Avondale
Development & Engineering

BOARD OF ADJUSTMENT
REGULAR MEETING NOTICE & AGENDA

CITY COUNCIL CHAMBERS
11465 W. Civic Center Drive
Avondale, AZ 85323

Tuesday, January 12, 2016
6:00 P.M.

NOTICE TO THE PUBLIC:

I. **CALL TO ORDER:**

II. **ROLL CALL:**

III. **OPENING STATEMENT:**

IV. **APPROVAL OF MINUTES:**

- December 15, 2015 Regular Meeting

V. **BUSINESS FROM THE FLOOR:**

VI. **WITHDRAWALS AND CONTINUANCES:**

VII. **PUBLIC HEARINGS ITEMS:**

PL-15-0246 – Avondale AutoMall Zoning Interpretation Appeal

Public hearing before the Board of Adjustment to review and solicit public input on application PL-15-0246, a request from Paul Gilbert, Beus Gilbert, PLLC to appeal the Zoning Administrator's interpretation that used car sales are not permitted unless ancillary to a new car sales use. Staff recommends that the Board **AFFIRM** the decision of the Zoning Administrator.

Staff Contact: Robert Gubser, AICP, Planning Manager

VIII. OTHER BUSINESS:

Legal Counsel will provide training for the Board on the open meeting law and procedures.

IX. PLANNING STAFF REPORT:

X. BOARD COMMENTS AND SUGGESTIONS:

XI. ADJOURNMENT:

The Board of Adjustments may move and vote to go into executive session for purposes of obtaining legal advice from the Board's independent attorney on the above agenda item pursuant to A.R.S. 38-431.03(A)(3).

FOR SPECIAL ACCOMMODATIONS

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 meeting.

Personas con necesidades especiales de accesibilidad, incluyendo personas con impedimentos de vista u oído, impresión grande o interprete, deben comunicarse con la Secretaria de la Ciudad at 623-333-1200 o TDD 623-333-0010 cuando menos dos días hábiles antes de la junta.

Staff Signature

Approved on 1/6/16

BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES

CITY COUNCIL CHAMBERS
11465 W CIVIC CENTER DRIVE
AVONDALE, AZ 85323

Tuesday, December 15, 2015
6:00 P.M.

I. CALL TO ORDER

The meeting was called to order at approximately 6:00 pm by Chair Sours.

II. ROLL CALL

The following members and representatives were present:

BOARD MEMBERS PRESENT
David Sours, Chair
Arnold Knack, Vice Chair
Melissa Valenzuela, Board Member
Thomas Forwith, Board Member

CITY STAFF PRESENT
Robert Gubser, Planning Manager
Legal Counsel not present
Linda Herring, Development Services Representative

III. APPROVAL OF MINUTES:

Chair Sours called for a motion to approve November 4, 2014 Regular Meeting minutes. Board Member Knack made a motion to approve the minutes. Chair Sours seconded the motion. The motion passed unanimously.

IV. BUSINESS FROM THE FLOOR:

There were no scheduled public appearances.

V. WITHDRAWALS AND CONTINUANCES:

1. PL-15-0246 – Avondale AutoMall Zoning Interpretation Appeal

Public hearing before the Board of Adjustment to review and solicit public input on application PL-15-0246, a request from Paul Gilbert, Beus Gilbert, PLLC to appeal the Zoning Administrator's interpretation that used car sales are not permitted unless ancillary to a new car sales use. Staff is recommending a **CONTINUANCE** of this item. Staff Contact: Robert Gubser, AICP, Planning Manager

Robert Gubser, Planning Manager, stated that Case PL-15-0246 is an appeal by Paul Gilbert, Beus Gilbert, PLLC of the Zoning Administrator's interpretation that used car sales are not permitted unless ancillary to a new car sales use. Both staff and the applicant are requesting a continuance to allow adequate time to schedule legal representation for both Staff and the Board. We anticipate scheduling issues to be resolved for the next meeting on January 12, 2016.

Board Member Sours moved to continue application PL-15-0246, a request from Paul Gilbert, Beus Gilbert, PLLC, to appeal the Zoning Administrator's interpretation that used car sales are not permitted unless ancillary to a new car sales use to January 12, 2016. Board Member Knack seconded the motion.

ROLL CALL VOTE

David Sours, Chair	AYE
Arnold Knack, Vice Chair	AYE
Melissa Valenzuela, Board Member	AYE
Thomas Forwith, Board Member	AYE

Approved 4-0

VI. PUBLIC HEARING ITEMS:

VII. OTHER BUSINESS:

Mr. Gubser presented Vice Chair Knack with a certificate of Outstanding Service for the 6 years he has served on the Board of Adjustment.

VIII. PLANNING STAFF REPORT:

IX. BOARD COMMENTS AND SUGGESTIONS:

X. ADJOURNMENT:

Chair Sours called for a motion to adjourn. Board Member Knack moved to adjourn. Board Member Valenzuela seconded the motion. The motion passed unanimously.

With no further business, the meeting concluded at approximately 6:15 p.m.

FOR SPECIAL ACCOMMODATIONS

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 meeting.

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_____

Staff Signature

_____

Date

Avondale

Development and Engineering Services Department
STAFF REPORT

DATE: January 5, 2016

TO: Board of Adjustment

FROM: Robert Gubser, AICP, Planning Manager (623) 333-4015

THROUGH: Tracy Stevens, Development and Engineering Services Director (623) 333-4012

SUBJECT: Application PL-15-0246 – Avondale Auto Mall Appeal of Zoning Interpretation

REQUEST

The purpose of the request from Paul Gilbert, Beus Gilbert, PLLC, is to appeal application PL-15-0210, the City of Avondale Zoning Administrator's interpretation that used car sales are not permitted in the Avondale Auto Mall unless ancillary to a new car sales use (Exhibit 3).

BACKGROUND

History of the Avondale Auto Mall

In December 1999, City Council approved the Avondale Auto Mall Planned Area Development (PAD) Ordinance #723-99, under application Z99-402-A. The PAD encompassed approximately 150 acres between 99th and 107th Avenues, south of the I-10 Freeway. The PAD approved the site for automobile dealerships and related uses on the eastern 100 acres and a retail power center on the western 50 acres. Between the approval in 1999 and 2003, there were six automobile dealerships that located within the Auto Mall.

In April 2003, City Council approved a PAD amendment Ordinance #927-03, under application A03-402-AM1, allowing motor vehicle dealerships and related uses on the western 50 acres, in addition to the originally planned C-2 uses. The PAD amendment eliminated the potential of a retail power center on the 50 acres. There were stipulations included with the amendment that ensured continuity and protection of the existing character throughout the entire Auto Mall.

Accompanying the rezoning actions, the City and Developer entered into several development agreements to further specify project details. The original development agreement was ratified in 1999, (with a subsequent corrective agreement in 2000), followed by a first and a second amendment in 2002/2003 that addressed the expansion of the Auto Mall. In addition to the development agreements, the City and the individual dealerships entered into individual economic development agreements.

