

WHEN RECORDED RETURN TO:

CITY OF SCOTTSDALE
ONE STOP SHOP RECORDS
7447 East Indian School Road, Suite 100
Scottsdale, AZ 85251

C.O.S. Contract No. 2019-XXX-COS
(Gentry)
(Resolution No. XXXXX)

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into this ____ day of September, 2019, by and between the City of Scottsdale, an Arizona municipal corporation, ("City") CH Visconti at Camelback Communities, LLC, a Delaware limited liability company, ("Camelback") CH Glen at Old Town Communities, LLC, a Delaware limited liability company, ("Old Town") and CH Cortesian Communities, LLC, a Delaware limited liability company ("Cortesian"). Camelback, Old Town and Cortesian, and their respective successors and assigns collectively may be referred to as "Developer."

RECITALS

A. Arizona Revised Statutes 9-500.05 authorizes the City to enter into a Development Agreement related to real property located within the incorporated area of the City with a landowner or other person having an interest in the real property.

B. Developer is the current owner of that certain real property located at the southwest corner of Camelback and Hayden Roads containing approximately, 41.5+/- gross acres (the "Property"). The Property comprises nine (9) legally identified parcels ("Parcel A-1," "Parcel A-2," "Parcel B-1," "Parcel B-2," "Parcel B-3," "Parcel B-4," "Parcel C-1," "Parcel OS-1," and "Parcel OS-2,") as described, respectively, on **Exhibit "A-1," Exhibit "A-2," Exhibit "B-1," Exhibit "B-2," Exhibit "B-3," Exhibit "B-4," Exhibit "C-1," Exhibit "OS-1," Exhibit "OS-2,"** and as they all are depicted on **Exhibit "D."** Parcel A-1, Parcel A-2, Parcel B-1, Parcel B-2, Parcel B-3, Parcel B-4, Parcel C-1, Parcel OS-1, and Parcel OS-2 may individually be described as a "Parcel" and collectively as the "Parcels."

C. The Property is intended to be developed as a mixed-use project in three main phases, with Parcel A-1, Parcel A-2, Parcel OS-1 and Parcel OS-2 developed in the first phase ("Phase 1"), Parcel B-1, Parcel B-2, Parcel B-3 and Parcel B-4 developed in the second phase ("Phase 2"), and Parcel C-1 developed in the third phase ("Phase 3"). Phase 1, Phase 2 and Phase 3 may individually be described as a "Phase" and collectively as the Phases. The Property in the three Phases is bisected by 78th Street, which runs north and south from Camelback Road to the south through the Property.

D. Currently, Phase 1 is intended to be developed beginning with Parcel A-1, followed by Parcel A-2 and then Parcel OS-1. Further, Phase 1 will include the development of

an east-to-west oriented pedestrian and bicycle through-way that includes significant recreational and art features (the “Paseo”) on Parcel OS-2. The Paseo also will be developed in two phases, with the northern portion completed with the development of Parcel A-1, Parcel A-2 and Parcel OS-1, and the southern portion completed with the development of Parcel B-1, Parcel B-2, Parcel B-3 and Parcel B-4. The portion of the Property that comprises the Paseo will be subdivided from the Parcels to allow it to be managed as “Shared Facilities” as more fully described below.

E. The Property is the subject of a Major General Plan Amendment and rezoning case undertaken by Developer and referred to as “Gentry on the Green” as a mixed-use project that may include residential, restaurant, retail, office, hotel and residential health care facilities (the “Project”). Further, to establish the regulatory structure for future development of the Property and the Project, the Developer has made development applications to the City with associated development plans (collectively, the “Development Plan”) for a Major General Plan Amendment, Case No. 3-GP-2019 (the “General Plan Amendment”) and a rezoning Case No. 11-ZN-2019 (the “Rezoning Case”). The Rezoning Case requests a change from Multiple-Family District (R-5) to Planned-Unit Development, Planned Shared Development Overlay (PUD-PDS) (“PSD”) and the General Plan Amendment requests a change from Urban Neighborhoods to Mixed-Use Neighborhoods. The rezoning was completed pursuant to the adoption of the new regulatory approvals and stipulations contained in the Development Plan, the Major General Plan Amendment and Zoning District Map Amendment (the “Regulatory Approvals”). Pursuant to the Regulatory Approvals, the Project and Property shall be subject to Article VI, Section 6.1400 et. seq. of the City’s Zoning Ordinance (the “PSD Ordinance”).

