City of Avondale

City Council Online Meeting

Monday, April 19, 2021

Mayor and Council

Kenneth Weise, Mayor

Veronica Malone, Vice Mayor

Tina Conde, Council Member | Pat Dennis, Council Member

Bryan Kilgore, Council Member | Curtis Nielson, Council Member

Mike Pineda, Council Member

Administration

Charles A. Montoya, City Manager

Gina Montes, Assistant City Manager

Tracy Stevens, Deputy City Manager | Cherlene Penilla, Deputy City Manager

Nicholle Harris, City Attorney | Marcella Carrillo, City Clerk

Online Meeting

Join the meeting and view presentations: https://avondaleaz.zoom.us/j/3083557784

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City Council Online Meeting
Notice & Agenda
Monday, April 19, 2021

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WORK SESSION
5:00 PM

CALL TO ORDER BY MAYOR

1. **ROLL CALL BY THE CITY CLERK**

2. **PRESENTATION AND DISCUSSION OF DEPARTMENT FY2022 BUDGET SUPPLEMENTAL REQUESTS**
   City Council will receive an overview of department budget supplemental requests for the fiscal year (FY) 2022 budget.

3. **ADJOURNMENT**

Request to Speak: Anyone wishing to address the Council regarding items listed on the agenda or under unscheduled public appearance should email a request to speak to CityClerk@AvondaleAZ.gov prior to consideration of that agenda item.

REGULAR MEETING
Convene immediately following the Work Session

CALL TO ORDER BY MAYOR
PLEDGE OF ALLEGIANCE & MOMENT OF REFLECTION

1. ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK

2. UNSCHEDULED PUBLIC APPEARANCES

(Limit three minutes per person. Please state your name.)

3. PRESENTATION ITEMS

a. 2020 LEGISLATIVE UPDATE

Staff will present a legislative update. This item is for discussion only.

b. INTRODUCTION OF NEW EMPLOYEES

Staff will introduce new employees. This item is for discussion only.

- Julie Smith, Fire Division Chief, Fire and Medical Department
- Torin Sadow, Management Analyst, City Manager's Office

4. CONSENT AGENDA

Items on the consent agenda are of a routine nature or have been previously studied by the City Council at a work session. They are intended to be acted upon in one motion. Council members may pull items from consent if they would like them considered separately.

a. FINAL PLAT - ROOSEVELT PARK II PHASE 3 - APPLICATION PL-20-0352

City Council will consider a request by Mr. Joe Petrucci, EPS Group, Inc., for approval of a Final Plat for Roosevelt Park II Phase 3, a proposed 135-lot single-family subdivision on 29.23 gross acres approximately 1,300 feet north of the northeast corner of Van Buren Street and 111th Avenue, on the east side of 111th Avenue. City Council will consider adoption of Resolutions forming a Maintenance Improvement District (MID) for this parcel as a separate agenda item. Council will take appropriate action.

b. RESOLUTION 1020-0420 - EMPLOYEE BENEFIT TRUST AGREEMENT AND DECLARATION OF TRUST

City Council will consider a request to adopt Resolution 1020-0420 approving a declaration of trust and necessary ancillary documents to create and authorize the City's creation of a single-employer municipal employee benefit trust and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. Council will take appropriate action.

c. RESOLUTIONS 1021-0420 AND 1022-0420 - ROOSEVELT PARK II PHASE 3 MAINTENANCE IMPROVEMENT DISTRICT

City Council will consider a request to approve the Petition for Formation, to adopt Resolution 1021-0420 declaring its intention to form the City of Avondale Maintenance Improvement District No. 23, Roosevelt Park II Phase 3, providing for the assessment, and adopt a second Resolution 1022-0420 declaring its intention to order the improvements within the newly established maintenance improvement district, providing for the assessment and declaring an emergency and authorizing the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. Council will take appropriate action.

d. ORDINANCE 2016-0421 ABANDONMENT OF 125TH AVENUE RIGHT-OF-WAY

City Council will consider a request to adopt Ordinance 2016-0420 authorizing the abandonment of 125th Avenue right-of-way generally located 2,630 feet west of El Mirage Road and 2,300 feet south of Elwood Street, and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. Council will take appropriate action.

e. ORDINANCE 2017-0420 ABANDONMENT OF BROADWAY ROAD RIGHT-OF-WAY

City Council will consider a request to adopt Ordinance 2017-0420 authorizing the abandonment of Broadway Road right-of-way located between El Mirage Road and Dysart Road and authorize the Mayor or City Manager, City Clerk and City Attorney to execute the necessary documents. Council will take appropriate action.

f. ORDINANCE 2018-0421 - LEASE AGREEMENT WITH QUEENDOM CONCEPTS DBA: NEW PENNY CAFÉ

City Council will consider a request to adopt Ordinance 2018-0421 approving the Lease Agreement with Queendom Concepts DBA: New Penny Café for the property located at 735 North 114th Avenue, and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. Council will take appropriate action.

5. ADJOURNMENT INTO EXECUTIVE SESSION (TENTATIVE)

City Council will consider a request to adjourn the Regular Meeting and hold an executive session pursuant to Ariz. Rev. Stat. § 38--431.03(A)(1) for discussion or consideration of the employment evaluation of the City Manager. Council will take appropriate action.

Council Members of the City of Avondale will attend either in person or by telephone conference call. Individuals with special accessibility needs, including sight or hearing impaired, large print, or interpreter, should contact the City Clerk at 623-333-1200 or TDD 623-333-0010 at least two business days prior to the Council Meeting.

Los miembros del Concejo de la Ciudad de Avondale participaran ya sea en persona o por medio de llamada telefonica. Personas con necesidades especiales de accesibilidad, incluyendo personas con impedimentos de vista u oido, o con necesidad de impresion grande o interprete, deben comunicarse con la Secretaria de la Ciudad at 623-333-1200 o TDD 623-333-0010 cuando menos dos dias habiles antes de la junta del Concejo.

Item Number: 2.

CITY COUNCIL REPORT

SUBJECT: Presentation and Discussion of Department FY2022 Budget Supplemental Requests

MEETING DATE: 4/19/2021

TO: Mayor and Council

FROM: Lindsey Duncan, Finance and Budget Director, (623) 333-2011

THROUGH: Gina Montes, Assistant City Manager, (623) 333-1012

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

This agenda item supports all Avondale Strategic Outcome Areas. The Strategic Plan guides the allocation of funding to the highest priorities.

PURPOSE:

City Council will receive an overview of department budget supplemental requests for the fiscal year (FY) 2022 budget.

BACKGROUND:

This presentation will review the department supplemental requests included in the FY2022 budget.

DISCUSSION:

The information presented will lead to the development of the FY2022 Tentative Budget. On May 3, City Council will take action on the Tentative Budget, which sets the expenditure limit for the FY2022 budget.

BUDGET IMPACT:

The information presented is intended to encourage discussion which will lead the development of the FY2022 budget.

RECOMMENDATION:

This item is for information and discussion only.

Item Number: 3.a.

CITY COUNCIL REPORT

SUBJECT: 2020 Legislative Update

MEETING DATE: 4/19/2021

TO: Mayor and Council

FROM: Marshall Pimentel, Intergovernmental Affairs Administrator, (623) 333-1027

THROUGH: Gina Montes, Assistant City Manager, (623) 333-1012

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

This agenda item supports the Avondale Strategic Plan by ensuring that we prevent preemption legislation, preserve local policymaking authority and protect state-shared revenues so that the City can continue to work towards the identified outcome areas.

PURPOSE:

Staff will present a legislative update. This item is for discussion only.

BACKGROUND:

Legislation enacted at the state level often has significant effects on the ability of municipal government to serve its citizens. Therefore, it is important to identify the city of Avondale's Legislative priorities regarding potential or pending legislative actions.

DISCUSSION:

We are now more than halfway through the legislative session. Bills have been heard in the subject committees of both the House and Senate. Those bills that have received amendments are either being sent back to their chamber of origin for concurrence or differences are being worked out in conference committees made up of members from both chambers. Budget conversations between the Legislature and the Governor have begun.

While we know the universe of bills, strike everything amendments are now prevalent.

BUDGET IMPACT:

Staff will closely monitor any legislation that may have a budgetary impact on the City.

RECOMMENDATION:

This item is for discussion only.

Item Number: 4.a.

CITY COUNCIL REPORT

SUBJECT: Final Plat - Roosevelt Park II Phase 3 - Application PL-20-0352

MEETING DATE: 4/19/2021

TO: Mayor and Council

FROM: Kevin Murphy, Director of Development and Engineering Services, (623) 333-4011

THROUGH: Tracy Stevens, Deputy City Manager, (623) 333-1014

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

- Creative and Sustainable Community Development - Avondale is committed to creating a sense of place, a community of residents and local businesses unified by pride and common values.

This agenda item supports the following strategy:

- Develop diverse housing options, to include housing that is affordable to workers and close to their jobs.

PURPOSE:

City Council will consider a request by Mr. Joe Petrucci, EPS Group, Inc., for approval of a Final Plat for Roosevelt Park II Phase 3, a proposed 135-lot single-family subdivision on 29.23 gross acres approximately 1,300 feet north of the northeast corner of Van Buren Street and 111th Avenue, on the east side of 111th Avenue. City Council will consider adoption of Resolutions forming a Maintenance Improvement District (MID) for this parcel as a separate agenda item. Council will take appropriate action.

BACKGROUND:

The 29.23 gross acre subject property (Exhibits A and B), part of the 144.91 gross acre Roosevelt Park II development, is located approximately 1,300 feet north of the northeast corner of Van Buren Street and 111th Avenue, on the east side of 111th Avenue.

The property was annexed and rezoned to Roosevelt Park Planned Area Development (PAD) by City Council in July 2001. Major Amendments to the 144.91-acre Roosevelt Park II PAD were approved by City Council in July 2005, April 2018, and December 2019. The PAD, as amended, allows for development of a 607-home gated single-family community, served by private streets, to be developed in four phases; 135 single-family residential homes are included in Phase 3 of the project. In addition to single-family residential development, approximately 10.9 acres at the northwest corner of 107th Avenue and Van Buren Street is reserved for

commercial development.

A Preliminary Plat for Roosevelt Park II Phase 3 was approved by City Council on February 1, 2021. The approved Preliminary Plat (Exhibit E) divides the Phase 3 property into 135 single-family residential lots in conformance with the approved PAD.

The Phase 3 property is designated Medium High Density Residential (MHDR) on the General Plan 2030 Land Use Map (Exhibit C). The MHDR designation allows for development of single-family detached, single-family attached, townhomes, condominiums, patio homes and casitas in a density range of 4.0 to 12.0 dwelling units per acre (4.0 du/acre target density). The approved Roosevelt Park II PAD zoning is in conformance with the MHDR designation.

The existing uses and zoning of surrounding properties include:

North: Undeveloped property in agricultural production, zoned Avondale Gateway Center Planned Area Development (PAD). The Avondale Gateway Center PAD allows for a mix of office, business park, and commercial uses.

East of 107th Avenue: Multiple parcels zoned Griffith Commerce Park Planned Area Development (PAD), allowing for a mix of Commerce Park (CP) and Community Commercial (C-2) uses. Developed parcels include Universal Technical Institute (UTI) and a used car dealership. Avondale 107, a new commerce park, is north of UTI. The remaining parcels are undeveloped.

South of Van Buren Street: Roosevelt Park I, a fully developed 481-lot single-family residential subdivision, zoned Roosevelt Park Planned Area Development (PAD).

West of 111th Avenue: Two (2) separate residential communities abut the Roosevelt Park II community to the west. Versante, a fully developed 336-unit multi-family residential apartment community, is located at the northwest corner of 111th Avenue and Van Buren Street. Waterford Square, a fully developed 217-lot single-family residential subdivision, is located immediately north of Versante. Both communities are zoned Waterford Square Planned Area Development (PAD).

SUMMARY OF REQUEST:
The applicant is requesting approval of a Final Plat for Roosevelt Park II Phase 3 (Exhibit F). In conformance with the approved Roosevelt Park II Phase 3 Preliminary Plat, the proposed Final Plat subdivides the 29.23 gross acre property into a total of 135 single-family residential lots. The lots created within this phase are a mix of three (3) different lot sizes, as follows:

- 43 single-family lots, which are a minimum 4,365 square feet in area (minimum 45'x97'), with the exception of corner lots that are slightly smaller due to being on a street intersection corner.

- 72 single-family lots, which are a minimum 4,850 square feet in area (minimum 50'x97'), with the exception of corner lots that are slightly smaller due to being on a street intersection corner.

- 20 single-family lots, which are a minimum 5,820 square feet in area (minimum 60'x97'), with the exception of corner lots that are slightly smaller due to being on a street intersection corner.

Additionally, the proposed Final Plat will add an additional 6.35 acres of open space, resulting in a total of 20.54 acres of open space or approximately 23 percent of the net site area. Phase 3 open space will be provided in a total of thirteen (13) HOA owned and maintained tracts.

Amenities in this phase include:

- A 2.09-acre park located in Tract G near the southeast corner of Phase 3 that will feature a basketball court, large turf area for open play, fitness stations, ramadas with picnic tables, barbeque grills, and children's play structures.

- A 1.29-acre park located in Tract A along the west edge of Phase 3, featuring picnic tables, a ramada and shade structure, barbecue grill, and turf area for open play.

In addition to open space tracts, the Final Plat establishes Tract N, to accommodate development of the private local streets that will serve Phase 3.

Access to and from Roosevelt Park Phase 3 will be provided via two (2) street connections: an ingress/egress connection from 111th Avenue is provided along the western edge of the site, and another ingress/egress connection from Roosevelt Street at the north edge of the site. As with all other portions of the community, the neighborhood will be gated and have private streets. The developer will be responsible for the construction of all water, sewer, and street infrastructure needed to serve the planned development. This includes paying a proportionate share of the future traffic signals at Roosevelt Street/107th Avenue and Van Buren/111th Avenue intersections, as well as constructing asphalt pavement, curb and gutter, sidewalk, street lights, SRP pipe, and landscaping along their entire 111th Avenue frontage. The Roosevelt Park II Homeowners Association will be responsible for maintaining all private streets, open space areas, landscape tracts, and right-of-way landscaping.

City Council will consider adoption of Resolutions forming a Maintenance Improvement District (MID) for the Roosevelt Park II Phase 3 subdivision as a separate agenda item. The MID mechanism allows the City to assume maintenance responsibilities for the community's private streets, open space, and landscaping in the event that the HOA goes defunct, providing for an assessment of residents to cover the maintenance costs.

PUBLIC PARTICIPATION:
Public notification is not required for Final Plat applications.

PLANNING COMMISSION ACTION:
The Planning Commission does not review Final Plat applications.

ANALYSIS:

- The proposed Final Plat has been reviewed by the City's contracted Registered Land Surveyor and the document has been confirmed as geometrically accurate and in conformance with Arizona Statutes governing the subdivision of real property.

- The proposed Final Plat is in conformance with the City of Avondale Zoning Ordinance, Subdivision Regulations and Roosevelt Park II Planned Area Development (PAD), as amended, and meets all conditions of these prior approvals.

- The proposed Final Plat conforms to the approved Preliminary Plat for Roosevelt Park II Phase 3 and dedicates easements as necessary to serve the future development.

- All conditions of Roosevelt Park II Phase 3 Preliminary Plat approval that are required to be completed prior to Final Plat approval have been completed.

DISCUSSION:

1. The proposed Final Plat is in conformance with the City of Avondale Zoning Ordinance and Subdivision Regulations.

2. The proposed Final Plat is in conformance with the Roosevelt Park II PAD Development Plan, as amended, including conditions of approval.

3. The proposed Final Plat is in conformance with the approved Roosevelt Park II Phase 3 Preliminary Plat, including conditions of approval.

4. The conditions of approval are reasonable to ensure conformance with the provisions as outlined in the Avondale Zoning Ordinance and all other applicable City codes, ordinances, and policies.

BUDGET IMPACT:

No budget impacts.

RECOMMENDATION:

No public hearing is required. The City Council will **APPROVE** Application PL-20-0352 Roosevelt Park II Phase 3, a request for approval of the Final Plat for Roosevelt Park II Phase 3, subject to the following one (1) condition of approval:

1. The recorded plat shall be in conformance with the Roosevelt Park II Phase 3 Final Plat submitted on March 10, 2021.

PROPOSED MOTION:

I move that City Council **APPROVE** Application PL-20-0352 Roosevelt Park II Phase 3, a request for approval of the Final Plat for Roosevelt Park II Phase 3, subject to one (1) recommended condition of approval as listed in the staff report.

Exhibit A

Aerial Photograph

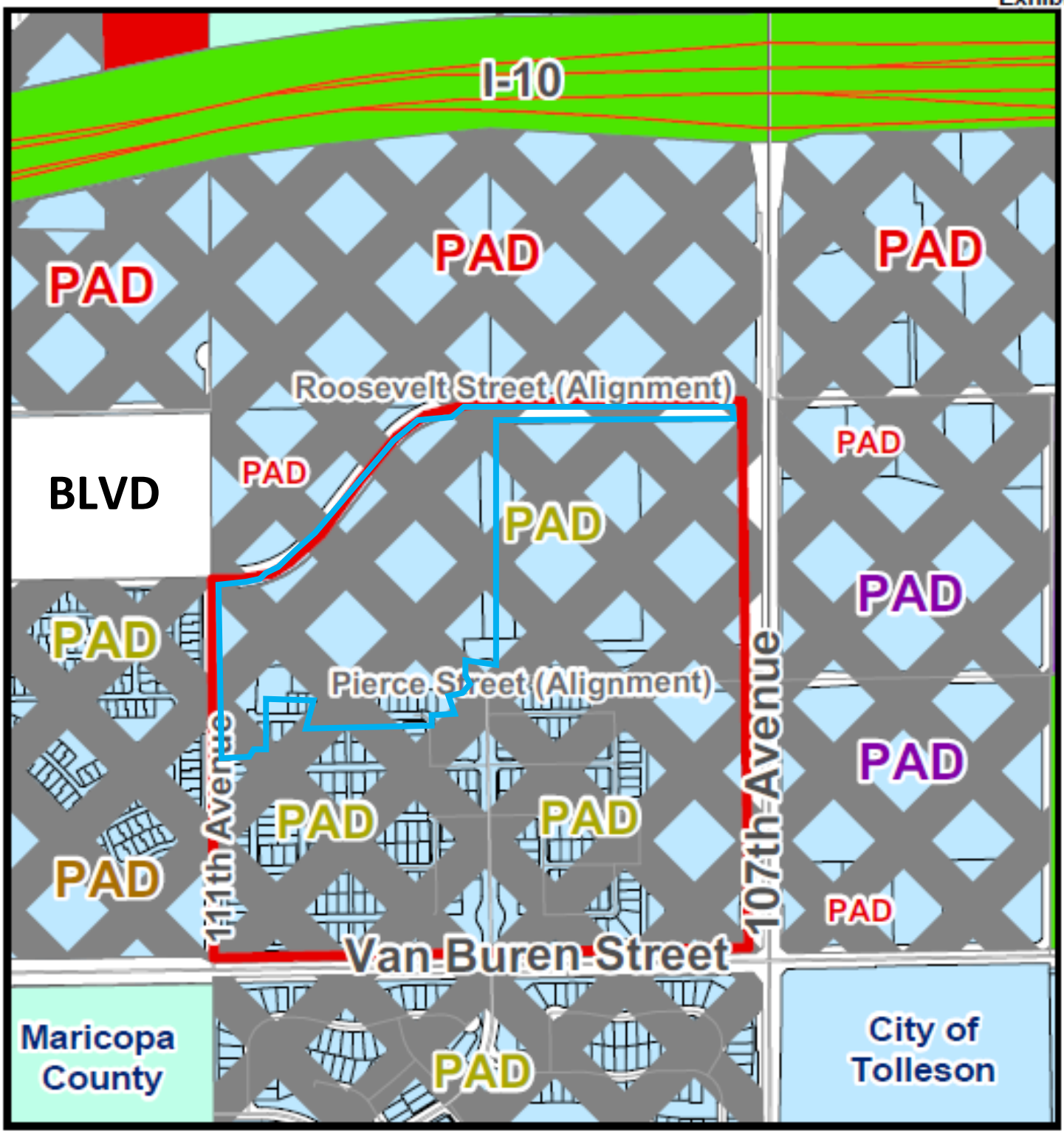
Avondale

Roosevelt Park II

Phase 3 (Proposed)

N

Exhibit B



Zoning Vicinity Map

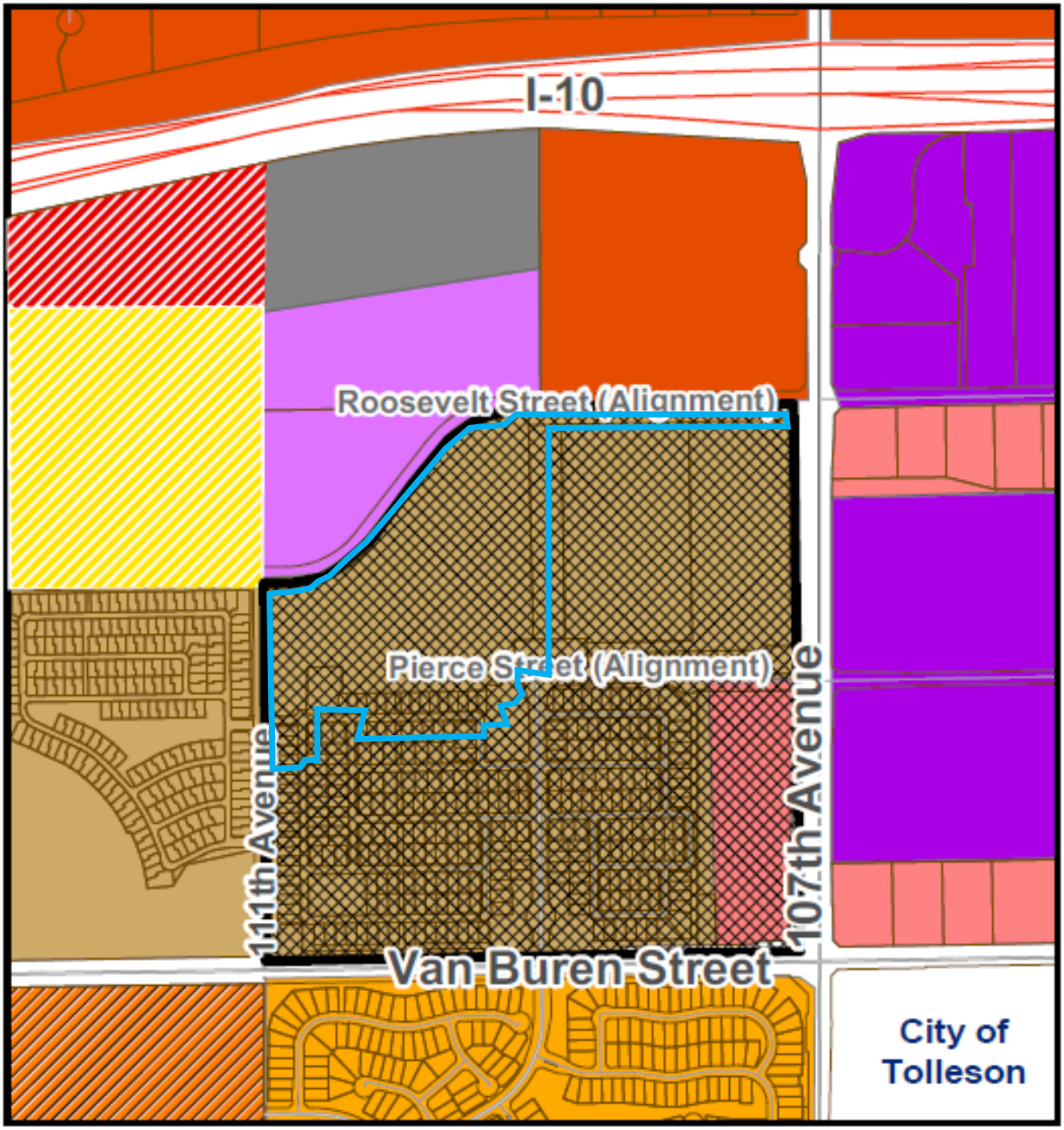
Avondale

Roosevelt Park II

Phase 3 (Proposed)

N

Exhibit C



General Plan Land Use Map

Avondale

- Medium/High Density Residential
- Medium Density Residential
- Mixed Use
- Freeway Commercial
- High Intensity Office
- Local Commercial
- Business Park
- The BLVD - Neighborhood District
- The BLVD - Residential District
- The BLVD - Gateway District

Roosevelt Park II — Phase 3 (Proposed)

Exhibit D

SUMMARY OF RELATED FACTS

APPLICATION PL-20-0352

THE PROPERTY	
PARCEL SIZE (TOTAL)	144.91 gross acres
PARCEL SIZE (PROPOSED PHASE 3)	29.23 gross acres
LOCATION	1,300 feet north of the northeast corner of Van Buren Street and 111th Avenue, on the east side of 111th Avenue
PHYSICAL CHARACTERISTICS	Relatively flat with no unusual physical characteristics
EXISTING LAND USE	Phase 1 of the Roosevelt Park II development is nearly complete, while Phase 2 is currently under construction. The remainder of the site is undeveloped and no longer in agricultural use.
EXISTING ZONING	Roosevelt Park Planned Area Development (PAD)
ZONING HISTORY	The property was annexed and rezoned to Roosevelt Park Planned Area Development (PAD) in July 2001. The approved Roosevelt Park PAD included two phases of development. Roosevelt Park I, south of Van Buren Street was planned for conventional single-family residential development. Roosevelt Park II, north of Van Buren Street, was planned for a mixture of single-family residential, multi-family residential, mixed-use, and commercial development. Roosevelt Park I is complete with a total of 481 single-family homes on 147 acres. The PAD was amended in July 2005. The amendment, which only impacted the portion of Roosevelt Park north of Van Buren Street, replaced conventional single-family homes with townhomes, apartments, and condominiums, established new residential development standards, reduced the overall density of the development from 9 du/ac to 6.21 dwelling units per acre. All other development standards and conditions of approval from the original approval were left in place. The PAD was again amended by City Council in April 2018. The 2018 amendment, which again only impacted the portion of Roosevelt Park north of Van Buren Street, eliminated the townhomes, apartments, and condominium uses approved in 2005, allowing for development of 607 single-family residences in four phases. The 2018 Amendment also specifies that the community will be gated, and that all streets internal to the community will be private. Approximately 10.9 acres at the northwest corner of 107th Avenue and Van Buren Street are reserved for commercial development.

SURROUNDING ZONING AND LAND USE	
NORTH	Undeveloped property in agricultural production, zoned Avondale Gateway Center Planned Area Development (PAD). The Avondale Gateway Center PAD allows for a mix of office, business park, and commercial uses.

WEST OF 111TH AVENUE	Two separate residential communities abut the Roosevelt Park II community to the west. Versante, a fully-developed 336-unit multi-family residential apartment community, is located at the northwest corner of 111th Avenue and Van Buren Street. Waterford Square, a fully-developed 217-lot single-family residential subdivision, is located immediately north of Versante. Both communities are zoned Waterford Square Planned Area Development (PAD).
SOUTH OF VAN BUREN STREET	Roosevelt Park I, a fully-developed 481-lot single-family residential subdivision, zoned Roosevelt Park Planned Area Development (PAD).
EAST OF 107TH AVENUE	Multiple parcels zoned Griffith Commerce Park Planned Area Development, allowing for a mix of Commerce Park (CP) and Community Commercial (C-2) uses. Developed parcels include Universal Technical Institute (UTI) and a used car dealership. Avondale 107, a new commerce park, will soon be under construction north of UTI. The remaining parcels are undeveloped.

GENERAL PLAN
Except for the 10.9-acre commercial corner, which is designated Local Commercial by the General Plan 2030 Land Use Map, the Roosevelt Park II site is designated Medium High Density Residential (MHDR). The MHDR designation allows for development of single-family detached, single-family attached, townhomes, condominiums, patio homes and casitas in a density range of 4.0 to 12.0 dwelling units per acre (4.0 du/acre target density).

PUBLIC SCHOOLS	
SCHOOL DISTRICT(S)	Littleton Elementary School District and Tolleson Union High School District
ELEMENTARY SCHOOLS	School of choice
HIGH SCHOOL	La Joya High School

107th Avenue	
Classification	Minor Arterial
Existing half-street ROW	None
Standard half-street ROW	65 feet
Existing half-street improvements	None
Standard half-street improvements	2 travel lanes, turn lane, bike lane, curb and gutter, sidewalk, street lights, and landscaping

Van Buren Street	
Classification	Arterial
Existing half-street ROW	65 feet
Standard half-street ROW	65 feet
Existing half-street improvements	Two Traffic Lanes in each direction
Standard half-street improvements	Two traffic lanes in each direction with ½ center turn lane, curb, gutter, sidewalk, landscaping and streetlights.

111th Avenue	
Classification	Major Collector
Existing half-street ROW	40 feet
Standard half-street ROW	40 feet
Existing half-street improvements	None (Standard improvements required with Phase 2 are designed and pending construction after SRP irrigation undergrounding)
Standard half-street improvements	1 travel lane, bike lane, curb and gutter, sidewalk, street lights, and landscaping

UTILITIES
Water is served to the Roosevelt Park II development by an existing 12-inch water line in 111th Avenue, an existing 16-inch water line in 107th Avenue, and an existing 16-inch water line in Van Buren Street. Sewer is served to the Roosevelt Park II development by an existing 15-inch sewer line in 107th Avenue and an existing 18-inch sewer line in Van Buren Street. Salt River Project (SRP) provides electricity in this portion of Avondale.

Exhibit E

Preliminary Plat

PRELIMINARY PLAT
FOR
ROOSEVELT PARK - PHASE 3

A PORTION OF THE SOUTHEAST QUARTER, SECTION 6, T.1 N., R.1 E., GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA

Received November 19, 2020

Exhibit F

PROJECT TEAM

PROPERTY REPRESENTATIVE:
MATTAMY ARIZONA, LLC
9200 E PIMA CENTER PKWY, STE. 160
SCOTTSDALE, AZ 85258
TEL: (480)-291-8146
FAX: (480)-302-6076
CONTACT: CHRIS BRAMWELL

CIVIL ENGINEER
EPS GROUP, INC.
1130 N ALMA SCHOOL, STE. 120
MESA, AZ 85201
TEL: (480)-503-2250
FAX: (480)-503-2258
CONTACT: JOE PETRUCCI, P.E.

LANDSCAPE ARCHITECT:
ANDERSONBARON
50 N. MCCLINTOCK DRIVE, SUITE 1
CHANDLER, AZ 85226
TEL: (480)-699-7956
FAX: (480)-699-7986
CONTACT: ALEX FISH

LEGAL DESCRIPTION

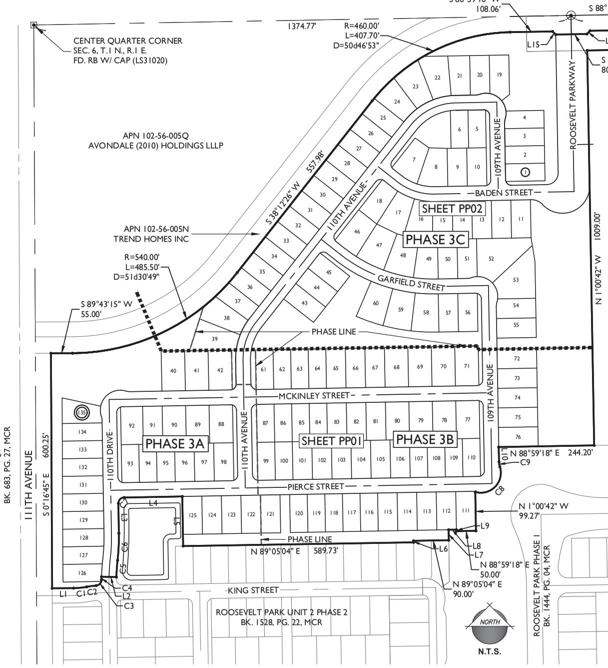
A PORTION OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 6, BEING MARKED BY A MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION BRASS CAP IN HANDHOLE, FROM WHICH THE CENTER QUARTER CORNER OF SAID SECTION 6, BEING MARKED BY A REBAR WITH CAP STAMPED "LS 31020", BEARS SOUTH 88 DEGREES 59 MINUTES 18 SECONDS WEST, 2628.26 FEET;
THENCE ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, SOUTH 88 DEGREES 59 MINUTES 18 SECONDS WEST, 140.94 FEET;
THENCE SOUTH 1 DEGREES 00 MINUTES 42 SECONDS EAST, 50.00 FEET TO THE **POINT OF BEGINNING**;

THENCE ALONG A LINE 140.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID SOUTHEAST QUARTER, SOUTH 0 DEGREES 02 MINUTES 16 SECONDS WEST, 40.01 FEET;
THENCE ALONG A LINE 90.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHEAST QUARTER, SOUTH 88 DEGREES 59 MINUTES 18 SECONDS WEST, 1071.82 FEET;
THENCE ALONG THE WEST BOUNDARY OF THAT PARCEL DESCRIBED IN DOCUMENT NO. 2020-0371295 OF MARICOPA COUNTY RECORDS, SOUTH 1 DEGREES 00 MINUTES 42 SECONDS EAST, 1009.00 FEET;
THENCE ALONG THE NORTHERLY BOUNDARY OF THAT FINAL PLAT OF 'ROOSEVELT PARK – PHASE 1' RECORDED IN BOOK 1444, PAGE 4 OF MARICOPA COUNTY RECORDS, SOUTH 88 DEGREES 59 MINUTES 18 SECONDS WEST, 244.20 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 1 DEGREES 00 MINUTES 42 SECONDS EAST, 37.58 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEAST, HAVING A RADIUS OF 45.00 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHEASTERLY 13.04 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 16 DEGREES 35 MINUTES 52 SECONDS TO A POINT OF REVERSE CURVATURE OF A CURVE, CONCAVE NORTHWEST, HAVING A RADIUS OF 51.00 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHWESTERLY 110.18 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 123 DEGREES 46 MINUTES 51 SECONDS;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, ON A NON-TANGENT LINE SOUTH 1 DEGREES 00 MINUTES 42 SECONDS EAST, 99.27 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 88 DEGREES 59 MINUTES 18 SECONDS WEST, 50.00 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, NORTH 1 DEGREES 00 MINUTES 42 SECONDS WEST, 4.00 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 88 DEGREES 58 MINUTES 55 SECONDS WEST, 20.00 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 0 DEGREES 54 MINUTES 53 SECONDS EAST, 26.71 FEET;
THENCE ALONG THE NORTHERLY BOUNDARY OF THAT FINAL PLAT OF 'ROOSEVELT PARK UNIT II PHASE 2' RECORDED IN BOOK 1528, PAGE 22 OF MARICOPA COUNTY RECORDS, SOUTH 89 DEGREES 05 MINUTES 04 SECONDS WEST, 90.00 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 0 DEGREES 54 MINUTES 56 SECONDS EAST, 4.00 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 89 DEGREES 05 MINUTES 04 SECONDS WEST, 589.73 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, NORTH 1 DEGREES 00 MINUTES 42 SECONDS WEST, 126.57 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 88 DEGREES 59 MINUTES 18 SECONDS WEST, 148.88 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEAST, HAVING A RADIUS OF 15.00 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHWESTERLY 23.56 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 90 DEGREES 00 MINUTES 00 SECONDS;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 1 DEGREES 00 MINUTES 42 SECONDS EAST, 76.15 FEET TO THE BEGINNING OF A CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 519.00 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHERLY 69.20 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 7 DEGREES 38 MINUTES 23 SECONDS TO A POINT OF REVERSE CURVATURE OF A CURVE HAVING A RADIUS OF 481.00 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHERLY 42.89 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 5 DEGREES 06 MINUTES 34 SECONDS;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, ON A NON-TANGENT LINE NORTH 88 DEGREES 28 MINUTES 53 SECONDS WEST, 38.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE EASTERLY, FROM WHICH THE RADIUS POINT BEARS SOUTH 88 DEGREES 28 MINUTES 53 SECONDS EAST A DISTANCE OF 519.00 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHERLY 7.92 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 0 DEGREES 52 MINUTES 29 SECONDS TO A POINT OF REVERSE CURVATURE OF A CURVE HAVING A RADIUS OF 15.00 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHWESTERLY 22.20 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 84 DEGREES 48 MINUTES 50 SECONDS TO A POINT OF REVERSE CURVATURE OF A CURVE HAVING A RADIUS OF 219.00 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHWESTERLY 24.33 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 6 DEGREES 21 MINUTES 54 SECONDS TO A POINT OF REVERSE CURVATURE OF A CURVE HAVING A RADIUS OF 181.00 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHWESTERLY 33.57 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 10 DEGREES 37 MINUTES 41 SECONDS;
THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 89 DEGREES 43 MINUTES 15 SECONDS WEST, 54.95 FEET;
THENCE ALONG A LINE 40.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID SOUTHEAST QUARTER, NORTH 0 DEGREES 16 MINUTES 45 SECONDS WEST, 600.25 FEET;
THENCE ALONG THE SOUTHEASTERLY BOUNDARY OF THAT PARCEL DESCRIBED IN DOCUMENT NO. 2007-0099665 OF MARICOPA COUNTY RECORDS, NORTH 89 DEGREES 43 MINUTES 15 SECONDS EAST, 55.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWEST, HAVING A RADIUS OF 540.00 FEET;
THENCE CONTINUING ALONG SAID SOUTHEASTERLY BOUNDARY, NORTHEASTERLY 485.50 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 51 DEGREES 30 MINUTES 49 SECONDS;
THENCE CONTINUING ALONG SAID SOUTHEASTERLY BOUNDARY, NORTH 38 DEGREES 12 MINUTES 26 SECONDS EAST, 557.98 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEAST, HAVING A RADIUS OF 460.00 FEET;
THENCE CONTINUING ALONG SAID SOUTHEASTERLY BOUNDARY, NORTHEASTERLY 407.70 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 50 DEGREES 46 MINUTES 52 SECONDS;
THENCE ALONG A LINE 40.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHEAST QUARTER, NORTH 88 DEGREES 59 MINUTES 18 SECONDS EAST, 108.06 FEET;
THENCE SOUTH 46 DEGREES 00 MINUTES 42 SECONDS EAST, 11.31 FEET;
THENCE ALONG A LINE 48.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHEAST QUARTER, NORTH 88 DEGREES 59 MINUTES 18 SECONDS EAST, 80.00 FEET;
THENCE NORTH 43 DEGREES 59 MINUTES 18 SECONDS EAST, 11.31 FEET;
THENCE ALONG A LINE 40.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHEAST QUARTER, NORTH 88 DEGREES 59 MINUTES 18 SECONDS EAST, 903.52 FEET;
SOUTH 81 DEGREES 00 MINUTES 42 SECONDS EAST, 57.59 FEET;
THENCE ALONG A LINE 50.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHEAST QUARTER, NORTH 88 DEGREES 59 MINUTES 18 SECONDS EAST, 104.32 FEET TO THE **POINT OF BEGINNING**.

FLOOD ZONE

ZONE X: AREAS OF 0.2% ANNUAL CHANVE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD.



LINE TABLE		
LINE	LENGTH	BEARING
L1	54.95'	N89°43'15"E
L2	38.00'	S88°28'53"E
L3	76.15'	N01°00'42"W
L4	148.88'	N88°59'18"E
L5	126.57'	S01°00'42"E
L6	4.00'	N00°54'56"W
L7	26.71'	N00°54'53"W
L8	20.00'	N88°58'55"E
L9	4.00'	S01°00'42"E
L10	37.58'	N01°00'42"W
L11	40.01'	N00°02'16"E
L12	104.32'	S88°59'18"W
L13	57.59'	N81°00'42"W
L14	11.31'	S43°59'18"W
L15	11.31'	N46°00'42"W
L16	50.00'	N01°00'42"W

CURVE TABLE				
CURVE	LENGTH	RADIUS	CHORD	DELTA
C1	33.57'	181.00'	33.53'	010°37'41"
C2	24.33'	219.00'	24.32'	006°21'54"
C3	22.20'	15.00'	20.23'	084°48'50"
C4	7.92'	519.00'	7.92'	000°52'29"
C5	42.89'	481.00'	42.88'	005°06'34"
C6	69.20'	519.00'	69.15'	007°38'23"
C7	23.56'	15.00'	21.21'	090°00'00"
C8	110.18'	51.00'	89.97'	123°46'51"
C9	13.04'	45.00'	12.99'	016°35'52"

ROOSEVELT PARK PAD DEVELOPMENT STANDARDS			
STANDARD	60' x 97'	50' x 97'	45' x 97'
MIN. LOT AREA	5,700 SF	4,750 SF	4,275 SF
MIN. LOT WIDTH	60'	50'	45'
MIN. LOT DEPTH	97'	97'	97'
MAX. HEIGHT	2 STORIES / 30'	2 STORIES / 30'	2 STORIES / 30'
FRONT LIVABLE/SIDE-LOADED GARAGE	10'	10'	10'
GARAGE	20'	20'	20'
SIDE	5'	5'	5'
CORNER LOT - SIDE (ADJACENT TO 10' TRACT)	5' LIVABLE STRUCTURE (2)	5' LIVABLE STRUCTURE (2)	5' LIVABLE STRUCTURE (2)
REAR	10'	10'	10' (3)
DISTANCE BETWEEN BUILDINGS	10'	10'	10'
MAX. LOT COVERAGE	*	*	*

NOTES:
(2) FOR CORNER LOTS, A PROJECTION IS ALLOWED FOR ARCHITECTURAL ARTICULATION INTO THE SIDE SETBACK, AND A 5' PROJECTION IS ALLOWED FOR NON-LIVABLE PATIOS AND PORCHES INTO THE SIDE SETBACK.
(3) FOR STREET LOADED HOMES, A 5' PROJECTION INTO THE REAR SETBACK IS ALLOWED FOR NON-LIVABLE PATIOS AND PORCHES.
* LOT COVERAGE WILL BE DICTATED BY SETBACKS. SETBACKS WILL SUPERSEDE LOT COVERAGE REQUIREMENTS IN ANY STATED ZONING CATEGORY.

PHASE BREAKDOWN

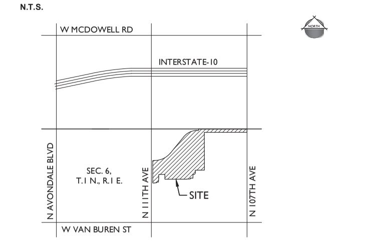
PHASE 3A	
45' x 97'	13 LOTS
50' x 97'	9 LOTS
60' x 97'	6 LOTS
TOTAL	28 LOTS
PHASE 3B	
45' x 97'	19 LOTS
50' x 97'	23 LOTS
60' x 97'	8 LOTS
TOTAL	50 LOTS
PHASE 3C	
45' x 97'	11 LOTS
50' x 97'	40 LOTS
60' x 97'	6 LOTS
TOTAL	57 LOTS

LEGEND

PROPERTY BOUNDARY
STREET CENTERLINE
RIGHT OF WAY
LOT LINE
PUBLIC UTILITY EASEMENT
SIGHT VISIBILITY TRIANGLE
WATER LINE
SEWER LINE

VICINITY MAP

N.T.S.



PROJECT INFORMATION

LOCATION:	NEC OF VAN BUREN STREET AND 111TH AVE
A.P.N.:	102-56-197B; PORTION OF 102-56-005Z
GENERAL PLAN:	MEDIUM HIGH DENSITY RESIDENTIAL
ZONING:	PAD
GROSS AREA:	+/- 29.66 AC.
NET AREA:	+/- 28.79 AC.
NO. OF LOTS:	
45' x 97'	43 LOTS
50' x 97'	72 LOTS
60' x 97'	20 LOTS
TOTAL	135 LOTS
DENSITY:	+/- 4.7 DU/NET AC.
OPEN SPACE:	6.35 ACRES (21.8% OF NET AREA)
OPEN SPACE (PHASE 1, 2 & 3):	20.54 ACRES (23% OF PHASE 1, 2 & 3 NET AREA)

PRELIMINARY PLAT NOTES

1. ALL LANDSCAPING WITHIN ADJACENT PUBLIC RIGHT-OF-WAY IS TO BE MAINTAINED BY THE ROOSEVELT PARK HOMEOWNERS' ASSOCIATION, EXCLUDING MEDIANS ON ARTERIAL STREETS.
2. ALL UTILITY AND PUBLIC SERVICE EASEMENTS, INCLUDING ANY LIMITATIONS OF EASEMENTS; AND CONSTRUCTION WITHIN SUCH EASEMENTS SHALL BE LIMITED TO UTILITIES, LANDSCAPING, AND WOOD, WIRE OR REMOVABLE SECTION TYPE FENCES.
3. ALL EXISTING OVERHEAD UTILITIES SHALL BE INSTALLED UNDERGROUND IN ACCORDANCE WITH CITY OF AVONDALE MUNICIPAL CODE AND AS REQUIRED BY THE ARIZONA CORPORATION COMMISSION.
4. NO ALTERATIONS SHALL BE MADE TO THE STORM WATER RETENTION AREAS AND APPROVED OR EXISTING CONVEYANCE PATTERNS THAT ARE A PART OF THESE PREMISES WITHOUT WRITTEN AUTHORIZATION BY THE CITY OF AVONDALE.
5. NO STRUCTURES SHALL BE CONSTRUCTED IN OR ACROSS NOR SHALL OTHER IMPROVEMENTS OR ALTERATIONS BE MADE TO THE DRAINAGE FACILITIES THAT ARE A PART OF THIS SUBDIVISION WITHOUT WRITTEN AUTHORIZATION BY THE CITY OF AVONDALE.
6. NO WALLS/FENCES SHALL BE BUILT WITHOUT PRIOR CITY OF AVONDALE APPROVAL.
7. EACH FINAL PLAT SHALL INCLUDE A NOTE THAT STATES THAT THE SUBDIVISION IS SUBJECT TO A MAINTENANCE IMPROVEMENT DISTRICT.
8. THE ROOSEVELT PARK HOMEOWNERS' ASSOCIATION SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF THE VAN BUREN STREET TRAIL EASEMENT.
9. THE ROOSEVELT PARK HOMEOWNERS' ASSOCIATION SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF PRIVATE STREETS, ALL LANDSCAPING IN PRIVATE TRACTS, AND ADJOINING PRIVATE PROPERTY OUTSIDE OF INDIVIDUAL LOT WALLS.
10. HOMES ON LOTS WITH AN ASTERISK SHALL BE REQUIRED TO UTILIZE A HOUSE PLAN / ELEVATION WHERE THE GARAGE IS SITUATED ON THE SIDE OF THE LOT MOST VULNERABLE TO HEADLIGHT INTRUSION.
11. THE SOUTHERN 50 FEET OF ROOSEVELT STREET'S EXISTING 90 FEET RIGHT OF WAY SHALL BE ABANDONED IN THE FUTURE BY SEPARATE INSTRUMENT.

SHEET INDEX

SHEET 1	CS01	COVER SHEET
SHEET 2	PP01	PRELIMINARY PLAT
SHEET 3	PP02	PRELIMINARY PLAT
SHEET 4	PP03	STREET SECTIONS / DATA TABLES / LOT DIAGRAMS
SHEET 5	PP04	PHASING PLAN

1130 N Alma School Road
Suite 120
Mesa, AZ 85201
T:480.503.2250 | F:480.503.2258
www.epsgroupinc.com

Project: Roosevelt Park - Phase 3
Avondale, AZ

Cover Sheet

Revisions:
JULY 17, 2020 - 1ST PRE-PLAT SUBMITTAL
OCTOBER 1, 2020 - 2ND PRE-PLAT SUBMITTAL
OCTOBER 26, 2020 - 3RD PRE-PLAT SUBMITTAL

Call at least two full working days before you begin excavation. ARIZONA811 Dial 8-1-1 or 1-800-STAKE-IT (782-5348) In Maricopa County: (602)263-1100

Designer: -
Drawn by: JAJ

Registered Professional Engineer (Civil) CERTIFICATE NO. 54540 JOSEPH W. PETRUCCI III Date Signed 10-26-20 ARIZONA, U.S.A.

