



DATE/TIME: 12/15/2020 1420  
FEE: \$30.00  
PAGES: 7  
FEE NUMBER: 2020-131110

Landmark Title Assurance Agency

When recorded, return to:

K. HOVNIANIAN HOMES  
Attn: Michelle Nguyen  
1260. Corona Pointe Court, Suite 301  
Corona, CA 92879

6189721 2/2

**PARTIAL ASSIGNMENT AND ASSUMPTION OF  
DEVELOPMENT AGREEMENT FOR INFRASTRUCTURE  
IMPROVEMENTS AND DEVELOPMENT (TORTOSA SOUTH - PHASE II)**

THIS PARTIAL ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT FOR INFRASTRUCTURE IMPROVEMENTS AND DEVELOPMENT (TORTOSA SOUTH - PHASE II) (this "Assignment") is made as of December 15<sup>th</sup>, 2020 (the "Effective Date"), by and between TOUSA RECOVERY-ACQUISITION, LLC, a Delaware limited liability company ("Assignor"), and K. HOVNIANIAN AT TORTOSA SOUTH, LLC, an Arizona limited liability company ("Assignee").

**RECITALS**

A. Contemporaneously herewith, and pursuant to a Contract of Sale dated as of October 1, 2020 (as amended from time to time, the "Purchase Agreement"), Assignee is acquiring from Assignor certain real property located in Pinal County, Arizona and legally described on Exhibit "A" hereto (the "Property").

B. Assignor desires to transfer, assign, and convey to Assignee, and Assignee desires to receive and assume, all of Assignor's rights in, to, and under that certain Development Agreement for Infrastructure Improvements and Development (Tortosa South - Phase II) dated June 6, 2017, by and among CITY OF MARICOPA, ARIZONA, a Arizona municipal corporation (the "City"), MARICOPA DEVELOPMENT, LLC, a Delaware limited liability company ("Maricopa Development"), D.R. HORTON, INC., a Delaware corporation (as successor in interest to WM SUB TT, LLC, an Arizona limited liability company, "D.R. Horton"), Assignor, RMG TORTUSA 220, L.L.C., an Arizona limited liability company ("RMG Tortusa"), and PACIFIC MAGIC, LLC, an Arizona limited liability company ("Pacific Magic"), and together with Maricopa Development, D.R. Horton, RMG Tortusa and Assignor, each an "Owner" and collectively the "Owners"), recorded on November 2, 2017 as Document No. 2017-080436 in the Official Records of the Pinal County Recorder (as further amended, supplemented, and modified, the "Development Agreement") but only to the extent the Development Agreement relates to the Property.

## AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Defined Terms. Capitalized terms used and not otherwise defined herein shall have the meanings given such terms in the Development Agreement.
2. Partial Assignment. Assignor hereby assigns, conveys, transfers and sets over unto Assignee, without warranty, further liability, or covenant of any kind except as otherwise expressly contained in the Purchase Agreement, all of Assignor's rights, in, to, and under the Development Agreement but only to the extent the Development Agreement relates to the Property. Assignor and Assignee acknowledge that the Development Agreement relates to real property owned by the other Owners.
3. Assumption of Obligations. Assignee hereby accepts this Assignment and assumes all duties and obligations of Assignor to be performed, paid, or complied with under or with respect to the Development Agreement arising from and after the Effective Date to the extent the same relate to the Property.
4. Indemnification. Except with respect to any obligation to pay, contribute, or be liable for any costs, expenses, shortfalls, deposits, security under the Development Agreement, Assignor agrees to indemnify, defend (by counsel reasonably acceptable to Assignor), and hold harmless Assignee for, from, and against any and all actual or alleged claims, demands, causes of action, lawsuits, loss, cost, liability, and expense (including, without limitation, reasonable attorneys' fees and costs) (collectively, "Claims") incurred by Assignee with respect to matters accruing prior to the Effective Date and arising out of or in connection with the Development Agreement to the extent the same relates to the Property. Assignee agrees to indemnify, defend (by counsel reasonably acceptable to Assignor), and hold harmless Assignor for, from, and against any and all actual or alleged Claims incurred by Assignor with respect to matters accruing from and after the Effective Date and arising out of or in connection with the Development Agreement to the extent the same relates to the Property.
5. Notice to City and Owners. Pursuant to Section 18.23 of the Development Agreement, Assignor and Assignee shall deliver a copy of this Assignment to the City and each of the other Owners under the Development Agreement.
6. Additional Agreements. Assignor and Assignee shall each do such further acts and shall execute, have acknowledged and delivered to the other or to any third party, as appropriate, any and all further documents or instruments reasonably necessary in order to carry out the intent and purpose of this Assignment.
7. Notice Information. For purposes of Section 18.4 under the Development Agreement, Assignee's notice address is:

K. HOVNANIAN AT TORTOSA SOUTH, LLC  
Attn: Michael Fulmer, V.P. Land Acquisition  
20830 N. Tatum Boulevard, Suite 250  
Phoenix, AZ 85050  
Phone No.: 480-824-4200  
Facsimile: 480-824-4201  
Email: [Mfulmer@khov.com](mailto:Mfulmer@khov.com)

With a copy to:

K. HOVNANIAN HOMES  
20830 N. Tatum Boulevard, Suite 250  
Phoenix, AZ 85050  
Attn: Chad Fuller, Counsel  
Phone No.: 480-824-4200  
Facsimile: 480-824-4191  
Email: [cfuller@khov.com](mailto:cfuller@khov.com)

With a copy to:

K. HOVNANIAN HOMES  
1260 Corona Pointe Court, Suite 301  
Corona, CA 92879  
Attn: Michelle Nguyen, Counsel  
Phone No.: 714-368-4500  
Facsimile: 714-544-1340  
Email: [mnguyen@khov.com](mailto:mnguyen@khov.com)

8. Counterparts. This Assignment may be executed in one or more counterparts each of which shall be deemed an original instrument and all of which combined shall constitute one and the same instrument.

9. Binding Effect. This Assignment shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

10. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of Arizona.

[Signature Page Follows]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the Effective Date.

**ASSIGNOR:**

TOUSA RECOVERY ACQUISITION, LLC,  
a Delaware limited liability company

By: Jonathan Shumaker  
Name: Jonathan Shumaker  
Title: Authorized Signatory

STATE OF Florida )  
County of Manatee ) ss.

The foregoing instrument was acknowledged before me this 15th day of December, 2020 by Jonathan Shumaker, the Authorized Signatory of TOUSA RECOVERY ACQUISITION, LLC, a Delaware limited liability company, on behalf thereof. Presented D/L as identification

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

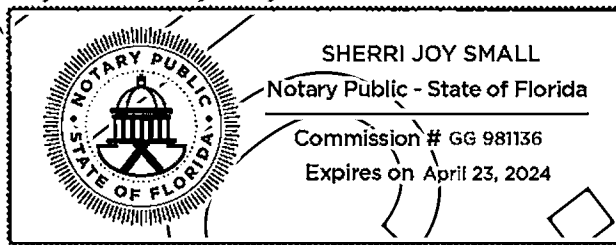
Sherrri Joy Small

Notary Public

My Commission Expires:

04/23/2024

Notarized online using audio-video communication





ACKNOWLEDGEMENT OF RECEIPT

The undersigned, the CITY OF MARICOPA, ARIZONA, a Arizona municipal corporation (the "City") acknowledges receipt of the attached Assignment and acknowledges that upon the later of (a) the effective date of the Assignment, or (b) receipt by the City of the Assignment, with respect to any assignment to a bona fide third party purchaser, the Assignor shall be relieved of all liability and obligations under the Development Agreement first arising after the date of such transfer with respect to the Parcel (or portion thereof) transferred.

Date: Dec 9, 2020

CITY:

CITY OF MARICOPA, ARIZONA, an Arizona municipal corporation

By: [Signature]

Name: Ricky A. Horst

Title: CITY MANAGER

*Signature Page to  
Partial Assignment and Assumption of Development Agreement for Infrastructure Improvements  
and Development (Tortosa South - Phase II)*

EXHIBIT "A"

TO PARTIAL ASSIGNMENT AND ASSUMPTION OF  
DEVELOPMENT AGREEMENT FOR INFRASTRUCTURE  
IMPROVEMENTS AND DEVELOPMENT (TORTOSA SOUTH - PHASE II)

Legal Description of Property

The Land referred to herein below is situated in the County of Pinal, State of Arizona, and is described as follows:

Lots 1, 2, 3, and 42 through 79, inclusive, Tortosa South Parcel L, according to Cabinet G, slide 99, Records of Pinal County, Arizona.