

## Developer Donation Agreement

This Agreement ("the Agreement") is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the AMPHITHEATER UNIFIED SCHOOL DISTRICT NO. 10 OF PIMA COUNTY, ARIZONA (also known as Amphitheater Public Schools), a political subdivision of the State of Arizona ("District") and MERITAGE HOMES OF ARIZONA, INC., an Arizona corporation ("Developer").

### RECITALS

A. Developer owns an interest in certain real property in Oro Valley, Arizona, which is more particularly described on "Exhibit A" attached hereto and incorporated by reference herein (the "Property"). Developer is currently developing the Property as a single family residential development commonly known as Rancho de Plata (the "Project") which is located within the District and the township limits of Oro Valley, Arizona;

B. High quality schools and school facilities are in the best interest of Developer's homebuyers within the Project, who are also the present and future residents of the District;

C. The District is financially constrained in its ability to build and furnish new school facilities by the current system of school and capital funding within the State of Arizona; and,

D. Voluntary financial contributions made to the District by the Developer will be utilized to mitigate the impact of the increased student population of the Project upon the District and mitigate the limitation of the District's ability to build and furnish facilities.

F. Developer has agreed that in connection with the development of the Project to make a financial contribution in order to mitigate the impact of the increased student population on the District anticipated from the development of the Project.

### AGREEMENT

Therefore, in consideration of the mutual promises and performances set forth herein and the potential impact of the Projects on the resources of the District, the parties hereby agree to the following:

1. Payment of Education Donation. Developer agrees to pay the District a voluntary cash contribution totalling One Thousand Five Hundred Dollar (\$1,500.00) for each planned single-family residential unit ("Dwelling Unit") in the Project which are sold to a third party.

2. Future Development Fees. The parties acknowledge that Developer's financial contributions to the District in accordance with the terms and conditions of this

Agreement are intended to satisfy any and all obligation of Developer (in connection with Developer's development of the Project) to facilitate the acquisition, development, construction and/or improvement of any and all public school facilities within the District and to address the anticipated impact of Developer's development of the Property on the District. Notwithstanding any provision in this Agreement, if during the development of the Project, any other governmental authority with jurisdiction imposes any development fee, impact fee, dedication requirement or similar fee or charge per dwelling unit, the District will reduce the contribution amount per dwelling unit by the amount of the development or impact fee, if such fee is assessed to facilitate the acquisition, development, construction and/or improvement of the District's public school facilities.

3. Time and Manner of Payment. The financial contribution for each Dwelling Unit sold by Developer, or its successors or assignees, shall be paid to District at or prior to the close of escrow for each Dwelling Unit within the Project.

4. Assignment and Succession. All of the provisions hereof shall inure to the benefit of and be binding upon the personal representatives, heirs, successors and assigns of District and Developer. Developer may assign its interest hereunder without the prior written consent of District.

5. Party Benefit. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between District and Developer. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, corporation or other entity not a party hereto (including, without limitation, any broker), and no such party shall have any right or cause of action hereunder.

6. Miscellaneous Terms and Conditions:

a. Recitals Incorporated. The recitals set forth above are accepted by the parties to be true and correct and are incorporated herein by this reference.

b. Headings. The descriptive headings of the sections of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the Agreement's provisions.

c. Exhibits. Any exhibit attached to this Agreement shall be deemed to have been incorporated in this Agreement by this reference with the same force and effect as if it were fully set forth in the body of the Agreement.

d. Entire Agreement. This Agreement and the attached exhibit constitutes the entire agreement between the parties pertaining to the subject matter of the Agreement. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are superseded and merged in this Agreement. This Agreement shall be governed by the laws of the State of Arizona and is also subject to A.R.S. 38-511.

e. Counterparts. This Agreement may be executed in any number of counterparts. Each such counterpart hereof shall be deemed an original, but all counterparts shall constitute one agreement.

f. Representations. Each of the parties represents and warrants to the other that it is duly formed and validly existing in the state of its formation and is in good standing in the State of Arizona; that it has full power and authority to enter into and carry out the provisions of this Agreement and all documents and instruments contemplated hereunder; that doing so will not violate or be in conflict with any law, rule, regulation or order or any agreement to which it is a party or under which it is bound; that this Agreement has been authorized by all necessary action and is the valid and binding obligation of such party.

