RESOLUTION NO. R2018-21

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CAVE CREEK, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE MAYOR TO APPROVE A DEVELOPMENT AGREEMENT BETWEEN AND AMONG THE TOWN OF CAVE CREEK, K. HOVNANIAN COMPANIES OF ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY (“DEVELOPER”) AND CAVE CREEK PROJECT, LLLP, AN ARIZONA LIMITED LIABILITY LIMITED PARTNERSHIP (“OWNER”) PROVIDING FOR A MIXED USE DEVELOPMENT INCLUDING RESIDENTIAL USES ADJACENT TO COMMERCIAL USES CONSISTING OF APPROXIMATELY 22.03 ACRES.

WHEREAS, the Town Council is authorized by Arizona Revised Statutes § 9-500.05 to enter into development agreements;

WHEREAS, Owner holds fee simple title to 22.03 acres of unimproved real property planned as a mixed-use development including residential uses adjacent to commercial uses (the “Master Development”), which is located within the municipal boundary of the Town and legally described in Exhibit A attached hereto and incorporated herein by reference (the “Property”).

WHEREAS, the Developer has the contractual right to purchase approximately 18.27 acres of the Property as legally described in Exhibit A-1 attached hereto and incorporated herein by reference (the “Developer Property”). Owner will retain ownership of the balance of the Property, approximately 3.76 acres of real property adjoining the Developer Property as legally described in Exhibit A-2 attached hereto and incorporated herein by reference (the “Owner Property”).

WHEREAS, The Property is currently zoned Town Core Commercial (“TCC”) and is designated as commercial pursuant to the 2005 Town of Cave Creek General Plan (collectively, the “Entitlements”). The Town has previously approved the development of up to 252 resort casitas within a substantial portion of the Master Development (the “Casita Project”).

WHEREAS, A Certificate of Assured Water Supply was previously issued for the Casita Project for a total of 55.51 acre-feet per year (“AF-YR”) (the “Original Water Demand”).

WHEREAS, the Developer has submitted to Town for its consideration a complete Site Plan Application dated July 17, 2018, and designated Case No. SPR-18-06 that includes the Developer Property (the “Site Plan”), which is attached hereto as Exhibit B and incorporated herein by reference. The Site Plan will facilitate the development of the Developer Property as phase 1 of the Master Development, as more particularly described in the Site Plan Narrative dated July 16, 2018, attached hereto as Exhibit C and incorporated herein by reference. The Site Plan and Site Plan Narrative collectively describe the phase 1 residential uses within the Master Development (the “Project”).
WHEREAS, The residential uses within the Project will generate Project water demand of 25.61 AF-YR based on approval of 70 lots and community center as shown on Exhibit B (the “Project Water Demand”), computed as 110% of the amount set out in the Water Demand Calculation by CVL Consultants dated October 31, 2018, attached hereto as Exhibit D and incorporated herein by reference, prepared for the Developer Property. The Project Water Demand is significantly lower than the water demand for the Casita Project previously approved by the Town.

WHEREAS, the Developer is willing to reduce the water use on the Developer Property and to seek re-issuance of the Certificate of Assured Water Supply for the Project Water Demand, which will reduce the water required to be provided by the Town for the Property and result in significant benefits to the Town.

WHEREAS, the Owner will limit water use on the Owner Property to the uses permitted under this Agreement and any amount of water used in an amount less than 18.46 AF-YR shall be retained by the Town. Owner shall have the right to use such water on the Owner Property pursuant to this Agreement.

WHEREAS, the Owner and Developer are seeking assurances to the extent required by this Agreement from the Town that are significant to the development of the Property, including but not limited to the provision of water and sewer services by the Town for the Project.

WHEREAS, the Parties understand and acknowledge that this Agreement is a “Development Agreement” within the meaning of and entered into pursuant to the terms of Ariz. Rev. Stat. § 9-500.05, to facilitate the development of the Property by providing for, among other things, conditions, terms, restrictions, and requirements related to the development of the Project on the Property, and consistent within the Town’s applicable requirements and development standards. The terms of this Agreement shall constitute covenants running with the Property as more fully described in this Agreement.

WHEREAS, the Town is entering into this Agreement to implement and to facilitate development of the Project on the Developer Property consistent with the policies of the Town reflected in the previously adopted ordinances establishing the Town’s General Plan.

NOW, THEREFORE, IT IS RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF CAVE CREEK, ARIZONA AS FOLLOWS:

Section 1 - Authorization. That the Town Council hereby approves, and the Mayor is hereby authorized to execute on behalf of the Town of Cave Creek that certain Development Agreement with K. Hovnanian Companies of Arizona, LLC, a Arizona limited liability company and Cave Creek Project, LLLP, a Arizona limited liability limited partnership a copy of which is attached to this Resolution as Exhibit “D”.

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Section 3 – Modification. That the Mayor, Town Manager and Town Attorney are hereby authorized to take and perform such other and further actions as are necessary or appropriate to carry out the purposes of this Resolution.

PASSED AND ADOPTED by the Mayor and Council of the Town of Cave Creek, Arizona this ____ day of ______________, 2018.

FOR THE TOWN OF CAVE CREEK

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Ernie Bunch, Mayor     Carrie A. Dyrek, Town Clerk

APPROVED AS TO FORM:

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William J. Sims, Town Attorney