Pre-Application Meeting
In August 2014, a pre-application (PL-14-0134) was requested by Barry Barcus, on behalf of Auto Match USA, for a site at 10501 W. Papago Freeway within the Auto Mall (Exhibit 2.A). A review of the request identified the potential to allow for pre-owned vehicle sales at the specified location. Staff's stated position, based on the approved PAD zoning, was that the Avondale Auto Mall allows for a dealership to sell new and used cars so long as the selling of new cars is the primary use and that the new cars are associated with only one point manufacturer. Based on staff's position, the applicant did not move forward with the requested use.

Interpretation
On September 1, 2015, City staff received a formal application from Paul Gilbert, Beus Gilbert, PLLC, requesting a formal zoning interpretation in regard to a prospective business seeking to occupy a site located at 10501 W. Papago Freeway within the Auto Mall (Exhibit 2). The request for interpretation was brought about by the position of City staff at the August 2014 pre-application meeting.

On October 14, 2015, the City's Zoning Administrator issued a formal interpretation, based on evaluation of the language contained in the original PAD, subsequent amendments to the PAD, numerous economic development agreements, and the supporting staff reports, that the City Council did not intend for a stand-alone used car dealership to be a permitted use within the Auto Mall. The intent to have only new car dealerships in the Auto Mall was made clear from the beginning and has been consistently followed through a series of related agreements and supporting documents.

The applicant submitted a formal appeal of the Zoning Administrator's Interpretation on October 28, 2015 and was subsequently scheduled to be heard at the Board of Adjustment hearing on December 15, 2015. At that meeting, the Board approved a continuance to the January 12, 2016 hearing to allow both Board and Staff additional time to arrange legal representation.

ANALYSIS

The role of the Zoning Administrator is to interpret the Zoning Ordinance, including, but not limited to, clarification of intention, determination and clarification of unspecified land uses, determination of zoning district boundaries and similar matters.

A request for Zoning Interpretation may be filed with the Planning Division and the Zoning Administrator shall be responsible for interpretations of the Zoning Ordinance. A Zoning Interpretation may be considered if there is a question of clarity of any development standard or other provision of the Zoning Ordinance, or a review is required within the land use matrix of a specified zoning district. The information contained in the Evaluation section below is an excerpt from the Zoning Administrator's interpretation dated October 14, 2015 (Exhibit 2).

> ***Evaluation***
> *In evaluating the request, I have reviewed the original 1999 PAD rezoning application, the 2003 PAD rezoning amendment, and the associated development agreements.*

The purpose of the 1999 PAD rezoning, approved by City Council on December 20, 1999, was to allow for the development of an Auto Mall and a retail shopping center. The purpose of the 2003 amendment to the PAD was to eliminate the remaining acreage planned for a retail power center and replace it with dealerships and related uses. The following are references contained in the original PAD and subsequent amendment that address the specifics of dealerships:

1. *1999 PAD, page 2: The purpose of the zoning was to "accommodate the development of several full service automobile dealerships." When read with the remaining language in the paragraph, it is clear that the mention of used car sales is intended to allow for used car sales at the full service dealerships, not to allow for a stand-alone used car lot.*

2. *1999 PAD, page 3: The proposed uses in the conditional use permit list refers to "Outdoor Automobile Sales; New and Used" indicating that the two types of sales are to be from a dealership offering both new and used vehicles. Had it been intended otherwise, the text simply could have used the term "or" instead.*

3. *1999 PAD, page 5: Phase One construction was to include eight full service dealerships. The auto mall was clearly planned as a new car sales area, so the use of "eight (8) full service automobile dealerships" is a plain reference to new-car dealerships.*

4. *1999 PAD, page 7: Among many other descriptive terms describing services provided at a new car dealership, the rear yard provisions specifically refer to the "service section" of the dealership. On-site manufacturer service facilities are hallmarks of new car dealerships.*

5. *1999 PAD, page 8: There are multiple occurrences where the text describing the signs allowed for each dealership specifically refers to "its corresponding manufacturer's logo." These are clearly references to new car dealerships.*

6. *2003 PAD, page 1: The last sentence of the first paragraph is clear as to the intent "to obtain the proper zoning to allow for additional new vehicle dealers." As you can see, the language that follows is nearly identical to the 1999 PAD, further supporting the original intent of the 1999 PAD (new car dealerships).*

Coupled with the rezoning actions, there were several development agreements that the City entered into with the developer of the Auto Mall. The original DA was in 1999, (with a subsequent corrective DA in 2000), followed by a first and a second amendment in 2002/2003 that addressed the expansion of the Auto Mall. The following are references from those documents:

1. *1999 Development Agreement, page 1: Recital B(i) clearly sets forth the developer's intent to "construct an auto mall complex consisting of new car dealerships."*

2. *1999 DA, page 1: Recital C(i) states that there will be significant benefits to the City, its*

residents and the general public and enhance the economic ability of the City by significantly increasing transaction privilege tax revenues by encouraging new car automotive dealerships.

3. *1999 DA, page 2: Recital E establishes developer's obligation to use best efforts to attract additional dealerships to the auto mall, and it uses two new car dealerships as examples of its commitment to that obligation.*

4. *First Amend. to DA, page 1: Recital B is again clearly stating new car automobile dealerships.*

5. *Second Amend. to DA, pages 1 & 2: Recital B and the new language added as subsection 2.2 are both clearly stating new car dealerships.*

The report transmitted to the City Council on November 4, 2002 regarding the Second Amendment, clearly states that the purpose of the amended DA will allow for expansion of sites suited to new car dealerships. In addition, AZVT was required to promptly complete and submit for approval a PAD amendment that allows for the development of new car dealerships.

The word "and" as used by the City Council in the 1999 PAD and the subsequent approvals is far more significant than you have concluded. When trying to understand the City Council's intent, we are required (i) to presume the Council meant to use those precise words for a reason and (ii) to give words their common meanings. Using common definition of "and" (utilizing the Merriam-Webster dictionary), it means a logical operator that requires both of two inputs to be present or two conditions to be met for an output to be made or a statement to be executed. The common definition supports the conclusion that that both new and used automobile sales would need to be present to meet the criteria provided outlined in the use listing of the PAD. This is how this use has been applied consistently since the original zoning approval.

The C-2 district at the time of the 1999 rezone allowed, "Auto, recreational vehicle, motorcycle, travel trailer and boat sales and rental." However, with the execution of a PAD as a zoning instrument, the uses may be tailored meeting the needs and goals set-forth by all parties. The allowed uses were modified with the rezoning to PAD and the "Outdoor Automobile Sales; New and Used" was placed as an allowed use subject to receiving a Conditional Use Permit. As stated in the overview of the PAD text above, had it been intended otherwise, the text simply could have used the term "or" instead. Additionally, it could have been completely removed from the Conditional Use Permit listing, as it was an allowed use in the C-2 section of the 1999 Zoning Ordinance. In this instance, it was not removed and we are required to presume the Council meant to adopt the standards in the PAD as controlling for automotive uses at the Auto Mall.

The 2002/2003 PAD Amendment narrative indicates the applicant wishes to "obtain the proper zoning to allow for additional new vehicle dealers." The narrative in PAD's are used to convey the intended character of the development and as such, is used to provide information necessary for the City Council to either support or deny a request. The amendment was approved by Council using the included narrative and the ordinance includes a stipulation that the

development shall be in substantial conformance with the PAD Zoning Amendment dated March 5, 2003.

