

When Recorded Return to:  
City of Peoria  
City Clerk's Office  
8401 W. Monroe Street  
Peoria, Arizona 85345

**THIRD AMENDMENT TO  
AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR  
VISTANCIA IN PEORIA, ARIZONA**

This Third Amendment to the Amended and Restated Development Agreement for Vistancia in Peoria, Arizona ("**Third Amendment**") is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2025 ("**Effective Date**"), by and between (i) the **CITY OF PEORIA, ARIZONA**, an Arizona municipal corporation (the "**City**"), (ii) **VISTANCIA DEVELOPMENT LLC**, a Delaware limited liability company ("**Vistancia Development**"), and (iii) **VISTANCIA INVESTMENTS LLC**, a Delaware limited liability company (the "**VI Owner**"). The City and Vistancia Development may be referred to herein individually as a "**Party**" or collectively as the "**Parties.**"

**RECITALS**

A. WHEREAS, A.R.S. §9-500.05 authorizes the City to enter into a development agreement with a landowner or any other person having an interest in real property located in the City or outside its incorporated area.

B. WHEREAS, the City and the predecessor-in-interest to Vistancia Development previously entered into that certain Amended and Restated Development Agreement for Vistancia in Peoria, Arizona, dated May 1, 2012 (the "**Original Agreement**"), recorded on May 9, 2012 in Instrument No. 20120395094 of the official records of Maricopa County, Arizona (the "**Official Records**"), as amended by that certain First Amendment to Amended and Restated Development Agreement for Vistancia in Peoria, Arizona, dated March 5, 2014, recorded on March 5, 2014 in Instrument No. 20140142708 of the Official Records, which First Amendment was amended by that certain Amended and Restated First Amendment to Amended and Restated Development Agreement for Vistancia in Peoria, Arizona, dated September 14, 2015, recorded on September 30, 2015 in Instrument No. 20150707630 of the Official Records (the "**First Amendment**"); and further amended by that certain Assignment of and Second Amendment to Amended and Restated Development Agreement for Vistancia in Peoria, Arizona, dated June 24, 2021, recorded on July 26, 2021 in Instrument No. 2021806346 of the Official Records (the "**Second Amendment**" and together with the Original Agreement and the First Amendment being hereinafter collectively referred to as the "**Development Agreement**"), which is hereby further amended by this Third Amendment and is otherwise hereby incorporated in its entirety; and

C. WHEREAS, Section 27 of the Original Agreement provides that the Development Agreement may be amended with the mutual written consent of the Parties. The Parties desire to amend the Development Agreement on the terms and conditions set forth in this Third Amendment.

NOW, THEREFORE, in consideration of the foregoing Recitals, the mutual agreements set forth herein, and for other good and valuable consideration, the receipt, sufficiency, and validity of which are hereby acknowledged, the Parties state, confirm and agree as follows:

## AGREEMENT

1. Incorporation of Recitals. The foregoing Recitals are agreed to be true and correct and are incorporated herein by this reference.

2. Other Development Documents. The Development Agreement references certain other documents and provides that such documents govern the responsibilities and obligations of the Parties (the “**Additional Documents**”), including, without limitation, (i) the Water Appendix (attached as Exhibit “C” to the Original Agreement) (the “**Water Appendix**”), (ii) the Master Plans (the “**Master Plans**”), and (iii) that certain PCD adopted by the City on January 14, 2025 via case number Z01-10A.17 (the “**PCD**”). The Development Agreement and the Additional Documents are collectively referred to as the “**Development Documents**”. To the extent the terms and conditions of this Amendment are inconsistent with the Development Documents, the terms and conditions of this Amendment shall control.

3. Jomax Water Reclamation Facility Expansion.

a. The Development Documents, specifically the Water Appendix and the Vistancia Utility Master Plan, require Vistancia Development to construct or contribute a portion of the cost to construct an expansion of the Jomax Water Reclamation Facility (“**Jomax WRF**”). Vistancia Development has constructed several phases of the Jomax WRF, and most recently has constructed the 0.75 MGD expansion completed in early 2025 increasing total WRF capacity to 3 MGD. Pursuant to applicable law and the Development Documents, Vistancia Development shall be eligible for Impact Fee Credits (Impact Fee Credits shall be defined throughout this Third Amendment as monetary credits issued in recognition of Vistancia Development’s qualifying contributions, that may be applied against development impact fees otherwise due, subject to the terms of a City-issued Credit Allocation Agreement, if any) and reimbursement from the Vistancia North CFD for (1) all of the costs paid by Vistancia Development to construct the expansions to the Jomax WRF; and (2) all contributions paid by Vistancia Development for the City to construct any expansions to the Jomax WRF.

