RESOLUTION NO. VCFD 2021-03

(VISTANCIA COMMUNITY FACILITIES DISTRICT)

A RESOLUTION OF THE BOARD OF DIRECTORS OF VISTANCIA COMMUNITY FACILITIES DISTRICT APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO AMENDED AND RESTATED DISTRICT DEVELOPMENT, FINANCING PARTICIPATION AND INTERGOVERNMENTAL AGREEMENT (VISTANCIA COMMUNITY FACILITIES DISTRICT)

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF VISTANCIA COMMUNITY FACILITIES DISTRICT as follows:

1. Findings.

a. On October 15, 2002, the Mayor and Council of the City of Peoria, Arizona (hereinafter called the "Municipality"), adopted Resolution No. 02-210 which, among other things, ordered and declared formation of Vistancia Community Facilities District (hereinafter called the "District") over the property described in such Resolution (hereinafter referred to as the "Property").

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

c. Pursuant to Title 48, Chapter 4, Article 6, Arizona Revised Statutes (hereinafter referred to as the "Act"), and Section 9-500.05, Arizona Revised Statutes, in connection with the formation of the District, the Municipality, the District and certain entities which at various times have had an interest in real property within the boundaries of the District entered into a District Development, Financing Participation and Intergovernmental Agreement (Vistancia Community

Facilities District), dated as of October 1, 2002, as amended by a First Amendment to District Development, Financing Participation and Intergovernmental Agreement (Vistancia Community Facilities District), dated as of April 1, 2005 (hereinafter referred to as the "First Amendment"), a Second Amendment to District Development, Financing Participation and Intergovernmental Agreement, dated as of December 1, 2006 (hereinafter referred to as the "Second Amendment"), and a Third Amendment to District Development, Financing Participation and Intergovernmental Agreement (Vistancia Community Facilities District), dated as of September 1, 2015 (as so amended by such amendment and the First Amendment and the Second Amendment, hereinafter referred to as the "Original 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.

d. Thereafter, the Board of Directors of the District (hereinafter referred to as the "District Board") determined to enter into an Amended and Restated District Development, Financing Participation and Intergovernmental Agreement (Vistancia Community Facilities District), dated as of September 1, 2020 (hereinafter referred to as the "Restated Development Agreement"), by and among the Municipality, the District, Vistancia Master Holdings, LLC, a limited liability company duly incorporated and validly existing pursuant to the laws of the State of Arizona and authorized to do business in the State of Arizona, which has an interest in certain property in the District and is an investor, guarantor and indemnitor but is not a developer (hereinafter referred to as "VMH"), and Vistancia Residential, LLC, a limited liability company duly incorporated and validly existing pursuant to the laws of the state of Arizona and authorized to do business in the State of Arizona (hereinafter referred to as "Vistancia Residential"), to amend and restate the Original Development Agreement for the purposes described therein.

e. Vistancia Residential previously owned the Property, and VMH had an interest in the Property as an investor, guarantor and indemnitor.

f. Vistancia Residential has conveyed the Property to Vistancia Development LLC, a limited liability company duly incorporated and validly existing pursuant to the laws of the State of Delaware and authorized to do business in the State of Arizona (hereinafter referred to as "Vistancia Development").

g. The District Board hereby determines that (i) neither Vistancia Residential nor VMH is in default under the Restated Development Agreement and (ii) Vistancia Development is a satisfactory assignee pursuant to Section 5.5 of the Restated Development Agreement.

h. By a First Amendment to Amended and Restated District Development, Financing Participation and Intergovernmental Agreement (Vistancia Community Facilities District) (hereinafter referred to as the "First Amendment"), Vistancia Residential and VMH assigned all of their rights and obligations contained in the Restated Development Agreement, and Vistancia Development accepted all of the rights and assumed all of the obligations of the Restated Development Agreement on the part of both Vistancia Residential and VMH to be performed, including to provide substitute security, indemnification obligations and replenishment of "Expenses Account" in an amount and form not less than described in the Restated Development Agreement.

i. The District Board has determined to enter into the First Amendment, and the First Amendment has been placed on file with the District Clerk of the District and presented to the District Board.

2. Approval of First Amendment; Completion; Execution.

a. The First Amendment is hereby approved in substantially the form submitted herewith, with such changes, additions, deletions, insertions and omissions, if any, as the Chairperson of the District Board, with the advice of the District Manager and the District Counsel, shall authorize, the execution and delivery of the First Amendment to be conclusive evidence of the propriety of such document and the authority of the person or persons executing the same.

b. The District Manager or his or her designee is hereby authorized to complete the First Amendment by including the appropriate materials as necessary therein.

c. The Chairperson of the District Board, with the advice of the District Manager and the District Counsel, is hereby authorized and directed to execute, and the District Clerk to attest, the First Amendment on behalf of the District.

3. No Liability of or for the Municipality; Severability; Amendment; Effective Date.

a. Neither the Municipality nor the State of Arizona or any political subdivision of either (other than the District) shall be directly, indirectly or morally liable or obligated for the payment or repayment of any indebtedness, liability, cost, expense or obligation of the District, and neither the credit nor the taxing power of the Municipality, the State of Arizona or any political subdivision of either (other than the District) shall be pledged therefor.

b. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

c. All resolutions or parts thereof inconsistent herewith are hereby waived to the extent only of such inconsistency.

d. This Resolution shall be effective immediately.

[*Signature page follows*.]

PASSED by the District Board of Vistancia Community Facilities District this 15th day of June, 2021.

_____
Chairperson, District Board,
Vistancia Community Facilities District

_____
Date Signed

ATTEST:

_____
District Clerk,
Vistancia Community Facilities District

APPROVED AS TO FORM:

_____
District Counsel,
Vistancia Community Facilities District