F. The Development Plan and Regulatory Approvals establish the maximum density associated with the Dwelling Unit Capacity (“DUC”), the Gross Floor Area (“GFA”) and Gross Floor Area Ratio (“GFAR”) based on the GFA for the Property under the associated development standards. The applicable DUC, GFA, GFAR (“Development Attributes”) are reflected in a budget (the “Development Area Budget”) for each Parcel and in the development plan area map. The Development Area Budget sets forth the maximum Development Attributes for buildings and other development that may be constructed on each of the Parcels.

G. This Agreement is part of the requirements for approval of the Rezoning Case. The Development Plan is on file with the Clerk of the City as declared a public record by Resolution No. XXXXX and adopted by Ordinance No. XXXX and incorporated into this Agreement by this reference.

H. This Agreement and the related documents required by this Agreement are intended to stimulate employment, investment in the area, and advance the economic benefit of the City and surrounding neighborhoods, and to achieve the redevelopment of the Property in accordance with this Agreement and in furtherance of the Development Plan.

I. The development required by this Agreement will result in improvements to the greater City and adjacent and nearby properties and will benefit the City and the public in general. Without limitation, such benefits include the enhanced development of a key economic and commercial area within the City, increased tax revenues, facilitation of the development of

adjoining and nearby areas, and elimination of impediments to development within the territorial boundaries of the City and the greater community and the area in particular.

J. This Agreement is consistent with the portions of City's general plan applicable to the Property on the date of this Agreement, including the South Scottsdale Character Area Plan.

K. The City's governing body has authorized execution of this Agreement by Resolution Number XXXXX.

In consideration of the above premises, and the mutual promises and representations contained herein, and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the Developer and City agree as follows:

AGREEMENT

1. Recitals. The recitals set forth above are incorporated into this Agreement by reference.

2. Definitions.

2.1 "Development rights" means the maximum development that would be allowed on the sending property under the City's general and any applicable specific plan and the City's zoning ordinance in effect on May 17, 2016, the date the City adopted Ordinance No. 4244 allowing the transfer of development rights in the PSD zoning overlay district.

2.2 "Owner" means the owner of a fee interest in a parcel or lot.

2.3 "Parcel" means a separate, legal unit or lot of real property, including the Property or any portion of the Property formed as a separate unit through a land division of the Property approved by the City.

2.4 "Parent Parcel" means a parcel of real property before it is legally divided into one or more lots pursuant to Section 4.2.1.

2.5 "Receiving property" means a lot or parcel within which development rights are increased pursuant to a transfer of development rights.

2.6 "Sending property" means a lot or parcel with special characteristics, including farmland, woodland, desert land, mountain land floodplain, natural habitats, recreation or parkland, including golf course areas, or land that has a unique aesthetic, architectural or historic value that the City desires to protect from future development.

2.7 "Severance of development rights" means the process of removing specified development rights from a parcel, lot, or Parcel.

2.8 "Transfer of development rights" means the process by which development rights from a sending property are affixed to one or more receiving properties.

3. Term. The term of this Agreement shall be as follows:

3.1 Duration. The term of this Agreement shall commence on the date this Agreement is approved by the City's Council, signed by all parties, and recorded in the Office of the Maricopa County Recorder, and will continue in effect until all obligations and rights of the parties under this Agreement have been performed, terminated by mutual written agreement of all parties, or have expired.

3.2 Effect of Termination or Expiration on Regulatory Approvals. Termination or expiration of this Agreement shall have no effect on the Regulatory Approvals, which shall continue to be enforceable according to their terms. Any notice of termination or expiration of this Agreement shall so state.

3.3 Referendum. If the Regulatory Approvals are invalidated by a referendum or court action, then this Agreement shall be void ab initio.

4. Project & Zoning. Developer's development of the Property and the Project shall comply with the following:

4.1 No Construction Obligation. Developer has no obligation to develop the Property or any portion of the Project; provided however that all further construction of the Project shall be performed in compliance with the Development Plan, Regulatory Approvals and the terms and conditions of this Agreement.

