

**SPECIAL ASSESSMENT AGREEMENT AND  
DECLARATION OF NOTICE OF SPECIAL ASSESSMENT**

**THIS SPECIAL ASSESSMENT AGREEMENT AND DECLARATION OF NOTICE OF SPECIAL ASSESSMENT** is made as of \_\_\_\_\_, 2011, by \_\_\_\_\_ (the "Land Owner") (as Grantor for indexing purposes) and **MOSAIC DISTRICT COMMUNITY DEVELOPMENT AUTHORITY**, a political subdivision of the Commonwealth of Virginia (the "Authority") (as Grantee for indexing purposes), **COUNTY OF FAIRFAX, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "County"), \_\_\_\_\_, as trustee (the "Series A Trustee") under a Trust Indenture dated as of \_\_\_\_\_ 1, 2011 (the "Series A Indenture"), relating to the Authority's Revenue Bonds, Series 2011A, and as trustee (the "Series B Trustee") under a Trust Indenture dated as of \_\_\_\_\_ 1, 2011 (the "Series B Indenture"), relating to the Authority's Revenue Bonds, Taxable Series 2011B (the Series A Trustee and the Series B Trustee, collectively, the "Trustee").

The Authority and the Mosaic District (the "District") were created by an ordinance adopted by the Board of Supervisors of Fairfax County, Virginia (the "Board") on April 27, 2009, as amended by ordinance dated April 27, 2010, and each attached hereto as Exhibit B (collectively, the "Establishing Ordinance"). The Land Owner is the fee simple owner of the property described in Exhibit A, which property is within the District (the "Assessable Property") and subject to the Special Assessment Lien described below. By ordinance adopted on February 11, 2011, and attached hereto as Exhibit C (the "Assessment Ordinance"), the Board provided for special assessments (the "Special Assessments") to be levied on property within the District. In accordance with the requirements of Sections 15.2-2412 and 15.2-5157 of the Code of Virginia of 1950, as amended, the Authority, the County and the Land Owner agree to cause this Agreement and Declaration to be recorded in the deed book and land records of the Clerk's Office.

On May 12, 2010, Eskridge (E&A), LLC and Eskridge Properties (E&A), LLC, each a South Carolina limited liability company (collectively, the "Developer"), the Authority and the County entered into a Memorandum of Understanding, as amended and restated on \_\_\_\_\_, 2011, in the form attached hereto as Exhibit D (the "Memorandum of Understanding") relating to the financing of public improvements to facilitate development of property within the District and setting forth provisions for special assessment agreements between the Authority and owners of property abutting the District in connection therewith. In accordance with the terms of the Memorandum of Understanding, the Authority has agreed to issue certain Tax Revenue Bonds and Special Assessment Bonds (as each such term is defined in the Memorandum of Understanding), each of which will be secured, in whole or in part, by the Special Assessment Lien, and the proceeds of which will be used to pay the costs or a portion of the costs of such public improvements and related costs thereto.

**THE PROPERTY DESCRIBED HEREIN IS SUBJECT TO A SPECIAL ASSESSMENT LIEN WHICH, SUBJECT TO THE AVAILABILITY OF OTHER MONIES FOR THE PURPOSES DESCRIBED IN AND PROVIDED FOR IN THE MEMORANDUM OF UNDERSTANDING, MAY REQUIRE THE PAYMENT OF AN ANNUAL INSTALLMENT IN ADDITION TO ANY AD VALOREM TAXES OR OTHER TAXES**

