), in connection with the development of certain real property consisting of approximately 365 acres located in the City of Maricopa, County of Pinal, State of Arizona, as more particularly described on Exhibit A of the Development Agreement and Exhibit A hereto (the "Property").

B. As of January 1, 2010, Sorrento Phoenix Return LLC, (an original party to Development Agreement), ceased to be a party or land owner and Developer acquired title to the Property, leaving Developer and the City as the remaining parties to Development Agreement, which parties desire to extend the Entitlements pertaining to the Property which, pursuant to Section IV(b), were valid for up to seven (7) years after the date of the Development Agreement or December 15, 2016.

C. The City is willing to extend the Entitlements in exchange for Developer agreeing to cooperate with the North Santa Cruz Wash Project in accordance with that certain North Santa Cruz Wash Improvements (City of Maricopa, Arizona) Development Agreement recorded on December 16, 2015 at Fee Number 2016-020316 (the "NSCW Development Agreement") as more particularly described in this Amendment, and an acknowledgment that the City does not have an obligation to serve as the Floodplain Administrator for this Property under this Agreement.

D. The Parties now desire to amend the Development Agreement according to the terms and conditions set forth herein.

AGREEMENTS

Now, therefore, in consideration of the foregoing recitals and representations and the mutual promises contained in this Amendment, the Parties agree as follows:

1. **Defined Terms.** All capitalized terms used herein, unless otherwise specified, shall have the same meaning ascribed to them in the Development Agreement. “*Sorrento Flood Control Improvements*” and “*Sorrento Plans*” shall include any further or alternate improvements contemplated by plans approved by the City and the Floodplain Administrator (if applicable). “*Regional Improvements*” shall mean the improvements contemplated by the NSCW Development Agreement. “*Floodplain Administrator*” shall mean the city, town, county or district responsible for floodplain management under state and federal statutes and regulations including A.R.S. §48-3610.

2. **Matters Related to Maintenance and Repair of Improvements.** Section III (a) of the Development Agreement is hereby deleted in its entirety and replaced with the following:

(a) Upon completion of the Sorrento Improvements, the City, and homeowners association for the Property pursuant to this Section shall enter into an operations and maintenance plan with respect to the Sorrento Flood Control Improvements, under the same conditions as are set forth in the Smith Farm O & M Plan described in that certain agreement between the City and KB Home Phoenix, Inc. and Desert Passage Community Association dated November 9, 2007, recorded at 2007-126812 attached to the Development Agreement as Exhibit E (the “*Desert Passage Agreement*”). Until completion of the Regional Improvements, the homeowners association for the Property shall pay maintenance expenses for the improvements constructed pursuant to this Section that benefit the members of such association. The City shall cooperate in the CLOMR and LOMR process, and shall execute a guarantee and related necessary agreements and/or documents for LOMR maintenance as required by FEMA and/or the Flood Plain Administrator for the issuance of a LOMR, but such cooperation and execution of guarantee shall not require the City to act as the Flood Plain Administrator for the Property,

3. **Entitlement Confirmation.**

(a) Exhibit B to the Development Agreement is hereby replaced with Exhibit B (Revised) attached hereto.

(b) Section IV(b) of the Development Agreement is hereby deleted in its entirety and replaced with the following:

“With respect to all zoning, design approvals, preliminary plat approvals, improvement plan approvals, and final plat approvals pertaining to the Property that were approved prior to or after the date of this Development Agreement Amendment, including without limitation those specific Entitlements identified

on Exhibit B (Revised) of this Development Agreement Amendment (collectively, “*Entitlements*”), such Entitlements shall not terminate until the later of December 1, 2024 or the period provided by City Ordinance, unless extended by the Parties. Any extensions of any of the foregoing Entitlements that may thereafter be applied for shall be considered by the City subject to the City’s normal requirements and procedures in connection with extension requests.”