4.2 Development Area Budget and Allocation. The Property's total Development Area Budget shall not exceed the maximum Development Attributes specified in the Development Plan approved in the Rezoning Case and the Development Area Budget attached hereto as **Exhibit "E."** Any future transfer of development rights between parcels in the Property, including with respect to the Parcels, that is different from the development rights allocations that are set forth and disclosed on the Development Plan and the Development Area Budget will require an application signed by all Owners of the affected parcels and lienholders of such parcels in the Property and is subject to the notice and hearing requirements of section 9-462.04 of the Arizona Revised Statutes.

4.2.1 The Developer may divide a parcel into two or more smaller parcels (each, a "Child Parcel") and allocate Development Attributes to, and determine the development standards under the PSD for, each Child Parcel. The total Development Attributes allocated to all Child Parcels following such division shall not exceed the amount of Development Attributes allocated to the Parent Parcel, unless Developer allocates additional, unallocated Development Attributes from the Development Area Budget to such Child Parcels pursuant to the application, notice and hearing, and approval process specified in Section 4.2.

4.2.2 The Developer may combine two or more Child Parcels into one parcel (a "Combined Parcel") and allocate Development Attributes to the Combined Parcel. The total Development Attributes allocated to the Combined Parcel shall not exceed the total amount of Development Attributes previously allocated to the Child Parcels comprising the Combined

Parcel, unless Developer transfers additional development rights to such Combined Parcel pursuant to the application, notice and hearing, and approval process specified in Section 4.2.

4.3 Planned Shared Development Shared Facilities. Developer shall establish a property management association (“Association”) to maintain all common areas, shared facilities, or community-owned property shown on the Development Plan for the Property (collectively, “Shared Facilities”). Developer shall obligate such Association to record a Master Declaration of Easements, Covenants, Conditions and Restrictions (“ECR”) with the Maricopa County Recorder’s Office identifying how such Shared Facilities will be maintained.

4.4 PSD Indemnity. In addition to all other obligations hereunder, the Owners, Developer (and all persons claiming through Developer or claiming rights under this Agreement), and existing and future Owners of parcels within the Property’s boundaries shall indemnify and hold harmless the City, its employees, agents and officials from any and all claims, demands, suits, judgments, assessments, proceedings, or liabilities of any kind, including reasonable attorney’s fees and costs, that may arise from any person(s)/entity(ies) owning any part of the Property related to the development or division of the Property, or the Property’s being subject to the application of the PSD Ordinance. Further, the Property Manager shall indemnify and hold harmless the City, its employees, agents and officials harmless from any and all claims, demands, suits, judgments, assessments, proceedings, or liabilities of any kind, including reasonable attorney’s fees and costs, that may that may be asserted against the City and arise from any person(s)/entity(ies) owning any part of the Property, which they may bring against the City resulting from the development or from the division of the Property.

5. Transfer of Development Rights.

5.1 Development Rights. The Development Plan approved in the Rezoning Case establishes the Development Area Budget, the application of Development Attributes to each Parcel, and determines the development standards applicable under the PSD for the Property.

5.2 Dividing and Combining a Parcel(s) of the Property. Concurrent with the recordation of a land division or final plat approved by the City, the Development Area Budget of any newly created parcels shall be similarly divided pursuant to the procedures specified in Sections 4.2.1 and 4.2.2. Notwithstanding the preceding sentence, or anything else in this Agreement, Developer and City acknowledge that the Development Plan and Development Area Budget approved as part of Rezoning Case already specifies the allocation of Development Attributes for the nine Parcels and the public hearing requirements for this allocation have been made in connection with the Zoning Case. Upon any further division of the Parcels into separate legal parcels, this allocation shall be memorialized through a “Development Attributes Allocation Form,” in a form attached as **Exhibit “F”**, for each Parcel that specifies the applicable development rights attributable to each Parcel. Developer shall submit the Development Attributes Allocation Form to the City for the City’s expeditious recordation in the Maricopa County Recorders’ Office. No development applications, building permits, or other City approvals for any Parcel will be approved until the applicable Development Attributes Allocation Form is recorded as provided in this subsection. All other instances of the severance of development rights or the transfer of development rights shall be memorialized as follows:

