

When Recorded, Return to:

Faith, Ledyard, & Faith, PLC
919 N. Dysart Rd. Suite F.
Avondale, AZ 85323

EASEMENT AND MAINTENANCE AGREEMENT

This Easement and Maintenance Agreement, (this “**Agreement**”) is entered into and effective as of this ____ day of _____, 2024 (the “**Effective Date**”), by PULIDO SUBDIVISION, LLC, an Arizona limited liability company (the “**Company**”) and EZEQUIEL MENDEZ PULIDO AND MARIA ELENA MENDEZ (the “**Mendezes**”), (each may be referred to herein as “**Party**” and collectively as “**Parties**”).

RECITALS

WHEREAS, the Company owns the real property legally described in Exhibit “A” attached hereto (“**Maintained Property**”);

WHEREAS, the Maintained Property consists of private roadways and walkways, and retention basins set forth as Tract A, Tract B and Tract C (each referred to hereinafter as a “**Tract**” and collectively “**Tracts**”) in the Pulido Subdivision Final Plat recorded in the official records of Maricopa County at recording number _____ (such plat and all amendments, supplements and corrections thereto may be hereinafter referred to as the “**Final Plat**”).

WHEREAS, the Mendezes own the real property legally described in Exhibit “B” attached hereto (“**Residential Property**”);

WHEREAS, the Residential Property consists of eight (8) residential lots set forth as Lots 1 through 8 (each referred to hereinafter as a “**Lot**”, and collectively as “**Lots**”) in the Final Plat;

WHEREAS, the Parties deem it necessary to enter into this Agreement to establish the Residential Property’s rights and obligations regarding the Maintained Property;

NOW, THEREFORE in consideration of the mutual representations, warranties, covenants, and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1 DEFINITIONS

Unless otherwise defined, the following words and phrases when used in this Agreement shall have the meanings set forth in this Article.

“**Construct**” means any devegetation, excavation or grading work or the construction, erection or installation of an Improvement.

“**Improvement**” means: (a) any Residence, building, fence or wall; (b) any apparatus or playground equipment; (c) any road, driveway or parking area; (d) any trees, plants, shrubs, grass or other landscaping improvements of any type and kind; (e) any statuary, fountain, artistic work, craft work,

figurine or ornamentation of any type or kind, (f) flagpole; and (g) any other structure of any type, kind or nature.

“**Lessee**” means the lessee or tenant under a lease, oral or written, of any Lot including an assignee of the lessee’s or tenant’s interest under a lease.

“**Maintenance**” means care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.

“**Owner**” means the record owner, whether one or more Persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Lot or Tract. In the case of Lots or Tracts subject to an option agreement, the optionor shall be considered the Owner. Owner shall not include Persons having an interest in a Lot or Tract merely as security for the performance of an obligation or a Lessee. Owner shall include a purchaser under a Recorded contract for the conveyance of real property subject to the provisions of A.R.S. § 33-741 *et seq.* Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to the executory contracts pending the closing of a sale or purchase transaction. In the case of a Lot subject to a deed of trust pursuant to Arizona Revised Statutes, Section 33-801, *et seq.*, the trustor shall be deemed to be the Owner.

“**Person**” means a natural person, corporation, business trust, estate, trust, partnership, company, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

“**Recording**” means placing an instrument of public record in the office of the County Recorder of Maricopa County, Arizona, and **Recorded** means having been so placed of public record.

“**Residence**” means any building, or portion of a building, situated upon a Lot and designed and intended for independent ownership and for use and occupancy as a residence.

“**Resident**” means each person occupying or residing in any Residence.

ARTICLE 1 EASEMENT OVER TRACT B

1.1 Establishing Easement. The Company as the owner of the Tracts hereby declares, grants, conveys and establishes for the benefit of the Lot Owners, their successors and assigns, and their licensees, invitees, and guests, a perpetual, non-exclusive, irrevocable easement in, on, over and across Tract B for ingress and egress to and from the Lots, but subject to the right of the Company to adopt rules, regulations or policies reasonably regulating the use of Tract B. The Lot Owners, their successor and assigns, and their licenses, invitees, and guests, shall possess no right to park on the streets that comprise Tract B, and the Company shall possess the right to enforce this provision via the issuance of fines (in an amount set by the Company) and/or towing of any vehicles in violation of this provision.

