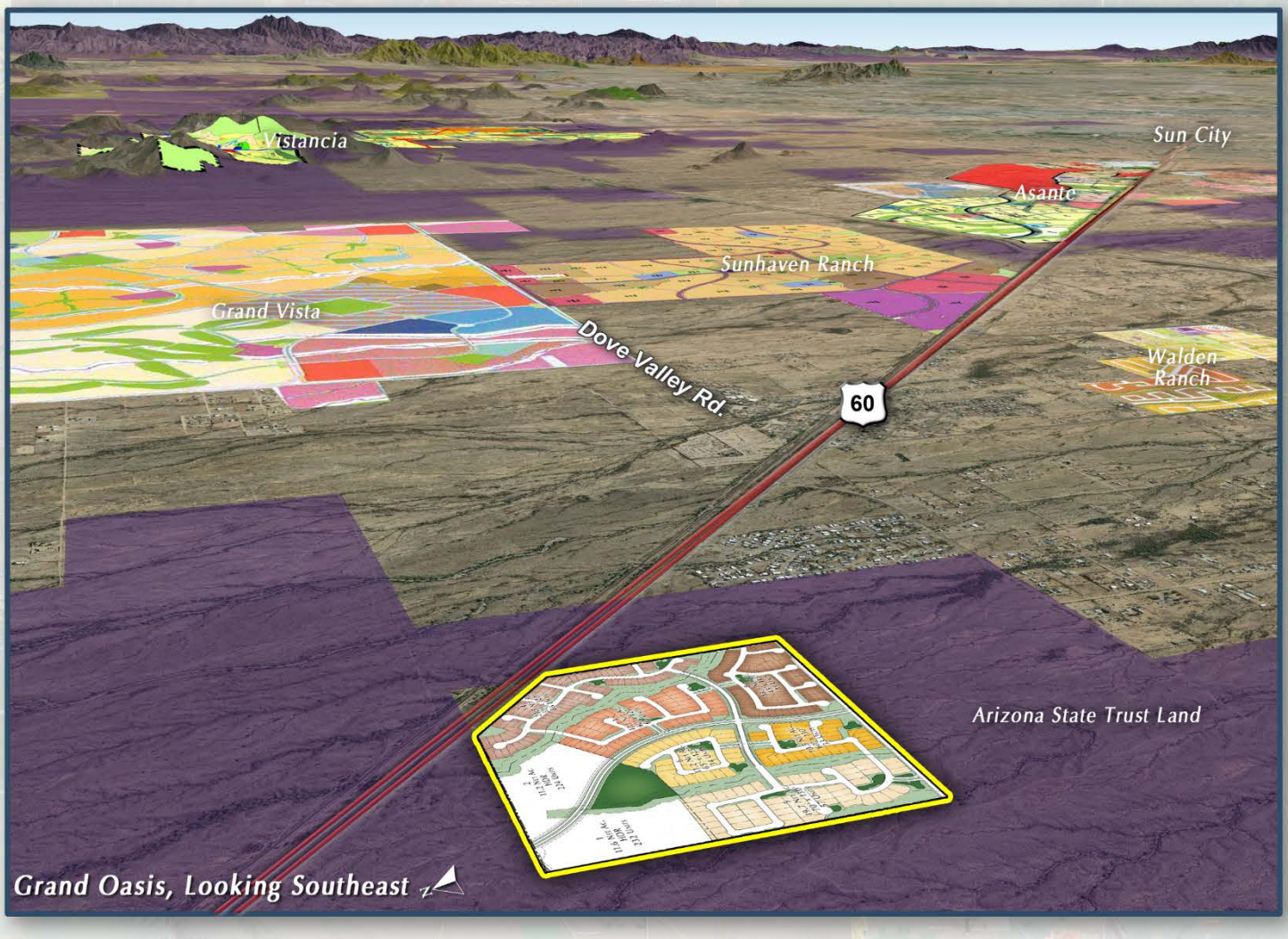
NATHAN & ASSOCIATES, INC.
EXCLUSIVELY PRESENTS

GRAND OASIS
US 60, NORTH OF DOVE VALLEY ROAD



NATHAN & ASSOCIATES, INC.
7600 E. DOUBLETREE RANCH ROAD, SUITE 150
SCOTTSDALE · ARIZONA · 85258-2156
OFFICE: 480.367.0700 · FAX: 480.367.8341
WWW.NATHANANDASSOCIATESINC.COM

Grand Oasis

US 60, North of Dove Valley Road

LOCATION:
Located on US 60, north of Dove Valley Road in Maricopa County, Arizona.

SIZE:
155 Acres

PRELIMINARY LOTTING PLAN:

Product	Net Acres	DU/Net Ac.	DU's
45' x 115'	18.3 Ac.	4.86	89
50' x 120'	21.5 Ac.	4.00	86
60' x 120'	17.1 Ac.	3.51	60
60' x 130'	10.5 Ac.	3.14	33
65' x 125'	11.2 Ac.	3.04	34
70' x 130'	19.7 Ac.	2.87	57
Total			359

Parcel Number	Zoning	Product	Gross Acreage	Net Acreage	Projected DU/Net Ac	Projected Yield	Actual DU/Net Ac	Actual Yield
1	R-4-RUPD	T.B.D.	13.3 Ac.	11.6 Ac.	20.00	232	20.00	232
2	R-4-RUPD	T.B.D.	14.0 Ac.	11.2 Ac.	20.00	224	20.00	224
3	R1-7-RUPD	60' x 120'	21.5 Ac.	17.1 Ac.	3.63	62	3.51	60
4	R1-6-RUPD	50' x 120'	25.9 Ac.	21.5 Ac.	4.37	94	4.00	86
5	R1-8-RUPD	70' x 130'	24.1 Ac.	19.7 Ac.	2.89	57	2.87	57
6	R1-8-RUPD	65' x 125'	14.7 Ac.	11.2 Ac.	3.21	36	3.04	34
	R1-8-RUPD	Park	5.2 Ac.	5.0 Ac.				
7	R1-8-RUPD	60' x 130'	14.4 Ac.	10.5 Ac.	3.33	35	3.14	33
8	R1-6-RUPD	45' x 115'	22.1 Ac.	18.3 Ac.	5.03	92	4.86	89
TOTALS			155.2 Ac.	126.1 Ac.	6.60	832	6.46	815

ASSESSOR PARCEL NUMBERS:
503-17-013E, 503-17-013D and 503-17-013B

ZONING:
R-43 | Maricopa County

Site falls within the City of Surprise planning area, and shows:
Rural Residential (0-1 DU/Ac)

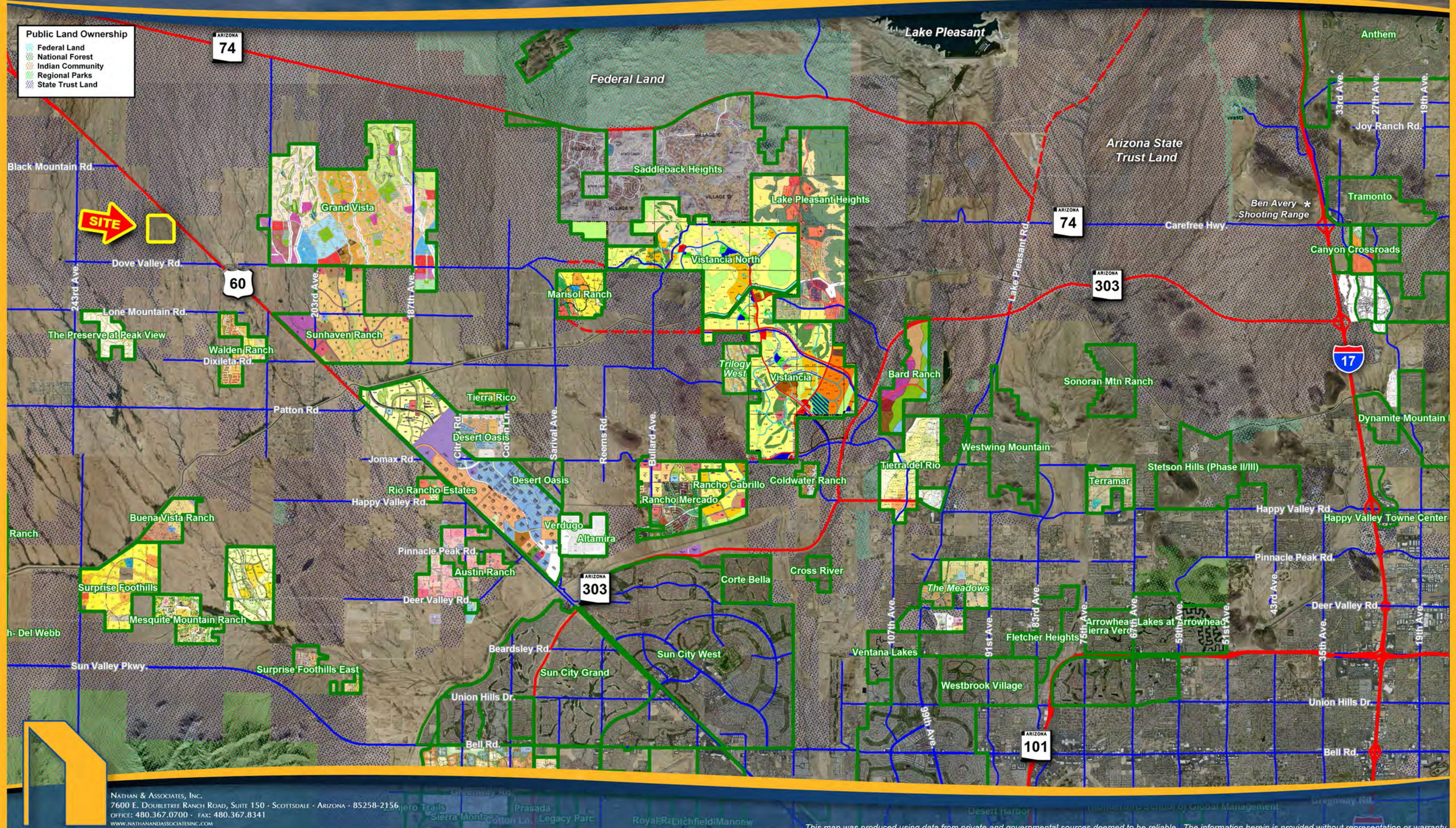
PRICE:
$22,000 per Acre or $3,410,000

TERMS:
Cash

PROPERTY TAXES:
2015 Assessment: $11,490.16

Northwest Valley Submarket

Grand Oasis



Nathan & Associates, Inc.
7600 E. Doubletree Ranch Road, Suite 150 · Scottsdale · Arizona · 85258-2156
office: 480.367.0700 · fax: 480.367.8341
www.nathanandassociatesinc.com

Grand Oasis

Maricopa County, Arizona

Maricopa County Assessor
Paul D. Petersen

Arizona State Trust Land

503-17-013D

503-17-013E

503-17-013B

60

N 243rd Ave

N 243rd Ave

N 243rd Ave

W Dove Valley Rd

W Dove Valley Rd

W Dove Valley Rd

W Dove Valley Rd

W Dove Valley Rd

W DOVE VALLEY RD

W Dove Valley Rd

60

N 227th Ave

N Crozier Rd

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Grand Oasis

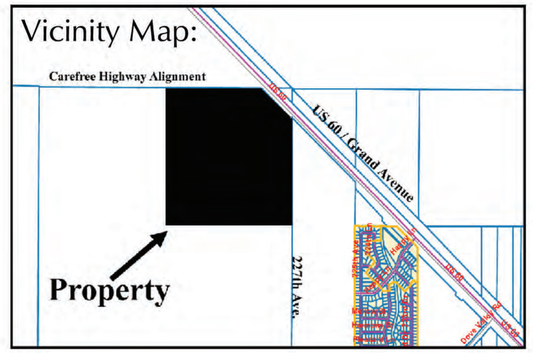
Maricopa County, AZ

Preliminary Lotting Study

Site Data:

Gross Acreage : 155.2 Ac
Existing Zoning : R-43
Existing Land Use : Vacant

Vicinity Map:



Development Team:

Owner/Developer :
Tana Wahtola
BYPG Holdings, LLC
PO Box 16460
Phoenix, AZ 85011
602-230-1051

Applicant :
Mike Withey/William Lally
Withey Morris, PLC
2525 E. Arizona Biltmore Cr.
A-212
Phoenix, AZ 85016
602-230-0600

