

When recorded, return to:

Paradise Valley  
Town Attorney  
6401 E. Lincoln Dr.  
Paradise Valley, AZ 85253

**WAIVER OF CLAIMS FOR DIMINUTION OF VALUE  
UNDER ARIZ. REV. STAT. §§ 12-1134 – 1136  
BETWEEN  
THE TOWN OF PARADISE VALLEY  
AND  
FSPV RES C, L.L.C.**

THIS WAIVER OF CLAIMS FOR DIMINUTION OF VALUE under ARIZ. REV. STAT. §§ 12-1134 through 1136 (this “Waiver”) is made as of April 2, 2024, between FSPV RES C, L.L.C., an Delaware limited liability company (the “Owner”), and the Town of Paradise Valley, an Arizona municipal corporation (the “Town”), regarding the parcels of real property located at 6883 E. Stellina Vita Drive, Paradise Valley, Arizona, and 6861 E. Stellina Vita Drive, Paradise Valley, Arizona, as more particularly described on Exhibit A attached hereto and incorporated as if fully set forth herein (collectively, the “Property”). The Owner intends to encumber the Property with the following agreements and waivers.

1. Waiver of Claims Related to the Change in Land Use Entitlements.

(a) The Owner agrees and understands that the Town is entering into this Waiver in conjunction with that certain approval of the Owner’s application for a Minor Special Use Permit amendment, SUP-24-01, removing the 35-foot Rear Yard Second Floor setback requirement on five interior lots (Lots 15-19 of Replat Amendment 7000 East Lincoln – Parcel C – Amended IV) from the 2015 Major Special Use Permit Amendment on the Five Star Development Ritz-Carlton Resort development on Page F-3, Area C Ritz-Carlton Residential Lots, of the approved plans as referenced in Stipulation 44 of Ordinance 694, which is attached hereto as Exhibit B and incorporated as if fully set forth herein (the “Application”), in good faith and with the understanding that, if the Town approves the Application, it will not be subject to a claim for diminished value of the Property from the Owner or other parties having an interest in the Property.

(b) The Owner (i) agrees and consents to all the conditions imposed as part of the Application approval, which approval documents are incorporated by reference as if fully set forth herein, including all stipulations adopted by the Planning Commission of the Town of Paradise Valley (the “Planning Commission”), and (ii) by signing this Waiver, hereby waives any and all claims, suits, damages, compensation, and causes of action the Owner may have now or in the future under the provisions of ARIZ. REV. STAT. §§ 12-1134 through and including 1136 (but specifically excluding any provisions included therein relating to eminent domain) and resulting solely from actions relating to the Application.

(c) The Owner acknowledges and agrees that any stipulations imposed by the Planning Commission as part of the Application will not result in a reduction of the Property's "fair market value," as that term is defined in ARIZ. REV. STAT. § 12-1136. The Owner acknowledges that additional stipulations may be imposed by the Planning Commission, in its sole discretion, prior to approval of the Application.

(d) The Owner agrees and understands that its waiver of claims, as set forth in this Waiver, shall be deemed to extend to cover any changes to the Application and all stipulations to the Application approved by the Planning Commission unless, not later than three business days following such Planning Commission approval, the Owner notifies the Town, in writing, of its disagreement with such stipulations. If the Owner timely notifies the Town of such disagreement, the Owner shall not be deemed to have waived claims with respect to only the stipulations imposed or revised by the Planning Commission prior to approval of the Application; provided, however, that if the Owner does not submit a separate waiver of such claims, in a form acceptable to the Town, prior to close of business on the fifth business day following approval of the Application, then the Town may, after proper notice and hearing, rescind the Approval, and if rescinded by the Planning Commission acting in its sole discretion, this Waiver shall act as a bar to a claim for diminished value based upon the rescinded Application.

(e) The foregoing waiver of claims shall be of no further force and effect with respect to the Application in the event the Planning Commission disapproves the Application, except that it shall serve as a bar to a claim for diminished value based upon denial of the Application; provided, however, that in the event an approval or a denial of the Application is appealed to the Town Council of the Town (the "Town Council") pursuant to Section 1102.8(B) of the Town's Zoning Ordinance, (i) the foregoing waiver of claims shall remain in full force and effect during the pendency of such appeal, (ii) the process for Owner to notify the Town of its disagreement with any conditions imposed by the Town Council as part of such appeal shall extend for the periods of time set forth in subsection 1(d) above following the final determination of the Town Council, and (iii) any such conditions imposed by the Town Council shall become binding on the Owner following expiration of the time periods set forth in subsection 1(d) above. The foregoing waiver of claims shall be of no further force and effect with respect to the Application in the event the Town Council denies the Application on appeal, except that it shall serve as a bar to a claim for diminished value based upon denial of the Application.

2. Entire Agreement; Modification. This Waiver constitutes the entire understanding and agreement of the Owner and the Town and shall supersede all prior agreements or understandings between the Owner and Town regarding waiver of claims pursuant to ARIZ. REV. STAT. §§ 12-1134 through 1136 relating to the Application. This Waiver may not be modified or amended except by written agreement by the Owner and the Town.

3. Applicable Law; Venue. This Waiver is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona. Any suit pertaining to this Waiver may be brought only in courts in Maricopa County, Arizona.