5.2.1 Reallocations to Child and Parent Parcels Not Requiring a Public Hearing.

All property Owners, all lienholders, and all interested persons holding an interest in real property for any parcel of the Property to be divided into Child Parcels pursuant to section 4.2.1 or combined into a single Parent Parcel pursuant to section 4.2.2, shall sign a Development Attributes Allocation Form and submit it to the City for the City's expeditious recordation in the Maricopa County Recorders' Office. No development applications, building permits, or other city approvals for the divided or combined parcels of the Property will be approved until the applicable Development Attributes Allocation Form is recorded as provided in this subsection. If an error is made on any form, upon notice by an Owner or the City to the other, the City and such Owner shall cause a revised Development Attributes Allocation Form reflecting the correct allocated Development Attributes associated with each newly created parcel to be prepared by such Owner, provided to the City, and to be expeditiously recorded as set forth in this subsection.

5.2.2 Transfer of Development Rights Requiring Notice and a Public Hearing Pursuant to Section 9-462.04 of the Arizona Revised Statutes. All property Owners, all lienholders, and all interested persons holding an interest in real property for any portion of the Property subject to the creation of a new parcel not covered in sections 4.2.1 or 4.2.2, or, if reallocation is to be made between existing parcels, of the affected parcels, shall sign a Transfer of Development Rights form and a Severance of Development Rights form, both in a form satisfactory to the City Attorney and the Zoning Administrator and in accordance with Arizona Revised Statutes, and submit them to the City for the City's expeditious recordation in the Maricopa County Recorders' Office. No development applications, building permits, or other City approvals for the affected parcels of the Property will be approved until the applicable Transfer of Development Rights and Severance of Development Rights forms are recorded as provided in this subsection. If an error is made on the Transfer of Development Rights form or a Severance of Development Rights form, upon notice by an Owner or the City to the other, the City and such Owner shall cause a revised Transfer of Development Rights form or a Severance of Development Rights form reflecting the correct allocated Development Attributes associated with each parcel to be prepared by such Owner, provided to the City, and to be expeditiously recorded as set forth in this subsection.

6. City Contact and Property Manager.

6.1 City Contact. The City contact shall be the Zoning Administrator.

6.2 Appointment of Property Manager. Developer and its assigns shall appoint one or more individuals or entities to be a "Property Manager" with respect to the Property or any portion thereof (each a "Property Manager"). Developer and its assigns may appoint the Association or an Owner of the Property or any portion thereof as such Property Manager. Upon any person or entity being appointed a Property Manager with respect to the Property or any portion thereof, Developer or its assigns shall give the City notice of such appointment and the name and contact address and other information required for notice in this Agreement. Until notice is provided to the City by Developer otherwise, Developer shall be the Property Manager for all purposes under this Agreement.

6.3 Responsibility of Property Manager. Each Property Manager shall be responsible for complying with all City Requirements in a timely and professional manner, and

maintaining and repairing the Shared Facilities, as reasonably determined necessary by the City in accordance with the City Requirements.

6.4 Assurance of a Property Manager. Developer, its assigns, and all present and future property Owners shall assure that the Property shall always have an appointed Property Manager, and that this Property Manager shall agree to indemnify the City as required by section 4.4 of this Agreement and section 6.1406 of the Zoning Ordinance of the City of Scottsdale. If the Property has no designated Property Manager, and such failure continues uncured for fifteen days after written notice thereof from the City to the Owners, the City shall deem all property Owners to be in default under this Agreement. Developer and its successors and assigns shall have the right to replace the Property Manager with the City's consent (which consent shall not be unreasonably withheld) upon notice to the City pursuant to paragraph 16.6.

7. Declaration of Easements, Covenants, Conditions & Restrictions.

7.1 ECRs. The ECRs shall address the following to the City's satisfaction:

7.1.1 Responsibility for Shared Facilities. Developer understands that (a) it may create certain common area improvements on the Property as Shared Facilities, and (b) each Owner must pay assessments for complying with all City requirements and for maintaining and repairing the Shared Facilities, as reasonably determined necessary by the City.