Planner:
Chris Jones
Greey|Pickett
7507 E. McDonald Dr.
Suite B
Scottsdale, AZ 85250
480-609-0009

Engineer:
Gordon Wark
Wood Patel & Associates
2051 W. Northern Ave.
Suite 100
Phoenix, AZ 85021
602-335-8500

Product	Net Acres	DU/Net Ac.	DU's
45' x 115'	18.3 Ac.	4.86	89
50' x 120'	21.5 Ac.	4.00	86
60' x 120'	17.1 Ac.	3.51	60
60' x 130'	10.5 Ac.	3.14	33
65' x 125'	11.2 Ac.	3.04	34
70' x 130'	19.7 Ac.	2.87	57
Total			**359**

Parcel Number	Zoning	Product	Gross Acreage	Net Acreage	Projected DU/Net Ac	Projected Yield	Actual DU/Net Ac	Actual Yield
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2	R-4-RUPD	T.B.D.	14.0 Ac.	11.2 Ac.	20.00	224	20.00	224
3	R1-7-RUPD	60' x 120'	21.5 Ac.	17.1 Ac.	3.63	62	3.51	60
4	R1-6-RUPD	50' x 120'	25.9 Ac.	21.5 Ac.	4.37	94	4.00	86
5	R1-8-RUPD	70' x 130'	24.1 Ac.	19.7 Ac.	2.89	57	2.87	57
6	R1-8-RUPD	65' x 125'	14.7 Ac.	11.2 Ac.	3.21	36	3.04	34
	R1-8-RUPD	Park	5.2 Ac.	5.0 Ac.				
7	R1-8-RUPD	60' x 130'	14.4 Ac.	10.5 Ac.	3.33	35	3.14	33
8	R1-6-RUPD	45' x 115'	22.1 Ac.	18.3 Ac.	5.03	92	4.86	89
TOTALS			155.2 Ac.	126.1 Ac.	6.60	**832**	6.46	**815**

GREEY | PICKETT
landscape architecture | community design
7507 e. mcdonald drive, suite b
scottsdale, arizona 85250
480.609.0009p 480.609.0068f

0' 200' 400' 600'
Scale: 1" = 200'-0"

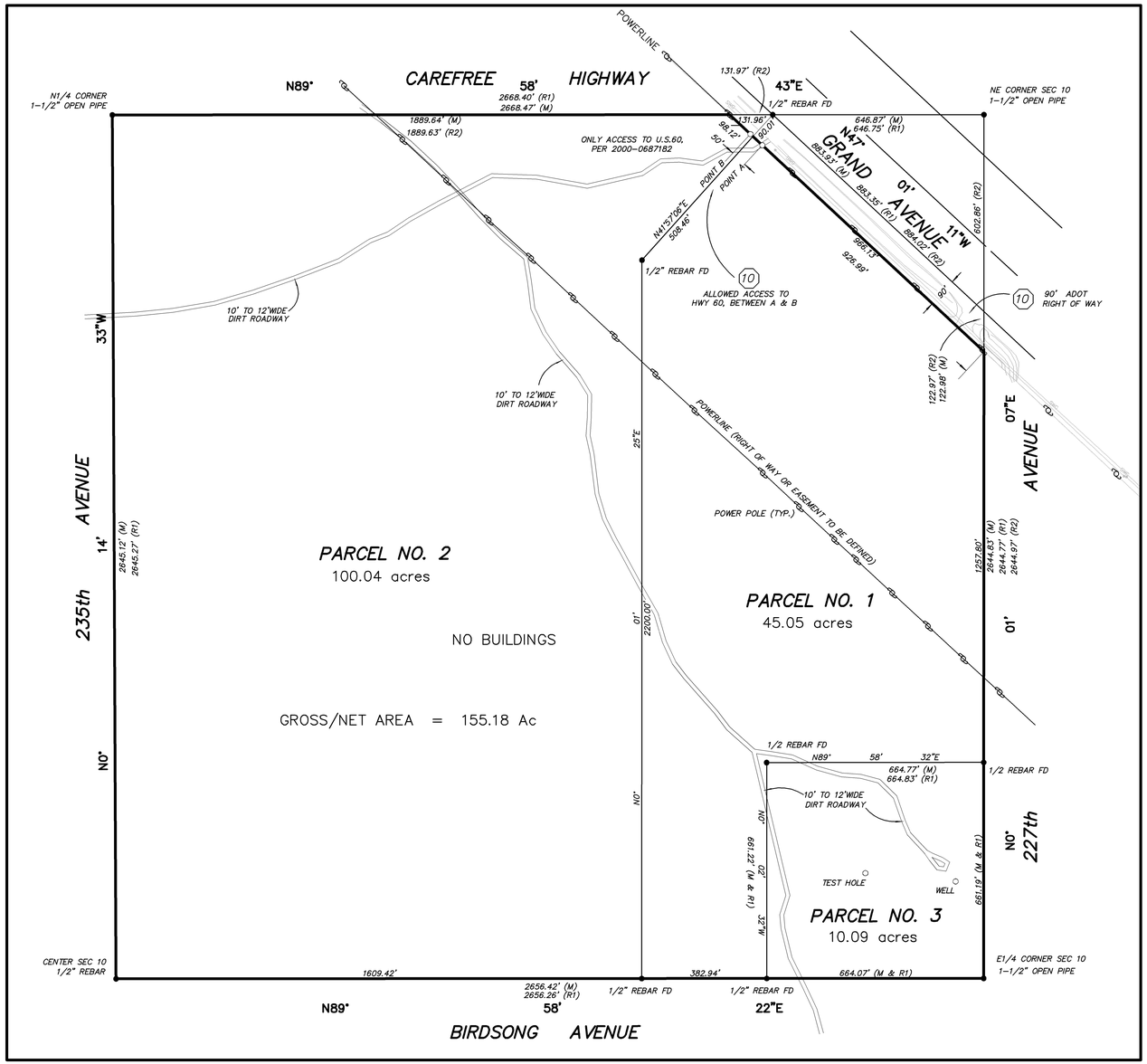
February 12, 2008

ALTA/ACSM LAND TITLE SURVEY

OF PARTS OF NORTHEAST QUARTER OF SECTION 10 TOWNSHIP 5 NORTH, RANGE 3 WEST OF THE GILA AND AND SALT RIVER BASELINE AND MERIDIAN, MARICOPA COUNTY, STATE OF ARIZONA

SITE PLAN
SCALE 1"= 200'

0 200 400 600 800



BASIS OF BEARING

BASIS OF BEARINGS FOR THIS SURVEY IS N89°58'22"E ALONG THE SOUTH LINE OF THE NE1/4 OF SECTION 10 TOWNSHIP 5 NORTH, RANGE 3 WEST, G & SR B&M.

LEGAL DESCRIPTIONS

PARCEL NO. 1

A PORTION OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 5 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 10;

THENCE SOUTH 89 DEGREES 58 MINUTES 22 SECONDS WEST, ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 10, A DISTANCE OF 664.07 FEET (RECORDED), 664.23 FEET (MEASURED) TO THE POINT OF BEGINNING;

THENCE CONTINUING SOUTH 89 DEGREES 58 MINUTES 22 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 382.93 FEET (RECORDED), 382.77 FEET (MEASURED);

THENCE NORTH 00 DEGREES 01 MINUTES 25 SECONDS EAST, A DISTANCE OF 2200.00 FEET;

THENCE NORTH 42 DEGREES 02 MINUTES 59 SECONDS EAST, A DISTANCE OF 599.38 FEET (RECORDED), 598.32 FEET (MEASURED) TO A POINT ON THE SOUTHWEST RIGHT OF WAY LINE OF THE PHOENIX–PRESCOTT HIGHWAY, FEDERAL AID PROJECT 76–A(3), AS SAID HIGHWAY EXISTED ON MARCH 1, 1945;

THENCE SOUTH 47 DEGREES 01 MINUTES 00 SECONDS EAST (RECORDED), SOUTH 47 DEGREES 01 MINUTES 41 SECONDS EAST (MEASURED), ALONG SAID RIGHT–OF–WAY LINE, A DISTANCE OF 882.35 FEET TO A POINT ON THE EAST LINE OF SAID NORTHEAST QUARTER OF SAID SECTION 10;

THENCE SOUTH 00 DEGREES 01 MINUTES 25 SECONDS WEST (RECORDED), SOUTH 00 DEGREES 01 MINUTES 07 SECONDS WEST (MEASURED), LEAVING SAID RIGHT–OF–WAY AND ALONG SAID EAST LINE, A DISTANCE OF 1381.82 FEET (RECORDED), 1382.88 FEET (MEASURED);

THENCE SOUTH 89 DEGREES 58 MINUTES 32 SECONDS WEST, A DISTANCE OF 664.82 FEET;

THENCE SOUTH 00 DEGREES 01 MINUTES 40 SECONDS EAST, A DISTANCE OF 661.24 FEET TO THE POINT OF BEGINNING;

EXCEPT ANY PORTION OF THE ABOVE DESCRIBED PROPERTY LYING WITHIN THE PROPERTY DESCRIBED IN THAT CERTAIN WARRANTY DEED RECORDED IN DOCUMENT NO. 2000–0687182, RECORDS OF MARICOPA COUNTY, ARIZONA; AND

EXCEPT ALL COAL, OIL AND OTHER MINERALS AS RESERVED IN THE PATENT TO SAID LAND.

PARCEL NO. 2

A PORTION OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 5 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 10;

THENCE SOUTH 89 DEGREES 58 MINUTES 22 SECONDS WEST, ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 10, A DISTANCE OF 1047.00 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING SOUTH 89 DEGREES 58 MINUTES 22 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 1609.26 FEET (RECORDED), 1609.42 FEET (MEASURED), TO THE CENTER QUARTER CORNER OF SAID SECTION 10;

THENCE NORTH 00 DEGREES 14 MINUTES 22 SECONDS WEST (RECORDED), NORTH 00 DEGREES 14 MINUTES 33 SECONDS WEST (MEASURED), ALONG THE NORTH–SOUTH MID–SECTION LINE OF SAID SECTION 10, A DISTANCE OF 2645.28 FEET (RECORDED), 2645.12 FEET (MEASURED) TO THE NORTH QUARTER CORNER OF SAID SECTION 10;

THENCE NORTH 89 DEGREES 59 MINUTES 00 SECONDS EAST, ALONG THE NORTH LINE OF SAID SECTION 10, A DISTANCE OF 2022.67 FEET (RECORDED), 2021.14 FEET (MEASURED) TO A POINT ON THE SOUTHWESTERLY RIGHT–OF–WAY LINE OF THE PHOENIX–PRESCOTT HIGHWAY, FEDERAL AID PROJECT 76–A(3), AS SAID HIGHWAY EXISTED ON MARCH 1, 1945;

THENCE SOUTH 42 DEGREES 02 MINUTES 59 SECONDS WEST, A DISTANCE OF 599.38 FEET (RECORDED), 598.32 FEET (MEASURED);

THENCE SOUTH 00 DEGREES 01 MINUTES 25 SECONDS WEST, A DISTANCE OF 2200.00 FEET TO THE POINT OF BEGINNING;

EXCEPT ALL COAL, OIL AND OTHER MINERALS AS RESERVED IN THE PATENT TO SAID LAND.

PARCEL NO. 3

THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 10 TOWNSHIP 5 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT ALL COAL, OIL AND OTHER MINERALS AS RESERVED IN THE PATENT TO SAID LAND.

SCHEDULE B – SECTION II – EXCEPTIONS

(9) ALL MATTER SET FORTH ON RESULTS OF SURVEY MAP RECORDED IN BOOK 369 OF MAPS, PAGE 2. (R1)

(10) THE RIGHT OF THE STATE OF ARIZONA TO PROHIBIT, LIMIT, CONTROL OR RESTRICT ACCESS TO THE HIGHWAY NAMED BELOW, AS SET FORTH IN INSTRUMENT: RECORDED IN DOCUMENT NO. 2000–687182, NAME OF HIGHWAY: U.S. HIGHWAY 60.

