



DATE/TIME: 06/12/2019 1428
FEE: \$11.00
PAGES: 7
FEE NUMBER: 2019-046203

FIRST AMERICAN TITLE

**RECORDED AT REQUEST OF,
AND RETURN TO:**

Clark Hill PLC
14850 North Scottsdale Road, Suite 500
Scottsdale, Arizona 85254
Attention: David L. Lansky, Esq.

NCS-842379I-PHX1
2 OF 3

(Space Above This Line For Recorder's Use Only)

MEMORANDUM OF PRICE PARTICIPATION AGREEMENT

This MEMORANDUM OF PRICE PARTICIPATION AGREEMENT (this "Memorandum") is entered into as of June 11, 2019, by and between **DOMCCARTNEY CENTER**, an Arizona limited liability company ("Seller"), whose mailing address is c/o Quantum Holdings, L.L.C., 4455 East Camelback Road, Suite C240, Phoenix, Arizona 85018, Attention: David Cornwall and Kevin Pitts, and **M CONSTRUCTION, LLC**, an Arizona limited liability company ("Buyer"), whose mailing address is 8687 East Via de Ventura, #200, Scottsdale, Arizona 85258, Attention: Michael Brown.

RECITALS

1. Right to Participate in Sales Prices of Home Sales.

As additional consideration for the sale from Seller to Buyer of that certain real property particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Land"), which Land is intended to be developed and improved by Buyer with single-family residential homes, Buyer and Seller have entered into that certain unrecorded Purchase and Sale Agreement effective as of April 11, 2017, as amended by that certain First Amendment to Purchase and Sale Agreement, dated May 23, 2017, as amended by that certain Second Amendment to Purchase and Sale Agreement, dated September 18, 2017, as further amended by that certain Third Amendment to Purchase and Sale Agreement, dated October 17, 2017, relating to the Land, as may be amended from time to time (the "Purchase Agreement"). Pursuant to the terms of Paragraph 3(d) of the Purchase Agreement, Buyer has agreed to pay to Seller a certain portion of the sales price (the "Price Participation Right") that will be received by Buyer from the sale to the home buying public of the residential homes built on the Land.

2. Terms of Price Participation Right.

The parties have executed and recorded this instrument to give notice of the Price Participation Right and the respective rights and obligations of Seller and Buyer with respect to the sale of each residential home on the Land sold to a member of the home buying public. The

terms and conditions governing the Price Participation Right with respect to each sale of a residential home on the Land are set forth in Paragraph 3(d) of the Purchase Agreement. In the event of any conflict or inconsistency between this Memorandum and Paragraph 3(d) of the Purchase Agreement, Paragraph 3(d) of the Purchase Agreement shall control.

3. Successors and Assigns.

This Memorandum and Paragraph 3(d) of the Purchase Agreement shall bind and inure to the benefit of the parties and their respective heirs, successors and assigns.

4. No Alteration of Price Participation Right.

This Memorandum is subject to the terms, covenants, conditions and provisions of Paragraph 3(d) of the Purchase Agreement and is not intended and shall not be construed to alter, modify, limit, abridge or enlarge any of the terms, covenants, conditions or provisions of Paragraph 3(d) of the Purchase Agreement with respect to the Price Participation Right.

5. Termination of Memorandum.

This Memorandum shall automatically terminate with no action on the part of either party hereto and be of no further force or effect (i) without the payment of any consideration to Seller as to any portion of the Land which is or about to be transferred or dedicated to a public entity, landscape maintenance district or homeowners' association or (ii) as to any subdivided lot comprising a portion of the Land that is improved with a residential home and sold to a member of the home buying public, upon the payment to Seller by Retail Escrow Agent (as defined in the Purchase Agreement) of the sum owed, if any, pursuant to Paragraph 3(d) of the Purchase Agreement with respect to such lot. Notwithstanding the foregoing, the parties agree to execute and record in a timely and prompt manner such documents as may be reasonably required to evidence the termination of this Memorandum as to such portions of the Land described in this Paragraph 5.

6. Governing Law.

This Memorandum and the Price Participation Right shall be governed by, and construed and enforced in accordance with, the laws of the State of Arizona.

[Remainder of page intentionally left blank]


IN WITNESS WHEREOF, the undersigned have caused this Memorandum to be executed by their duly authorized representatives as of the date first set forth above.

SELLER

DQMCCARTNEY CENTER, LLC,
an Arizona limited liability company

By: Dolphin Land, LLC,
a California limited liability company
Its: Manager

By: Dolphin Partners, Inc.,
a California corporation
Its: Manager

By:  06/06/19
John C. Kingsley,
Senior Vice President

~~See Attached Certificate~~

BUYER

M CONSTRUCTION, LLC,
an Arizona limited liability company

By: _____
Name: Michael D. Brown
Its: Manager

A notary public or other officer completing this certificate verifies only the identity of this individual who signed the document to which this certificate is attached, and not to the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss

Notary Public

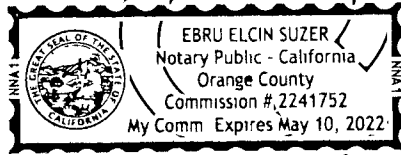
On 06/06/2019, 2019, before me, EBRU ELCIN SUZER (here insert name and title of the officer), personally appeared J. JOHN KINGSLEY, proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: [Handwritten Signature]

(This area for official notarial seal)



IN WITNESS WHEREOF, the undersigned have caused this Memorandum to be executed by their duly authorized representatives as of the date first set forth above

SELLER

DQMCCARTNEY CENTER, LLC,
an Arizona limited liability company

By: Dolphin Land, LLC,
a California limited liability company

Its: Manager

By: Dolphin Partners, Inc.,
a California corporation

Its: Manager

By: _____

John C Kingsley,
Senior Vice President

BUYER

M CONSTRUCTION, LLC,
an Arizona limited liability company

By: _____

Name: Michael D Brown
Its Manager

STATE OF ARIZONA)
) SS
County of Maricopa)

On 10-10, 2019, before me, a notary public in and for said state, personally appeared Michael D Brown Maricopa personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument

IN WITNESS WHEREOF, I have hereunto set my hand and official seal



Notary Public

My Commission Expires.
1-14-23

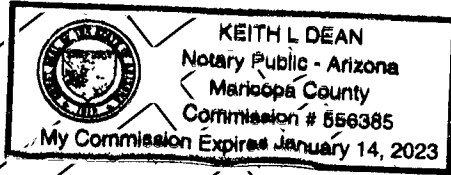


Exhibit "A"

to

Memorandum of Price Participation Agreement

Legal Description of the Land

LOTS 78 through 83, inclusive and 127, OF FINAL PLAT FOR PARCEL "AA" AT MCCARTNEY CENTER, ACCORDING TO THE PLAT RECORD IN THE OFFICE OF THE COUNTY RECORDER OF PINAL COUNTY, ARIZONA RECORDED IN CABINET F, SLIDE 39, AN AFFIDAVIT OF CORRECTION RECORDED AS 2008-051287 OF OFFICIAL RECORDS.

EXCEPT ALL COAL AND MINERALS RESERVED IN THE PATENT RECORDED IN BOOK 48 OF DEEDS, PAGE 481.