PAID TO FAIRFAX COUNTY, VIRGINIA. UPON THE SUBDIVISION OF ANY PARCEL SUBJECT TO AN ASSESSMENT LIEN HEREUNDER FOR PAYMENT OF SPECIAL ASSESSMENTS, SUCH SPECIAL ASSESSMENTS, ASSESSMENT LIEN AND THE ANNUAL INSTALLMENT RESULTING THEREFROM SHALL BE THE JOINT AND SEVERAL OBLIGATIONS OF ALL THE PARCELS CREATED BY SUCH SUBDIVISION UNTIL SUCH SPECIAL ASSESSMENTS, ASSESSMENT LIEN AND ANNUAL INSTALLMENT HAVE BEEN REAPPORTIONED AMONG SUCH PARCELS AS PROVIDED FOR IN THE RATE AND METHOD DESCRIBED HEREIN. AFTER SUCH SPECIAL ASSESSMENTS AND SPECIAL ASSESSMENT LIEN AND THE ANNUAL INSTALLMENT HAVE BEEN REAPPORTIONED AMONG THE SEPARATELY SUBDIVIDED PARCELS AS PROVIDED FOR IN THE RATE AND METHOD DESCRIBED HEREIN, EACH OWNER OF A SEPARATE TAX PARCEL SHALL BE REFERRED TO HEREIN AS A "LAND OWNER," AND EACH SEPARATE TAX PARCEL SHALL BE SUBJECT ONLY TO THE APPORTIONED AMOUNT OF THE SPECIAL ASSESSMENTS, ASSESSMENT LIEN AND ANNUAL INSTALLMENT ALLOCATED TO SUCH TAX PARCEL (SUCH THAT NO LAND OWNER SHALL HAVE ANY RESPONSIBILITY FOR PAYMENT OR LIEN FOR NON PAYMENT OF ANY APPORTIONED AMOUNT OF THE SPECIAL ASSESSMENTS, SPECIAL ASSESSMENT LIEN OR ANNUAL INSTALLMENT ALLOCATED TO ANY OTHER TAX PARCEL PURSUANT TO THE RATE AND METHOD. AS USED IN THIS AGREEMENT, THE TERM "SUBDIVISION" SHALL INCLUDE NOT ONLY THE LEGAL SUBDIVISION OF A PARCEL INTO TWO OR MORE OTHER LEGAL PARCELS, BUT ALSO SHALL INCLUDE THE ESTABLISHMENT OF A CONDOMINIUM, IN WHICH CASE EACH SEPARATELY CREATED CONDOMINIUM UNIT OF SUCH CONDOMINIUM SHALL BE DEEMED A SEPARATELY SUBDIVIDED "PARCEL" UNDER THIS AGREEMENT), THE ENTIRE AMOUNT OF THE SPECIAL ASSESSMENTS (OR THE APPORTIONED AMOUNT OF THE SPECIAL ASSESSMENTS ALLOCATED TO EACH LAND OWNER'S TAX PARCEL IN ACCORDANCE WITH THE RATE AND METHOD) MAY BE PREPAID IN ITS ENTIRETY OR IN PART AT ANY TIME WITHOUT PENALTY.

The Authority, the County, the Land Owner, as the current owner of the Assessable Property, and the Trustee hereby covenant, agree and declare as follows:

1. The above recitals are incorporated herein.
2. The boundaries of the District are more particularly set forth in the Establishing Ordinance attached as Exhibit B. The Assessable Property is located entirely within the District.
3. Pursuant to the Memorandum of Understanding, the Assessment Ordinance established a special assessment lien on the real property located within the District (the "Special Assessment Lien") in the maximum amount of \$\_\_\_\_\_, which lien is to be administered pursuant to the Rate and Method of Apportionment of Special Assessments (the "Rate and Method") which is attached to the Assessment Ordinance (attached hereto as Exhibit C) and incorporated herein by reference. Terms used herein and not otherwise defined shall have the meanings assigned such terms in the Rate and Method.

4. The Rate and Method sets forth the manner in which Special Assessments shall be determined and apportioned among the tax parcels located within the District and includes the Special Assessment Roll attached hereto as Exhibit E (the "Special Assessment Roll"). The Special Assessment Roll consists of a Special Assessment Roll A (that sets forth the Annual Installments of Special Assessment Part A that secure, in part, the Tax Revenue Bonds) and a Special Assessment Roll B (that sets forth the Annual Installments of Special Assessment Part B that secure the Special Assessment Bonds). The apportionment of the Special Assessment Lien for each parcel within the District that is subject thereto shall equal the amount for such parcel shown in the Special Assessment Roll, as the same may be adjusted from time to time pursuant to the provisions of the Rate and Method.

5. The property within the District, including the Assessable Property, shall be held, conveyed, acquired and encumbered, subject to the Special Assessment Lien and upon the terms and provisions set forth in the Rate and Method.

6. In accordance with Virginia Code Sections 15.2-5158(A)(5) and 15.2-2404 *et seq.*, the Land Owner consents and agrees to the imposition of the Special Assessment Lien in connection with the financing of the Improvements (as defined in the Memorandum of Understanding) through the issuance by the Authority of Tax Revenue Bonds in a principal amount not to exceed \$\_\_\_\_\_. The Land Owner agrees to the apportionment of the costs of the Public Improvements as set forth in the Special Assessment Roll A. The Land Owner consents and agrees to the provisions of the Memorandum of Understanding relating to the imposition and enforcement of the Special Assessment Lien as set forth in Paragraph 5 thereof. Upon any future subdivision of any parcel (including establishment of a condominium creating separate condominium units), the Special Assessment Lien shall be apportioned among the resulting parcels in the manner described in the Rate and Method.