NOTES

1. THIS SURVEY IS BASED UPON COMMITMENT FOR TITLE INSURANCE PREPARED BY LAWYERS TITLE INSURANCE CORPORATION, FILE No: 01433809 REVISED OCTOBER 14, 2005.
2. SURVEY INFORMATION AND/OR EXCEPTIONS SHOWN ON THIS SURVEY ARE ACCORDING TO THE FOLLOWING RECORDS RECEIVED TO DATE; SCHEDULE B ITEMS 9 AND 10.
3. AS TO TABLE A REQUIREMENTS;
   1) AS SHOWN, 4) AS SHOWN, 8) AS SHOWN, 10) AS SHOWN, 11 A) AS SHOWN.
4. (R1) DENOTES SURVEY MAP RECORDED IN BOOK 369 OF MAPS, PAGE 2.
   (R2) DENOTES DOCUMENT NO. 2000–687182

SURVEYOR'S CERTIFICATION

TO: GRAND OASIS LAND, L.L.C., AN ARIZONA LIMITED LIABILITY CORPORATION, BEAZER HOME HOLDINGS CORP, A DELAWARE CORPORATION, BYPG HOLDINGS, LLC, AN ARIZONA LIMITED LIABILITY COMAPNY AND LAWYERS TITLE INSURANCE CORPORATION.

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE "MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS," JOINTLY ESTABLISHED AND ADOPTED BY ALTA, ACSM AND NSPS IN 1999, AND INCLUDES ITEMS 1, 4, 8, 10 AND 11a OF TABLE A THEREOF. PURSUANT TO THE ACCURACY STANDARDS AS ADOPTED BY ALTA, NSPS, AND ACSM AND IN EFFECT ON THE DATE OF THIS CERTIFICATION, UNDERSIGNED FURTHER CERTIFIES THAT THE SURVEY MEASUREMENTS WERE MADE IN ACCORDANCE WITH THE "MINIMUM ANGLE, DISTANCE, AND CLOSURE REQUIREMENTS FOR SURVEY MEASUREMENTS WHICH CONTROL LAND BOUNDARIES FOR ALTA/ACSM LAND TITLE SURVEYS."

DATED THIS 17th DAY OF OCTOBER, 2005.

GRANT BUTLER, RLS # 36162

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
36162
GRANT BUTLER
Date Signed 10-17-05
ARIZONA U.S.A.

Adopted by the American Land Title Association on October 6, 1999.
Adopted by the Board of Direction, American Congress on Surveying and Mapping on October 20, 1999.
Adopted by the Board of Directors, National Society of Professional Land Surveyors on October 19, 1999.
American Land Title Association, 1828 L St., N.W., Suite 705, Washington, D.C. 20036
American Congress on Surveying and Mapping, 5410 Grosvenor Lane, Bethesda, MD 20814
National Society of Professional Surveyors, 5410 Grosvenor Lane, Bethesda, MD 20814

ALTA/ACSM LAND TITLE SURVEY
OF PARTS OF SEC 10, T5N, R3W
GILA & SALT RIVER MERIDIAN
MARICOPA COUNTY, ARIZONA
CAREFREE HWY & 227TH AVE

DESIGNED BY: G.B.
SCALE: AS SHOWN
DRAWING: M514 Grand Oasis ALTA Rev 3.dwg
CHECKED BY: G.B.
REV No. 3

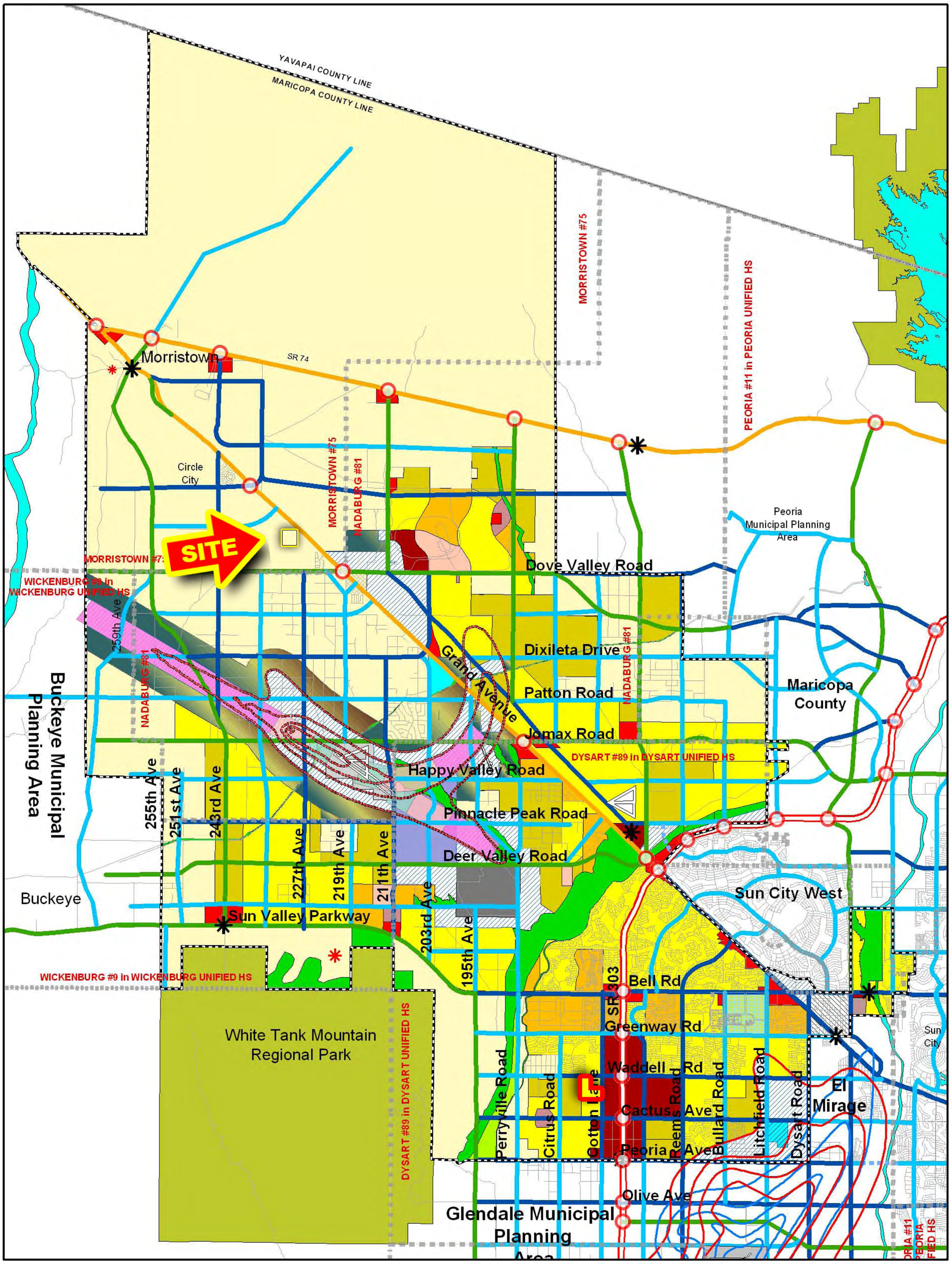
MARATHON
Engineering & Surveying
3743 NORTH 24th STREET
PHOENIX, ARIZONA, 85016
TEL: 604-513-9611 FAX: 1-800-378-5620

No.	DATE:	REVISION:	R.L.S.
1	17 OCT '05	SCHEDULE B NOTES AND EFFECTS TO FACE OF ALTA	
2	18 OCT '05	GROSS/NET AREA RELABELLED	
3	20 OCT '05	BYPG HOLDINGS, LLC ADDED TO CERTIFICATION	

DATE: 17 OCTOBER, 2005.

JOB NO: M514 ALTA

SHEET 1 OF 1



Land Use Classification

- Airport Preservation (0-2 Du's/Ac)
- Rural Residential (0-1 Du;s/Ac)
- Suburban Residential (1-3 Du's/Ac)
- Low Density Residential (3-5 Du's/Ac)
- Medium Density Residential (5-8 Du's/Ac)
- Medium/High Density Residential (8-15 Du's/Ac)
- High Density Residential (15-21 Du's/Ac)
- Surprise Center
- Original Townsite
- Commercial
- Employment
- Mixed Use Gateway
- Agriculture
- Landfill
- Military
- Open Space
- Public Facilities
- Proving Grounds
- Mixed-Use Gateway
- Resort Development

* Note: Commercial under 25 acres can be approved in other land use classifications per criteria in the General Plan.

Roadway Classification

- Freeway
- Expressway
- Parkway
- Major Arterial
- Minor Arterial
- Interchange

- 1988 MAG Noise Contours
- 1995 Luke A.F.B Noise Contours (1997 Revised)
- Aux 1 F-16 Noise Contours
- City General Planning Area
- Maricopa County Boundary
- School District Boundaries
- APZ I
- APZ II
- CLEAR ZONE

General Plan Updates

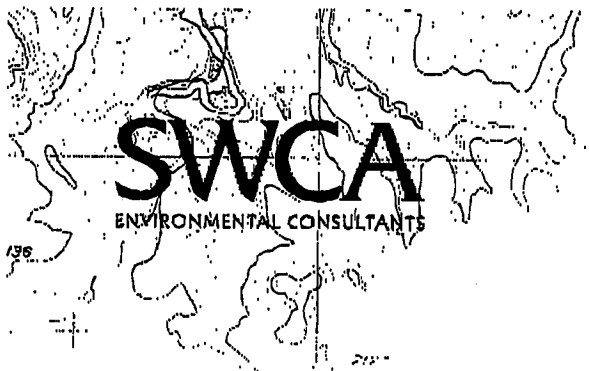
Case No.	Resolution No.	Approval Dates
GPA03-247	03-204	December 11, 2003
GPA03-248	03-205	December 11, 2003
GPA03-249	03-211	December 11, 2003
GPA04-184	04-228	November 23, 2004
GPA04-186	04-229	November 23, 2004
GPA04-219	04-230	November 23, 2004
GPA05-213	05-186	December 1, 2005
GPA05-276	05-185	December 1, 2005
GPA05-277	05-197	December 22, 2005

SURPRISE
ARIZONA

Surprise General Plan 2020:
Imagine the Possibilities
City of Surprise, AZ

1 0.5 0 1 2 Miles

Last changed date: 12/23/2005



SWCA
ENVIRONMENTAL CONSULTANTS

Phoenix Office
2120 North Central Ave., Suite 130
Phoenix, Arizona 85004
Tel 602.274.3831 Fax 602.274.3958
www.swca.com

October 24, 2005

Mr. Michael B. Maledon
BYPG Holdings, LLC an Arizona Limited Liability Company
PO Box 16460
Phoenix, AZ 85011

and

Mr. Brian Watko
Beazer Homes Holdings Corp.
A Delaware Corporation
2005 West 14th Street, Suite 100
Tempe, AZ 85281

RE: Archaeological Reliance Letter for the Grand Oasis Development near Wittman, Maricopa County, Arizona

To Whom It May Concern:

In May 2003, SWCA archaeologists performed a an archaeological survey of 158 acres for the Grand Oasis Development, at the request of Grand Oasis LLC of Phoenix. The parcel is located northwest of Wittmann in the NE¼ of Section 10, Township 5 North, Range 3 West (USGS Wittmann 7.5' Quadrangle), Gila and Salt River Base Line and Meridian, Maricopa County, Arizona. The resulting report is entitled *An Archaeological Survey 158 Acres for the Grand Oasis Development Located Approximately 1.5 Miles Northwest of Wittmann in Northern Maricopa County, Arizona* by Deil R. Lundin (SWCA Project No. 7074-041, SWCA Cultural Resources Report No. 03-248).

A newly identified site, AZ T:2:86(ASM), was recorded in the 158-acre parcel. This is a late historic can scatter primarily comprised of sanitary cans. This site has been disturbed by modern vehicular activity, lacks any associated features, and does not maintain integrity. AZ T:2:86(ASM) does not meet any of the NRHP eligibility criteria, and is therefore, considered NRHP ineligible. As a result, no further work is recommended for site AZ T:2:86(ASM).

A portion of one previously documented site, AZ T:2:50(ASM), consisting of hundreds of prehistoric rock piles, is located in the northeastern portion of this project area. This site was previously recommended as National Register of Historic Places (NRHP) eligible under Criterion *d*; SWCA concurs with this recommendation. Archaeological Consulting Services, Ltd. (ACS) conducted data recovery within a portion of AZ T:2:50(ASM) at the behest of Arizona Department of Transportation (ADOT), prior to widening of State Route 60 in 2002. Results of this investigation provided no new or significant information regarding the function or nature of this site. If avoidance of AZ T:2:50(ASM) is not feasible, SWCA recommends detailed mapping with a high precision GPS unit prior to construction within the site boundary.