b. However, the City intends to construct the next expansion of the Jomax WRF, which when complete will increase the capacity of the Jomax WRF by 1.5 MGD, which expansion is currently anticipated to cost approximately \$63,000,000 (the “**City Jomax WRF Expansion**”). The capacity need for Vistancia Development, for the Vistancia Property, is approximately .38 MGD. Accordingly, Vistancia Development’s pro rata share of the additional capacity provided by the expansion would be  $.38/1.5$  or 25.3% and the estimated cost to be contributed by Vistancia Development is \$15,939,000 (“**Vistancia Jomax WRF Share**”), and absent this Third Amendment, Vistancia Development would be required to design and construct the additional WRF capacity or compensate the City for the Vistancia Jomax WRF Share.

c. Notwithstanding anything to the contrary in the Development Documents, to provide uninterrupted capacity to serve development within the Vistancia Property, the City agrees to design, construct, and complete the City Jomax WRF Expansion, as and when required, as determined by the City in its sole discretion, at no expense to Vistancia Development, thereby releasing Vistancia Development from (1) its obligation to design, construct, complete or pay for any further wastewater improvements; and (2) its obligation to pay the Vistancia Jomax WRF Share for the City Jomax WRF Expansion. The City agrees that, notwithstanding the timing of the design

or construction of the City Jomax WRF Expansion, the City shall provide uninterrupted wastewater service to Vistancia.

d. Vistancia Development agrees that it will not be eligible for any Impact Fee Credits or reimbursements from the Vistancia Jomax WRF Share associated with City Jomax WRF Expansion; provided however that when impact fees are adjusted in the future, the City shall account for the capacity of the City Jomax WRF Expansion as being contributed by Vistancia Development.

4. Special Use Park – Commercial Core.

a. The Development Documents, specifically Section 13 of the Original Agreement pertaining to Parks and Open Space, the 2024 City of Peoria Infrastructure Improvement Plan, and the PCD, require Vistancia Development to dedicate land for an approximately 14-acre Special Use Park adjacent to parcel D-19 within the Vistancia Commercial Core (the “**VCC Special Use Park**”) as shown in Exhibit A attached hereto. Pursuant to the Development Documents, the value of the land dedicated for the VCC Special Use Park (and all costs to improve the VCC Special Use Park) would be eligible for Impact Fee Credits or reimbursements.

b. Notwithstanding anything to the contrary in the Development Documents, Vistancia Development agrees to dedicate the approximately 14 acres of land depicted in Exhibit A attached hereto to the City for use as the VCC Special Use Park as and when required by the City, without seeking Impact Fee Credits or any reimbursement for the value of the land dedicated for the VCC Special Use Park. The Parties estimate the value of the land to be \$5,600,000 as of the execution of this Third Amendment.

c. Vistancia Development shall improve the VCC Special Use Park in the manner described in the PCD on or before December 31, 2027. In accordance with the Development Documents, the City has collected and will continue to collect impact fees for parks within the City boundaries. As Vistancia Development continues to improve the VCC Special Use Park, Vistancia Development shall send the City invoices of Vistancia Development’s actual costs of improvements, not more frequently than monthly. The invoices will be subject to reasonable review and approval by the City prior to payment. Only funds spent in compliance with all applicable laws will be eligible for reimbursement. The City acknowledges that as of July 31, 2025, \$1,820,000 in Infrastructure Improvement Plan (“IIP”) funds are available to fund Special Use Parks (the “**Special Use Park Funds**”). Until the depletion of the available funding the City shall reimburse Vistancia Development the amount of the invoice within thirty (30) days after the invoice date in accordance with all applicable laws. Thereafter, the City shall reimburse Vistancia Development quarterly the lesser of the amount of Special Use Park Funds then held by the City or the amount of unpaid invoices (and any amount described in the invoices not then paid by the City shall be reimbursed on the same basis at the time of the next quarterly payment). Once the City has reimbursed Vistancia Development for the total of Vistancia Development’s actual reimbursable cost of the improvements, to the VCC Special Use Park, as defined in the forthcoming associated Impact Fee Reimbursement Agreement, then the City shall have no further obligation to reimburse or credit Vistancia Development for costs associated with the VCC Special Use Park, and Vistancia Development shall have no right or claim to reimbursements or credits associated with the VCC Special Use Park.