1.2 Lessee’s Rights. If a Lot is leased or rented by the Lot Owner thereof, the Lessee and the members of the Lessee’s family residing with such Lessee shall have the right to use the Tract B during the term of the lease.

1.3 Assignment. The right of use of the easement and enjoyment of Tract B may not be transferred or assigned except upon the conveyance or transfer of the Lot to which such right is appurtenant.

1.4 Further Assurances. Any and all conveyances of a Lot shall be conclusively deemed to incorporate these reservations of rights and easements, whether or not set forth in such grants. The easements granted and reservations made herein shall not terminate or merge and shall continue to run with the land, notwithstanding the common law doctrine of merger and the common ownership of all the property. Upon written request, the Company and each Lot Owner shall from time-to-time sign, acknowledge and deliver such further assurances of these reservations of rights and easements as may be requested.

ARTICLE 2
TRACT A AND TRACT C

2.1 Limited Rights of Use. The Lot Owners shall not have the right to use Tract A and Tract C. Tract A and Tract C shall be reserved for use by the Company.

2.2 Rental. The Company shall have the right to rent or lease any portion of Tract A and Tract C on a short-term basis to a Lot Owner or Resident for the exclusive use of such Lot Owner or Residents and their guests and invitees.

2.3 Right to Use. The Company shall have the right to permit the use of any Tracts or amenity situated on the Tracts by persons other than Lot Owners or Residents and their guests upon payment of such fees as may be established by the Company.

ARTICLE 3
MAINTENANCE OF TRACTS

3.1 Tracts. The Company shall be responsible for the management and maintenance of the Tracts, and all Improvements located thereon, except for any part of the Tracts which any governmental entity is maintaining or is obligated to maintain. The Company shall be the sole judge as to the appropriate Maintenance of all Tracts, but the Tracts, and the Improvements located thereon, shall be maintained in good condition and repair at all times. No Lot Owner, Resident or other Person shall Construct or install any Improvements on the Tracts or alter, modify or remove any Improvements situated on the Tracts without the approval of the Company. No Lot Owner, Resident or other Person shall obstruct or interfere with the Company in the performance of the Company's management or Maintenance of the Tracts, and the Improvements located thereon.

3.2 Lot Owner Caused Maintenance and Repair. In the event that the need for Maintenance of a Tract is caused through the willful or negligent act of any Lot Owner, his family, tenants, guests or invitees, the cost of such Maintenance shall be paid by such Lot Owner to the Company upon demand and payment of such amounts shall be secured by the Lien.

3.3 Maintenance of Walls of Fences. Boundary walls located on the shared property line of a Lot and a Tract shall be maintained, repaired and replaced entirely by the Lot Owner and not the owner of the Tract.

ARTICLE 4
INITIAL CONSTRUCTION OF TRACTS; MODIFICATIONS

Company has Constructed or will Construct all Improvements to the Tracts. The Company may, from time to time remove, add, reconfigure, modify, or otherwise change the Improvements to the Tracts.

ARTICLE 5
MONTHLY MAINTENANCE EXPENSE

Each Lot Owner shall pay to the Company a monthly fee for Maintenance of the Tracts (“**Monthly Fee**”).

5.1 Initial Monthly Fee. The Monthly Fee for the year 2024 shall be \$200 per Lot Owner.

5.2 Adjustment for Inflation. Commencing on January 1, 2025, and continuing on the first day of each successive year, the Monthly Fee shall be increased by a percentage equal to the percentage which the "**CPI**" for the forth to the last month of the preceding year increased over the CPI from a date one year immediately prior thereto. For the purposes of this Agreement, "**CPI**" means the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for all Urban Consumers (CPI-U), U.S. City Average not seasonally adjusted. If at any time there shall not exist the CPI, Company may substitute any official index published by the Bureau of Labor Statistics or by a successor or similar government agency as may then be in existence and which in Company’s reasonable business judgment shall be most nearly equivalent thereto. The Monthly Fee shall continue to be payable in monthly installments at the rate previously payable under this Agreement until Company notifies the Lot Owners of the new Monthly Fee and the amount due as a result of the adjustments described in this paragraph. The failure by Company to timely notify Lot Owners of the new Monthly Fee shall not be deemed a waiver by Company of the increase in Monthly Fee; rather, the new Monthly Fee shall be payable, retroactive to the applicable adjustment date, upon notification by Company to Lot Owners.