4. Conflict of Interest. This Waiver is subject to the cancellation provisions of ARIZ. REV. STAT. § 38-511.

5. Recording; Waiver Runs With Land. The Town Clerk shall file the Waiver in the Official Records of the County Recorder's Office, Maricopa County, Arizona, but a failure to timely do so shall not invalidate this Waiver. This Waiver runs with the land and is binding upon all present and future owners of the above-referenced Property.

6. Owner Authority. The Owner warrants and represents that it collectively owns all right, title, and interest to the Property, and that no other person has an ownership interest in the Property. The person who signs on behalf of the Owner personally warrants and guarantees to the Town they have the legal power to bind the Owner to this Waiver.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date and year first set forth above.

“Owner”

FSPV RES C, L.L.C.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

03/25/2024

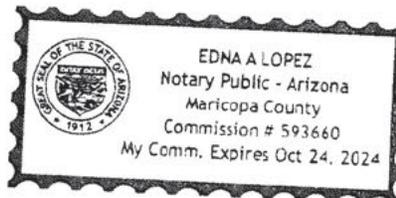
ACKNOWLEDGMENT

STATE OF Arizona )  
 ) ss  
COUNTY OF Maricopa )

On 3-25, 2024, before me personally appeared Jerry Ayub, whose identity was proven to me on the basis of satisfactory evidence to be the person who he or she claims to be, representing FSPV RES C, L.L.C., an Delaware limited liability company, as its \_\_\_\_\_, and acknowledged that he or she signed this document on behalf thereof.

[Signature]  
Notary Public

My Commission Expires: 10-24-2024



**“Town”**

TOWN OF PARADISE VALLEY, an Arizona  
municipal corporation

By: \_\_\_\_\_  
Jerry Bien-Willner, Mayor

ATTEST:

\_\_\_\_\_  
Duncan Miller, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Andrew McGuire, Town Attorney

EXHIBIT A  
TO  
WAIVER OF CLAIMS FOR DIMINUTION OF VALUE  
UNDER ARIZ. REV. STAT. §§ 12-1134 – 1136  
BETWEEN  
THE TOWN OF PARADISE VALLEY  
AND  
FSPV RES C, L.L.C.

[Legal Description of the Property]

Lot 15 and Lot 19, of Replat Amendment 7000 East Lincoln – Parcel C – Amended IV, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, in Book 1579 of Maps, Page 31.

PARCEL NO. (Maricopa County Assessor Numbers 174-58-471 and 174-58-473)

EXHIBIT B  
TO  
WAIVER OF CLAIMS FOR DIMINUTION OF VALUE  
UNDER ARIZ. REV. STAT. §§ 12-1134 – 1136  
BETWEEN  
THE TOWN OF PARADISE VALLEY  
AND  
FSPV RES C, L.L.C.

[Five Star Development Minor Special Use Permit Amendment Application]

(See following pages.)

When recorded, return to:

Paradise Valley  
Town Attorney  
6401 E. Lincoln Dr.  
Paradise Valley, AZ 85253

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1. Waiver of Claims Related to the Change in Land Use Entitlements.

(a) The Owner agrees and understands that the Town is entering into this Waiver in conjunction with that certain approval of the Owner’s application for a Minor Special Use Permit amendment, SUP-24-01, removing the 35-foot Rear Yard Second Floor setback requirement on five interior lots (Lots 15-18 of Replat Amendment 7000 East Lincoln – Parcel C – Amended IV) from the 2015 Major Special Use Permit Amendment on the Five Star Development Ritz-Carlton Resort development on Page F-3, Area C Ritz-Carlton Residential Lots, of the approved plans as referenced in Stipulation 44 of Ordinance 694, which is attached hereto as Exhibit B and incorporated as if fully set forth herein (the “Application”), in good faith and with the understanding that, if the Town approves the Application, it will not be subject to a claim for diminished value of the Property from the Owner or other parties having an interest in the Property.

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Planning Commission as part of the Application will not result in a reduction of the Property's "fair market value," as that term is defined in ARIZ. REV. STAT. § 12-1136. The Owner acknowledges that additional stipulations may be imposed by the Planning Commission, in its sole discretion, prior to approval of the Application.

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IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date and year first set forth above.

“Owner”

FSPV RES C, L.L.C.

By: 

Name: 

Title: 3/25/2024

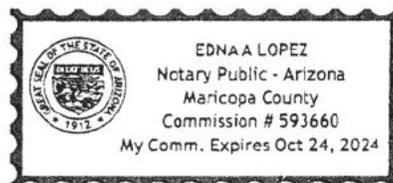
ACKNOWLEDGMENT

STATE OF Arizona )  
 ) ss  
COUNTY OF Maricopa )

On 3-25, 2024, before me personally appeared Jerry Aguilar, whose identity was proven to me on the basis of satisfactory evidence to be the person who he or she claims to be, representing FSPV RES C, L.L.C., an Delaware limited liability company, as its \_\_\_\_\_, and acknowledged that he or she signed this document on behalf thereof.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 10-24-2024



**“Town”**

TOWN OF PARADISE VALLEY, an Arizona  
municipal corporation

By: \_\_\_\_\_  
Jerry Bien-Willner, Mayor

ATTEST:

\_\_\_\_\_  
Duncan Miller, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Andrew McGuire, Town Attorney

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[Legal Description of the Property]

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PARCEL NO. (Maricopa County Assessor Numbers 174-58-471 and 174-58-473)

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[Five Star Development Minor Special Use Permit Amendment Application]

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