7. In accordance with Virginia Code Sections 15.2-5158(A)(5) and 15.2-2404 *et seq.*, the Land Owner consents and agrees to the imposition of the Special Assessment Lien in connection with the financing of the Improvements through the issuance by the Authority of Special Assessment Bonds in a principal amount not to exceed \$\_\_\_\_\_. The Land Owner agrees to the apportionment of the costs of the Improvements as set forth in the Special Assessment Roll B. The Land Owner consents and agrees to the provisions of the Memorandum of Understanding relating to the imposition and enforcement of the Special Assessment Lien as set forth in Paragraph 5 thereof. Upon any future subdivision of any parcel (including establishment of a condominium creating separate condominium units), the Special Assessment Lien shall be apportioned among the resulting parcels in the manner described in the Rate and Method.

8. The Land Owner represents and agrees for itself and its successors and assigns that the Special Assessment Lien, as apportioned by the Rate and Method, does not exceed the peculiar benefit to the Assessable Property resulting from the Improvements and is apportioned to the Assessable Property on a rational basis.

9. The Land Owner represents that the information it has provided to the Authority and the County regarding the Assessable Property in connection with the imposition of the

Special Assessment Lien, and on which the County and its representatives relied in the Board's adoption of the Assessment Ordinance, is accurate as of the date hereof.

10. (a) As required by Virginia Code Section 15.2-5158(A)(5), any Land Owner may prepay Special Assessments (as apportioned in accordance with the Rate and Method to such Land Owner's parcel) without penalty. In the event the Land Owner elects to prepay Special Assessment Part A and Special Assessment Part B or either of them in whole or in part as determined by the terms of the Rate and Method, the Trustee, in its capacity as the Series A Trustee or the Series B Trustee, as appropriate, as assignee of the Authority's rights under the Series A Indenture or the Series B Indenture, as applicable, to receive payments of Special Assessments and to take other actions in connection with the enforcement of the Special Assessment Lien, shall take all such action as shall be necessary to evidence the satisfaction of such Land Owner's obligation with respect to the payment of Special Assessments (or, as applicable, the Special Assessments apportioned to the applicable parcel(s) for which such prepayment is received) including, without limitation, the execution and delivery of a recordable notice, in substantially the form attached hereto as Exhibit F, of such prepayment of Special Assessments within a reasonable period of time of receipt of such prepayment amount, with such recordable notice evidencing the release from the Special Assessment Lien in an amount corresponding to the prepayment (including any related interest) as to the applicable parcel(s). [TO BE INCLUDED IN SPECIAL ASSESSMENT AGREEMENT FOR LAND IN WHICH TARGET PARCEL IS LOCATED: In accordance with the foregoing, the parties hereto acknowledge that as of the date hereof, the Land Owner is prepaying an amount of Special Assessments equal to \$\_\_\_\_\_, such amount being the Special Assessment the Administrator has determined is allocable to that portion of the Parcel that will be identified upon a subsequent subdivision of the Parcel and referred to as the "Target Parcel." The parties hereto agree that, upon such subdivision, the parties will take such action described above as shall be necessary to reflect such Special Assessment prepayment and to confirm the release from the Special Assessment Lien of the Target Parcel.

(b) With respect to Special Assessment Part B, the amount of Special Assessment Part B shall be deemed to be prepaid for purposes of the provisions of Section C.3(c) of the Rate and Method in an amount equal to the unadvanced portion of principal of the Special Assessment Bonds that occurs upon the earlier of (a) \_\_\_\_\_, 201\_, or (b) the date the holder of the Special Assessment Bonds (the "SAB Holder") and the Land Owner deliver a notice or notices (i) stating that the SAB Holder and the Developer, on behalf of the Authority, with the concurrence of the Land Owner, have agreed that no further principal amounts will be advanced under the Special Assessment Bonds, (ii) stating that the amount of such unadvanced principal shall be discharged and cancelled as an obligation of the Authority and (iii) setting forth the manner in which the prepayment resulting from such discharge shall be applied against Assessable Property. Upon delivery of such notice, as set forth in 10(a) above, the Trustee, in its capacity as the Series B Trustee, shall execute and deliver the Certificates of Satisfaction and Release with respect to the amount the SAB Holder and the Developer, on behalf of the Authority, with the concurrence of the Land Owner, have agreed will not be advanced under the Special Assessment Bonds.