Job No. 17-414
CS01
Sheet No. 1 of 5

17-414

17-414

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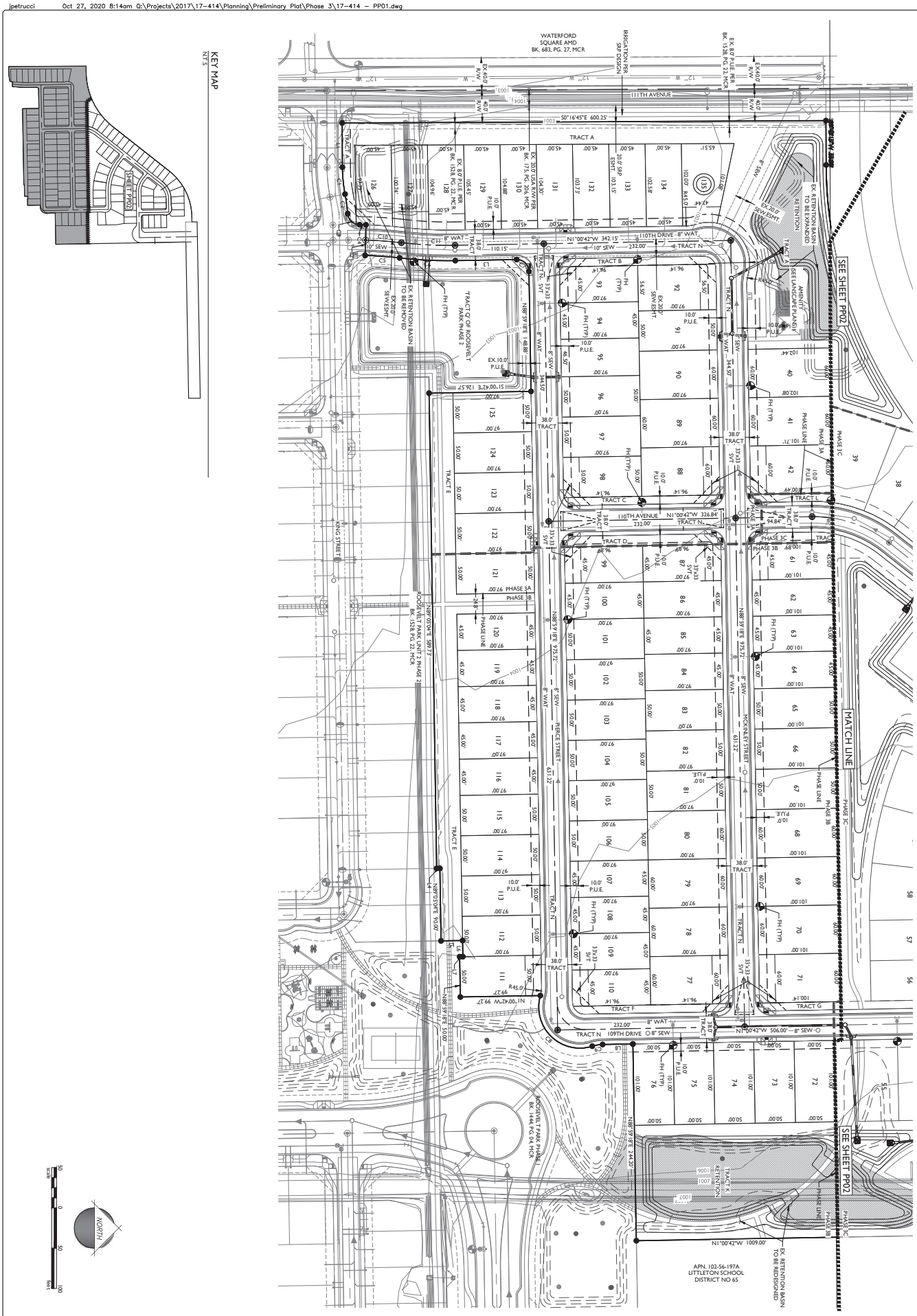

Sheet No. 2 of 5	Job No. 17-414	Registered Professional Engineer (Civil) CERTIFICATE NO. 54540 JOSEPH W. PETRUCCI III ARIZONA U.S.A.	Designer: - Drawn by: JAJ

Revisions:

JULY 17, 2020 - 1ST PRE-PLAT SUBMITTAL
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Project:

Roosevelt Park - Phase 3

Avondale, AZ

Preliminary Plat

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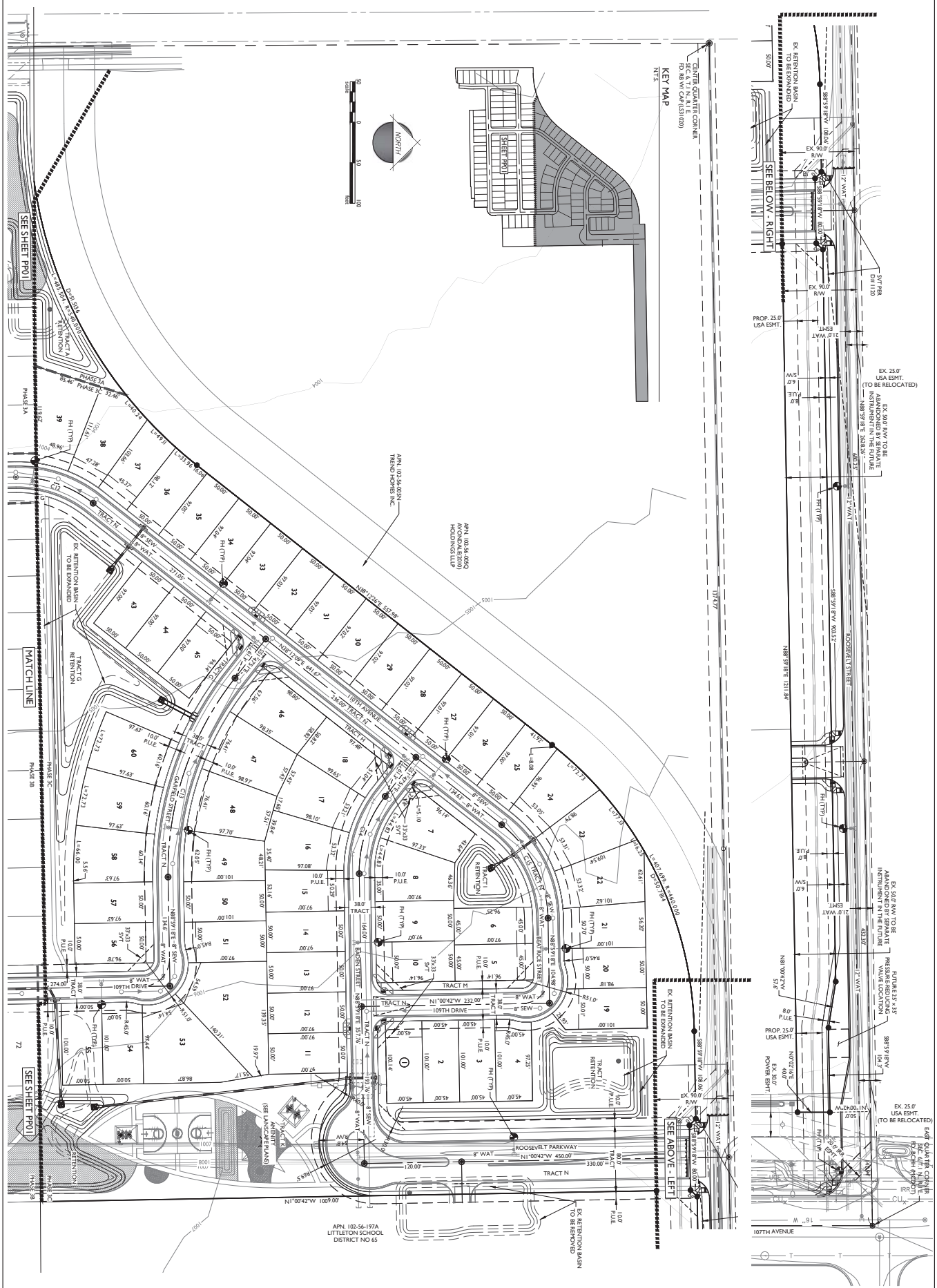

Job No. 17-414	JULY 17, 2020 - 1ST PRE-PLAT SUBMITTAL	Project: Roosevelt Park - Phase 3	EPS GROUP 1130 N Alma School Road Suite 120 Mesa, AZ 85201 T:480.503.2250 | F:480.503.2258 www.epsgroupinc.com
Sheet No. 3 of 5	OCTOBER 1, 2020 - 2ND PRE-PLAT SUBMITTAL	Avondale, AZ	
PP02	OCTOBER 26, 2020 - 3RD PRE-PLAT SUBMITTAL	**Preliminary Plat**	
Designer: - Drawn by: JAJ	Revisions:		

Lot Table		Lot Table		Lot Table		Lot Table		Lot Table		Lot Table		Lot Table	
Lot #	Area	Lot #	Area	Lot #	Area	Lot #	Area	Lot #	Area	Lot #	Area	Lot #	Area
1	4543.59	21	5331.55	41	6113.70	61	4544.94	81	4850.00	101	4850.00	121	4850.00
2	4545.00	22	6678.53	42	6090.52	62	4545.00	82	4850.00	102	4850.00	122	4850.00
3	4545.00	23	6396.55	43	4850.00	63	4545.00	83	4850.00	103	4850.00	123	4850.00
4	4469.40	24	5842.12	44	4850.00	64	4545.00	84	4365.00	104	4850.00	124	4850.00
5	4363.59	25	4849.88	45	4848.59	65	5050.00	85	4365.00	105	4850.00	125	4850.00
6	4361.49	26	4850.28	46	6331.28	66	5050.00	86	4365.00	106	4850.00	126	4465.54
7	5911.21	27	4850.49	47	6779.58	67	5050.00	87	4364.94	107	4365.00	127	4637.93
8	6179.16	28	4850.70	48	6761.16	68	6060.00	88	5818.59	108	4365.00	128	4746.85
9	4850.00	29	4850.91	49	5587.88	69	6060.00	89	5820.00	109	4365.00	129	4732.40
10	4848.59	30	4851.12	50	5050.00	70	6060.00	90	5820.00	110	4363.59	130	4706.51
11	4850.00	31	4851.33	51	4995.42	71	6058.59	91	4850.00	111	5042.82	131	4680.62
12	4850.00	32	4851.54	52	10824.70	72	5050.00	92	5479.19	112	4849.97	132	4654.73
13	4850.00	33	4851.75	53	9450.48	73	5050.00	93	4363.59	113	4850.00	133	4628.84
14	4850.00	34	4851.97	54	5019.76	74	5050.00	94	4365.00	114	4850.00	134	4602.95
15	4942.96	35	4852.18	55	5050.00	75	5050.00	95	4510.60	115	4850.00	135	5373.95
16	6025.65	36	4864.46	56	4880.32	76	5050.00	96	4850.00	116	4365.00	TOTAL 695,498.36 SQ. FT.	
17	6017.03	37	4682.79	57	4881.74	77	5818.59	97	4850.00	117	4365.00		
18	5307.12	38	6272.61	58	6360.59	78	5820.00	98	4848.59	118	4365.00		
19	5332.49	39	7066.98	59	6411.62	79	5820.00	99	4364.94	119	4365.00		
20	4954.65	40	6135.47	60	6411.62	80	5820.00	100	4365.00	120	4365.00		

TRACT USE TABLE			
TRACT	USE	AREA (SF)	AREA (AC)
A	LANDSCAPE / OPEN SPACE / RETENTION / AMENITY / SEW. ESMT	56012	1.286
B	LANDSCAPE / OPEN SPACE / RETENTION	1846	0.042
C	LANDSCAPE / OPEN SPACE	1846	0.042
D	LANDSCAPE / OPEN SPACE	2469	0.057
E	LANDSCAPE / OPEN SPACE	22533	0.517
F	LANDSCAPE / OPEN SPACE	1846	0.042
G	LANDSCAPE / OPEN SPACE / RETENTION / TRAIL	49747	1.142
H	LANDSCAPE / OPEN SPACE	1886	0.043
I	LANDSCAPE / OPEN SPACE / RETENTION	7586	0.174
J	LANDSCAPE / OPEN SPACE / RETENTION	36758	0.844
K	LANDSCAPE / OPEN SPACE / RETENTION / AMENITY	91174	2.093
L	LANDSCAPE / OPEN SPACE	983	0.023
M	LANDSCAPE / OPEN SPACE	1846	0.042
TOTAL OPEN SPACE		276532	6.347
N	PRIVATE STREET TRACT	233492	5.360
TOTAL TRACT AREA		510024	11.707

LINE TABLE		
LINE	LENGTH	BEARING
L1	54.95'	N89°43'15"E
L2	38.00'	S88°28'53"E
L3	76.15'	N01°00'42"W
L4	4.00'	N00°54'56"W
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L8	37.58'	N01°00'42"W
L9	11.31'	S43°59'18"W
L10	11.31'	N46°00'42"W

BOUNDARY CURVE TABLE				
CURVE	LENGTH	RADIUS	CHORD	DELTA
C1	33.57'	181.00'	33.53'	010°37'41"
C2	24.33'	219.00'	24.32'	006°21'54"
C3	22.20'	15.00'	20.23'	084°48'50"
C4	7.92'	519.00'	7.92'	000°55'29"
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C6	69.20'	519.00'	69.15'	007°38'23"
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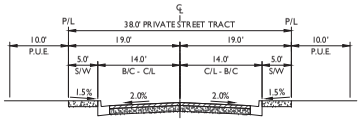
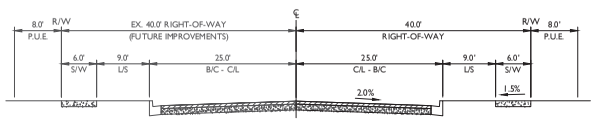
C8	110.18'	51.00'	89.97'	123°46'51"
C9	13.04'	45.00'	12.99'	016°35'52"

CENTERLINE CURVE TABLE				
CURVE	LENGTH	RADIUS	CHORD	DELTA
C10	44.59'	500.00'	44.57'	005°06'34"
C11	66.67'	500.00'	66.62'	007°38'23"
C12	102.66'	150.00'	100.67'	039°12'51"
C13	264.18'	386.00'	259.06'	039°12'51"
C14	102.66'	150.00'	100.67'	039°12'51"
C15	132.96'	150.00'	128.65'	050°47'09"



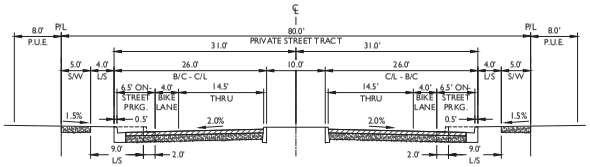
PRIVATE STREET - PARKING ON ONE SIDE

N.T.S



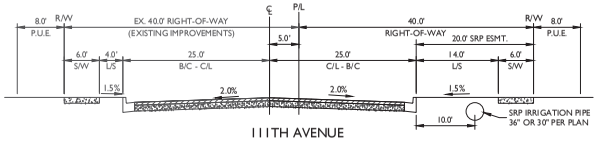
ROOSEVELT STREET

N.T.S - LOOKING EAST



PROPOSED MODIFIED LOCAL (ROOSEVELT PARKWAY AND PIERCE STREET)

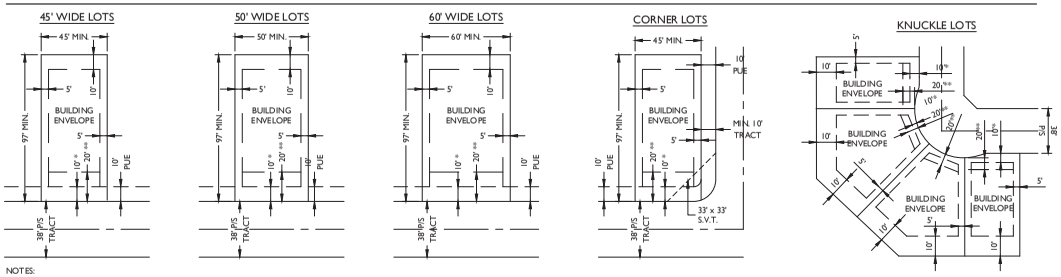
N.T.S



111TH AVENUE

N.T.S - LOOKING NORTH

LOT DIAGRAMS



NOTES:
* FRONT LIVABLE / SIDE-LOADED GARAGE
** FRONT FACING GARAGE

17-414

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dhughes

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Project:

Roosevelt Park - Phase 3

Avondale, AZ

Street Section / Data Tables / Lot Typicals

Revisions:

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Call at least two full working days before you begin excavation.
BLUE STAKE, INC.
Arizona Law (A.R.S. 40-360.21, A.R.S. 40-360.22) requires anyone who excavates in Arizona to contact all owners of subsurface installations in the excavation area before excavating. Failure to do so may result in civil penalties and liability for damages. Excavators must contact Blue Stake, Inc. at least two full working days before excavating. Excavators must not rely on the absence of marks as confirmation that no underground facilities are present.
(602) 263-1100
(800) 782-5348
Within Maricopa County

Designer: -
Drawn by: JAJ

Registered Professional Engineer (Civil)
CERTIFICATE NO.
54540
JOSEPH M. PETRUCCI III
12/31/2020
ARIZONA, U.S.A.

Job No.
17-414

PP03

Sheet No.
4
of 5

dhughes Oct 27, 2020 8:15am Q:\Projects\2017\17-414\Planning\Preliminary Plat\Phase 3\17-414 - PP04.dwg

Sheet No. 5 of 5	PP04	Job No. 17-414	Designer: - Drawn by: JM	JULY 17, 2020 - 1ST PRE-PLAT SUBMITTAL OCTOBER 1, 2020 - 2ND PRE-PLAT SUBMITTAL OCTOBER 26, 2020 - 3RD PRE-PLAT SUBMITTAL Revisions:

Project: Roosevelt Park - Phase 3

Avondale, AZ

Phasing Plan

EPS GROUP
1130 N Alma School Road
Suite 120
Mesa, AZ 85201
T:480.503.2250 | F:480.503.2258
www.epsgroupinc.com

Exhibit F

Final Plat

FINAL PLAT OF
"ROOSEVELT PARK - PHASE 3"

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 6,
TOWNSHIP 1 NORTH, RANGE 1 EAST, OF THE GILA SALT RIVER MERIDIAN,
MARICOPA COUNTY, ARIZONA.

DEDICATION

STATE OF ARIZONA }
} SS
COUNTY OF MARICOPA }

KNOW ALL MEN BY THESE PRESENTS:

THAT MATTAMY ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, AS OWNER, HAS SUBDIVIDED UNDER THE NAME OF "ROOSEVELT PARK – PHASE 3", A PORTION OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 1 EAST, OF THE GILA SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AS SHOWN AND PLATTED HEREON AND HEREBY PUBLISHES THIS PLAT AS AND FOR THE PLAT OF "ROOSEVELT PARK – PHASE 3", A PLANNED RESIDENTIAL DEVELOPMENT, AND HEREBY DECLARES THAT SAID PLAT SETS FORTH THE LOCATION AND GIVES THE DIMENSIONS OF THE LOTS, TRACTS, STREETS AND EASEMENTS CONSTITUTING SAME, AND THAT EACH LOT, TRACT, AND STREET SHALL BE KNOWN BY THE NUMBER, LETTER OR NAME GIVEN EACH RESPECTIVELY ON SAID PLAT.

MATTAMY ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, AS OWNER, HEREBY DEDICATES IN FEE ALL RIGHTS TITLE AND INTEREST TO THE CITY FOR USE AS SUCH, THE 111TH AVENUE RIGHT OF WAY AS SHOWN ON SAID MAP AND INCLUDED IN THE ABOVE DESCRIBED PREMISES. EASEMENTS ARE HEREBY DEDICATED TO THE CITY FOR THE PURPOSES SHOWN HEREON.

TRACTS "A" THROUGH "M" ARE HEREBY DECLARED AS COMMON AREAS TO BE OWNED AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION. AN EASEMENT FOR DRAINAGE IS HEREBY DEDICATED TO THE HOMEOWNERS ASSOCIATION OVER TRACTS "A", "G", "H", "K" AND "M". ALL VEHICULAR NON ACCESS EASEMENT ARE HEREBY DEDICATED TO THE HOMEOWNERS ASSOCIATION.

TRACT "N" IS HEREBY DECLARED AS A PRIVATE STREET TO BE OWNED AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION. AN EASEMENT FOR PUBLIC WATER AND SEWER, REFUSE COLLECTION, DRAINAGE, AND EMERGENCY AND SERVICE TYPE VEHICLE ACCESS IS HEREBY DEDICATED TO THE PUBLIC OVER TRACT "N".

THE CITY IS HEREBY GRANTED AN EASEMENT FOR MAINTENANCE OF LANDSCAPING, IRRIGATION, DRAINAGE FACILITIES, HARDSCAPE AND RETENTION AREAS ON TRACTS "A" THROUGH "N". THIS EASEMENT MAY BE EXERCISED BY THE CITY OF AVONDALE AT ANY SUCH TIME WHEN THE GRANTOR, ITS SUCCESSORS OR ASSIGNEES, INCLUDING A HOMEOWNERS' ASSOCIATION FORMED OVER THIS SUBDIVISION FAILS TO EXIST AND PROVIDE THE REQUIRED MAINTENANCE AND OPERATION OF THE LANDSCAPING, IRRIGATION, DRAINAGE FACILITIES, RETENTION AREAS, AND/OR HARDSCAPE.

IN WITNESS WHEREOF, MATTAMY ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, AS OWNER, HAS HEREUNDER CAUSED ITS NAME TO BE SIGNED AND THE SAME TO BE ATTESTED BY THE SIGNATURE OF _____, ITS _____, THEREUNTO DULY AUTHORIZED THIS ____ DAY OF _____, 2021

_____
OWNER/AUTHORIZED SIGNER

ACKNOWLEDGMENT

STATE OF ARIZONA }
} S.S.
COUNTY OF MARICOPA }

BEFORE ME THIS _____ DAY OF _____, 2021, _____ PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, WHO ACKNOWLEDGED HIMSELF TO BE _____ OF MATTAMY ARIZONA, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, THE LEGAL OWNER OF THE PROPERTY PLATTED HEREON AND ACKNOWLEDGE THAT _____ AS _____, EXECUTED THIS INSTRUMENT FOR THE PURPOSES HEREIN CONTAINED.

IN WITNESS WHEREOF, I HEREUNTO SET MY HAND AND OFFICIAL SEAL.

BY: _____
NOTARY PUBLIC DATE

MY COMMISSION EXPIRES:

FLOODPLAIN DESIGNATION

THE PLATTED PROPERTY APPEARS TO LIE WITHIN ZONE X SHADED OTHER FLOOD AREAS (AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD, ACCORDING TO THE FLOOD INSURANCE RATE MAP FOR THE MARICOPA COUNTY, COMMUNITY PANEL NO. 0401C2160L, EFFECTIVE DATE OCTOBER 16, 2013.

NOTES

1. ALL LANDSCAPING WITHIN ADJACENT PUBLIC RIGHT-OF-WAY IS TO BE MAINTAINED BY THE HOMEOWNERS ASSOCIATION, EXCLUDING MEDIANS ON ARTERIAL STREETS.
2. ALL UTILITY AND PUBLIC SERVICE EASEMENTS, INCLUDING ANY LIMITATIONS OF EASEMENTS; AND CONSTRUCTION WITHIN SUCH EASEMENTS SHALL BE LIMITED TO UTILITIES, LANDSCAPING, AND WOOD, WIRE OR REMOVABLE SECTION TYPE FENCES.
3. ALL EXISTING OVERHEAD UTILITIES SHALL BE INSTALLED UNDERGROUND IN ACCORDANCE WITH CITY OF AVONDALE MUNICIPAL CODE AND AS REQUIRED BY THE ARIZONA CORPORATION COMMISSION.
4. NO ALTERATIONS SHALL BE MADE TO THE STORM WATER RETENTION AREAS AND APPROVED OR EXISTING CONVEYANCE PATTERNS THAT ARE A PART OF THESE PREMISES WITHOUT WRITTEN APPROVAL BY THE CITY OF AVONDALE.
5. NO STRUCTURES SHALL BE CONSTRUCTED IN OR ACROSS NOR SHALL OTHER IMPROVEMENTS OR ALTERATIONS BE MADE TO THE DRAINAGE FACILITIES THAT ARE A PART OF THIS SUBDIVISION WITHOUT WRITTEN AUTHORIZATION BY THE CITY OF AVONDALE.
6. NO WALLS/FENCES SHALL BE BUILT WITHOUT PRIOR CITY OF AVONDALE APPROVAL.
7. THIS SUBDIVISION IS SUBJECT TO A MAINTENANCE IMPROVEMENT DISTRICT (MID).

BASIS OF BEARING

THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER MERIDIAN, BEING NORTH 89 DEGREES 05 MINUTES 04 SECONDS EAST AS MEASURED AND SHOWN ON THAT RESULTS OF SURVEY RECORDED IN BOOK 686, PAGE 43 OF MARICOPA COUNTY RECORDS.

BENCHMARK

MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION BRASS CAP IN HANDHOLE AT THE INTERSECTION OF 107TH AVENUE & ROOSEVELT ST MARKING THE EAST QUARTER CORNER OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER MERIDIAN.

ELEVATION=1011.41' (NAVD'88)

100-YEAR ASSURED WATER SUPPLY

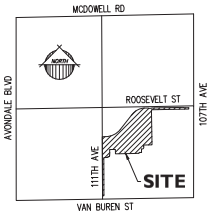
THE AREA PLATTED HEREON LIES WITHIN THE DOMESTIC WATER SERVICE AREAS OF THE CITY OF AVONDALE WHICH IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY PURSUANT TO SECTION 45-576 ARIZONA REVISED STATUTES.

REFERENCE DOCUMENTS

RESULTS OF SURVEY RECORDED IN BOOK 686, PAGE 43 OF MARICOPA COUNTY RECORDS

UTILITY PROVIDERS

WATER	CITY OF AVONDALE
SEWER	CITY OF AVONDALE
REFUSE	CITY OF AVONDALE
FIRE	CITY OF AVONDALE
GAS	SOUTHWEST GAS
ELECTRIC	SALT RIVER PROJECT (SRP)
TELEPHONE	CENTURYLINK / COX COMMUNICATIONS
CABLE TV	CENTURYLINK / COX COMMUNICATIONS
POLICE	CITY OF AVONDALE



SECTION 6
T.1 N., R.1 E.

VICINITY MAP
NOT TO SCALE

OWNER / DEVELOPER

MATTAMY ARIZONA, LLC
9200 E PIMA CENTER PKWY, SUITE 160
SCOTTSDALE, AZ 85258
TEL: (480) 291-8111
CONTACT: KEVIN RUST
kevin.rust@mattamycorp.com

ENGINEER

EPS GROUP, INC.
1130 N. ALMA SCHOOL, STE. 120
MESA, AZ 85201
TEL: (480)-503-2250
FAX: (480)-503-2258
CONTACT: JOE PETRUCCI, P.E.

AREA BREAKDOWN

LOTS "1" – "135"	695,500 SF±	15.9665 AC±
TRACTS "A" – "M"	276,532 SF±	6.3483 AC±
TRACT "N" (PRIVATE STREET)	233,492 SF±	5.3602 AC±
RIGHT OF WAY	67,915 SF±	1.5591 AC±
TOTAL	1,273,439 SF±	29.2341 AC±

SURVEYOR'S CERTIFICATION

THIS IS TO CERTIFY THAT THE SURVEY AND MAP OF DEDICATION OF THE PREMISES DESCRIBED AND MAPPED HEREON WAS MADE UNDER MY DIRECTION DURING THE MONTH OF OCTOBER, 2020; THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN; THAT THE MONUMENTS SHOWN ACTUALLY EXIST OR WILL BE SET AS SHOWN; THAT THEIR POSITIONS ARE CORRECTLY SHOWN; AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

_____
RAYMOND S MUNOZ III
EPS GROUP INC
1130 N. ALMA SCHOOL, STE. 120
MESA, AZ 85201
TEL: (480)-503-2250
FAX: (480)-503-2258

REGISTERED LAND SURVEYOR
53160
RAYMOND S. MUNOZ III
ARIZONA U.S.A.
Expires 9/30/21

APPROVALS

FINAL PLAT APPROVED AND DEDICATED RIGHT-OF-WAY AND EASEMENTS ACCEPTED BY THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA ON THIS _____ DAY OF _____, 2021

_____ _____
MAYOR DATE

_____ _____
ATTEST, CITY CLERK DATE

_____ _____
CITY ENGINEER DATE

EPS GROUP
1130 N. Alma School Rd. Suite 120
Mesa, AZ 85201
T 480.503.2250 | F 480.835.1799
W W W . E P S G R O U P I N C . C O M

Project: "ROOSEVELT PARK - PHASE 3"
AVONDALE ARIZONA
FINAL PLAT OF

Revisions:

Call at least two full working days before you begin excavation.
ARIZONA BLUE STAKE, INC.
Dial 8-1-1 or 1-800-STAKE-IT (782-5348)
Maricopa County (602) 263-1100

Drawn by: A.G.
Reviewed by: R.M.

Job No.
17-414
FP01

Sheet No.
1
of 7

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LEGAL DESCRIPTION

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 6, BEING MARKED BY A MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION BRASS CAP IN HANDHOLE, FROM WHICH THE CENTER QUARTER CORNER OF SAID SECTION 6, BEING MARKED BY A REBAR WITH CAP STAMPED "LS 31020", BEARS SOUTH 88 DEGREES 59 MINUTES 18 SECONDS WEST, 2,628.26 FEET;

THENCE ALONG THE NORTH LINE OF A RIGHT OF WAY DESCRIBED IN DOCUMENT NO. 2014-0188072, MARICOPA COUNTY RECORD, AND THE NORTH LINE OF SAID SOUTHEAST QUARTER, SOUTH 88 DEGREES 59 MINUTES 18 SECONDS WEST, 1,368.07 FEET;

THENCE ALONG THE WEST LINE OF SAID RIGHT OF WAY, SOUTH 1 DEGREES 00 MINUTES 42 SECONDS EAST, 40.00 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID WEST LINE, SOUTH 1 DEGREES 00 MINUTES 42 SECONDS EAST, 50.00 FEET;

THENCE ALONG THE SOUTH LINE OF SAID RIGHT OF WAY, NORTH 88 DEGREES 59 MINUTES 18 SECONDS EAST, 154.58 FEET;

THENCE ALONG THE WEST BOUNDARY OF THAT PARCEL DESCRIBED IN DOCUMENT NO. 2020-0371295 OF MARICOPA COUNTY RECORDS, SOUTH 1 DEGREES 00 MINUTES 42 SECONDS EAST, 1,009.00 FEET;

THENCE ALONG THE NORTHERLY BOUNDARY OF THAT FINAL PLAT OF ROOSEVELT PARK –PHASE 1'RECORDED IN BOOK 1444, PAGE 4 OF MARICOPA COUNTY RECORDS, SOUTH 88 DEGREES 59 MINUTES 18 SECONDS WEST, 244.20 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 1 DEGREES 00 MINUTES 42 SECONDS EAST, 37.58 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEAST, HAVING A RADIUS OF 45.00 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHEASTERLY 13.04 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 16 DEGREES 35 MINUTES 52 SECONDS TO A POINT OF REVERSE CURVATURE OF A CURVE, CONCAVE NORTHWEST, HAVING A RADIUS OF 51.00 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHWESTERLY 110.18 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 123 DEGREES 46 MINUTES 51 SECONDS;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, ON A NON-TANGENT LINE SOUTH 1 DEGREES 00 MINUTES 42 SECONDS EAST, 99.27 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 88 DEGREES 59 MINUTES 18 SECONDS WEST, 50.00 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, NORTH 1 DEGREES 00 MINUTES 42 SECONDS WEST, 4.00 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 88 DEGREES 58 MINUTES 55 SECONDS WEST, 20.00 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 0 DEGREES 54 MINUTES 53 SECONDS EAST, 26.71 FEET;

THENCE ALONG THE NORTHERLY BOUNDARY OF THAT FINAL PLAT OF ROOSEVELT PARK UNIT II PHASE 2'RECORDED IN BOOK 1528, PAGE 22 OF MARICOPA COUNTY RECORDS, SOUTH 89 DEGREES 05 MINUTES 04 SECONDS WEST, 90.00 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 0 DEGREES 54 MINUTES 56 SECONDS EAST, 4.00 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 89 DEGREES 05 MINUTES 04 SECONDS WEST, 589.73 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, NORTH 1 DEGREES 00 MINUTES 42 SECONDS WEST, 126.57 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 88 DEGREES 59 MINUTES 18 SECONDS WEST, 148.88 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEAST, HAVING A RADIUS OF 15.00 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHWESTERLY 23.56 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 90 DEGREES 00 MINUTES 00 SECONDS;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 1 DEGREES 00 MINUTES 42 SECONDS EAST, 76.15 FEET TO THE BEGINNING OF A CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 519.00 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHERLY 69.20 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 7 DEGREES 38 MINUTES 23 SECONDS TO A POINT OF REVERSE CURVATURE OF A CURVE HAVING A RADIUS OF 481.00 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHERLY 42.89 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 5 DEGREES 06 MINUTES 34 SECONDS;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, ON A NON-TANGENT LINE NORTH 88 DEGREES 28 MINUTES 53 SECONDS WEST, 38.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE EASTERLY, FROM WHICH THE RADIUS POINT BEARS SOUTH 88 DEGREES 28 MINUTES 53 SECONDS EAST A DISTANCE OF 519.00 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHERLY 7.92 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 0 DEGREES 52 MINUTES 29 SECONDS TO A POINT OF REVERSE CURVATURE OF A CURVE HAVING A RADIUS OF 15.00 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHWESTERLY 22.20 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 84 DEGREES 48 MINUTES 50 SECONDS TO A POINT OF REVERSE CURVATURE OF A CURVE HAVING A RADIUS OF 219.00 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHWESTERLY 24.33 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 6 DEGREES 21 MINUTES 54 SECONDS TO A POINT OF REVERSE CURVATURE OF A CURVE HAVING A RADIUS OF 181.00 FEET;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTHWESTERLY 33.57 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 10 DEGREES 37 MINUTES 41 SECONDS;

THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY, SOUTH 89 DEGREES 43 MINUTES 15 SECONDS WEST, 54.95 FEET;

THENCE ALONG THE WESTERLY BOUNDARY, SOUTH 0 DEGREES 16 MINUTES 45 SECONDS EAST, 1,097.62 FEET;

THENCE ALONG THE NORTHERLY BOUNDARY OF THAT FINAL PLAT OF 'ROOSEVELT PARK PHASE 1' RECORDED IN BOOK 1444, PAGE 4 OF MARICOPA COUNTY RECORDS, SOUTH 89 DEGREES 43 MINUTES 15 SECONDS WEST, 40.00 FEET;

THENCE ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER, NORTH 0 DEGREES 16 MINUTES 45 SECONDS WEST, 1,697.87 FEET;

THENCE ALONG THE SOUTHEASTERLY BOUNDARY OF THAT PARCEL DESCRIBED IN DOCUMENT NO. 2007-0099665 OF MARICOPA COUNTY RECORDS, NORTH 89 DEGREES 43 MINUTES 15 SECONDS EAST, 95.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWEST, HAVING A RADIUS OF 540.00 FEET;

THENCE CONTINUING ALONG SAID SOUTHEASTERLY BOUNDARY, NORTHEASTERLY 485.50 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 51 DEGREES 30 MINUTES 49 SECONDS;

THENCE CONTINUING ALONG SAID SOUTHEASTERLY BOUNDARY, NORTH 38 DEGREES 12 MINUTES 26 SECONDS EAST, 557.98 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEAST, HAVING A RADIUS OF 460.00 FEET;

THENCE CONTINUING ALONG SAID SOUTHEASTERLY BOUNDARY, NORTHEASTERLY 407.70 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 50 DEGREES 46 MINUTES 52 SECONDS;

THENCE ALONG A LINE 40.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SOUTHEAST QUARTER, NORTH 88 DEGREES 59 MINUTES 18 SECONDS EAST, 41.49 FEET TO THE POINT OF BEGINNING.

CONTAINS 1,273,439 SQUARE FEET OR 29.2341 ACRES, MORE OR LESS.

LOT AREA TABLE

LOT #	AREA (SF)	AREA (AC)
1	4,544	0.1043
2	4,545	0.1043
3	4,545	0.1043
4	4,469	0.1026
5	4,364	0.1002
6	4,361	0.1001
7	5,911	0.1357
8	6,179	0.1419
9	4,850	0.1113
10	4,849	0.1113
11	4,850	0.1113
12	4,850	0.1113
13	4,850	0.1113
14	4,850	0.1113
15	4,943	0.1135
16	6,026	0.1383
17	6,017	0.1381
18	5,307	0.1218
19	5,332	0.1224
20	4,955	0.1137
21	5,332	0.1224
22	6,679	0.1533
23	6,397	0.1468
24	5,842	0.1341
25	4,850	0.1113
26	4,850	0.1113
27	4,850	0.1114
28	4,851	0.1114
29	4,851	0.1114
30	4,851	0.1114
31	4,851	0.1114
32	4,852	0.1114
33	4,852	0.1114
34	4,852	0.1114
35	4,852	0.1114
36	4,864	0.1117
37	4,683	0.1075
38	6,273	0.1440
39	7,067	0.1622
40	6,135	0.1409
41	6,114	0.1404

LOT AREA TABLE

LOT #	AREA (SF)	AREA (AC)
42	6,091	0.1398
43	4,850	0.1113
44	4,850	0.1113
45	4,849	0.1113
46	6,331	0.1453
47	6,780	0.1556
48	6,761	0.1552
49	5,588	0.1283
50	5,050	0.1159
51	4,995	0.1147
52	10,825	0.2485
53	9,450	0.2170
54	5,020	0.1152
55	5,050	0.1159
56	4,880	0.1120
57	4,882	0.1121
58	6,361	0.1460
59	6,412	0.1472
60	6,412	0.1472
61	4,545	0.1043
62	4,545	0.1043
63	4,545	0.1043
64	4,545	0.1043
65	5,050	0.1159
66	5,050	0.1159
67	5,050	0.1159
68	6,060	0.1391
69	6,060	0.1391
70	6,060	0.1391
71	6,059	0.1391
72	5,050	0.1159
73	5,050	0.1159
74	5,050	0.1159
75	5,050	0.1159
76	5,050	0.1159
77	5,819	0.1336
78	5,820	0.1336
79	5,820	0.1336
80	5,820	0.1336
81	4,850	0.1113
82	4,850	0.1113

LOT AREA TABLE

LOT #	AREA (SF)	AREA (AC)
83	4,850	0.1113
84	4,365	0.1002
85	4,365	0.1002
86	4,365	0.1002
87	4,365	0.1002
88	5,819	0.1336
89	5,820	0.1336
90	5,820	0.1336
91	4,850	0.1113
92	5,479	0.1258
93	4,364	0.1002
94	4,365	0.1002
95	4,511	0.1035
96	4,850	0.1113
97	4,850	0.1113
98	4,849	0.1113
99	4,365	0.1002
100	4,365	0.1002
101	4,850	0.1113
102	4,850	0.1113
103	4,850	0.1113
104	4,850	0.1113
105	4,850	0.1113
106	4,850	0.1113
107	4,365	0.1002
108	4,365	0.1002
109	4,365	0.1002
110	4,364	0.1002
111	5,043	0.1158
112	4,850	0.1113
113	4,850	0.1113
114	4,850	0.1113
115	4,850	0.1113
116	4,365	0.1002
117	4,365	0.1002
118	4,365	0.1002
119	4,365	0.1002
120	4,365	0.1002
121	4,850	0.1113
122	4,850	0.1113
123	4,850	0.1113

LOT AREA TABLE

LOT #	AREA (SF)	AREA (AC)
124	4,850	0.1113
125	4,850	0.1113
126	4,466	0.1025
127	4,638	0.1065
128	4,747	0.1090
129	4,732	0.1086
130	4,707	0.1080
131	4,681	0.1075
132	4,655	0.1069
133	4,629	0.1063
134	4,603	0.1057
135	5,374	0.1234

TRACT USE TABLE

TRACT	USE	AREA (SF)	AREA (AC)
Tract A	LANDSCAPE, OPEN SPACE, PUBLIC UTILITY EASEMENT, RETENTION, AMENITY AND SEWER EASEMENT	56,012	1.2859
Tract B	LANDSCAPE, OPEN SPACE AND PUBLIC UTILITY EASEMENT	1,846	0.0424
Tract C	LANDSCAPE, OPEN SPACE AND PUBLIC UTILITY EASEMENT	1,846	0.0424
Tract D	LANDSCAPE, OPEN SPACE AND PUBLIC UTILITY EASEMENT	2,469	0.0567
Tract E	LANDSCAPE, OPEN SPACE AND PUBLIC UTILITY EASEMENT	22,533	0.5173
Tract F	LANDSCAPE, OPEN SPACE AND PUBLIC UTILITY EASEMENT	1,846	0.0424
Tract G	LANDSCAPE, OPEN SPACE, PUBLIC UTILITY EASEMENT, RETENTION AND AMENITY	91,174	2.0931
Tract H	LANDSCAPE, OPEN SPACE, PUBLIC UTILITY EASEMENT, RETENTION AND TRAIL	49,747	1.1420
Tract I	LANDSCAPE, OPEN SPACE AND PUBLIC UTILITY EASEMENT	983	0.0226
Tract J	LANDSCAPE, OPEN SPACE AND PUBLIC UTILITY EASEMENT	1,886	0.0433
Tract K	LANDSCAPE, OPEN SPACE, PUBLIC UTILITY EASEMENT AND RETENTION	7,586	0.1741
Tract L	LANDSCAPE, OPEN SPACE AND PUBLIC UTILITY EASEMENT	1,846	0.0424
Tract M	LANDSCAPE, OPEN SPACE, PUBLIC UTILITY EASEMENT AND RETENTION	36,758	0.8439
Tract N	PRIVATE STREET, PUBLIC UTILITY EASEMENT, REFUSE COLLECTION AND EMERGENCY ACCESS	233,492	5.3602

LINE TABLE

LINE	BEARING	LENGTH
L1	S01°00'42"E	50.00'
L2	S01°00'42"E	37.58'
L3	S88°59'18"W	50.00'
L4	N01°00'42"W	4.00'
L5	S88°58'55"W	20.00'
L6	S00°54'53"E	26.71'
L7	S89°05'04"W	90.00'
L8	S00°54'56"E	4.00'
L9	S01°00'42"E	76.15'
L10	N88°28'53"W	38.00'
L11	S89°43'15"W	54.95'
L12	S89°43'15"W	40.00'
L13	N89°43'15"E	95.00'
L14	N88°59'18"E	41.49'
L15	N51°19'47"E	25.93'

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD	CHORD BRG
C1	13.04'	45.00'	16°35'52"	12.99'	S09°18'38"E
C2	110.18'	51.00'	123°46'51"	89.97'	S44°16'52"W
C3	23.56'	15.00'	90°00'00"	21.21'	S43°59'18"W
C4	69.20'	519.00'	7°38'23"	69.15'	S02°48'30"W
C5	42.89'	481.00'	5°06'34"	42.88'	S04°04'24"W
C6	7.92'	519.00'	0°52'29"	7.92'	S01°04'53"W
C7	22.20'	15.00'	84°48'50"	20.23'	S43°03'03"W
C8	24.33'	219.00'	6°21'54"	24.32'	S82°16'31"W
C9	33.57'	181.00'	10°37'41"	33.53'	S84°24'25"W
C10	485.50'	540.00'	51°30'49"	469.32'	N63°57'51"E
C11	407.70'	460.00'	50°46'52"	394.48'	N63°35'52"E
C12	44.59'	500.00'	5°06'34"	44.57'	S04°04'24"W
C13	46.28'	519.00'	5°06'34"	46.27'	S04°04'24"W
C14	66.67'	500.00'	7°38'23"	66.62'	N02°48'30"E
C15	64.13'	481.00'	7°38'23"	64.09'	N02°48'30"E
C16	23.56'	15.00'	90°00'00"	21.21'	S46°00'42"E
C17	23.56'	15.00'	90°00'00"	21.21'	S43°59'18"W
C18	109.66'	51.00'	123°11'44"	89.72'	S43°59'18"W
C19	13.04'	45.00'	16°35'52"	12.99'	N09°18'38"W
C20	13.04'	45.00'	16°35'52"	12.99'	S82°42'45"E

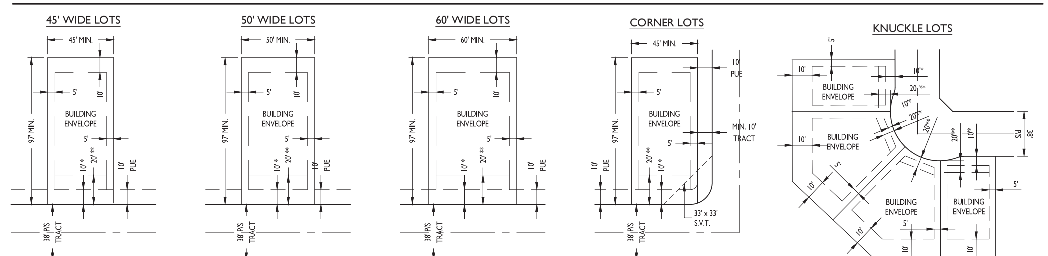
CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD	CHORD BRG
C21	23.56'	15.00'	90°00'00"	21.21'	N43°59'18"E
C22	23.56'	15.00'	90°00'00"	21.21'	S46°00'42"E
C23	23.56'	15.00'	90°00'00"	21.21'	N43°59'18"E
C24	23.56'	15.00'	90°00'00"	21.21'	N46°00'42"W
C25	23.56'	15.00'	90°00'00"	21.21'	S43°59'18"W
C26	23.56'	15.00'	90°00'00"	21.21'	S46°00'42"E
C27	23.56'	15.00'	90°00'00"	21.21'	N43°59'18"E
C28	11.58'	38.62'	17°10'58"	11.54'	N82°25'12"W
C29	23.56'	15.00'	90°00'00"	21.21'	N46°00'42"W
C30	23.56'	15.00'	90°00'00"	21.21'	N43°59'18"E
C31	211.46'	502.63'	24°06'18"	209.91'	S78°57'33"E
C32	13.04'	45.00'	16°35'52"	12.99'	S07°17'15"W
C33	13.04'	45.00'	16°35'52"	12.99'	N80°41'22"E
C34	109.66'	51.00'	123°11'44"	89.72'	N46°00'42"W
C35	23.56'	15.00'	90°00'00"	21.21'	N46°00'42"W
C36	264.18'	386.00'	39°12'51"	259.06'	S71°24'16"E
C37	277.19'	405.00'	39°12'51"	271.81'	S71°24'16"E
C38	251.18'	367.00'	39°12'51"	246.31'	S71°24'16"E
C39	102.66'	150.00'	39°12'51"	100.67'	S18°35'44"W
C40	115.67'	169.00'	39°12'51"	113.42'	S18°35'44"W

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD	CHORD BRG
C41	89.66'	131.00'	39°12'51"	87.92'	S18°35'44"W
C42	23.56'	15.00'	90°00'00"	21.21'	S83°12'09"W
C43	23.56'	15.00'	90°00'00"	21.21'	S06°47'51"E
C44	23.56'	15.00'	90°00'00"	21.21'	S83°12'09"W
C45	23.56'	15.00'	90°00'00"	21.21'	S06°47'51"E
C46	102.66'	150.00'	39°12'51"	100.67'	S71°24'16"E
C47	115.67'	169.00'	39°12'51"	113.42'	S71°24'16"E
C48	89.66'	131.00'	39°12'51"	87.92'	S71°24'16"E
C49	23.56'	15.00'	90°00'00"	21.21'	N43°59'18"E
C50	23.56'	15.00'	90°00'00"	21.21'	S46°00'42"E
C51	33.28'	40.00'	47°40'05"	32.33'	N67°10'39"W
C52	166.99'	69.50'	137°40'05"	129.62'	N67°49'21"E
C53	47.12'	30.00'	90°00'00"	42.43'	N43°59'18"E
C54	132.96'	150.00'	50°47'09"	128.65'	S63°35'44"W
C55	116.12'	131.00'	50°47'09"	112.35'	S63°35'44"W
C56	149.80'	169.00'	50°47'09"	144.94'	S63°35'44"W
C57	13.04'	45.00'	16°35'52"	12.99'	S07°17'15"W
C58	13.04'	45.00'	16°35'52"	12.99'	N80°41'22"E
C59	23.56'	15.00'	90°00'00"	21.21'	N46°00'42"W
C60	109.66'	51.00'	123°11'44"	89.72'	N46°00'42"W

LOT DIAGRAMS



NOTES:
* FRONT LIVABLE / SIDE-LOADED GARAGE
** FRONT FACING GARAGE

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"ROOSEVELT PARK - PHASE 3"
AVONDALE, ARIZONA
FINAL PLAT OF

Project:

Revisions:

Call at least two full working days before you begin excavation. ARIZONA 811. Dial 8-1-1 or 1-800-STAKE-IT (782-5348) In Maricopa County: (602)263-1100

Drawn by: A.G.
Reviewed by: R.M.