7.1.2 Ownership of Shared Facilities. All Shared Facilities, if any, shall be identified in the ECRs. If some of the Shared Facilities are to be shared by the Owners, then the ECRs shall identify which Owner is responsible for which Shared Facilities.

7.1.3 Assessments. The Property Manager shall have authority to assess and collect fees for complying with City requirements and for maintaining and repairing the Shared Facilities.

7.2 Duration. The ECRs shall remain in existence as long as the Property is developed with a PSD overlay.

7.2.1 Amendments. In no event shall the ECRs be amended to alter the provisions that require the Owners to share responsibility for maintaining and repairing the Shared Facilities without the City's prior written consent.

7.2.2 Delivery. A copy of the ECRs will have been delivered to the City prior to the issuance of any permits with respect to the Property.

8. Breach & Remedies. Developer shall comply with, perform and do each performance and thing required of Developer under this Agreement. Developer's failure to do so shall be a breach by Developer of this Agreement if not cured within the notice and cure periods set forth in Section 9 below.

9. Events of Default. Any Owner or Property Manager shall be in default (an "Event of Default") if such Owner, with respect to the Owner's parcel, or the Property Manager(s) and Owner(s), with respect to Shared Facilities, fails or neglects timely and completely to do or

perform or observe any material provision of this Agreement, the Regulatory Approvals, or the Development Area Budget, and such failure or neglect continues for a period of one hundred twenty (120) days after City has notified the defaulting Owner(s) and/or Property Manager(s) in writing of such failure or neglect. If the defaulting Owner(s) and/or Property Manager(s) begins to cure the default within this time period, the one hundred twenty (120) day period shall be extended an additional sixty (60) days upon request given by notice to City prior to the end of the one hundred twenty (120) day period.

10. City's Remedies. Upon the occurrence of any material Event of Default or at any time thereafter while such Event of Default remains uncured, City may, at its option and from time to time, exercise any, all, or any combination of the following cumulative remedies in any order and repetitively at City's option with respect to any and all defaulting Owner(s) and/or Property Manager(s):

10.1 Until the Event of Default is cured, issue a stop work order and/or refuse to issue any permits or process development applications for the Property, as to Shared Facilities, or, in the event the Property is divided into separate parcels, issue a stop work order and/or refuse to issue any permits or process any development applications for any parcel that is subject of the Event of Default.

10.2 Abate at applicable Owner's expense any violation of this Agreement.

10.3 Be excused without any liability to the applicable Owners therefor from further performance of any or all of City's obligations under this Agreement.

10.4 Insist upon each applicable Owner's full and faithful performance under this Agreement during the entire remaining term of this Agreement.

10.5 Assert, exercise or otherwise pursue at each applicable Owner's expense any and all other rights or remedies, legal or equitable, to which City may be entitled.

10.6 Notwithstanding the foregoing, an applicable Owner shall not be liable for special, consequential, punitive or other exemplary or multiple damages.

11. City Default and Developer's Remedies. Upon any material breach of this Agreement by City not cured within one hundred twenty (120) days after notice from an Owner, such Owner may pursue any and all remedies, legal, equitable or otherwise, to which such Owner may be entitled. Notwithstanding the preceding sentence or anything else in this Agreement and as a condition of City's willingness to enter into this Agreement, the following limits shall apply to this Agreement:

11.1 City shall not be liable for any punitive or other exemplary or multiple damages.

11.2 Developer hereby unconditionally and irrevocably waives on behalf of itself and all persons claiming through Developer or through this Agreement or under or related to this Agreement any remedies inconsistent with these limitations.

11.3 All limitations on Developer's remedies shall also apply to all remedies against City's officers, employees and other agents and representatives and any other person for whom City may in any event be liable for any reason.

11.4 All limitations on Developer's remedies shall apply to Developer and to any person otherwise asserting against City, any claim whatsoever related to this Agreement.