g. Further Acts. Each of the parties to this Agreement shall promptly and expeditiously execute and deliver all of such documents and perform all of such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement.

h. Notices. All notices, requests, demands or other communications ("Notices") required or permitted by this Agreement shall be in writing and served by personal delivery, recognized overnight courier service, electronically confirmed telecopy with a follow-up copy by regular United States Mail, or by deposit in the United States mail, certified mail, return receipt requested, postage prepaid, addressed to the party to receive the same as follows:

If to the District:            Legal Department  
   Amphitheater  
   Public Schools 701  
   W. Wetmore Rd.  
   Tucson, AZ 85705

If to Owner:                    Meritage Homes of Arizona, Inc.  
   8800 E. Raintree Drive, Suite 300  
   Scottsdale, Arizona 85260  
   Attn: Regional Counsel

All Notices shall be effective upon delivery and shall be deemed delivered on the date when actually received, whether notice is given by personal delivery, recognized overnight courier electronically confirmed telecopy or by mail. Any party may designate a different person or entity or change the place to which any Notice shall be given as provided in this Agreement, which Notice shall be effective after the same is actually received by the other party.



DEVELOPER:

MERITAGE HOMES OF ARIZONA, INC., an  
Arizona corporation

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

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

Its: \_\_\_\_\_

STATE OF ARIZONA        )  
  ) ss.  
County of Maricopa        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of  
\_\_\_\_\_, 2015, by \_\_\_\_\_, the \_\_\_\_\_ of Meritage  
Homes of Arizona, Inc., an Arizona corporation.

My commission expires:

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

\_\_\_\_\_

**EXHIBIT "A"**

Legal Description of Real Property

LOTS 1 THROUGH 5, AS RECORDED IN BOOK 20 OF RECORDS OF SURVEYS, PAGE 72, AND AS RECORDED IN DOCKET 11243 AT PAGE 668, RECORDS OF PIMA COUNTY, ARIZONA, BEING A PORTION OF SECTION 4, TOWNSHIP 12 SOUTH, RANGE 13 EAST, GILA AND SALT RIVER BASE AND MERIDIAN, PIMA COUNTY, ARIZONA.

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## TEMPORARY CONSTRUCTION LICENSE AGREEMENT

This Temporary Construction License Agreement (this “**Agreement**”) is entered into as of \_\_\_\_\_, 2015, by and between Amphitheater Unified School District No. 10 of Pima County, Arizona, a political subdivision of the State of Arizona (“**District**”) and Meritage Homes of Arizona, Inc., an Arizona corporation (“**Meritage**”).

### Background

A. Meritage is developing a community known as “Rancho de Plata” in the Town of Oro Valley, Pima County, Arizona, and more specifically that portion of Rancho de Plata that is adjacent to Richard B. Wilson Middle School (the “**Meritage Property**”).

B. District is the owner of that certain real property commonly known as Richard B. Wilson Middle School which is adjacent to the Meritage Property (“**District Property**”).

C. District is willing to grant a non-exclusive license to Meritage to enter upon, over, under and across the portions of the District Property immediately south of the existing tennis courts on the south-side of District’s Property as indicated on the attached Exhibit “A” (the “**License Area**”) for the purpose of completing the installation of sidewalk improvements needed to tie the Meritage Property in to the District Property (the “**Purpose**”) in accordance with the terms and conditions of this Agreement and Exhibit A.

### Agreement

In consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, District and Meritage agree as follows:

1. License. District grants to Meritage, its employees, agents, representatives and contractors (“**Permittees**”) a non-exclusive license (the “**License**”) to enter upon, over, under and across the License Area for the sole purpose of constructing the sidewalk improvements on the License Area. All work shall be performed at Meritage’s sole cost and expense.

2. Term of License. The term of the License (“**Term**”) shall expire on the earlier to occur of (i) \_\_\_\_\_, 2015, and (ii) the date on which Meritage completes construction activities on the District Property.

3. Restoration and Indemnity. Meritage will promptly repair, at Meritage’s sole cost and expense, any damage to the District Property caused by Meritage or any of Meritage’s Permittees in connection with this Agreement. Meritage shall indemnify, defend, and hold District harmless for, from and against any claims, liabilities, obligations, costs and expenses (collectively, “**Losses**”) arising or related to Meritage’s entry and/or activities on the District Property, including without limitation attorneys’ fees and court costs, except to the extent such Losses

arise directly from District's negligent acts. Entry on the District Property by Meritage and any other parties associated with Meritage will be at the sole risk of Meritage.