Consistent with the new-car-only intent of the PAD and its amendments, the City Council approved a number of economic development agreements relating to new car dealerships at the Auto Mall. In each of those agreements, the intent is clear that operation of a new automobile franchise is an essential component of the transaction. Copies of each agreement are attached for your review.

Determination

It is my determination as the City's Zoning Administrator that, based on evaluation of the language contained in the original PAD, subsequent amendments to the PAD, numerous economic development agreements, and the supporting staff reports, that the City Council did not intend for a stand-alone used car dealership to be a permitted use within the Auto Mall. The intent to have only new car dealerships in the Auto Mall was made clear from the beginning and has been consistently followed through a series of related agreements and supporting documents.

Appeal

An Appeal of a Decision by the Zoning Administrator shall be submitted by the applicant through the Zoning Administrator to the Board of Adjustment within fifteen (15) days from the date of the decision. In an appeal to the Board of Adjustment regarding an administrative decision or interpretation, the Board's scope of review shall be limited to determining whether the decision of interpretation by the Zoning Administrator was in accordance with the intent and requirements of the Zoning Ordinance. The Board's responsibility is to affirm or reverse the decision of the Zoning Administrator. It is staff's position that the findings provided in the Zoning Administrator's Interpretation are in accordance with the intent and requirements of the Zoning Ordinance and we are recommending that the Board of Adjustment affirm the decision of the Zoning Administrator.

PUBLIC NOTIFICATION

A public hearing notice identifying the date, time, and location of the hearing for this item was published in the West Valley View on November 27, 2015. The property was posted with a public hearing notice sign containing meeting information on November 30, 2015. Lastly, letters containing meeting information were sent to property owners within 500 feet of the subject property on November 25, 2015. To date, one phone call and a letter from the same individual in support of the appeal has been received (Exhibit 4).

STAFF RECOMMENDATION

Staff recommends that the Board **AFFIRM** the decision of the Zoning Administrator.

PROPOSED MOTION

I move that the Board of Adjustment **AFFIRM** the decision of the Zoning Administrator's interpretation that used car sales are not permitted unless ancillary to a new car sales use.

Attachments:

Exhibit 1 – Zoning Interpretation Request, Beus Gilbert, PLLC, dated September 1, 2015
Exhibit 2 – Zoning Administrator's Interpretation, dated October 14, 2015
- A. Pre-Application Meeting comments – dated August 5, 2014
- B. 1999 PAD, including all applicable staff reports
- C. 2003 PAD amendment, including all applicable staff reports
- D. 1999 Development Agreement
- E. 1999 Corrective Development Agreement
- F. 2002 First Amendment to Development Agreement
- G. 2003 Second Amendment to Development Agreement
- H. Copies of Economic Development Agreements with various dealerships

Exhibit 3 – Request for appeal of Zoning Interpretation, dated October 25, 2015
Exhibit 4 – Letter supporting the appeal request

Exhibit 1

Zoning Interpretation Request, Beus Gilbert, PLLC, dated September 1, 2015

BEUS GILBERT
PLLC
ATTORNEYS AT LAW

701 NORTH 44TH STREET
PHOENIX, ARIZONA 85008-6504
(480) 429-3000
FAX (480) 429-3100

PAUL E. GILBERT
DIRECT: (480) 429-3002

EMAIL: PGILBERT@BEUSGILBERT.COM

12205-00001

September 1, 2015

Zoning Administrator
City of Avondale
11465 W. Civic Center Drive, Suite 110
Avondale, AZ 85323

Re: Zoning Interpretation
Used Vehicle Sales within the Avondale Automall (PAD Z-99-402-A)

Dear Zoning Administrator and Planning Staff:

Beus Gilbert PLLC represents AutoMatch USA, LLC ("AutoMatch") in connection with that certain real property located at 10501 W Papago Freeway, in the City of Avondale (the "Property"), which is included in the Avondale Automall Planned Area Development Zoning (the "PAD"). Beus Gilbert and AutoMatch have been advised informally by representatives of the City that AutoMatch's intent to sell used automobiles as its primary use of the Property is not allowed because the PAD includes "Outdoor Automobile Sales; New and Used" in its list of approved conditionally permitted uses. Specifically, representatives of the City have indicated that the word "and" indicates that any automobile dealership in the Automall must sell new and used automobiles, and that sales of new automobiles must be the primary use. Thus, since AutoMatch sells only used automobiles, its use of the Property is not allowed. Beus Gilbert believes that used automobile sales, without new sales, is an allowed primary use within the Automall and this letter shall serve as support for that opinion.

Please consider this letter and application as a request for a formal interpretation as to the allowance of used auto sales as a primary use within the PAD.

1999 PAD Purpose Statement

The PAD states on Page 2 that the purpose of the Automall was to "accommodate the development of several full service automobile dealerships." The PAD zoning was intended to have an automall on the east half and a retail power center on the west half. The retail center was replaced with additional automall uses in the 2003 zoning amendment. The PAD also refers to "full service automobile dealerships" and uses that would include "new and used car sales (outdoor and indoor), repair (including mechanical, collision repair and painting,) and the storage and sale of automotive parts."

While AutoMatch only sells used vehicles, it is a full service automobile dealership. For example, vehicles of various manufacture are displayed for sale, on-site financing is available, as is a comprehensive service and repair center with certified mechanics.

The City is selectively reading certain portions of the PAD narrowly, but others expansively. If the language within the PAD were to be construed as the City contends, that both new and used car sales must occur at every "full service dealership" then "outdoor and indoor" sales, "mechanical, collision repair and painting" repairs, as well as "storage and sale" of parts must also be included in every dealership. While many of these uses are provided at the dealerships within the Avondale Automall, it is unreasonable to imply that the use of the word "and" in this descriptive paragraph would require that each of the listed uses must be required at each dealership. Nor are all of those uses occurring at every dealership in the Automall.

1999 PAD Permitted Land Uses

Page 3 of the PAD describes the allowed uses within the Automall. It states in relevant part, "In addition to the land uses permitted under the Community Commercial C-2 zoning district, this application includes a request for a Conditional Use Permit for the following uses, subject to stipulations:" (emphasis added.) The foregoing sentence clearly demonstrates that all uses within the C-2 zoning district are allowed within the PAD, in addition to the specifically listed uses which were added by a Conditional Use Permit granted within the PAD. In 1999 when the PAD was approved, the Avondale Zoning Ordinance, specifically listed "Auto, recreational vehicle, motorcycle, travel trailer and boat sales and rental" as a permitted use within the City's Community Commercial C-2 District. No distinction is made between new or used vehicles or that a user could not sell used vehicles without also selling new vehicles. The 1999 Zoning Ordinance also included a definition of an Automobile, Boat, Truck and Trailer Sales Lot: "An open area used for the display, sales and/or rental of new or used automobiles, boats, trucks and trailers but where no repair repainting or remodeling is performed." (emphasis added.) The reference to vehicle sales in the C-2 permitted uses, from 1999, does not specify that vehicles sold must be new, used, or any combination of the two. Furthermore, the listed definition for a vehicle sales lot specifically indicates the sale of "new or used" vehicles.