SWCA
ENVIRONMENTAL CONSULTANTS

Phoenix Office
2120 North Central Ave., Suite 130
Phoenix, Arizona 85004
Tel 602.274.3831 Fax 602.274.3958
www.swca.com

October 24, 2005

Mr. Michael B. Maledon
BYPG Holdings, LLC an Arizona Limited Liability Company
PO Box 16460
Phoenix, AZ 85011

and

Mr. Brian Watko
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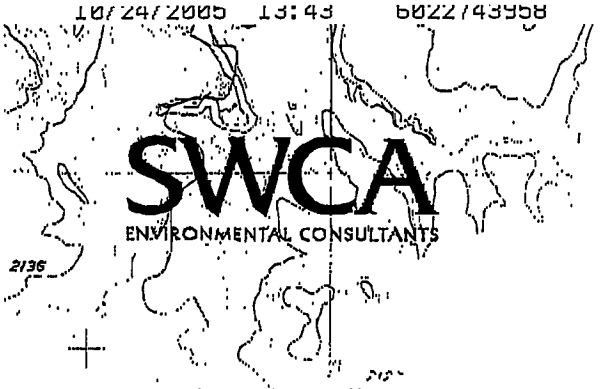

This letter will serve as the consent of SWCA Environmental Consultants and acknowledgment that Beazer Homes and BYPG Holdings, LLC may rely upon the information presented in our report. SWCA appreciates this opportunity to be of service to you. Please contact us if you have further environmental consulting needs.

Sincerely,

Cara Bellavia

Cara Bellavia
Archaeologist / Project Manager

When recorded return to:

City Clerk
City of Surprise
12425 West Bell Road, Suite D-100
Surprise, Arizona 85374

With a copy to:

PRE-ANNEXATION, DEVELOPMENT AND SERVICES AGREEMENT (GRAND OASIS)

THIS PRE-ANNEXATION, DEVELOPMENT AND SERVICES AGREEMENT (this "Agreement") is entered into _____, 2008, by and between the CITY OF SURPRISE, an Arizona municipal corporation (the "City") and _____, an Arizona corporation (the "Owner"). The City and the Owner are collectively referred to herein as the "Parties" and individually as a "Party".

RECITALS

A. The Owner owns real property located in unincorporated Maricopa County, Arizona, as more particularly described and depicted in Exhibit A attached hereto and incorporated herein by reference (the "Property"). This Property is part of a project known as Grand Oasis, which is referred to in this Agreement.

B. The Owner and City desire that the Property be annexed into the corporate limits of the City and be developed as part of the City. The Property is located within the City's Special Planning Area 5 ("SPA 5") but is not presently contiguous to the City's border for the purpose of annexation. The parties intend for the Property to be annexed into the City as soon as possible after the City has achieved a border that is legally contiguous to the Property for purposes of annexation according to ARIZ. REV. STAT. § 9-471. The Parties also intend that the City will be the water and wastewater service provider for the Property both prior to and after annexation.

C. SPA 5 is in the northwest portion of the City's planning area. It is comprised of approximately 58 square miles generally lying north of the Central Arizona Project ("CAP") and west of Grand Avenue. It is the City's intent to eventually annex the land in SPA 5 and be the municipal provider of public services for this area (i.e., water, sewer, police, fire and other governmental services). At the present time, there are no City facilities in SPA 5. Through this

Agreement, certain initial water and wastewater infrastructure will be provided by the Owner in SPA 5 as outlined herein.

D. Under this Agreement, Owner (in cooperation with other property owners in SPA 5) will (i) prepare materials for the City to complete an amendment to the MAG 208 plan to establish the City as the water and wastewater service provider in SPA 5 and (ii) design and fund the construction of the initial phase of water and wastewater infrastructure that will allow the City to provide these services to Owner's portion of Grand Oasis, with planned expandability in the future, according to the City's Rules (as defined below). As noted above, Owner will annex its Property into the City as soon as annexation becomes legally available and will provide the notification to homeowners within the Property as set forth in Subsection 3.2 below, encouraging them to do likewise. It is understood that Owner can only sign the annexation petition for that portion of the Property still in its ownership at the time annexation becomes available. In return, the City will continue to support the Approved DMP and Zone Change for Grand Oasis and related preliminary and final plats through the County review and approval process and will provide water and sewer services to the Owner's portion of the Property included within the Approved DMP both prior to and following annexation according to the terms set forth in this Agreement.

E. Owner and the City are entering into this Agreement pursuant to the provisions of ARIZ. REV. STAT. § 9-500.05 in order to facilitate the annexation, proper municipal zoning designation and development of the Property by providing for, among other things: (i) conditions, terms, restrictions and requirements for the annexation of the unincorporated portions of the Property by the City; (ii) conditions, terms, restrictions and requirements for the construction and installation of public services/infrastructure improvements; (iii) the permitted uses for the Property; (iv) the density of the permitted uses for, and other matters related directly or indirectly to the development of the Property.

F. Notwithstanding the above, the City and the Owner agree that certain elements of this Agreement are independent of the provisions and limitations of ARIZ. REV. STAT. § 9-500.05 and, therefore, those portions of this Agreement that address development and public services for the Property prior to annexation shall become operative and effective upon execution of this Agreement and shall not be dependent on the status of the Property's annexation into the corporate limits of the City for their operation and effect.

G. The City and the Owner acknowledge that the development of the Property pursuant to this Agreement will have planning and economic impacts to the City by: (i) encouraging investment in and commitment to comprehensive planning, which will result in efficient utilization of municipal and other public resources; (ii) requiring development of the Property to be consistent with the City's General Plan; (iii) providing for the planning, design, engineering, construction, acquisition, and/or installation of public infrastructure in order to support anticipated development of the Property; (iv) increasing tax and other revenues to the City based on improvements to be constructed on the Property; (v) creating employment through development of the Property consistent with this Agreement; (vi) creating improved housing and other uses for citizens of the City; and (vii) increasing the demand for City services during and after the development of the Property. The City and Owner acknowledge that the development

of the Property pursuant to this Agreement will result in benefits to Owner by providing certainty in order to avoid the waste of resources, including assurances to Owner that it will have the ability to develop the Property in accordance with this Agreement and Zone Change.

H. Among other things, development of the Property in accordance with this Agreement will result in the planning, design, engineering, construction, acquisition, installation, and/or provision of public services/infrastructure improvements that will support development of the Property.

I. The public services/infrastructure improvements to be provided by Owner, while necessary to serve development within the Property, also are needed in certain instances to facilitate and support the ultimate development of a larger land area that includes the Property. Given the regional significance of such public services/infrastructure improvements and development of the Property, the City is willing to consider the utilization of various public and/or quasi-public financing methods as provided in this Agreement.

J. Notwithstanding any public financing utilized for public infrastructure as set forth herein, the City and the Owner each acknowledge that the Owner is required to design and construct the public services/infrastructure improvements necessary for the development of the Property.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements set forth herein, the parties hereto state, confirm and agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated into this Agreement by reference as though fully restated.

2. Term. The term of this Agreement shall commence on the date and at the time this Agreement is approved by the City Council, and shall automatically terminate on the 15th anniversary of such date.

3. Annexation.

3.1. Annexation of Grand Oasis. Subject to Paragraph 3.4 below, Owner and its successors and assigns shall, within 30 days of a request by the City, deliver to the City an executed annexation petition for whatever portion of the Property still retained in its ownership provided the City has established sufficient land contiguous to the Property that has been annexed into the municipal boundaries of the City to meet the annexation requirements of ARIZ. REV. STAT. § 9-471. With respect to the annexation petition, the City agrees to comply with the provisions of ARIZ. REV. STAT. § 9-471 *et seq.* regarding municipal annexations and, if determined to be in the best interest of the City, adopt the final ordinance annexing said portions of the Property into the corporate limits of the City.

3.2. Disclosure and Notice of Intent to Annex to Home Buyers. The following information shall be (A) disclosed in the Public Sales Report for the Property and (B) provided to and explained to each prospective home buyer on a residential lot within the Property prior to the close of escrow with the home buyer. Owner shall obtain and retain a separate written acknowledgement from each homebuyer that this information was provided to them:

> "It is the intention of _____ and the City of Surprise that the Property (a.k.a., Grand Oasis), will be annexed into the municipal boundaries of the City as soon as a municipal boundary of the City is legally contiguous to the Property according to the requirements of ARIZ. REV. STAT. § 9-471. At that time, all owners of residential or commercial parcels within the Property shall be asked to sign the annexation petition to allow the City to annex the entire Property. The City is providing water and wastewater services to the Property with the expectation that the Property will be annexed into the City as soon as it is legally possible to do so. The water and wastewater systems in the Property were designed and built in compliance with City's standards. These systems are to be owned and operated by the City. Moreover, the subdivisions within the Property (i.e., streets, homes, lots, open spaces, recreational amenities) were designed to conform to City codes and ordinances wherever possible. Failure of the Property to be annexed into the City could affect the water and wastewater rates for each homeowner. The City reserves the right to charge higher water and wastewater rates to non-city residents. Failure of the Property to annex into the City could also affect delivery of other City services like parks, libraries, trash removal and emergency services such as police and fire. Elliott Homes strongly encourages each homeowner and property owner to sign the City's annexation petition as soon as annexation becomes available. Owner will sign the City's annexation petition for all parcels within the Property still under Owner's ownership and control."

The provisions of the paragraph shall terminate and be of no further effect or obligation as soon as the City has completed its annexation of the available portions of the Property. Owner shall provide the City copies of the separate written acknowledgements signed by homebuyers of the Property upon request.

3.3. Completion of County Plats. Notwithstanding Owner's intent to annex into the City as soon as annexation is legally available, the Parties recognize that Owner has committed considerable effort and resources toward entitling the Property in the County and that Owner is currently preparing to submit one or more plat requests to the County for review and approval. Should the City determine that the Property meets the legal requirements for annexation into the City at a time after the Owner has submitted one or more requests to the County for plat approval and before the Owner has received such plat approval from the County, the City agrees that at Owner's option, the City shall postpone annexation of the Property until such time as the plat or plats have received final approval from the County; provided, however that such delay shall not alter Owner's obligation to execute annexation petition for any portion of the Property under its ownership as soon as requested by the City.

3.5. City Acceptance of County Approved Preliminary Plats. Should the Property become eligible for annexation into the City during the process of review and approval of Preliminary and/or Final Plats in the County, the City shall accept those Preliminary Plats that are in process and/or have been approved by the County and allow the Owner to process Final Plats consistent with the approved Preliminary Plats through the City following the annexation of the Property. City's acceptance of the Preliminary Plats shall include honoring and accepting such things as the County's approved street cross sections, engineering (related to the preparation of the plat), approved lot sizes, building setbacks, overall layout and design of the Preliminary Plat, provided that once model homes have been permitted for construction in the County the City will honor and accept the housing products represented by those model homes for the related plats.

4. Development of the Property.

4.1 Compliance with Approved DMP and Rules. The Owner agrees that while the Property remains under County jurisdiction all development of the Property shall comply with the Approved DMP and Zone Change and any amendments thereto as approved by the County and the City through the City Community Development Director. The Parties shall work cooperatively to review the preliminary and final plats and related infrastructure plans and any amendments thereto for the Approved DMP and Zone Change to determine compliance with City standards to the maximum extent possible under County jurisdiction. Upon request by Owner and subject to approval by the City Community Development Director, the City shall provide written notification to the County's Technical Advisory Committee indicating the City's support for the preliminary and final plats and infrastructure plans. Owner shall work cooperatively with the City to take reasonable steps to design the Property in accordance with the rules, ordinances, regulations and standards (collectively, the "Rules") of both the County and the City that are in effect at the time submittals or permit applications are made in the County for the Property. However, if there is a conflict between the Rules of the County and the Rules of the City, Owner shall comply with the Rules of the County until such time as the Property is annexed into the City, as set forth below. For purposes of this subsection, a conflict exists when a County Rule or Rules imposes a stricter or heightened requirement as compared to City Rules. A conflict does not exist if there is a City Rule or Rules and an absence of a County Rule relating to some aspect of development or if a City Rule or Rules impose(s) a stricter or heightened requirement as compared to County Rules and it is legally permissible under the County's jurisdiction to comply with the stricter City requirement. Upon annexation into the City of any undeveloped portions of the Property, the City and the Owner agree that the Property has already received zoning and/or final plat approval in the County will be deemed vested with respect to uses and densities and intensities of uses only (the "Vested Rights"), and that all City Rules in effect at the time of development of such portions of the property shall apply to such development, subject to the Vested Rights. Except as otherwise provided herein, City development fees shall be collected for any building permits issued by the City for homes within the Property. During the 12-month transition period following annexation of the Property, the Parties agree to work cooperatively to resolve any discrepancy between County and City Rules to avoid hardships and modifications for approved housing plans on the lots in plats upon which residential building permits have not yet been issued.