4. Insurance. Throughout the Term, Meritage shall procure and maintain, and cause any Permittees, to maintain, at its sole cost, (i) commercial general liability insurance on an occurrence basis, providing primary and non-contributory coverage with a minimum limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate, and name Meritage as an additional insured, (ii) worker's compensation insurance as required by law, and (iii) any other such insurance that is customarily required in connection with the Purpose and reasonably requested in writing by District.

5. Mechanic's Liens. Meritage shall have no right, power or authority to bind District or any interest of District in the Property under any statute relating to mechanic's liens by a contract for the furnishing of any work, labor, or material on or to the District Property. In the event that any notice of mechanic's liens is filed or given, Meritage shall promptly cause the same to be released or discharged.

6. Termination of License. Upon the termination of the License, Meritage shall, at its sole cost and expense, remove any personal property or equipment of Meritage on the District Property in accordance with all applicable laws.


7. Compliance with Laws. Meritage shall comply with and obtain and maintain in full force and effect any and all governmental permits necessary for the performance of the Purpose and the Purpose shall be performed in compliance with all governmental laws and regulations, codes, ordinances, regulations and requirements in connection with the Purpose.

8. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which, together, shall constitute one and the same instrument.

9. Authority. Each of District and Meritage represents and warrants to the other that, as of the date hereof, (i) it has the full power and authority to enter into this Agreement and to carry out the performance of the covenants and obligations contained herein; and (ii) no consent or authorization of any third party is required for execution and delivery of this Agreement.

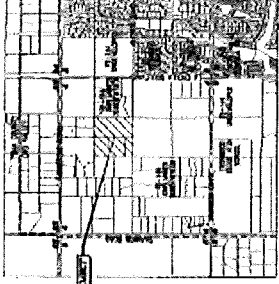


IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

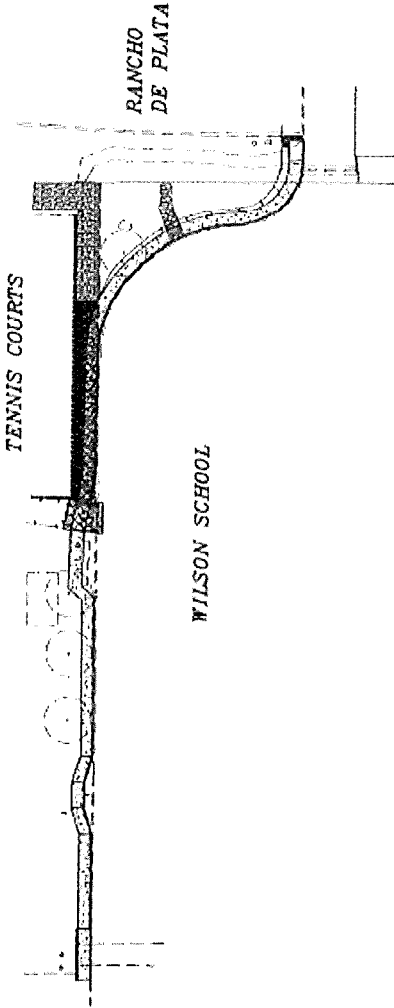
<b>AMPHITHEATER UNIFIED SCHOOL DISTRICT NO. 10 OF PIMA COUNTY, ARIZONA, a political subdivision of the State of Arizona</b> By: <u></u> Name: <u>Todd A. Jaeger</u> Title: <u>Assoc. to the Sup't and General Counsel</u>	<b>MERITAGE HOMES OF ARIZONA, INC., an Arizona corporation</b> By: _____ Name: _____ Title: _____
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# EXHIBIT "A"

## RANCHO DE PLATA / RICHARD B. WILSON MIDDLE SCHOOL SIDEWALK PLAN



SCALE: 1" = 100'