REGISTERED LAND SURVEYOR, CERTIFICATE NO. 53160, RAYMOND S. MUNOZ III, Date Signed 3/4/21, ARIZONA, U.S.A., Expires 3/31/21

Job No. 17-414

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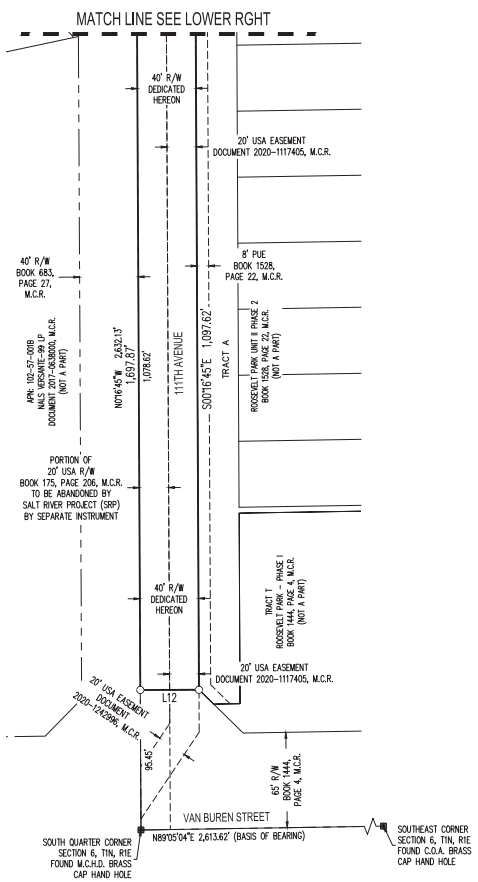

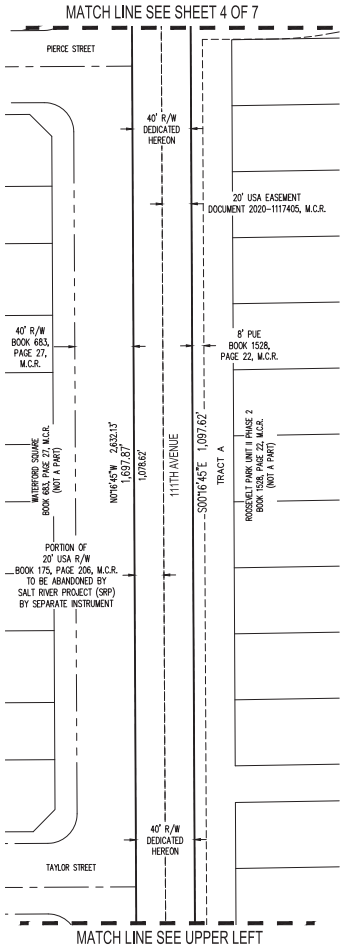

LEGEND

■	SECTION CORNER (AS NOTED)
	SUBDIVISION BOUNDARY CORNER
○	SET 1/2" REBAR WITH CAP (LS 53160) UNLESS OTHERWISE NOTED
⊙	CENTERLINE MONUMENT (TO BE SET BY OTHERS)
●	FOND MONUMENT AS NOTED
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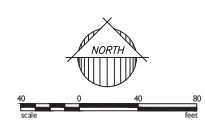
R/W	RIGHT OF WAY
P/S	PRIVATE STREET
PUE	PUBLIC UTILITY EASEMENT
VNAE	VEHICULAR NON ACCESS EASEMENT
SVT	SIGHT VISIBILITY TRIANGLE (33' X 33')
M.C.D.O.T.	MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION
M.C.H.D.	MARICOPA COUNTY HIGHWAY DEPARTMENT
C.O.A.	CITY OF AVONDALE
M.C.R.	MARICOPA COUNTY RECORD
LS	LAND SURVEYOR



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Project: "ROOSEVELT PARK - PHASE 3"
AVONDALE, ARIZONA

FINAL PLAT OF

Revisions:

Call at least two full working days before you begin excavation.
Dial 8-1-1 or 1-8-00-STAKE-IT (782-5348)
Maricopa County (602) 263-1100

Drawn by: A.G.
Reviewed by: R.M.

REGISTERED LAND SURVEYOR
53160
RAYMOND S. MUNOZ III
Date Signed 3/31/21
ARIZONA, U.S.A.
Expires 3/31/21

Job No.
17-414

FP01

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of 7

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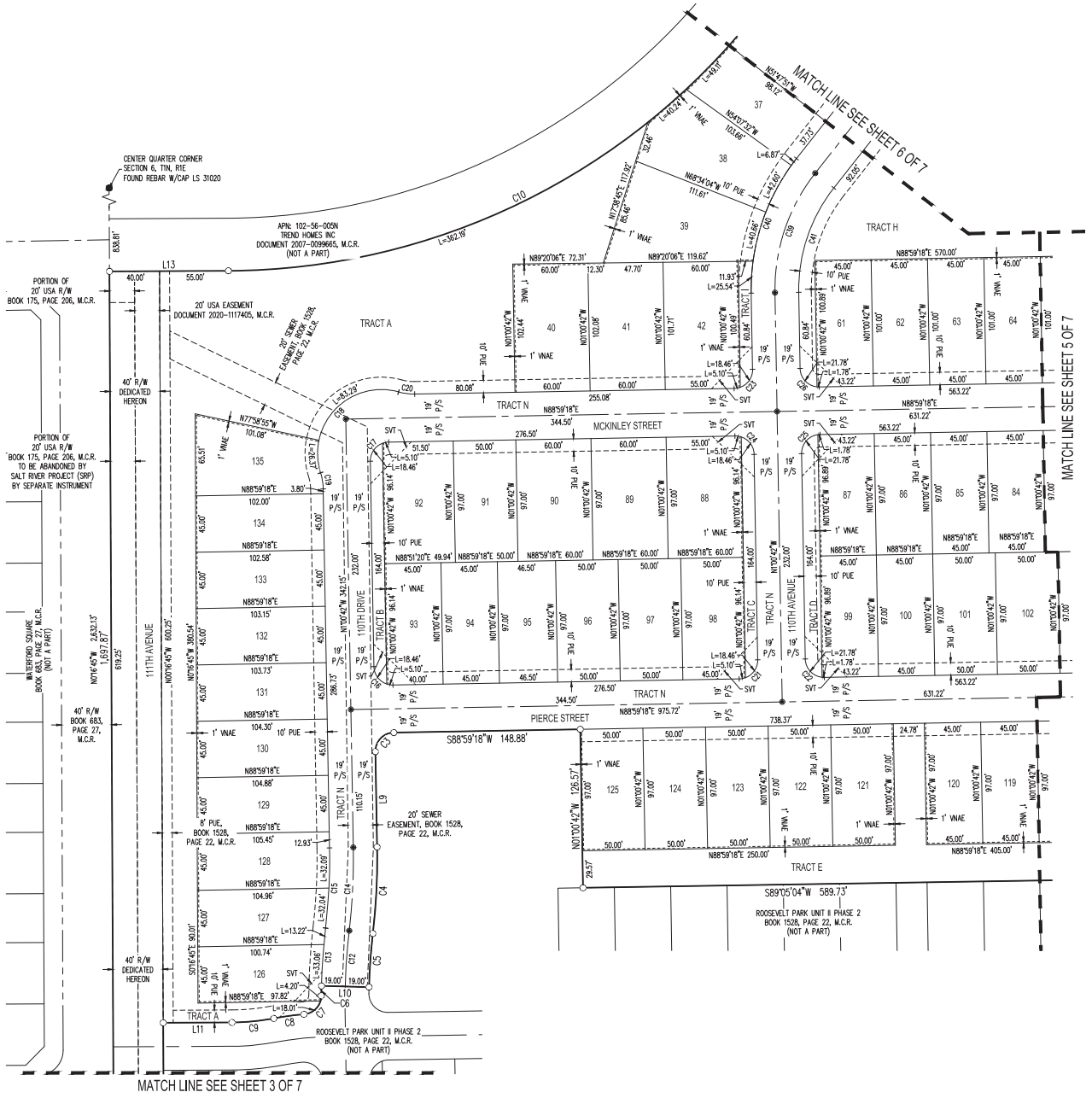

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W W W . E P S G R O U P . C O M

Project:

"ROOSEVELT PARK - PHASE 3"

AVONDALE ARIZONA

FINAL PLAT OF

Revisions:

Call at least two full working days before you begin excavation.
BLUE STAKE, INC. (602) 263-1100
Arizona Law (A.R.S. 40-360.21, et. al.) requires notification of excavation activity.

Drawn by: A.G.
Reviewed by: R.M.

53160
RAYMOND S. MUNOZ III
Expires 3/31/21

Job No.
17-414
FP01

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of 7

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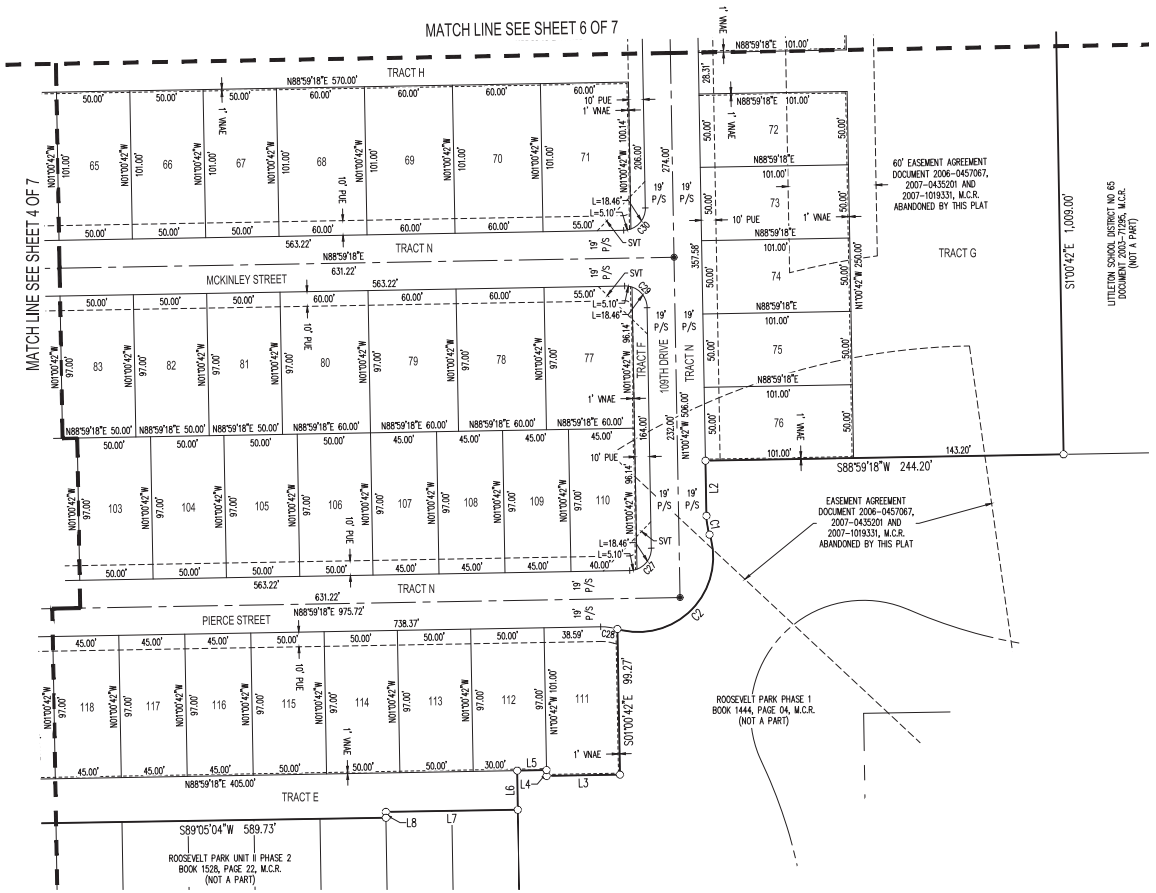

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NORTH

scale: 40 0 40 80 feet

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Project:

"ROOSEVELT PARK - PHASE 3"
AVONDALE ARIZONA

FINAL PLAT OF

Revisions:

Drawn by: A.G.
Reviewed by: R.M.

S3360
RAYMOND S. MUNOZ III
REGISTERED LAND SURVEYOR
ARIZONA, U.S.A.
EXPIRES 3/31/21

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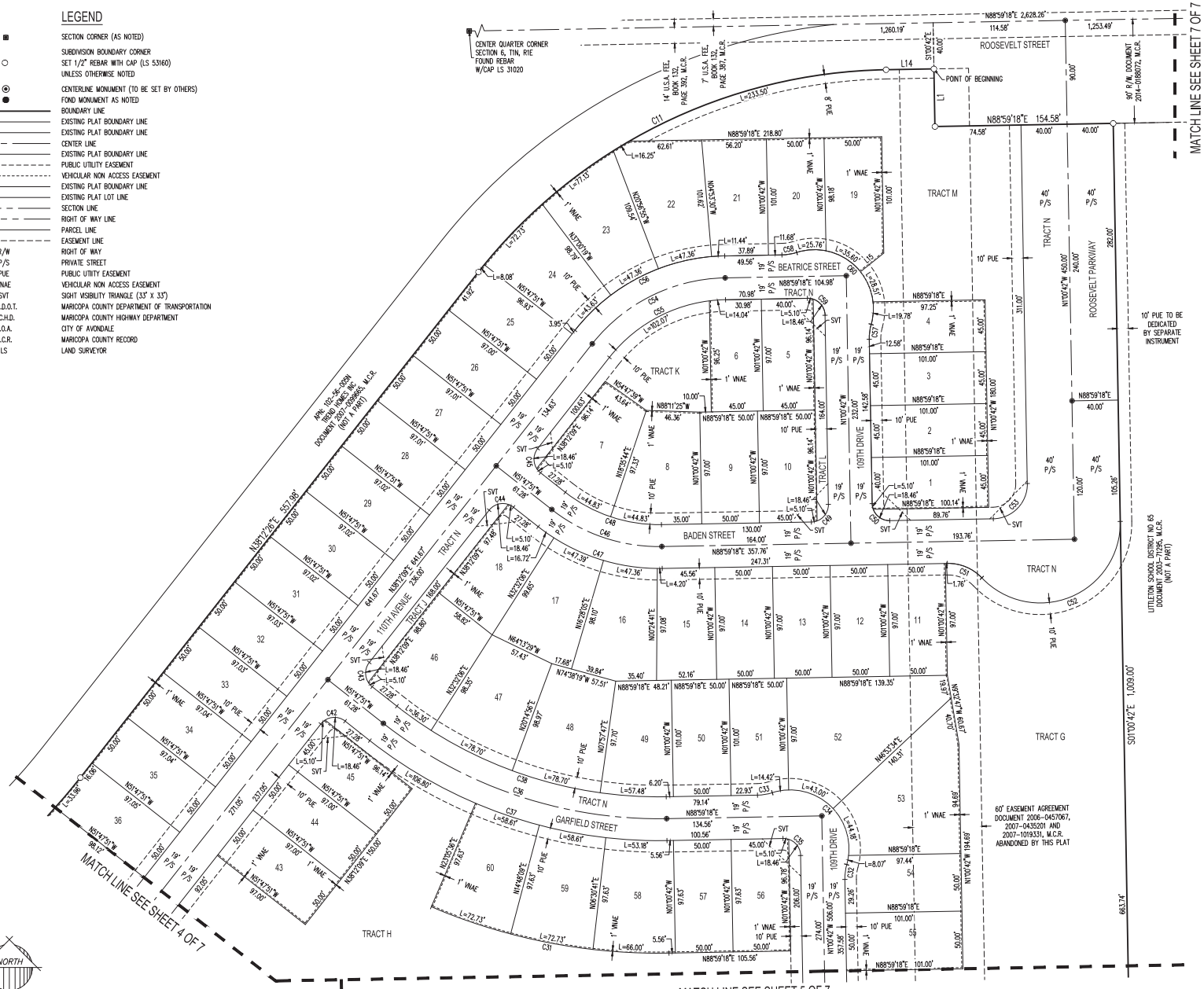

"ROOSEVELT PARK - PHASE 3"

AVONDALE, ARIZONA

FINAL PLAT OF

Project:

Revisions:

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Drawn by: A.G.
Reviewed by: R.M.

53360
RAYMOND S. MUNOZ III
REGISTERED LAND SURVEYOR
ARIZONA, U.S.A.
EXPIRES 3/31/21

Job No.
17-414
FP01

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of 7

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LEGEND

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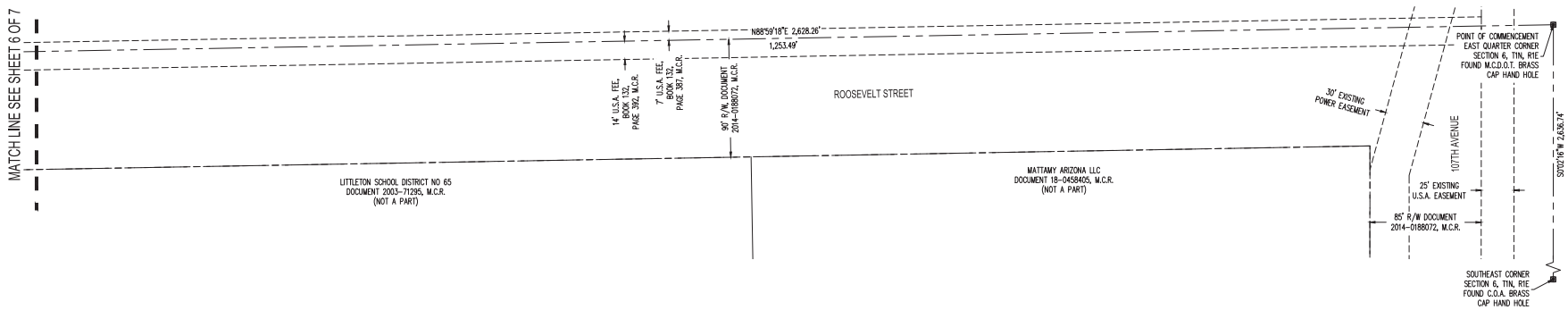

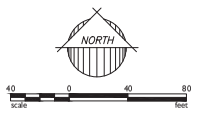

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Project: "ROOSEVELT PARK - PHASE 3"
AVONDALE, ARIZONA
FINAL PLAT OF

Revisions:

Drawn by: A.G.
Reviewed by: R.M.

REGISTERED LAND SURVEYOR
53160
RAYMOND S. MUNOZ III
Date Signed 3/31/21
ARIZONA, U.S.A.
Expires 3/31/21

Job No.
17-414

FP01

Sheet No.
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of 7

Item Number: 4.b.

CITY COUNCIL REPORT

SUBJECT: Resolution 1020-0420 - Employee Benefit Trust Agreement and Declaration of Trust

MEETING DATE: 4/19/2021

TO: Mayor and Council

FROM: Callie McGraw, Interim Human Resources Director, (623) 333-2217

THROUGH: Cherlene Penilla, Deputy City Manager, (623) 333-2214

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

- Innovative Program and Service Delivery - Avondale will continue to serve as a model of innovative, efficient, and responsive government.

The purpose of the City of Avondale Employee Benefit Trust is to maintain a Trust Fund and establish the health and welfare benefits for employees. The approval of this agenda item will help attract and retain a competitive workforce to meet the needs of the residents and business community.

PURPOSE:

City Council will consider a request to adopt Resolution 1020-0420 approving a declaration of trust and necessary ancillary documents to create and authorize the City's creation of a single-employer municipal employee benefit trust and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. Council will take appropriate action.

BACKGROUND:

Pursuant to Ariz. Rev. Stat. § 11-981(A), City Council is empowered to procure health, accident, life or disability benefits for employees and officers of the City through either an insurer licensed by the State or a program of self-insurance.

On March 22, 2021, City Council approved a request from staff to prepare the City to exit the Arizona Metropolitan Trust and initiate its own self-insured employee benefits program.

DISCUSSION:

The City desires to form and operate the City of Avondale Employee Benefit Trust to provide employee benefits of the type generally described under the provisions of Ariz. Rev. Stat. §§ 11-952 and 11-952.01 to its eligible employees and their dependents.

BUDGET IMPACT:

The associated fund holding the contributions and the eligible expenses related to the trust are included in the FY2022 budget.

RECOMMENDATION:

Staff recommends City Council adopt a Resolution, approving a declaration of trust and necessary ancillary documents to create and authorize the City's creation of a single-employer municipal employee benefit trust.

RESOLUTION NO. 1020-0421

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING A DECLARATION OF TRUST AND NECESSARY ANCILLARY DOCUMENTS TO CREATE AND AUTHORIZE THE CITY'S CREATION OF A SINGLE-EMPLOYER MUNICIPAL EMPLOYEE BENEFIT TRUST.

WHEREAS, the Council of the City of Avondale (the "City Council") is empowered pursuant to ARIZ. REV. STAT. § 11-981(A) to procure health, accident, life or disability benefits for employees and officers of the City of Avondale (the "City") through either an insurer licensed by the State or a program of self-insurance; and

WHEREAS, the City desires to form and operate the City of Avondale Employee Benefit Trust (the "Trust") to provide employee benefits of the type generally described under the provisions of ARIZ. REV. STAT. §§ 11-952 and 11-952.01 to its eligible employees and their dependents; and

WHEREAS, creating the Trust requires action by the City through the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The City Council hereby authorizes the creation and operation of the Trust.

SECTION 3. The City Council hereby approves and agrees to be bound by the provisions of the City of Avondale Employee Benefit Trust Agreement and Declaration of Trust (the "Trust Agreement") in substantially the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 4. This approval is contingent upon the Trust Agreement reflecting compliance with ARIZ. REV. STAT. § 42-17106.

SECTION 5. The Mayor, the City Manager or authorized designee, the City Clerk, City Attorney and the City Budget and Finance Director are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, April 19, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
RESOLUTION 1020-0421

[Trust Agreement]

See following pages.

AGREEMENT AND DECLARATION OF THE CITY OF AVONDALE EMPLOYEE BENEFIT TRUST

THIS AGREEMENT AND DECLARATION OF TRUST ("Trust Agreement" or "Agreement") is made and entered into this 19th day of April, 2021 between City of Avondale (hereinafter referred to as "City"), acting by and through its Governing Board, and certain persons (hereinafter referred to collectively as the "Trustees" and individually as a "Trustee")for the administration of the Trust known as the "City of Avondale Employee Benefit Trust" (hereinafter referred to as the "Trust"), in accordance withthe terms and provisions of this instrument. A Trustee has no responsibility for actions or inaction relating to the Trust or the administration thereof prior to his orher acceptance of the role of Trustee. A Trustee's acceptance may be in the form of his or her signature to this Agreement or by appointment as a successor Trustee.

W I T N E S S E T H:

WHEREAS, A.R.S. § 11-981 authorizes cities to provide for a self-insurance program; and

WHEREAS, pursuant to this Trust Agreement, City and certain employees of City (hereinafter referred to as "Employees") seek to participate in a program (hereinafter referred to as "Health and Welfare Program" or "Program") whereby City provides and maintains certain health and welfare benefits for Employees and for certain eligible members of Employees' families who are covered by the Program, which has been administered by the Trustees through the Trust established in accordance with this Declaration; and

WHEREAS, City and Employees contribute monies to the Trust, and said monies constitute a trust fund (hereinafter referred to as the "Trust Fund") that are held for the benefit of Employees and their eligible dependents in accordance with the Program and with this Trust Agreement; and

WHEREAS, City and Trustees desire to administer the Program through the Trust; and

WHEREAS, to effect the aforesaid purpose, it is mutually necessary or desirable and in the best interest of City to declare the Trust and establish the purpose of the Trust and use of the Trust Fund for and in the manner more particularly set forth herein.

NOW THEREFORE, in consideration of the promises, covenants, agreements, terms, obligations and duties herein set forth, it is understood and agreed as follows:

ARTICLE I – DEFINITIONS

It is mutually understood and agreed by and between the parties hereto that the following definitions apply to this Trust Agreement:

1.01 "Trust Agreement" means and refers to this Agreement and Declaration of Trust and any modifications or amendments thereto.

1.02 "City" means and refers to the City of Avondale, a municipal corporation organized and existing under the laws of the State of Arizona.

1.03 "Trustees" means and refers to the Trustees and their successors provided for in this Trust Agreement.

1.04 "Self-insurance Program" means insurance programs established, and wholly or partially funded, by the City Governing Board.

1.05 "Health and Welfare Program" means the program of benefits established or to be established by the Trustees pursuant to this Trust Agreement. This includes all benefits set forth in Exhibit A, attached hereto, and the administration thereof.

1.06 "Employee(s)" means and refers to all benefit-eligible persons who have been employed by the City on a regular basis, and their spouse, dependents or domestic partners, and with eligibility as defined in the Plan Document(s), as hereinafter defined. The term "Employee(s)" also includes those City Governing Board members, and their spouses anddependents authorized by the City and permitted by Arizona Revised Statutes, Section 11-981, as it may be amended from time-to-time, to participate in one or more benefits offered through the Trust.

1.07 "Third-Party Administrator" refers to the entity designated by the Trustees to administer the "Health and Welfare Program" consistent with the written agreement between the Trust and the Third-Party Administrator.

1.08 "Fund" means and refers to the Trust Fund created by this Declaration,and shall mean generally the monies, property, contracts, or things of value, tangible or intangible, received and held by the Trustees for the uses and purposes set forth herein.

1.09 "City Contributions" means contributions made by the City to the Fund for the Health and Welfare Program.

1.10 "Employee Contributions" means the contributions made by the Employees

of the City to the Fund.

1.11 "Plan Document(s)" means and refers to the document(s) containing certain information relating to self-funded and insured benefits available to Employees through the Program.

ARTICLE II – NAME OF TRUST

The name of this Trust is and shall be the "City of Avondale Employee Benefit Trust" or "Employee Benefit Trust" ("EBT" or "Trust") and shall in all respects be governed by the laws of the State of Arizona and administered to accomplish the purposes expressly, and by necessary implication, contained herein.

ARTICLE III – PURPOSE OF TRUST

3.01 – Purpose

The purpose of this Agreement is to make the declaration of the Employee Benefit Trust and the Agreement and Declaration of the Trust for the purpose of continuing to maintain the Trust Fund and establish the health and welfare benefits that are encompassed within the Program and subject to the Trust.

The express purposes and primary objectives of the Trust are:

a. To establish and maintain a program of providing and maintaining health and welfare benefits for Employees of the City, and their spouse, dependents and domestic partners;

b. To serve as self-insurance within and according to the provisions of A.R.S. § 11-981;

c. To pay for costs of training designed to reduce losses and claims;

d. To pay for uninsured losses, claims, and defense costs related to the administration of the Trust;

e. To pay for costs of administration and related expenses, whether through self-funded or insured programs or both;

f. To reimburse the Trustees for any other expenses necessarily or properly incurred by them in the performance of their duties under this Trust Agreement in accordance with the City of Avondale administrative policies; and

g. To empower the Trustees to enter into (or to authorize the City Procurement Agent to enter into) contracts, procure insurance policies, or provide such benefits through self-funding to place into effect and

maintain a desirable and fiduciary-responsible Schedule of Benefits, in accordance with statutory and regulatory requirements.

The foregoing expressions of purpose are not exhaustive and, in addition to other related objectives reasonably inferred from that list, the Trust shall have such other objectives as may be lawful under Arizona law.

3.02 – Principal Office

The Trust shall have its principal office at the City's central administrative offices, in the City of Avondale, County of Maricopa, State of Arizona (hereinafter referred to as the "Principal Office").

ARTICLE IV – TRUSTEES AND SUCCESSOR TRUSTEES

4.01 – Authority and Selection

The Trust shall be administered by the Trustees. The Trustees shall be appointed by the City Manager.

4.02 – Composition and Terms

The Trust shall be administered by not less than five (5) and not more than seven (7) Trustees, appointed by the City Manager. No more than one (1) of the Trustees may be a member of the City Governing Board and no more than one (1) of the Trustees may be an Employee of the City. Any Employee of the City serving as a Trustee shall have professional experience with finance and/or benefits. The Trustees shall serve two-year terms. The initial board of trustees shall serve staggered terms of either one-year, two-year or three-year terms as designated in their appointment. The Employee Trustee shall serve until his or her successor is appointed.

4.03 – Trustee Bonds

As a qualification of continued service, each Trustee must be bonded, pursuant to A.R.S § 11-981. The bond amount of $1 million per Trustee will be provided for under the City's current Crime Policy or in any other method determined by the City.

4.04 – Resignation/Removal

A Trustee may resign at any time. A Trustee may also be removed by the Trust Board upon motion and by majority vote of the Trust Board. In the event of the removal or resignation of a Trustee, City Manager shall designate a successor to such Trustee (hereinafter referred to as "Successor Trustee") who, upon acceptance of his/her appointment in writing, shall succeed to the legal interest of his/her predecessor and have the same powers and duties. The City Manager may at any time designate an alternate Trustee, who shall

serve in the absence of a removed or resigned Trustee until such time as the City Manager appoints a Successor Trustee. A Trustee who has two or more unexcused absences during the fiscal year shall be removed from the Trust Board.

4.05 – Successor Liability

No Successor Trustee shall be liable or responsible for any acts or defaults of his/her predecessor, or for any losses or expenses resulting from or occasioned by anything done or neglected to be done in the administration of the Fund or Trust prior to his/her appointment as Trustee, nor shall he/she be required to inquire into or take any notice of the prior administration of the Fund or Trust. A Successor Trustee is solely responsible for his/her actions as set forth in Article VIII.

ARTICLE V - POWER AND DUTIES OF TRUSTEES

5.01 – Acceptance

By signing their signatures to this Trust Agreement, the Trustees hereby accept the Trust and Trusteeship and declare they will receive and hold the Fund by virtue of this Trust Agreement for the uses and purposes and with the powers and duties herein set forth and none other. The Trustees shall faithfully keep and hold any and all monies they receive as Trustees for the purpose of the Trust and keep adequate and proper records thereof.

5.02 – Duties

a. The Trustees shall hold, manage, care for and keep the Fund and collect the income and increments thereof, and shall keep and maintain adequate and proper records to render an annual audit, accounting and reports as hereinafter mentioned. The Trustees may delegate these functions to appropriate City staff as they deem appropriate.

b. The Trustees shall cause to be employed or hired, such agents, attorneys, accountants, actuaries, employees or other persons, and may lease premises and equipment, as may be necessary or desirable in assistance in administering the Fund and carrying out its purposes in accordance with the statutory and regulatory requirements. The fees or compensation of any and all such persons may be paid from the Fund.

c. Any risk management consultant or Third-Party Administrator employed by the Trustees shall be licensed under Title 20 of the Arizona Revised Statutes and shall provide evidence of such license to the Trustees.

d. When acting upon the advice of counsel for the Trust, the Trustees shall be relieved of all responsibility for actions undertaken in good faith.

e. The Trustees shall cause to be paid, any and all taxes of whatsoever nature the Fund is or may be obligated to pay, and incur any reasonable expenses for supplies, rental of space, or other items or anything else believed to be necessary or desirable in administering the Fund and carrying out the objects and purposes of this Trust and Trust Agreement.

f. The Trustees shall have all right, power and authority to do all those things which, in the opinion of the Trustees may be necessary or desirable for the administration and operation of the Trust and the Fund and to accomplish the objectives and purposes of this Trust Agreement. Further, the Trustees may delegate in writing, any functions required in the operation of the Program as they deem necessary and appropriate.

5.03 – Authority of Trustees

a. The Trustees, in carrying out the purposes of this Trust Agreement, shall have the power and the right to provide the intended benefits under this Trust by means of direct or self-funding by the Trust and/or by the procurement of group insurance contracts (permissible under the laws of Arizona), including group insurance contracts issued to and in the name of the Trust, together with such other forms of contracts issued by qualified insurance companies authorized to do business in the State of Arizona as may be selected by the Trustees, for the purpose of providing for all or part of the benefits provided for under this Trust.

b. The Trustees are hereby expressly authorized to pay to any insurance-related company as may be selected by the Trustees the required premiums in connection with such group insurance contracts issued to the Trust.

c. Decisions concerning whether benefits are provided by means of direct or self-funding or by the procurement of group insurance are within the sole and exclusive discretion of the Trustees.

5.04 – Limited Liability of Trustees

Should the Trustees select or provide for a self-funded policy, plan or program, no claims for benefits or for liabilities under such policy, plan or program shall be brought against any of the Trustees in their individual capacities. The sole and exclusive responsibility of the Trustees in relation to the management and operation of any self-funded policy, plan or program shall be limited to the exercise of due care in the selection of administrators, claim representatives, actuaries, or other officials charged with the administration of the self-funded policy, plan or program. In the event that submitted claims of Employees exceed available Trust Funds, the claims shall be paid in the order received.

5.05 – Benefits to be Provided

The Trustees shall obtain for the beneficiaries of the Trust the forms of employee benefits generally described in Article III herein, and more specifically described in Exhibit A hereto, which benefits may be eliminated or modified from time to time, at the discretion of the Trustees.

5.06 – Deposits and Benefits

All corpus or portions of the Fund not expended under Article V may be deposited (or cause to be deposited) by the Trustees in the name of the Trust in such depository as utilized by the City , and any such deposit or deposits should carry or bear interest. The Trustees are empowered to receive for the benefit of the Fund such interest as might accrue on the above deposits. If not so deposited, any accumulated funds not currently required for the purposes of this Trust may be invested by the City's Budget and Finance Director, in reasonably secure, reasonably liquid investments permitted for investment of such funds pursuant to Arizona law and investment selections approved by the City Governing Board. The Trustees may accumulate dividends or experience rating refunds or other monies, if any accruing, from any insurance policy or policies, deposits, or investments. Such dividends, refunds,or other monies, or all of them, shall be held in the Fund, applied to the payment of self-funded claims and the payment of insurance premiums or held, used or applied as herein set forth.

5.07 – Compensation

The Trustees shall not receive compensation for their services rendered. The Trustees shall receive reimbursement for actual reasonable expenses incurred in connection with their duties as Trustees, including a pier diem in accordance with the City of Avondale administrative policies.

5.08 – Other Persons and Interpretations

No person who is dealing with the Trustees shall be obligated to see to the application of any monies or property of the Fund, or to see that the terms of this Trust Agreement have been complied with, or to inquire as to the necessity or expediency of any act of the Trustees. Every instrument executed by the Trustees, or by their direction, shall be conclusive in favor of every person who in good faith relies upon it, that: (a) at the time of the delivery of the instrument this Trust Agreement was in full force and effect; (b) the instrument was executed in accordance with the terms and conditions of this Agreement; and (c) the Trustees were duly authorized to execute the instrument or direct its execution.

5.09 – Withdrawals

All checks, drafts, vouchers, or other withdrawals from the Fund or depositories for the transfer or liquidating of insurance policies or investments

shall be paid consistent with the requirements of this document. Checks for claims and monthly fee payments under the self-funded benefit provisions of this Trust may be signed by an authorized representative of the Third-Party Administrator responsible for administering the self-funded benefits.

5.10 – Disputes

In the event there shall be any disagreement between the Trustees and the Third-Party Administrator over exercise of powers granted herein, the Trustees shall prevail, and the Third-Party Administrator shall have no liability to any person with respect to such act or omission in the event it shall give notice in writing of its dissent from such act to each Trustee and to the City.

5.11 – Employee Booklet

The benefits to be provided hereunder, whether by self-funding or insurance contract, shall be set forth in an Employee Booklet/Plan Document which explains eligibility rules for coverage for Employees and their eligible dependents.

5.12 – Chairperson and Recording Secretary

The Trustees shall elect from among themselves a Chairperson of the Trustees, who shall preside at all meetings of the Trustees and who shall be empowered to perform ministerial duties of the Trustees as the Trustees may from time-to-time delegate to him/her. The Recording Secretary, shall be a employee from the City of Avondale Human Resources Department, who shall keep minutes of all meetings, proceedings, and acts of the Trustees, which records shall be available for inspection during normal business hours at the Principal Office of the Trust.

5.13 – Meetings

The Trustees shall hold regular meetings at least once each quarter. The Trustees shall determine the time of the regular meetings. Special meetings of the Trustees may be called by the Chairperson or two Trustees. At least seven (7)days' written notice designating the time and place of any regular or special meeting shall be given to the Trustees; however, any meeting at which all Trustees are present, or concerning which all Trustees have waived notice in writing, shall be a valid meeting without the giving of any notice. All meetings shall comply with Title 38, Chapter 3, Article 3.1 of the Arizona Revised Statutes. Trustees may attend meetings via teleconference or other electronic media.

5.14 – Alternate

Any Trustee, or any other person duly authorized in writing by an absent

Trustee, may cast a vote on behalf of such absent Trustee. Any such authorization must be given for each meeting.

5.15 – Voting

To constitute a quorum at any regular or special meeting of the Trustees, there must be present in person, or electronically, of more than one-half the Trustees.

5.16 – Meeting Place

All meetings of the Trustees shall be held at the Principal Office and may be held in person or electronically.

5.17 – Successors

Successor Trustees shall have all the rights, powers and duties of the original Trustees named herein. The Trust shall immediately notify the Third-Party Administrator(s) of the appointment of any successor Trustee.

5.18 – Fiscal Year and Audit

The accounting year of the Fund shall be on a fiscal year basis, commencing on the first day of July, and ending on the last day of June of the following year. Any report required by law shall be made by the Trustees. The Trustees shall have an annual audit and accounting of the Trust Fund conducted by an independent Certified Public Accountant in accordance with Generally Accepted Accounting Principles (GAAP), at the end of each fiscal year. The CPA shall issue a report consistent with the auditors' responsibility with respect to financial statement review and annual audits. A statement of the results of each audit shall be available for inspection by authorized persons at the Principal Office of the Trust and in the City office for a period of not less than five (5) years. Copies of the audit and generalized statements of the accounting and reports shall be delivered to each Trustee after each audit or at other times when necessary.

5.19 – Rules and Regulations

The Trustees shall have the power to adopt rules and regulations for the administration of the Fund and/or Trust, which shall be consistent with the covenants, terms, conditions, obligations, and duties set forth in this Trust Agreement, and such rules and regulations shall be binding upon all persons dealing with the Fund and upon any and all persons claiming any benefits hereunder.

5.20 – Trust Bonds

The Trustees may procure fidelity bonds for the Trust, each Trustee and

persons authorized to receive, handle, deal with or draw upon the monies in the Fund for any purpose whatsoever, said bonds to be in such amount to reasonably aid in reimbursing bondable loss of money, and in any event shall meet the requirements of applicable federal and state law. Such bonds shall be obtained from a reputable fidelity or surety company or companies as the Trustees shall determine. If convenient, and in conformity with applicable law, such bonds may be position bonds. The cost of the premiums on such bonds may be paid out of the corpus or income of the Fund. If any fidelity or surety company refuses to bond or write a bond for any Trustee, or other persons as described in this section, said Trustee or person shall not serve and shall immediately resign.

ARTICLE VI – CONTRIBUTIONS TO THE FUND

6.01 – City Contributions

In order to effectuate the purpose hereof, the City shall contributeto the Fund monies in an amount determined by the Trustees, subject to approval by the Governing Board, to be necessary to pay for the benefits provided through the Program. The City contributions shall be due and payable consistent with bi-weekly payroll. The City's contributions shall be subject to City budgetary requirements.

6.02 – City Contributions Are Not Wages

The City contributions to be paid into the Fund shall not constitute or be deemed wages due to Employees, nor shall the City contributions in any manner be liable for or subject to the debts, contracts, or liabilities of the City. Neither the City, nor any Employee or beneficiary under the Plan shall have any rights, title, or interest in the Fund, except as otherwise specifically provided herein.

6.03 – Employee Contributions

Employees will be required to contribute to the Fund the amount determined by the Trustees to be appropriate for the benefits to be provided hereunder. All Employee contributions shall be made each pay cycle.

6.04 – Payment in Lieu of Benefits

No Employee shall have any right to receive any part of his/her own or the City's contributions paid to the Employee directly in lieu of benefits.

6.05 – Payroll Deductions

All Employee contributions shall be paid by payroll deductions or by direct payment by the Employee to the City. The City shall remit to the Fund all monies obtained through payroll deductions in a lump sum each pay cycle.

6.06 – Payment

All contributions shall be payable to the name of the Trust and shall be paid in the manner and form determined by the Governing Board.

6.07 – Reports

The City shall make all reports required by the Trustees. The Trustees may have an audit made by an independent Certified Public Accountant of the wage records of the City in connection with contributions and/or reports. Any such audit shall be preceded by thirty (30) days written notice and such audits may be performed no more often than once annually.

6.08 – Irrevocability of Contribution

Subject to the provisions providing for termination of this Trust Agreement in Article XIII, all contributions to the Fund shall be irrevocable, and under no circumstances shall any monies properly paid into the Fund, or any part of the Fund, be recoverable by or payable to the City or any Employee,nor shall any of the same be used for or diverted to purposes other than for the exclusive program of benefits for Employees and beneficiaries provided hereunder. The Fund shall not lapse at the close of the City's fiscal year, except that any cash balance remaining after the termination of the Trust and settlement of all outstanding claims shall be used for any legal purpose as determined by the City.

ARTICLE VII - PAYMENT OF BENEFITS

7.01 – Method of Payment

The Trustees shall arrange for payment of Program benefits through appropriately licensed vendor(s) appointed by the Trustees under Section 3.01g.

7.02 – Protection of Employees

Prior to payment of benefits to an Employee or his/her beneficiary, all assets of the Trust shall be owned by the Trust and shall not be liable in any way for any debt or obligation of any Employee or the City. To the extent permitted by law, all Trust benefits subject to the Trust's possession and control at any time shall be exempt from attachment, garnishment, levy of execution, bankruptcy proceedings, or other legal process, but, in any event, any such assets shall be subject to such process only to the extent of such Employee's benefits hereunder as they fall due.

7.03 – Claim to Benefits

No Employee or other beneficiary shall have any right or claim to benefits under the Health and Welfare Plan except as specified in the policy or policies or contract or contracts or self-funded benefits procured or entered into pursuant to Articles II and III herein. Any disputes as to eligibility time, amount, or duration of benefits shall be resolved by the appropriate insurance carrier or Third-Party Administrator, under and pursuant to the policy or contract, and the Employees or other beneficiary shall not have any right or claim with respect to such determination against the Trust. In the case of self-funded benefits in the Program, any dispute as to eligibility, type, amount, time, or duration of such benefits shall be decided by the Third Party Administrator , and all disputes shall be finally settled pursuant to Article VIII of this Agreement.

7.04 – Failure to Pay Benefits

Neither the City nor the Trustees, in their individual capacities, shall be liable for the failure or omission, for any reason, to pay any benefits under the Health and Welfare Plan. If for any reason, including, but not limited to, epidemics, catastrophes, or normal depletion, the Trustees determine that self-insured funds are insufficient to pay the current claims, the amount of benefits payable to an Employee or dependent person shall, in all events, be limited to the extent that sufficient self-insured funds are available for the payment of all such claims, and in such event, benefit payments to Employees or dependents shall be limited to the extent that sufficient funds are available from the Trust Fund and shall be paid in the order received pursuant to Section 5.03. If any controversy or dispute exists concerning such matters, all disputes or controversies shall be settled by the dispute provision contained in Article VIII of this Agreement.

ARTICLE VIII – CONTROVERSIES AND DISPUTES

8.01 – Disputes

The Trustees shall have the power to construe, interpret and apply the provisions of this Agreement and any amendments, rules or regulations adopted in accordance herewith, and the terms used herein, and any construction, interpretation or application thereof adopted in good faith, shall be final and binding upon the Employees and their respective families, dependents, successors, assigns, executors, administrators, and/or legal representatives.

8.02 – Benefits Claims Settlement

The Trustees, or their contracted designee, may, compromise or settle any disputed benefits claim or benefits claim controversy. However, the Trustees, or their designee, shall not approve an appeal to compromise or settle a disputed claim or controversy for a benefit that is not covered in the policy, plan, or program (*i.e.,* weight loss surgery, cosmetic surgery, etc.). Any

decision made by the Trustees or their designee in compromise or settlement of a disputed benefits claim or benefits claim controversy, or any other compromise or settlement agreement entered into by the Trustees, shall be conclusive and binding upon all persons with an interest in the Trust and the Trust Fund.

ARTICLE IX – RESPONSIBILITY

The Trustees shall only be responsible for monies after such monies are received from the City and Employees in accordance herewith. The Trustees or Successor Trustees shall only be responsible for any liability arising from their respective gross negligence, bad faith, or willful misconduct in handling of the monies actually received in hand by them for execution and administration of the terms of the Trust and the Fund. The Trustees and Successors shall not be responsible for the actions or omissions of their Co-Trustees or Successors, nor for the actions or omissions of other agents, nor for any of the actions or omissions of any insurance company or its agents, servants, or representatives, including, but not limited to non-payment of claims by an insurance company or companies for any reason. No Trustee or Successor Trustee shall be entitled to any indemnification, court costs or attorney's fees for any liability arising from his/her own willful misconduct, bad faith, or gross negligence.

ARTICLE X – POWER TO AMEND

It is anticipated that in the administration of this Trust, conditions may arise that are not foreseen at the time of execution of this Trust Agreement, and it is the intention of the Trustees, and each and every party or person to this Trust Agreement that the power of amendment which is herein granted be exercised in order to carry out the spirit, object and purposes of this Trust. Therefore, the general power is granted by all parties to this Trust Agreement to the Trustees to amend this Trust Agreement by two-thirds vote of all Trustees, the recommendation of the City Manager, and approval of the City Governing Board. All parties to the Trust and all persons claiming any interest hereunder are and shall be bound thereby. Any such amendment shall be signed by each Trustee or his/her Successor Trustee.

The City Governing Board reserves the right to alter or amend this Trust and the terms under which it exists at any time by a memorandum in writing to the Trust Board.

ARTICLE XI – PARTICIPANTS' RIGHTS

Except as specifically provided for in this Trust Agreement or in the benefit plans administered in accordance therewith, no Employee, or his/her participating dependent or any beneficiary thereof shall have any right, title, or interest in or to the Trust Fund, or in or to the contributions or in or to the benefits provided hereunder. No Employee or participating defendant or beneficiary thereof shall be entitled to receive any part of the contributions in lieu of the benefits provided

through a benefit plan, nor shall a participant who does not qualify for benefits have any claim to the contributions which may have been paid on his/her behalf.

a. No benefit, right or interest, if any, of the foregoing, is transferable or assignable by the Employee to another Employee or person, corporate or otherwise, except to physicians, hospitals, and any other person(s) or institution(s) furnishing medical services within the terms of this Trust Agreement.

b. No monies, property, or equity, of whatsoever nature, in the Fund, nor insurance policies or benefits or monies payable there from, nor investments, nor deposits nor any part or portion of the Fund, shall be subject in any manner by any Employee, or person claiming through such Employee, to ownership, anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, garnishment, attachment, execution, mortgage, lien or charge of whatsoever nature or kind, and any attempt to cause the same is and shall be null and void.

ARTICLE XII – PROVISIONS RELATING TO INSURANCE-RELATED COMPANY

No insurance-related company that may issue any policies or contracts for the purpose of fulfilling the terms of this Agreement shall be deemed to be a party to this Trust Agreement, nor shall it be responsible for the validity of this Trust Agreement, nor is this Trust Agreement in any manner for the benefit of any insurance company or companies. No insurance-related company shall be required to look into the terms of this Agreement, or to question the authority of or action of the Trustees, or be responsible to verify that any action of the Trustees is authorized by the terms of this Agreement.

ARTICLE XIII - TERMINATION OF TRUST

13.01 – Termination on Recommendation of Trustees

Upon the recommendation of the Trustees, the City's Governing Board may terminate this Trust at any time by an instrument in writing executed by the City's Governing Board.

13.02 – Termination by the City

Except upon recommendation of the Trustees, which is governed by Paragraph 13.01, above, this Trust may be terminated at any time by the City's Governing Board upon 90 days' written notice to the Trustees by an instrument in writing duly executed by the Governing Board. If the Trust is in a deficit position, including the claims lag determined by the Trustees, the City shall share in the liability of the Trust by a guarantee premium.

13.03 – Notification of Termination

Upon termination of the Trust in accordance herewith, the Trustees, or their designee, shall forthwith notify all Employees and also all other necessary parties; and the Trustees shall continue as Trustees for the purpose of winding up the affairsof the Trust.

13.04 – Continue Until Wound Up

Notwithstanding any provisions herein concerning the duration and termination of this Trust, the Trust shall continue in existence for so long a period as may be necessary to wind up its affairs.

13.05 – Remaining Monies

Upon termination of this Trust, any and all monies remaining in the Fund after the payment of all unpaid claims and/or insurance premiums and other expenses and obligations of the Trust shall be paid or used for any legal purpose as determined by the City, until such monies have been exhausted.

13.06 – Final Accounting

At such time as the Trust is terminated, the Trustees, or their designee shall render a final accounting of the affairs of the Trust and the Trust Fund to the City's Governing Board, and thereafter there shall be no claim or action against the Trustees, and they shall have no further responsibility or duties and shall be discharged.

ARTICLE XIV – MISCELLANEOUS

14.01 – Lawsuits

In the event any suit, action or proceeding is brought against the Trust, Trustees, one or more of the Trustees, or the Fund, in connection with any matter arising out of the administration of the Trust or Fund or in connection with this Trust Agreement or in connection with any action or omission of the Trustees or any one or more of the Trustees, or in the event of any suit, action or proceeding commenced by the Trustees, including but not limited to a request for a judicial settlement of accounts, a suit for construction, a bill of interpleader, or any other matter relating to the Trust, the Trustees shall have the power and authority to employ legal counsel, as recommended by the City Attorney, to represent them or one or more of them in any such suit, action or proceeding. Counsel fees and all other costs shall be paid from the Fund as long as the Trustees have acted in goodfaith and not with gross negligence, bad faith, or willful misconduct, it being the intent to indemnify the Trustees against all honest mistakes in judgment and all acts or omissions that are not deliberate or willful violations of the duties of the Trustees. In addition, the Trustees shall have the right to commence and prosecute such suits, actions or proceedings as seem to themnecessary and proper in order to protect the interest of the Trust and Fund, and, in this connection, the Trustees shall

have the same rights and reimbursements for costs concerning the prosecution of such suits as heretofore described in defending lawsuits.