(c) The following is hereby added to Section IV(c) of the Development Agreement: “Exhibit B (Revised) shall be expanded to include any further Entitlements, including modifications to approved plans and plats, requested by Developer and approved by the City. The City shall not unreasonably withhold consent to modifications to plats and plans which comply with applicable City standards proposed by Developer to address issues raised by the Floodplain Administrator and/or FEMA, if applicable, and shall, at Developer’s election, permit Developer to have two sets of plats and plans approved by the City, one if Developer proceeds with installation of improvements before the Regional Improvements are completed, (which improvements may be different than those contemplated by the plans addressed on the attached Exhibit B (Revised); and an alternative set if the Regional Improvements are completed first. Such modifications, including alternative plats and plans, shall constitute minor amendments to prior Entitlement approvals if such treatment is consistent with the City’s Zoning Code and other Ordinances. Subject to any modifications required because of changes in federal, state or county standards or regulations related to health, safety and welfare, the standards applicable when an approval was granted will also be applicable to any modifications to that approval. Prior to any permit being issued by the City, the Developer shall provide written notification to the City regarding which set of plats and plans the Developer will be using for development.”

4. North Santa Cruz Wash Regional Project. Section V(a) of the Development Agreement is hereby deleted and replaced with the following:

Developer shall cooperate with the design and construction of the Regional Improvements to the same extent as an Adjoining Owner under the NSCW Development Agreement with regard to the portion of Property described on Exhibit C hereto (the “*Sorrento Segment*”). Developer shall have all of the rights and obligations of an Owner as to the Property and Adjoining Owner as to the Sorrento Segment under the NSCW Development Agreement subject to the same conditions, but this shall not limit Developer’s rights under this Agreement, including the right to construct the Sorrento Flood Control Improvements prior to construction of the Regional Improvements.

5. Amendment to Development Agreement. To the extent that the terms and conditions of this Amendment modify or conflict with any provision of the Development Agreement, the terms of this Amendment shall control. All other terms of the Development Agreement not modified by this Amendment shall remain the same.

6. Counterparts; Signatures. This 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 Amendment, a copy of the signed Amendment shall be considered for all purposes as an original of the Amendment to the maximum extent permitted by law, and no party to this Amendment shall have any obligation to retain a version of the Amendment that contains original signatures in order to enforce the Amendment, or for any other purpose, except as otherwise required by law.

IN WITNESS WHEREOF, the Parties have executed this Amendment to be effective as of the date first set forth above.

THE CITY:

**CITY OF MARICOPA, ARIZONA, an Arizona
municipal corporation**

By: _____
Christian Price, Mayor

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

STATE OF Arizona)
) ss.
County of Pinal)

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by _____, who acknowledged himself as the Mayor of the City of Maricopa, and being authorized to do so, executed the foregoing instrument on behalf of the City for the purposes therein stated.

Notary Public

My commission expires:

The Developer:

AZALTA, LLLP,
an Arizona limited liability limited partnership

By: _____
Its: _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by _____, the _____ of AZALTA, LLLP, an Arizona limited liability limited partnership, on behalf of the limited liability limited partnership.

Notary Public

My commission expires:

EXHIBIT A

PROPERTY

Legal Description

Parcel No. 1:

The South half of Section 32, Township 4 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;

Excepting therefrom the Southwest quarter of the Southwest quarter of the Southwest quarter of said Section 32; and

Excepting therefrom the following described portion of said Section 32:

Commencing at the Southeast corner of Section 32, Township 4 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;

Thence North (Assumed Bearing) along the East line of said Section 32, a distance of 210.00 feet to the True Point of Beginning;

Thence West 400.00 feet;

Thence North 400.00 feet;

Thence East 400.00 feet to a point on said East line of said Section 32;

Thence South 400.00 feet to the True Point of Beginning; and also

Excepting therefrom the South 80 feet of the East 70 feet of said section; and also

Except that part of the Southeast quarter of Section 32, Township 4 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona, more particularly described as follows:

Commencing at the 1/2" iron bar marking the Southeast corner of said Section 32, from which the 1/2" iron bar marking the East quarter corner of said Section 32 bears North 00 degrees 28 minutes 42 seconds East, a distance of 2,639.77 feet;

