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May 16, 2022

**SENT VIA E-MAIL and U.S. MAIL**

(EHayes@Scottsdaleaz.gov)

Eliana Hayes  
City of Scottsdale  
Development Engineering  
3939 N. Drinkwater Blvd.  
Scottsdale, AZ 85251

**RE: Preserve IV Access / 4-PP-2022 #1**

Dear Ms. Hayes:

Toll Brothers has asked that we contact you in regards to the Preserve IV Pre-plat comments, case number 4-PP-2022 #1, for which the City has noted the following: *“Please provide documentation that the internal streets will be allowed to access the Sereno Canyon private street system and what agreements are in place for maintenance responsibility.”*

The Sereno Canyon Homeowners Association (the “Association”), is represented by this firm, and governed by the Declaration of Covenants, Conditions and Restrictions for Sereno Canyon recorded at Instrument No. 2007-0448214, Official Records of Maricopa County, as amended by the First Amendment recorded at Instrument No. 2019-0100626, Official Records of Maricopa County (collectively, the “Declaration”). Toll Brothers AZ Construction Company is the Declarant as that term is defined in the Declaration. Toll Brothers, as Declarant, is proposing to annex Preserve IV into Sereno Canyon.

Pursuant to the First Amendment, the definition of “Annexable Property” refers to “that real property described on Exhibit A attached hereto, as well as all real property lying and being within 25 miles from any portion of any boundary line of any Property described on Exhibit A hereto.” Consequently, the Preserve IV neighborhood is “Annexable Property” as that term is used in the Declaration.

Pursuant to the Declaration at Section 9.5, the Declarant, without the consent of any Owner or lienholder, has the right to annex all or any portion of the Annexable Property by recording a Declaration of Annexation stating the legal description of the Annexable Property being annexed, and a description of any portion of the Annexable Property being annexed that will be Common

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Area. Consequently, the Declarant is authorized to record a Declaration of Annexation to annex Preserve IV into Sereno Canyon.

Once the Preserve IV neighborhood is annexed into Sereno Canyon, the Owners of Lots in the Preserve IV neighborhood will be Members of the Sereno Canyon Homeowners Association, as those terms are defined in the Declaration.

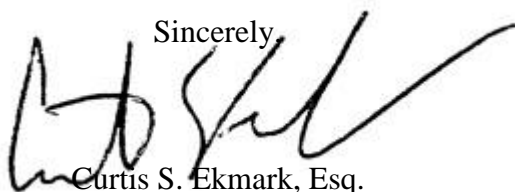
The private streets within Sereno Canyon, including the private street proposed to serve as access to Preserve IV, are Common Areas, as that term is defined in the Declaration. Pursuant to the definition of "Common Area" at Article 1 of the Declaration, "every Owner shall have a right and easement of ingress and egress and enjoyment in, over and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot subject to the right of the Association to suspend Common Area use rights... as provided in the Bylaws and the right of the Association to grant easements over Common Area to any public agency, authority or utility company as provided in the Articles..." Therefore, by annexing Preserve IV into Sereno Canyon, the Preserve IV property will be accessible via the Common Area streets all Members are entitled to use for purposes of ingress and egress, and the streets within Preserve IV will also be part of the Association Common Areas.

In terms of maintenance responsibility, the Declaration at Article 3 provides that the "Association shall maintain, paint, repair, replace, restore, operate and keep in good condition all of the Common Area and Areas of Association Responsibility and all facilities, improvements, furnishings, equipment and landscaping thereon..." Regarding financial responsibility, upon annexation into Sereno Canyon, the Preserve IV property will be subject to assessment as set forth in the Declaration at Article 4. Owners of any Lots in Preserve IV will, by virtue of taking title to the Lots, covenant and agree to pay regular assessments (as well as Special and Lot Specific Assessments and other charges) to the Association to be used by the Association to improve and maintain the Common Areas, including the private streets.

In conclusion, by annexing Preserve IV into Sereno Canyon, owners of the Preserve IV property would have easement rights over the Common Area streets in Sereno Canyon by virtue of their membership in the Sereno Canyon Homeowners Association and payment of assessments to the Sereno Canyon Homeowners Association for the maintenance of the Common Areas, including the roadways.

Please feel free to contact me at (490) 650-9433 if you wish to discuss this matter in further detail.

Sincerely



Curtis S. Ekmark, Esq.

for

CARPENTER, HAZLEWOOD, DELGADO & BOLEN, LLP