14.02 – Worker's Compensation

The insurance coverage contemplated by this Trust Agreement shall not apply in any case which is covered under Workers' Compensation Laws.

14.03 – Fiduciary Liability

The fiduciary liability for and funding of all eligible benefits as determined by the Plan Document shall be the sole responsibility of the participating City in the Trust.

14.04 – Situs

The City of Avondale, County of Maricopa, State of Arizona shall be deemed the situs of the Fund created hereunder. All questions pertaining to validity, construction and administration shall be determined in accordance with the laws of such State and County. This Trust Agreement is deemed, made, executed, and delivered in such City, County, and State.

14.05 – Construction

Wherever any words are used in this Trust Agreement in the masculine gender, they shall be construed as though they were also in the feminine or neuter gender in all situations where they would so apply, and wherever any words are used in this Trust Agreement in the singular form, they shall be construed as though they were also used in the plural form in all situations where they would so apply, and wherever any words are used in this Agreement and Declaration of Trust in the plural form, they shall be construed as though they were also used in the singular form in all situations where they would so apply.

14.06 – Severability

Should any provision or term in this Trust Agreement be deemed or held to be unlawful or invalid for any reason, such fact shall not adversely affect the provisions herein contained unless such illegality shall make impossible or impractical the functioning of the Trust; in such case the City shall immediately adopt a new provision to take the place of the illegal or invalid provision.

14.07 – Internal Revenue Code

This Trust Agreement is being entered into and the City contributions are being made upon the condition and understanding of the City that all payments made by the City to this Fund are legally deductible as a business

expense of the City for tax purposes under State and Federal laws, and that the same are not taxable to the Employee as compensation. The parties hereto, individually and collectively, agree to take or cause to be taken any and all steps that may be necessary or advisable in order to obtain and maintain a tax-exempt status for this Trust. If any provisions of this Trust Agreement are held to render contributions by the City into the Trust non-deductible for tax purposes, or taxable to the Employee, or to render income received by the Trust non-exempt from taxation, the necessary steps to remedy such non-deductibility or taxability shall be taken immediately.

ARTICLE XV - STOP LOSS PROVISION

An integral part of the Trust will be a "specific" and "aggregate" stop loss reinsurance for the first year of operation under the self-insured model. The Trust Board, or its designee may discontinue the aggregate level in subsequent years upon review of the annual renewal and any actuarial recommendations from the City's benefits consultant or Third-Party Administrator and the City's Chief Financial Officer. Stop loss coverage will be provided by an authorized carrier licensed to execute contracts in the State of Arizona.

ARTICLE XVI – CAPTIONS

It is understood and agreed that the captioned headings are for convenience only and are not and shall not be a part of this Trust Agreement and in no manner whatsoever define, limit or expand any of the terms, obligations or conditions hereof.

ACCEPTANCE

IN WITNESS HEREOF, the City's Governing Board members and the Trustees have affixed their signatures as of the day and year first above written.

GOVERNING BOARD MEMBERS OF CITY AND TRUSTEES OF CITY EMPLOYEE BENEFIT TRUST ACCEPTANCE.

The undersigned hereby accepts the foregoing Trust Agreement and Declaration of Trust and agrees to be bound by the provisions thereof.

CITY GOVERNING BOARD

Date for all seven (7) signatures

_____

_____

TRUSTEES OF CITY EMPLOYEE BENEFIT TRUST

_____ _____

_____ _____

_____ _____

Date for all five (5) signatures

EXHIBIT A

City Employee Benefit Trust Self-Funded Preferred Provider Medical Plan

- Self-Funded Medical Plan
- Pharmacy Benefits
- Provider Network
- Stop Loss Insurance

Item Number: 4.c.

CITY COUNCIL REPORT

SUBJECT: Resolutions 1021-0420 and 1022-0420 - Roosevelt Park II Phase 3 Maintenance Improvement District

MEETING DATE: 4/19/2021

TO: Mayor and Council

FROM: Kevin Murphy, Director of Development and Engineering Services, (623) 333-4011

THROUGH: Tracy Stevens, Deputy City Manager, (623) 333-1014

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

- Creative and Sustainable Community Development - Avondale is committed to creating a sense of place, a community of residents and local businesses unified by pride and common values.

This agenda item supports the following strategies:

- Develop diverse housing options, to include housing that is affordable to workers and close to their jobs
- Maintain and expand quality infrastructure and improve connectivity to city amenities

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PURPOSE:

City Council will consider a request to approve the Petition for Formation, to adopt Resolution 1021-0420 declaring its intention to form the City of Avondale Maintenance Improvement District No. 23, Roosevelt Park II Phase 3, providing for the assessment, and adopt a second Resolution 1022-0420 declaring its intention to order the improvements within the newly established maintenance improvement district, providing for the assessment and declaring an emergency and authorizing the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. Council will take appropriate action.

BACKGROUND:

Under provisions of the City Code and Zoning Ordinance, developers are responsible for landscaping development projects prior to issuance of a Certificate of Occupancy. In particular, subdivisions are required to provide landscaping along certain arterial and collector streets and in other locations as provided in the zoning requirements, approval conditions, engineering requests or subdivision requirements. In addition, developers are often required to provide paths, trails, and other usable amenities in common open space areas within a community.

The purpose of the Maintenance Improvement District (MID) is to provide for the operations, maintenance, repair and improvements to landscaping and open space adjacent to designated public roadways and parkways within the proposed district, private streets within the proposed district, as well as drainage and retention within each proposed district in the event a Homeowner's Association fails. Until such time as the Homeowner's Association fails, and the Council directs City Staff to assume maintenance responsibility, a line item of $0.00 will display on the homeowners' property tax bills. Pursuant to the provision of A.R.S. 48-574, et. seq., the Mayor and Council are empowered to adopt a Resolution ordering the formation of a Maintenance Improvement District.

A Resolution of Intention for formation of City of Avondale Maintenance Improvement District No. 23, Roosevelt Park II Phase 3, approximately 1,300 feet north of the northeast corner of Van Buren Street and 111th Avenue, on the east side of 111th Avenue, is attached. In the case in which all of the property owners have consented to MID formation, the ordinary publication and protest period are not required by law; the Council may then adopt a Resolution ordering the improvements when necessary once the Resolution of Intention is first adopted. The Resolution ordering the improvements finalizes the formation of the Maintenance Improvement District process. In accordance with State statute, an assessment diagram and map, listing each parcel of property within the district has been prepared.

PUBLIC PARTICIPATION:
Public notification is not required for MID applications.

PLANNING COMMISSION ACTION:
The Planning Commission does not review MID applications.

ANALYSIS:
The acceptance of this Maintenance Improvement District will allow any additional charges associated with the maintenance responsibilities, should the Homeowner's Association fail, to be assessed on the property tax bill for the properties located within the District.

The Maintenance Improvement District has been approved through the Development and Engineering Services Department, which recommends that City Council formally approve the Maintenance Improvement District to allow for the taxing district to be recorded and in place in the event the Homeowner's Association fails.

It should be noted that not approving the Maintenance Improvement District will prevent any charges from being assessed on the property tax bills for those properties located within the District in the event that the Homeowner's Association fails.

DISCUSSION:
The proposed MID has been reviewed by the City Attorney and is in conformance with the City of Avondale's Subdivision Regulations and State statute governing Maintenance Improvement District formation.

BUDGET IMPACT:
There is no direct budgetary impact to the City to approve the Maintenance Improvement District. However, the City would incur the additional charges associated with the maintenance responsibilities should the taxing district not be approved and recorded, and the Homeowner's Association fails.

RECOMMENDATION:
Staff recommends Council **ADOPT** a Resolution declaring its intention to create and adopt plans for the City of Avondale Maintenance Improvement District No. 23, Roosevelt Park II Phase 3, providing for the

assessment, and a second Resolution declaring its intention to order the improvements within the newly established Maintenance Improvement District, providing for the assessment and declaring an emergency, subject to the following conditions:

1. The final plat for the subdivision must be approved by City Council and recorded with the Maricopa County Recorder's Office prior to recordation of the Maintenance Improvement District; and

2. The developer must provide a fully executed Petition, Waiver and Consent to Formation of a Municipal Improvement District.

PROPOSED MOTION:
I move that City Council **ADOPT** the necessary resolutions approving City of Avondale Maintenance Improvement District No. 23, Roosevelt Park II Phase 3, subject to two (2) recommended conditions of approval as listed in the staff report.

RESOLUTION NO. 1021-0421

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, DECLARING ITS INTENTION TO CREATE AN IMPROVEMENT DISTRICT TO MAINTAIN LANDSCAPING INCLUDED WITHIN, NEAR AND ADJACENT TO A PARKWAY AND RELATED FACILITIES TOGETHER WITH APPURTENANT STRUCTURES AS SHOWN ON THE PLANS, FOR MAINTENANCE WITHIN AN AREA IN THE CITY OF AVONDALE AS DESCRIBED HEREIN; ADOPTING PLANS FOR CITY OF AVONDALE MAINTENANCE IMPROVEMENT DISTRICT NO. 23 – ROOSEVELT PARK PHASE III, AS MORE PARTICULARLY DESCRIBED HEREIN, AND DECLARING THE WORK OR IMPROVEMENT TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT, AND THAT THE COST OF SAID WORK OR IMPROVEMENT SHALL BE ASSESSED UPON A CERTAIN DISTRICT; PROVIDING THAT THE PROPOSED WORK OR IMPROVEMENT SHALL BE PERFORMED UNDER ARIZONA REVISED STATUTES TITLE 48, CHAPTER 4, ARTICLE 2, AND AMENDMENTS THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Avondale (the "City") has been presented with a Petition for Formation of a Maintenance Improvement District purporting to be signed by all of the real property owners within the proposed district and, according to ARIZ. REV. STAT. § 48-574(C), the City finds that such ownership has been verified; and

WHEREAS, the Council of the City of Avondale (the "City Council") desires to declare its intent to form the City of Avondale Maintenance Improvement District No. 23 – Roosevelt Park Phase III (the "Assessment District") over the area described and depicted on Exhibit A, attached hereto and incorporated herein by reference and including those lots, pieces or parcels of land lying within the Assessment District as shown in more detail on the duplicate diagrams made by or at the direction of the City Engineer showing each separate lot numbered consecutively, the area in square feet of each lot, the area of any building or buildings located on each lot, and the location of the lot in relation to the work proposed to be done (the "Assessment Diagram") attached hereto as a part of Exhibit A and incorporated herein by reference; and

WHEREAS, the City Council declares that the maintenance of the landscaping included within, near and adjacent to a parkway and related facilities in the Assessment District to be of more than local or ordinary public benefit, and further that the cost of said maintenance shall be assessed on the Assessment District; and

WHEREAS, the City Council declares that the maintenance of landscaping included within, near, and adjacent to a parkway and related facilities in the Assessment District is incidental to the maintenance and preservation of the parkway and related facilities, has aesthetic value, and maintains and increases the value of property within the Assessment District; and

WHEREAS, the City Council declares that the maintenance of landscaping included within and adjacent to a parkway and related facilities preserves and promotes the health, safety, and welfare of those citizens of the City living within the Assessment District as well as preservation of the streets and parkways which may be adversely impacted by drainage and other water formations; and

WHEREAS, the City Council declares that the maintenance of a landscaped buffer between a parkway and the adjacent developments reduces the visual and other impact of light, air and noise pollution and tends to increase personal and vehicular safety on the parkway and decreases the likelihood vehicular accidents will harm adjacent developments in furtherance of the health, safety and welfare of those citizens of the City living within the Assessment District; and

WHEREAS, the City Council declares that maintenance of landscaped drainage and other water control facilities and features within, near or adjacent to a parkway and related facilities tends to preserve the structural integrity of the parkway and mitigates flooding of adjacent areas and the parkway by draining water to and from the parkway in furtherance of the health, safety and welfare of those citizens of the City living within the Assessment District.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The public interest or convenience requires, and it is the intention of the Mayor and Council of the City of Avondale, Arizona, to order the following work (hereinafter the "Work") to be performed: The maintenance of all landscaping, including replacement of landscape materials, within the Assessment District in the areas shown on the Assessment Diagram.

SECTION 3. The City Council designates as parkways those streets and rights-of-way areas set forth on the Assessment Diagram in accordance with Title 48, Chapter 4, Article 2, Arizona Revised Statutes, and specifically including those portions of pedestrian facilities, retention, detention and storm water management facilities included within or adjacent to the Assessment District. The public interest and convenience require, and it is the intention of the City Council to order the Work adjacent to the designated parkways to be performed as stated herein. All items of the Work shall be performed as prescribed by the plans showing the engineer's estimate for the City of Avondale Maintenance Improvement District No. 23 – Roosevelt Park Phase III, filed with the City Clerk prior to the adoption of this Resolution (the "Plans and Specifications"), which are hereby approved and adopted by the City Council and which shall remain on file in the Office of the City Engineer; no assessment for any lot shall exceed its proportion of the estimate. The estimate of the cost and expenses of the work or improvements on file in the offices of the Superintendent of Streets (the City Engineer) and the City Clerk are hereby approved and adopted by the City Council. In addition to the requirements of law, the procedures set forth in

the City Code will be followed regarding acceptance of bids and setting tax levies. For purposes of this Resolution and of all resolutions, ordinances and notices pertaining to this Resolution, the improvement as herein described is hereby designated City of Avondale Maintenance Improvement District No. 23 – Roosevelt Park Phase III.

SECTION 4. In the opinion of the City Council, the Work is of more than local or ordinary public benefit. The City Council hereby orders that all amounts due or to become due with respect to the Work shall be chargeable upon the respective lots, pieces and parcels of land within the Assessment District.

SECTION 5. The City Engineer is hereby authorized and directed to prepare duplicate Assessment Diagrams of the property contained within the Assessment District.

SECTION 6. Any public street or alley within the boundaries of the Assessment District is hereby omitted from the assessment hereafter to be made. Any lot belonging to the United States, the State, a county, city, school district or any political subdivision or institution of the State or county, which is included within the Assessment District shall be omitted from the assessment hereafter made.

SECTION 7. In no event will the City or any officer thereof be liable for any portion of the cost of said Assessment District or for any delinquency of persons or property assessed.

SECTION 8. The City Council shall make annual statements and estimates of the expenses of the Assessment District which shall be provided for by the levy and collection of ad valorem taxes upon the assessed value of all real and personal property in the Assessment District as provided in ARIZ. REV. STAT. § 48-574 and amendments thereto.

SECTION 9. The Work and all proceedings pertaining thereto shall be performed under the provisions of ARIZ. REV. STAT. § 48-574, and all amendments thereto and pursuant to Article I, Section 3 and Article XII, Section 8 of the Avondale City Charter.

SECTION 10. The City Engineer is hereby authorized to fill in any blanks and to make any minor corrections necessary to complete the Plans and Specifications.

SECTION 11. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to execute and submit all documents and any other necessary or desirable instruments and to take all steps necessary to carry out the purpose and intent of this Resolution.

SECTION 12. The immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety and an emergency is declared to exist, and this Resolution will be in full force and effect from and after its passage and approval by the City Council as required by law and is exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, April 19, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 1021-0421

[Legal Description of Assessment District and Assessment Diagram]

See following pages.

Legal Description
for
ROOSEVELT PARK PHASE 3
MAINTENANCE IMPROVEMENT DISTRICT (MID)

Job No. 17-414 February 18, 2021

A portion of the Southeast Quarter of Section 6, Township 1 North, Range 1 East of the Gila and Salt River Meridian, more particularly described as follows:

COMMENCING at the East Quarter Corner of said Section 6, being marked by a Maricopa County Department of Transportation brass cap in handhole, from which the Center Quarter Corner of said Section 6, being marked by a rebar with cap stamped "LS 31020", bears South 88 degrees 59 minutes 18 seconds West, 2628.26 feet;

thence along the North line of a Right of Way described in Document No. 2014-0188072, Maricopa County Record, and the North line of said Southeast Quarter, South 88 degrees 59 minutes 18 seconds West, 140.02 feet to the POINT OF BEGINNING;

thence along a line 140.00 feet West of and parallel with the East line of said Southeast Quarter, South 0 degrees 02 minutes 16 seconds West, 90.02 feet;

thence along a line 90.00 feet South of and parallel with the North line of said Southeast Quarter, South 88 degrees 59 minutes 18 seconds West, 1071.82 feet;

thence along the West boundary of that parcel described in Document No. 2020-0371295 of Maricopa County Records, South 1 degrees 00 minutes 42 seconds East, 1009.00 feet;

thence along the Northerly boundary of that final plat of 'Roosevelt Park – Phase 1' recorded in Book 1444, Page 4 of Maricopa County Records, South 88 degrees 59 minutes 18 seconds West, 244.20 feet;

thence continuing along said Northerly boundary, South 1 degrees 00 minutes 42 seconds East, 37.58 feet to the beginning of a curve, concave Northeast, having a radius of 45.00 feet;

thence continuing along said Northerly boundary, Southeasterly 13.04 feet along the arc of said curve to the left through a central angle of 16 degrees 35 minutes 52 seconds to a point of reverse curvature of a curve, concave Northwest, having a radius of 51.00 feet;

thence continuing along said Northerly boundary, Southwesterly 110.18 feet along the arc of said curve to the right through a central angle of 123 degrees 46 minutes 51 seconds;

SEE EXHIBIT "A"

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thence continuing along said Northerly boundary, on a non-tangent line South 1 degrees 00 minutes 42 seconds East, 99.27 feet;

thence continuing along said Northerly boundary, South 88 degrees 59 minutes 18 seconds West, 50.00 feet;

thence continuing along said Northerly boundary, North 1 degrees 00 minutes 42 seconds West, 4.00 feet;

thence continuing along said Northerly boundary, South 88 degrees 58 minutes 55 seconds West, 20.00 feet;

thence continuing along said Northerly boundary, South 0 degrees 54 minutes 53 seconds East, 26.71 feet;

thence along the Northerly boundary of that final plat of 'Roosevelt Park Unit II Phase 2' recorded in Book 1528, Page 22 of Maricopa County Records, South 89 degrees 05 minutes 04 seconds West, 90.00 feet;

thence continuing along said Northerly boundary, South 0 degrees 54 minutes 56 seconds East, 4.00 feet;

thence continuing along said Northerly boundary, South 89 degrees 05 minutes 04 seconds West, 589.73 feet;

thence continuing along said Northerly boundary, North 1 degrees 00 minutes 42 seconds West, 126.57 feet;

thence continuing along said Northerly boundary, South 88 degrees 59 minutes 18 seconds West, 148.88 feet to the beginning of a curve, concave Southeast, having a radius of 15.00 feet;

thence continuing along said Northerly boundary, Southwesterly 23.56 feet along the arc of said curve to the left through a central angle of 90 degrees 00 minutes 00 seconds;

thence continuing along said Northerly boundary, South 1 degrees 00 minutes 42 seconds East, 76.15 feet to the beginning of a curve, concave Westerly, having a radius of 519.00 feet;

thence continuing along said Northerly boundary, Southerly 69.20 feet along the arc of said curve to the right through a central angle of 7 degrees 38 minutes 23 seconds to a point of reverse curvature of a curve having a radius of 481.00 feet;

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thence continuing along said Northerly boundary, Southerly 42.89 feet along the arc of said curve to the left through a central angle of 5 degrees 06 minutes 34 seconds;

thence continuing along said Northerly boundary, on a non-tangent line North 88 degrees 28 minutes 53 seconds West, 38.00 feet to the beginning of a non-tangent curve, concave Easterly, from which the radius point bears South 88 degrees 28 minutes 53 seconds East a distance of 519.00 feet;

thence continuing along said Northerly boundary, Southerly 7.92 feet along the arc of said curve to the left through a central angle of 0 degrees 52 minutes 29 seconds to a point of reverse curvature of a curve having a radius of 15.00 feet;

thence continuing along said Northerly boundary, Southwesterly 22.20 feet along the arc of said curve to the right through a central angle of 84 degrees 48 minutes 50 seconds to a point of reverse curvature of a curve having a radius of 219.00 feet;

thence continuing along said Northerly boundary, Southwesterly 24.33 feet along the arc of said curve to the left through a central angle of 6 degrees 21 minutes 54 seconds to a point of reverse curvature of a curve having a radius of 181.00 feet;

thence continuing along said Northerly boundary, Southwesterly 33.57 feet along the arc of said curve to the right through a central angle of 10 degrees 37 minutes 41 seconds;

thence continuing along said Northerly boundary, South 89 degrees 43 minutes 15 seconds West, 54.95 feet;

thence along a line 40.00 feet East of and parallel with the West line of said Southeast Quarter, North 0 degrees 16 minutes 45 seconds West, 600.25 feet;

thence along the Southeasterly boundary of that Parcel described in Document No. 2007-0099665 of Maricopa County Records, North 89 degrees 43 minutes 15 seconds East, 55.00 feet to the beginning of a curve, concave Northwest, having a radius of 540.00 feet;

thence continuing along said Southeasterly boundary, Northeasterly 485.50 feet along the arc of said curve to the left through a central angle of 51 degrees 30 minutes 49 seconds;

thence continuing along said Southeasterly boundary, North 38 degrees 12 minutes 26 seconds East, 557.98 feet to the beginning of a curve, concave Southeast, having a radius of 460.00 feet;

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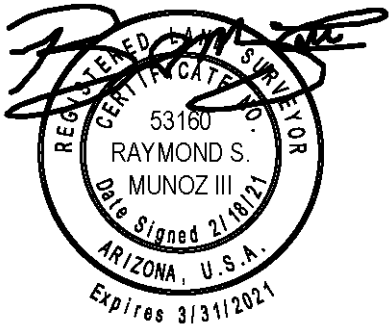
thence continuing along said Southeasterly boundary, Northeasterly 407.70 feet along the arc of said curve to the right through a central angle of 50 degrees 46 minutes 52 seconds;

thence along a line 40.00 feet South of and parallel with the North line of said Southeast Quarter, North 88 degrees 59 minutes 18 seconds East, 41.49 feet;

thence along the West line of a Right of Way described in Document No. 2014-0188072, Maricopa County Record, North 1 degrees 00 minutes 42 seconds West, 40.00 feet;

thence along the North line of said Right of Way and the North line of said Southeast Quarter, North 88 degrees 59 minutes 18 seconds East, 1228.05 feet to the POINT OF BEGINNING.

Contains 1,315,974 square feet or 30.2106 acres, more or less.



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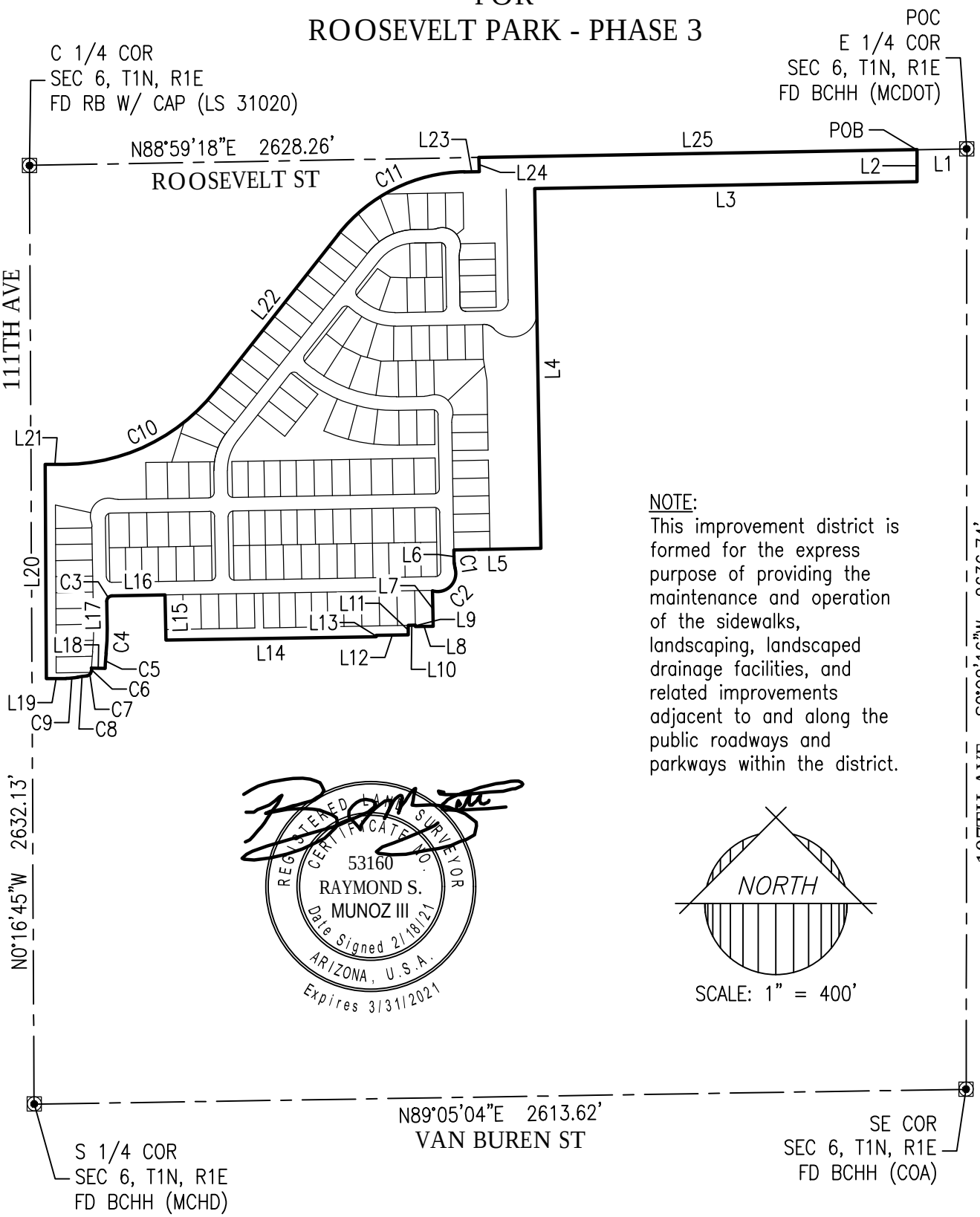
MAINTENANCE IMPROVEMENT DISTRICT ASSESSMENT DIAGRAM
FOR
ROOSEVELT PARK - PHASE 3



NOTE:
This improvement district is formed for the express purpose of providing the maintenance and operation of the sidewalks, landscaping, landscaped drainage facilities, and related improvements adjacent to and along the public roadways and parkways within the district.

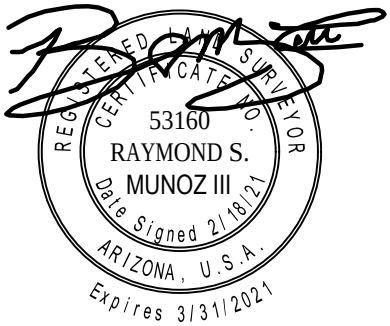
SCALE: 1" = 400'

17-414	EXHIBIT "A" - ROOSEVELT PARK - PHASE 3	EPS GROUP 1130 N Alma School Rd Ste 120 Mesa, AZ 85201 T:480.503.2250 | F:480.503.2258 www.epsgroupinc.com
	MAINTENANCE IMPROVEMENT DISTRICT (MID)	

Feb 18, 2021 4:55pm Q:\Projects\2017\17-414\Legal Survey\Dwgs\Final Plats\Phase 3\17-414 - Phase 3 - Legal Description - MID.dwg

LINE TABLE		
LINE	BEARING	LENGTH
L1	S88°59'18"W	140.02'
L2	S00°02'16"W	90.02'
L3	S88°59'18"W	1071.82'
L4	S01°00'42"E	1009.00'
L5	S88°59'18"W	244.20'
L6	S01°00'42"E	37.58'
L7	S01°00'42"E	99.27'
L8	S88°59'18"W	50.00'
L9	N01°00'42"W	4.00'
L10	S88°58'55"W	20.00'
L11	S00°54'53"E	26.71'
L12	S89°05'04"W	90.00'
L13	S00°54'56"E	4.00'

LINE TABLE		
LINE	BEARING	LENGTH
L14	S89°05'04"W	589.73'
L15	N01°00'42"W	126.57'
L16	S88°59'18"W	148.88'
L17	S01°00'42"E	76.15'
L18	N88°28'53"W	38.00'
L19	S89°43'15"W	54.95'
L20	N00°16'45"W	600.25'
L21	N89°43'15"E	55.00'
L22	N38°12'26"E	557.98'
L23	N88°59'18"E	41.49'
L24	N01°00'42"W	40.00'
L25	N88°59'18"E	1228.05'



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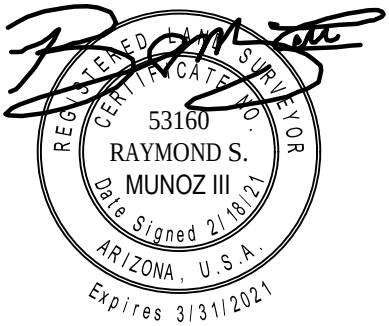
CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD	CHORD BRG
C1	13.04'	45.00'	16°35'52"	6.56'	12.99'	S09°18'38"E
C2	110.18'	51.00'	123°46'51"	95.48'	89.97'	S44°16'52"W
C3	23.56'	15.00'	90°00'00"	15.00'	21.21'	S43°59'18"W
C4	69.20'	519.00'	7°38'23"	34.65'	69.15'	S02°48'30"W
C5	42.89'	481.00'	5°06'34"	21.46'	42.88'	S04°04'24"W
C6	7.92'	519.00'	0°52'29"	3.96'	7.92'	S01°04'53"W
C7	22.20'	15.00'	84°48'50"	13.70'	20.23'	S43°03'03"W
C8	24.33'	219.00'	6°21'54"	12.18'	24.32'	S82°16'31"W
C9	33.57'	181.00'	10°37'41"	16.84'	33.53'	S84°24'25"W
C10	485.50'	540.00'	51°30'49"	260.54'	469.32'	N63°57'51"E
C11	407.70'	460.00'	50°46'52"	218.33'	394.48'	N63°35'52"E



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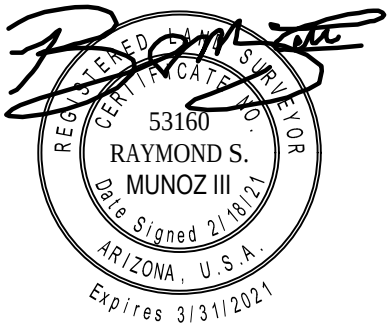
Feb 18, 2021 4:55pm Q:\Projects\2017\17-414\Legal Survey\Dwgs\Final Plats\Phase 3\17-414 - Phase 3 - Legal Description - MID.dwg

LOT AREA TABLE		
LOT #	AREA (SF)	AREA (AC)
1	4,544	0.1043
2	4,545	0.1043
3	4,545	0.1043
4	4,469	0.1026
5	4,364	0.1002
6	4,361	0.1001
7	5,911	0.1357
8	6,179	0.1419
9	4,850	0.1113
10	4,849	0.1113
11	4,850	0.1113
12	4,850	0.1113
13	4,850	0.1113
14	4,850	0.1113
15	4,943	0.1135
16	6,026	0.1383
17	6,017	0.1381

LOT AREA TABLE		
LOT #	AREA (SF)	AREA (AC)
18	5,307	0.1218
19	5,332	0.1224
20	4,955	0.1137
21	5,332	0.1224
22	6,679	0.1533
23	6,397	0.1468
24	5,842	0.1341
25	4,850	0.1113
26	4,850	0.1113
27	4,850	0.1114
28	4,851	0.1114
29	4,851	0.1114
30	4,851	0.1114
31	4,851	0.1114
32	4,852	0.1114
33	4,852	0.1114
34	4,852	0.1114

LOT AREA TABLE		
LOT #	AREA (SF)	AREA (AC)
35	4,852	0.1114
36	4,864	0.1117
37	4,683	0.1075
38	6,273	0.1440
39	7,067	0.1622
40	6,135	0.1409
41	6,114	0.1404
42	6,091	0.1398
43	4,850	0.1113
44	4,850	0.1113
45	4,849	0.1113
46	6,331	0.1453
47	6,780	0.1556
48	6,761	0.1552
49	5,588	0.1283
50	5,050	0.1159
51	4,995	0.1147



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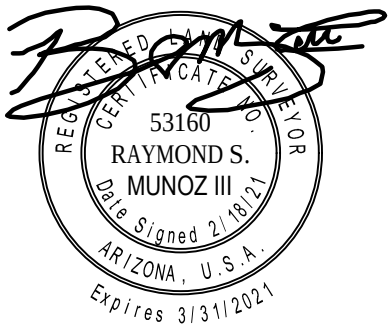
LOT AREA TABLE		
LOT #	AREA (SF)	AREA (AC)
52	10,825	0.2485
53	9,450	0.2170
54	5,020	0.1152
55	5,050	0.1159
56	4,880	0.1120
57	4,882	0.1121
58	6,361	0.1460
59	6,412	0.1472
60	6,412	0.1472
61	4,545	0.1043
62	4,545	0.1043
63	4,545	0.1043
64	4,545	0.1043
65	5,050	0.1159
66	5,050	0.1159
67	5,050	0.1159
68	6,060	0.1391

LOT AREA TABLE		
LOT #	AREA (SF)	AREA (AC)
69	6,060	0.1391
70	6,060	0.1391
71	6,059	0.1391
72	5,050	0.1159
73	5,050	0.1159
74	5,050	0.1159
75	5,050	0.1159
76	5,050	0.1159
77	5,819	0.1336
78	5,820	0.1336
79	5,820	0.1336
80	5,820	0.1336
81	4,850	0.1113
82	4,850	0.1113
83	4,850	0.1113
84	4,365	0.1002
85	4,365	0.1002

LOT AREA TABLE		
LOT #	AREA (SF)	AREA (AC)
86	4,365	0.1002
87	4,365	0.1002
88	5,819	0.1336
89	5,820	0.1336
90	5,820	0.1336
91	4,850	0.1113
92	5,479	0.1258
93	4,364	0.1002
94	4,365	0.1002
95	4,511	0.1035
96	4,850	0.1113
97	4,850	0.1113
98	4,849	0.1113
99	4,365	0.1002
100	4,365	0.1002
101	4,850	0.1113
102	4,850	0.1113



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LOT AREA TABLE		
LOT #	AREA (SF)	AREA (AC)
103	4,850	0.1113
104	4,850	0.1113
105	4,850	0.1113
106	4,850	0.1113
107	4,365	0.1002
108	4,365	0.1002
109	4,365	0.1002
110	4,364	0.1002
111	5,043	0.1158
112	4,850	0.1113
113	4,850	0.1113
114	4,850	0.1113
115	4,850	0.1113
116	4,365	0.1002
117	4,365	0.1002
118	4,365	0.1002
119	4,365	0.1002

LOT AREA TABLE		
LOT #	AREA (SF)	AREA (AC)
120	4,365	0.1002
121	4,850	0.1113
122	4,850	0.1113
123	4,850	0.1113
124	4,850	0.1113
125	4,850	0.1113
126	4,466	0.1025
127	4,638	0.1065
128	4,747	0.1090
129	4,732	0.1086
130	4,707	0.1080
131	4,681	0.1075
132	4,655	0.1069
133	4,629	0.1063
134	4,603	0.1057
135	5,374	0.1234

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TRACT AREA TABLE		
TRACT	AREA (SF)	AREA (AC)
Tract A	56,012	1.2859
Tract B	1,846	0.0424
Tract C	1,846	0.0424
Tract D	2,469	0.0567
Tract E	22,533	0.5173
Tract F	1,846	0.0424
Tract G	91,174	2.0931
Tract H	49,747	1.1420
Tract I	983	0.0226
Tract J	1,886	0.0433
Tract K	7,586	0.1741
Tract L	1,846	0.0424
Tract M	36,758	0.8439
Tract N	233,492	5.3602

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RESOLUTION NO. 1022-0421

RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA DECLARING ITS INTENTION TO ORDER THE IMPROVEMENTS OF A CERTAIN AREA WITHIN THE CORPORATE LIMITS OF THE CITY AND CREATING AN IMPROVEMENT DISTRICT KNOWN AS THE CITY OF AVONDALE MAINTENANCE IMPROVEMENT DISTRICT NO. 23, ROOSEVELT PARK PHASE III; PROVIDING THAT THE COST OF THE MAINTENANCE OF THE LANDSCAPING INCLUDED WITHIN, NEAR, AND ADJACENT TO A PARKWAY AND RELATED FACILITIES TOGETHER WITH APPURTENANT STRUCTURES AS SHOWN ON THE PLANS, SHALL BE ASSESSED UNDER THE PROVISIONS OF TITLE 48, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, AS AMENDED; AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of Avondale (the "City Council") has adopted Resolution No. 1021-0421 declaring its intent to form the City of Avondale Maintenance Improvement District No. 23 – Roosevelt Park Phase III; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 48-574(C), as amended, the City Council has immediate jurisdiction to adopt a resolution ordering the improvements pursuant to ARIZ. REV. STAT. § 48-581, as amended.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE, as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The public interest or convenience require and it is the intention of the City Council to order the maintenance of landscaping within the proposed district and that the cost of maintaining landscaping included within, near, and adjacent to a parkway and related facilities together with appurtenant structures be assessed upon a certain improvement district to be known as Avondale Maintenance Improvement District No. 23 – Roosevelt Park Phase III (the "District") as described and depicted on Exhibit A, attached hereto and incorporated herein by reference.

SECTION 3. The estimate of the cost and expenses for the maintenance of the landscaping within the District on file with the Superintendent of Streets (City Engineer) and the City Clerk is approved and adopted by the City Council.

SECTION 4. The City Council determines maintenance of the landscaping within the District is of more than local or ordinary public benefit, and is of special benefit to the respective lots, pieces and parcels of land within the real property described herein. The City Council makes and orders the cost and expense for the maintenance of the landscaping included within, near, and adjacent to a parkway and related facilities together with appurtenant structures be chargeable upon the District, the area of which is described and depicted as set forth on Exhibit A, and declare that the District benefited by the maintenance of landscaping included within, near, and adjacent to a parkway and related facilities together with appurtenant structures to be assessed, to pay the costs and expenses thereof in proportion to the benefits derived therefrom.

SECTION 5. The City shall not assess the costs and expenses for the maintenance of landscaping included within, near, and adjacent to a parkway and related facilities together with appurtenant structures, which are for the general public benefit against the respective lots, pieces and parcels of land located within the boundaries of the District and if a portion of the costs and expenses for the maintenance of landscaping is for the general public benefit, the City shall assess the boundaries of the District only that portion of such costs and expenses which benefits the lots, pieces and parcels of land located within the boundaries of the District.

SECTION 6. The costs and expense for the maintenance of landscaping shall be made and all proceedings therein taken; that the Superintendent of Streets of the City (the City Engineer) shall post or cause to be posted notices thereof; that the City Clerk shall certify to the passage of this Resolution of Intention; that the Engineer shall prepare duplicate diagrams of the District to be assessed to pay the costs and expenses thereof, under and in accordance with the provisions of Title 48, Chapter 4, Article 2, Arizona Revised Statutes, as amended.

SECTION 7. The immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety and an emergency is declared to exist, and this Resolution will be in full force and effect from and after its passage and approval by the City Council as required by law and is exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

[SIGNATURES ON FOLLOWING PAGE]

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, April 19, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 1022-0421

[Legal Description and Map of Assessment District]

See following pages.

Legal Description
for
ROOSEVELT PARK PHASE 3
MAINTENANCE IMPROVEMENT DISTRICT (MID)

Job No. 17-414 February 18, 2021

A portion of the Southeast Quarter of Section 6, Township 1 North, Range 1 East of the Gila and Salt River Meridian, more particularly described as follows:

COMMENCING at the East Quarter Corner of said Section 6, being marked by a Maricopa County Department of Transportation brass cap in handhole, from which the Center Quarter Corner of said Section 6, being marked by a rebar with cap stamped "LS 31020", bears South 88 degrees 59 minutes 18 seconds West, 2628.26 feet;

thence along the North line of a Right of Way described in Document No. 2014-0188072, Maricopa County Record, and the North line of said Southeast Quarter, South 88 degrees 59 minutes 18 seconds West, 140.02 feet to the POINT OF BEGINNING;

thence along a line 140.00 feet West of and parallel with the East line of said Southeast Quarter, South 0 degrees 02 minutes 16 seconds West, 90.02 feet;

thence along a line 90.00 feet South of and parallel with the North line of said Southeast Quarter, South 88 degrees 59 minutes 18 seconds West, 1071.82 feet;

thence along the West boundary of that parcel described in Document No. 2020-0371295 of Maricopa County Records, South 1 degrees 00 minutes 42 seconds East, 1009.00 feet;

thence along the Northerly boundary of that final plat of 'Roosevelt Park – Phase 1' recorded in Book 1444, Page 4 of Maricopa County Records, South 88 degrees 59 minutes 18 seconds West, 244.20 feet;

thence continuing along said Northerly boundary, South 1 degrees 00 minutes 42 seconds East, 37.58 feet to the beginning of a curve, concave Northeast, having a radius of 45.00 feet;

thence continuing along said Northerly boundary, Southeasterly 13.04 feet along the arc of said curve to the left through a central angle of 16 degrees 35 minutes 52 seconds to a point of reverse curvature of a curve, concave Northwest, having a radius of 51.00 feet;

thence continuing along said Northerly boundary, Southwesterly 110.18 feet along the arc of said curve to the right through a central angle of 123 degrees 46 minutes 51 seconds;

SEE EXHIBIT "A"

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thence continuing along said Northerly boundary, on a non-tangent line South 1 degrees 00 minutes 42 seconds East, 99.27 feet;

thence continuing along said Northerly boundary, South 88 degrees 59 minutes 18 seconds West, 50.00 feet;

thence continuing along said Northerly boundary, North 1 degrees 00 minutes 42 seconds West, 4.00 feet;

thence continuing along said Northerly boundary, South 88 degrees 58 minutes 55 seconds West, 20.00 feet;

thence continuing along said Northerly boundary, South 0 degrees 54 minutes 53 seconds East, 26.71 feet;

thence along the Northerly boundary of that final plat of 'Roosevelt Park Unit II Phase 2' recorded in Book 1528, Page 22 of Maricopa County Records, South 89 degrees 05 minutes 04 seconds West, 90.00 feet;

thence continuing along said Northerly boundary, South 0 degrees 54 minutes 56 seconds East, 4.00 feet;

thence continuing along said Northerly boundary, South 89 degrees 05 minutes 04 seconds West, 589.73 feet;

thence continuing along said Northerly boundary, North 1 degrees 00 minutes 42 seconds West, 126.57 feet;

thence continuing along said Northerly boundary, South 88 degrees 59 minutes 18 seconds West, 148.88 feet to the beginning of a curve, concave Southeast, having a radius of 15.00 feet;

thence continuing along said Northerly boundary, Southwesterly 23.56 feet along the arc of said curve to the left through a central angle of 90 degrees 00 minutes 00 seconds;

thence continuing along said Northerly boundary, South 1 degrees 00 minutes 42 seconds East, 76.15 feet to the beginning of a curve, concave Westerly, having a radius of 519.00 feet;

thence continuing along said Northerly boundary, Southerly 69.20 feet along the arc of said curve to the right through a central angle of 7 degrees 38 minutes 23 seconds to a point of reverse curvature of a curve having a radius of 481.00 feet;

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thence continuing along said Northerly boundary, Southerly 42.89 feet along the arc of said curve to the left through a central angle of 5 degrees 06 minutes 34 seconds;

thence continuing along said Northerly boundary, on a non-tangent line North 88 degrees 28 minutes 53 seconds West, 38.00 feet to the beginning of a non-tangent curve, concave Easterly, from which the radius point bears South 88 degrees 28 minutes 53 seconds East a distance of 519.00 feet;

thence continuing along said Northerly boundary, Southerly 7.92 feet along the arc of said curve to the left through a central angle of 0 degrees 52 minutes 29 seconds to a point of reverse curvature of a curve having a radius of 15.00 feet;

thence continuing along said Northerly boundary, Southwesterly 22.20 feet along the arc of said curve to the right through a central angle of 84 degrees 48 minutes 50 seconds to a point of reverse curvature of a curve having a radius of 219.00 feet;

thence continuing along said Northerly boundary, Southwesterly 24.33 feet along the arc of said curve to the left through a central angle of 6 degrees 21 minutes 54 seconds to a point of reverse curvature of a curve having a radius of 181.00 feet;

thence continuing along said Northerly boundary, Southwesterly 33.57 feet along the arc of said curve to the right through a central angle of 10 degrees 37 minutes 41 seconds;

thence continuing along said Northerly boundary, South 89 degrees 43 minutes 15 seconds West, 54.95 feet;

thence along a line 40.00 feet East of and parallel with the West line of said Southeast Quarter, North 0 degrees 16 minutes 45 seconds West, 600.25 feet;

thence along the Southeasterly boundary of that Parcel described in Document No. 2007-0099665 of Maricopa County Records, North 89 degrees 43 minutes 15 seconds East, 55.00 feet to the beginning of a curve, concave Northwest, having a radius of 540.00 feet;

thence continuing along said Southeasterly boundary, Northeasterly 485.50 feet along the arc of said curve to the left through a central angle of 51 degrees 30 minutes 49 seconds;

thence continuing along said Southeasterly boundary, North 38 degrees 12 minutes 26 seconds East, 557.98 feet to the beginning of a curve, concave Southeast, having a radius of 460.00 feet;

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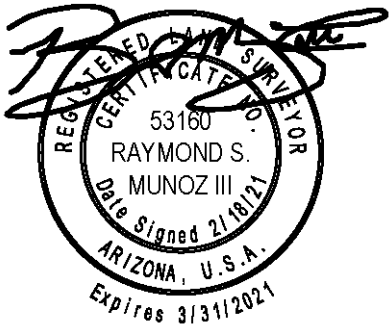
thence continuing along said Southeasterly boundary, Northeasterly 407.70 feet along the arc of said curve to the right through a central angle of 50 degrees 46 minutes 52 seconds;

thence along a line 40.00 feet South of and parallel with the North line of said Southeast Quarter, North 88 degrees 59 minutes 18 seconds East, 41.49 feet;

thence along the West line of a Right of Way described in Document No. 2014-0188072, Maricopa County Record, North 1 degrees 00 minutes 42 seconds West, 40.00 feet;

thence along the North line of said Right of Way and the North line of said Southeast Quarter, North 88 degrees 59 minutes 18 seconds East, 1228.05 feet to the POINT OF BEGINNING.

Contains 1,315,974 square feet or 30.2106 acres, more or less.



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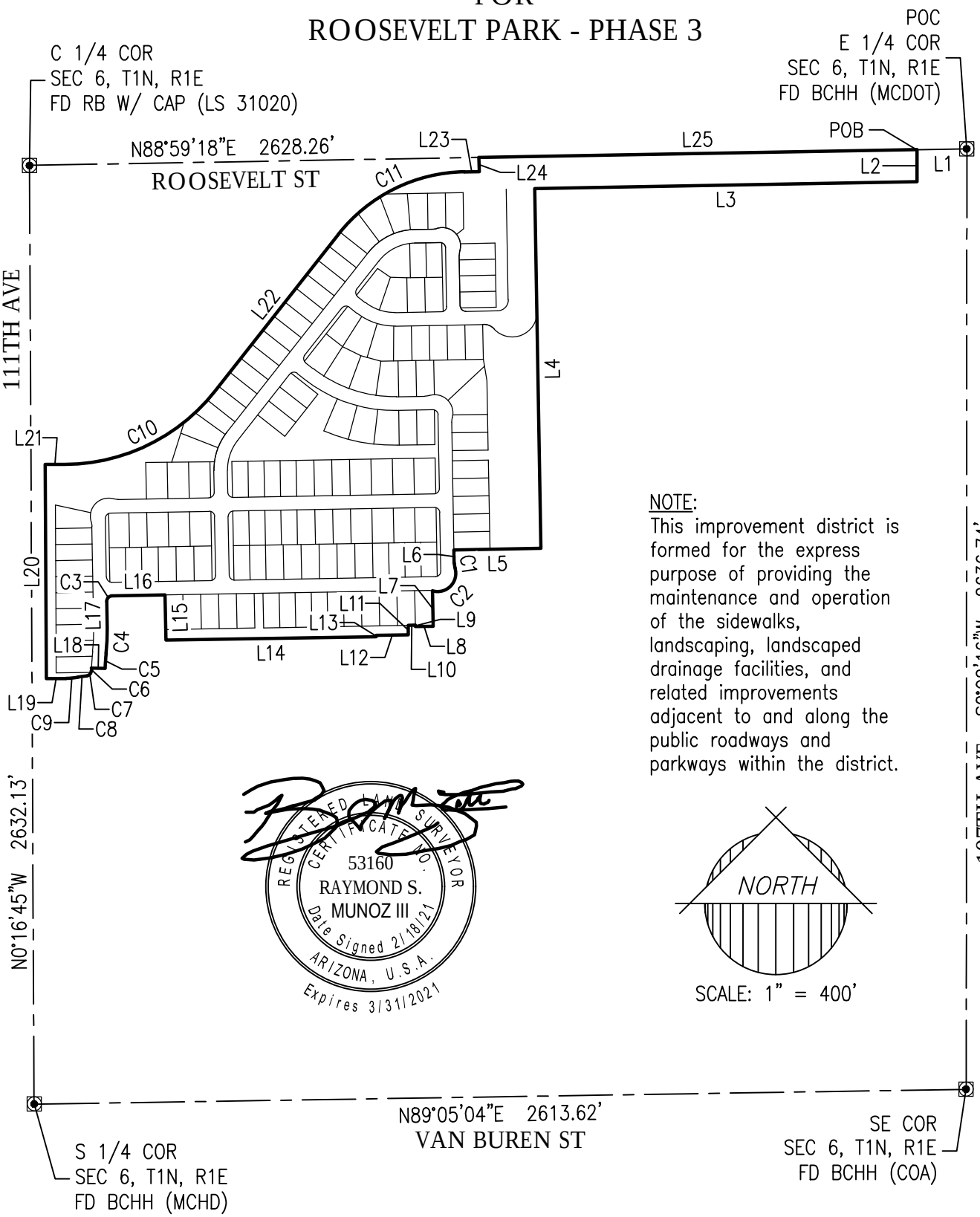
MAINTENANCE IMPROVEMENT DISTRICT ASSESSMENT DIAGRAM
FOR
ROOSEVELT PARK - PHASE 3



NOTE:
This improvement district is formed for the express purpose of providing the maintenance and operation of the sidewalks, landscaping, landscaped drainage facilities, and related improvements adjacent to and along the public roadways and parkways within the district.