The fact that the PAD lists "Outdoor Automobile Sales, New and Used" with the list of conditionally permitted uses, is irrelevant as that use did not need to be included with the other listed uses, which at the time all required a Conditional Use Permit within the C-2 zone. Automobile sales, including new or used, were already allowed by the reference to the C-2 zoning district. Additional reference to automobile sales in the conditional use permit list, regardless of the wording utilized, does not change the fact that used automobile sales was a permitted use in the C-2 Zoning district and by reference in the Automall PAD (and expansion in 2003), all land uses within the C-2 Zoning district were permitted and continue to be permitted within the Automall.

Planned Area Development zoning can be used to restrict or modify allowed uses on a property. Had the intent been to restrict or limit used vehicles sales, by using the word "and" to require that all automobile dealerships must have new and use vehicles for sale, the PAD documents would have listed auto sales separately, thereby clarifying that the C-2 zoning district allowed uses were modified and auto sales were further restricted within the PAD. In this case, the PAD makes no mention of restricting uses, just that the C-2 zoning district uses are allowed along with the listed conditional uses, which includes the second and superfluous reference to "Outdoor Automobile Sales."

2003 Amendment

In 2003 the PAD was amended to remove the retail power center contemplated originally on the western 50 acres of the Property to allow for more Automall. In the opening paragraph of the narrative, the applicant in describing why the amendment is necessary, states that it wishes to "obtain the proper zoning to allow for additional new vehicle dealers." The property owner is only mentioning those additional new car dealers, as that is who was approaching them for to purchase additional sites. Even if the intent was to regulate this additional property for "new vehicle dealers" the preamble paragraph does not regulate the allowed uses or development standards on the property. The 2003 PAD details the allowed uses on the property and carries the same wording of the original 1999 PAD, which allows all existing C-2 uses on the property, which includes either new or used vehicle sales or a combination of the two. Had the intent been to only allow vehicle dealers that sell primarily new cars; the allowed uses would be have modified to require that. This was not done.

Staff Reports and Hearings

Prior to adoption of the 1999 PAD and the 2003 amendment, Avondale Planning Staff prepared and presented reports to the Planning and Zoning Commission as well as the Mayor and Council detailing the requested zoning, additional allowed uses by Conditional Use Permit and modifications to the C-2 development standards. Nowhere in these reports, or in the discussions with the hearing bodies, is there any reference to a limitation or restriction on the sale of used automobiles.

AutoMatch is a full-service dealership that sells pre-owned, certified used vehicles from a variety of manufacturers. They have a strong desire to open at one of the abandoned dealership spaces within the Avondale Automall. Beus Gilbert believes AutoMatch's intended use of the Property is allowed with in the Automall PAD zoning and should be supported by the City of Avondale.

Again, please consider this letter and application as a request for a formal interpretation as to the allowance of used auto sales as a primary use within the PAD.

We look forward to hearing from you at your earliest convenience.

Very truly yours,

BEUS GILBERT PLLC

Paul E. Gilbert

Paul E. Gilbert

PEG/arj

cc: Cassandra Ayres

Exhibit 2

Zoning Administrator's Interpretation, dated October 14, 2015

Avondale

Development and Engineering Services Department
11465 W. Civic Center Drive, Suite #110
Avondale, Arizona 85323-6804
Phone: (623) 333-4000 Fax: (623) 333-0420

October 14, 2015

Paul Gilbert
Beus Gilbert PLLC
701 N 44th Street
Phoenix, AZ 85008-6504

RE: Avondale Auto Mall Zoning Interpretation (PL-15-0210)

Dear Mr. Gilbert:

This letter is in response to your formal application received on September 1, 2015 (attached) requesting a zoning interpretation in regards to a prospective business seeking to occupy a site located at 10501 W. Papago Freeway within the Avondale Auto Mall. The property is currently zoned Planned Area Development under case Z-99-402-A. The initial staff assessment provided via Pre-Application meeting on August 5, 2014 (PL-14-0134) was that the intended use of used car sales was not permitted unless is was ancillary to a new car sales use.

Proposed Use
In your letter, you describe the business model for AutoMatch as a full-service dealership that only sells used vehicles. You further define the use as one that displays vehicles of various manufacturers for sale, provides on-site financing, and a repair center with certified mechanics. This proposed use was also provided for staff review through a Pre-Application meeting held on August 5, 2014 (Exhibit 1: Pl-14-0134, Auto Match USA).

Evaluation
In evaluating your request, I have reviewed the original 1999 PAD rezoning application, the 2003 PAD rezoning amendment, and the associated development agreements.

The purpose of the 1999 PAD rezoning, approved by City Council on December 20, 1999, was to allow for the development of an Auto Mall and a retail shopping center. The purpose of the 2003 amendment to the PAD was to eliminate the remaining acreage planned for a retail power center and replace it with dealerships and related uses. The following are references contained in the original PAD and subsequent amendment that address the specifics of dealerships:

1. 1999 PAD, page 2: The purpose of the zoning was to "accommodate the development of several full service automobile dealerships." When read with the remaining language in the paragraph, it is clear that the mention of used car sales is intended to allow for used car sales at the full service dealerships, not to allow for a stand-alone used car lot.

2. 1999 PAD, page 3: The proposed uses in the conditional use permit list refers to "Outdoor Automobile Sales; New and Used" indicating that the two types of sales are to be from a

dealership offering both new and used vehicles. Had it been intended otherwise, the text simply could have used the term "or" instead.

3. 1999 PAD, page 5: Phase One construction was to include eight full service dealerships. The auto mall was clearly planned as a new car sales area, so the use of "eight (8) full service automobile dealerships" is a plain reference to new-car dealerships.

4. 1999 PAD, page 7: Among many other descriptive terms describing services provided at a new car dealership, the rear yard provisions specifically refer to the "service section" of the dealership. On-site manufacturer service facilities are hallmarks of new car dealerships.

5. 1999 PAD, page 8: There are multiple occurrences where the text describing the signs allowed for each dealership specifically refers to "its corresponding manufacturer's logo." These are clearly references to new car dealerships.

6. 2003 PAD, page 1: The last sentence of the first paragraph is clear as to the intent "to obtain the proper zoning to allow for additional new vehicle dealers." As you can see, the language that follows is nearly identical to the 1999 PAD, further supporting the original intent of the 1999 PAD (new car dealerships).

Coupled with the rezoning actions, there were several development agreements that the City entered into with the developer of the Auto Mall. The original DA was in 1999, (with a subsequent corrective DA in 2000), followed by a first and a second amendment in 2002/2003 that addressed the expansion of the Auto Mall. The following are references from those documents:

1. 1999 Development Agreement, page 1: Recital B(i) clearly sets forth the developer's intent to "construct an auto mall complex consisting of new car dealerships."

2. 1999 DA, page 1: Recital C(i) states that there will be significant benefits to the City, its residents and the general public and enhance the economic ability of the City by significantly increasing transaction privilege tax revenues by encouraging new car automotive dealerships.