5.3 Invoices. The Company may prepare and send monthly invoices for the Monthly Fee to each Lot Owner. The Monthly Fee shall be paid within thirty (30) days after the date of the invoice. Accumulated and unpaid fees run with the land.

5.4 Books and Records. The Company, at the Company’s expense, shall keep or cause to be kept adequate books and records, which contain an accurate account of all income and expenses associated with the Tracts. Upon the written request of any Owner, such Owner or its designated representative shall have the right, at any reasonable time, to have access to and may inspect and copy the contents of such books or records. The reasonable cost of such inspection and copying shall be borne by the requesting Owner.

5.5 Reserve Fund. At such time as the first Certificate of Occupancy is issued for one of the Residential Properties, the Company shall establish and fund a reserve fund in the amount of \$30,000.00, to be utilized by the Company at its sole discretion to address any issues that may arise with the Tracts for which there are insufficient funds available from the monthly maintenance fee set forth in Section 5.1 above.

ARTICLE 6
REPRESENTATIONS & WARRANTIES

THE PARTIES HEREBY ACKNOWLEDGE AND AGREE THE EASEMENTS ARE BEING GRANTED “AS IS”. The parties acknowledge and agree that except as expressly set forth in this Agreement, Company has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to: (a) the value, nature, quality or condition of the Tracts, including, without limitation, the soil,

geology, etc.; (b) the suitability of the Tracts for any and all activities and uses which Lot Owners may conduct thereon; (c) the compliance of or by the Tracts or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body, including as a legal non-conforming use; (d) the habitability, merchantability, marketability, profitability or fitness for any particular purpose of the Tracts; (e) the manner or quality of the construction or materials, if any, incorporated into the Tracts or Improvements; (f) the manner, quality, state or repair or lack of repair of the Tracts or Improvements; and (g) any other matter with respect to the Tracts, and specifically, that Company has not made, does not make, and specifically disclaims any representations regarding compliance with any environmental protection, pollution or land use laws, rules, regulations, orders or requirements, including without limitation the presence of any asbestos, petroleum and petroleum by-products, urea formaldehyde foam insulation, polychlorinated biphenyls, radon, any and all substances now or hereafter designated as "Hazardous Substances", "Hazardous Materials", "Hazardous Waste", "Toxic Substances", "Solid Waste", "Toxic Pollutant", "Pollutant" as defined by any "Environmental Laws" (as hereinafter defined), and any substance now or hereafter regulated by any "Environmental Laws" (said substances are collectively herein defined as "Environmental Contaminants"). "Environmental Laws" shall mean the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq., and any regulations promulgated thereunder; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., and any regulations promulgated thereunder; the Toxic Substances Control Act, 15 U.S.S. § 7401 et seq., and any regulations promulgated thereunder; the Clean Air Act, 33 U.S.C. § 1251 et seq., and any regulations promulgated thereunder; the Arizona Environmental Quality Act, A.R.S. § 49-101 through 49-1100, and any regulations promulgated thereunder; the Arizona Hazardous Waste Management Act, A.R.S. § 3-921 et seq., and any regulations promulgated thereunder; any amendments to the foregoing statutes and regulations; and any other similar statute, regulation or ordinance now or hereafter enacted.

ARTICLE 7

MONETARY DEFAULT AND REMEDIES

7.1 Uncured Default. An "**Uncured Default**" shall exist when a Lot Owner fails to pay, when due and within thirty (30) days of written invoice or notice thereof, the Monthly Fee. Such an Uncured Default continues until all current and back payments and arrearages of Monthly Fees, together with interest thereon at eighteen percent (18%) per annum from the date first due, and any legal costs incurred in connection with the collection thereof, including any court or arbitration costs or attorneys' fees incurred whether or not included in any judgment or award rendered in connection therewith, (collectively, the "**Costs to Cure**"), have been paid in full by or on behalf of that Lot Owner.

7.2 Late Fees. In the event a Lot Owner fails to pay any cost or fee when due, such Lot Owner shall pay a late charge equal to ten percent (10%) of the amount not paid.

7.3 Remedies. In the event of an Uncured Default:

7.3.1 Termination of Access. Each Lot Owner expressly grants the right to the Company to terminate and discontinue access to the Tracts by the defaulting Lot Owner until the Costs to Cure have been paid in full.