SCALE: 1" = 400'

17-414	EXHIBIT "A" - ROOSEVELT PARK - PHASE 3	EPS GROUP 1130 N Alma School Rd Ste 120 Mesa, AZ 85201 T:480.503.2250 | F:480.503.2258 www.epsgroupinc.com
	MAINTENANCE IMPROVEMENT DISTRICT (MID)	

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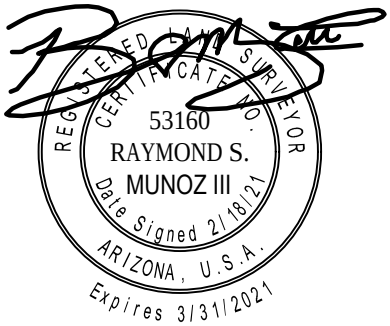
LINE TABLE		
LINE	BEARING	LENGTH
L1	S88°59'18"W	140.02'
L2	S00°02'16"W	90.02'
L3	S88°59'18"W	1071.82'
L4	S01°00'42"E	1009.00'
L5	S88°59'18"W	244.20'
L6	S01°00'42"E	37.58'
L7	S01°00'42"E	99.27'
L8	S88°59'18"W	50.00'
L9	N01°00'42"W	4.00'
L10	S88°58'55"W	20.00'
L11	S00°54'53"E	26.71'
L12	S89°05'04"W	90.00'
L13	S00°54'56"E	4.00'

LINE TABLE		
LINE	BEARING	LENGTH
L14	S89°05'04"W	589.73'
L15	N01°00'42"W	126.57'
L16	S88°59'18"W	148.88'
L17	S01°00'42"E	76.15'
L18	N88°28'53"W	38.00'
L19	S89°43'15"W	54.95'
L20	N00°16'45"W	600.25'
L21	N89°43'15"E	55.00'
L22	N38°12'26"E	557.98'
L23	N88°59'18"E	41.49'
L24	N01°00'42"W	40.00'
L25	N88°59'18"E	1228.05'



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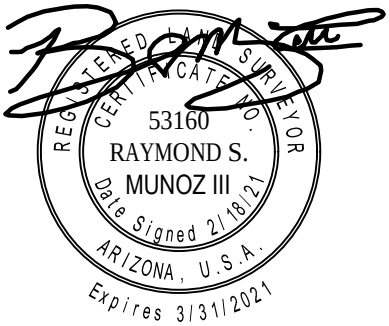
CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD	CHORD BRG
C1	13.04'	45.00'	16°35'52"	6.56'	12.99'	S09°18'38"E
C2	110.18'	51.00'	123°46'51"	95.48'	89.97'	S44°16'52"W
C3	23.56'	15.00'	90°00'00"	15.00'	21.21'	S43°59'18"W
C4	69.20'	519.00'	7°38'23"	34.65'	69.15'	S02°48'30"W
C5	42.89'	481.00'	5°06'34"	21.46'	42.88'	S04°04'24"W
C6	7.92'	519.00'	0°52'29"	3.96'	7.92'	S01°04'53"W
C7	22.20'	15.00'	84°48'50"	13.70'	20.23'	S43°03'03"W
C8	24.33'	219.00'	6°21'54"	12.18'	24.32'	S82°16'31"W
C9	33.57'	181.00'	10°37'41"	16.84'	33.53'	S84°24'25"W
C10	485.50'	540.00'	51°30'49"	260.54'	469.32'	N63°57'51"E
C11	407.70'	460.00'	50°46'52"	218.33'	394.48'	N63°35'52"E



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LOT AREA TABLE		
LOT #	AREA (SF)	AREA (AC)
1	4,544	0.1043
2	4,545	0.1043
3	4,545	0.1043
4	4,469	0.1026
5	4,364	0.1002
6	4,361	0.1001
7	5,911	0.1357
8	6,179	0.1419
9	4,850	0.1113
10	4,849	0.1113
11	4,850	0.1113
12	4,850	0.1113
13	4,850	0.1113
14	4,850	0.1113
15	4,943	0.1135
16	6,026	0.1383
17	6,017	0.1381

LOT AREA TABLE		
LOT #	AREA (SF)	AREA (AC)
18	5,307	0.1218
19	5,332	0.1224
20	4,955	0.1137
21	5,332	0.1224
22	6,679	0.1533
23	6,397	0.1468
24	5,842	0.1341
25	4,850	0.1113
26	4,850	0.1113
27	4,850	0.1114
28	4,851	0.1114
29	4,851	0.1114
30	4,851	0.1114
31	4,851	0.1114
32	4,852	0.1114
33	4,852	0.1114
34	4,852	0.1114

LOT AREA TABLE		
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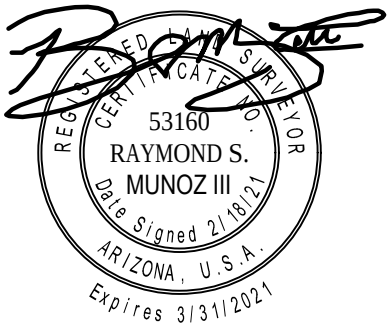
35	4,852	0.1114
36	4,864	0.1117
37	4,683	0.1075
38	6,273	0.1440
39	7,067	0.1622
40	6,135	0.1409
41	6,114	0.1404
42	6,091	0.1398
43	4,850	0.1113
44	4,850	0.1113
45	4,849	0.1113
46	6,331	0.1453
47	6,780	0.1556
48	6,761	0.1552
49	5,588	0.1283
50	5,050	0.1159
51	4,995	0.1147



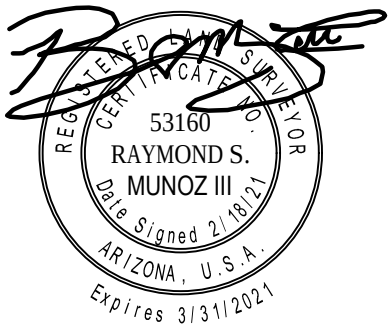
EPS GROUP
1130 N Alma School Rd
Ste 120 Mesa, AZ 85201
T:480.503.2250 | F:480.503.2258
www.epsgroupinc.com

Feb 18, 2021 4:55pm Q:\Projects\2017\17-414\Legal Survey\Dwgs\Final Plats\Phase 3\17-414 - Phase 3 - Legal Description - MID.dwg

LOT AREA TABLE		
LOT #	AREA (SF)	AREA (AC)
52	10,825	0.2485
53	9,450	0.2170
54	5,020	0.1152
55	5,050	0.1159
56	4,880	0.1120
57	4,882	0.1121
58	6,361	0.1460
59	6,412	0.1472
60	6,412	0.1472
61	4,545	0.1043
62	4,545	0.1043
63	4,545	0.1043
64	4,545	0.1043
65	5,050	0.1159
66	5,050	0.1159
67	5,050	0.1159
68	6,060	0.1391

LOT AREA TABLE		
LOT #	AREA (SF)	AREA (AC)
69	6,060	0.1391
70	6,060	0.1391
71	6,059	0.1391
72	5,050	0.1159
73	5,050	0.1159
74	5,050	0.1159
75	5,050	0.1159
76	5,050	0.1159
77	5,819	0.1336
78	5,820	0.1336
79	5,820	0.1336
80	5,820	0.1336
81	4,850	0.1113
82	4,850	0.1113
83	4,850	0.1113
84	4,365	0.1002
85	4,365	0.1002

LOT AREA TABLE		
LOT #	AREA (SF)	AREA (AC)
86	4,365	0.1002
87	4,365	0.1002
88	5,819	0.1336
89	5,820	0.1336
90	5,820	0.1336
91	4,850	0.1113
92	5,479	0.1258
93	4,364	0.1002
94	4,365	0.1002
95	4,511	0.1035
96	4,850	0.1113
97	4,850	0.1113
98	4,849	0.1113
99	4,365	0.1002
100	4,365	0.1002
101	4,850	0.1113
102	4,850	0.1113



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Feb 18, 2021 4:55pm Q:\Projects\2017\17-414\Legal Survey\Dwgs\Final Plats\Phase 3\17-414 - Phase 3 - Legal Description - MID.dwg

LOT AREA TABLE		
LOT #	AREA (SF)	AREA (AC)
103	4,850	0.1113
104	4,850	0.1113
105	4,850	0.1113
106	4,850	0.1113
107	4,365	0.1002
108	4,365	0.1002
109	4,365	0.1002
110	4,364	0.1002
111	5,043	0.1158
112	4,850	0.1113
113	4,850	0.1113
114	4,850	0.1113
115	4,850	0.1113
116	4,365	0.1002
117	4,365	0.1002
118	4,365	0.1002
119	4,365	0.1002

LOT AREA TABLE		
LOT #	AREA (SF)	AREA (AC)
120	4,365	0.1002
121	4,850	0.1113
122	4,850	0.1113
123	4,850	0.1113
124	4,850	0.1113
125	4,850	0.1113
126	4,466	0.1025
127	4,638	0.1065
128	4,747	0.1090
129	4,732	0.1086
130	4,707	0.1080
131	4,681	0.1075
132	4,655	0.1069
133	4,629	0.1063
134	4,603	0.1057
135	5,374	0.1234

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TRACT AREA TABLE		
TRACT	AREA (SF)	AREA (AC)
Tract A	56,012	1.2859
Tract B	1,846	0.0424
Tract C	1,846	0.0424
Tract D	2,469	0.0567
Tract E	22,533	0.5173
Tract F	1,846	0.0424
Tract G	91,174	2.0931
Tract H	49,747	1.1420
Tract I	983	0.0226
Tract J	1,886	0.0433
Tract K	7,586	0.1741
Tract L	1,846	0.0424
Tract M	36,758	0.8439
Tract N	233,492	5.3602

EPS GROUP
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Feb 18, 2021 4:55pm Q:\Projects\2017\17-414\Legal Survey\Dwgs\Final Plats\Phase 3\17-414 - Phase 3 - Legal Description - MID.dwg

Item Number: 4.d.

CITY COUNCIL REPORT

SUBJECT: Ordinance 2016-0421 Abandonment of 125th Avenue Right-of-Way

MEETING DATE: 4/19/2021

TO: Mayor and Council

FROM: Kevin Murphy, Development and Engineering Services Director, (623) 333-4011

THROUGH: Tracy Stevens, Deputy City Manager, (623) 333-1014

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

- Creative and Sustainable Community Development - Avondale is committed to creating a sense of place, a community of residents and local businesses unified by pride and common values.

The approval of this agenda item will help maintain and expand quality infrastructure and improve connectivity to City amenities.

PURPOSE:

City Council will consider a request to adopt Ordinance 2016-0420 authorizing the abandonment of 125th Avenue right-of-way generally located 2,630 feet west of El Mirage Road and 2,300 feet south of Elwood Street, and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. Council will take appropriate action.

BACKGROUND:

On March 21, 1988, Maricopa County designated 125th Avenue right-of-way (ROW) from Lower Buckeye Road to Broadway Road as recorded in Book 32 Page 61 in the Maricopa County's Recorder's Office. This ROW was automatically conveyed to the City of Avondale when the City annexed Lakin Ranch through Ordinance No. 1652-518 adopted by Council on May 21, 2018.

DISCUSSION:

The developer of Alamar, Brookfield Lakin LLC, is requesting the City to abandon a portion of 125th Avenue ROW so they may move forward with the Alamar Phase 4 final plat. The existing 125th Avenue ROW does not match the proposed alignment of 125th Avenue in the Alamar Phase 4 final plat. Staff has researched the need for this existing ROW and has determined the existing ROW may be abandoned and a new ROW alignment for 125th Avenue can be dedicated with the Alamar Phase 4 final plat.

BUDGET IMPACT:

There is no impact to the budget for this action.

RECOMMENDATION:

Staff recommends that the City Council adopt an Ordinance authorizing the abandonment of 125th right-of-way generally located 2,630 feet west of El Mirage Road and 2,300 feet south of Elwood Street, and authorize the Mayor, City Clerk and City Attorney to execute the necessary documents.

N
W E
S

NOT TO SCALE

125th AVENUE RIGHT-OF-WAY TO BE ABANDONED

ORDINANCE NO. 2016-0421

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, ABANDONING ROADWAY GENERALLY LOCATED NORTH OF BROADWAY ROAD AND WEST OF EL MIRAGE ROAD.

WHEREAS, Article I, Section 3 of the Avondale City Charter authorizes the City of Avondale (the "City") to dispose of its acquired property as the City's interests may require; and

WHEREAS, the City Council has determined that the roadway commonly known as 125th Avenue and generally located north of Broadway Road, west of El Mirage Road in the City is no longer necessary for public use; and

WHEREAS, the City Council has determined that it is necessary and appropriate to abandon the roadway as described in Exhibit A, attached hereto and incorporated herein by reference ("Abandoned Roadway"); and

WHEREAS, the City is authorized to vacate and abandon roadway pursuant to Ariz. Rev. Stat. § 9-240(B)(3)(e) and Ariz. Rev. Stat. § 28-7205.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The Abandoned Roadway is hereby abandoned.

SECTION 3. Upon recordation of this Resolution in the office of the Maricopa County Recorder, the Abandoned Roadway shall vest in the owners of the land abutting the Abandoned Roadway.

SECTION 4. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Ordinance.

[SIGNATURES ON FOLLOWING PAGE]

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, April 19, 2021.

Kenneth Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2016-0421

[Legal Description and Map]

See following pages

Wood, Patel & Associates, Inc.
602.335.8500
www.woodpatel.com

EXHIBIT "A"

PARCEL DESCRIPTION
Alamar
125th Avenue Right-of-Way Abandonment

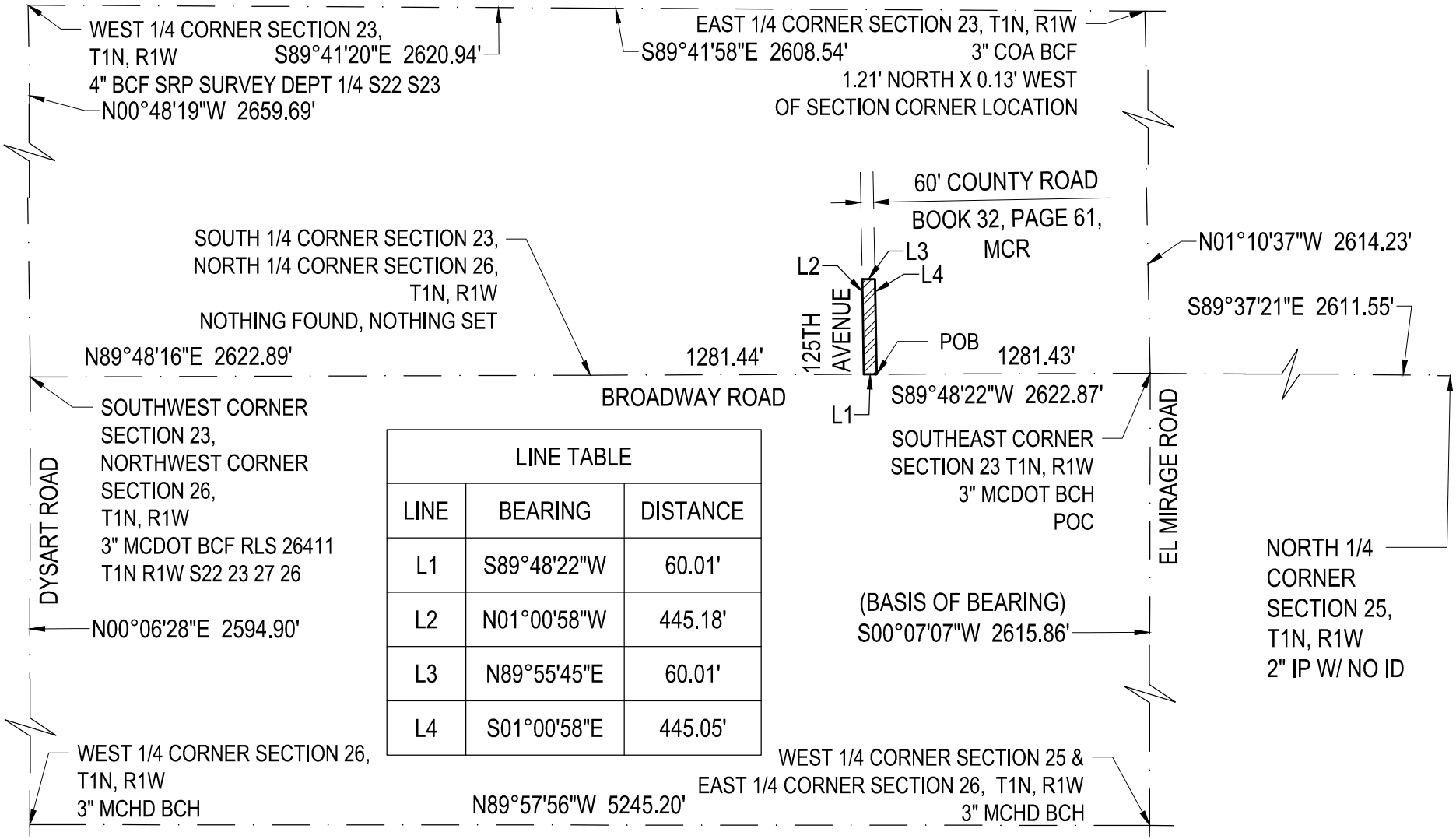
A portion of that certain County Road, recorded in Book 32, page 61, Maricopa County Records (MCR), lying within Section 23, Township 1 North, Range 1 West, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the southeast corner of said Section 23, a 3-inch Maricopa County Department of Transportation (MCDOT) brass cap in handhole from which the east quarter corner of Section 26, Township 1 North, Range 1 West, a 3-inch Maricopa County Highway Department (MCHD) brass cap in handhole, bears South 00°07'07" West (basis of bearing), a distance of 2615.86 feet;
THENCE along the south line of said Section 23, South 89°48'22" West, a distance of 1281.43 feet, to the southeast corner of said certain County Road and the **POINT OF BEGINNING**;
THENCE continuing South 89°48'22" West, a distance of 60.01 feet, to the southwest corner of said certain County Road;
THENCE leaving said south line, along the west line of said certain County Road, North 01°00'58" West, a distance of 445.18 feet;
THENCE leaving said west line, North 89°55'45" East, a distance of 60.01 feet, to the east line of said certain County Road;
THENCE along said east line, South 01°00'58" East, a distance of 445.05 feet, to the **POINT OF BEGINNING**.

Containing 26,707 square feet or 0.6131 acres, more or less.

Subject to existing right-of-ways and easements.

This parcel description is based on client provided information and is located within an area surveyed by Wood, Patel & Associates, Inc. during the month of July, 2018. Any monumentation noted in this parcel description is within acceptable tolerance (as defined in Arizona Boundary Survey Minimum Standards dated 02/14/2002) of said positions based on said survey.



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S89°48'22"W	60.01'
L2	N01°00'58"W	445.18'
L3	N89°55'45"E	60.01'
L4	S01°00'58"E	445.05'

WOOD PATEL

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
23945
BRIAN J.
DIEHL
Date Signed 3-4-21
ARIZONA, U.S.A.

EXPIRES 09-30-23

N

ALAMAR
125TH AVENUE
RIGHT-OF-WAY ABANDONMENT
REVISED 3/4/2021
WP# 174612.09
PAGE 2 OF 2
NOT TO SCALE
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Item Number: 4.e.

CITY COUNCIL REPORT

SUBJECT: Ordinance 2017-0420 Abandonment of Broadway Road Right-of-Way

MEETING DATE: 4/19/2021

TO: Mayor and Council

FROM: Kevin Murphy, Development and Engineering Services Director, (623) 333-4011

THROUGH: Tracy Stevens, Deputy City Manager, (623) 333-1014

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

- Creative and Sustainable Community Development - Avondale is committed to creating a sense of place, a community of residents and local businesses unified by pride and common values.

The approval of this agenda item will maintain and expand quality infrastructure and improve connectivity to City amenities.

PURPOSE:

City Council will consider a request to adopt Ordinance 2017-0420 authorizing the abandonment of Broadway Road right-of-way located between El Mirage Road and Dysart Road and authorize the Mayor or City Manager, City Clerk and City Attorney to execute the necessary documents. Council will take appropriate action.

BACKGROUND:

On July 30, 1921, Maricopa County designated Broadway Road right-of-way (ROW) between El Mirage Road and Dysart Road as recorded in Book 2, Page 14 in the Maricopa County Recorder's Office. This ROW was automatically conveyed to the City of Avondale when the City annexed Lakin Ranch through Ordinance No. 1652-518 adopted by City Council on May 21, 2018.

DISCUSSION:

The developer of Alamar, Brookfield Lakin LLC, is requesting the City to abandon Broadway Road ROW so they may move forward with the Alamar Phase 4 final plat. The existing Broadway Road ROW in Phase 4 does not match the proposed alignment of Alamar Boulevard. Alamar Boulevard will extend from El Mirage Road to Dysart Road and replace Broadway Road in Phase 4. Staff has researched the need for the existing ROW of Broadway Road between El Mirage Road and Dysart Road and has determined this ROW may be abandoned and the new ROW alignment of Alamar Boulevard can be dedicated with the Phase 4 final plat.

BUDGET IMPACT:

There is no impact to the budget for this action

RECOMMENDATION:

Staff recommends that the City Council adopt an Ordinance authorizing the abandonment of Broadway Road right-of-way, located between El Mirage Road and Dysart Road, and authorize the Mayor, City Clerk and City Attorney to execute the necessary documents.

BROADWAY ROAD RIGHT-OF-WAY TO BE ABANDONED

N
W E
S

NOT TO SCALE

ORDINANCE NO. 2017-0421

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, ABANDONING ROADWAY GENERALLY LOCATED EAST OF DYSART ROAD AND WEST OF EL MIRAGE ROAD.

WHEREAS, Article I, Section 3 of the Avondale City Charter authorizes the City of Avondale (the "City") to dispose of its acquired property as the City's interests may require; and

WHEREAS, the City Council has determined that the roadway commonly known as Broadway Road and generally located east of Dysart Road, west of El Mirage Road in the City is no longer necessary for public use; and

WHEREAS, the City Council has determined that it is necessary and appropriate to abandon the roadway as described in Exhibit A, attached hereto and incorporated herein by reference ("Abandoned Roadway"); and

WHEREAS, the City is authorized to vacate and abandon roadway pursuant to Ariz. Rev. Stat. § 9-240(B)(3)(e) and Ariz. Rev. Stat. § 28-7205.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The Abandoned Roadway is hereby abandoned.

SECTION 3. Upon recordation of this Resolution in the office of the Maricopa County Recorder, the Abandoned Roadway shall vest in the owners of the land abutting the Abandoned Roadway.

SECTION 4. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Ordinance.

[SIGNATURES ON FOLLOWING PAGE]

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, April 19, 2021.

Kenneth Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2017-0421

[Legal Description and Map]

See following pages.

Wood, Patel & Associates, Inc.
602.335.8500
www.woodpatel.com

EXHIBIT "A"

LEGAL DESCRIPTION
Alamar
Broadway Road Right-of-Way Abandonment

A portion of that certain County Road, recorded in Book 2, page 14, Maricopa County Records (MCR), lying within Sections 23 and 26, Township 1 North, Range 1 West, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the northeast corner of said Section 26, a 3-inch Maricopa County Department of Transportation (MCDOT) brass cap in handhole from which the east quarter corner of said Section 26, a 3-inch Maricopa County Highway Department (MCHD) brass cap in handhole, bears South 00°07'07" West (basis of bearing), a distance of 2615.86 feet;
THENCE along the north line of said Section 26, South 89°48'22" West, a distance of 33.00 feet, to the west line of the east 33 feet of said Section 23 and the **POINT OF BEGINNING**;
THENCE leaving said north line, along the southerly prolongation of said west line, South 01°10'37" East, a distance of 0.19 feet, to the west line of the east 33 feet of said Section 26;
THENCE leaving said prolongation, along said west line, South 00°07'07" West, a distance of 32.81 feet, to the south line of said certain County Road and the south line of the north 33 feet of said Section 26;
THENCE along said south lines, South 89°48'22" West, a distance of 2589.69 feet;
THENCE South 89°48'16" West, a distance of 2623.06 feet, to the west line of said Section 26;
THENCE leaving said south lines, along said west line, North 00°06'28" East, a distance of 33.00 feet, to the northwest corner of said Section 26, also being the southwest corner of said Section 23;
THENCE leaving said west line, along the west line of said Section 23, North 00°48'19" West, a distance of 33.00 feet, to the north line of said certain County Road and the north line of the south 33 feet of said Section 23;
THENCE along said north lines, North 89°48'16" East, a distance of 2623.24 feet;
THENCE North 89°48'22" East, a distance of 2589.30 feet, to the west line of the east 33 feet of said Section 23;

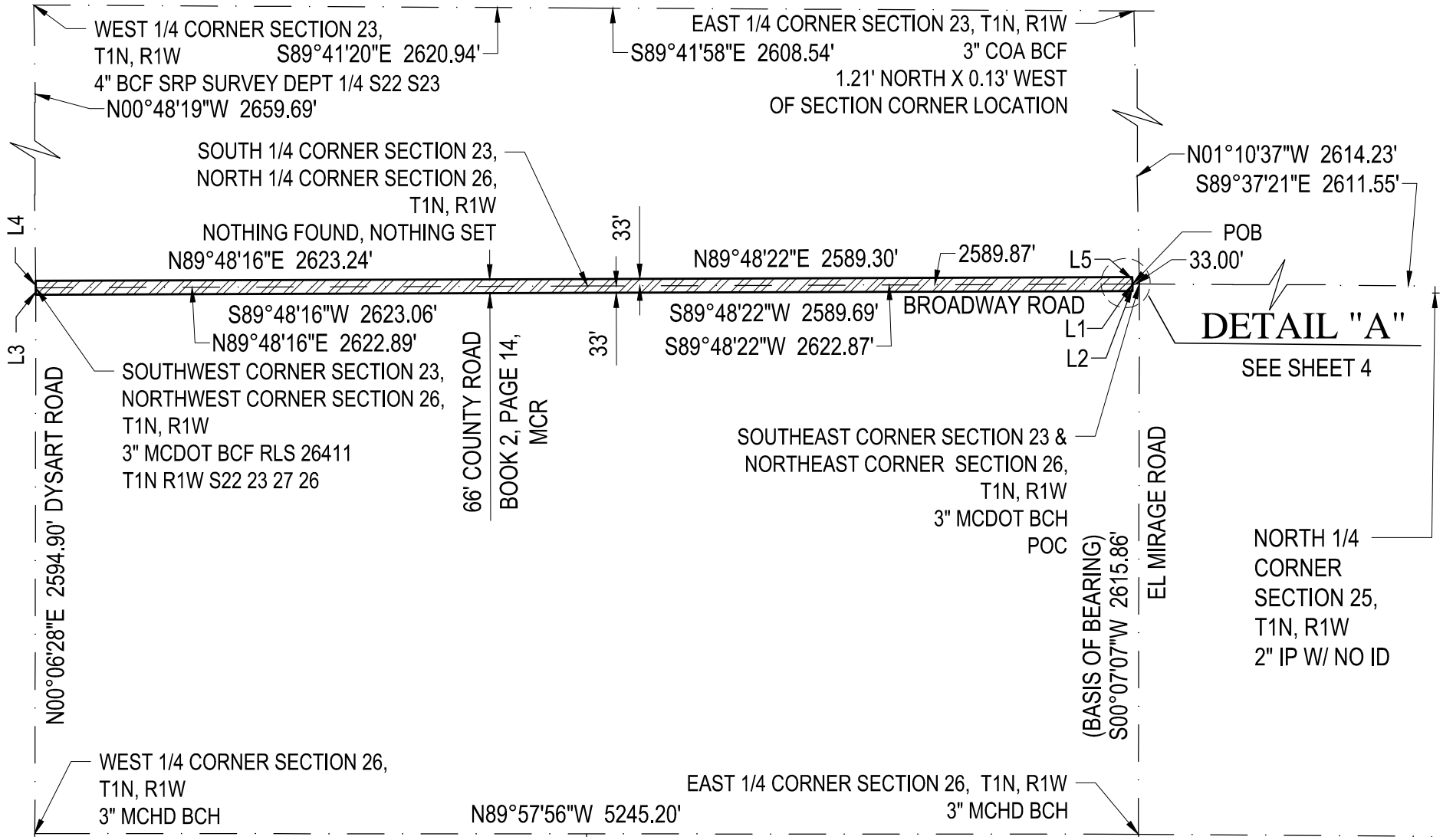
THENCE leaving said north lines, along said west line, South 01°10'37" East, a distance of 33.00 feet, to the **POINT OF BEGINNING**.

Containing 344,038 square feet or 7.8980 acres, more or less.

Subject to existing right-of-ways and easements.

This parcel description is based on client provided information and is located within an area surveyed by Wood, Patel & Associates, Inc. during the month of July, 2018. Any monumentation noted in this parcel description is within acceptable tolerance (as defined in Arizona Boundary Survey Minimum Standards dated 02/14/2002) of said positions based on said survey.

Y:\WP\Parcel Descriptions\2017\174612.09 Alamar Broadway Road Right-of-Way Abandonment L50R01 03-04-21.docx



WOOD PATEL

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
23945
BRIAN J.
DIEHL
Date Signed 3-4-21
ARIZONA, U.S.A.

EXPIRES 09-30-23

N

ALAMAR
BROADWAY ROAD
RIGHT-OF-WAY ABANDONMENT
REVISED 3/4/2021
WP# 174612.09
PAGE 3 OF 4
NOT TO SCALE
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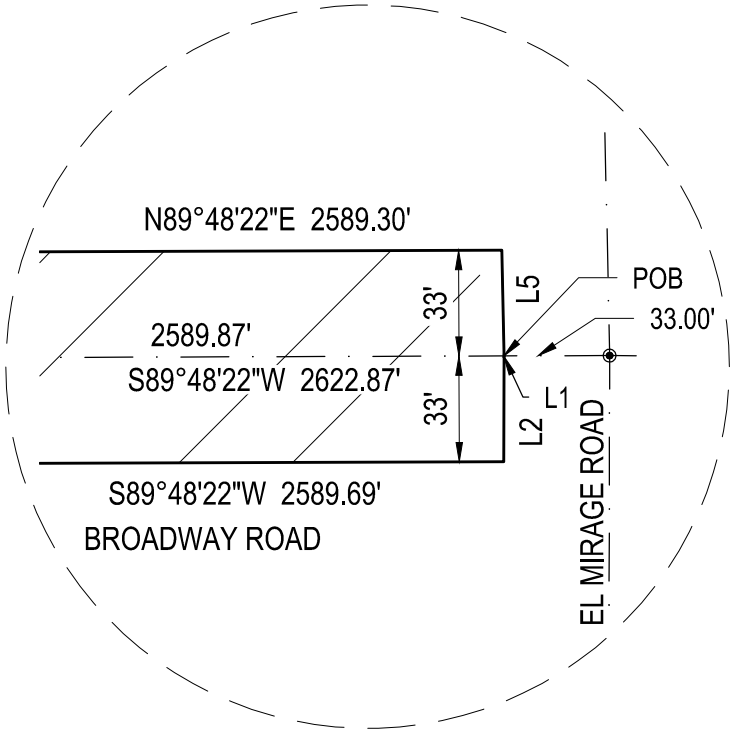
LINE TABLE		
LINE	BEARING	DISTANCE
L1	S01°10'37"E	0.19'
L2	S00°07'07"W	32.81'
L3	N00°06'28"E	33.00'
L4	N00°48'19"W	33.00'
L5	S01°10'37"E	33.00'



DETAIL "A"
NTS

WOOD PATEL

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
23945
BRIAN J.
DIEHL
Date Signed 3-4-21
ARIZONA, U.S.A.
EXPIRES 09-30-23

ALAMAR
BROADWAY ROAD
RIGHT-OF-WAY ABANDONMENT
REVISED 3/4/2021
WP# 174612.09
PAGE 4 OF 4
NOT TO SCALE
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Item Number: 4.f.

CITY COUNCIL REPORT

SUBJECT: Ordinance 2018-0421 - Lease Agreement with Queendom Concepts DBA: New Penny Café

MEETING DATE: 4/19/2021

TO: Mayor and Council

FROM: Kenneth Chapa, Economic Development Director, 623-333-1411

THROUGH: Tracy Stevens, Deputy City Manager, (623) 333-1014

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

- Diverse Recreation and Entertainment Opportunities - Avondale provides residents with the ability to connect with amenities, businesses, and their community, enhancing the opportunity to live, work, and enjoy a healthy, active, and affordable lifestyle.

The approval of this agenda item will help increase visitor traffic to Avondale.

PURPOSE:

City Council will consider a request to adopt Ordinance 2018-0421 approving the Lease Agreement with Queendom Concepts DBA: New Penny Café for the property located at 735 North 114th Avenue, and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. Council will take appropriate action.

BACKGROUND:

The City of Avondale (Landlord) and Queendom Concepts DBA: New Penny Café (Tenant) desire to enter into a Lease Agreement for the use of City property (the Premises) located at 735 N. 114th Avenue, containing approximately 4,800 square feet.

DISCUSSION:

The term of the lease is ten (10) years with an option to extend for an additional five (5) years.

The tenant will receive three (3) months abated rent beginning with the first full month on or after the commencement date, but not later than October 31, 2021. Thereafter, the Tenant will pay $15.00 per square foot (the Base Rent) the first four years, then $17 beginning year the fifth year, with $0.50 annual adjustments. At the option term the lease rate will be $20 per square foot with 2% annual increases.

The City will pay a maximum of $384,000 for Tenant Improvements (Tis) to:

i. provide a catalyst for The BLVD Retail and increase daytime population to feed new retail in the Park Avenue District and further development in this area, and

ii. create new opportunities for employment in Avondale.

The City has determined, by a review of comparable rental rates, that the Base Rent and Allowance are within market value for a similar type of tenant in the area.

BUDGET IMPACT:

Total Rent: Initial Term and Option Term		$931,267
City's Costs: (Tenant Improvements)		$384,000
Net Cumulative Rent	=	$547,267

City's costs to be paid through the Economic Opportunities Fund, which is proposed to have $2 million in appropriation in FY2022.

RECOMMENDATION:

Staff recommends approval of the Lease Agreement between the City of Avondale and Queendom Concepts DBA: New Penny Café.

ORDINANCE NO. 2018-0421

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING THE LEASE AGREEMENT BETWEEN THE CITY OF AVONDALE AND QUEENDOM CONCEPTS, LLC. D/B/A NEW PENNY CAFÉ.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The Lease Agreement between the City of Avondale and Queendom Concepts, LLC. d/b/a New Penny Café is hereby approved in substantially the form and substance attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and to execute all documents necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, April 19, 2021.

_____
Kenneth N. Weise, Mayor

ATTEST:

_____
Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

_____
Nicholle Harris, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 2018-0421

[Lease Agreement]

See following pages.

DATE: _____, 2021

LEASE AGREEMENT
By and Between

THE CITY OF AVONDALE,
an Arizona municipal corporation, as Landlord

and

QUEENDOM CONCEPTS, LLC,
an Arizona limited liability company,
DBA: New Penny Café, as Tenant

LEASE AGREEMENT

This Cover Sheet (this "**Cover Sheet**") is hereby incorporated by reference into and made a part of the attached Lease. Each reference in the Lease to any term of this Cover Sheet shall have the meaning as set forth in this Cover Sheet for such term. In the event of a conflict between the terms of this Cover Sheet and the Lease, the terms of the Lease shall prevail. Any initially capitalized terms used herein and not otherwise defined herein shall have the meaning as set forth in the Lease.

COVER SHEET

LANDLORD NAME:	THE CITY OF AVONDALE an Arizona municipal corporation
TENANT NAME:	Queendom Concepts, LLC DBA: New Penny Cafe
TENANT ADDRESS:	735 N. 114th Avenue, Avondale, Arizona 85323
TRADE NAME:	New Penny Café

ITEM 1. **PREMISES:** Those certain premises at 735 N. 114th Avenue, Avondale, Arizona 85323 (the "**Premises**") containing approximately 4,800 square feet of "**Floor Area**" (as defined in **ITEM 2** of the Cover Sheet) and approximately 1,300 SF of outdoor patio area available solely for the Tenant's use at no additional cost, as set forth on Exhibit A (the Site Plan), all located at The BLVD and 114th Avenue, in the retail component of the mixed-use development, owned by the City of Avondale, Assessor Parcel Number 102-57-247 (**"The BLVD Retail"**). The approximate layout The BLVD Retail and location of the Premises, including, therein are shown on the site plan attached hereto as **Exhibit A** (the "**Site Plan**").

ITEM 2. **FLOOR AREA:** With respect to each building or structure in The BLVD Retail, the number of square feet of floor space intended for exclusive occupancy at each level or story lying within the exterior faces of exterior walls thereof (except party walls, as to which the center line, not the exterior faces, shall be used), whether or not leased or occupied ("**Floor Area**"). If such space is office space, "**Floor Area**" shall refer to the rentable area of the space in question.

ITEM 3. **PERMITTED USE:** Subject to the other provisions of this Lease, Tenant shall use the Premises for the purpose of operating therein a restaurant ("**Permitted Use**"), and for no other use or purpose and under the Trade Name set forth above and under no other trade name, without Landlord's prior written consent. Tenant will not commit, omit or permit any act, condition or event that is contrary to any Legal Requirement or Insurance Requirement, as defined below.

ITEM 4. **INITIAL TERM:** The term of this Lease (the "**Initial Term**") shall commence on the Commencement Date (as defined in **ITEM 6** below) and shall end on the date that is one hundred twenty (120) months from the Commencement Date. The term "**Lease Years**" is defined in **Article 2**, which also sets forth the calculation thereof.

The Initial Term of this Lease, and any extension thereof, are sometimes herein referred to as the "**Term.**"

OPTION TERM: At the end of the Initial Term provided that the Tenant is not in default and the Lease is in good standing, shall have an option to extend the lease for an additional five (5) years with the first year of the lease renewal starting at twenty dollars and zero cents ($20.00) per square foot, followed by two percent (2%) annual increases for every year thereafter.

ITEM 5. **DELIVERY DATE:** The "**Delivery Date**" shall be the date on which Landlord delivers possession of the Premises to Tenant. Tenant may commence "**Tenant's Work**" (as defined in **Exhibit B-2**) in the Premises without substantial interference from Landlord or its contractor. The Delivery Date shall be no more than one week after the Effective Date. Tenant shall acknowledge delivery of the Premises by executing the Delivery Date Certificate in the form attached hereto as **Exhibit B-1**.

ITEM 6. **COMMENCEMENT DATE:** Subject to the provisions of this Lease, the Initial Term of this Lease and Tenant's obligation to pay "**Rent**" (as defined in **Article 3**) shall commence on the date (the "**Commencement Date**") that is the later of the following: (i) forty-five days (45) after delivery of Premises and completion of Tenant's work; or (ii) Tenant's opening of business. Within 30 days after the Commencement Date has been determined, Landlord and Tenant shall execute and deliver to each other a commencement date memorandum in the form attached hereto as **Exhibit D** and incorporated herein by this reference ("**Form of Commencement Date Memorandum**"). The parties agree that the Commencement Date shall not be later than February 28, 2022, unless agreed to by both parties in writing.

ITEM 7. **RENT:** The Rent payable by Tenant pursuant to this Lease shall include all the following:

A. During the Initial Term and the Option Term (if applicable), an amount, per month, as set forth below, provided Tenant shall receive three months of abated rent beginning with the first full month on or after the Commencement Date:

Initial Term:			
Months	1-3	$0	Rent Abated
Months	4-12	$15.00 SF	$6,000.00
Months	13-24	$15.00 SF	$6,000.00
Months	25-36	$15.00 SF	$6,000.00
Months	37-48	$15.00 SF	$6,000.00
Months	49-60	$17.00 SF	$6,800.00
Months	61-72	$17.00 SF	$6,800.00
Months:	73-84	$17.50 SF	$7,000.00
Months	85-96	$18.00 SF	$7,200.00
Months	97-108	$18.50 SF	$7,400.00
Months	109-120	$19.00 SF	$7,600.00
Extension:	1-12	$20.00 SF	$8,000.00
Months	13-24	$20.40 SF	$8,160.00
Months	25-36	$20.81 SF	$8,323.20
Months	37-48	$21.22 SF	$8,489.66
Months	49-60	$21.65 SF	$8,659.46

ITEM 8. **PERCENTAGE RENT**: **INTENTIONALLY OMITTED**

ITEM 9. **IMPROVEMENTS BY LANDLORD AND TENANT:**

A. **Landlord's Work**.

1. "Landlord's Work" shall mean the following: The Landlord will inspect the HVAC, plumbing, gas and electric and certify that all are in operating order, the Landlord will perform any maintenance repairs on the aforementioned if needed prior to the Delivery Date. Notwithstanding the foregoing, Landlord is not required to perform any additional improvements to the Premises prior to the Commencement of the Lease. Tenant agrees to accept the Premises in its "AS IS" condition.

2. If for any reason, Landlord cannot deliver possession of the Premises to Tenant on the Delivery Date, (a) this Lease will not be void or voidable and Landlord will not be liable to Tenant for any resultant loss or damage and (b) the Commencement Date, Delivery Date and Expiration Date shall each be delayed by one day for each day of such delay; provided, however, if the Commencement Date is delayed by more than 90 days, Tenant, by written notice to Landlord prior to the Delivery Date, may terminate this Lease. Tenant will execute the Form of Commencement Date Memorandum attached to this Lease as **Exhibit D** within 15 days of Landlord’s request.

B. **Tenant's Work**.

1. Tenant shall, at its sole cost and expense, install fixtures and stock the Premises and perform all work designated as "**Tenant's Work**" in **Exhibit B-2** in the manner set forth in this Lease. Tenant shall, at its sole cost and expense, cause an architect licensed in the state to prepare interior plans and specifications for Tenant's Work.

2. Tenant agrees to furnish to Landlord, for Landlord's prior review and approval, the Plans and Specifications (as such term is referred to in **Exhibit B-2**) with respect to the Premises prepared in the manner and within the time periods required in the Construction Guidelines. If such Plans and Specifications are not furnished by Tenant to Landlord within the required time period in a form to permit approval by Landlord, then Landlord may avail itself of its options under the Construction Guidelines. Once Landlord receives the Plans and Specifications, Landlord may not unreasonably withhold its approval of the same. Landlord's approval of Tenant's Plans and Specifications or any modifications thereof shall not constitute the assumption of any responsibility by Landlord for their accuracy or sufficiency or their conformity with applicable laws, and Tenant shall be solely responsible therefor. In addition to conforming to the requirements specified in the Construction Guidelines, Tenant shall schedule its work so as not to unreasonably interfere with any work being performed by Landlord or by any other tenant in The BLVD Retail, or with the operation of The BLVD Retail and its tenants. It is further understood and agreed that: **(a)** Landlord shall have no responsibility or liability whatsoever for any loss of, or damage to, any fixtures, equipment, merchandise, or

other property belonging to Tenant or its agents, employees and contractors, installed or left in the Premises, unless such loss or damage is caused by Landlord or its agents, employees or contractors, in which case Landlord shall be solely liable; and **(b)** Tenant's entry upon and occupancy of the Premises prior to the Commencement Date shall be governed by and subject to all the provisions, covenants and conditions of this Lease.

3. Additional alterations to the interior and/or exterior of the Premises shall be approved in accordance with provisions of the Lease.

C. **Performance of Tenant's Work**

1. Tenant shall not perform Tenant's Work without providing to Landlord, according to the time requirements set forth in the Construction Guidelines, any drawings or specifications required by Landlord, and without Landlord's prior written consent. In the event Landlord grants such consent, such Work shall be performed in a good and workmanlike manner and in accordance with all applicable legal and insurance requirements and all drawings or specifications approved by Landlord. Any work performed by Tenant shall be subject to Landlord's inspection and approval after completion.

2. Tenant shall timely obtain at its sole cost all certificates and approvals with respect to work done and installations made by Tenant that may be required for the issuance of a non-temporary certificate of occupancy for the Premises, and shall immediately deliver to Landlord a copy of all such certificates and approvals. Promptly upon the completion of its work, Tenant shall repair, clean and restore to their prior condition all portions of The BLVD Retail affected by any work of Tenant. In the event that any mechanic's, materialman's or other lien is filed against the Premises or The BLVD Retail as a result of any work or act of or on behalf of Tenant, Tenant, at its expense, shall discharge or bond off the same within ten days from the filing thereof. If Tenant fails to discharge said mechanic's, materialman's or other lien, Landlord may bond or pay the same without inquiring into the validity or merits of such lien and all reasonable sums so advanced and fees incurred (including legal fees) shall be paid by Tenant on demand as Additional Rent. It shall be Tenant's continuing obligation to keep and maintain the Premises and all other parts of The BLVD Retail free from any and all liens arising out of any work performed, materials furnished or obligations incurred by or for Tenant. In addition, Tenant shall replace any bonds posted by Landlord pursuant hereto with a suitable bond of equivalent amount within seven days after Landlord's demand therefor. Tenant shall have the right to contest the correctness or the validity of any such lien provided Tenant is diligently pursuing the matter to resolution and further provided that Landlord, in its reasonable judgment, concludes that there is no jeopardy to Landlord's title to the Premises or The BLVD Retail. In the event Landlord concludes that its title to the Premises or The BLVD Retail is jeopardized hereunder, Tenant shall, within thirty days of notice from Landlord, procure and record a lien release bond meeting the requirements of Ariz. Rev. Stat. § 33-1004, as amended, or any successor statute.

D. **Removal by Tenant**. All of Tenant’s Work made by Tenant shall at once when made become part of the leasehold and become property of Landlord. Upon the expiration or sooner termination of this Lease, Tenant shall not remove any of such alterations, decorations, additions and improvements, except that trade fixtures,

furniture and equipment installed by Tenant may be removed if: **(1)** such trade fixtures, furniture and equipment are not integral to the operation of the Building or the Premises (by way of example only and not a limitation, HVAC and plumbing systems may not be removed); **(2)** all Rents hereunder are paid in full; and **(3)** Tenant has performed all of its other obligations hereunder. Tenant hereby acknowledges and agrees that any property remaining in the Premises after the expiration or earlier termination of this Lease, shall be deemed abandoned by Tenant and Landlord may dispose of such personal property as it deems appropriate, at Tenant's cost, and Tenant shall reimburse Landlord for such costs within fifteen (15) days after being billed for the same**.**

E. **Allowance for Tenant Improvement Costs**. Tenant's Work, including Outdoor Seating Area, and together with all architectural mechanical, engineering, the Construction Documents, the Tenant's Drawings, general contractor fees, signage, structural floor enhancements, construction management or consulting fees incurred by the Tenant shall be referred to herein as "**Tenant Improvements**". Landlord and Tenant agree that Landlord will provide Tenant an amount not to exceed three hundred eighty-four thousand dollars and zero cents ($384,000.00) for Tenant Improvements (the "**Tenant Improvement Allowance**" or the " **Allowance**"). The City desires to provide this Tenant Improvement Allowance to:

(i) provide a catalyst for The BLVD Retail and increase daytime population to attract new retail in the Park Avenue District and further development in this area,

(ii) create new opportunities for employment in Avondale.

The City has determined, by a review of comparable rental rates that the Base Rent and Allowance are within market value for a similar type of tenant in the area.