3. 1999 DA, page 2: Recital E establishes developer's obligation to use best efforts to attract additional dealerships to the auto mall, and it uses two new car dealerships as examples of its commitment to that obligation.

4. First Amend. to DA, page 1: Recital B is again clearly stating new car automobile dealerships.

5. Second Amend. to DA, pages 1 & 2: Recital B and the new language added as subsection 2.2 are both clearly stating new car dealerships.

    - The report transmitted to the City Council on November 4, 2002 regarding the Second Amendment, clearly states that the purpose of the amended DA will allow for expansion of sites suited to new car dealerships. In addition, AZVT was required to promptly complete and submit for approval a PAD amendment that allows for the development of

new car dealerships.

The word "and" as used by the City Council in the 1999 PAD and the subsequent approvals is far more significant than you have concluded. When trying to understand the City Council's intent, we are required (i) to presume the Council meant to use those precise words for a reason and (ii) to give words their common meanings. Using common definition of "and" (utilizing the Merriam-Webster dictionary), it means a logical operator that requires both of two inputs to be present or two conditions to be met for an output to be made or a statement to be executed. The common definition supports the conclusion that that both new and used automobile sales would need to be present to meet the criteria provided outlined in the use listing of the PAD. This is how this use has been applied consistently since the original zoning approval.

The C-2 district at the time of the 1999 rezone allowed, "Auto, recreational vehicle, motorcycle, travel trailer and boat sales and rental." However, with the execution of a PAD as a zoning instrument, the uses may be tailored meeting the needs and goals set-forth by all parties. The allowed uses were modified with the rezoning to PAD and the "Outdoor Automobile Sales; New and Used" was placed as an allowed use subject to receiving a Conditional Use Permit. As stated in the overview of the PAD text above, had it been intended otherwise, the text simply could have used the term "or" instead. Additionally, it could have been completely removed from the Conditional Use Permit listing, as it was an allowed use in the C-2 section of the 1999 Zoning Ordinance. In this instance, it was not removed and we are required to presume the Council meant to adopt the standards in the PAD as controlling for automotive uses at the Auto Mall.

The 2002/2003 PAD Amendment narrative indicates the applicant wishes to "obtain the proper zoning to allow for additional new vehicle dealers." The narrative in PAD's are used to convey the intended character of the development and as such, is used to provide information necessary for the City Council to either support or deny a request. The amendment was approved by Council using the included narrative and the ordinance includes a stipulation that the development shall be in substantial conformance with the PAD Zoning Amendment dated March 5, 2003.

Consistent with the new-car-only intent of the PAD and its amendments, the City Council approved a number of economic development agreements relating to new car dealerships at the Auto Mall. In each of those agreements, the intent is clear that operation of a new automobile franchise is an essential component of the transaction. Copies of each agreement are attached for your review.

Determination

It is my determination as the City's Zoning Administrator that, based on evaluation of the language contained in the original PAD, subsequent amendments to the PAD, numerous economic development agreements, and the supporting staff reports, that the City Council did not intend for a stand-alone used car dealership to be a permitted use within the Auto Mall. The intent to have only new car dealerships in the Auto Mall was made clear from the beginning and has been consistently followed through a series of related agreements and supporting documents.

Appeal Rights
Under the Zoning Ordinance Section 112.B.1, a notice of appeal an interpretation by the Zoning Administrator shall be submitted by the applicant through the Zoning Administrator to the Board of Adjustment within fifteen (15) days from the date of the decision.

If you have any questions, please feel free to contact me at (623) 333-4015 or by email at rgubser@avondale.org.

With regards,

Robert Gubser, AICP
Planning Manager

Exhibits:

A. Pre-Application Meeting comments – dated August 5, 2014
B. 1999 PAD, including all applicable staff reports
C. 2003 PAD amendment, including all applicable staff reports
D. 1999 Development Agreement
E. 1999 Corrective Development Agreement
F. 2002 First Amendment to Development Agreement
G. 2003 Second Amendment to Development Agreement
H. Copies of Economic Development Agreements with various dealerships

Cc: Tracy Stevens, Development and Engineering Services Director
Andrew McGuire, City Attorney
File

Exhibit A

Pre-Application Meeting Comments – dated August 5, 2014

Avondale

Development & Engineering Services Department
11465 W. Civic Center Drive, Suite #110
Avondale, Arizona 85323-6804
Phone: (623) 333-4000 Fax: (623) 333-0420

August 5, 2014

Barry Barcus
Barry R Barcus Architect Inc
5333 N 7th St, Ste C 123
Phoenix, AZ 85014

RE: PL-14-0134, Auto Match USA, 10501 W Papago Frwy

Dear Mr. Barcus:

The Development Review Team has completed a cursory review of the proposed project referenced above. The review comments are based on the completed Pre-Application Questionnaire, General Plan 2030, the Zoning Ordinance, the Commercial/Industrial/Multi-family Residential Design Manual, and the General Engineering Requirements Manual.

The Development Review Team looks forward to meeting with you on Wednesday, August 6, 2014, at 2:30 p.m. to discuss these comments and address any other questions pertaining to your proposal. The comments provided below are based solely on the pre-application submittal to the Development Services Department.

1. The project narrative states that there will be new and used vehicles/RV's sold onsite, however AutoMatch USA appears to only sell pre-owned vehicles. Please clarify?

2. The Avondale AutoMall allows for a dealership to sell new and used cars-so long as the selling of new cars is the primary use and that the new cars are associated with only one point manufacturer as are currently occupying the auto mall.

3. Exterior upgrades to existing buildings or a site require a Site Plan Amendment before applying for a Building Permit.

4. All signs require a separate permit.

The Building Division is currently working under the following codes: 2012 IBC, IRC, IPC, IFGC, IMC, IECC, 2011 NEC, 2009 ICC/ANSI 117.1. Construction documents may not be submitted until all preliminary approvals have been obtained. Fire Prevention is currently working under 2003 IFC. Construction documents may not be submitted until all preliminary approvals have been obtained.

In an effort to provide the most updated information to our customers, a formal application must be filed with the Development Services Department within six months of the pre-application meeting date or an additional meeting may be required.

Avondale

AutoMatch USA
PL-14-0134
August 5, 2014

I will be your main point of contact for this project. I am available by email at jfostino@avondale.org. I am also available by telephone at 623-333-4022. Thank you for considering the City of Avondale. The Development Review Team looks forward to working with you on this project.

With regards,

Jennifer Fostino, Zoning Specialist
Planning Division
Development Services Department

Exhibit B

1999 PAD, including all applicable staff reports

Revised Copy

CITY OF AVONDALE

INCORPORATED 1946

COMMUNITY DEVELOPMENT DEPARTMENT ♦ 1225 SOUTH 4TH STREET
AVONDALE, ARIZONA 85323 ♦ PHONE (623) 932-6088 ♦ FAX (623) 932-6119

CITY OF AVONDALE

PLANNING AND ZONING COMMISSION

STAFF REPORT

MEETING DATE:	November 18, 1999
CASE NO.:	Z99-402-A
APPLICANT:	AZVT, L.L.C, Michael Pacheco P.O Box 16460 Phoenix, AZ 85011
REQUEST:	Request to rezone approximately 150 acres of AG (Agriculture) to P.A.D.D. (Planned Area Development District), consisting of C-2 (Commercial) Zoning
LOCATION:	Project area is located west of 99th Avenue, east of 107th Avenue, south of Interstate 10 and north of the Roosevelt Street Alignment.