12. Non-waiver and City Contract Administrator Authority. No failure by City or Developer to demand any performance required of the other under this Agreement, and no acceptance by City or Developer of any imperfect or partial performance under this Agreement, shall excuse such performance, or waive or impair in any way the other's ability to insist, prospectively and retroactively upon full compliance with this Agreement. Only the City's Zoning Administrator or designee shall be authorized to administer this Agreement for City or speak for City regarding this Agreement. Further, nothing in this Agreement or any ordinance with respect to it or the zoning associated with the Project shall be deemed to reduce or eliminate the Zoning Administrator's authority provided under A.R.S. Section 9-462.04A4, which authority may be exercised in the ordinary course.

13. Compliance with Law. Developer shall comply with all federal, state, county and local laws, ordinances, regulations or other rules or policies that affect the Property as are now in effect or as may hereafter be adopted or amended.

14. Assignability. This Agreement may be assigned or transferred by the Developer (or any of the entities that comprise "Developer" with respect to such entity's interest herein), in whole or in part, by written instrument, to any subsequent owner of all or any portion of the Property. Notice of any transfer or assignment in accordance with this paragraph shall be provided by Developer or the transferor entity (or its successor or assign) to the City. No lender or mortgagee shall have any obligation or liability under this Agreement unless such lender or mortgagee acquires title to a portion of the Property, in which event, such lender or mortgagee shall have liability only for the failure of such lender or mortgagee to comply with any obligation under this Agreement with respect to the portion of the Property owned by such lender or mortgagee during the period of such lender's or mortgagee's ownership of such portion of the Property, and the liability of such lender or mortgagee shall be limited to its interest in the Property.

15. Unified Project Intent. City is entitled to hold the Developer (or its successors and assigns, if applicable) responsible for all performances under this Agreement. City and Developer expressly do not intend that Developer's rights under this Agreement be divisible, except as already described in this Agreement, for any reason into multiple contracts, agreements or other arrangements between City and numerous owners of the Property. City and Developer intend that City only be obligated to deal with one designated representative of all of the entities standing in the position of Developer (the "Developer's Designated Representative") from time to time and not be burdened with any management, maintenance or other responsibilities related to development or occupation of the Property by multiple entities, such as resolving or being hindered by disagreements between entities regarding Developer's performance of its duties under this Agreement, and that City not be burdened by usage, financial or other issues among various persons using the Property pursuant to this Agreement. All of those duties are to be

performed by Developer (or its successors or assigns, if applicable), which is responsible to see that all persons developing or using the Property, including without limitation any owners' associations and their members, resolve among themselves their respective responsibilities for all performances under this Agreement, none of which limits or otherwise affects City's rights under this Agreement. Developer may change the Developer's Designated Representative from time to time by written notice to City. Developer hereby designates _____ as the Developer's Designated Representative under this Agreement, until further written notice from Developer is given to City.

16. Miscellaneous. The following additional provisions apply to this Agreement:

16.1 Amendments. This Agreement may not be amended except by a formal writing executed by all the parties.

16.2 Severability. If any term, condition, covenant, stipulation, agreement or provision in this Agreement is held to be invalid or unenforceable for any reason, the invalidity of any such term, condition, covenant, stipulation, agreement or provision shall in no way affect any other term, condition, covenant, stipulation, agreement or provision of this Agreement.

16.3 Conflicts of interest. No member, official or employee of City shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement, which is prohibited by law. This Agreement is subject to the cancellation provisions of A.R.S. Section 38-511.

16.4 No Partnership. This Agreement and the transactions and performances contemplated hereby shall not create any sort of partnership, joint venture or similar relationship between the parties.

16.5 Non-liability of City Officials and Employees. No member, official, representative or employee of City shall be personally liable to any party, or to any successor in interest to any party, in the event of any default or breach by City or for any amount that may become due to any party or successor, or with respect to any obligation of City related to this Agreement.