(c) In the event Special Assessments are prepaid in accordance with the provisions of this Section 10, and thereafter any Special Tax is levied on the Assessable Property in any tax year in accordance with the terms of Paragraph 5(g) of the Memorandum of Understanding, the

amount of such prepayment of Special Assessments that represents the Annual Installment of Special Assessments that but for the prepayment would otherwise have been due for that tax year shall be credited as payment or partial payment, as the case may be, of the amount of Special Tax levied for that tax year. In the event of an apportionment of the Special Assessments, Special Assessment Lien, and Annual Installment among parcels within the Assessable Property, then such a prepayment of the Annual Installment of Special Assessments attributable to any parcel for any tax year shall be credited as payment or partial payment, as the case may be, of the amount of any Special Tax levied on that parcel for that tax year in accordance with the terms of Paragraph 5(g) of the Memorandum of Understanding. In no event, however, shall the amount of the Special Tax levy be greater than the amount of the Annual Installments of Special Assessments previously prepaid and in the case of Special Assessments that are prepaid in their entirety and the Special Assessment Lien related thereto discharged as provided in 10(a) and (b) above, any Special Taxes subsequently levied thereafter shall be deemed paid. The provisions of this Section 10(c) shall apply only to payments or prepayments of Special Assessments that are not refunded for any reason.

(d) The Authority, the County, the Land Owner and the Trustee acknowledge and agree that the Special Assessment Bonds shall be subordinate to the rights of the Tax Revenue Bonds in the receipt of payments of Special Assessments. The Authority, the County, the Land Owner and the Trustee further acknowledge and agree that in the event that a delinquency in the payment of Special Assessments results in the County instituting a tax lien foreclosure proceeding that does not produce proceeds sufficient in amount to pay the entire amount of Special Assessments then outstanding, the Authority, the County and the Trustee shall take the action necessary to cause the outstanding amount of Special Assessments attributable to the Special Assessment Bonds to be deemed paid and the lien associated therewith to be discharged unless the successful purchaser thereof elects to permit such Special Assessments to remain outstanding.

11. The provisions of this Agreement and Declaration shall run with the land (including all improvements thereon) and bind any and all who may now or hereafter own or acquire any right, title, estate or interest in or to any of such property.

IN WITNESS WHEREOF, the Authority, the County, the Land Owner and the Trustee have caused this Agreement and Declaration to be executed as of the date first set forth above.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

**MOSAIC DISTRICT COMMUNITY  
DEVELOPMENT AUTHORITY**

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

COMMONWEALTH OF VIRGINIA

COUNTY OF FAIRFAX, to wit:

The undersigned Notary Public, in and for the jurisdiction aforesaid, hereby certifies that the individual, whose name is signed to the foregoing as Chairman of Mosaic District Community Development Authority, appeared before me and personally acknowledged the same in my jurisdiction aforesaid on behalf of the Authority. Such person is personally known to me or has presented satisfactory evidence of identification.

GIVEN under my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public REG #

My commission expires: \_\_\_\_\_

**COUNTY OF FAIRFAX, VIRGINIA**

By: \_\_\_\_\_  
County Executive

COMMONWEALTH OF VIRGINIA

COUNTY OF FAIRFAX, to wit:

The undersigned Notary Public, in and for the jurisdiction aforesaid, hereby certifies that the individual, whose name is signed to the foregoing as County Executive of the County of Fairfax, Virginia, appeared before me and personally acknowledged the same in my jurisdiction aforesaid on behalf of the County. Such person is personally known to me or has presented satisfactory evidence of identification.

GIVEN under my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public REG #

My commission expires: \_\_\_\_\_

\_\_\_\_\_ ,

a \_\_\_\_\_, as Landowner

By: \_\_\_\_\_,  
its sole member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_

CITY/COUNTY OF \_\_\_\_\_, to wit:

The undersigned Notary Public, in and for the jurisdiction aforesaid, hereby certifies that the individual, whose name is signed to the foregoing as \_\_\_\_\_ of \_\_\_\_\_, appeared before me and personally acknowledged the same in my jurisdiction aforesaid on behalf of the Land Owner. Such person is personally known to me or has presented satisfactory evidence of identification.