5. Special Use Park – Northpointe.

a. The Development Documents, specifically Section 13 of the Original Agreement pertaining to Parks and Open Space, the 2024 City of Peoria IIP, and the PCD require Vistancia Development to dedicate approximately 61-acres of land for a Special Use Park identified as Parcel H-4 in the PCD (the “**Northpointe Special Use Park**”). Pursuant to the Development Documents, the value of the land dedicated for the Northpointe Special Use Park (and all costs to improve the Northpointe Special Use Park) would be eligible for Impact Fee Credits or reimbursements.

b. Vistancia Development and the City agree to require Vistancia Development to include a “**Walkable Veterans’ Memorial**” as part of the plans for the Northpointe Special Use Park: (i) the Walkable Veterans’ Memorial shall contain a path with approximate dimensions of 4 (four) feet by one half of a mile, (ii) the Walkable Veterans’ Memorial shall be finished with decomposed, crushed granite, (iii) the Walkable Veterans’ Memorial shall include commemorative signage and a lighted presentation of the United States flag at the entry to the memorial, all in accordance with plans reasonably approved by the City.

c. The Walkable Veterans’ Memorial improvements noted above are in addition to the asphalt parking area of approximately 25 parking spaces and a picnic ramada with a memorial kiosk.

d. As provided in the Development Documents, specifically Section 13 of the Original Agreement pertaining to Parks and Open Space and the 2024 City of Peoria IIP, Vistancia Development shall receive Impact Fee Credits for the value of the land dedicated for the Northpointe Special Use Park (and all costs to improve the Northpointe Special Use Park in the manner described above).

e. The City shall include the value of the land dedicated for the Northpointe Special Use Park and the cost of improving the Northpointe Special Use Park in the next major revision to the Infrastructure Improvement Plan and no later than the 2029 update.

6. Neighborhood Park Site – Northpointe.

a. The Development Documents, specifically Section 13 of the Original Agreement pertaining to Parks and Open Space, the 2024 City of Peoria IIP, and the PCD require Vistancia Development to dedicate land for an approximately twelve (12) acre neighborhood park within the Northpointe area of the Vistancia Property in the area identified as Parcel H-26 in the PCD (the “**NP Neighborhood Park**”). The City anticipates relocating the fire station, currently located within Parcel I-6, to a location within the NP Neighborhood Park. Following the relocation, Vistancia Development shall not be required to dedicate a separate fire station (nor shall Vistancia Development receive any Impact Fee Credits or any reimbursements that would have been applicable for such land dedication). Pursuant to the Development Documents, the value of the land dedicated for the NP Neighborhood Park and fire station site (and all costs to improve the NP Neighborhood Park) would be eligible for Impact Fee Credits or reimbursements.

b. Notwithstanding anything to the contrary in the Development Documents: (i) Vistancia Development agrees to dedicate the land for the NP Neighborhood Park as and when required by the City without seeking Impact Fee Credits or any reimbursements for the \$3,480,000 value of the land dedicated for the NP Neighborhood Park, (ii) if Vistancia Development improves the NP Neighborhood Park, Vistancia Development will be eligible for Impact Fee Credits or reimbursements for those costs incurred, and (iii) the City agrees that if the City elects to relocate the fire station from Parcel I-6 to Parcel H-26, the City will initiate and process an amendment to the PCD as may be required.