16.6 Notices. Notices hereunder shall be given in writing delivered to the other party or mailed by registered or certified mail, return receipt requested, postage prepaid, or by FedEx or other reliable overnight courier service that confirms delivery, addressed to:

If to City:

City of Scottsdale
7447 E. Indian School Rd., Suite 105
Scottsdale, AZ 85251

Copy to: City Attorney
City of Scottsdale
3939 Drinkwater Blvd.
Scottsdale, AZ 85251

If to Developer, Owners,
and/or Property Manager: c/o ColRich, LLC

Copies to: John Berry & Hugh Hallman
Berry Riddell LLC
6750 E. Camelback Rd., Suite 100
Scottsdale, AZ 85251

By notice from time to time in accordance herewith, any party may designate any other street address or addresses as its address or addresses for receiving notice hereunder. Service of any notice by mail in accordance with the foregoing shall be deemed to be complete three (3) days (excluding Saturday, Sunday and legal holidays) after the notice is deposited in the United States mail. Service of any notice by overnight courier in accordance with the foregoing shall be deemed to be complete upon receipt or refusal to receive.

16.7 Integration. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof.

16.8 Construction. Whenever the context of this Agreement requires, the singular shall include the plural, and the masculine shall include the feminine. This Agreement was negotiated on the basis that it shall be construed according to its plain meaning and neither for nor against any party, regardless of their respective roles in preparing this Agreement. The terms of this Agreement were established in light of the plain meaning of this Agreement and this Agreement shall therefore be interpreted according to its plain meaning and without regard to rules of interpretation, if any, that might otherwise favor Developer or City.

16.9 Paragraph Headings. The paragraph headings contained herein are for convenience in reference and not intended to define or limit the scope of any provision of this Agreement.

16.10 No Third-Party Beneficiaries. The City, an Owner of any portion of the Property, the Developer, lenders holding liens or mortgages against a portion of the Property, and their successors and assigns are the sole beneficiaries of this Agreement. No other person or entity shall be a third-party beneficiary to this Agreement or shall have any right or cause of action hereunder. City shall have no liability to third parties who are not beneficiaries of this Agreement for any approval of plans, Developer's construction of improvements, Developer's negligence, Developer's failure to comply with the provisions of this Agreement, or otherwise as a result of the existence of this Agreement.

16.11 Exhibits. All exhibits attached hereto as specified herein are hereby incorporated into and made an integral part of this Agreement for all purposes.

16.12 Attorneys' Fees. If legal action is brought by any party because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing party is entitled to reasonable attorney fees and costs as determined by the court or other decision maker.

16.13 Choice of Law. This Agreement shall be governed by the internal laws of the State of Arizona without regard to choice of law rules.

16.14 Venue & Jurisdiction. Legal actions regarding this Agreement shall be instituted in the Superior Court of the County of Maricopa, State of Arizona, or in the Federal District Court in the District of Arizona sitting in Maricopa County. City and Developer agree to the exclusive jurisdiction of such courts. Claims by Developer shall comply with time periods and other requirements of City's claims procedures from time to time.

16.15 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall be deemed to be one and the same instrument.

EXECUTED this ___ day of September, 2019.

DEVELOPER:

CH VISCONTI AT CAMELBACK COMMUNITIES, LLC
a _____ limited liability company

By: _____

CH GLEN AT OLD TOWN COMMUNITIES, LLC
a _____ limited liability company

By: _____

CH CORTESIAN COMMUNITIES, LLC,
A _____ limited liability company

CITY OF SCOTTSDALE,
an Arizona municipal corporation

ATTEST:

Carolyn Jagger, City Clerk

By: _____
W. J. "Jim" Lane, Mayor

APPROVED AS TO FORM:

CITY ATTORNEY'S OFFICE

Joseph Padilla, Acting City Attorney

STATE OF ARIZONA)
) ss.
County of Maricopa)

This instrument was acknowledged before me on the _____ day of _____, 2019, by _____, Manager of CH Visconti at Camelback Communities, LLC, a _____ limited liability company, on behalf of said Company.

NOTARY PUBLIC

STATE OF ARIZONA)
) ss.
County of Maricopa)

This instrument was acknowledged before me on the _____ day of _____, 2019, by _____, Manager of CH Glen at Old Town Communities, LLC, a _____ limited liability company, on behalf of said Company.

NOTARY PUBLIC

STATE OF ARIZONA)
) ss.
County of Maricopa)

This instrument was acknowledged before me on the _____ day of _____, 2019, by _____, Manager of CH Cortesian Communities, LLC, a _____ limited liability company, on behalf of said Company.

NOTARY PUBLIC

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by W.J. "Jim" Lane, Mayor of the City of Scottsdale, an Arizona municipal corporation.