GIVEN under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public REG #

My commission expires: \_\_\_\_\_



[NAME OF TRUSTEE],

By: \_\_\_\_\_  
Authorized Officer

STATE OF \_\_\_\_\_

CITY/COUNTY OF \_\_\_\_\_, to wit:

The undersigned Notary Public, in and for the jurisdiction aforesaid, hereby certifies that the individual, whose name is signed to the foregoing as \_\_\_\_\_ of \_\_\_\_\_, appeared before me and personally acknowledged the same in my jurisdiction aforesaid on behalf of the Trustee. Such person is personally known to me or has presented satisfactory evidence of identification.

GIVEN under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Notary Public REG #

My commission expires: \_\_\_\_\_

Exhibits:

A – Tax Parcel owned by Landowner

B - Establishing Ordinance, as amended

C - Assessment Ordinance (including the Rate and Method of Apportionment of Special Assessments)

D - Memorandum of Understanding

E - Special Assessment Roll

F - Certificate of Satisfaction and Release

**EXHIBIT A**

**Tax Parcel**

**EXHIBIT B**

**Establishing Ordinance, as amended**

**EXHIBIT C**

**Assessment Ordinance**

**EXHIBIT D**

**Memorandum of Understanding**

**EXHIBIT E**

**Special Assessment Roll A**

[To come]

**Special Assessment Roll B**

[To come]

**EXHIBIT F**

**CERTIFICATE OF SATISFACTION AND RELEASE**

This CERTIFICATE OF SATISFACTION AND RELEASE is made as of \_\_\_\_\_, \_\_, \_\_\_\_\_, by \_\_\_\_\_, as Trustee under an Indenture of Trust dated \_\_\_\_\_ \_\_, 2011, with the Mosaic District Community Development Authority (the "Authority") with respect to the Authority's Revenue Bonds [Series 2011A Bonds] [Taxable Series 2011B Bonds], and assignee of the Authority's rights to receive payments thereunder and to exercise certain rights in connection with the enforcement of the collection of such payments.

By Special Assessment Agreement and Declaration of Notice of Special Assessment, dated as of \_\_\_\_\_ 1, 2011 (the "Special Assessment Agreement"), made by \_\_\_\_\_, as grantor, the Authority, as grantee, the County of Fairfax, Virginia, and the Trustee, and recorded in the Clerk's Office of the Circuit Court of the County of Fairfax, Virginia (the "Clerk's Office"), as Instrument Number \_\_\_\_\_, the Authority recorded notice of a special assessment lien on property within the boundaries of the Authority. A portion of the [Special Assessment Part A] [Special Assessment Part B] described in the Special Assessment Agreement (the "Special Assessment") in the amount of \$\_\_\_\_\_ has been prepaid, and the Trustee, on the Authority's behalf, intends to release the corresponding portion of the Special Assessment Lien, as such term is defined in the Special Assessment Agreement.

The portion of the Special Assessment with respect to the parcel or parcels described on Exhibit A hereto (the "Released Real Estate"), has been paid in full, [except for payment of any assessment due on \_\_\_\_\_ \_\_, \_\_\_\_ (the "Current Year Assessment")].

NOW, THEREFORE, in consideration of the foregoing and the sum of Ten Dollars (\$10.00), the receipt of which is hereby acknowledged, the Trustee, on the Authority's behalf, hereby acknowledges that the Special Assessment has been paid in full with respect to the Released Real Estate and the Special Assessment Lien with respect to the Released Real Estate is hereby released [provided that such release is not effective with respect to the Current Year Assessment until such Current Year Assessment is paid in full]. The Trustee agrees to forward a counterpart of this Release to the Treasurer of the County of Fairfax, Virginia.

WITNESS the following signatures.

[NAME OF TRUSTEE]

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

Exhibit A - Description of Released Real Estate



STATE OF \_\_\_\_\_

CITY/COUNTY OF \_\_\_\_\_, to wit:

The undersigned Notary Public, in and for the jurisdiction aforesaid, hereby certifies that the individual, whose name is signed to the foregoing as \_\_\_\_\_ of [Name of Trustee], appeared before me and personally acknowledged the same in my jurisdiction aforesaid on behalf of the Trustee. Such person is personally known to me or has presented satisfactory evidence of identification.

GIVEN under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public REG #

My commission expires: \_\_\_\_\_