7. Transportation Impact Fee Reimbursements. Pursuant to Section 19.2 of the Original Agreement (and other portions of the Development Documents), Vistancia Development has the right to receive reimbursement or Impact Fee Credits for Vistancia Development's pro rata share of certain transportation improvements (the "**Transportation Impact Fee Rights**"). As of July 31, 2025, Vistancia Development had a balance of Transportation Impact Fee Rights totaling \$2,677,155 (the "**Vistancia IFR Balance**"). Within the next ninety (90) days, Vistancia Development and the City expect the Vistancia IFR Balance to increase by \$752,345 resulting in a Vistancia IFR Balance of \$3,429,500 as a result of additional submissions by Vistancia Development to the City supporting the right to additional Vistancia IFR (which submissions shall be reviewed and approved in the normal course of the City's business). Section 19.3 allows the parties to agree on a mechanism for reimbursements to Vistancia Development. The parties agree that, upon ninety (90) days after the recording of this Third Amendment (the "**Application Date**"), the Vistancia IFR Balance shall be reduced by \$3,429,500 (which would leave a remaining Vistancia IFR Balance \$0.00). Initially, all Transportation Impact Fees received by the City for the Vistancia Property after the Application Date will be allocated as follows: fifty percent (50%) shall be retained by the City (but shall not impact or reduce the Vistancia IFR Balance), and the remaining fifty percent of each Transportation Impact Fee received by the City for the Vistancia Property shall be paid to Vistancia Development as reimbursement, pursuant to the terms of an Impact Fee Reimbursement Agreement, and reduce the Transportation IFR Balance accordingly. Once the total amount of the Transportation Impact Fees paid to the City equals \$3,429,500, then 100% of the future Transportation Impact Fees for the Vistancia Property shall be paid to Vistancia Development, subject to any other limitations set forth in the Development Documents and applicable law.

8. Commercial Core Recharge Basins/Reclaimed Water Line. The Development Documents, specifically the Water Appendix and the Vistancia Utility Master Plan, require Vistancia Development to construct five (5) recharge basins within, abutting, or in the vicinity of the portion of the Vistancia Property known as the Vistancia Commercial Core (the "**VCC Recharge Basins**"). Notwithstanding anything to the contrary in the Development Documents, the City agrees that Vistancia Development shall not be required to construct the VCC Recharge Basins. As a consequence of the termination of Vistancia Development's obligation to construct the VCC Recharge Basins, Vistancia Development shall have no obligation to construct a reclaimed water line within Peakview Road, however Vistancia Development must construct an 8-inch reclaimed water line within Espial Avenue if development that would require this infrastructure is planned prior to construction of this roadway commencing.

9. Significant Water User. Because of the significant water and wastewater public infrastructure improvements constructed by Vistancia Development, the Vistancia CFD and/or the Vistancia North CFD, the City imposes lower water and wastewater impact fees within Vistancia. The Parties anticipate a "**Significant Water User**" will locate within the Vistancia Commercial

Core (the “VCC”). This would place additional demands on the infrastructure not contemplated in the Vistancia Utility Master Plan – 2023 Amendment dated June 20, 2023 (“**Vistancia Utility Master Plan**”), which could require the City to oversize planned infrastructure. The City shall not be required to offer discounted water and wastewater fee rates to any Significant Water User. A “**Significant Water User**” is any end-user whose anticipated water demand, the City determines in its sole reasonable discretion, exceeds the demand assumptions described in the approved Vistancia Utility Master Plan as follows:

a. Total actual or projected Water Use exceeding 120% of the average daily water demand projected within the approved Vistancia Utility Master Plan (in gallons per day averaged over a consecutive 365 day period).

b. Total actual or projected water use in any consecutive 24 hour period that exceeds one hundred twenty percent (120%) of the maximum daily water demand projected in the approved Vistancia Utility Master Plan. For purposes of this provision, actual or projected water use in any consecutive 24 hour period shall be determined based on the greatest of the following: (i) actual metered water use; (ii) the Significant Water User’s projected daily water use; (iii) the monthly billed demand divided by the number of days in the billing period; or (iv) the average daily water use over a one-year period, multiplied by the applicable maximum day peaking factor set forth in the then-current Integrated Water Utilities Comprehensive Plan.

10. Miscellaneous Other Agreements.

a. Trailhead Confirmation. The Development Documents require Vistancia Development to design and construct a trailhead on Parcel I-5 as shown on the PCD (the “**CAP Bridge Trailhead**”). The CAP Bridge Trailhead shall provide a connection to the City’s future regional system and Twin Buttes Mountain. Vistancia Development shall dedicate to the City approximately 6.5 acres of land required to construct the CAP Bridge Trailhead, which dedication shall not be eligible for Impact Fee Credits or reimbursements. At Vistancia Development’s cost, Vistancia Development shall provide improvements to the CAP Bridge Trailhead, which include without limitation an asphalt parking area of approximately twelve (12) spaces, a natural hiking trail, and picnic ramada with a trailhead kiosk. Any additional improvements or amenities in excess of those required by the PCD in connection with the CAP Bridge Trailhead, shall be reimbursed by the City within thirty (30) days after the receipt of an invoice from Vistancia Development for said costs. Any invoices will be subject to reasonable review and approval by the City prior to payment. Only those expenses that comply with all applicable laws are subject to reimbursement.