- LEGEND**
- 1. ASPHALT
  - 2. CONCRETE
  - 3. SIDEWALK
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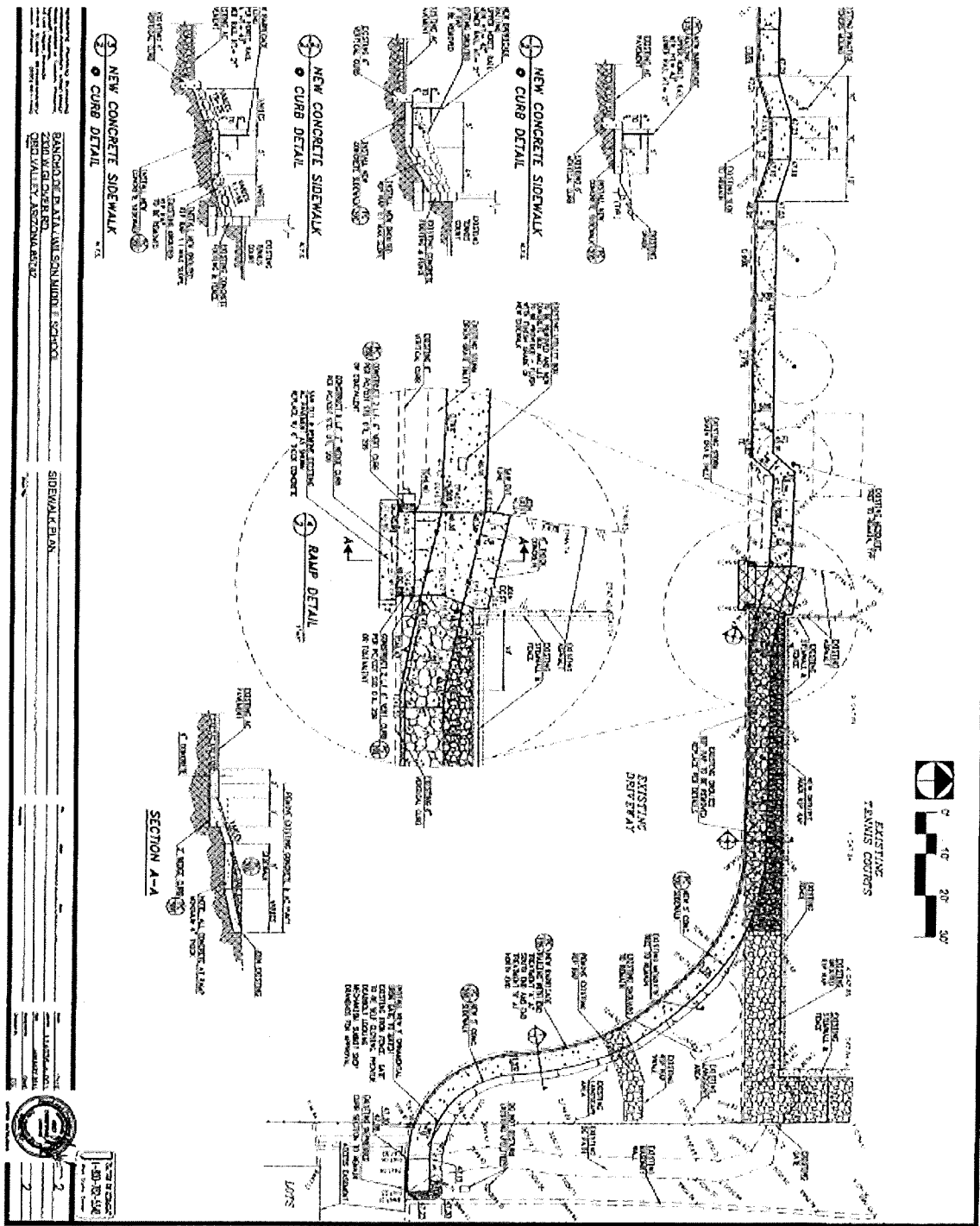
DATE: 10/15/2014  
DRAWN BY: J. GILBERT  
CHECKED BY: J. GILBERT  
SCALE: 1" = 30'

RANCHO DE PLATA / RICHARD B. WILSON MIDDLE SCHOOL  
2800 W. GILBERT RD.  
GRO VALLEY, ARIZONA 85142

SCALE: 1" = 100'

PROJECT LAYOUT





BANGOR DE VILLAMON MONTE SCHOOLS  
 200 W. 10TH ST.  
 BANGOR, ME 04410  
 PROJECT NO. 100-100-100  
 SHEET NO. 100-100-100-100

DATE: 10/10/10

SCALE: AS SHOWN

100-100-100-100