Thence South 89 degrees 56 minutes 20 seconds West, along the South line of the Southeast quarter of said Section 32, a distance of 70.00 feet to the True Point of Beginning;

Thence continuing South 89 degrees 56 minutes 20 seconds West, along said South line of Section 32, a distance of 685.03 feet;

Thence North 00 degrees 28 minutes 42 seconds East, departing said South line a distance of 987.96 feet;

Thence North 45 degrees 28 minutes 42 seconds East, a distance of 31.38 feet;

Thence South 89 degrees 31 minutes 18 seconds East, a distance of 732.81 feet to a point on the East line of the Southeast quarter of said Section 32;

Thence South 00 degrees 28 minutes 42 seconds West, along said East line of said Section 32, a distance of 393.04 feet;

Thence North 89 degrees 31 minutes 18 seconds West, departing said East line, a distance of 400.00 feet to a point on a line which is parallel with and 400.00 feet Westerly, as measured at right angles, from the East line of said Section 32;

Thence South 00 degrees 28 minutes 42 seconds West, along said parallel line, a distance of 400.00 feet;

Thence South 89 degrees 31 minutes 18 seconds East, a distance of 400.00 feet to a point on the East line of said Section 32;

Thence South 00 degrees 28 minutes 42 seconds West, along said East line a distance of 130.00 feet to a point on the North line of USA fee reserved right of way parcel recorded in Docket 1614, Page 381, Pinal County records;

Thence along USA fee reserved right of way parcel the following courses:

Thence South 89 degrees 56 minutes 20 seconds West, a distance of 70.00 feet;

Thence South 00 degrees 28 minutes 42 seconds West, a distance of 80.00 feet to the True Point of Beginning; and also

Except any portion lying within Sorrento Phase 1, recorded in Cabinet F, Slide 018, Pinal County, Arizona.

Parcel No. 2:

The Southwest quarter of the Southwest quarter of the Southwest quarter of Section 32, Township 4 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County Arizona.

Parcel No. 3:

The West half of the Northwest quarter of Section 32, Township 4 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County Arizona.

Except any portion lying within Sorrento Phase 1, recorded in Cabinet F, Slide 018, Pinal County, Arizona.

Parcel No. 4:

The East half of the Northwest quarter of Section 32, Township 4 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County Arizona.

Except any portion lying within Sorrento Phase 1, recorded in Cabinet F, Slide 018, Pinal County, Arizona.

EXHIBIT B
(Revised)

ENTITLEMENTS

The following project entitlement documents have received jurisdictional approvals for the SORRENTO development:

1. Project Zoning and Supportive Zoning Documents by Coe & Van Loo Consultants, Inc., City of Maricopa Case Number SUB04.01, PAD zoning approved January 2004.
 - a. Planned Area Development Guide by Coe & Van Loo Consultants, Inc. Approved Dated January 2004.
2. Project Preliminary Plat (all 3 phases) by Coe & Van Loo Consultants, Inc., City of Maricopa Case Number SUB05.82, Approved July 2004 and Revised Approval January 2007 with extension granted November 2009, along with the following Supportive Documents:
 - a. Preliminary Drainage Report by Coe & Van Loo Consultants, Inc., Dated August 2006.
 - b. Preliminary Water and Sewer Report by Coe & Van Loo Consultants, Inc., Dated January 2005 and Appendices.
 - c. Traffic Impact Analysis by TASK Engineering Dated August 2006 (with stipulations) and Appendices.
 - d. ALTA Survey by Coe & Van Loo Consultants, Inc. Dated February 2006.
3. Project Final Plats by Coe & Van Loo Consultants, Inc., for Parcels 14, 15, 16, 17, 18, 19, and Master Plat. City of Maricopa Case Number SUB05.83-05.88, Dated July 2010, Final submittal and Council Approval pending.
4. Project Phase 3 Construction Documents by Coe & Van Loo Consultants, Inc. for Parcels 14, 15, 16, 17, 18, 19. City of Maricopa Case Number SUB05.83-05.88, Plans Approved March 2010, April 2010, June 2010 and July 2010, including the following Supportive Documents:
 - a. Final Drainage Report by Coe & Van Loo Consultants, Inc.
 - b. Water Plans by Coe & Van Loo Consultants, Inc.
 - c. Sewer Plans by Coe & Van Loo Consultants, Inc.
 - d. Grading Plans by Coe & Van Loo Consultants, Inc.
 - e. Paving Plans by Coe & Van Loo Consultants, Inc.
 - f. Landscape Plans by Coe & Van Loo Consultants, Inc.
 - g. Reclaimed Water Distribution Plans by Coe & Van Loo Consultants, Inc.
 - h. Traffic Impact Analysis by TASK Engineering Dated August 2006 (with stipulations) and Appendices.
 - i. Storm Water Management Plan and NOI by Coe & Van Loo Consultants, Inc.
 - j. Water and Sewer Plans also approved by ADEQ, Palo Verde Utilities, and Santa Cruz Water (Global Water Resources).
5. Project Phase 3 Construction Documents by Coe & Van Loo Consultants, Inc. for Phase 3 Infrastructure roadways Farrell Road, Sorrento Boulevard, and Hartman Road. City of Maricopa Case Number SUB06.10, Plans Approved July 2010 and August 2010, including the following Supportive Documents:
 - a. Final Drainage Report by Coe & Van Loo Consultants, Inc.
 - b. Water Plans by Coe & Van Loo Consultants, Inc.
 - c. Sewer Plans by Coe & Van Loo Consultants, Inc.
 - d. Mass Grading Plans by Coe & Van Loo Consultants, Inc.

- e. Paving Plans by Coe & Van Loo Consultants, Inc.
- f. Landscape Plans by Coe & Van Loo Consultants, Inc.
- g. Sorrento Grading Plans for the Floodplain Solution by Coe & Van Loo Consultants, Inc.
- h. Traffic Impact Analysis by TASK Engineering Dated August 2006 (with stipulations) and Appendices.
- i. Storm Water Management Plan and NOI by Coe & Van Loo Consultants, Inc.
- j. FEMA Approved CLOMR by Coe & Van Loo Consultants, Inc.
- k. Water and Sewer Plans also approved by ADEQ, Palo Verde Utilities, and Santa Cruz Water (Global Water Resources)

EXHIBIT C

2555 FCF

March 15, 2007

EXHIBIT G-4 LEGAL DESCRIPTION FOR SANTA CRUZ NORTH CHANNEL RIGHT OF WAY AZALTA LLLP (SORRENTO) PARCEL

That part of the West Half of Section 32, Township 4 South, Range 4 East of the Gila and Salt River Meridian, Pinal County, Arizona, more particularly described as follows:

Beginning at the Pinal County Highway Department Aluminum Cap marking the Southwest Corner of said Section 32;

Thence North 00°27'32" East, along the West line of the Southwest Quarter of said Section 32, a distance of 2,643.99 feet to the Aluminum Cap marking the West Quarter Corner of said Section 32;

Thence North 00°27'25" East, along the West line of the Northwest Quarter of said Section 32, a distance of 2,643.84 feet to the Pinal County Aluminum Cap marking the Northwest Corner of said Section 32;

Thence South 89°54'31" East, along the North line of the Northwest Quarter of said Section 32, a distance of 150.00 feet to a point on a line which is parallel with and 150.00 feet Easterly, as measured at right angles, from the West line of the Southwest Quarter of Section 29, of said Township 4 South, Range 4 East;

Thence South 00°07'14" West, along said parallel line, a distance of 0.52 feet to a point on a line which is parallel with and 150.00 feet Easterly, as measured at right angles, from the West line of the Northwest Quarter of said Section 32;