4.2 Regulation of Development.

A. With respect to the development of the Property as contemplated by this Agreement, the City Rules, which apply to the development of the Property, shall mean those Rules in existence from time to time. The City reserves the right, exercising its sole and absolute discretion, to amend existing or to adopt new Rules and such Rules as amended or adopted shall be applicable to and binding on the Property to the extent set forth in this Agreement. Notwithstanding the foregoing, any change in the Rules in existence on the date of this Agreement or any Rules enacted after the date of this Agreement shall not be enforced against any development of the Property if such enforcement would materially and adversely limit or change the development of the Property consistent with the Vested Rights defined in this Agreement.

B. Notwithstanding the provisions of subsection 4.2(A) above, the City may change, enact and enforce Rules against the Property and development thereof which have an adverse impact on the Vested Rights upon the occurrence of any one of the following provisions:

(1) Rules which the Owner may agree in writing apply to the development of the Property.

(2) Rules of the City enacted as necessary to comply with mandatory requirements imposed on the City by the state or federal governments, including court decisions, and other similar superior external authorities beyond the control of the City, provided that in the event any such mandatory requirement prevents or precludes compliance with this Agreement, if permitted by law, such affected provisions of this Agreement shall be modified as may be necessary to achieve the minimum permissible compliance with such mandatory requirement.

(3) Rules of the City reasonably necessary to alleviate threats to public health and safety, provided such Rules shall be applied uniformly and not arbitrarily to all areas that are subject to the similar threat.

(4) Future updates or replacements of, and amendments to, existing building, construction, plumbing, mechanical, electrical, drainage, dangerous building, and similar construction and safety related codes, such as the International Building Code, which updates and amendments are generated by a nationally recognized construction/safety organization, or by the county, state or federal governments or by the Maricopa Association of Governments, or by the City as a supplement to such codes, provided such code updates, amendments and supplements shall be applied uniformly and not arbitrarily.

4.3 Additional Property. Upon the request of the Owner and the submission of a development master plan to the County or a planned area development plan to the City for the additional property hereafter referenced, the City hereby agrees to consider and, if in the best interest of the City, as determined by the City in its sole discretion, and in accordance with

typically applicable notice and public hearing requirements, to incorporate into this Agreement the whole or any portion of additional properties adjacent to or proximate to the Property (the "Additional Property") if and when Owner acquires such Additional Property. The City and the Owner agree that if Owner elects to request from City the incorporation of such Additional Property or portions thereof and if the City consents, in its sole discretion, (A) thereafter, such Additional Property shall be included in the Property and shall be subject to and shall benefit from all provisions of this Agreement applicable thereto and any reference herein to the Property shall include such Additional Property, (B) the City and Owner shall cooperate in order for the Additional Property to receive the necessary land use approvals, including any necessary amendment to the zoning required to approve a development master plan site with the County or City planned area development plan for the Additional Property (the "Additional Property Approvals") and (C) the plans and land use designations contained in the Additional Property Approvals shall thereafter apply to the applicable Additional Property such that the County-approved development master plan shall apply for the Additional Property while it is located outside the City's corporate limits and the City-approved planned area development plan shall apply while the Additional Property is within the corporate limits of the City.

5. Public Infrastructure.

5.1 Infrastructure Plan. The Owner shall submit to the City a plan (the "Infrastructure Plan") for completion of the water, wastewater and fire facilities (the "Infrastructure Improvements"), which shall be attached hereto as Exhibit C and incorporated herein by reference. After the Infrastructure Plan is approved by the City, and except as otherwise provided in this Agreement and subject to the City's Rules, the City-approved Infrastructure Plan shall authorize Owner, so long as Owner proceeds with the development of the Property, to implement and phase the Infrastructure Improvements to the Property in conformance with the City-approved Infrastructure Plan. The Parties hereto acknowledge and agree that, to the extent the Owner develops the Property, it shall have the right and obligation at any time after the date of execution of this Agreement by the Owner to construct or cause to be constructed, and installed, all portions of the City-approved Infrastructure Plan related to the developing segments of the Property.

5.2 Infrastructure Plan Amendment. The City and the Owner acknowledge that amendments to the Infrastructure Plan may be necessary from time to time. Unless otherwise required by law, minor changes shall only require the approval of the City's Deputy City Manager or Designee. For the purposes of this Agreement, "minor changes" shall mean only those changes to the Infrastructure Plan which do not (A) delete, materially diminish or change any of Owner's obligations to construct or cause to be constructed any of the Infrastructure Improvements described in Exhibit C or (B) materially alter the design or location of the Infrastructure Improvements in Exhibit C. All changes not determined to be "minor changes" above shall be deemed "major changes." Major changes shall require the approval of the City Council at a public meeting conducted as required by law. City and Owner shall cooperate in good faith to agree upon, to process any amendments to the Infrastructure Plan. The Owner and the City agree that any such amendments shall be incorporated by this reference into this Agreement with the same force and effect as if set forth herein and shall not require corresponding amendment to this Agreement.

5.3 Construction. The parties hereto acknowledge and agree that to the extent the Owner develops the Property within the corporate limits of the City, the Owner shall have the right and the obligation, at any time after the date of execution of this Agreement by the Owner, to construct or cause to be constructed and installed, in accordance with the City-approved Infrastructure Plan, the City's Rules and all other applicable rules, regulations, construction standards, and governmental review processes, all portions of the Infrastructure Improvements that relate to the phase or portion of the Property to be developed by Owner at any given time. Owner shall cause the Infrastructure Improvements to be constructed and installed in a good and workmanlike manner and in compliance with plans and specifications (the "Technical Specifications") submitted to the City for its review and approval in its sole and absolute discretion, and in conformance with the City's Rules and all other applicable rules, regulations, construction standards and governmental review processes. Owner acknowledges and agrees that the Technical Specifications may be modified by the City from time to time in order to comply with the Rules or to enhance operating efficiency. Any modification by the City to the Technical Specifications shall not be applied retroactively to any Infrastructure Improvement to the extent the City has already granted approval based on prior Technical Specifications and Owner has acted on such approval.

5.4 Permits and Approvals. Owner shall, at its sole cost and expense, be responsible for obtaining all governmental permits and approvals necessary to design, construct, install and operate on an interim basis the Infrastructure Improvements that Owner causes to be completed. The City agrees to be the "applicant" and "permittee" on all permits required for the operation of the Infrastructure Improvements and otherwise cooperate with Owner in securing the necessary governmental permits; provided, however, that Owner shall pay all costs, expenses, and permit fees associated with such permits and approvals and cooperate fully with the City's requirements related to such approvals.

5.5 Infrastructure Assurance. The Parties hereto acknowledge and agree that the City, prior to the commencement of construction of any Infrastructure Improvements by the Owner within the corporate limits of the City, shall require the Owner and/or its designees, grantees or buyers under contract, to provide appropriate assurances in such form and amount as required by the Surprise Municipal Code to assure that the installation of Infrastructure Improvements within that subdivision or other Infrastructure Improvements directly related to such building permit or permits will be completed.

5.6 Dedication and Acceptance.

A. Infrastructure Improvements. Upon completion by Owner of any Infrastructure Improvements, the Owner shall promptly (1) notify the City in writing of the presumptive completion of such Infrastructure Improvements and (2) dedicate to the City, at no cost to the City, such Infrastructure Improvements free and clear of all liens and encumbrances. So long as such Infrastructure Improvements are constructed in accordance with the Technical Specifications as verified by the inspection of the completed Infrastructure Improvements by the Deputy City Manager or Designee, all punch list items have been completed, the Infrastructure Improvements are free of any liens and encumbrances and, if applicable, a service and shortfall

reimbursement agreement (a "Service Agreement") has been executed and delivered by the Owner with respect to water, sewer and wastewater services as the case may be, the City shall conditionally accept the Infrastructure Improvements and initiate the two-year warranty period on all public Infrastructure Improvements. The City shall notify such Owner, in writing, of the City's conditional acceptance of the Infrastructure Improvements as of the day of the final inspection or as of such other date set forth in a Service Agreement for such Infrastructure Improvements. Acceptance of any Infrastructure Improvement is expressly conditioned upon a warranty for such Infrastructure Improvement, as provided in subsection 5.19 below. Except as provided in subsection 5.19 below, or according to the terms of any applicable Service Agreement, after acceptance of any Infrastructure Improvements, the City thereafter shall own, maintain, repair and operate such Infrastructure Improvements at its own cost. Owner, at no cost to City, shall dedicate, convey or obtain, as applicable, all rights-of-way, rights of entry, easements and/or other use rights, wherever located on property under Owner's ownership or control, as useful or necessary for the operation and maintenance of the Infrastructure Improvements as required by the City.

B. Infrastructure Improvement Sites. Upon acceptance by the City of each Infrastructure Improvement, the Owner shall promptly dedicate at no cost to the City the land upon which the Infrastructure Improvement is located, together with all improvements thereon, by general warranty deed, free and clear of all liens and encumbrances that could adversely affect the use or operation of the Infrastructure Improvement, together with all easements and/or other property rights necessary to access and operate and maintain the Infrastructure Improvement.

C. Development Fee Reimbursement. City agrees that, to the extent any Infrastructure Improvement, or any portion thereof, installed by Owner is included as a component of any existing or after-adopted development impact fee applicable to the Property, Owner shall be entitled to a reimbursement of the development impact fee in an amount not to exceed the actual costs associated with the Infrastructure Improvement minus any amounts Developer is reimbursed by Benefited Property owners.

5.7 Benefited Property Proportionate Share Buy-In Fee. City agrees to collect a buy-in fee from property owners benefiting from the installation of any Infrastructure Improvement installed by Owner (each a "Benefited Property") representing the percentage of the cost to design, construct, and install an Infrastructure Improvement allocated to the Benefited Property (the "Proportionate Share Buy-In Fee"). The Proportionate Share Buy-In Fee shall be collected by the City from each Benefited Property prior to the City signing a final plat within the Benefited Property or prior to issuing a building permit for such Benefited Property, whichever first applies. If the Benefited Property has not been annexed into the City, the City shall collect the Proportionate Share Buy-In Fee from said Benefited Property prior to providing water or wastewater service to that Benefited Property. The Proportionate Share Buy-In Fees shall be retained by the City and disbursed to Owner every three (3) months. The City shall not begin disbursing the Proportionate Share Buy-In Fee collected for water improvements until all monies to be expended by Owner on the Reimbursable Water Infrastructure (as defined below) have been expended by Owner. Similarly, the City shall not begin disbursing the Proportionate Share Buy-In Fee collected for wastewater improvements until all monies to be expended by

Owner on the Reimbursable Wastewater Infrastructure (as defined below) have been expended by Owner. City's obligation to collect the Proportionate Share Buy-In Fee shall terminate on the fifteenth (15th) anniversary of the date the City Council approves this Agreement.

5.8 Water Infrastructure Improvements. The Owner shall finance, design, construct and install on the Property all of the wells and water supply and storage facilities as required by the City and as described in the Infrastructure Plan for municipal water service to the Property according to federal and state requirements, as amended from time to time (the "Mandated Water Requirements"), the City's Integrated Water Master Plan and the City's Design Water Guidelines and Standards as each exists on the date that the City approves the Owner's water master plan study for the Property (the "Property Master Water Study")(the City's Integrated Water Master Plan and the City's Design Water Guidelines and Standards are collectively referred to herein as the "Water Guidelines").