7.3.2 Lien. The Costs to Cure shall be and become a lien against the Lot Owner's Lot ("**Lien**"), but only if such lien is evidenced by a "**Notice of Lien**" recorded against such Lot by and on behalf of the Company, and such Lien shall be treated and may be foreclosed in the same fashion as liens permitted by A.R.S. §§ 33-1256 and 1257, and may also include reasonable costs and attorneys' fees for the preparation or foreclosure thereof.

7.3.3 Other Remedies. The Company shall have all other rights and remedies available at law or equity.

ARTICLE 8
SUBORDINATION OF LIEN

A Lien shall be subordinate to the lien of any first mortgage or deed of trust against a Lot, but the sale or transfer of a Lot shall not affect the Lien. However, the sale or transfer of a Lot pursuant to mortgage foreclosure of a first mortgage, or a trustee's sale pursuant to power of sale or a foreclosure of a first deed of trust, or any proceeding in lieu thereof, shall extinguish the Lien as to payment which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any amounts thereafter becoming due.

ARTICLE 9
GENERAL PROVISIONS

9.1 Duration; Runs with Land. The Easements, covenants, conditions, restrictions and other provisions of this Agreement (the "**Restrictions**") shall exist in perpetuity and run with the land.

9.2 No Homeowners Association. Nothing in this Agreement shall be construed as establishing a Homeowners Association.

9.3 Definition of Company. During such time as all Tracts are owned by the Company, any reference in this Agreement to "Company" shall mean PULIDO SUBDIVISION, LLC. During such time as all Tracts are not owned by the Company, any reference in this Agreement to "Company" shall mean the then Owners of all the Tracts.

9.4 Multiple Owners of the Tracts. If at any time there are multiple Owners of the Tracts, the Owners of the Tracts may only act by majority vote. Each Owner of a Tract shall have one vote for each square foot of the Tracts it owns. The Owner of the Tract with the most square footage ("**Primary Tract Owner**") shall be responsible for collecting the Monthly Fee and causing to be performed all Maintenance on the Tracts in a timely manner. The Primary Tract Owner shall report all income and expenses and make available all books and records to the other Tract Owners (and vice versa).

9.5 No Right to Mortgage a Tract. The Company shall not mortgage, lien (statutory or otherwise), grant a security interest in, pledge, or encumber a Tract.

9.6 Allocation of the Monthly Fee: Taxes. For accounting purposes, the income (which presumably will consist mostly of the Monthly Fee) and expenses shall be allocated at the end of each calendar year amongst the Tract Owners based on the percentage each Tract Owner owns of all the Tracts. Any net proceeds shall be distributed to the Tract Owners based off the percentage ownership of the Tracts. The Tract Owners understand and acknowledge that the income is taxable, and the Tract Owner may be required to pay income tax on the income, especially if the annual income exceeds the annual expenses. Any tax owed under this paragraph shall be paid by the Tract Owner without the right of reimbursement.

9.7 Property Taxes. Each Tract Owner shall pay the real property taxes, special assessments and any other government imposed tax or amount associated with the Tract it owns prior to the same being delinquent. Any amount owed under this paragraph shall be paid by the Tract Owner without the right of reimbursement.

9.8 Damage to Tracts Not Caused by Lot Owners. Costs to repair damages caused by Persons other than a Lot Owner, Resident, or invitee of a Lot Owner shall be paid by the Tract Owner.

9.9 Insurance on Tracts. The Tract Owners may either purchase insurance or self-insure the Tracts.

9.10 Notices. Any notices to the Company or Lot Owner shall be given at the address shown on the Maricopa County Treasurer's website as the address where the Party receives property tax bills. The address for receipt of notices may be changed by written notice thereof delivered to all Owners. Notices shall be sent only by hand delivery or certified mail. Notices shall be deemed delivered when delivered in hand or, if sent by certified mail, forty-eight (48) hours after the same has been deposited, postage prepaid and certified, in the United States Mail.

9.11 Waiver or Abandonment. The failure to enforce any breach or violation of any of the Restrictions shall not constitute an abandonment or a waiver of any right to enforce such Restrictions or any subsequent breach or violation of such Restrictions or of any other Restrictions of this Agreement.

9.12 Injunctive Relief. In addition to the remedies for a monetary default provided above, every act or omission whereby any one or more of the Restrictions herein set forth is violated in whole or in part, where such violation continues for a period of fifteen (15) or more days from the date of written notice thereof to the violating Owner, may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, and in the event of any violation or threatened violation of any one or more of the Restrictions herein set forth, any Owner may enforce these Restrictions by seeking injunctive relief, or monetary damages, but nothing contained herein shall be construed as meaning that damages are an adequate remedy where equitable relief is sought.