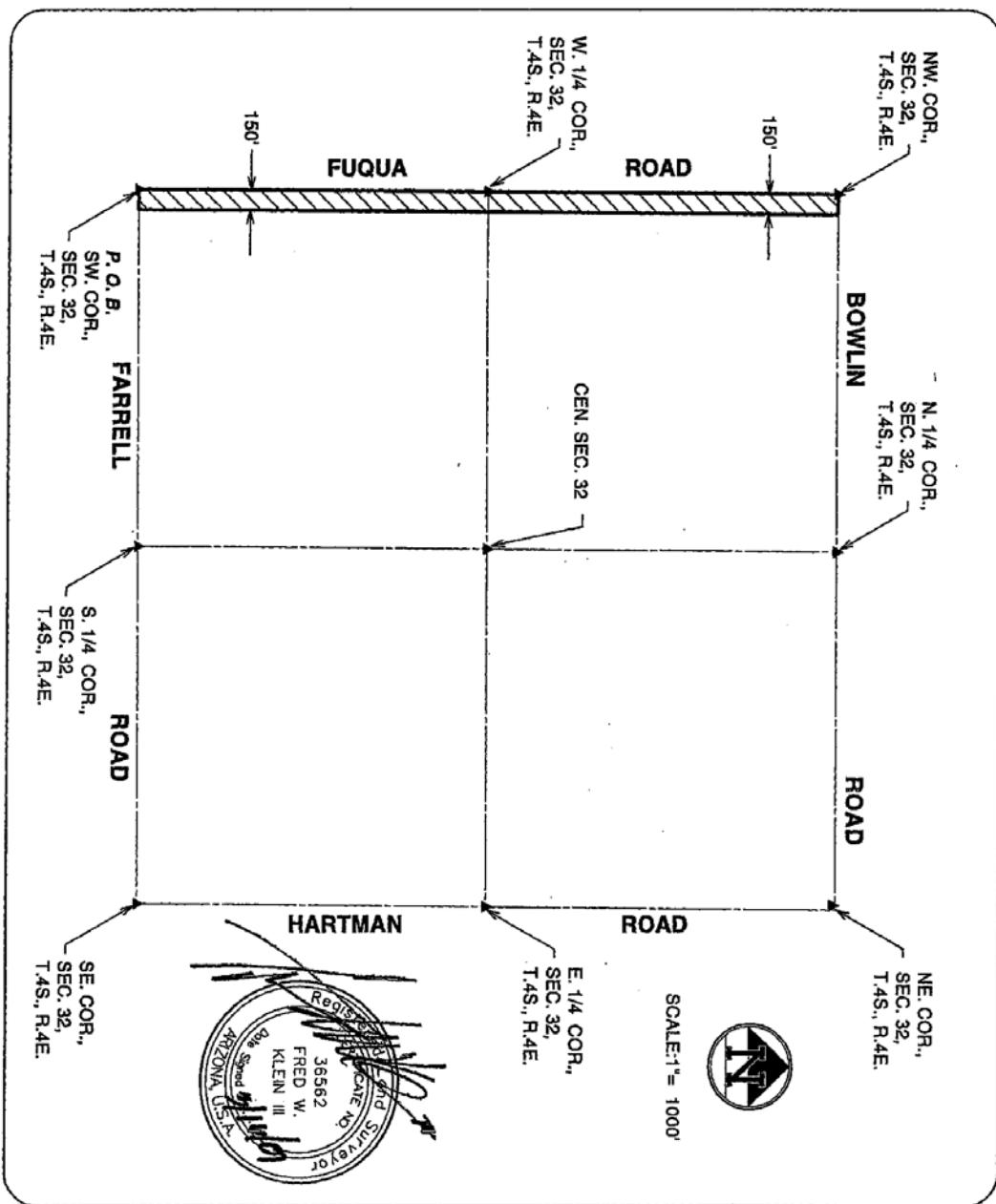
Thence South 00°27'25" West, along said parallel line, a distance of 2,644.29 feet to a point on a line which is parallel with and 150.00 feet Easterly, as measured at right angles, from the West line of the Southwest Quarter of said Section 32;

Thence South 00°27'32" West, along said parallel line, a distance of 2,642.79 feet to a point on the South line of the Southwest Quarter of said Section 32;

Thence North 89°59'58" West, along said South line, a distance of 150.00 feet to the Point of Beginning.

Containing 18.208 Acres, more or less.





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