My Commission Expires: _____
Notary Public

EXHIBIT “A-1”
Legal Description

EXHIBIT “A-2”
Legal Description

**EXHIBIT “B-1”
Legal Description**

EXHIBIT “B-2”
Legal Description

EXHIBIT “B-3”
Legal Description

EXHIBIT “B-4”
Legal Description

EXHIBIT “C-1”
Legal Description

EXHIBIT “OS-1”

Legal Description

EXHIBIT “OS-2”

Legal Description

**EXHIBIT “D”
Depiction**

EXHIBIT “E”
DEVELOPMENT AREA BUDGET &
DEVELOPMENT PLAN AREA MAP

- Maximum Density of XX.XX du/ac = XX.XX * 41.5 acres = XXX units
- Maximum FAR of 0.XX FAR = 0.XX * XXX,XXX net square feet = XXXXX square feet

Area	Acres (Gross)	Maximum Dwelling Units (Exclusive of FAR)	Dwelling Units Currently Built (Exclusive of FAR)	Maximum Square Footage- Commercial (Exclusive of Dwelling Units)	Maximum Residential Health Care Units	Square Footage Currently Built— Commercial (Exclusive of Dwelling Units)	Open Space (square feet)	Frontage Open Space
Parcel A-1	6.26	324		21,000				
Parcel A-2	7.18	400		5,800				
Parcel B-1	4.22	317		17,000				
Parcel B-2	3.61	253		4,500				
Parcel B-3	1.45							
Parcel B-4	1.06							
Parcel C-1	14.97	670		115,000	250			
Parcel OS-1	1.13							
Parcel OS-2	1.63							
Total Maximum for Entire Property	41.5	1,864		156,000				

EXHIBIT "F"
DEVELOPMENT ATTRIBUTES ALLOCATION FORM

When Recorded Return To:

CITY OF SCOTTSDALE
ONE STOP SHOP RECORDS
7447 East Indian School Road, Suite 100
Scottsdale, AZ 85251

C.O.S. Contract No. 2019-XXX-COS
(Gentry)
(Resolution No. XXXXX)

COVER SHEET

DEVELOPMENT ATTRIBUTES ALLOCATION STATUS FORM

DEVELOPMENT ATTRIBUTES ALLOCATION STATUS

Parcel-By-Parcel Maximums & Allocations—Gross Floor Area						
	Assessor Parcel Number APN	Acres	Square Footage Previously Allocated	Square Footage Allocated by & through this Recording	Balance Square Footage Remaining as to Max Sq. Ft.	Maximum Square Footage
Parcel A-1		6.26				
Parcel A-2		7.18				
Parcel B-1		4.22				
Parcel B-2		3.61				
Parcel B-3		1.45				
Parcel B-4		1.06				
Parcel C-1		14.97				
Parcel OS-1		1.13				
Parcel OS-2		1.63				
Entire Property Maximums & Allocation Limits—Gross Floor Area						
Total Maximum Square Footage for Entire Property Allowed (all Parcels)						

Parcel-By-Parcel Maximums & Allocations—Dwelling Units					
	Assessor Parcel Number APN	Dwelling Units Previously Allocated (Exclusive of FAR)	Dwelling Units Allocated by & through this Recording (Exclusive of FAR)	Balance Dwelling Units Remaining as to Max Dwelling Units. (Exclusive of FAR)	Maximum Dwelling Units (Exclusive of FAR)
Parcel A-1					
Parcel A-2					
Parcel B-1					
Parcel B-2					
Parcel B-3					
Parcel B-4					
Parcel C-1					
Parcel OS-1					
Parcel OS-2					
Entire Property Maximums & Allocation Limits—Dwelling Units					
Total Maximum for Entire Property (all Parcels)		0	0		

CITY OF SCOTTSDALE
an Arizona municipal corporation

By: _____
Zoning Administrator

CH VISCONTI AT CAMELBACK COMMUNITIES, LLC
a _____ limited liability company

By: _____

CH GLEN AT OLD TOWN COMMUNITIES, LLC
a _____ limited liability company

By: _____

CH CORTESIAN COMMUNITIES, LLC,
A _____ limited liability company

By: _____