BACKGROUND:

The applicant is requesting the rezoning of approximately 150 acres of AG to P.A.D.D. consisting of C-2 zoning. The site is located within the City of Avondale Freeway Corridor Specific Plan and is designated as Mixed Use. The general development plan and program submitted by the applicant identifies two major land uses for the site. The eastern portion of the site has been designated by the development plan as an automall and consists of approximately 100.7 acres. The plan designates the remaining 49.2 acres within the western portion of the site as a retail shopping center.

The conceptual site plan for the project identifies eight full service automobile dealerships and other auto related business sites within the Automall portion of the site. The retail shopping component of the plan includes two major anchor businesses and several pads. Intended uses for the retail shopping center will consist of uses commonly found in power type shopping centers.

Conditional Use Request

The application for rezoning includes a request for Conditional Use Permit for several uses and potential uses within the project area. The uses listed below are identified in the City of Avondale Zoning Ordinance as uses that are subject to a Conditional Use Permit: Motor Vehicle Repair; Motor Vehicle Parts Storage and Sales; Motor Vehicle Body Shop; Restaurants with Live Entertainment, provided entertainment does not include "adult" live entertainment; Second Hand Merchandising Sales; Skating Rinks, Building Material and Lumberyard retail operations; Video Arcade or Similar Amusement Establishment, provided the location is not within 500 feet of a school site; and Animal Kennels.

The project area is surrounded by the I-10 freeway to the north and Industrial to the east. The City of Avondale Freeway Corridor Specific Plan identifies the land to the west as "mixed use" and the property to the south as "transitional". Future residential development would be unlikely within the immediate vicinity surrounding the project site, therefore causing no impact to surrounding neighborhoods by these uses. Staff supports the request for Conditional Use Permit for these uses and proposed uses within the project area.

Requested P.A.D.D. modifications

The applicant has requested modifications to the C-2 development standards within the P.A.D.D. plan and program development. The applicant has also requested modifications to the landscape standards and height standards of the C-2 zone.

Modification Requested:

1) Retention Basin with side slopes greater than 4 to 1
   Ordinance Standard, maximum slope, 4 to 1

2) Flagpole with height up to 75 feet
   C-2 Ordinance Standard, 35 feet maximum height

3) 5% front yard landscaping area (Automall area)
   C-2 Ordinance Standard, 10 %

4) Rear Yard landscaping on perimeter of lot out side of screen wall (Automall Area)
   C-2 Ordinance Standard 10%

5) Parking Lot trees , 2 trees per 20 parking spaces (Automall area)
   C-2 Ordinance Standard, 1 tree per 8 parking spaces

6) Waiver of 3 foot high parking screen wall (Automall area)

C-2 Ordinance Standard, 3 foot block wall or berm required, adjacent to public roads

7) Major or Anchor height allowance of 40 feet (retail shopping center)
C-2 Ordinance Standard, 35 feet

The P.A.D.D. zoning designation of the subject property requires that each final site plan and building elevations within the project will proceed through the Planning and Zoning Commission and the Mayor and City Council for approval. The location of the project is ideally suited for regional commercial activity due to the visibility from both the I-10 freeway and the future 101 freeway interchange. Furthermore, the proposed project is ideal in that it is a use that will not be impacted negatively by freeway noise or the land uses that surround the site. Staff has found that the proposed project is consistent with the City of Avondale Freeway Corridor Specific Plan.

RECOMMENDATION:

Staff recommends that the Planning and Zoning Commission forward case Z99-402-A to the Mayor and City Council with their recommendation of **APPROVAL** with the following stipulations.

1) That the necessary right of way as required by the City of Avondale is dedicated for 107th Avenue and Roosevelt Street; and that the necessary right of way as required by the City of Tolleson is dedicated for 99th Avenue.

2) That a 6 foot high block wall is used to screen the rear service yard of the auto dealership parcels along 99th Avenue, Roosevelt Street and the retail center property line

3) That any metal structure used for the service facility buildings be architecturally altered through the application of a veneer so that it minimizes metal surfaces and appears architecturally compatible with the main sales building.

This is a revised staff report for Zoning Case Z99-402-A. The request for additional signage for the property has been withdrawn from the P.A.D.D. zoning application.

CITY OF AVONDALE INCORPORATED 1946
COMMUNITY DEVELOPMENT DEPARTMENT ♦ 1225 SOUTH 4TH STREET
AVONDALE, ARIZONA 85323 ♦ PHONE (623) 932-6088 ♦ FAX (623) 932-6119

CITY OF AVONDALE

MAYOR AND CITY COUNCIL

STAFF REPORT

MEETING DATE:	December 20, 1999
CASE NO:	Z99-402-A
APPLICANT:	AZVT, L.L.C, Michael Pacheco P.O. Box 16460 Phoenix, AZ 85011
REQUEST:	Request to rezone approximately 150 acres of AG (Agriculture) to P.A.D.D. (Planned Area Development District), consisting of C-2 (Commercial) Zoning
LOCATION:	Project area is located west of 99th Avenue, east of 107th Avenue, south of Interstate 10 and north of the Roosevelt Street Alignment.

BACKGROUND:

The applicant is requesting the rezoning of approximately 150 acres of AG to P.A.D.D. consisting of C-2 zoning. The site is located within the City of Avondale Freeway Corridor Specific Plan and is designated as Mixed Use. The general development plan and program submitted by the applicant identifies two major land uses for the site. The eastern portion of the site has been designated by the development plan as an automall and consists of approximately 100.7 acres. The plan designates the remaining 49.2 acres within the western portion of the site as a retail shopping center.

The conceptual site plan for the project identifies eight full service automobile dealerships and other auto related business sites within the Automall portion of the site. The retail shopping component of the plan includes two major anchor businesses and several pads. Intended uses for the retail shopping center will consist of uses commonly found in power type shopping centers.

Conditional Use Request

The application for rezoning includes a request for Conditional Use Permit for several uses and potential uses within the project area. The uses listed below are identified in the City of Avondale Zoning Ordinance as uses that are subject to a Conditional Use Permit: Motor Vehicle Repair; Motor Vehicle Parts Storage and Sales; Motor Vehicle Body Shop, Restaurants with Live Entertainment, provided entertainment does not include "adult" entertainment; Second Hand Merchandising Sales; Skating Rinks, Building Material and Lumberyard retail operations; Video Arcade or Similar Amusement Establishment, provided the location is not within 500 feet of a school site; and Animal Kennels.

The project area is surrounded by the I-10 freeway to the north and Industrial to the east. The City of Avondale Freeway Corridor Specific Plan identifies the land to the west as "mixed use" and the property to the south as "transitional". Future residential development would be unlikely within the immediate vicinity surrounding the project site, therefore causing no impact to surrounding neighborhoods by these uses. Staff supports the request for Conditional Use Permit for these uses and proposed uses within the project area.

