

SECOND AMENDMENT TO ESCROW AGREEMENT

THIS SECOND AMENDMENT TO ESCROW AGREEMENT (this “**Amendment**”) is made effective as of the ____ day of February, 2019 by and among TOFINO DEVELOPMENT COMPANY, a Washington corporation (“**Tofino**”) as successor to Pradera Partners 160, LLC, HINTON AMBER MEADOWS, LLP, an Arizona limited liability partnership (“**Hinton**”), CITRUS & LOWER BUCKEYE, LLC, an Arizona limited liability company (“**Citrus**”), MELCOR DEVELOPMENTS ARIZONA, INC., an Arizona corporation (“**Melcor**”), LAS VENTANAS I, LLC, an Arizona limited liability company (“**Ventanas**”), CITY OF GOODYEAR, an Arizona municipal corporation (“**City**”), and FIRST AMERICAN TITLE INSURANCE COMPANY (“**Escrow Agent**”). Escrow Agent, Tofino, Hinton, Citrus, Melcor, Ventanas, and City are sometimes hereinafter referred to collectively as the Parties and individually as a Party

RECITALS

A. Tofino, as successor to Pradera Partners 160, LLC, Hinton, Citrus, Melcor, Ventanas, the City and Escrow Agent are parties to that certain Escrow Agreement dated May 25, 2017, as amended by the First Amendment to Escrow Agreement dated _____, 2018 (collectively, the “**Agreement**”) as contemplated by and in connection with the Development Agreement for West Goodyear Sewer and Water Infrastructure dated May 15, 2017 (the “**Development Agreement**”). All capitalized terms used but not defined in this Amendment shall have the same meaning given to them under the Agreement.

B. By Assignment and Assumption of Escrow Agreement dated April 27, 2018, Pradera Partners 160, LLC, assigned all of its interest in the Agreement to Tofino and Tofino assumed all rights and obligations of Pradera Partners 160, LLC under and pursuant to the Agreement.

C. The Parties now desire to again amend the Agreement in certain respects, as more particularly set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, the parties hereto agree as follows:

1. Incorporation of Recitals. The recitals set forth above are incorporated herein and made a part of this Amendment to the same extent as if set forth herein in their entirety.
2. Completion of Construction. The first sentence of Section 8.1.3 of the Agreement is deleted in its entirety and replaced with the following:

If Owners fail to complete construction of the Regional Lines and the Durango Lines by July 28, 2019 (as such date may be extended on account

of any delays resulting from the occurrence of an Event of Force Majeure) and Escrow Agent has sent written notice to all other Parties of such full funding (each, a “**Construction Failure**”), then the City shall have the right, but not the obligation, to take over the construction of the Regional Lines and Durango Lines.

3. **In-Lieu Payment.** Following the full execution of this Agreement by all of the Parties, and the City’s approval and execution of the Second Amendment to the Development Agreement, the Owners shall deposit with Escrow Agent as contemplated by the Second Amendment to the Owners Funding Agreement a total of \$200,000 in immediately available funds the In-Lieu Payment for the Flushing Program as contemplated by the Second Amendment to the Development Agreement. The In-Lieu Payment shall be maintained by Escrow Agent in a sub-escrow account separate from all other funds deposited with Escrow Agent. Once Escrow Agent has received the entire In-Lieu Payment in immediately available funds, Escrow Agent is hereby irrevocably authorized and directed to disburse the In-Lieu Payment to the City, but only upon delivery to Escrow Agent of City’s written Letter of Acceptance (as defined in the Second Amendment to the Development Agreement), which confirms in accordance with all City procedures and requirements of the final completion and unconditional City acceptance of the Regional Lines and Durango Lines as contemplated and required by the Development Agreement and confirmation of the full satisfaction of the Owners’ obligations under Section 4 of the Development Agreement.

4. **Ratified and Confirmed.** The Agreement, except as amended by this Amendment, is hereby ratified and confirmed and shall remain in full force and effect in accordance with its original terms and provisions. In the event of any conflict between the terms of this Amendment and the Agreement, this Amendment shall control.

4. **Counterparts.** This Amendment shall be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. The parties agree that they may reflect and confirm their agreement to be bound hereby, and their execution and delivery of this Amendment, by transmitting a signed copy hereof, by facsimile or by emailing a Portable Document Format (PDF) file, to the other party hereto or to Escrow Agent. Any of the parties hereto or Escrow Agent are authorized to remove the signature pages from duplicate identical counterpart versions of this Amendment and to attach such pages to a single version of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Amendment effective as of the date first set forth above.

OWNERS:

TOFINO DEVELOPMENT COMPANY,
a Washington corporation

By: _____

Its : _____

HINTON AMBER MEADOWS, LLP,
an Arizona limited liability partnership

By: Hinton Financial Services, Inc.,
a Colorado corporation,
its General Partner

By: _____
Brad Clough, President

CITRUS & LOWER BUCKEYE, LLC,
an Arizona limited liability company

By: Hinton Financial Services, Inc.,
a Colorado corporation,
its General Partner

By: _____
Brad Clough, President

MELCOR DEVELOPMENTS ARIZONA, INC.,
an Arizona corporation

By: _____
Name: _____
Its: _____

LAS VENTANAS I, LLC,
an Arizona limited liability company

By: Two T & W, LLC,
an Arizona limited liability company,
its Manager

By: _____
Tom Tait, Sr., Manager

CITY:

CITY OF GOODYEAR,
an Arizona municipal corporation

By: _____
Name: _____
Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

ESCROW AGENT:

FIRST AMERICAN TITLE INSURANCE
COMPANY

By: _____
Name: _____
Title: _____