9.13 Non-refundable Payments. All Monthly Fees are non-refundable. In the event a Lot Owner sells or otherwise transfers its Lot, such transferring Lot Owner forgoes the benefit of all payments and such payments shall continue for the benefit of the new Lot Owner(s).

9.14 Choice of Law & Venue. Any dispute arising hereunder shall be construed under Arizona law, with Maricopa County as the choice of venue.

9.15 Liens and Encumbrances. No Party shall commit any act which shall cause any lien to be imposed or asserted against the Tracts. After the date of this Agreement, all subsequent encumbrances and liens shall be subordinated to this Agreement, unless otherwise set forth herein.

9.16 Breach of Agreement. Any dispute or impasse regarding this Agreement or use of the Tracts shall be resolved by binding arbitration. If the disputing parties cannot agree on an arbitrator, each shall select one arbitrator and such arbitrators shall then select a different arbitrator to handle the dispute. The arbitrator so selected shall arbitrate said dispute. The arbitration shall be governed by the rules of the American Arbitration Company then in force and effect. The parties to the dispute or impasse shall share the costs of arbitration equally. The prevailing party(ies) shall be entitled to an award of reasonable attorneys' fees and costs.

9.17 Liquidated Damages. The prevailing party, in addition to contractual or other damages, shall also be entitled, as and for a liquidated value of its incidental and consequential damages, to an amount equal to twice its reasonable attorneys' fees and costs. The Parties understand that calculation of incidental and consequential damages would be uncertain and difficult (if not impossible) to accurately estimate and therefore agree that this amount is a reasonable calculation of those damages and is not a penalty.

9.18 Severability: Any determination by any court of competent jurisdiction that any provision in this Agreement is invalid or unenforceable shall not affect the validity or enforceability of the remaining provisions of this Agreement and the same shall remain in full force and effect.

9.19 Entire Agreement. This Agreement, including any related documents referred to herein and attached hereto, constitute the complete understanding and agreement between the Parties. All prior conversations, negotiations and representations of the Parties concerning this Agreement are superseded and merged herein.

9.20 Amendment. This Agreement may be amended from time to time by recording in the Office of the County Recorder of Maricopa County, Arizona, an instrument in writing reciting said amendment and signed (with signatures properly acknowledged) by all Owners. No such amendment shall be valid with respect to a mortgagee of any Lot unless any mortgagee has consented in writing to such amendment.

9.21 References to Easement. Any and all instruments of conveyance of any interest in any portion of the Lots may contain a reference to this instrument and shall be subject to the conditions and restrictions of this Agreement, the same as if they were therein set forth in full.

9.22 Assignment. The duties, rights, and obligations contained herein run with the land. Each subsequent Owner shall be deemed a Party for purposes of this Agreement. The rights, duties, and obligations herein inure to subsequent Owners, regardless of whether the subsequent Owner received actual notice.

9.23 Authorization. Each Party represents and warrants that it is duly authorized to enter and perform this Agreement.

9.24 Counterparts. This Agreement may be executed in any number of counterparts, all counterparts shall be deemed to constitute one instrument, and each counterpart shall be deemed an original. Facsimile or email signatures shall be valid as original signatures. This Agreement shall become effective when recorded or returned fully executed to all Parties.

IN WITNESS WHEREOF, the undersigned Parties have executed this Agreement effective this _____ day of _____, 2024.

COMPANY:

PULIDO SUBDIVISION, LLC, an Arizona limited liability company an Arizona limited liability company

By: _____
Ezequiel Mendez Pulido, member

OWNERS OF LOTS 1-8:

Ezequiel Mendez Pulido

Maria Elena Mendez

STATE OF ARIZONA)
) **ss.**
COUNTY OF MARICOPA)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me, the undersigned Notary Public, this _____ day of _____, 2024, by Ezequiel Mendez Pulido, individually and as Member of PULIDO SUBDIVISION, LLC, an Arizona limited liability company, Company.

Notary Expiration Date

Notary Public

STATE OF ARIZONA)
) **ss.**
COUNTY OF MARICOPA)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me, the undersigned Notary Public, this _____ day of _____, 2024, by Maria Elena Mendez, individually.

Notary Expiration Date

Notary Public

EXHIBIT "A"

EXHIBIT "B"