Any cost for the Tenant Improvements above the Tenant Allowance shall be solely borne by Tenant. Landlord may disburse to Tenant the Tenant Improvement Allowance only upon a delivery to the Landlord by Tenant of a draw request ("**Draw Request**") which is accompanied by (a) a certification by the Tenant's construction manager that the Tenant Improvements described in the Draw Request has been completed in accordance with plans and specs therefor, (b) final mechanic's lien waivers (i.e., conditional only upon receipt of payment) for all labor, suppliers, materialmen, contractors and subcontractors to the extent included in such Draw Request, (c) copies of any related invoices, billing statements, or other documentation supporting Developer's request of the amount requested pursuant to such Draw Request and (d) for the final draw request, a valid certificate of occupancy. Landlord shall, with reasonable promptness, but in no event later than 30 days after receipt of the above listed items submitted by Tenant, (a) inspect the Tenant Improvements so submitted and approve or disapprove the completion of it as in compliance with Tenant's plans and specs and (b) if the Tenant Improvements so submitted is approved by Landlord, then Landlord will pay the actual paid amounts not to exceed the Tenant Improvement Allowance subject to the limitations set forth in herein. If the Tenant Improvements are not approved by Landlord, Landlord shall designate the specific reason(s) for the disapproval in writing. If Landlord does not approve the Tenant Improvements, Tenant, at its option, may: (i) resubmit its Draw Request at such time as Tenant has corrected the deficiencies

specified by Landlord for approval. Notwithstanding anything to the contrary contained herein, the Landlord shall retain ownership of all improvements affixed to the Property and Tenant shall retain ownership of all equipment or other property paid by the Tenant Improvement Allowance. Landlord shall be under no obligation to pay the Tenant Improvement Allowance during any time the Tenant is in default under this Lease. At such time as the Tenant cures any such default, Landlord's obligation to pay the Tenant Improvement Allowance, as set forth herein, shall be reinstated.

F. **Intentionally Omitted.**

G. **Design Services and Fees**. The Tenant will pay for all professional fees associated with the design and review of the Tenant Improvements. Tenant may apply the Tenant Improvement Allowance towards such professional fees.

H. **Development Services and Fees.** The Landlord will pay for all municipal development and infrastructure hookup and impact fees associated with the Premises.

ITEM 10. **GUARANTEE:** The following shall guarantee the lease:

Name: Laura Hansen
Address: 18817 W. Indianola, Litchfield Park, AZ 85340
Telephone: (602) 809-4363
Email: laura@saddlemountainbrewing.com

Name: Deni Banach
Address: 7171 W. Marlette Avenue, Glendale, AZ 85303
Telephone: (253) 359-7081
E-mail: enroutecoffeeaz@gmail.com

Name: Brittany Salazar
Address: 12602 W. Sheridan Street, Avondale, AZ 85392
Telephone: (623) 258-2545
E-mail: enroutecoffeeaz@gmail.com

ITEM 11. **SECURITY DEPOSIT:** An amount equal to six thousand dollars and zero cents ($6,000.00) to be paid on or before the Effective Date (the "**Security Deposit"**).

ITEM 12. **TENANT'S CONTACTS:**

Name: Laura Hansen
Address: 18817 W. Indianola, Litchfield Park, AZ 85340
Telephone: (602)809-4363
Email: laura@saddlemountainbrewing.com

Name: Deni Banach
Address: 7171 W. Marlette Avenue, Glendale, AZ 85303
Telephone: (253)359-7081
E-mail: enroutecoffeeaz@gmail.com

Name: Brittany Salazar
Address: 12602 W. Sheridan Street, Avondale, AZ 85392
Telephone: (623)258-2545
E-mail: enroutecoffeeaz@gmail.com

ITEM 13. **CITY:** The City of Avondale, an Arizona municipal corporation (the "**City**").

ITEM 14. **STATE:** The State of Arizona (the "**State**").

ITEM 15. **BUILDING:** The building in The BLVD Retail in which the Premises are located, or the retail portion of the building in The BLVD Retail in which the Premises are located.

ITEM 16. **CONTROLLABLE ELEMENTS:** "Controllable Elements" shall be deemed to include all expenses except (i) Taxes, (ii) utility costs or charges (including without limitation any utility taxes which may be imposed on any of the same), (iii) any weather-related clean-up or damage (including without limitation any snow, ice, or water removal or similar cost), (iv) capital expenditures, (v) expenses attributable to an event of Force Majeure, (vi) insurance costs and charges, and (vii) any other charges or expenses for which Landlord does not reasonably have an opportunity to select a vendor or negotiate rates.

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LEASE AGREEMENT

This Lease Agreement (this "**Lease**") is made and entered into as of the Effective Date by and between the City of Avondale, an Arizona municipal corporation ("**Landlord**") and Queendom Concepts, LLC DBA: New Penny Café ("**Tenant**"). The "**Effective Date**" shall be the date upon which the last of Landlord and Tenant executed this Lease, as indicated on the signature pages of this Lease.

ARTICLE 1
Lease of Premises; Use of Common Areas; Reservation of Rights

1.1 **Lease of Premises**. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises.

1.2 **Use of Common Areas**. Except as otherwise specifically set forth by the Landlord in subsequent documents governing the use of The BLVD Retail Common Areas, Landlord grants to Tenants and its agents, employees and invitees, the non-exclusive right, together with all of the occupants of The BLVD Retail and their agents, employees and invitees, to use the Common Areas.

1.3 **Landlord's Reservation of Rights**. Landlord reserves "as-is": **(A)** the exclusive use of the exterior walls (other than the storefront), the roof, the airspace above the roof and the space below the floor slab; and **(B)** the right to install, maintain, use, repair and/or replace pipes, ducts, conduits, utility lines and wires in the space above the interior surfaces of the ceilings, below the finished floor, within the demising walls of the Premises and in all of the "**Common Areas**" (as defined in **Article 4**) of The BLVD Retail. Landlord reserves the right to affect such other tenants in The BLVD Retail as Landlord may elect in its sole business judgment, subject to the exclusivity requirements herein and Tenant's quiet enjoyment.

ARTICLE 2
Lease Year; Option Term; Obligation to Open and Continuously Operate

2.1 **Lease Year**. For purposes of this Lease, the term "**Lease Year**" shall mean a period of twelve (12) full, consecutive calendar months. The first Lease Year shall commence on the Commencement Date and end on the last day of the twelfth full calendar month following the Commencement Date. If the Commencement Date occurs on a date other than the first day of the month, then the first Lease Year shall include the partial month between the Commencement Date and the last day of the month during which the Commencement Date occurs, and the Minimum Rent and other charges payable during such partial month shall be appropriately prorated based on the number of days in such month. Any Lease Year which is for any reason shorter than a full 12-month calendar year is sometimes herein referred to as a "**partial**" Lease Year. For purposes of calculating and paying the Minimum Rent and all recurring "**Additional Rent**" (as defined in **Article 3**) payable under this Lease during any partial Lease Year, such charges shall be appropriately prorated based on the number of days in such partial Lease Year.

2.2 **Option Term.** Provided, (A) Tenant is fully operating its business for the Permitted Use in all portions of the Premises; and (B) no "**Event of Default**" (as defined in Article 23) exists, Tenant may provide written notice (the "**Option Notice**") to Landlord not less than one hundred and eighty (180) days prior to the expiration of the Lease of Tenant's election to exercise the option to extend the Lease for the Option Term. The right to exercise the Option Term is personal

to the named Tenant herein and may not be exercised by any person or entity other than Tenant or a permitted assignee. The right to extend the Lease for the option term is expressly conditioned on Tenant not being in Default at the time the Option Term commences. The Minimum Rent payable by Tenant during the Option Term shall be as set forth in **ITEM 7** of the Cover Sheet.

2.3 **Tenant Obligation to Open and Continuously Operate**. Tenant agrees to open for business to the public in the Premises after the completion of the Tenant Improvements and the receipt of the Certificate of Occupancy and any other requirements to reasonably open the Premises and to continuously operate thereafter throughout the remainder of the Term. Tenant shall operate during commercially reasonable hours and on commercially reasonable dates unless it is illegal, inadvisable, or reasonably impossible to operate or due to remodeling or alterations as described herein. If Tenant fails to open for business by said date, or "**ceases operating**" (as defined in this Section) at any time during the Term (including an Option Term exercised by Tenant), then and in either of such events, in addition to Landlord's other rights and remedies with respect to such default, Tenant shall pay to Landlord, in addition to the Rent and Additional Rent payable hereunder, as liquidated damages ("**Liquidated Damages**"), an additional amount equal to 10% of the total Rent due from Tenant hereunder (calculated at a daily rate based on a 30-day month) for each day between the Commencement Date and the date Tenant opens for business in the Premises as required under this Lease, or between the date Tenant ceases operating for business in the Premises and the date Tenant resumes operating for business in the Premises as required under this Lease (as applicable). Tenant shall pay Landlord the Liquidated Damages together with the monthly installments of Rent and other charges payable under this Lease. Tenant agrees that the forgoing amount of Liquidated Damages is a reasonable estimate of the damage to Landlord that would be caused by Tenant's failure to open or continuously operate the Premises for business as required under this Lease. Tenant acknowledges that The BLVD Retail is an interdependent enterprise and its success is dependent upon the opening and continued operation of Tenant's business in accordance with the terms of this Lease. Tenant shall maintain in the Premises all suitable furniture, fixtures, equipment and other personal property necessary for the conduct of Tenant's business therein. For purposes of this Section, the term "**ceases operating**" shall mean and refer to any period when Tenant has not been open for business with the public in the Premises in accordance with the provisions of this Lease for 15 or more consecutive days (exclusive of reasonable periods during which the Premises are being restored following casualty damage thereto or a "**Taking**" (as defined in **Article 22**) thereof, and periods during which the Premises are being remodeled or altered in accordance with this Lease or when it is inadvisable, illegal, or reasonably not possible to operate.

ARTICLE 3
Rent; Rental Tax; Payment of Rent; Late Charge

3.1 **Rent.** The term "**Rent**" shall mean all amounts required to be paid by Tenant to Landlord under this Lease. Commencing as of the Commencement Date and continuing throughout the Term, Tenant shall pay to Landlord Rent in equal monthly installments (as set forth in **ITEM 7** of the Cover Sheet), in advance, on the first day of each month, without prior notice or demand, setoff or deduction. Rent shall be prorated for any partial calendar month. If the Commencement Date is a date other than the first day of a calendar month: **(1)** Rent for the month containing the Commencement Date shall be prorated based upon the ratio that the number of days in the Term within such month bears to the total number of days in such month; and **(2)** the initial monthly rental period shall include the month in which the Commencement Date occurs and the following full calendar month (unless the Commencement Date is the first day of a calendar month, in which event the initial monthly rental period shall include only the month containing the

Commencement Date). Notwithstanding the aforementioned, Landlord shall provide three (3) months of abated Rent to Tenant beginning on the first day of the first full month after the Commencement Date. The term "**Additional Rent**" means all amounts required to be paid by Tenant to Landlord hereunder, other than Rent, whether or not such amount is specifically designated Additional Rent.

3.2 **Payment of Rent**. Tenant shall pay all sums required to be paid to Landlord, without prior notice, demand, setoff or deduction at the office of Landlord, City of Avondale, 11465 W. Civic Center Drive, Suite 250, Avondale, Arizona 85323, Attention: Accounts Receivable, or at such other place or places as Landlord may designate from time to time. In the event Landlord designates a property manager to manage this Lease, the Tenant shall be notified in writing and shall pay all rents directly to the property management firm designated in the official notice. The obligation of Tenant to pay any amount due to Landlord hereunder shall be independent of any obligation of Landlord under this Lease.

3.3 **Late Charge**. Tenant hereby acknowledges that late payment by Tenant to Landlord of Rent shall cause Landlord to incur various expenses not contemplated by this Lease, the exact amount of which is presently difficult to ascertain. Accordingly, if any payment of Rent due from Tenant under this Lease is not received by Landlord when due, then, after a seven calendar day grace period, such unreceived amounts of rent shall incur interest from the end of the grace period to the date of payment at the rate of 12% per annum (the "**Interest Rate**").

ARTICLE 4
Common Areas; Control of Common Areas; Operating Costs; Trash

4.1 **Common Areas**. The Common Areas shall be operated and maintained by the Landlord. The term "**Common Areas**" means all areas, space, equipment and services in or serving The BLVD Retail and the Premises provided for the common or joint use and benefit of Landlord, Tenant and the occupants of The BLVD Retail and their employees, agents, servants, customers and other invitees, including, without limitation, storage areas not within the Premises, public restrooms other than those within the Premises, offices not within the Premises, utility rooms other than those within the Premises, the parking areas serving The BLVD Retail (the use of which is subject to the fees, rules and regulations established therefor by the operator of the parking facility from time to time), access roads, corridors, balconies, stairs, elevators, escalators, driveways, retaining walls, exterior boundary walls and fences, water, sanitary and storm sewers (including, without limitation, any on or off-site sewer lines), on or off-site water retention and drainage facilities serving The BLVD Retail and which Landlord is required to maintain (however, Landlord shall only maintain as part of the Operating Costs, sanitary sewers up to the Premises), gas, electric, telephone and other utilities lines, systems, conduits and facilities to the perimeter walls of any building (even though intended for the use of only one or a limited number of occupants) and those serving more than one premises within a building, and any of the foregoing which serve the Common Areas, plantings, landscaped areas, truck service ways, loading dock areas and facilities, courts, ramps, sidewalks, any drinking fountains, and the facilities appurtenant to the foregoing. The Common Areas are set forth on Exhibit A.

4.2 **Control of Common Areas**. Subject to the Landlord's subsequent documents relating to use of the Common Areas, it is agreed that: **(A)** all Common Areas shall be subject to the exclusive control and management by Landlord, and Landlord shall have the right at any time (either before, during or after the initial arrangement of the entrances, access roads, parking areas and other Common Areas), to construct buildings and other improvements thereon and therein,

and to permit the owners and occupants of land located outside The BLVD Retail and Premises and their invitees to use the Common Areas; **(B)** Landlord shall have the right to demolish and make alterations and additions to the buildings in The BLVD Retail (including the construction of additional buildings therein), and to add and exclude areas from The BLVD Retail, and to relocate improvements so long as they do not have a material adverse effect on Tenant; and **(C)** Landlord shall have the right to do and perform such other acts in and to the Common Areas as Landlord shall determine to be advisable, in its sole and absolute discretion, so long as such acts do not have a material adverse effect on Tenant. The rights of Landlord as reserved in this Lease shall be subject to the condition that no exercise of such rights by Landlord shall alter the physical dimensions of the Premises, or change their location or relative proximity to other stores, or otherwise materially or unreasonably interfere with the conduct of Tenant's business in the Premises.

4.3 **Tenant's Obligations**. In addition to the Rent provided herein above, for each Expense Year during the Term, tenant shall pay to Landlord Tenant's Share of Operating Expenses allocated to the tenants of The BLVD Retail (pursuant to Section 4.4.2. below) which are incurred by Landlord on account of operation and maintenance of The BLVD Retail during such Expense Year. For purposes hereof, **"Tenant's Share"** shall mean the percentage determined by dividing the Floor Area of the Premises, approximately 4800 square feet, by the total Floor Area within The BLVD Retail, approximately 26,294 square feet. Landlord reserves the right, in its sole discretion, to increase or decrease from time to time the total Floor Area of The BLVD Retail based upon Landlord's standard Floor Area measurement standards used for The BLVD Retail. In the event either the Floor Area of the Premises and/or the total Floor Area of The BLVD Retail is changed, Tenant's Share shall be appropriately adjusted, and, as to the Expense Year in which such change occurs, Tenant's Share for such year shall be determined on the basis of the number of days during such Expense Year that each such Tenant's Share was in effect. It is estimated that Tenant's Share will be approximately 18.25%.

4.4 **Definitions.**

4.4.1 **Expense Year**. Each calendar year during the Term (or partial calendar year if the Term commences or ends on other than the provided first (1st) or last day of a calendar year); provided, however, that Landlord, upon notice to Tenant, may change the Expense Year from time to time to any other twelve (12) consecutive month period, and, in the event of any such change, Tenant's Share of Operating Expenses shall be equitably adjusted for any Expense Year involved in any such change.

4.4.2. **Operating Expenses or Operating Costs.** For purposes hereof, Operating Expenses or Operating Costs are intended to be inclusive of all costs of operating and maintaining The BLVD Retail (defined as the property shown of record by the County Assessor's office as of the date of this Lease as 102-57-247) except franchise, estate, inheritance, net income, gift, corporate and excess profit taxes of Landlord, interest on and capital retirement of Landlord's mortgage loans, if any, and costs charged by Landlord directly to specific tenants (including any utilities separately metered and charged to specific tenants). Landlord agrees to make reasonable efforts to minimize operating costs insofar as such efforts are not inconsistent with Landlord's intent to operate and maintain the Project in the first- class manner. Operating Expenses shall be limited to the following.

4.4.2.1 **Tax Expenses.** Tax Expenses which, for purposes hereof, shall mean, collectively, any and all general and special taxes and impositions of every kind and nature whatsoever levied, assessed, or imposed upon, or with respect to The BLVD

Retail, any leasehold improvements, fixtures, installations, additions, and equipment, whether owned by Landlord or Tenant, or either because of or in connection with Landlord's ownership, leasing and operation of The BLVD Retail, including, without limitation, real estate taxes, personal property taxes, sewer rents, water rents, general or special assessments, duties or levies charged or levied upon or assessed against The BLVD Retail and related personal property, transit taxes, all costs and expenses (including legal fees and court costs) charged for the protest or reduction of property taxes or assessments in connection with the BLVD Retail, or any tax or excise on rent or any other tax (however described) on account of rental received for use and occupancy of any or all of The BLVD Retail(except Landlord's net income taxes), whether any such taxes are imposed by the United States, the State of Arizona, the County of Maricopa, or any local governmental municipality, authority, or agency or any political subdivision of any thereof. Tax expenses shall include a prorata share of any in lieu payment made by the City to compensate for taxes that would be imposed on the Property if owned by a party subject to the assessment of real property and or personal property taxes which is anticipated to include assessments relating to a special district being formed for maintenance improvements used by all of the common area.

4.4.2.2. **Insurance.** All costs and expenses to Landlord in maintaining fire and extended coverage insurance, property damage, liability and rent loss insurance and any other insurance maintained by Landlord covering the use and operation of The BLVD Retail which is customary in comparable projects in the area or which is reasonably deemed prudent by Landlord.

4.4.2.3. **Heating, Ventilating and Air Conditioning System.** All costs and expenses of repairing, operating and maintaining the heating, ventilating and air conditioning system for the BLVD Retail, including the cost of all utilities required in the operation thereof, except those paid directly by tenants of The BLVD Retail and including the cost of replacements of equipment used in connection with such repair and maintenance work and all costs and expenses incurred in making alterations or additions to the heating, ventilating and air conditioning system in order to comply with governmental rules, regulations and statutes.

4.4.2.4. **Required Capital Improvements.** The costs of capital improvements and structural repairs and replacements made in or to The BLVD Retail in order to conform to changes subsequent to completion of the original construction of The BLVD Retail in any applicable laws, ordinances, rules, regulations or orders of any governmental or quasi-governmental authority having jurisdiction over The BLVD Retail (herein "**Required Capital Improvements**") and the costs of any capital improvements and structural repairs and replacements designed primarily to reduce Operating Expenses or to reduce the rate of increase in Operating Expenses (herein **"Cost Savings Improvements"**). The expenditures for Required Capital Improvements and Cost Savings Improvements shall be reimbursed to Landlord in equal installments over the useful life of such capital improvement or structural repair or replacement (as reasonable determined by Landlord) together with interest on the balance of the unreimbursed expenditure at a rate equal to the floating commercial loan rate announce from time to time by US Bank, a national banking association, or its successor, as its prime rate plus two percent (2%) per annum (the **"Prime Rate"**) which is in effect on the date the expenditure was incurred by Landlord; provided, however, the amount to be reimbursed for any Cost Savings

Improvements shall be limited in any year to the estimated reduction or estimated savings in Operating Expenses as a result thereof.

4.4.2.5. **Standard Services and Utilities.** All costs and expenses incurred by Landlord in providing standard services and utilities to tenants of the BLVD Retail, including office janitorial services, such as to clean the public areas, remove garbage, and do minor repairs, window washing and utilities not separately metered and not charged by Landlord directly to specific tenants; together with the cost of replacement of non-building standard electric light bulbs and fluorescent tubes and blasts, which Landlord shall have the exclusive right to provide and install.

4.4.2.6. **Management Fees.** Included in the Operating Expenses and reconciled annually paid to a third-party management company not affiliated with Landlord. Management Fees shall be capped at no more than ten percent (10%) of the total Operating Expenses.

4.4.2.7. **General Maintenance and Repairs.** All costs and expenses incurred by Landlord in operating, managing, repairing and maintaining the BLVD Retail, including all sums expended in connection with the Common Areas for general maintenance and repairs, resurfacing, painting, restriping, cleaning, sweeping and janitorial services as defined in Paragraph 4.4.2.5, window washing, maintenance and repair of elevators, stairways, sidewalks, curbs, sprinkler systems planting and landscaping, lighting and other utilities, maintenance and repair of any fire protection systems, automatic sprinkler systems, lighting systems, emergency back-up utility systems, storm drainage systems and any other utility systems, personnel to implement such services and to police the Common Areas, rental of machinery and equipment used in such maintenance and services, police and fire protection services, trash removal services, all costs and expenses pertaining to security systems, utilities, premiums and other costs for workers' compensation insurance, wages, withholding taxes, social security taxes, personal property taxes, fees for required licenses and permits, supplies, and charges for management of the BLVD Retail. Costs and expenses incurred by Landlord in operating, managing, repairing and maintaining The BLVD Retail which are incurred exclusively for the benefit of specific tenants of The BLVD Retail will be billed accordingly and will not be included within the general Operating Expenses.

4.4.3 **Non-Operating Expenses.** Notwithstanding the foregoing, for purposes of this Lease, Operating Expenses shall NOT include the following.

4.4.3.1 **Other Capital Improvements.** Costs of items considered capital improvements, capital repairs, capital replacements, and/or capital equipment, all as determined in accordance with Landlord’s standard real estate accounting practices, except as permitted in Sections 4.4.2.3, 4.4.2.4 above and 4.4.2.7 above.

4.4.3.2 **Depreciation and Amortization.** Depreciation and amortization, except as provided herein and except on materials, tools, supplies and vendor-type equipment purchased by Landlord to enable Landlord to supply services Landlord might otherwise contract for with a third party where such depreciation and amortization would otherwise have been included in the charge for such third party's services, all as determined in accordance with standard real estate accounting practices, consistently applied, and when depreciation or

amortization is permitted or required, the item shall be amortized over its reasonably anticipated useful life as determined by Landlord in the manner described in Section 4.4.2.4 above, together with interest on the unamortized costs at the Prime Rate.

4.4.3.3 **Interest, Points and Fees.** Interest, points, fees and principal payments on any mortgages encumbering the BLVD Retail, and other debt costs, if any, except as specifically included in Sections 4.4.2.4 above and 4.4.2.7 above.

4.4.3.4 **Reimbursement for Insurance Proceeds.** Costs of any items (including, but not limited to, costs incurred by Landlord for the repair of damage to the BLVD Retail) to the extent Landlord received reimbursement from insurance proceeds or from a third party (except that any deductible amount under any insurance policy shall be included within Operating Expenses).

4.4.3.5 **Broker's Commission.** Brokerage commissions, space planning costs, finders' fees and attorneys' fees incurred by Landlord in connection with leasing or attempting to lease space within The BLVD Retail(including all such fees and costs incurred in connection with the negotiation and execution of this Lease).

4.4.3.6 **Permits and Licensing.** Costs, including permit, license and inspection costs, incurred with respect to the installation of tenant improvements made for any tenants in The BLVD Retail or incurred in renovating or otherwise improving, preparing, decorating, painting or redecorating vacant space for tenants or other occupants of the BLVD Retail.

4.4.3.7 **Penalties**. Interest, penalties or other costs arising out of Landlord's failure to make timely payment of its obligations under this Lease, including, without limitation, Landlord's failure to make timely payment of any item that is included in Operating Expenses or Tax Expenses.

4.4.3.8 **Attorney's Fees.** Attorneys' fees and other costs and expenses incurred in connection with negotiations or disputes with present or prospective tenants or other occupants of The BLVD Retail (including costs incurred due to violations by tenants of the terms and conditions of their leases), or any other attorneys' fees incurred in connection with The BLVD Retail(including, without limitation, any financing, sale or syndication of the BLVD Retail), except (A) as specifically enumerated as an Operating Expense in this Lease, or (B) to the extent the expenditure of such attorneys' fees general benefits the tenants of the BLVD Retail.

4.4.3.9 **Overhead Costs**. Costs and overhead and profit increment paid to Landlord or to subsidiaries or affiliates of Landlord for goods and/or services in or to The BLVD Retail to the extent the same exceeds typical costs and overhead and profit increment of such goods and/or services rendered by qualified unaffiliated third parties on a competitive basis.

4.4.3.10 **Sales Tax**. Under the Arizona Municipal Tax Code, commercial leases are subject to the Transaction Privilege (Sales) Tax imposed by the City of Avondale and under state law transaction privilege taxes (Sales) are imposed by the state and Maricopa County. This tax will be charged to the Tenant above the Base Lease amount.

4.4.3.11 **Other Costs**. Costs of acquisition of sculptures, painting and other objects of art; and any other costs not specifically set forth in Section 4.4.2.

4.5 **Calculation and Payment of Operating Expenses.**

4.5.1 **Statement of Estimated Operating Expenses.** Prior to that date which is thirty (30) days prior to the first day of a new Expense Year, Landlord shall endeavor to give Tenant a yearly expense estimate statement (the "Estimate Statement") which shall set forth Landlord's reasonable estimate (the "Estimate") of what the total amount of Operating Expenses for the new Expense Year shall be. The failure of Landlord to timely furnish the Estimate Statement for any Expense Year shall not preclude Landlord from enforcing its rights under this Article 4. Tenant shall pay Tenant's Share of the Estimated Expenses (defined below) with installments of Rent in monthly installments of one-twelfth (1/12) thereof on the first day of each calendar month during such year, except that the monthly installment of Tenant's Share of the Estimated Expenses for the first full calendar month of the Initial Term shall start at the Commencement Date of this Lease. Tenant hereby acknowledges that prior to the execution of this Lease by Landlord and Tenant, Landlord provided to Tenant the Estimate Statement for calendar year 2021. As shown on the Estimate Statement for calendar year 2021, Tenant's Share of the Estimated Expenses are twenty three thousand four hundred thirty dollars and thirty six cents ($23,430.36) (approximately $4.88 per square foot times 4,800 square feet of Floor Area within the Premises), and the monthly Estimate installment due herein shall be one thousand nine hundred fifty two dollars and fifty three cents ($1,952.53). Tenant's pro rata share with controllable elements of Operating Costs over Base Year 2021 to be capped at growth rate of no more than five percent (5%) per annum on a cumulative basis for calendar years 2022 through 2026. For lease years after 2027, the growth rate shall be capped at one and one-half percent (1.5%) of the prior year's expenses.

4.5.2 **Estimated Expenses** for any particular year shall mean Landlord's estimate of Operating Expenses for a calendar year. If at any time Landlord determines that Operating Expenses are projected to vary from the then Estimated Expenses, Landlord may, by notice to Tenant, revise such Estimated Expenses, and Tenants monthly installments for the remainder of such year shall be adjusted so that by the end of such calendar year Tenant has paid to Landlord Tenant's Share of the revised Estimated Expenses for such year. Until a new Estimate Statement is furnished, Tenant shall pay monthly, with the monthly Minimum Rent installments, an amount equal to one-twelfth (1/12) of Tenant's Share of the Estimated Expenses set forth in the previous Estimate Statement delivered by Landlord to Tenant.

4.5.3 **Payment.** Landlord shall endeavor to give to Tenant on or before the first day of February following the end of each Expense Year, a statement (the **"Statement"**) which shall state the Operating Expenses incurred or accrued for such preceding Expense Year (**"Actual Expenses"**), and the amount of the Estimated Expenses paid by Tenant for such preceding Expense Year and shall indicate the amount, if any, of the difference between the Actual Expense and the Estimated Expenses (the **"Excess"**) for such Expense Year. If an Excess is present, Tenant shall pay, within forty-five (45) days after receipt of said Statement, the full amount of the Excess for such Expense Year. If any Statement reflects that Tenant has overpaid Tenant's Share of Operating Expenses for such Expense Year, Landlord shall refund the amount of the overpayment to Tenant within forty-five (45) days after completing the Statement. The failure of Landlord to timely furnish the Statement for any Expense Year shall not prejudice Landlord from enforcing its rights under this **Article 4**. Even though the Term has expired and Tenant has vacated the Premises, when the final determination is made of Tenant's Share of the Operating Expenses for the Expense Year in which this lease terminates, if an Excess is present, Tenant shall

immediately pay to Landlord an amount as calculated pursuant to the provisions of Section 4.5.1 of this Lease. The provisions of this Section shall survive the expiration or earlier termination of the Term.

4.6 **Audit Rights.** Within thirty (30) days after receipt of the Statement by Tenant (**"Review Period"**), if Tenant disputes the amount set forth in such statement, an independent certified public accountant (which accountant is a member of a nationally or regionally recognized accounting firm), designated by Tenant, may, after reasonable notice to Landlord and at reasonable times, inspect Landlord's records (pertaining to Landlord's calculation of Operating Expenses) at Landlord's offices, provided that Tenant and such accountant or representative shall, and each of them shall cause their respective agents and employees to, maintain all information contained in Landlord's records in strict confidence. Landlord shall cooperate in good faith with Tenant and accountant to provide Tenant and the accountant with the information upon which the certification is to be based. However, if such certification by the accountant proves that the total amount of Operating Expenses set forth in the year end statement were overstated by more than three percent (3%), then the actual, documented and reasonable cost of the accountant and such certification shall be paid for by Landlord. Promptly following the parties' receipt of such certification, the parties shall make such appropriate payments or reimbursements, as the case may be, to each other, as are determined to be owing pursuant to such certification.

4.7 **Security Services**. Except for Landlord's negligence, Landlord shall not be liable in any manner whatsoever to Tenant or any third party by reason of any act or omission of Landlord in providing or maintaining Security Services (or electing not to provide or maintain Security Services) in the Common Areas.

4.8 **Trash**. Tenant shall be solely responsible for the removal of all trash and garbage from its Premises to a common trash receptacle for removal from the property by the Landlord.

ARTICLE 5
[INTENTIONALLY OMITTED]

ARTICLE 6
[INTENTIONALLY OMITTED]

ARTICLE 7
Real Estate Taxes

7.1 **Real Estate Taxes**. The City is the fee owner of The BLVD Retail and will not be assessed real property taxes. Pursuant to the Government Property Lease Excise Tax Statutes ARIZ. REV. STAT. §§ 42-6201 The BLVD Retail is instead subject to the assessment or levy of an excise tax ("**GPLET**"). The GPLET is calculated in accordance with the provisions of ARIZ. REV. STAT. § 42-6203. The Tenant may be exempt from paying the GPLET if they qualify under ARIZ. REV. STAT. § 42-6208. However, assessments (both special and general) imposed in connection with any financing district, transportation development district, special assessment district, special benefit district, sanitary improvement district, local improvement district or any similar district of which The BLVD Retail (or any portion thereof) is a part are not covered under Operating Costs and are instead treated as "**Special Assessments**" according to the terms of this section and **Section 7.2** below. Tenant covenants and agrees to pay to Landlord as Additional Rent any costs for these Special Assessments and in no event shall Tenant contest or appeal or have any right to contest or appeal these Special Assessments levied or assessed against the Premises or the BLVD Retail. Tenant shall pay all taxes applicable to all other property in the Premises that is

Tenant's personal property not taxed, as set forth in **Section 21.1** (captioned "**Tenant's Property**").

7.2 **Tenant's Proportionate Share of Special Assessments**. Tenant's "**Proportionate Share of Special Assessments**" Shall be calculated by dividing the floor acreage of the premises against the total property owned by the City in the BLVD Retail District and establishing an estimated value per square foot. The estimated full cash value shall be used to set the assessed value in the same manner and method as other commercial property and the tax rate for the Maintenance Improvement District which has been created to provide for maintenance of common area facilities contained within the BLVD development which benefits all of the property within the BLVD development including the property that is the subject of this Lease and shall be applied against the assessed value established under this paragraph and in accordance with paragraph 4.4.2.1.

ARTICLE 8
Liens

8.1. In no event shall any material or equipment that is incorporated in or affixed to the Premises be subject to any notice of lien, lien, encumbrance or security interest; PROVIDED, HOWEVER, the foregoing shall not preclude Tenant from granting a security interest in Tenant's Property. Notice is hereby given that Landlord shall not be liable for any work or materials furnished to Tenant on credit and that no notice of lien or mechanic's or other lien for any such work or materials shall attach to or affect Landlord's interest in the Premises based on any work or material supplied to Tenant or anybody claiming through Tenant. Tenant shall not permit any notice of lien or lien to be filed against the Premises or any portion of The BLVD Retail for labor, services or materials claimed to have been performed for or furnished to Tenant, its contractors and subcontractors. If such a notice of lien or lien is filed, Tenant shall discharge the notice of lien or lien within ten business days after the filing thereof (the "**Lien Cure Period**"). Tenant hereby acknowledges its failure to discharge or "bond over" such a notice of lien or lien prior to the expiration of the Lien Cure Period shall cause Landlord to incur expenses not contemplated by this Lease, the exact amount of which is difficult to ascertain. Accordingly, if Tenant fails to "bond over" or discharge any such notice of lien or lien within the Lien Cure Period, then in addition to Landlord's other rights and remedies under this Lease, at law or in equity, Tenant shall pay to Landlord liquidated damages in the amount of $25.00 for each day between the expiration of the Lien Cure Period and the date such notice of lien or lien is removed or "bonded over." In addition, should Tenant fail to pay or "bond over" any liens within the Lien Cure Period, Landlord may (but shall not be obligated to) "bond over" such lien or pay the lien claimant and obtain a release of the lien after reasonably inquiring into the validity thereof, and offset any reasonable costs so incurred against any amount owed Tenant, and Tenant shall, upon demand and as Additional Rent, reimburse Landlord for the amount so paid together with all reasonable attorneys' fees incurred by Landlord. In addition to Landlord's rights and remedies under this Lease and at law or in equity, Tenant shall indemnify, defend, and hold Landlord harmless, utilizing legal counsel acceptable to Landlord, for, from and against any and all claims, demands, actions, causes of action, losses, damages, costs, and expenses, including court costs and reasonable attorneys' fees of Landlord, arising from or connected in any way with any notice of lien or lien. Nothing in this Lease shall be construed as a consent or request by Landlord, express or implied, to any contractor, subcontractor, laborer or materialman for the performance of any labor at or the furnishing of any materials to the Premises.

ARTICLE 9
Parking & Public Rights of Way

9.1 **Parking**. Tenant and its employees, customers and invitees may have the non-exclusive right, together with Landlord and all other tenants and occupants of the BLVD Retail, to park on a first come first serve basis, in the public parking spaces located on N. 114th Avenue, W. Dale Earnhardt Drive and The BLVD. Neither Tenant, nor its employees shall use any parking spaces marked or designated as reserved parking spaces for other tenants of Landlord. Tenant shall, within five days after request from Landlord, furnish to Landlord the automobile license numbers of all automobiles owned or used by Tenant or its employees. If there is a violation of the foregoing requirement by any employee of Tenant, Landlord shall give Tenant notice thereof, and if such violation continues following notice to Tenant, Landlord shall have the right, at Landlord's option, to tow any vehicle parked in violation of the terms hereof, or to charge Tenant the sum of $35.00 per day for each violation. The Landlord will designate three designated parking spaces in the vicinity of the subject property for the Tenant's use during business hours from 6:00 AM-8:00 PM. The parking spots will be open to the public on a first come first serve basis on all other days and times. Signage will be installed at the Tenant's sole cost and expense.

9.2 **Parking Fees.** At some time in the future the Landlord may convert all or some of the surface parking to structured parking. However, Landlord agrees to make reasonable efforts to minimize the need for structured parking if initial development does not warrant the installation of a parking structure. Such parking structure will not change Tenant's parking rights described herein during or after construction.

9.3 **Public Rights-of-Way**. The public rights-of-way may from time to time at the sole discretion of the City, be temporarily closed for events so long as Tenant is still able to reasonably operate its business, including parking and access. The City or Landlord is under no obligation to temporarily or permanently replace the loss of parking due to closure of public rights-of-way. The City or Landlord is responsible for maintenance and cleaning of public rights-of-way after any such event.

ARTICLE 10
Construction of the Premises

10.1 **Construction of the Premises**. Landlord and Tenant agree that the Premises shall be constructed in a good and workmanlike manner in accordance with the terms and provisions of **ITEM 9** and **Exhibit B-2** hereto. Tenant agrees that Landlord has made no representations or warranties regarding the condition of the Premises or the BLVD Retail, except as expressly set forth in this Lease. All Tenant's work shall be completed by licensed contractors holding a valid registration from the Arizona Registrar of Contractors.

ARTICLE 11
Alterations; Roof Penetration; Signs; Indemnification

11.1 **Interior Non-Structural Alterations**. After the Tenant's Work is completed, Tenant shall have the right to make interior, non-structural alterations or additions to the Premises without Landlord's consent. Tenant shall provide 30 days' prior notice to Landlord before the commencement of any interior, non-structural alterations or additions to be made to the Premises.

11.2 **Structural and Exterior Alterations**. Tenant shall not make any structural or exterior modifications, improvements, alterations, additions or installations in or to the Premises

(the "**Alterations**") without Landlord's prior, written consent. Along with any request for Landlord's consent and before commencement of any Alterations or delivery of any materials to be used in any Alterations, Tenant shall furnish Landlord with a complete set of plans and specifications, names and addresses of contractors, copies of permits and licenses, and an indemnification in such form and amount as may be reasonably satisfactory to Landlord and, if required by Landlord, a performance bond executed by a commercial surety reasonably satisfactory to Landlord, and in an amount equal to the cost of the Alterations and the payment of all liens for labor and material arising therefrom. All Alterations shall be done only by licensed, bondable contractors or subcontractors reasonably approved by Landlord, and at such time and in such manner as Landlord may from time to time reasonably designate. Tenant shall pay the cost of all Alterations (including a reasonable charge for Landlord's services and for Landlord's inspection, architectural and engineering time), and also the cost of painting, restoring or repairing any portion of the Premises and The BLVD Retail required because of Tenant's Alterations. Upon completion of the Alterations, Tenant shall furnish Landlord with contractor's affidavits and full final, unconditional waivers of liens and a reasonably detailed breakdown of the costs of all labor and materials employed in such Alterations. All Alterations shall comply with all insurance requirements and all laws, ordinances, rules and regulations of all governmental authorities (including, without limitation, the Americans With Disabilities Act) and shall be constructed in a good and workmanlike and lien free manner. Tenant shall permit Landlord to inspect construction operations in connection with any Alterations. Tenant shall not be allowed to make any modifications, improvements, Alterations, additions or installations if such action results or would result in a labor dispute or otherwise would materially interfere with Landlord's operation of the BLVD Retail. Subject to applicable federal and state law, in the event any Alterations result in a labor dispute, Tenant shall cause work to be halted immediately, remove the workers, contractors or mechanics responsible for such dispute and replace them with workers, contractors and mechanics acceptable to Landlord and whose work shall not (in the sole and absolute discretion of Landlord) result in a labor dispute.

11.3 **Roof Penetration**. Tenant must obtain prior, written approval from Landlord before accessing the roof of The BLVD Retail for any type of roof puncture/penetration or for attaching any items to the roof, and such work must be performed by Landlord's roofing contractor at a competitive market price or by a contractor approved by Landlord. Tenant shall be responsible for any damage to the Premises, the roof or the building containing the Premises or The BLVD Retail caused by Tenant, its agents or contractors, including, but not limited to, any roof puncture/penetration. Tenant shall be responsible for the roof above the Premises in the event it makes an alteration, with or without Landlord permission, and any damage to the Premises occurs. Notwithstanding the foregoing, Landlord approves of Tenant installing a satellite dish on the roof of the Premises and will reasonably cooperate with Tenant in such planning and installation thereof so as not to penetrate the roof or roof membrane; provided, however, that Tenant submit to Landlord its plans for the installation of the satellite for Landlord's approval and that Tenant does not cause any roof warranties to be rendered null and void or inapplicable.

11.4 **Tenant's Signs**. Tenant shall comply at all times with the provisions of **Exhibit C** with respect to Tenant's interior signs. All of Tenant's signs shall comply with all Legal Requirements for the BLVD Retail. Tenant shall be responsible for the costs of designing, manufacturing, installing, illuminating, operating and maintaining its signs. Upon the termination of this Lease, Tenant shall remove its signs and restore and repair all parts of the Premises and The BLVD Retail affected by the installation or removal of its signs, to the condition existing prior to installation or to a condition reasonably acceptable to Landlord. If Tenant fails or refuses to remove its sign as herein required, Landlord may, but shall not be obligated to, remove such signs and repair and restore all damage caused by their removal, and Tenant shall pay to Landlord the

costs of all such removal, repair and restoration, together with an amount equal to 10% of such costs, within ten days after receipt of an invoice therefor. Landlord reserves the right to place signage on the exterior of the Premises, including, without limitation, building identification signage, directional signage and signage for other tenants and occupants of the BLVD Retail.

11.5 **Indemnification**. Tenant agrees to indemnify, defend and hold Landlord harmless, utilizing legal counsel reasonably acceptable to Landlord, for, from and against any and all third party claims, demands, actions, causes of action, losses, damages, costs, and expenses, including court costs and reasonable attorneys' fees of Landlord to the extent arising from Tenant's interior non-structural alterations, Alterations, roof puncture/penetrations, Tenant's signs, or any other work performed by or on behalf of Tenant on the Premises unless caused by Landlord's negligence or willful misconduct in which event Landlord shall be solely liable. The provisions of this Section shall survive the expiration or termination of this Lease.

ARTICLE 12
Repair and Maintenance

12.1 **Landlord Repairs and Maintenance**. Landlord agrees to maintain the Building and the Common Areas in good repair and maintenance consistent with the terms of this Lease and to make or cause to be made the following repairs and maintenance (which shall include replacements, if necessary) (collectively, "**Landlord Repairs**") within a reasonable period of time after receipt of notice from Tenant of the need therefor:

A. **Structural Repairs**. Structural portions of the Premises ("**structural portions**" consist, without limitation, of the foundation, roof, floor slab and members supporting the roof), the cost of which shall not be included in Operating Costs; PROVIDED, HOWEVER, notwithstanding the foregoing, in no event shall Landlord be responsible for the repair or replacement of the floor covering in the Premises. In the event Landlord fails to perform its maintenance obligations herein, Tenant shall have the right to perform such maintenance and Landlord shall reimburse Tenant for the cost thereof within thirty (30) days after receipt of an invoice therefor.

B. **Utility Repairs**. All repairs to and replacements of utility systems and sewer lines up to the point of the meters located in the mechanical room or, if there is no mechanical room, to the point at which they are stubbed to the Premises, the cost of which shall not be included in BLVD Retail Operating Costs. PROVIDED, HOWEVER, in the event any damage is caused by one or more acts or omissions of Tenant, its agents, employees, customers or invitees (or any other person other than Landlord), Tenant shall pay the cost of such repairs within 30 days after receipt of an invoice therefor. Additionally, Landlord shall include in Operating Costs the costs of repair(s) to plumbing and utility lines from the entrance points of the utility lines into The BLVD Retail to the mechanical room(s) or, if there is no mechanical room, to the point at which they are stubbed to the Premises. In addition, Landlord shall repair utility lines to the Premises during the time period from the Effective Date through the one-year anniversary of the Commencement Date of this Lease except when caused by the negligence of Tenant.

C. **HVAC**. All the replacement of the HVAC System serving the Premises, including maintenance of all fixtures, equipment, ducts, air filters, machinery, machinery controls, appliance and utility lines as are used for, in connection with or which are part of the electrical, plumbing, heating, air conditioning, ventilation or other mechanical systems.

12.2 **Tenant Repairs**. Except as is Landlord's obligation under this Article, Tenant agrees, at its own cost and expense, to take good care of the Premises and Tenant's trash area and to keep them in good and first-class order, condition and state of repair (which shall include replacements, if necessary) including, without limitation, the following:

A. **Interior Repairs**. Any and all interior repairs, including but not limited to all repairs to its trade fixtures and electrical equipment and fixtures, plumbing fixtures, lines and equipment and other utility lines (including sewer and utility lines within and exclusively serving the Premises), from the point of the meters in the mechanical room or, if there is no mechanical room, to the point at which they are stubbed to the Premises), and wiring (including that within walls or ceilings, or under flooring or floor covering, or in or under the slab).

B. **Storefront Repairs**. All storefront repairs, including glass and doors, door frames, locks, lifts, openers and hardware. Notwithstanding any other provision of this Lease, Landlord shall make any storefront repairs needed during the period from the Effective Date through the first anniversary of the Commencement Date of the Lease except those caused by the negligence of Tenant.

C. **Window Repairs**. All repairs to windows (including sashes, frames, locks and hardware) and all Tenant's signs (including replacement of signs). Notwithstanding any other provision of this Lease, Landlord shall make any window repairs needed during the period from the Effective Date through the first anniversary of the Commencement Date of the Lease except those caused by the negligence of Tenant.

D. **HVAC**. All the repair and maintenance of the HVAC System serving the Premises, including maintenance of all fixtures, equipment, ducts, air filters, machinery, machinery controls, appliance and utility lines as are used for, in connection with or which are part of the electrical, plumbing, heating, air conditioning, ventilation or other mechanical systems.

ARTICLE 13
Inspections; Self Help; Construction in the BLVD Retail

13.1 **Inspections**. Landlord shall have the right, upon reasonable prior notice, except in the event of an emergency (in which case only such notice as is practicable shall be required), to enter upon the Premises for any purpose, including to determine Tenant's compliance with this Lease or to maintain and repair any pipes, conduits or ducts, whether used in the supply of services to Tenant or to other occupants of the BLVD Retail. Landlord shall further have the right, on at least 48 hours prior notice, to enter the Premises in connection with the following: **(A)** construction on the Premises; or **(B)** completing any work, repairs, alterations, or improvements in and about the Premises.

13.2 **Landlord's Right to Self Help**. If Tenant neglects or refuses to make repairs to or to maintain the Premises as required under this Lease, or to fulfill any other obligation (or any part thereof) as required under this Lease, then in addition to all other rights and remedies of Landlord as a result of such failure, Landlord and/or its agents shall have the right, upon giving Tenant reasonable notice of its election to do so, except in the event of an emergency (in which case only such notice as is practical shall be required), to make the repairs or perform the maintenance or other obligations on behalf of and for the account of Tenant. The cost of the work so done or obligations performed by Landlord or its agents, together with an amount equal to 15% of such

costs, shall be paid for by Tenant within ten days after Tenant's receipt of a bill therefor. If Tenant fails to pay such amount within such 10-day period, the amount shall accrue interest at the Interest Rate upon the expiration of such 10-day period until paid. Nothing herein shall imply any duty on the part of Landlord to do any work which Landlord is not specifically and expressly required to perform under this Lease or which, under any provisions of this Lease, Tenant is required to perform, and the performance of such work by Landlord shall not constitute a waiver of Tenant's default. Landlord shall have no liability to Tenant for any loss or damage which may result to its stock or business by reason of such repairs, replacements or action.

13.3 **Construction in the BLVD Retail.** In connection with any construction, excavation or other building operations related to changes to the BLVD Retail, Landlord, its agents, employees and contractors shall have the right of access to enter the Premises on reasonable prior notice to Tenant and to strengthen, add to or shore the foundations, walls, columns or supporting members thereof, and to erect scaffolding and/or protective barricades around and about the Premises (but not so as to preclude entry thereto) and to do any act or thing necessary for the safety or preservation of the Premises, in Landlord's sole discretion, and Landlord shall use reasonable efforts to complete all construction in the Premises as promptly as possible (considering the nature and extent of the construction and subject to prudent construction practices). Tenant's obligations under this Lease shall not be affected by any such changes, construction, excavation or other building operations, and so long as Landlord acts reasonably, Landlord shall not be liable for any inconvenience, disturbance, loss of business or any other annoyance arising therefrom, subject to Tenant’s exclusivity right, right to Quiet Enjoyment and other rights hereunder.

ARTICLE 14
Utilities/Meters; Interruption of Service

14.1 **Utilities/Meters**. Tenant agrees to obtain directly from the provider thereof and pay all charges for electricity, air conditioning, heating, gas, water, sanitary sewer and other utility bills relating to the Premises from and after the Delivery Date. If any utility services are not separately metered to the Premises, Landlord may require Tenant (as part of Tenant's Work or at any time during the Term of this Lease), at Tenant's sole cost and expense (but subject to inclusion in the Tenant Improvement Allowance), to install check or sub-meters to measure Tenant's consumption of such utilities, and shall pay Landlord as Additional Rent, a share of the cost of such utilities (based on Tenant's consumption thereof as evidenced by such check or sub-meter and the rate for such utilities paid by Landlord). Additionally, if any utility service (whether separately or jointly metered to the Premises) is required to be maintained in Landlord's name, Tenant shall either pay all charges for such utility if separately metered to the Premises, or a proportionate share thereof (as set forth in this paragraph above) if jointly metered with other premises. Tenant shall pay any tap, connection and hook-up fees, and any security and other deposits, payable in connection with the utilities serving the Premises except for such development impact fees or hook-up fees charged by the City. All utilities (if separately metered) shall be transferred into Tenant's name on or before the Delivery Date (or such earlier date as Tenant may enter the Premises to perform Tenant's Work). If Tenant installs any electrical equipment that overloads the lines in the Premises, Tenant shall, at its own expense, make whatever changes are necessary to comply with the requirements of codes and ordinances of the City or any governing body having jurisdiction.