A. Reimbursable Water Infrastructure Components.

1. Wells. Owner shall arrange for the finance, design, construction and installation and dedication of the Wells in accordance with the Property Master Water Study. Owner shall provide any remediation necessary to ensure that the water produced by the Wells meets the City's drinking water standards in effect at the time the plans for the Wells are reviewed and approved by the City and all applicable regulatory agencies. The City agrees that the Wells will be sized to serve the Project, and Owner is not required to increase the capacity of the Wells to benefit other property. The Wells will be constructed to utilize the allowable capacity of the underlying aquifer's physical characteristics, in accordance with all Mandated Water Requirements and Water Guidelines. Owner shall execute any well impact waivers deemed necessary by the City for wells located on the Property

2. Water Supply and Storage Facilities. The Owner shall finance, design, construct and install on the Property all water supply and storage facilities required by the City-approved Property Master Water Study. The real property upon which the Well(s) and Water Supply Facilities are located shall be in compliance with the City's most current standards and requirements for similar facilities and will be dedicated by the Owner to the City at final plat. Such Wells and Water Supply Facilities shall be located, to the extent it is feasible and practical, (in the Owner's reasonable discretion) adjacent to park or open space facilities constructed by the Owner in order to allow the City to discharge high volumes of water therein. The City and Owner shall work together to locate wells in locations near such park and open space facilities when otherwise consistent with well spacing requirements. Whenever a well is located next to a park and/or open space, the City and Owner shall enter into an easementfor each facility utilized for such well water discharge purpose.

B. Reimbursable Water Amount. Owner's cost to design, construct and install the well(s), the water supply facilities and, if determined to be necessary, the well transmission lines (collectively, the "Reimbursable Water Infrastructure"), without interest, minus any monies paid directly to Owner by Benefited Properties utilizing the Reimbursable Water Infrastructure, shall be the "Reimbursable Water Amount." The Reimbursable Water Amount is subject to validation by the City and shall be paid as set forth in this subsection

5.8(B). Owner shall be reimbursed for all City-approved costs expended for the benefit of the Reimbursable Water Infrastructure, minus the percentage of the cost to design, construct and install the Reimbursable Water Infrastructure allocated to Owner's share of such Infrastructure ("Owner's Proportionate Share"). The Parties agree that on the date that is one year following the date the City has conditionally accepted the Water Improvements and the expenditures made by Owner, which acceptance shall not be unreasonably delayed, as evidenced by actual invoices, for all or any part of the Reimbursable Water Infrastructure, an addendum to this Agreement will be administratively executed specifying the portion of the Reimbursable Water Infrastructure that is represented by such invoices. Each such addendum shall be submitted by Owner on the form attached hereto as Exhibit G, and when such addendum has been approved and signed by the City Manager, or his/her designee, on behalf of the City (which approval will not be unreasonably delayed, withheld or conditioned), it shall be incorporated into and become part of this Agreement. Owner shall be reimbursed for any Benefited Property's use of the Reimbursable Water Infrastructure, as provided in subsection 5.7 above, until fully reimbursed for expenditures approved by the City or the termination of this Agreement, whichever comes first.

C. Non-Reimbursable Water Infrastructure.

1. Water Distribution Lines. Owner shall finance, design, construct and install water distribution lines within the Property as required by the City to provide water service to the Property.

2. Onsite Water Improvements. Owner shall finance, design, construct and install all onsite water system improvements. The water distribution lines described in paragraph 5.8(C)(1) above and the onsite water improvements described in this paragraph 5.8(C)(2) are collectively referred to herein as the "Non-Reimbursable Water Infrastructure."

D. Oversizing. City shall not reimburse Owner for any costs associated with the design, construction or installation of the Non-Reimbursable Water Infrastructure, except as provided for hereinabove or unless the City requests that some or all of the Non-Reimbursable Water Infrastructure be oversized, and then in such a case Owner shall only be entitled to reimbursement through the City for the portion of the amount expended on the design, construction, and installation of the improvement associated with said oversizing over and above the amount that would have been incurred had the improvement been designed, constructed and installed to service only the Property (the "Net Costs"). By way of example, if one mile of Owner's sewer line were oversized from 15 inches to 30 inches at the request of the City, the Owner would bid the project as a 15 inch line with the alternate being a 30 inch line, and the Net Costs would be the difference between the two bids. Owner shall be reimbursed from Proportionate Share Buy-In Fees collected by the City from benefited properties for all City-approved costs expended for oversizing Non-Reimbursable Wastewater Infrastructure, minus Owner's Proportionate Share, plus interest as set forth herein. The Parties agree that once expenditures have been made by Owner, as evidenced by actual invoices, for all or any part of the oversized Non-Reimbursable Water Infrastructure, an addendum to this Agreement will be administratively executed specifying the portion of the oversized Non-Reimbursable Water

Infrastructure that is represented by such invoices. Each such addendum shall be submitted by Owner on the form attached hereto as Exhibit G, and when such addendum has been approved and signed by the City Manager, or his/her designee, on behalf of the City (which approval will not be unreasonably delayed, withheld or conditioned), it shall be incorporated into and become part of this Agreement. Owner shall be reimbursed for any Benefited Property's use of oversized Non-Reimbursable Water Infrastructure as provided in subsection 5.7 above, until fully reimbursed for expenditures approved by the City or the termination of this Agreement, whichever comes first.

5.9 Water Service. The City hereby commits to provide municipal water service to the Property served by the completed Non-Reimbursable Water Infrastructure and Reimbursable Water Infrastructure, with service-related fees imposed by the City according to accepted municipal standards for determining water service charges upon (A) the completion of the requisite Non-Reimbursable Water Infrastructure and the requisite Reimbursable Water Infrastructure within the City's water service area, (B) the City's conditional acceptance of both by letter (which conditional acceptance shall not be unreasonably delayed or withheld) and dedication of the completed infrastructure as set forth in this Agreement and (C) the continuing obligation during the entire term of this Agreement that the Owner execute any well impact waivers as deemed necessary by the City so long as such waivers are imposed equally upon all other similarly situated properties. The City acknowledges and agrees that Owner may phase the construction of Improvements necessary to provide water service to the portion of the Property served water by the City and at such phasing shall be subject to approval by the Deputy City Manager or Designee(s). The requirements of this subsection shall apply individually to each such phase without regard to the status of any other phase(s), provided the "other phase(s)" are not required to support the new phases, as reasonably determined by the Deputy City Manager or Designee. If the City concurs, the initial water supply for the first phase of development on the Property may be provided by another water provider on an interim basis through a mutual aid agreement between the City and the private water provider while the Owner is proactively constructing the required Water Infrastructure. Owner and City agree that there will be no expansion of any private water provider's certificate of convenience and necessity ("CCN"), and no county franchise shall be created or amended, to cover any portion of the Property arising out of this interim use of water. Owner agrees to actively support the City in opposition to any proposed expansion of a private water provider's CCN or creation/amendment of a county franchise; such active support shall include, but is not limited to, providing testimony before the Arizona Corporation Commission or the Maricopa County Board of Supervisors, as applicable.

5.10 Irrigation Water Rights. The Parties shall cooperate reasonably to (A) jointly prepare and file with the ADWR, the applications, documentation and information necessary to extinguish all grandfathered irrigation groundwater rights associated with any portion of the Property served water by the City and (B) pledge the resulting credits to the City's assured water supply account at ADWR, when such Property (or each phase thereof) is subjected to a final plat and no longer in agricultural production.

5.11 Underground Storage Facility (USF). The owner shall have no responsibility to obtain permits relating to water recharge credits, including a permit for an Underground Storage Facility (USF). Such permits shall be in the name of the City. The Owner

shall contribute to the City the cost of this and all permit processes at the time the City applies for each such permit.

5.12 Wastewater Infrastructure Improvements. The Owner shall finance, design, construct and install the following wastewater infrastructure improvements as required by the City and as described in the Infrastructure Plan.

5.13 Ownership of Wastewater. City shall own all wastewater generated from the Property.

5.14 Reimbursable Wastewater Infrastructure.

A. Developer Phase of the SPA 5 WRF. Owner shall participate in financing, acquisition and design, construction, and installation of the Developer Phase of the SPA 5 WRF. This Developer Phase of the SPA 5 WRF shall consist of a wastewater facility that is initially capable of treating a minimum of one million two hundred thousand (tbd) gallons of wastewater per day (_____) and. The costs associated with completing this Developer Phase of the SPA 5 WRF shall include all funds expended to acquire the land, design, construct, manage and install the facility and obtain all required permits and approvals, all funds expended to design, construct, manage and install the utilities necessary for the facility including the Well and related storage referred to in paragraphs 5.8(A)(1) and 5.8(A)(2) above, as well as all funds expended to provide and install access (both vehicular and utility) to the facility. In order for the amounts expended on the Developer Phase of the SPA 5 WRF to be reimbursable, the technology and design shall meet the Deputy City Manager or Designee's approval, the facility shall have a minimum of a ten (10) year life span and the facility shall be functionally reusable within the City's master plan for the SPA 5 WRF, similar to the City-approved developer-phases for SPA 2 and SPA 3.

5.15 Reimbursable Wastewater Amount. Owner's cost to design, construct and install the Reimbursable Wastewater Infrastructure without interest, minus any monies paid directly to Owner by Benefited Properties utilizing the Reimbursable Wastewater Infrastructure, shall be the "Reimbursable Wastewater Amount." The Reimbursable Wastewater Amount is subject to validation by the City and shall be paid as set forth in this subsection 5.15. Owner shall be reimbursed for all City-approved costs expended for the benefit of the Reimbursable Wastewater Infrastructure, minus Owner's Proportionate Share. The Parties agree that on the date that is one year following the date the City has conditionally accepted the Wastewater Improvements and the expenditures made by Owner, which acceptance shall not be unreasonably delayed, as evidenced by actual invoices, for all or any part of the Reimbursable Wastewater Infrastructure, an addendum to this Agreement will be administratively executed specifying the portion of the Reimbursable Wastewater Infrastructure that is represented by such invoices. Each such addendum shall be submitted by Owner on the form attached hereto as Exhibit G, and when such addendum has been approved and signed by the City Manager, or his/her designee, on behalf of the City (which approval will not be unreasonably delayed, withheld or conditioned), it shall be incorporated into and become part of this Agreement. Owner shall be reimbursed for any Benefited Property's use of Reimbursable Wastewater Infrastructure as provided in

subsection 5.12 above, until fully reimbursed for expenditures approved by the City or the termination of this Agreement, whichever comes first.

5.16 Operation and Maintenance - Developer Phase of the SPA 5 WRF. Owner (and others) shall employ the equipment manufacturer of the (the "Manufacturer") to assist City with the operation and maintenance of the Developer Phase of the SPA 5 WRF. The City shall enter into an Operation and Maintenance agreement with the Manufacturer. The Manufacturer shall assist the City, at Owner's expense, until six (6) months following the date the Facility is receiving wastewater in amounts equal to or in excess of ten percent (10%) of its design capacity, unless sooner released from this obligation, in writing, by the City in its sole discretion. Owner and City also shall enter into a Service Agreement wherein Owner agrees to pay, on a monthly basis, a sum equal to the difference between the costs of operating and maintaining the Facility and the user fees collected from users of the Facility, until the date that is six (6) months following the date that the Facility is receiving wastewater in amounts equal to or in excess of fifteen percent (15%) of its design capacity.

5.17 Non-Reimbursable Wastewater Infrastructure.

A. Onsite Wastewater Improvements. Owner shall finance, design, construct and install the onsite wastewater improvements for the Property (the "Non-Reimbursable Wastewater Infrastructure").

B. Oversizing. City shall not reimburse Owner for any costs associated with the design, construction or installation of the Non-Reimbursable Wastewater Infrastructure, except as provided for hereinabove or unless the City requests that some or all of the Non-Reimbursable Wastewater Infrastructure be oversized, and then in such a case Owner shall only be entitled to reimbursement through the City for the Net Costs of such oversizing. Owner shall be reimbursed from Proportionate Share Buy-In Fees collected by the City from Benefited Properties for all City-approved costs expended for oversizing Non-Reimbursable Wastewater Infrastructure, minus Owner's Proportionate Share, plus interest as set forth herein. The Parties agree that on the date that is one year following the date the City has conditionally accepted the Wastewater Improvements and the expenditures made by Owner, which acceptance shall not be unreasonably delayed, as evidenced by actual invoices, for all or any part of the oversized Non-Reimbursable Wastewater Infrastructure, an addendum to this Agreement will be administratively executed specifying the portion of the oversized Non-Reimbursable Wastewater Infrastructure that is represented by such invoices. Each such addendum shall be submitted by Owner on the form attached hereto as Exhibit G, and when such addendum has been approved and signed by the City Manager, or his/her designee, on behalf of the City (which approval will not be unreasonably delayed, withheld or conditioned), it shall be incorporated into and become part of this Agreement. Owner shall be reimbursed for any benefited property's use of oversized Non-Reimbursable Wastewater Infrastructure as provided in subsection 5.12 above, until fully reimbursed for expenditures approved by the City or the termination of this Agreement, whichever comes first.