Requested P.A.D.D. modifications

The applicant has requested modifications to the C-2 development standards within the P.A.D.D. plan and program development. The applicant has also requested modifications to the landscape standards and height standards of the C-2 zone.

Modification Requested:

1) Retention Basin with side slopes greater that 4 to 1
   Ordinance Standard, maximum slope, 4 to 1

2) Flagpole with height up to 75 feet
   C-2 Ordinance Standard, 35 feet maximum height

3) 5% front yard landscaping area (Automall area)
   C-2 Ordinance Standard, 10%

4) Rear Yard landscaping on perimeter of lot outside of screen wall (Automall area)
   C-2 Ordinance Standard 10%

5) Parking Lot trees, 2 trees per 20 parking spaces (Automall area)
   C-2 Ordinance Standard, 1 tree per 8 parking spaces

6) Waiver of 3 foot high parking screen wall (Automall Area)
C-2 Ordinance Standard, 3 foot block wall or berm required, adjacent to public roads

7) Major or Anchor height allowance of 40 feet (retail shopping center)
C-2 Ordinance Standard, 35 feet

The P.A.D.D. zoning designation of the subject property requires that each final site plan and building elevations within the project will proceed through the Planning and Zoning Commission and the Mayor and City Council for approval. The location of the project is ideally suited for regional commercial activity due to the visibility from both the I-10 freeway and the future 101 freeway interchange. Furthermore, the proposed project is ideal in that it is a use that will not be impacted negatively by freeway noise or the land uses that surround the site. Staff has found that the proposed project is consistent with the City of Avondale Freeway Corridor Specific Plan.

The request for additional signage for the property has been withdrawn from the P.A.D.D. zoning application. As required by section 909 C.1. of the Avondale sign code, the applicant will submit a comprehensive sign package to the Community Development Department. The planing division will submit a report of findings to the City Council regarding the compliance with the sign code.

RECOMMENDATION:

The Planning and Zoning Commission recommends that the Mayor and City Council **APPROVE** case Z99-402-A with the following stipulations by ordinance.

1) That the necessary right of way as required by the City of Avondale is dedicated for 107th Avenue and Roosevelt Street; and that the necessary right of way as required by the City of Tolleson is dedicated for 99th Avenue.

2) That a 6 foot high block wall is used to screen the rear service yard of the auto dealership parcels along 99th Avenue, Roosevelt Street and the retail center property line

3) That any metal structure used for the service facility buildings be architecturally altered through the application of a veneer so that it minimizes metal surfaces and appears architecturally compatible with the main sales building.

C99-402

REZONING REQUEST
&
GENERAL DEVELOPMENT PLAN AND PROGRAM

AVONDALE AUTOMALL & RETAIL SHOPPING CENTER

Southwest Corner of 99th Avenue and Interstate 10

Request: Rezoning from AG, Agricultural to PADD, C-2, CUP, Planned Area Development District, Community Commercial, Conditional Use Permit, with Development Standards Modifications

Applicant: AZVT, L.L.C.
P.O. Box 16460
Phoenix, Arizona 85011
Phone: (602) 230-1051
Facsimile: (602) 200-7560
Attention: Michael Pacheco, Development Manager

Co-Applicant: Beus Gilbert
3200 North Central Avenue
Suite 1000
Phoenix, Arizona 85012
Phone: (602) 234-5806
Facsimile: (602) 234-5893
Attention: Paul E. Gilbert, Esq.

Developer: AZVT, L.L.C.
P.O. Box 16460
Phoenix, Arizona 85011
Phone: (602) 230-1051
Facsimile: (602) 200-7560
Attention: Michael Pacheco, Development Manager

Submitted to:

City of Avondale
525 North Central Avenue
Avondale, Arizona 85252
Phone: (602) 932-6088
Facsimile: (602) 932-6119

November 1999

Purpose of Request:

General

This application is a request to rezone approximately 150 acres of unimproved land located at the southwest corner of 99th Avenue and Interstate 10 (the "Site") from its existing zoning of AG, Agricultural to PADD, C-2, CUP, Planned Area Development District, Community Commercial, Conditional Use Permit zoning, with Site Plan approval and Development Standards Modifications. The purpose of this request is to allow for the development of an automall and a retail shopping center, which will host various land uses and amenities.

Automall

The requested PADD, C-2, CUP zoning with Development Standards Modifications is intended to accommodate the development of several full service automobile dealerships and other automotive related uses (the "Automall") on the eastern portion of the Site. Uses requested for the Automall generally include new and used car sales (outdoor and indoor), repair (including mechanical, collision repair and painting) and the storage and sale of automotive parts.

Retail Center

The requested PADD, C-2, CUP zoning with Development Standards Modifications is intended to accommodate the development of a retail shopping center on the western portion of the Site consisting of uses common to "power" and "neighborhood" type shopping centers (the "Shopping Center".)

Compliance with City of Avondale's General Plan

The intent of the City's General Plan and underlying Land Use Plan, consistent with Avondale planning goals, is to manage and guide development, rather than to react to it. The General Plan and Land Use Plan indicates that the future use of the site shall be Mixed-Use Commercial. The uses requested under this PADD, C-2, CUP zoning are compatible and consistent with the General Plan and the Land Use Plan. In particular, they are compatible with the City's Freeway Corridor Specific Plan. Additionally, the proposed development meets the goals and objectives of the City's Future Growth Plan.

Proposed Zoning District Modifications

In addition to the land uses permitted under the Community Commercial C-2 zoning district, this application includes a request for a Conditional Use Permit for the following uses, subject to stipulations:

- Outdoor Automobile Sales; New and Used.
- Motor Vehicle Repair
- Motor Vehicle Parts Storage and Sales
- Motor Vehicle Body Shop; provided the use occurs within the south half of the Site or is in conjunction with a franchised new motor vehicle dealership use.
- Restaurants with Live Entertainment; provided live entertainment does not include "adult" live entertainment.
- Second Hand Merchandising Sales; provided the use is limited to consignment sales.
- Skating Rinks
- Building Materials and Lumberyards; provided there are no milling or planing operations.
- Video Arcade or Similar Amusement Establishment; provided the site is not located within five hundred (500) feet of a public or private school site.
- Animal Kennels; provided the use is limited to veterinarians and retail pet shops.

Public Infrastructure Requirements

The Site lies within what generally can be characterized as an infrastructure deficient area of the City. We have conducted a preliminary investigation of the locations of available utilities and agree to install the following public infrastructure to serve the Site:

- Utilities: Water & Sewer, Electrical, Natural Gas, Telephone.
- Surface Improvements: 99th & 107th Avenues and Roosevelt Street half streets and all of the right-of-way improvements that lie within the Site as a result of the Roosevelt Street alignment at the easternmost end of the Site, including roadways, signalization, curbs & gutters, sidewalks, landscaping, lighting, signing, pavement marking.

Relationship to Surrounding Properties

The Site is bounded by Interstate 10, 99th & 107th Avenues and the future Roosevelt Street. The proposed development is located on the City of Avondale's eastern border and is designated as Mixed Use Commercial on the City's Freeway Corridor Specific Plan.