14.2 **Interruption of Service**. No reasonable interruption in, or temporary stoppage of (not to exceed one business day), any of the services or utilities furnished to the Premises is to be deemed an eviction or disturbance of Tenant's use and possession of the Premises, nor does

any such interruption or stoppage relieve Tenant from any obligation under this Lease, render Landlord liable for damages or entitle Tenant to any Rent abatement. If Tenant is reasonably unable to operate its business for more than 5 business days, Tenant will be entitled to a rent abatement after such week until the Tenant is able to resume operations.

ARTICLE 15
Tenant's Insurance; Landlord's Insurance; Mutual Release and Waiver of Subrogation

15.1 **Tenant's Insurance**. Tenant, at its sole cost and expense, shall obtain and keep in force commencing as of the Delivery Date, the following insurance with an insurance company authorized to do business in Arizona or alternatively through an actuarially sound self-insurance program:

A. **"Special Form Causes of Loss" Property Insurance**. Property insurance using ISO forms CP0010 and CP1030 (or their equivalent) and including equipment breakdown covering all of Tenant's Property, plate glass and all "**Leasehold Improvements**" (as defined in **Article 21**) in the Premises made and paid for by Tenant (including, without limitation, Leasehold Improvements paid for with the Construction Allowance, if any), in an amount equal to the full replacement cost thereof.

B. **Business Interruption Insurance**. Business interruption insurance using ISO form CP0030 (or its equivalent) and including equipment breakdown, with a deductible or waiting period of no greater than 72 hours, in an amount that shall reimburse Tenant for direct or indirect loss of earnings attributable to all perils insured against in the previous Subsection or attributable to the prevention of access to the Premises by civil authority; and sufficient to reimburse Tenant for Rent in the event of a casualty to, or temporary taking of, The BLVD Retailor the Premises.

C. **Commercial General Liability Insurance**. Commercial general liability insurance to protect against claims for bodily injury and property damage arising out of premises operations, products, and completed operations, and advertising and personal injury liability, including Dram Shop or host liquor liability (if alcoholic beverages are sold or served in, from or about the Premises), written on an occurrence basis, with policy limits of not less than $1,000,000.00 per occurrence, unless Landlord agrees to a lesser amount.

D. **Environmental Insurance**. Without limiting the provisions of **Article 32**, in the event Tenant's use of the Premises does or might result in the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants (including, without limitation, any Hazardous Materials) into or upon land, the atmosphere or any watercourse or body of water, then Tenant shall obtain environmental insurance insuring against any loss for bodily injury, property damage, cleanup costs and defense expenses resulting from any of the above-described causes with limits of not less than $2,000,000.00 inclusive per occurrence and $2,000,000.00 annual aggregate, per location.

E. **Employer's Liability Insurance and Workers Compensation**. Employer's Liability insurance, with minimum limits of not less than $500,000.00, bodily injury each accident, $500,000.00 bodily injury by disease policy limit, and $500,000.00 bodily injury by disease each employee, and Worker's Compensation in form and amount as required by applicable law.

F. **Commercial Automobile Liability Insurance**. Commercial automobile liability insurance covering all owned, non-owned and hired automobiles, in limits of not less than $1,000,000.00 combined single limit (each accident).

15.2 **Policies of Insurance**. Tenant shall have the right to satisfy the insurance required by this Article by means of blanket insurance policy(ies). All general liability policies of insurance or certificates thereof shall name Landlord, Landlord's property manager, and all mortgagees of Landlord, as additional insureds, as their respective interests may appear. Any and all deductibles or co-insurance in the above-described policies or inadequacy of limits for coverage shall be assumed by, for the account of, and at Tenant's sole risk. Prior to commencing any work under this Agreement, Tenant will provide Landlord with suitable evidence of insurance in the form of certificates of insurance of the insurance policies as required by this Agreement, issued by Tenant's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. The Landlord shall reasonably rely upon the certificates of insurance as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. Tenant agrees to further provide Landlord evidence of renewals of policies upon request. The required coverage and/or limits referred to herein shall in no way affect or limit Tenant's liability with respect to its duties and obligations under this Lease.

15.3 **Uses Which Affect Insurance**. Tenant shall not knowingly conduct or permit to be conducted in the Premises any activity, or place any equipment in or about the Premises or BLVD Retail, which shall invalidate the insurance coverage in effect or increase the rate of insurance on the Premises or the BLVD Retail, and Tenant shall comply with all requirements and regulations of Landlord's property and liability insurers. If any invalidation of coverage or increase in the rate of insurance occurs or is threatened by any insurance company due to any act or omission by Tenant, or its agents, employees, representatives, or contractors, such statement or threat shall be conclusive evidence that the increase in such rate is due to the act of Tenant, and Tenant shall be liable for the increase and such amount shall be considered Additional Rent payable with the next monthly installment of Minimum Rent due under this Lease unless Tenant cures such act or omission after receiving written notice of same.

15.4 **Landlord's Insurance**. Landlord shall, at all times during the Term, carry a policy or policies of commercial general liability insurance covering the Common Areas in The BLVD Retail and special form causes of loss insurance covering Landlord's improvements in the BLVD Retail, all in such forms and amounts and with such deductibles and self-insured retentions as Landlord reasonably deems appropriate. Landlord shall not be required to carry insurance of any kind on Tenant's Property, and Tenant hereby acknowledges and agrees that Tenant shall have no right to receive any proceeds from any insurance policies carried by Landlord. If insurance coverages generally maintained by landlords of similar space in similar buildings in the area in which The BLVD Retail is located increase or otherwise change, Landlord may similarly change the insurance coverages Landlord maintains under this Lease.

ARTICLE 16
Non-Liability of Landlord; Tenant Indemnification; Landlord Indemnification; Third Party Claims; Tenant's Risk

16.1 **RESERVE**

16.2 **Tenant Indemnification**. Tenant hereby agrees to indemnify, defend, and hold Landlord and its affiliates, owners, appointed and elected officers, agents and employees (collectively, the "**Landlord Indemnified Parties**") harmless for, from and against any and all "**Losses**" (as defined in this Section), to the extent arising from any or all of the following (collectively, "**Tenant's Indemnified Matters**"): **(A)** the conduct or management by Tenant or Tenant's officers, directors, members, partners, agents, employees, or representatives ("**Tenant Parties**") of the Premises or any business therein, or any work or Alterations done, or any condition created by Tenant or any Tenant Parties in or about the Premises during the Term or during the period of time, if any, prior to the Commencement Date that Tenant is given access to the Premises; **(B)** any misconduct, omission or negligence of any or all of Tenant and Tenant Parties; **(C)** any accident, injury or damage whatsoever occurring in, at or upon either or both of The BLVD Retail and the Premises and caused by Tenant and/or Tenant Parties; **(D)** any breach by Tenant of any of its warranties and representations under this Lease; **(E)** any violation by any or all of Tenant and/or any Tenant Parties of any law, code, ordinance or other governmental regulation; **(F)** any breach or default on the part of Tenant in the performance of any covenant or obligation contained in this Lease; **(G)** claims for work or labor performed for or materials supplied or furnished to Tenant and/or any Tenant Parties; and **(I)** the violation of any "**Environmental Law**" (as defined in **Article 32**) or any permit, application or consent required in connection with any Environmental Law by any or all of Tenant and Tenant Parties with respect to the Premises during the Term; excluding, however, any violation of any Environmental Law resulting directly from the acts or omissions of Landlord and Landlord's employees, agents and contractors. In case any action or proceeding is brought against any or all of Landlord and Landlord Indemnified Parties by reason of any of Tenant's Indemnified Matters, Tenant, upon notice from Landlord shall defend such action or proceeding by counsel reasonably satisfactory to Landlord. For purposes of this Article, the term "**Losses**" shall mean all third party claims, demands, expenses, actions, judgments, damages, penalties, fines, liabilities, losses of every kind and nature, suits, administrative proceedings, costs and fees, including, without limitation, attorneys' and consultants' reasonable fees and expenses, and the costs of cleanup, remediation, removal and restoration, that are in any way related to any matter covered by the foregoing obligations. The provisions of this Section shall survive the expiration or termination of this Lease.

16.3 **Landlord Indemnification**. To the extent permitted by law, Landlord hereby agrees to indemnify, defend, and hold harmless Tenant, its officers, agents and servants, for, from and against any and all claims, actions, suits, judgments, decrees, orders, liability and expense in connection with loss of life, bodily injury and/or damage to property using counsel reasonably acceptable to Tenant **(A)** arising from or out of any occurrence in or upon any of the Common Areas, except to the extent the same is caused by the willful misconduct or negligent act or omission of Tenant and/or Tenant Parties; and/or **(B)** occasioned wholly or in part by any willful misconduct or negligent act of Landlord, its agents, employees or servants or breach of this Agreement. The provisions of this Section shall survive the expiration or earlier termination of this Lease with respect to any damage, injury or death occurring before such expiration or earlier termination.

16.4 **RESERVE**

16.5 **Tenant's Risk**. All personal property in the Premises shall be at Tenant's sole risk, and Landlord shall not be liable for any damage done to, or loss of, such personal property, or for damage or loss suffered by the business income or occupation of Tenant arising from any act of neglect of third parties, or from bursting, overflowing, or leaking of water, sewer or steam pipes, rain, wind, tornadoes, floor or other surface or subsurface water, from overflow of drainage facilities or backup or stoppage of any drain, sewer or other water runoff facility or device or from

the heating or plumbing fixtures, noise, dust, or from electric wires, or from gas, odors, natural disaster, riot or act of violence, leaking roofs or caused in any other manner. Tenant shall give Landlord prompt notice of any accident to, defect in or problem in the Premises or Building of which Tenant has knowledge or notice. Tenant, for itself and its agents, employees, representatives, expressly assumes all risks of injury or damage to person or property, resulting from the condition of The BLVD Retailor any part thereof.

ARTICLE 17
Assignment and Subletting

17.1 **Consent of Landlord**. Tenant shall not assign this Lease or sublet the Premises or any part thereof or mortgage, pledge or hypothecate its leasehold interest or grant any concession or license within the Premises or sublease any operating department therein, whether by sale, assignment, death, incompetency, mortgage, deed of trust, trust, operation of law or otherwise, and whether voluntary or involuntary, without the prior written consent of Landlord (which Landlord shall not unreasonably withhold, condition or delay) which consent shall be evidenced by the signature of the City Manager thereon. Any attempt to do any of the foregoing, without the prior written consent of Landlord, shall be void and of no force or effect. This prohibition shall be construed to include a prohibition against an assignment or subletting by operation of law.

17.2 **Corporate, Partnership or Limited Liability Company Transfer**. Any transfer of Tenant's interest in this Lease by merger, consolidation or dissolution or any change in ownership or power to vote a majority of the "**voting stock**" (as defined in this Section) or majority in interest in Tenant, if Tenant is a corporation or limited liability company, or any transfer of this Lease by transfer of any other ownership interest of Tenant, or any Guarantor, during the Term shall constitute an assignment for the purpose of this Lease, and shall not be permitted unless Tenant obtains the express consent of Landlord. For purposes of this Section, the term "**voting stock**" means shares of stock or interest of any kind, regularly entitled to vote for the election of directors, managing partners, or managers or their equivalent of the corporation, limited liability company, partnership or other entity involved.

17.3 **Assignment; Pledging**. If this Lease is assigned or if the Premises are subleased (whether in whole or in part) or in the event of the mortgage, pledge or hypothecation of the leasehold interest or grant of any concession or license within the Premises or if the Premises are occupied in whole or in part by anyone other than Tenant in violation of the terms of this Article, Landlord shall have the right to do the following: **(A)** collect rent from the assignee, sublessee, mortgagee, pledgee, party to whom the leasehold interest was hypothecated, concessionee or licensee or other occupant and apply the net amount collected to the Rent payable hereunder without being deemed to have approved or consented to such action by Tenant; and/or **(B)** reenter the Premises, assume and take possession of the whole or any part thereof, and remove all persons or personal property therefrom, by direct or summary action, or in a different type of suit or proceeding, by force, or otherwise, without being deemed guilty of trespass or other actionable wrong by reason thereof, and without being liable for damages therefor or in connection therewith, and after demand made therefor, Tenant or anyone in possession claiming under Tenant shall be deemed guilty of unlawful detainer and subject to such summary or other action as may be provided by law.

17.4 **Event of Assignment or Subletting**. If Tenant wishes to assign this Lease or sublet all or any part of the Premises, it shall first give written notice of such intention to Landlord, furnishing Landlord with a copy of the final proposed assignment or sublease document and with full information as to the identity and financial status of the proposed assignee or subtenant. Any

proposed assignment document shall provide, without limitation, the following: **(A)** that the assignee thereunder shall be liable for all of the obligations of Tenant under this Lease (including, without limitation, the payment of any and all amounts paid or to be paid by Tenant under this Lease on an estimated basis and reconciled on an annual basis, regardless of whether such reconciliation occurs subsequent to such assignment); and **(B)** that any security deposit paid to Landlord under this Lease is transferred to such assignee. Within 60 days after receipt of such notice and documentation from Tenant, Landlord shall have the right, by notice to Tenant, to either: **(1)** permit Tenant to terminate this Lease upon notice of its election to do so to Landlord, in which case Tenant shall be relieved of further liability hereunder and under the proposed assignment or sublease; **(2)** approve or reject such assignment or subletting in which case Tenant shall be relieved of further liability hereunder and under the proposed assignment or sublease; or **(3)** convert the assignment or sublease into a direct lease between Landlord and such proposed assignee or sublessee and receive all of the rents in which case Tenant shall be relieved of further liability hereunder and under the direct lease. Notwithstanding the foregoing, Tenant may not attempt to assign or sublease this Lease until 12 months after the commencement of this Lease.

17.5 **Permitted Transfer**. Notwithstanding anything contained in this Lease to the contrary, Tenant may assign the Lease, upon Landlord's prior consent, which shall not be unreasonably withheld (a "**Permitted Transfer**") to a legal entity (a "**Permitted Transferee**") which is either: **(A)** the successor, by merger or otherwise, to all or substantially all of Tenant's assets and liabilities; or **(B)** controls or is controlled by or is under common control with Tenant. For purposes of this Section, the term "**control**" (including the terms "controls," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise. Any such assignment or subletting shall be otherwise subject to and upon all of the terms, provisions and covenants of this Lease. However, any Permitted Transfer, shall not in any way relieve Tenant of liability as to any term or condition of this Lease without the express approval of Landlord.

17.6 **Miscellaneous Provisions**. Landlord agrees to give a reasonable estoppel letter to any assignee or sublessee to which Landlord consents or in the event of a Permitted Transfer, upon request from such assignee or sublessee. Any sale, assignment, mortgage, transfer or subletting of this Lease which is not in compliance with the provisions of this Article shall be void and of no further force or effect. All rentals paid to Tenant by an unapproved assignee or unapproved sublessee shall be received by Tenant in trust for Landlord and forwarded immediately to Landlord without offset or reduction, or, at Landlord's election, such rentals shall be paid directly to Landlord (to be applied as a credit and offset to Tenant's Rent obligations). All consideration paid to Tenant for an approved assignment, sublease or other right to use the Premises shall be retained by Tenant. Tenant shall pay all costs up to $500.00 incurred by Landlord in connection with any proposed assignment or sublease, including reasonable attorneys' fees, and shall pay any brokerage commission incurred by reason of any such proposed assignment or sublease.

17.7 **No Release or Waiver**. Notwithstanding anything contained in this Lease to the contrary, no consent or action by Landlord, and no assignment or subletting permitted by Landlord, shall be deemed a waiver or a release of Tenant from the performance by Tenant of its covenants, duties and obligations hereunder unless otherwise set forth in this Agreement.

ARTICLE 18
Landlord Transfer

18.1 **Landlord Transfer**. Landlord reserves the right to sell or otherwise assign its interest in this Lease or the Premises and the acquisition of title or of Landlord's interest in this Lease by a subsequent owner shall not affect or impair this Lease. However, Landlord may not sell, assign, or otherwise transfer the Building or this Lease with Tenant without also selling, assigning, or otherwise transferring any and all of Landlord's liabilities and/or responsibilities under this Lease. If Landlord conveys or transfers its entire interest in the Premises, upon such conveyance or transfer, Landlord (and in the case of any subsequent conveyances or transfers, the then grantor or transferor) shall be released from all liability with respect to the performance of any obligations on the part of Landlord to be performed hereunder from and after the date of such conveyance or transfer. Upon notice of such transfer, Tenant shall attorn to the new owner as landlord. If Landlord conveys or transfers its entire interest in the Premises, it shall convey the Security Deposit to the new owner.

ARTICLE 19
Permitted Use; Prohibited Uses; Future Restriction; Rules and Regulations; Legal Requirements; Radius Restriction

19.1 **Permitted Use**. It is understood and agreed between the parties hereto that during the Term of this Lease, the Premises shall be used and occupied only for the Permitted Use as defined in **ITEM 3** of the Cover Sheet and for no other purpose or purposes without the prior written consent of Landlord (which may be withheld in Landlord's sole and absolute discretion). In the event Landlord elects (in the exercise of its sole and absolute discretion) to permit Tenant to use all or any portion of the Premises for a use other than the Permitted Use described in **ITEM 3** of the Cover Sheet, then such approved use shall constitute a "**Permitted Use**" for purposes of this Lease.

19.2 **Prohibited Uses; Future Restrictions**. Tenant shall promptly comply with all encumbrances of record affecting the Premises from time to time, all laws, ordinances and lawful orders, the rules adopted by the Declarant, or, if applicable, any rules and regulations of the BLVD Retail, as may be amended or promulgated in the future so long as there is not material adverse effect to Tenant, affecting the Premises and the cleanliness, safety, occupation and use of the same. In addition to other restrictions on the use of the Premises, Tenant shall not use or permit the Premises to be used for, and the Premises are subject to, and Tenant shall abide by, the "**BLVD Retail Rules and Regulations**" (as defined in this Article). In the event Tenant violates any of the provisions of this Section, Landlord shall have all rights and remedies provided in this Lease, in addition to all rights and remedies available to Landlord at law or in equity, including, but not limited to, injunctive relief.

19.3 **BLVD Retail Rules and Regulations**. In addition to the restrictions contained in this Lease, Landlord may from time to time promulgate reasonable and non-discriminatory rules and regulations which further govern the operation of Tenant's business in the Premises and in and about The BLVD Retail and which do not have a materially adverse effect on Tenant ("**BLVD Retail Rules and Regulations**"). Tenant agrees to abide by and comply with all such reasonable and non-discriminatory rules and regulations. A copy of The BLVD Retail Rules and Regulations currently in effect for The BLVD Retail is attached hereto as **Exhibit C** and incorporated herein by this reference.

19.4 **Legal Requirements**. Tenant shall be obligated (and shall be responsible) to comply with any Legal Requirements, which pertain to Tenant's use and occupancy of the Premises, whether such Legal Requirements are structural or nonstructural in nature. The term "**Legal Requirements**" means all applicable current or future statutes, ordinances, orders, rules, regulations, judgments and requirements of public authorities with jurisdiction over The BLVD Retail and/or the Premises, and all other matters of record affecting the Premises from time to time. Tenant shall not do or permit anything to be done in or about the Premises, nor bring or keep anything therein which is not within the Permitted Use of the Premises which shall in any way increase the existing rate of or affect any fire or other insurance upon the Premises or The BLVD Retailor any of its contents, or cause a cancellation of any insurance policy covering said Premises or The BLVD Retailor any part thereof or any of its contents. Further, Tenant shall furnish and maintain an adequate number of fire extinguishers in good operating condition as may be reasonably required by Landlord or any governmental authority, and in any event, not less than one such extinguisher for each floor or level of the Premises or as may be required under the adopted fire code of the city.

ARTICLE 20
Bankruptcy and Other Actions

Any Event of Default of the type described in **Subsection 23(D)** (captioned "**Bankruptcy**") under the Default provisions of this Lease (a "**Bankruptcy Event**") shall be deemed in material breach of Tenant's obligations hereunder and this Lease shall thereupon automatically terminate. Landlord does, in addition, reserve any and all other remedies provided in this Lease or in the law in connection with any Bankruptcy Event.

A. No default of this Lease by Tenant, either prior to or subsequent to the happening of any Bankruptcy Event, shall be deemed to have been waived unless expressly done so in writing by Landlord.

B. It is understood and agreed that this is a lease of real property in a shopping center as such a lease is described in Section 365(b)(3) of the Bankruptcy Code, that Landlord is entitled to all rights and benefits of a landlord thereunder, and that nothing contained herein shall be deemed a waiver of any such right or benefit.

C. Subject to applicable federal and state law, included within and in addition to any other conditions or obligations imposed upon Tenant or its successor in the event of assumption and/or assignment of this Lease in connection with any Bankruptcy Event are the following: **(1)** the cure of any monetary defaults and the reimbursement of pecuniary loss within not more than 30 days of assumption and/or assignment; **(2)** the deposit of an additional sum equal to three months of Minimum Rent and Additional Rent to be held as security; **(3)** the use of the Premises as set forth in this Lease with the quality and quantity of any goods or services required to be offered for sale unchanged with a covenant of continuous operation by Tenant or its successor; **(4)** the reorganized debtor or assignee of such debtor in possession or Tenant's trustee demonstrates in writing that it has retailing experience in shopping centers of comparable size and financial ability to operate a retail establishment out of the Premises in the manner contemplated in this Lease and meets all other reasonable criteria of Landlord as did Tenant upon execution of this Lease; **(5)** the prior written consent of any mortgagee to which this Lease has been assigned as collateral security; and **(6)** the Premises, at all times, remains a single store and no physical changes of any kind may be made to the Premises unless in compliance with the applicable provisions of this Lease.

ARTICLE 21
Tenant's Property; Personal Property Taxes; Leasehold Improvements

21.1 **Tenant's Property**. Upon the expiration or earlier termination of this Lease, Tenant shall remove from the Premises all of Tenant's furniture, trade fixtures (including kitchen equipment), signage (including both interior and exterior signage, but excluding signage required by law [e.g., "EXIT" signage]), merchandise, inventory, displays and other personal property paid for by Tenant (i.e., excluding any property or improvements paid for by Landlord either directly or with the Construction Allowance) located in the Premises (collectively, "**Tenant's Property**"). Tenant shall use reasonable efforts to avoid or minimize any damage to the Premises or Center resulting from such removal and shall repair any damage to the Premises or Center caused by the removal of Tenant's Property, and all utility lines shall be professionally capped or plugged and Tenant shall leave the Premises in broom clean condition. Tenant hereby agrees that, in addition to any other work required to comply with the provisions of this Section, the foregoing shall require Tenant to repair all damage to the exterior of the Premises resulting from the removal of Tenant's signage and other improvements therefrom, and to repaint all areas beneath such signage and improvements to the extent required for such areas to match the color and materials of the remainder of the exterior of the Premises. If, after ten (10) day written notice, Tenant fails to remove any of Tenant's Property, such property shall become the property of Landlord and Landlord shall have the right to dispose of such property as it deems appropriate, and Tenant shall reimburse Landlord for any costs thereby incurred on demand. This requirement shall survive the Term of this Lease to the extent necessary to give effect hereto. Notwithstanding anything contained in this Lease to the contrary, in addition to Tenant's obligation to pay its Proportionate Share of Special Assessments as set forth in **Article 7** above, during the Term of this Lease Tenant acknowledges and agrees that it shall pay all taxes, impositions, assessments and similar charges levied or imposed by any governmental or taxing authority against Tenant's Property or any other property or fixtures located in the Premises and used in connection with the operation of Tenant's business therein that are not taxed as real property, whether owned by Landlord or Tenant and to the extent such Taxes are applicable to Tenant (collectively, "**Personal Property Taxes**"). Tenant shall pay all Personal Property Taxes directly to the applicable governmental authority (or, if Landlord receives the bill with respect to any Personal Property Taxes, Tenant shall pay to Landlord within 20 days after receipt of an invoice therefor from time to time, in which event Landlord shall remit such Personal Property Taxes to the applicable governmental authority).

21.2 **Leasehold Improvements Remain**. Notwithstanding anything to the contrary set forth in this Lease, all alterations, decorations, installations, additions or improvements upon or to the Premises attached or affixed to the real estate by either party, which are not trade fixtures, including, but not limited to, all paneling, millwork, decorations, partitions, air conditioning units, heating equipment, hot water heaters, light fixtures, railings, mezzanine floor, galleries, elevators, stairways, vault doors, and the like (collectively, the "**Leasehold Improvements**"), shall immediately become the property of Landlord upon installation and shall remain upon, and be surrendered with the Premises, as a part thereof, at the termination of this Lease. The value or cost of the Leasehold Improvements constructed by Tenant shall in no way constitute a substitute for or a credit against any obligation of Tenant under this Lease to pay Rent. Further that upon the end of Five years, such leasehold improvements unless affixed to the premises shall become the property of tenant

ARTICLE 22
Eminent Domain

22.1 **Definition/General**. In the event of a taking of all or any part or of any interest in the Premises, the Building, The BLVD Retail buildings, the Common Areas or any other part of the property by reason of any exercise of the power of eminent domain, or if there is a transfer thereof or of any interest therein, made in avoidance of an exercise of the power of eminent domain (all of the foregoing being hereinafter collectively referred to as a "**Taking**"), the following provisions shall apply. Landlord shall notify Tenant of any pending or threatened Taking and of all related proceedings including the settling of any award.

A. **Total Taking**. In the event of a Taking of all of the Premises, this Lease shall terminate as of the date of such Taking and all of Tenant's obligations hereunder, including its obligation to pay Rent accruing from and after the date of the Taking shall terminate as of the date of such Taking. To the extent that compensation for a complete taking of the premises includes the value of the Tenants Improvements, such compensation for value of the Tenant improvements shall be provided to Tenant

B. **Partial Taking**. In the event of a Taking of the following: **(1)** more than 20% of the Premises; **(2)** more than 40% of the Building or The BLVD Retail buildings; **(3)** more than 35% of the Common Areas (including the parking areas); or **(4)** more than two of the accessways serving The BLVD Retail without replacement thereof, then Tenant or Landlord may terminate this Lease by notice to the other within 60 days after possession is taken by the condemning authority; PROVIDED, HOWEVER, in the event Tenant elects to terminate this Lease pursuant to Clause (3) above, Landlord shall have the right to nullify such election by giving Tenant notice of its election to promptly restore the Common Areas so taken or furnish substitute facilities which are functionally equivalent to or better than the Common Areas so taken and within a reasonable distance from those portions taken.

22.2 **Restoration**. In the event this Lease is not canceled as herein provided, then Landlord shall: **(A)** restore, if the condemnation award proceeds are available and sufficient to do so, the affected portion and, if applicable, so much of the remainder of the Premises to a complete architectural unit to the extent that they existed on the date physical delivery thereof was initially delivered to Tenant prior to the Commencement Date (in any event subject to then existing code); and **(B)** turn over to Tenant (for restoration purposes by Tenant) that portion of Landlord's award applicable to Tenant's Work initially installed by Tenant and additional Tenant Improvements that was awarded to Landlord (rather than to Tenant) and not otherwise received by Tenant from the condemning authority or pursuant to **Section 22.3** (captioned "**Award**") for such element of damage; PROVIDED, HOWEVER, Landlord may terminate this Lease, if no condemnation award proceeds are available or the condemnation award proceeds are insufficient to restore such affected portion or remainder of the Premises as provided above, by written notice to Tenant within 60 days after the date the condemning authority notifies Landlord of the amount of the condemnation award proceeds (if any). Following the physical delivery of the Premises to Tenant, Tenant shall commence and complete restoration of the Premises to at least the extent of Tenant's Work initially installed by Tenant and additional Tenant Improvements, subject to Tenant receiving enough award proceeds to pay for such Improvements (if there is not enough award, Tenant will have the option to terminate the Lease). During the period of restoration in the Premises only, the Rent shall be equitably abated in accordance with the nature and extent that Tenant's use and enjoyment of the Premises has been affected.

22.3 **Award**. All damages awarded for any Taking shall belong to and be the property of Landlord, Tenant hereby assigning to Landlord its interest, if any, in said award. Notwithstanding the foregoing, Tenant shall have the right to prove in any condemnation proceedings and to receive any separate award which may be made for damages to or condemnation of Tenant's movable trade fixtures and equipment and for moving expenses; PROVIDED, HOWEVER, Tenant shall in no event have any right to receive any award for its interest in this Lease or for loss of leasehold, and any such award shall not reduce amounts that would otherwise be available to Landlord. Notwithstanding the foregoing provisions of this Article, Landlord may terminate this Lease with no further liability to Tenant in the event that following any Taking of any part of the BLVD Retail, or any conveyance in lieu thereof, any party holding a mortgage, trust deed or similar lien on Landlord's interest in The BLVD Retail elects to require the application of an award or payment for the taking or conveyance in lieu thereof to reduce the indebtedness secured by such mortgage, trust deed or similar lien.

ARTICLE 23
Default

23.1 **Default Definition**. The occurrence of all or any of the following shall constitute an "**Event of Default**" by Tenant:

A. **Non-payment of Rent or other sums**. Any installment of Rent, Additional Rent or any other sum(s) required to be paid by Tenant hereunder, or any part thereof, shall at any time be in arrears and unpaid following the due date and after five days written notice thereof as herein provided.

B. **Vacation or Abandonment of Premises**. Tenant has "**vacated or abandoned**" (as defined in this Subsection) the Premises, and such conditions continues for a period of more than fifteen days after Tenant's receipt of written notice thereof. For purposes of this subsection, the term "**vacated or abandoned**" shall mean that Tenant has: **(1)** ceased operating for business in the Premises, and **(2)** has either: **(a)** verbally or in writing expressed to Landlord or its agent its intention to cease performing all or any of its obligations under this Lease; or **(b)** removed such items of Tenant's Property from the Premises so as to render the Premises unsuitable for the operation of Tenant's business therein; or **(c)** tendered the keys to the Premises to Landlord or its agent; PROVIDED, HOWEVER, Tenant hereby agrees that no acceptance of notice or of the keys to the Premises by Landlord or any agent of Landlord shall constitute an acceptance of surrender of the Premises or terminate this Lease or Tenant's liability hereunder.

C. **Non-performance**. There is any default or breach on the part of Tenant in the observance or performance of any of the other covenants, agreements, or conditions of this Lease on the part of Tenant to be kept and performed, and said default or breach shall continue for a period of 30 days after notice thereof from Landlord to Tenant (or, if such default cannot reasonably be cured within 30 days, if Tenant shall fail to commence to cure the default within such 30-day period or thereafter fails to diligently pursue such cure to completion).

D. **Bankruptcy**. If: **(1)** Tenant or any Guarantor of Tenant's obligations under this Lease shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors; **(2)** Tenant or any Guarantor of Tenant's obligations under this Lease shall file a petition under any section or chapter of the United States Bankruptcy Code, as amended, or under any similar law or statute of the United States or any State thereof, or an order for relief relating to Tenant or any Guarantor of Tenant's obligations under this Lease is granted in proceedings filed against Tenant or any guarantor of Tenant's obligations under this

Lease; or **(3)** a receiver or trustee shall be appointed for the Premises or for all or substantially all of the assets of Tenant or any guarantor of Tenant's obligations under this Lease.

E. **Attachment**. This Lease or the Premises or any part of the Premises are taken upon execution or by other process of law directed against Tenant, or are taken upon or subject to any attachment at the instance of any creditor or claimant against Tenant, and the attachment is not discharged or disposed of within 15 days after its levy.

F. **Failure to Take Possession**. Tenant fails to take possession of the Premises on the Commencement Date as required hereunder.

23.2 **Remedies**. Upon an Event of Default of Tenant hereunder Landlord, at its option, may exercise any of the following remedies, which shall be in addition to the exercise of all rights and remedies of Landlord under this Lease, at law or in equity, with respect to such Event of Default:

A. **Terminate**. Cancel and terminate this Lease and all rights of Tenant hereunder and enter the Premises and take possession thereof.

B. **Take Possession**. Without terminating the Lease, re-enter and take possession of the Premises and remove all persons and property therefrom. Tenant hereby grants to Landlord a lien and security interest as security for payment of all Rent, Additional Rent, or any other charges now or hereafter payable by Tenant hereunder, upon all equipment, fixtures, and inventory (and the proceeds thereof within the Premises, including all improvements, equipment, fixtures, inventory, merchandise, and other personal property now or hereafter placed on or in the Premises, to the full extent of Tenant's and any assignee's, or subtenant's interest herein, and such lien shall include the right to prevent removal of the property from the Premises and may be enforced, upon nonpayment of rent to other charges as aforesaid, or any other default by Tenant hereunder, without any type of notice to Tenant, unless notice is required by some other provision of this Lease by the re-entry, taking and sale, lease or other disposition of such property. Landlord shall also have all other rights and remedies upon default provided by law, including those set forth in the Uniform Commercial Code. The sale, lease, or other disposition of the property shall be either public or private after at least ten days' notice to Tenant at his last known address, and Landlord shall have the right and privilege to be a purchaser at any such sale. Landlord and Tenant agree that ten days' notice of such sale, lease, or other disposition of the property is reasonable under the circumstances. Landlord shall not be deemed guilty of trespass or liable for any loss or damage occasioned thereby. Should Landlord elect to re-enter, as herein provided, or should Landlord take possession pursuant to legal proceedings or pursuant to any notice provided for by law or by this Lease, Landlord may either cancel this Lease pursuant to the rights reserved elsewhere in this Lease, or Landlord may, from time to time, without canceling this Lease, make such alterations and repairs as may be necessary in order to relet the Premises; and relet said Premises or any part thereof for such term or terms (which may be for a term extending beyond the Term of this Lease) and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable; upon each such reletting all rentals received by Landlord from such reletting shall be applied first, to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord, second, to the payment of any costs and expenses of such reletting, including brokerage fees and reasonable attorneys' fees, third, to the payment of costs of any alterations and repairs necessary to relet the Premises, fourth, to the payment of Rent due and unpaid hereunder, and the residue, if any, shall be held by Landlord and applied in payment of future Rent or damage as such amounts may become due and payable hereunder during the entire term of the Lease. If such rentals received

from such reletting during any month be less than that to be paid during that month by Tenant hereunder, Tenant shall pay any such deficiency to Landlord. No such re-entry or taking possession of said Premises by Landlord shall be construed as an election on its part to cancel this Lease unless a notice of such intention is given to Tenant or unless the cancellation thereof is decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to cancel this Lease for such previous Event of Default.

C. **Locks/Security Devices**. Alter locks and other security devices at the Premises in accordance with applicable law.

D. **Tenant Improvement Allowance**. Withhold payment of any unpaid portion of the Tenant Improvement Allowance, if any, regardless of whether Tenant has already paid for all or any portion of the cost of the work, materials or labor to be paid for with the Tenant Improvement Allowance.

E. **Injunctive Relief**. Without limitation, exercise any other right at law or in equity, including specifically, but not by way of limitation, the pursuit of temporary or permanent injunctive relief.

23.3 **Additional Provisions**. If Tenant shall after default voluntarily give up or tender possession of the Premises to Landlord, by delivering the keys to the Premises to Landlord or its agent or property manager, or both, such actions shall be deemed to be in compliance with Landlord's rights and the acceptance thereof by Landlord shall not be deemed to constitute a surrender of the Premises or otherwise affect Landlord's rights in connection with such default; it being understood and agreed that such surrender may be effected only by the written agreement of Landlord and Tenant. In the event that Landlord shall have taken possession of the Premises, Landlord shall have the right to use all the furniture, fixtures and equipment at the Premises, including that which is owned by or leased to Tenant, prior to any foreclosure thereon by Landlord or repossession thereof by a Landlord thereof or third party having a lien thereon. Landlord shall also have the right to remove from the Premises (without legal process) all or any portion of such furniture, fixtures, equipment and other property located thereon and place same in storage at any premises elected by Landlord, and in such event, Tenant shall be liable to Landlord for costs incurred by Landlord in connection with such removal and storage, together with interest thereon at the Interest Rate. Landlord shall also have the right to relinquish possession of all or any portion of such furniture, fixtures, equipment and other property to any person ("**Claimant**") claiming to be entitled to possession thereof, without the necessity of making any investigation or inquiry as to the basis upon which Claimant purports to act, and Tenant agrees to indemnify, defend and hold Landlord harmless from all cost, expense, loss, damage and liability incident to Landlord's relinquishment of possession of all or any portion of such furniture, fixtures, equipment or other property. Tenant stipulates and agrees that the rights set forth in this Section are commercially reasonable.

ARTICLE 24
Subordination; Estoppels

24.1 **Subordination**. Tenant covenants and agrees that **(A)** this Lease is and shall automatically and without further act or deed by Tenant be and remain subject and subordinate to any mortgages, deeds of trust, security deeds or other security instruments, and any ground leases or underlying leases presently existing or hereafter placed upon all or any portion of The BLVD Retail(each a "**Mortgage**") and to any and all advances to be made thereunder, and to any

interest accrued thereon, and to all renewals, replacements, modifications, consolidations and extensions thereof or participation thereof, **(B)** any mortgagee, grantee, master lessor, beneficiary or trustee (each a "**Mortgagee**") may elect to have this Lease made a prior lien to its Mortgage, and in the event of such election and upon notification by Landlord or such Mortgagee to Tenant to that effect, this Lease shall without further act or deed by Tenant be deemed prior in lien to said Mortgage, whether this Lease is dated prior to or subsequent to the date of any such Mortgage, and **(C)** Tenant shall execute and deliver whatever instruments may reasonably be required by Landlord or any present or prospective Mortgagee to acknowledge such subordination or priority (as applicable) in recordable form. If any proceeding is brought for default under any Mortgage to which this Lease is subject, or in the event of foreclosure, deed in lieu of foreclosure or the exercise of the power of sale under any Mortgage covering the Premises (each a "**Foreclosure**") Tenant shall attorn to such successor and shall recognize that successor as Landlord under this Lease and that successor shall recognize Tenant as the tenant under this Lease. Tenant agrees that such successor shall not be **(1)** liable for any act or omission of Landlord under this Lease occurring prior to such Foreclosure, **(2)** subject to any offset accruing to Tenant against Landlord prior to such Foreclosure, or **(3)** bound by any previous prepayment of Rent or Security Deposit which have not been expressly delivered by Landlord to such successor. If so requested, Tenant shall enter into a new lease with such successor on the same terms and conditions as are contained in this Lease (for the unexpired Term of this Lease then remaining).

24.2 **Estoppel**. The parties agree that they shall rely solely upon the terms of this Lease to govern their relationship. They further agree that reliance upon any representation, act, or omission outside the terms of this Lease shall be deemed unreasonable, and shall not establish any rights or obligations on the part of either party. Within 20 days after the request of the other party at any time and from time to time, each of Landlord and Tenant agree to execute, acknowledge and deliver to the other party a written instrument in form reasonably acceptable to Landlord and Tenant, duly executed, acknowledged: **(A)** certifying that this Lease has not been modified except as set forth in such certificate and is in full force and effect as modified; **(B)** specifying the dates to which the Minimum Rent, Additional Rent and other charges hereunder have been paid; **(C)** stating whether or not, to the knowledge of the party executing such instrument, the other party is in default and, if so, stating the nature of such default; **(D)** stating the Commencement Date; **(E)** stating whether the option to extend the Term has been exercised; and **(F)** affirming such other factually accurate matters pertaining to the provisions or subject matter of this Lease as may be required by the other party.

ARTICLE 25
Notices

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 **(A)** delivered to the party at the address set forth below, **(B)** deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or **(C)** given to a recognized and reputable overnight delivery service, to the address set forth below, or (**D**) if transmitted by electronic mail to the address for each party set forth below if no return error message or delivery failure message is received by the sender thereof :

If to Tenant: Queendom Concepts, LLC DBA: New Penny Café

Laura Hansen
18817 W. Indianola
Litchfield Park, AZ. 85340
(602)809-4363
laura@saddlemountainbrewing.com

Deni Banach
7171 W. Marlette Avenue
Glendale, AZ. 85303
(253)359-7081
enroutecoffeeaz@gmail.com

Brittany Salazar
12602 W. Sheridan Street
Avondale, AZ. 85392
(623)258-2545
enroutecoffeeaz@gmail.com

If to the City:

City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: Economic Development Director
kchapa@avondaleaz.gov

With copies to:

City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: City Manager

City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: City Attorney

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 subsection. 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 or **(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. 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.

ARTICLE 26
Surrender of Premises

Tenant shall surrender the Premises in broom clean condition and in good order, condition and repair, reasonable wear and tear and insured casualty damage excepted, and shall surrender all keys for the Premises to Landlord at the place then fixed for the payment of Rent and shall inform Landlord of all combinations on locks, safes and vaults, if any, in the Premises. Tenant's obligation to observe or perform this covenant shall survive the expiration or earlier termination of this Lease.

ARTICLE 27
Holding Over

If Tenant remains in possession of the Premises after the expiration of the Term or earlier termination of this Lease, without the execution of a new Lease, then, at Landlord's option, Tenant shall be deemed to be occupying the Premises as a month-to-month holdover Tenant, subject to all the provisions of this Lease insofar as they are applicable to a month-to-month tenancy, but at a daily rental of 125% per day Minimum Rent and Additional Rent provided under this Lease, computed on the basis of a 30 day month, plus a like daily amount of Percentage Rent.

ARTICLE 28
Casualty

28.1 **Removal of Debris**. In the event of a casualty, Tenant shall be responsible for the prompt removal of all debris resulting from Tenant Improvements installed in the Premises by Tenant, including Tenant's furniture and fixtures.

28.2 **Termination**. If at any time during the Term, the Premises or any material portion of The BLVD Retail should be destroyed or damaged by fire or other casualty, Landlord shall have the election to repair and reconstruct the damaged portion of the Premises and/or The BLVD Retail to substantially the condition which existed at the time of Landlord's tender of possession of the Premises to Tenant or alternatively, to terminate this Lease. Landlord shall notify Tenant of its election within 20 days after receipt of notice from Tenant of such damage or destruction. In the event Landlord elects to terminate this Lease pursuant to this Section, Rent shall be apportioned on a per diem basis and be paid to the date of such damage or destruction and neither party shall have any further rights or obligations hereunder. Rent shall be abated for the period Tenant is unable to operate in the Premises.

28.3 **Repair**. If Landlord elects to repair and restore the Premises: **(A)** this Lease shall continue in full force and effect; **(B)** such repairs shall be made by Landlord within a reasonable period of time; and **(C)** Rent shall abate proportionately only during the period and to the extent that the Premises are unfit for use, and are not otherwise used, by Tenant to operate its business. Notwithstanding the foregoing, if the damage is due to the negligence of Tenant or its employees, there shall be no abatement of Rent. If Landlord elects to repair and restore the Premises, Tenant hereby covenants and agrees to restore the interior of the Premises, pursuant to Landlord's standard construction procedures, and reopen fully stocked and staffed in the Premises promptly thereafter.

28.4 **Notice**. Tenant shall give notice to Landlord within five business days after Tenant learns of any accident, damage or destruction at the Premises.

ARTICLE 29
Waiver

One or more waivers of any covenant or condition of this Lease by Landlord shall not be construed as a waiver of a further breach of the same covenant or condition, and the consent or approval by Landlord to or of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent or approval to any subsequent similar act by Tenant. No receipt of money by Landlord after a Tenant default has been declared shall, without the consent of Landlord, in any way reinstate, continue or extend the Term of this Lease. Receipt by Landlord of Tenant's keys to the Premises shall not constitute an acceptance of surrender of the Premises without Landlord's acknowledgment thereof.

ARTICLE 30
Quiet Possession

Landlord agrees that, so long as Tenant fully complies with all of the terms, covenants and conditions herein contained on Tenant's part to be kept and performed, Tenant shall peaceably and quietly have, hold and enjoy the Premises free from molestation by Landlord or any party claiming by, through or under Landlord.

ARTICLE 31
Broker's Commission

Landlord and Tenant agree that no brokers have been involved in these lease negotiations. No commission is due and payable.

ARTICLE 32
Asbestos and Other Hazardous Materials

32.1 **Definitions**. For purposes of this Lease:

A. "**Environmental Laws**" means any federal, state or local statute, regulation or ordinance or any judicial or administrative decree or decision, whether now existing or hereinafter enacted, promulgated or issued, with respect to any Hazardous Materials, drinking water, groundwater, wetlands, landfills, open dumps, storage tanks, underground storage tanks, solid waste, waste water, storm water runoff, waste emissions or wells, including, without limiting the generality of the foregoing, the following statutes, and regulations, orders, decrees, permits, licenses and deed restrictions now or hereafter promulgated thereunder, and amendments and successors to such statutes and regulations as may be enacted and promulgated from time to time: Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 et seq., as amended by the Superfund Amendments and Reauthorization Act; the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq.; the Hazardous Material Transportation Act, 42 U.S.C. §1801 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq.; the Toxic Substances Control Act, 15 U.S.C. §2601 et seq.; the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq.; the Emergency Planning and Community Right to Know Act, 42 U.S.C. §11001 et seq.; the Clean Air Act, 42 U.S.C. §7401 et seq.; the Uranium Mill Tailings Radiation Control Act (42 U.S.C. Section 7901 et seq.); the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 136 et seq.); the Noise Control Act (42 U.S.C. § 4901 et seq.); the Safe Drinking Water Act (21 U.S.C. § 349, 42 U.S.C. § 201 and § 300f et seq.); and the National Environmental Policy Act (42 U.S.C. § 4321 et seq.).

B. "**Hazardous Materials**" means each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under any Environmental Law.

C. "**Release**" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, storing, escaping, leaking, dumping, discarding, burying, abandoning, using, generating, permitting, producing, introducing, maintaining, disposing or releasing into the Premises, The BLVD Retailor the environment.

D. "**Environmental Authorities**" means the United States, the State and any political subdivision thereof, the United States Environmental Protection Agency and any and all governmental authorities and the agencies, departments, commissions, boards, bureaus, bodies, councils, offices, authorities, or instrumentality of any of them, of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence having jurisdiction under any Environmental Law.

E. "**Notice**" means any communication, written or oral, actual or threatened, from any governmental authority or any other public or private entity or individual, concerning any violation of any Environmental Law, or any act or omission resulting or which may result in the Release of Hazardous Material, and shall include the imposition of any liens on The BLVD Retailor revenues or assets of Landlord.

32.2 **Tenant Requirements**. Landlord is unaware of Hazardous Substances on the Premises. If this is a material concern to the Tenant, this shall be investigated by the Tenant prior to Lease Execution. Landlord will comply with all Environmental Laws as to the Premises and Common Areas. Neither Tenant, nor its agents, employees, contractors, servants, subtenants, concessionaires or invitees, shall Release any Hazardous Materials in or about any portion of the Premises or the BLVD Retail, or transport any Hazardous Materials to or from the Premises or the BLVD Retail, except construction materials (other than asbestos or polychlorinated biphenyls), office equipment, cleaning solutions, other maintenance materials and oil and other petroleum products that are or contain Hazardous Materials may be used, handled or stored on the Premises, provided such materials, equipment, solutions and products are used is in de minimis amounts and are used only incidental to and as reasonably necessary for the operation and maintenance of the Premises for the Permitted Use hereunder and in compliance with all applicable Environmental Laws. In addition, neither Tenant, nor its agents, employees, contractors, servants or subtenants, shall install, use or permit the installation or use of storage tanks or other subterranean structures, on, under or adjacent to the Premises. Tenant shall, at Tenant's sole cost and expense, comply with all Environmental Laws applicable to Tenant's operations in the Premises and the BLVD Retail, and make all submissions to, provide all information required by, and comply with all requirements of all Environmental Authorities. If there is any Release or transportation by Tenant of Hazardous Materials at or from the Premises or the BLVD Retail by Tenant or at Tenant’s direction, or which arises at any time from Tenant's use or occupancy of the Premises or the BLVD Retail, and Landlord, any Environmental Authority or any third party demands that a remediation be undertaken, then Tenant, at Tenant's sole cost and expense, shall prepare and submit remediation plans for the demanding party's approval, and Tenant shall carry out all such remediation in accordance with such approved plans. In addition, Tenant shall promptly provide all information regarding the Release or transportation of Hazardous Materials that is requested by Landlord. If remediation is required by Tenant pursuant to the provisions of this Article, then Tenant shall continue to pay any and all Rent that comes due during such remediation and no abatement of Rent shall apply. If Tenant fails to fulfill or begin to fulfill any obligation imposed under this Section within 30 days after receipt of written

notice from Landlord, Landlord may, in its sole discretion, undertake the remediation of such Hazardous Materials from the Premises and/or the BLVD Retail, in which event Tenant shall cooperate with Landlord in order to prepare all documents Landlord deems necessary or appropriate to determine the applicability of the Environmental Laws to the Premises and the BLVD Retail, and Tenant's use thereof and for compliance therewith. In addition, Tenant shall execute all documents promptly upon Landlord's request, and reimburse Landlord for all reasonable expenses incurred by Landlord in fulfilling Tenant's obligations set forth in this Section, together with an additional amount equal to 15% of such expenses, within ten days after receipt of an invoice therefor. Notwithstanding the foregoing, Tenant shall have no obligation to undertake any remediation or incur any costs or expenses (as required in this Section) as a result of Hazardous Materials **(A)** existing in the Premises on or before the Delivery Date and not Released by Tenant, or its agents, employees, contractors, servants, subtenants, concessionaires or invitees; or **(B)** Released in the Premises or The BLVD Retail by Landlord, its agents, contractors or employees, or a third party unrelated to Tenant.