5.18 Effluent Reuse. As used in this Agreement, "Effluent" means the treated wastewater or any other water being transported through the City's non-potable irrigation

distribution lines and "Effluent Lines" means the system of distribution lines located within the Property that carry Effluent throughout the Property. In light of the fact that the Property is currently many miles from the nearest existing City Effluent Lines, Owner shall be responsible for disposal of Effluent produced by the Property, which may be disposed of at the Initial WRF Site or at an off-site location at Owner's discretion. If Owner provides City with an Effluent management plan that demonstrates that the SPA5 WRF is capable of adequately recharging all Effluent generated by the Property in compliance with all applicable City, County, State and Federal requirements, then said Effluent may be recharged at the Initial WRF Site. Owner shall not be required to install the separate Effluent Interceptor Transmission Line from the SPA5 WRF north to the Property, but shall only be required to install those on-site Effluent lines to allow future conversion to an Effluent system for the irrigation of non-residential and common area turf landscaping on the Property of 0.5 Acres or larger when the Effluent Interceptor Line has been installed by others. Owner shall not be required to extend these on-site Effluent lines to serve landscaping needs for individual residential lots, but only the non-residential and common area turf landscaping of 0.5 acres or larger.

1. Transportation.

A. Street Improvements. Owner shall arrange for the phased finance, design, construction, and installation of all street improvements in accordance with the Property Traffic Study, Grand Oasis PAD, this Agreement and all related civil plans. In the event that a discrepancies exists the between the Traffic Impact Analysis and PAD regarding transportation improvements, the Traffic Study shall govern. All transportation infrastructure shall be designed, constructed, and installed in accordance with City of Surprise Engineering Development Standards or as approved by the City. Engineer or his designee.

B. Maintenance. The City, at its cost, shall maintain all public streets and hardscape (including, but not limited to, curb, gutter, and sidewalk) located in the public right-of-way adjacent to and within the Property, as well as the hardscape, irrigation system, and landscaping located within the medians and right-of-way of the Regional Roads to its normal and customary standard for landscape maintenance. Owner shall maintain the landscaped areas within the right-of-way and adjacent to arterial, collector and local roads. The City shall grant to Owner any permit or license as necessary to conduct such maintenance activities..

C. Private Streets. Owner shall be allowed to develop gated communities with private streets within the Property. Owner shall grant to the City, at no cost to the City, an easement for police, fire, ambulance, garbage collection, wastewater line installation and repair, and other similar public purposes, over any private streets within the Property. The City has no obligation to maintain private streets constructed by Owner.

D. Street Naming. Owner reserves the right to alter, name, or rename all streets within the Property, with the exception of arterial and parkway streets. The decision to alter, name, or rename any street shall be at the sole discretion of Owner, with the concurrence of the City's Community Development Director and GIS Manager.

6. Fire Facilities. The Property requires fire service to be provided by the Temporary Fire Services, as defined below, or the Permanent Fire Station, as defined below. The City shall be responsible for the design, construction and operation of a Permanent Fire Station located within the Broadstone development to serve the Property. Because City does not have a current source of funding to offset the capital expenditures related to fire service, the Owner shall do the following in connection with the development of the Property:

6.1 Temporary Fire Services Prior to Annexation. Owner will contract with the Circle City-Morristown Fire District ("CC/MTFD") for fire service, until annexation, under a separate agreement between CC/MTFD and Owner. Owner shall pay costs for operation and maintenance as negotiated with CC/MTFD. Any property donated, capital contribution made or capacity/service charge paid to CC/MTFD will be deemed a gift/compensation for contracted services and in no way will operate as an offset against City impact fees. The City will not oppose attempts by CC/MTFD to annex the Property into the CC/MTFD service district to establish a secondary property tax to pay for the operational expense of serving the Property; provided, however, that Owner knows, understands and acknowledges in the Agreement that there will be no credit against City development impact fees for any such payments made to CC/MTFD. Upon annexation of the Property, City assumes control of fire and emergency medical services to the property, subject to the overlap provisions in Arizona Revised Statutes § 48-813. Upon annexation of the Property, CC/MTFD fire service terminates and City is under no obligation to employ any CC/MTFD employees.

6. 2 Temporary Fire Station. At its discretion, the City may require Owner to site and construct a temporary fire station on the Property. The Temporary Fire Station is to be sited at a location mutually acceptable to the Parties, but in no event will the Temporary Fire Station site be more than one acre in size. The Temporary Fire Station will be of modular construction, approximately 3,000 square feet in size and have access to a water supply which the Parties agree to be reasonable and sufficient. The Temporary Fire Station will include sufficient space for the use of two (2) firefighters and two (2) police officers. Owner will lease the Temporary Fire Station, but not the land underlying same, to the City at no cost on a month-to-month basis, with such lease to terminate one (1) month after the City opens the first permanent fire station on the Property. Owner will dedicate all improvements to the City at or prior to the initial occupancy of the Temporary Fire Station by the City. Owner acknowledges that the City may require that the Temporary Fire Station be completed and operational prior to the commencement of any other vertical, non-infrastructure construction on the Property. This Temporary Station shall be dedicated without cost to the City and Owner shall not be entitled to a credit against the City's fire development fee. Furthermore, in addition to the Temporary Fire Station, at the time of completion of the Temporary Fire Station, Owner shall provide a one-time donation of three hundred thousand dollars ($300,000) for the purchase of a type III fire truck.

6.3 Operational Costs. Owner shall reimburse to the City (on an annual basis) for the salaries and benefits associated with two firefighters located on the Property (at either the Temporary Fire Station or the first Permanent Fire Station) from the time the Temporary Fire Station commences operation until such time as the City issues the 350th Certificate of Occupancy for a structure located on the Property.

Notwithstanding the foregoing, in the event that a temporary or permanent fire station is operational that may serve the development in accordance with City of Surprise Fire Department Master Plan; Owner shall not be obligated to provide a temporary facility to serve the property. However, Owner shall still be obligated to provide a one-time donation of three hundred thousand dollars ($300,000) for the purchase of a type III fire truck, in accordance with paragraph 6.2, and reimbursement of the operational costs as set forth in paragraph 6.3

2. Schools. The Property is located within the Nadaburg School District ("**District**"). Owner has entered into a separate agreement with the District regarding the location and conveyance of school sites and other matters related to addressing the needs of the school-aged children who will be living on the Property, and such separate agreement shall control over the City Regulations as to matters related to the District, including matters related to the required dedication of school sites and the required payment, if any, of any school-related fees.

3. Construction and Dedication.

A. Review and Design. All design, construction, and installation of the Improvements shall be pursuant to the appropriate City department's review and approval and in accordance with this Agreement. City shall review and approve all plans and specifications for the Improvements prior to the work being procured and, if there are any revisions to those plans and specifications, the City shall review and approve changes to the revised plans and specifications prior to the award of the contract, and any significant change orders in excess of one hundred thousand dollars ($100,000). In addition, whenever in this Agreement Owner is responsible for the construction and installation of Improvements, the City shall have the right and authority to inspect the ongoing construction and installation in order to ensure that such is being performed in accordance with the final approved plans, specifications and applicable City standards; however, Owner is ultimately responsible for ensuring that all Improvements are constructed in accordance with the final approved plans.

B. Public Procurement. All construction contracts for Improvements that require or anticipate a contribution of City funds shall be publicly procured by Owner pursuant to State law, as if the projects were being performed by the City. City agrees to assist in the public procurement process without cost to Owner for the limited purpose of reviewing the public procurement process and documents used by Owner and providing comments thereto. This public procurement requirement shall not apply to the procurement of architects, engineers, assayers and other professional services statutorily exempted from the public procurement requirements, nor shall it apply to construction contracts for Improvements for which the Owner elects to receive reimbursements against development fees.

C. Design Plans. All design, construction and installation plans for the Improvements shall be the property of the City to the extent allowable by the license for each plan. Future use of plans by the City shall be conditioned on the City first obtaining the proper permission and license to use said plans. Failure to obtain said permission and license and the express written consent and knowledge of the preparing engineer shall make the stamp, date and signature of the preparing engineer null and void and no liability shall be attributable to either the preparing engineer or Owner.

D. Conveyance of Property. On the final plats, Owner shall dedicate to the City all parcels, rights-of-way and easements on the Property needed for the Improvements, or as required pursuant to this Agreement, free and clear of all encumbrances which would materially affect the City's ability to operate and maintain the Improvements. Unless expressly provided for within this Agreement, Owner shall have no obligation to obtain and/or dedicate any rights-of-way or parcels that are not part of the Property. Owner may reserve on the plat the opportunity to receive reimbursement from community facilities bond proceeds for any such parcels, rights-of-way and/or easements. Owner, when requested by the City, shall provide title insurance for any parcels of real property dedicated to the City.

E. Conveyance of Improvements. Owner shall convey to the City all Improvements free and clear of all liens and encumbrances. Owner shall warrant or cause its contractor(s) to warrant all Improvements constructed by Owner's contractors and conveyed to the City pursuant to this Agreement for two years after conditional acceptance by the City's engineering department. Owner may convey the Improvements to the City in phases as they are completed. Owner shall also convey those easements necessary for the Improvements or for access to the Improvements, with the location of such easements to be determined so as to be consistent with the Grand Vista PAD.

F. Construction Access. Owner and its agents shall have the right to enter, remain upon and cross over any City easement or right-of-way to the extent reasonably necessary to design, construct or install the Improvements, provided that with alternative construction access as approved by the City, Owner's use does not unreasonably impede the City's use and enjoyment of the subject property; and provided that Owner shall obtain any City-required permit for the use of such easement or right-of-way and provided also that Owner shall restore such easement or right-of-way to substantially the same condition as existed prior to Owner's entry.

4. Miscellaneous Provisions.

A. SLID. Streetlights for the Property shall be maintained by a SLID. A single SLID may be formed for the entire Property or a separate SLID may be formed for each development phase of the Property, at the election of Owner. Lights and poles, including all specialty lighting, shall be dedicated to and maintained by Arizona Public Service. All costs associated with forming the SLID, installing the street light poles and street lights shall be borne by Owner, and until such time as the SLID generates sufficient tax revenues from real properties included within the SLID to cover all costs required by the SLID, Owner shall pay any shortfall in such tax revenues.

B. Specialty Street Lighting. Owner, at its sole option, may elect to construct and install specialty street lighting on arterial, collector, and local streets, so long at it meets all SLID requirements, Arizona Public Service standards, and all mandatory Federal and state regulations as they pertain to darks skies compliance. If Arizona Public Service Company will not maintain the specialty street lighting fixtures, then the property owners' association will assume the obligation to maintain such fixtures.

C. Amendments. No change or addition is to be made to this Agreement except by a written amendment executed by the City and Owner. Within ten (10) days after any amendment to this Agreement, such amendment shall be recorded in the Official Records of Maricopa County, Arizona. Owner anticipates conveying one or more parcels of the Property to other developers. After such conveyance, a subsequent developer shall have no right to consent to or approve any future amendment to the Agreement requested by Owner if such future amendment relates solely to the development or use of the portion of the Property owned by Owner. "Development or use" includes land use, infrastructure requirements, and all other issues related to the entitlement, development, and use of the portion of the Property owned by each Owner. No subsequent developer shall be considered a third-party beneficiary to any future amendments to the Agreement that relate to the portion of the Property not owned by such developer. Neither Owner nor any future developer may enforce or request that the City enforce the obligations contained in this Agreement as against each other. If a future amendment proposed by the City or a subsequent developer impacts the development or use of another subsequent developer or Owner's portion of the Property, then the party seeking the amendment shall submit its proposed amendment in writing to the other parties for review.

D. Fees. Owner shall pay all development, impact, infrastructure, permit, review and other fees assessed by the City and uniformly applied by the City that are in effect at the time each plan, plat or permit application is approved, unless otherwise excepted within this Agreement. Owner shall be entitled to reimbursement for any component of a development or impact fee which is attributable to the infrastructure provided by the Owner.

5. Community Facilities District/Improvement District Financing.

A. Community Facilities District. The City in accordance with its Community Facilities Guidelines adopted on February 28, 2008, as amended from time to time, will consider any requests by Owner to form a community facilities district ("CFD"). The formation of the CFD is solely within the discretion of the City Council.

6. Cooperation and Development Regulation.

A. Representatives. The Parties agree to designate and appoint a representative to act as a liaison between the City and its various departments and Owner. The initial representative for the City shall be the Deputy City Manager and the initial representative for Owner shall be its general manager, as identified by Owner from time to time. The representatives shall be available at all reasonable times to discuss and review the performance of the Parties and the development of the Property.