b. The Development Documents currently require Vistancia Development to construct the El Mirage Road fronting Parcel C-36. The City is currently negotiating an upgraded El Mirage Road improvement project with the Arizona Department of Transportation (“ADOT”) (the “**Upgraded El Mirage Project**”). If the City and ADOT reach an agreement to construct the Upgraded El Mirage Project, then in lieu of Vistancia Development’s obligation to construct the El Mirage Road fronting Parcel C-36, Vistancia Development will contribute \$3,500,000.00 to the Upgraded El Mirage Project. Vistancia Development’s contribution shall be subject to a mutually acceptable written agreement and made on the later of the completion of the Upgraded El Mirage Project or September 30, 2026. If the Upgrade El Mirage Project proceeds, the City shall, or shall cause ADOT to complete the segments of El Mirage Road crossing the Beardsley Canal and

fronting Parcel C-36. Notwithstanding anything to the contrary, Vistancia Development shall no longer be required to construct El Mirage Road fronting Parcel C-36, and the construction of El Mirage Road fronting Parcel C-36 shall not be required in connection with any approvals of the Vistancia property. Further, in the event Vistancia Development (or other owner of Parcel C-36) is prepared to commence development of Parcel C-36 prior to the completion of the Upgraded El Mirage Project, the City shall permit temporary access to Parcel C-36, and shall facilitate ongoing access to Parcel C-36 during the construction of the Upgraded El Mirage Project.

c. Vistancia Development agrees to cooperate with the developer of Mystic at Lake Pleasant Heights (“**Mystic**”) to allow Mystic to install a fire road on a portion of the Twin Buttes Road alignment at Mystic’s sole cost.

11. General Provisions.

A. Compliance with Laws. Notwithstanding any language that appears to the contrary, all reimbursements made under this Agreement, and all projects associated with such reimbursements, shall comply with all applicable federal, state, and local laws, ordinances, regulations, and requirements. The City shall have no obligation to issue any reimbursements unless and until the reimbursed project is in full compliance with all applicable legal requirements.

B. Third Amendment Controls. In the event of any inconsistencies between this Third Amendment and the Development Agreement, the terms of this Third Amendment shall govern and control. Except as set forth in this Third Amendment, all other terms and conditions of the Development Agreement are hereby ratified and affirmed by each of the Parties, and shall continue in full force and effect.

C. Due Authorization; Assurances. The Parties each represent and warrant that (a) the individual signing this Third Amendment on such Party’s behalf has the legal authority to do so, (b), each Party has received all necessary consents and approvals to enter into this Third Amendment, and (c) this Third Amendment will run with the land and will bind, and inure to the benefit of, the Parties hereto and their respective successors and permitted assigns. The Parties will each execute and deliver such other instruments and perform such other acts, as may be reasonably necessary, from time to time, to effectuate this Third Amendment.

D. Counterparts Signature. This Third Amendment may be executed by each of the Parties hereto in separate counterparts with the same effect as if all Parties hereto executed the same counterpart. Each such counterpart shall be deemed an original and all of such counterparts together shall constitute one and the same instrument.

E. Governing Law. This Third Amendment shall be construed and interpreted in accordance with the Development Agreement according to the laws of the State of Arizona.

F. Recordation. The City will record this Third Amendment in the Official Records within ten (10) days after the last Party signs.

**[REMAINDER OF PAGE INTENTIONALLY BLANK;  
SIGNATURES FOLLOW ON NEXT PAGES]**

IN WITNESS WHEREOF, the Parties have executed this Third Amendment on the day and year first above written.

**CITY:**

**CITY OF PEORIA,**  
an Arizona municipal corporation

By: \_\_\_\_\_  
Jason Beck, Mayor

ATTEST:

\_\_\_\_\_  
Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Emily Jurmu, City Attorney





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(Seal)

EXHIBIT A

DEPICTION OF LAND FOR VCC SPECIAL USE PARK