32.3 **Tenant Indemnification**. Tenant shall indemnify, protect and save Landlord, its officers, members, managers, agents and servants, and any Encumbrance Holder and management company (collectively, "**Landlord's Indemnitees**"), harmless for, from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, proceedings or expenses of any kind or of any nature whatsoever (including reasonable attorneys' and experts' fees and disbursements), which may at any time be imposed upon, incurred by or asserted or awarded against Landlord or any of the Landlord Indemnitees, arising out of, or in any way connected with, any breach or violation of the requirements set forth in this Article by Tenant or any of its agents, employees, contractors, servants, subtenants, concessionaires or invitees. In connection with Tenant's indemnification hereunder: **(A)** upon receipt of written notice from Landlord, Tenant agrees to defend any claim or demand brought, or any action, petition, or order filed, against Landlord or the Landlord Indemnitees by counsel reasonably satisfactory to Landlord, whether any such claim or action is rightfully or wrongfully brought or filed; and Tenant shall pay all reasonable expenses incurred in connection with defending against such action or proceeding; and **(B)** Tenant shall pay, satisfy and discharge any judgments, liens, orders or decrees which may be recovered or filed against Landlord, or any of the Landlord Indemnitees, arising out of any such claim, demand, action, petition or order.

Landlord will comply with all Environmental Laws as to the BLVD Retail and the Common Areas.

32.4 **Survival**. The provisions of this Article shall extend to and be enforceable by Landlord's liability, health, disability and worker's compensation insurers, and shall survive the expiration or sooner termination of the Term.

ARTICLE 33
Security Deposit; Conflicts; Access; Relationship; Headings & Miscellaneous

33.1 **Security Deposit**. On or before the Effective Date, Tenant shall deposit with Landlord the sum specified in **ITEM 11** of the Cover Sheet (the "**Security Deposit**"). The Security Deposit shall be held by Landlord without liability for interest as security for the faithful performance by Tenant of all of its obligations under this Lease. The Security Deposit shall not be mortgaged, assigned, transferred or encumbered by Tenant without the prior written consent of Landlord and any such act on the part of Tenant shall be without force and effect and shall not be binding upon Landlord. If any of the Rent or any other sum payable by Tenant to Landlord hereunder shall be overdue and unpaid or paid by Landlord on behalf of Tenant, or if Tenant shall

fail to perform any of its obligations under this Lease, then Landlord may, at its option and without prejudice to any other remedy which Landlord may have on account thereof, appropriate and apply said entire Security Deposit, or so much thereof as may be necessary to compensate Landlord for Minimum Rent, Additional Rent, loss or damage sustained by Landlord as a result thereof, and Tenant shall forthwith upon demand restore the Security Deposit to the original sum deposited. Should Tenant comply with all of said obligations and promptly pay all the rentals when due and all other sums payable by Tenant to Landlord, said Security Deposit shall be refunded in full to Tenant at the expiration or earlier termination of this Lease as mutually agreed to by both parties. In the event of bankruptcy or other debtor-creditor proceedings against Tenant, as specified in **Article 20**, the Security Deposit shall be deemed to be applied first to the payment of rental and other charges due Landlord for the earliest periods prior to the filing of such proceedings. Landlord may deliver the Security Deposit to the purchaser or assignee of Landlord's interest in the Premises in the event that such interest is transferred and thereupon Landlord shall be discharged from any further liability with respect to the Security Deposit. This Section shall also apply to any subsequent transfer of Landlord's interest in the Premises.

33.2 **Governing Item**. Notwithstanding anything contained in the Lease to the contrary, in the event of a conflict between Tenant's approved Construction Documents, as set forth in **Exhibit B-2**, and the terms and conditions of this Lease, including, but not limited to, **Exhibit B-2**, Tenant's approved Construction Documents, as approved by Landlord in accordance with **Exhibit B-2**, shall govern.

33.3 **Landlord Access to Rent**. Landlord may, at any time during the last 6 months of the Term, upon reasonable notice to Tenant, enter the Premises at all reasonable hours for the purpose of offering them for rent and may place and keep on the windows and doors of the Premises signs advertising the Premises for rent. Such actions will not disturb Tenant’s use of the Premises for its operations.

33.4 **Relationship**. Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating a relationship between the parties hereto other than the relationship of landlord and tenant.

33.5 **Submission**. The submission of this Lease for examination does not constitute a reservation or any option for the Premises and this Lease becomes effective only upon its execution and delivery by both parties hereto.

33.6 **Headings**. The Article headings used throughout this Lease are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease.

33.7 **Construction**. Whenever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders. The captions, section numbers, article numbers, and index appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such sections or articles of this Lease nor in any way affect this Lease.

33.8 **Independent Covenants**. The doctrine of independent covenants shall apply in all matters relating to this Lease including, without limitation, all obligations of Landlord and Tenant to perform their respective obligations under this Lease. All obligations of Tenant which by their nature involve performance after the end of the Term, or which cannot be ascertained to have

been performed until after the end of the Term of this Lease, shall survive the expiration or earlier termination of this Lease.

33.9 **Holiday Lights**. Tenant agrees to allow Landlord's representative to install and maintain holiday lights on the Premises during the holiday season, if such lights shall not interfere with Tenant's signs or obstruct Tenant's entrance. During the holiday season, holiday lights may be placed upon the outline of the roofline of the buildings located at the BLVD Retail.

33.10 **INTENTIONALLY DELETED.**

33.11 **Time of Essence & Binding Nature**. Time is of the essence of all of the terms and provisions of this Lease, and the terms and conditions hereof shall extend to and be binding upon the heirs, executors, successors and assigns of the parties hereto and mention of the singular shall include the plural and the plural shall include the singular.

33.12 **Memorandum of Lease**. In accordance with ARIZ. REV. STAT. § 42.6202(C), the City shall record a memorandum of this Lease in the Maricopa County Recorder's Office.

33.13 **Trial Waiver**.

THE PARTIES HERETO IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, OR TENANT'S USE AND OCCUPANCY OF THE PREMISES.

33.14 **Governing Law**. This Lease shall be subject to the laws of the State of Arizona.

33.15 **Attorneys' Fees**. In the event either party to this Lease brings any legal action to enforce the provisions hereof, the prevailing party in any such action shall be entitled to recover from the non-prevailing party all attorneys' fees and other fees and costs incurred by such prevailing party in connection with any such action.

33.16 **Force Majeure**. In the event either party hereto shall be delayed or hindered in or prevented from the performance of any act required under this Lease by reason of strikes, lockouts, labor troubles, acts of God, inclement weather, including periods of rain, inability to procure materials, failure of power, governmental law or regulations that require closure of Tenant's Business for more than Sixty consecutive days, riots, insurrections, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease ("**Force Majeure**"), then performance of such act shall be excused for the number of calendar days of such delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. No delay under this Section shall be effective unless Landlord or Tenant shall have notified the other of the delay within 20 days after cessation of the event giving rise to such delay setting forth the nature of such Force Majeure and the duration of such delay. The provisions of this Section shall not: **(A)** operate to excuse Tenant from prompt payment of Minimum Rent, Additional Rent or any other payment required by the terms of this Lease; nor **(B)** be applicable to delays resulting from the inability of a party to obtain financing or to proceed with its obligations under this Lease because of a lack of funds. Notwithstanding the foregoing, if a Force Majeure event caused by operation of a government order which requires Tenant to cease the operation of Tenant's business in the Premises, and Tenant does completely cease its business operation in the Premises, for such time that Tenant completely

ceases its business operation from the Premises due to a governmental mandate, Tenant shall not be required to pay the Rent or other amounts due under this Lease. For every day during which Tenant is not obligated to pay Rent and other amounts due under this Lease based upon the government mandate, an equal number of days shall be added to the term of this Lease.

33.17 RESERVE

33.18 **Guaranty.** This Lease is guaranteed by the parties set forth in ITEM 10 of the Cover Sheet, and such Guarantor(s) shall execute a Guaranty in the form attached hereto as Exhibit E ("Form of Lease Guaranty"). If Landlord consents to a Tenant assignment of the Lease, the Guarantors shall be released from all liability with respect to the performance of any obligations of the Lease.

33.19 **Tenant Liability; Authority**. If this Lease is executed by more than one person or entity as "**Tenant**", each such person or entity shall be jointly and severally liable hereunder. It is expressly understood that any one of the parties who have executed this Lease as "**Tenant**" (herein individually referred to as "**Signatory**") shall be empowered to execute any modification, amendment, exhibit, floor plan, or other document ("**Future Instrument**") and bind each such Signatory who has executed this Lease regardless of whether each Signatory, in fact, executes such Future Instrument. If Tenant is a corporation, limited liability company or partnership, each individual executing this Lease on behalf of such entity represents and warrants that he/she is duly authorized to execute and deliver this Lease on behalf of said entity, in accordance with the organizational documents of said entity, and that this Lease is binding upon said entity.

33.20 **Homeland Security**. Tenant represents, certifies and warrants to Landlord as follows: **(A)** Tenant is not named by, and is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by, any Executive Order, including without limitation Executive Order 13224, or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enacted, enforced or administered by the Office of Foreign Assets Control; **(B)** Tenant is not engaged in this transaction, directly or indirectly, for or on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation; and **(C)** none of the proceeds used to pay Minimum Rent and Additional Rent have been or will be derived from a "specified unlawful activity" as defined in, and Tenant is not otherwise in violation of, the Money Laundering Control Act of 1986, as amended, or any other applicable laws regarding money laundering activities. Furthermore, Tenant agrees to immediately notify Landlord if Tenant was, is, or in the future becomes a "senior foreign political figure," or an immediate family member or close associate of a "senior foreign political figure," within the meaning of Section 312 of the USA PATRIOT Act of 2001. Notwithstanding anything in this Lease to the contrary, Tenant acknowledges and agrees that this Lease is a continuing transaction and that the foregoing representations, certifications and warranties are ongoing and shall be and remain true and in full force and effect on the date hereof and throughout the Term and that any breach thereof shall constitute an automatic Event of Default giving rise to Landlord's remedies and Tenant agrees to indemnify, defend and hold harmless Landlord and Landlord's management agent from and against all losses, damages, costs and expenses resulting from or relating to any breach of the foregoing representations, certification and warranties.

33.21 **Limitation of Landlord's Liability**. Notwithstanding any other provision of this Lease, Tenant agrees that neither Landlord nor any of Landlord's officers, directors, partners, shareholders, members or employees shall have any personal liability hereunder. Landlord is a

governmental entity and can only be obligated to pay its obligations set forth in this Lease as may lawfully be made from funds appropriated and budgeted for that purpose during Landlord's then current fiscal year. The Landlord's obligations under this Lease are current expenses subject to the "budget law" and the unfettered legislative decision of the Landlord concerning budgeted purposes and appropriation of funds. Should Landlord elect not to appropriate and budget funds to pay its Lease obligations, this Lease shall be deemed terminated at the end of the then current fiscal year term for which such funds were appropriated and budgeted for such purpose and Landlord shall be relieved of any subsequent obligation under this Lease. Landlord shall in its reasonable discretion determine the availability of funds for its obligations under this Lease. Landlord shall keep the Tenant informed as to the availability of funds for this Lease. The obligation of Landlord to make any payment pursuant to this Lease is not a general obligation or indebtedness of Landlord. The Tenant hereby waives any and all rights to bring any claim against the Landlord from or relating in any way to Landlord's termination of this Lease pursuant to this Section 31.21.

33.22 **Legal Representation of the Parties**. This Lease was negotiated by the Parties hereto with the benefit of legal representation and any rules of construction or interpretation otherwise requiring this Lease to be construed or interpreted against any party shall not apply to any construction or interpretation hereof or thereof.

33.23 **Agreement; Amendment**. This Lease (including all Riders, Exhibits, Addenda and Guaranty, if any) is the complete agreement between Landlord and Tenant concerning the Premises and the BLVD Retail. There are no oral agreements, understandings, promises or representations between Landlord and Tenant affecting this Lease. All prior negotiations and understandings, if any, between the parties hereto with respect to the Premises and the BLVD Retail, shall be of no force or effect and shall not be used to interpret this Lease. This Lease shall not be amended, changed or extended except by written instrument signed by both parties hereto. This Lease shall be considered to have been executed by a person if there exists a photocopy, facsimile copy, or a photocopy of a facsimile copy of an original hereof or of a counterpart hereof which has been signed by such person. Any photocopy, facsimile copy, or photocopy of facsimile copy of this Lease or a counterpart hereof shall be admissible into evidence in any proceeding as though it were an original.

33.24 **Subsequent Commencement**. This Lease shall be effective as of the day and year first above written notwithstanding that the Term shall commence at a date subsequent thereto and Landlord and Tenant intend that each shall have vested rights immediately upon the full execution signing of this Lease and that this Lease shall be fully binding and in full force and effect from and after execution hereof by the last to sign of Landlord and Tenant.

33.25 **Severability**. If any provision of this Lease or the application of it to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each provision of the Lease shall be valid and enforceable to the fullest extent permitted by law, and the remaining provisions of this Lease shall be interpreted so as to nearly as possible conform to the intent of the parties as indicated in this Lease.

33.26 **Conflict of Interest**. The Landlord may cancel this Lease pursuant to ARIZ. REV. STAT. § 38-511 without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Lease on behalf of the Landlord is, at any time while the Lease or any extension of the Lease is in effect, an employee of the Tenant in any capacity or a consultant to the Tenant with respect to the subject matter of the Lease. The

cancellation shall be effective when written notice from the Landlord is received by the Tenant, unless the notice specifies a later time.

33.27 **Incorporation of Exhibits**. All Exhibits identified in this Lease, including, but not limited to the following listed Exhibits, shall be and are hereby incorporated into this Lease by this reference:

EXHIBIT A	SITE PLAN
EXHIBIT B-1	DELIVERY DATE CERTIFICATE
EXHIBIT B-2	CONSTRUCTION GUIDELINES
EXHIBIT C	BLVD RETAIL RULES AND REGULATIONS
EXHIBIT D	FORM OF COMMENCEMENT DATE MEMORANDUM
EXHIBIT E	GUARANTY
EXHIBIT F	PARKING MAP

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned parties have executed this Lease the day and year first above written.

LANDLORD: **CITY OF AVONDALE,** **an Arizona municipal corporation**	**TENANT:** **QUEENDOM CONCEPTS, LLC,** **DBA NEW PENNY CAFE**
By: _____	**By:** _____
Name: _____	**Name:** _____
Title: _____	**Title:** _____
Date Executed: _____	**Date Executed:** _____

ATTEST:

_____ **Date Executed:** _____
Marcella Carrillo, City Clerk

EXHIBIT A

SITE PLAN

Tenant hereby acknowledges that the attached Site Plan is intended to show the approximate layout of The BLVD Retail and location of the Premises, and Landlord has the right at any time to expand, reduce, remove, demolish, renovate or construct any existing or new improvements in the BLVD Retail, including, without limitation, the right to change the shape, size, configuration, number, design or extent of such improvements, provided the approximate location, size and configuration of the Premises shall not be materially changed.

EXHIBIT B-1

DELIVERY DATE CERTIFICATION

[DATE]

VIA FEDERAL EXPRESS

Tenant: Queendom Concepts, LLC
DBA: New Penny Café
c/o Laura Hansen
18817 W. Indianola
Litchfield Park, AZ 85340

Re: Lease Agreement, dated _____(the "**Lease**"), between THE CITY OF AVONDALE, an Arizona municipal corporation ("**Landlord**"), and QUEENDOM CONCEPTS, LLC, DBA NEW PENNY CAFE ("**Tenant**"), with respect to those certain premises contemplated to contain approximately 4,800 square feet, as more particularly depicted and described in **Exhibit A** to the Lease (the "**Premises**") and located at 735 N. 114th Avenue, Avondale, Arizona 85323

Dear Tenant:

In accordance with the provisions of the Lease, Landlord and Tenant acknowledge that the Delivery Date (as such term is defined in the Lease) will be deemed to be _____. This notice shall constitute the Delivery Date Certificate from Landlord to Tenant.

LANDLORD:

CITY OF AVONDALE,
an Arizona municipal corporation

By: _____

Name: _____

Title: _____

Date Executed: _____

ATTEST:

_____
Marcella Carrillo, City Clerk

TENANT:

QUEENDOM CONCEPTS, LLC,
DBA NEW PENNY CAFE

By: _____

Name: _____

Title: _____

Date Executed: _____

Date Executed: _____

EXHIBIT B-2

CONSTRUCTION GUIDELINES

THIS **EXHIBIT B-2** (the "**Construction Guidelines**") supplements the Lease to which it is attached and is incorporated therein as if set out in full. In the event of a conflict between the terms of this **Exhibit B-2** and the Lease, this **Exhibit B-2** shall control. Capitalized terms not defined in this **Exhibit B-2** shall have the meanings given to such terms in the Lease.

1. **Landlord's Work.** Landlord shall, at its own cost and expense, perform only the work described as "**Landlord's Work**" in **ITEM 9** of the Lease. Landlord has made no representations or warranties regarding the condition of the Premises or the BLVD Retail, except as expressly set forth in this Lease.

2. **Tenant's Work.** Tenant shall perform all work necessary to complete the Premises and to prepare them for the operation of Tenant's business therein (collectively, "**Tenant's Work**"). The parties acknowledge that Tenant will not be required to comply with the public procurement laws with respect to Tenant's Work or other alterations hereunder. Tenant agrees that all Leasehold Improvements to the Premises shall, upon installation, become the property of Landlord and shall remain upon the Premises upon the expiration or earlier termination of this Lease. Tenant shall not do anything upon or in connection with the Premises or the construction of any part thereof which interferes in any way with, or results in a work stoppage in connection with, construction of any part of The BLVD Retailor any other tenant's space.

3. **Plans and Specifications.**

3.1 **Tenant's Drawings.** Tenant shall prepare and furnish to Landlord, at Tenant's sole cost and expense, and in compliance with applicable laws, statutes, ordinances and codes, a complete set of finish drawings ("**Tenant's Drawings**") prior to commencing the Tenant's Work.

3.2 **Approval of Tenant's Drawings**. Landlord shall have 15 days after receipt to approve or disapprove Tenant's Drawings, specifying in detail any reasons for disapproval. If Tenant's Drawings are disapproved, Tenant shall incorporate Landlord's comments and resubmit Tenant's Drawings to Landlord within 15 days. Landlord shall have 5 days after receipt of the resubmitted Drawings to approve or disapprove them, and, in the event of disapproval, the procedures set forth herein shall be repeated until Landlord has approved Tenant's Drawings. Landlord will not unreasonably withhold its approval.

3.3 **Construction Documents.** Tenant shall prepare and furnish to Landlord, at Tenant's sole cost and expense, and in compliance with applicable laws, statutes, ordinances and codes, a complete set of construction plans and specifications at 100% design development ("**Construction Documents**") prior to commencing the Tenant's Work. A complete set of Construction Documents shall be kept on the Premises at all times until Tenant opens for business therein.

3.4 **Approval of Construction Documents**. Landlord shall have 15 days after receipt to approve or disapprove Tenant's Construction Documents, specifying in detail any reasons for disapproval. If Tenant's Construction Documents are disapproved, Tenant shall incorporate Landlord's comments and resubmit Tenant's Construction Documents to Landlord within 15 days. Landlord shall have 5 days after receipt of the resubmitted Construction Documents to approve or

disapprove them, and, in the event of disapproval, the procedures set forth herein shall be repeated until Landlord has approved Tenant's Construction Documents. Landlord will not unreasonably withhold its approval. A complete set of Construction Documents shall be kept on the Premises at all times until Tenant opens for business therein.

3.5 **Tenant's Architect/Engineer.** Tenant shall cause all architects and engineers engaged by Tenant (each a "**Professional**") to obtain and keep in force, with an insurance company authorized to do business in Arizona which has a general policy rating of A- or better and a financial class of VII or better by A.M. Best Company, Inc. (or if a rating of A.M. Best Company is no longer available, a comparable rating from a similar or successor service), a policy of professional liability insurance covering all liability arising out of any negligent acts or errors and omissions committed by such Professional with limits of not less than $1,000,000.00 per claim and annual aggregate, with a retroactive date prior to the contract date. Each Professional shall maintain such policy for a minimum of two years after completion of work or shall obtain a two-year extended reporting period if the policy is canceled or non-renewed.

4. **Tenant's Contractor.** All contractors engaged by Tenant shall be bondable, licensed contractors, having good labor relations, and capable of performing quality workmanship and working in harmony with Landlord's contractors and other contractors on the job. The term "contractors" as used in this Section shall be deemed to include subcontractors. The City shall have the absolute right to review contractor plans, bids, and estimated costs and, in its reasonable discretion, the City may approve or disapprove Tenant's Contractor, specifying in detail any reasons for disapproval. If the Tenant's Contractor is not approved, the City has authority to request that Tenant solicit a different contractor to perform any and all work according to the specifications of this lease.

4.1 **Insurance.** On or before entry into the Premises, Tenant shall cause its contractor to obtain and to keep in force, with an insurance company authorized to do business in Arizona which has a general policy rating of A- or better and a financial class of VII or better by A.M. Best Company, Inc. (or if a rating of A.M. Best Company is no longer available, a comparable rating from a similar or successor service), until Tenant's Work is completed, all of the following insurance:

A. **Commercial General Liability Insurance.** Commercial general liability insurance to protect against claims for bodily injury and property damage arising out of premises operations, products, and completed operations, and advertising and personal injury liability, written on an occurrence basis using ISO Form CG0001 (or its equivalent) with no amendments to the definition of an insured contract, in limits of not less than $2,000,000.00 inclusive, per occurrence, and $2,000,000.00 annual aggregate per project, or such higher limits as Landlord may require from time to time during the Term. Completed Operations to remain in force for at least two years following project completion. To the extent permitted by applicable law, such policy(ies) shall include a waiver of any right of subrogation of the insurers thereunder against Landlord, Landlord's property manager, and all mortgagees of Landlord.

B. **Commercial Automobile Liability Insurance.** Commercial automobile liability insurance to include contractual liability insurance for the indemnities set forth in this contract covering all owned, non-owned and hired automobiles, in limits of not less than $1,000,000.00 combined single limit (each accident), or such higher limits as Landlord may require from time to time during the Term. To the extent permitted by applicable law, such policy(ies) shall include a waiver of any right of subrogation of the

insurers thereunder against Landlord, Landlord's property manager, and all mortgagees of Landlord.

C. **Employer's Liability Insurance and Workers Compensation.** Employer's Liability insurance, with minimum limits of not less than $500,000 bodily injury each accident, $500,000.00 bodily injury by disease policy limit and $500,000.00 bodily injury by disease each employee, and Worker's Compensation, in form and amount as required by applicable state law. To the extent permitted by applicable law, such policy shall include a waiver of any right of subrogation of the insurers thereunder against Landlord, Landlord's property manager, and all mortgagees of Landlord.

D. **Umbrella Liability Insurance.** Umbrella liability insurance over the primary general liability, automobile liability and employer's liability insurance policies in limits of not less than $2,000,000.00 inclusive per occurrence, and $2,000,000.00 annual aggregate, per project, or such higher limits as Landlord may require from time to time during the Term. To the extent permitted by applicable law, such policy(ies) shall include a waiver of any right of subrogation of the insurers thereunder against Landlord, Landlord's property manager, and all mortgagees of Landlord.

E. **Builder's Risk Insurance.** Builder's Risk insurance on a "Special Form" basis (including collapse) using a completed value (non-reporting) form for full replacement cost covering all work which Tenant contracts for or performs in The BLVD Retail and all materials and equipment used or installed by Tenant in or about the Premises, off site and in transit. This insurance shall include: (1) interests of Tenant, Landlord, Landlord's property manager, all mortgagees of Landlord, Tenant's contractor, subcontractors and sub-subcontractors; and (2) a mutual release and waiver of subrogation for all parties.

F. **Insurance Changes.** Landlord may require, from time to time, changes or endorsements to Tenant's contractor insurance required herein.

4.2 **Policies of Insurance.** Tenant's contractor shall have right to satisfy the insurance required by this Section by means of blanket insurance policy(ies), provided that no other loss which may also be insured by the blanket insurance shall affect the insurance coverages required hereunder and further provided that Tenant's contractor delivers to Landlord a certificate specifically stating that such coverages apply to Landlord, Landlord's property manager, all mortgagees of Landlord, the Premises and the BLVD Retail. All policies of insurance or certificates thereof, except with respect to workers compensation or professional liability, shall name Tenant, Landlord, Landlord's property manager, and all mortgagees of Landlord, as additional insureds, as their respective interests may appear, including products and completed operations. All self-insured retentions and deductible amounts shall be subject to Landlord's prior written approval. Any and all deductibles or coinsurance in the above-described policies or inadequacy of limits for coverage shall be assumed by, for the account of, and at Tenant's contractor sole risk. Prior to commencing any work under this Agreement, Tenant will provide Landlord with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Tenant's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The Landlord shall reasonably rely upon the

certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. Tenant agrees to further provide Landlord evidence of renewals of policies not later than 30 days prior to the end of the expiring term. Landlord reserves the right to request and receive for review certified copies of any and all insurance policies to which the Lease is applicable. The required coverage and or limits referred to and set forth herein shall in no way affect or limit Tenant's contractor's liability with respect to its performance.

4.3 **Conditions to Commencement of Tenant's Work.** On or before entry into the Premises, Tenant shall cause its contractor to: **(A)** review the plans and specifications (including all exhibits, addendums or riders thereto); **(B)** review other related data including technical data **(C)** inspect the Premises; and **(D)** obtain all governmental permits and approvals and pay any associated tax (including, but not limited to, excise tax) to complete Tenant's Work and forward copies to Landlord.

4.4 **Construction of Tenant's Work.** Tenant shall cause its contractor: **(A)** to construct Tenant's Work strictly in accordance with Landlord approved plans and specifications and changes thereto which are stamped approved by Landlord's architect; **(B)** to advise Landlord immediately of any requested change from the plans and specifications; **(C)** to keep a Landlord approved original set of plans and specifications at the job site at all times; and **(D)** not to leave the job site until Landlord's and Tenant's punch list items are complete, all damage is repaired and the site is free of debris and all unused materials are removed. Daily site cleanup is required.

4.5 **[INTENTIONALLY DELETED]**

4.6 **Violations by Tenant's Contractors**. In addition to any and all remedies at law or equity, in the event Tenant's contractor violates the requirements of this Exhibit, Landlord, upon five days' notice, may order Tenant's contractors to remove themselves, their equipment and their employees from Landlord's property. Notwithstanding the foregoing, in the event Tenant's contractor violates the requirements of this Exhibit on two occasions, as to the third such occasion, Landlord shall not be required to give notice to Tenant and may order Tenant's contractors to remove themselves, their equipment and their employees from the BLVD Retail.

5. **Allowance**. In consideration of the performance by Tenant of Tenant's Work in the Premises and the timely fulfillment of all of the terms of this Lease, Landlord agrees to pay to Tenant the Construction Allowance, as described in the Lease, applicable to those costs as defined in **ITEM 9(E)** of the Lease for Tenant's permanent leasehold improvements for the Premises. The Construction Allowance shall be applicable only to Tenant's Work actually performed and completed to the Premises and shall be paid according to the provisions of **ITEM 9 (E)** of the Cover Sheet of this lease. Landlord further agrees to pay Tenant any and all remaining retainage within 21 days of the Certificate of Occupancy, provided **all** of the following have occurred:

5.1 **Opened.** Tenant has opened for business in the Premises as required by this Lease and has paid to Landlord the first and any subsequently owed Rent payment(s) or other amounts due under this Lease.

5.2 **Commencement Date Memorandum.** Tenant has executed and delivered to Landlord a Commencement Date Memorandum in the form attached to the Lease as **Exhibit D**;

5.3 **No Default.** Tenant is not in default after notice and the lapse of any applicable cure period.

5.4 **Work Completed**. Tenant's Work is completed in accordance with approved Construction Documents.

5.5 **Debris.** The Premises and the Common Areas surrounding the Premises are free of Tenant's debris, all contractor equipment and materials have been removed from the Premises, and any damage to The BLVD Retailor the Common Areas caused by Tenant, its agents or contractors, has been repaired.

5.6 **Liens, Judgments, Levies, or Tax Liens**. The Premises, including all installations therein, are free and clear of all liens and there are no judgments, levies, attachments, liens or tax liens pending or in effect with respect to Tenant's Work in the Premises.

5.7 **Required Documentation.** Tenant has submitted the following completed documentation to Landlord:

A. **Lien Waivers.** Full, final and unconditional lien waivers and releases in favor of Landlord, Landlord's lender, any proposed purchaser, or any other person/entity reasonably requested by Landlord, from Tenant's general contractor and from all Tenant's subcontractors having contracts in excess of $5,000.00.

B. **Certificates.** A copy of the permanent Certificate of Occupancy and any temporary Certificates of Occupancy.

C. **Contractor's Final Billing.** A copy of the final billing from Tenant's general contractor (broken down in reasonable detail and showing the cost of work performed at the Premises adequate to componentized for tax purposes under either generally accepted accounting principles or Internal Revenue guidelines).

D. **Architect Certificate.** Tenant's architect's certificate certifying that Tenant's Work is completed in accordance with the approved Construction Documents, including all items on Landlord's representative's punch list.

[Balance of this page intentionally left blank.]

EXHIBIT C

THE BLVD RETAIL DEVELOPMENT RULES AND REGULATIONS

Landlord agrees to use its reasonable efforts to cause compliance by tenants of The BLVD Retail with these Rules and Regulations, as they may be revised or amended by Landlord from time to time in its commercially reasonable discretion so long as there is no material adverse effect on Tenant (as amended, the "**Rules and Regulations**"), Landlord will assist with reasonable enforcement of these Rules and Regulations on all property in the BLVD Retail Development. Unless otherwise provided, all terms used in these Rules and Regulations shall have the same meaning as set forth in this Lease. To the extent that the provisions of these Rules and Regulations are inconsistent with the provisions of this Lease, the provisions of the Lease shall control. In the event Tenant violates any of the Rules and Regulations and such violation continues for more than 24 hours after Tenant's receipt of notice thereof from Landlord, then Tenant shall pay Landlord, as liquidated damages, an amount equal to $50.00 per day so long as such violation continues. Tenant recognizes that its violation of the Rules and Regulations will result in damages to Landlord and that the nature and amount of such damages is difficult or impossible to quantify, and that the foregoing amount represents a reasonable approximation of the actual damages Landlord would suffer in the event Tenant violates the Rules and Regulations.

1. Business Hours. Unless otherwise specified in this Lease, Tenant agrees to remain open during standard business hours. Standard business hours generally commence at 8:00 a.m. through 10:00 p.m. Retail establishments are expected to be open for not less than seventy-five (75) percent of standard business hours.

2. **Common Areas.** Tenant shall not use the Common Areas, including areas adjacent to the Premises (except any outdoor seating area approved by Landlord pursuant to Section 8 below), for any purpose other than ingress and egress, and in accordance with all other applicable provisions of this Lease, including these Rules and Regulations. Without limiting the generality of the foregoing, Tenant shall not use the Common Areas to canvass, solicit business or information from, or distribute any article or material to, other tenants, occupants or invitees of the BLVD Retail, without the express written consent of Landlord. Tenant shall not allow anything to remain in or to obstruct any passageway, sidewalk, court, corridor, stairway, entrance, exit, elevator, shipping area, or other area outside the Premises (except as set forth in Section 8 below). Janitorial closets, utility closets, telephone closets, broom closets, electrical closets, storage closets, and other such closets, rooms and areas shall be used only for the purposes and in the manner designated by Landlord, and may not be used by Tenant, or its contractors, agents, employees, or other parties without Landlord's prior written consent.

3. **Deliveries.** Deliveries of furniture, inventory and all other items shall be brought into The BLVD Retail in compliance with all Legal Requirements and at Tenant's sole risk. All such deliveries shall be made prior to 10:00 am and only through the service entrances of Tenant's Premises and service entrances of the BLVD Retail, when available. Landlord may inspect items brought into The BLVD Retailor Premises with respect to weight or dangerous nature or compliance with this Lease or applicable laws. Tenant shall move all inventories, supplies, furniture, equipment and other items directly into the Premises immediately upon receipt.

4. **Trash; Recycling Program.** All garbage, refuse, trash and other waste shall be kept in the kind of container, placed in the areas, and prepared for collection in the manner and at the times and places specified by Landlord, subject to the Section in the Lease concerning Hazardous Substances. Tenant shall not burn any trash or garbage of any kind in or about the Premises or

BLVD Retail. Landlord reserves the right to require that Tenant participate in any recycling program designated by Landlord. If Tenant is permitted under this Lease to handle foodstuffs, garbage and refuse shall be stored and daily removed from the Premises in leak proof, airtight containers. If any leakage occurs, Tenant shall promptly clean and remove any evidence of such leakage at its expense. Tenant shall immediately clean up and remove spills and debris in connection with its disposal of waste at or from the Premises.

5. **Pest Control.** Tenant shall, at its sole cost, arrange for pest control at such intervals as may reasonably be required by Landlord. Tenant shall provide Landlord with evidence of Tenant's compliance with this provision within five days after Landlord's written request. If, however, Landlord shall provide or arrange for such pest control, Tenant shall pay to Landlord Tenant's Proportionate Share of the cost thereof (or such other share as Landlord may fairly and reasonably determine) on or before the first day of each calendar month in advance, or Landlord may include such charges in Operating Costs**.**

6. **Sign and Display Windows.** Tenant will be permitted to install a sign(s) on its suite, window line and will be properly identified on the Building monument, directory and will have the right to lighted exterior building signage as approved by the City of Avondale. Tenant will obtain all required permitting and approvals from the City of Avondale prior to installing any signage and will pay for all costs associated with sign installation. All Tenant's signs shall be professionally designed, prepared and installed and in good taste so as not to detract from the general appearance of the Premises or The BLVD Retail and shall comply with the sign criteria developed by Landlord as set forth in the Lease. The term "**sign**" for purposes of this Section shall mean any sign, placard, picture, name, direction, lettering, insignia, trademark, advertising material, advertising display, awning or other similar item, including Tenant's storefront sign. Blinds, shades, drapes and other such items shall not be placed in or about the windows in the Premises except to the extent, if any, that the character, shape, designs, color, material and make thereof is first approved by Landlord in writing. During such periods as Tenant is required to operate its store hereunder, Tenant shall keep the display window(s) and signs, if any, in the Premises well lit during business hours and daily until at least 11:00 p.m., at Landlord's discretion.

7. **Display of Merchandise.** Tenant shall not place or maintain any permanent or temporary fixture or other item or display any merchandise: **(A)** outside of the Premises; or **(B)** anywhere inside the Premises within six feet of any entrance to the Premises (except that, with respect to any recessed entry of the Premises, Tenant shall not place or maintain any such fixtures or other item within three feet of any entrance). All displays of merchandise shall be tasteful and professional.

8. **Outdoor Seating.** Any outdoor seating area (the "**Outdoor Seating Area**"), including the placement and quantity of furniture, fixtures and equipment in, and the design and materials of, the Outdoor Seating Area, must be approved by Landlord. The Outdoor Seating Area shall be installed and maintained at Tenant's sole cost and expense, in accordance with all applicable laws and at all times clean and free of debris. When not in use, Tenant shall store the Outdoor Seating Area furniture, fixtures and equipment in an appropriate location, which, if on the Premises, shall be approved by Landlord in the exercise of its sole and absolute discretion.

9. **Plumbing Equipment.** The toilet rooms, urinals, wash bowls, drains and sewers and other plumbing fixtures, equipment and lines shall not be misused or used for any purpose other than that for which they were constructed, and no foreign substance of any kind shall be deposited therein. The expense incurred due to any breakage, stoppage or damage resulting from a violation

of this provision shall be borne by Tenant, who shall, or whose employees, invitees or agents shall, have caused such breakage, stoppage or damage.

10. **Exhaust System; Grease Traps; Odor Control.** If Tenant operates a business on the Premises in which smoke and/or odor cannot be avoided by an exhaust termination location design, Tenant shall, at Tenant's sole cost and expense, provide an exhaust air pollution control system approved by Landlord.

11. **Roof; Awnings and Projections.** Tenant shall not install any aerial, antennae, satellite dish or any other device on the roof, exterior walls or Common Areas of The BLVD Retail without obtaining Landlord's prior written consent, provided that Tenant shall be permitted to install, at Tenant's sole cost and expense, cable television service to the Premises. Tenant may install as applicable and have access to the HVAC System only to the extent approved in writing or required by Landlord from time to time in connection with Tenant's obligations under this Lease. No awning or other projection shall be attached by or for Tenant to the exterior walls of the Premises or the Building. Any item set forth in this Section installed without the prior written consent of Landlord shall be subject to removal by Landlord without notice to Tenant all at Tenant's sole cost and expense.

12. **Overloading Floors.** Tenant shall not overload any floor or part thereof in the Premises, Building or BLVD Retail, including any public corridors or elevators therein, and Landlord may designate the location of safes, vaults and all other heavy articles and require supplementary supports of such material and dimensions as Landlord may deem necessary to properly distribute the weight at Tenant's expense (including expenses for structural review and engineering).

13. **Locks and Keys.** Upon termination of this Lease or Tenant's right to possession, Tenant shall: **(A)** return to Landlord all keys, parking stickers or key cards, and in the event of loss of any such items, shall pay Landlord therefor; and **(B)** advise Landlord as to the combination of any vaults or locks that Landlord permits to remain in the Premises.

14. **Unattended Premises.** Before leaving the Premises unattended, Tenant shall close and securely lock all doors or other means of entry to the Premises and shut off all lights (except signs required to be illuminated hereunder), water faucets and other utilities in the Premises (except heat to the extent necessary to prevent the freezing or bursting of pipes). This provision shall not imply that Tenant may leave the Premises unattended in violation of the operating requirements set forth elsewhere in this Lease.

15. **Heating Facilities.** If the Premises are equipped with heating facilities separate from those in the remainder of the BLVD Retail, Tenant shall keep the Premises at a temperature sufficiently high to prevent freezing of water in pipes and fixtures.

16. **Food and Beverages; Game and Vending Machines.** Except to the extent expressly permitted under this Lease, Tenant shall not: **(A)** or **(B)** install, operate or use any video, electronic or pinball game or machine, or any coin or token operated vending machine or device to provide products, merchandise, food, beverages, candy, cigarettes or other commodities or services, including, but not limited to, pay lockers, pay toilets, scales and amusement devices; PROVIDED, HOWEVER, that Tenant may install vending machines for the sale of non-alcoholic beverages, food and candy in an area not visible from the sale area or exterior of the Premises for the exclusive use of Tenant's employees.

17. **Landlord's Trade Name and Trademarks.** No symbol, design, name (other than the name of The BLVD Retail in Tenant's advertising as permitted or required by this Lease), mark or insignia adopted by Landlord for The BLVD Retailor picture or likeness of The BLVD Retail shall be used by Tenant without the prior written consent of Landlord.

18. **Prohibited Activities.** Tenant shall not: **(A)** use strobe, flashing lights or rotating spotlights in or on the Premises (or other areas of the BLVD Retail) or in any signs for the Premises; **(B)** use, sell or distribute leaflets, handbills, bumper stickers, other stickers or decals, balloons or other such articles in the Premises (or other areas of the BLVD Retail); **(C)** operate any loudspeaker, telephone set, phonograph, radio, CD player or other musical or sound producing instrument or devise that can be heard outside the Premises; **(D)** operate any electrical or other device which interferes with or impairs radio, television, microwave, or other broadcasting or reception from or in The BLVD Retailor elsewhere; **(E)** make or permit objectionable noise, vibration, smoke, fumes, vapors or odors to emanate from the Premises unless, in the case of smoke, fumes, vapors, or odors, Tenant installs and maintains a grease containment system or, if applicable, skin and hair salon odor control system, approved by Landlord in writing; **(F)** do or permit anything in or about the Premises or any other areas of The BLVD Retail that is unlawful, or which tends to create or maintain a nuisance or do any act tending to injure the reputation of the BLVD Retail; **(G)** use or permit upon the Premises or other areas of The BLVD Retail anything that violates the certificates of occupancy issued for the Premises or the BLVD Retail, or causes a cancellation of Landlord's insurance policies or increases Landlord's insurance premiums (and Tenant shall comply with all requirements of Landlord's insurance carriers, the American Insurance Association, and any board of fire underwriters); **(H)** use the Premises for any purpose, or permit upon the Premises or any areas of The BLVD Retail anything that may be dangerous to parties or property (including, but not limited to, flammable oils, fluids, paints, chemicals, firearms or any explosive articles or material(s); **(I)** cause, conduct, permit or advertise any auction or closing-out or wholesale business in the Premises; or any distress sale, fire sale, bankruptcy sale, liquidation, relocation sale, closing sale, going-out-of-business sale, sheriff's sale, receiver's sale, or any other sale that, in Landlord's opinion, adversely affects the reputation of The BLVD Retailor suggests that the business operations are to be discontinued in the Premises; nor **(J)** do or permit anything to be done upon the Premises or any other areas of The BLVD Retail in any way tending to disturb, bother or annoy any other tenant at The BLVD Retailor the occupants of neighboring property.

19. **Responsibility for Compliance.** Tenant shall be responsible for requiring compliance with these Rules and Regulations, as they may be amended from time to time, by Tenant's employees and, as applicable, by Tenant's agents, invitees, contractors, subcontractors and suppliers.

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EXHIBIT D

FORM OF COMMENCEMENT DATE MEMORANDUM

THIS COMMENCEMENT DATE MEMORANDUM ("**Memorandum**") dated as of _____, 202__, by and between, **CITY OF AVONDALE, an Arizona municipal corporation** ("**Landlord**"), and, **QUEENDOM CONCEPTS, LLC DBA NEW PENNY CAFE,** an Arizona limited liability corporation ("**Tenant**").

RECITALS:

A. By that certain Center Lease dated as of _____ between Landlord and Tenant (the "**Lease**"), Landlord leased to Tenant and Tenant leased from Landlord the Premises, subject to the conditions and limitations therein contained.

B. **ITEM 6** of the Cover Sheet of the Lease provides that, upon determination of the Commencement Date, Landlord and Tenant shall execute a memorandum which shall set forth, among other things, the Commencement Date, the exact Floor Area of the Premises, the date when Tenant may exercise its Option Term pursuant to **ITEM 7** of the Cover Sheet of the Lease, and the date on which the initial term of the Lease shall expire (subject to Tenant's right, if any, to extend the Term of the Lease as provided therein), and shall evidence Tenant's acceptance of the Premises and agreement that Landlord has fully complied with Landlord's covenants and obligations.

C. The Commencement Date and such other dates have been determined and, accordingly, the parties desire to enter into this Memorandum.

D. Unless otherwise provided herein, all capitalized words and terms in this Memorandum shall have the same meanings ascribed to such words and terms in the Lease.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Delivery Date was _____.

2. The Commencement Date is _____. Tenant's obligation to pay Minimum Rent and other charges payable by Tenant under the Lease shall commence as of the Commencement Date set forth above.

3. The Floor Area of the Premises is 4,800 square feet.

4. Tenant shall exercise its right to the Option Term, if at all, six (6) months prior to the lease termination date, set forth in the Lease.

5. The date on which the initial Term of the Lease shall expire, unless such Term is extended by Tenant as provided in the Lease, is _____.

6. Tenant hereby acknowledges Tenant's acceptance of possession of the Premises and agrees that Landlord has fully complied with Landlord's covenants and obligations under the Lease.

7. Tenant acknowledges that all Rent is payable to Landlord at the following address, unless further notified:

City of Avondale
11465 W. Civic Center Drive, Suite 250
Avondale, Arizona 85323
Attn: Accounts Receivable

8. This Memorandum may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Memorandum as of the day and year first above written.

LANDLORD:	**TENANT:**
CITY OF AVONDALE, **an Arizona municipal corporation**	**QUEENDOM CONCEPTS, LLC** **DBA NEW PENNY CAFE**
By: _____	**By:** _____
Name: _____	**Name:** _____
Title: _____	**Title:** _____
Date Executed: _____	**Date Executed:** _____
ATTEST:	
_____ **Marcella Carrillo, City Clerk**	**Date Executed:** _____

EXHIBIT E

FORM OF LEASE GUARANTY

In order to induce **THE CITY OF AVONDALE**, an Arizona municipal corporation, its successors and assigns, **(Landlord")** to enter into that certain Lease Agreement dated _____, (the "**Lease**") between Landlord and **Queendom Concepts, LLC DBA: New Penny Café** (**Tenant**"), and **Laura Hansen, Brittany Salazar and Deni Banach** (collectively, jointly and severally "Guarantors"), and in consideration of the benefits inuring to the undersigned under said Lease, the receipt and sufficiency of which are represented by the Guarantor to Landlord to be sufficient and adequate, the Guarantors hereby jointly and severally and unconditionally guarantees the performance of all of Tenant's obligations under the Lease, including, without limitation, the payment of rental as provided therein. This Guaranty shall remain in full force throughout the original lease term and any renewals thereof and any extension or renewal hereinafter agreed upon by Tenant and Landlord.

Guarantor hereby waives notice of acceptance of this Guaranty agreement and all other notices in connection herewith or in connection with the liabilities, obligations and duties guaranteed hereby, including notices to it of default by Tenant under the Lease, and hereby waives diligence, presentment, protest and suit on the part of Landlord in the enforcement of any liability, obligation or duty guaranteed hereby. Guarantor(s) hereby waive the provisions of Section 12-1641 et. Seq. of the Arizona Revised Statutes.

Guarantor further agrees that Landlord shall not be first or concurrently required to enforce against Tenant or any other person, any liability, obligation or duty guaranteed hereby before seeking enforcement thereof against Guarantor. The liability of Guarantor shall not be affected by any indulgence, compromise, settlement, or variation of terms which may be extended to Tenant by Landlord, or agreed upon by Landlord or Tenant, and shall not be affected by any assignment or sublease by Tenant of its interest in the Lease, nor shall the liability of the Guarantor be affected by the insolvency, bankruptcy (voluntary or involuntary), or reorganization of Tenant, nor by the voluntary or involuntary liquidation, sale or other disposition of all or substantially all of the assets of Tenant or by action of Landlord, including but not limited to any assignment, pledge, conveyance or transfer of the Lease. Landlord and Tenant, without notice to or consent by Guarantor, may at any time or times enter into such modifications, extensions, amendments, or other covenants respecting the Lease as they may deem appropriate and Guaranty shall not be released thereby, but shall continue to be fully liable for the performance of all obligations and duties of Tenant under the Lease as so modified, extended or amended.

Guarantor further agrees: (A) to indemnify, defend and hold Landlord harmless from and against any claims, damages, expenses or losses, including to the extent permitted by law, the reasonable fees of an attorney, resulting from or arising out of any breach of the Lease or any term of the Lease by Tenant or by reason of Tenant's failure to perform any of its obligations thereunder; and (B) to the extent permitted by law, to pay any costs or expenses, including the reasonable fees of an attorney, incurred by Landlord in enforcing this Guaranty or the Lase. The Guarantor acknowledges that Landlord shall or may assign its rights under the Lease to anyone as security for a loan to be made by such institutional investor to Landlord OR FOR ANY OTHER REASON, and as long as any indebtedness of Landlord shall be outstanding AND/OR such assignment of the Lease shall exist, such lender or any assignee shall be entitled to bring any suit, action or proceeding against the undersigned for the enforcement of any provision of this Guaranty and it shall not be necessary in any such suit, action or proceeding to make Landlord a party thereto. This Guaranty may not be modified or amended without the prior written consent of

such assignee of Landlord's interest in the Lease and any attempted modification or amendment without such consent shall be void. This Guaranty shall be binding upon Guarantor, his heirs, legal representatives, successors and assigns, and shall inure to the benefit of Landlord and its successors and assigns. This Guaranty shall be governed by and construed and enforced in accordance with the laws of the State of Arizona. If there is more than one Guarantor, the liability of each Guarantor shall be joint and several.

IN WITNESS WHEREOF, Guarantor has caused this instrument to be executed this _____ day of _____, 2021.

"GUARANTOR"

_____
Laura Hansen

Address: _____

SSN: _____

Date Executed: _____

"GUARANTOR"

_____
Brittany Salazar

Address: _____

SSN: _____

Date Executed: _____

"GUARANTOR"

_____
Deni Banach

Address: _____

SSN: _____

Date Executed: _____

EXHIBIT F

PARKING MAP