B. Review Process. The City acknowledges the necessity for expeditious review by the City of all plans, plats, and other materials ("Submitted Materials") submitted by Owner to the City hereunder or pursuant to any zoning, platting, permit, or other governmental procedure pertaining to the development of the Property. Owner agrees to provide the City with a priority schedule for review of Submitted Materials to assist the City. The Owner and City may agree that it is appropriate for Owner to pay the costs incurred by City for a private, independent consultant retained by the City to assist City in completing the City's review processes. If private consultants are used, the City will allow the Owner to reimburse the

City directly for salaries and benefits for the private consultants who will be dedicated solely or primarily to work associated with the Property.

7. General Provisions.

A. Recordation. This Agreement shall be recorded in its entirety in the Official Records of Maricopa County, Arizona, not later than ten (10) days after its full execution.

B. Notices and Requests. Any, notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (1) delivered to the party at the address set forth below, (2) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, (3) given to a recognized and reputable overnight delivery service, to the address set forth below or (4) delivered by facsimile transmission to the number set forth below:

The City:	City of Surprise 12425 West Bell Road Surprise, Arizona 85374 Facsimile: 623-875-4229 Attn: City Manager
With a copy to:	City of Surprise 12425 West Bell Road Surprise, Arizona 85374 Facsimile: 623-583-1399 Attn: City Attorney
The Owner:	
With copies to:	
And:	

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this Paragraph. Notices shall be deemed received (1) when delivered to the party, (2) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (3) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (4) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

C. Default. Failure or unreasonable delay by either Party to perform or otherwise act in accordance with any term or provision hereof shall constitute a breach of this Agreement. Any breach not cured within thirty (30) days after written notice is received from the other Party shall constitute a default under this Agreement; provided, however, that if the failure is such that more than thirty (30) days would reasonably be required to perform such action or comply with any term or provision hereof, then the Party shall have such additional time as may be necessary to perform or comply so long as the Party commences performance or compliance within said thirty (30) day period and diligently proceeds to complete such performance or fulfill such obligation; provided, however, that no such cure period shall exceed one hundred twenty (120) days. Any notice of a breach shall specify the nature of the alleged breach and the manner in which said breach may be satisfactorily cured, if possible. The thirty (30) day period shall not apply where an ordinance or statute requires the City to perform or otherwise act in a period in excess of thirty (30) days. In the event of default by either Party, the non-defaulting Party shall be entitled to specific performance or monetary damages.

D. Dispute Resolution. In the event that there is a dispute hereunder which the Parties cannot resolve between themselves, the Parties agree that there shall be a forty-five (45) day moratorium on litigation during which time the Parties agree to attempt to settle the dispute by nonbonding mediation. The mediation shall be held under the commercial mediation rules of the American Arbitration Association. The matter in dispute shall be submitted to a mediator mutually selected by the Parties. In the event that the Parties cannot agree upon the selection of a mediator within seven (7) days, then within three (3) days thereafter the City and Owner shall request the presiding judge of the Superior Court in and for the County of Maricopa, Arizona, to appoint an independent mediator. The mediator selected shall have at least five (5) years experience in mediating or arbitrating disputes relating to development. The cost of any such mediation shall be divided equally between the City and Owner. The results of the mediation shall be nonbonding on the Parties, and any Party shall be free to initiate litigation subsequent to the moratorium.

E. Choice of Law, Venue, and Attorneys' Fees. Any dispute, controversy, claim, or cause of action arising out of or related to this Agreement shall be governed by Arizona law. The venue for any such dispute shall be Maricopa County, Arizona, and each Party waives the right to object to venue in Maricopa County for any reason. A Party shall be entitled to recover its attorneys' fees and other costs from the other Party incurred in any such dispute, controversy, claim or cause of action, but each Party shall bear its own attorneys' fees and costs, whether the same is resolved through arbitration, litigation in a court, or otherwise.

F. Good Standing and Authority. The Parties represent and warrant that each is duly formed and validly existing under Arizona laws with respect to Owner, or a municipal corporation within Arizona with respect to the City and that the individuals executing this Agreement on behalf of their respective Party are authorized and empowered to bind the Party on whose behalf each such individual is signing.

G. Assignment. The provisions of this Agreement are binding upon and shall inure to the benefit of the Parties, and all of their successors in interest and assigns; provided, however, that Owner's rights and obligations hereunder maybe assigned, in whole or

in part, only to a person or entity that has acquired title to the Property or a portion thereof and only by a written instrument recorded in the Official Records of Maricopa County, Arizona, expressly assigning such rights and obligations. In the event of a complete or partial assignment by Owner, all or a portion of Owner's rights and obligations hereunder shall terminate effective upon the assumption by Owner's assignee of such rights and obligations and the execution of an addendum that recognizes the assignment with respect to the portion of the Property transferred or conveyed. Owner shall submit each addendum on the form attached hereto as Exhibit H, and when such addendum has been approved and countersigned by the City Manager, it shall be incorporated into and become a part of this Agreement. Notwithstanding the foregoing, however, the Parties agree that the City has relied upon the experience, expertise, financial strength, and prior history of the Owner in reaching this Agreement. Accordingly, for a period of ten years following the execution of this Agreement, the Owner will not assign or delegate its obligations under Sections 10 and 11 without the prior written consent of the City.

H. Termination Upon Sale to the Public. This Agreement shall not impose any obligations upon and shall terminate without the execution or recordation of any further document or instrument as to: (a) any residential or commercial lot which has been finally subdivided and sold or leased for a term of longer than one year with a completed structure thereon for which a certificate of occupancy or equivalent has been issued; and (b) any land that has been conveyed to a homeowners' association, private utility, or governmental authority. Thereafter, such lot or land shall be released from and no longer be subject to or burdened by the provisions of this Agreement.

I. Third Parties. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other agreement between the Parties. No term or provision of this Agreement is intended to, or shall be, for the benefit of any person or entity not a party hereto, and no such other person or entity shall have any right or cause of action hereunder.

J. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof; and no waiver of any breach shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement. No waiver shall be effective unless it is in writing and is signed by the Party asserted to have granted such waiver.

K. Further Documentation. The Parties agree in good faith to execute such further or additional instruments and documents and to take such further acts as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement.

L. Fair Interpretation. The Parties have been represented by counsel in the negotiation and drafting of this Agreement and this Agreement shall be construed according to the fair meaning of its language. The rule of construction that ambiguities shall be resolved against the Party who drafted a provision shall not be employed in interpreting this Agreement.

M. Headings. The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of any provision of this Agreement.

N. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

O. Computation of Time. In computing any period of time under this Agreement, the date of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so completed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the, next day which is not a Saturday, Sunday or Legal holiday. The time for performance of any obligation or taking any action under this Agreement shall be deemed to expire at 5:00 p.m. (Phoenix, Arizona local time) on the last day of the applicable time period provided herein.

P. Conflict of Interest. This Agreement is subject to the terms of A.R.S. § 38-511.

Q. Owner's Representations. Nothing contained herein shall be deemed to obligate Owner to construct or install any or all of the Improvements, except to the extent Owner seeks to proceed with development of all or any part of the Property as outlined in the Agreement. Except as provided in this Agreement, Owner shall convey, donate or dedicate portions of the Property required under this Agreement to be conveyed, donated, or dedicated to the City at the time that Owner records a final subdivision map or plat with respect to such phase of the Property.

R. Hierarchy of Documents. There are numerous documents that affect the subject matter of this Agreement. In the event of a conflict or inconsistency between or among any or all of these documents, the documents shall take priority in the following order, unless this agreement or the documents expressly provide a contrary order of priority: (1) this Agreement; (2) the Grand Vista PAD; (3) The Grand Vista Traffic Study; (4) the Zoning Ordinance; and (5) the City Regulations permitted to be applied to the Property pursuant to Paragraph 5 of this Agreement.

S. Entire Agreement. This Agreement, together with the Definitions, Recitals and the following Exhibits attached hereto (which Definition, Recitals, and Exhibits collectively are incorporated herein by this reference) constitutes the entire agreement between the Parties:

Exhibit A: Legal Description of the Property
Exhibit B: Land Use Plan
Exhibit C: Reimbursement Addendum Form
Exhibit D
Exhibit E:
Exhibit F:
Exhibit G:
Exhibit H:

All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written are superseded by and merged into this Agreement.

T. Time. Time is of the essence of this Agreement and with respect to the performance required by each Party.

U. Waiver of Claims Pursuant to A.R.S. § 12-1134 *et seq*. Owner agrees and understands that the City is entering into this Agreement in good faith and with the understanding that, if it acts consistently with the terms and conditions herein, it will not be subject to a claim for diminished value of the Property from Owner or other parties having an interest in the Property. Owner, on behalf of itself and all other parties having, an interest in the Property, intends to encumber the Property with the following agreements and waivers. Owner agrees and consents to all the conditions imposed by this Agreement, the Grand Vista PAD and the Zoning Ordinance, and by signing this Agreement waives any and all claims, suits, damages, compensation and causes of action Owner may have now or in the future under the provisions of A.R.S. Sections 12-1134 through and including 12-1136 (but specifically excluding any provisions included therein relating to eminent domain) and resulting from the development of the Property consistent with this Agreement or the Grand Vista PAD. Owner acknowledges and agrees the terms and conditions set forth in this Agreement, the Grand Vista PAD and the Zoning Ordinance cause an increase in the fair market value of the Property.

V. City's Obligation to Provide Water and Sewer. Notwithstanding any other provision within this Agreement, City's obligation to provide water and/or sewer service to the Property, or portion thereof, shall survive any termination, cancellation or expiration of this Agreement, provided Owner has designed, constructed and installed the infrastructure as required to serve the Property or portion thereof pursuant to this Agreement or paid monies to City for the design, construction and installation of the infrastructure for the applicable service (water, sewer or both) for the Property or portion thereof.

W. No Additional Dedications or Exactions. Except for the dedications and requirements expressly identified in this Agreement, the PAD, the Traffic Study, the Grand Vista Master Water Study and all other Applicable Requirements, the City agrees that it shall not attempt to acquire or require (through zoning, subdivision, subdivision stipulations, or otherwise) any requirements, reservations, conditions, or further dedications of portions of the Property or easements or other rights over portions of the Property (collectively "Requirements"), or money or other things of value in lieu of such Requirements, except to the extent Owner agrees to such or desires to amend this Agreement, in which case such Requirements, money, or other things of value in lieu of such Requirements shall be directly related to the burden imposed on the City by the amendment to the Agreement.

X. Additional Property. Upon the request of the Owner and the submission of a planned area development plan to the City for the additional property hereafter referenced, the City hereby agrees to consider and, if in the best interest of the City, as determined by the City in its sole discretion, and in accordance with typically applicable notice and public hearing requirements, to incorporate into this Agreement the whole or any portion of additional properties adjacent to or proximate to the Property (the "Additional Property") if and when Owner acquires such Additional Property. The City and the Owner agree that if Owner elects to request from City the incorporation of such Additional Property or portions thereof and if the City consents, in its sole discretion, (A) thereafter, such Additional Property shall be included in the Property and shall be subject to and shall benefit from all provisions of this

Agreement applicable thereto and any reference herein to the Property shall include such Additional Property, (B) the City and Owner shall cooperate in order for the Additional Property to receive the necessary land use approvals, including any necessary amendment to the zoning required to approve a City planned area development plan for the Additional Property and (C) the plans and land use designations contained in the Additional Property Approvals shall thereafter apply to the applicable Additional Property such that the County-approved development master plan shall apply for the Additional Property while it is located outside the City's corporate limits and the City-approved planned area development plan shall apply while the Additional Property is within the corporate limits of the City..

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above:

"**City**"

CITY OF SURPRISE,
an Arizona municipal corporation

By:_____
L.E. Truitt, Mayor
Date:_____

ATTEST:

_____
Sherry Aguilar, City Clerk

APPROVED AS TO FORM

_____
Michael Bailey, City Attorney

STATE OF ARIZONA)
)ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of _____, 2008, by L.E. Truitt, the Mayor for the CITY OF SURPRISE, an Arizona municipal corporation.

_____
Notary Public

My Commission Expires:

_____

"**Owner**"

By:_____

Name: _____

Title:_____

Date:_____

STATE OF ARIZONA)
)ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2008, by _____, the _____ of _____, an Arizona corporation.

_____
Notary Public

My Commission Expires:

_____

Special Planning Area Map