Currently, there is limited development at the properties that abut the Site. The nearest and only large scale development, the Reckitt & Coleman plant, is of an industrial

use and is located immediately east of the site, in the City of Tolleson. The surrounding land use and zoning designations are as follows:

Direction	Existing Use	Current Zoning
North	Interstate 10	N/A
East	Reckitt & Coleman	Industrial
	Vacant Land	Industrial
South	Unimproved	A-1 (Industrial) and C-2 (Commercial)
West	Unimproved	AG (Agricultural)

The Site is also in close proximity to Phoenix International Raceway ("PIR"). PIR has emerged as a location for major national Stock & Indy Car racing events. We believe this development, and, in particular the Automall will benefit from its "automotive connection" with the raceway.

Site Accessibility

The Site is contiguous with 99th & 107th Avenues, and the future Roosevelt Street. This allows for excellent access via these surface streets to Interstate 10 and the future 101-loop freeway. Additional access to the existing Interstate 10 frontage road is being researched and requested from the Arizona Department of Transportation.

The Site is highly visible from Interstate 10 and the future Loop 101/I-10 interchange. We believe that this condition provides an excellent opportunity to capitalize on the traffic that travels Interstate 10 and the traffic that will travel the Loop 101. Many of the customers purchasing goods and services at the Site will be residents from outside of Avondale.

Traffic Circulation System

The public roads that abut the east (99th Ave.), south (Roosevelt St.) and the west (107th Ave.) sides of the Site are not fully improved. The Developer shall dedicate the necessary right-of-way improvements as required by the City of Avondale and the City of Tolleson. We will construct the public infrastructure as necessary to adequately and safely serve each phase.

On-Site vehicle circulation throughout the Site shall consist of private drives.

Phasing

While the Automall and the Shopping Center developments could potentially occur either simultaneously, overlap or could occur one after the other, the anticipated development phasing program is as follows:

Phase One

- Construction of public infrastructure (utilities, roadways, etc.) necessary for the development of the Automall portion of the Site.
- Approximately eight (8) full service automobile dealerships and various automotive related businesses.

Phase Two

- Construction of remaining public infrastructure necessary for the development of the retail shopping center portion of the Site.
- Shopping Center.

Public Utilities and Services

Water:	City of Avondale
Sewer:	City of Avondale
Refuse:	City of Avondale
Electricity:	Salt River Project (SRP)
Telephone:	US West
Natural Gas:	Southwest Gas
Fire Protection:	City of Avondale
Police Protection:	City of Avondale
Elementary School:	Littleton Elementary School District
High School:	Tolleson Union High School District

Topography

The Site is characterized as being relatively flat with surface drainage generally flowing south to southwest. The Site's is currently farmed and has an approximate elevation of 1,015 above mean sea level.

Proposed Development Standards Modifications

Introduction

Today's automotive sales industry is a highly competitive business. Dealers need every possible advantage to gain an edge on the rapidly expanding competition. The facility plays a big role in accomplishing this goal. If designed properly, an automobile dealership facility acts as a selling tool for its employees. If not, sales can fall short of expectations, and in some instances, even fail. Many dealerships have had to close their doors or build entirely new facilities because of inefficient, inadequate facility design.

This request is to allow for development standards that will give the dealers located in this Automall the ability to build user friendly, state-of-the-art facilities that will not only compete with the valley's existing automobile dealers, but will exceed anyone's expectations for success.

Likewise, the needs of today's shopping center retailers are not unlike those of the automobile dealers. To get the competitive edge they need to be successful, retailers must have flexibility when designing and operating their facilities. The proper development standards will produce an attractive, highly functional development that will allow them to be competitive deeply into the twenty-first century.

Proposed Modifications to Existing Development Standards

In addition to the Development Standards permitted by right under the requested existing C-2 ordinance, this request is to permit the following modifications to the existing Development Standards:

Automall Development Standards & Signs

General

- Drywells and/or buried lateral perforated pipe shall be permitted. All drywells installed within paved areas shall be Maxwell Enviro type or a city approved equivalent.
- Retention basins with side slopes greater than 4:1 shall be permitted provided they are not accessible by the general public or immediately visible from the public right-of-way.
- No increase in historical stormwater retention shall be required in excess of existing Maricopa County flood control data.
- Public right-of-way landscaping may be applied towards landscape calculations and any open space requirements.

- A flagpole of up to seventy-five (75) feet in height displaying the flag of the United States of America may be installed at each dealership.
- The joint use of a single driveway by two (2) or more adjoining parcels shall not be required.

The following shall be allowed in the Front Yard of dealerships:

- Each dealership's main vehicle display area (the "Front Yard") shall be landscaped at a minimum of 5%. Landscaping installed at the perimeter of each dealership shall consist of contours and variations in grade height provided it does not screen the general public's view of the vehicles.
- Special outdoor display features, such as patios, plazas, pedestals and courtyards shall be permitted and shall count towards landscape calculations and any open space requirements.
- Landscaped parking islands shall be provided at a minimum of one (1) for every twenty (20) parking spaces, shall be a minimum of 150 square feet in size (each) and shall be included in the landscape calculations.
- A minimum of two (2) trees for every twenty (20) parking spaces in the Front Yard shall be required.
- Stormwater retention shall not be required to occur in the dealership's Front Yards.
- Decorative fencing, eighteen to twenty-four inches in height shall be installed in lieu of solid walls or berms.
- Alternative building construction materials shall be permitted provided they fit into the dealership's overall architectural character and theme.

The following shall be allowed in the Rear Yard of dealerships:

- Each dealership's service section (the "Rear Yard") shall not require landscaping except for perimeter landscape treatments outside of the required screen wall.
- Vehicle parking and storage areas may be depressed up to eighteen (18) inches in order to accommodate stormwater.
- Foundation plantings shall not be required around buildings.
- Parking islands shall not be required.
- Alternative building construction materials, such as tilt-up concrete and pre-engineered metal shall be allowed. Any portion of a building located in the Back Yard that abuts the Front Yard of the dealership shall meet the finish standards required in the Front Yard.
- Open service bays shall be allowed provided they are screened from public right-of-way.

In addition to signs permitted by right under the existing ordinance, the following signs shall be permitted for the Automall:

Automall Signs

- One master Automall freeway identification sign located on Interstate 10, seventy-five (75) feet in height, with 1,000 square feet of sign area per side. Such sign shall identify the automall, display the names of each dealership and its corresponding manufacturer's logo, shall be internally lit and have change panels. Digital or reader board type sign shall be permitted.
- One mini-master Automall identification sign located on 99th Avenue, thirty (30) feet in height, with 250 square feet of sign area per side.
- Directory signs installed throughout the common areas of the Site.
- All master or common automall signs shall be of similar style and architecture. Developer may submit a comprehensive sign package at a later date.

Individual Dealership Signs

- Banners, pennants, fixed balloons and flags for the purposes of advertising or promoting special sales events shall be permitted on weekends and holidays.
- Decorative seasonal/holiday lighting such as Christmas lights.
- Temporary window painting of vehicles for the purpose of advertising.
- One (1) thirty-five (35) foot high pylon sign per dealership, with 150 square feet of sign area per side. Individual dealer signs may be unique to each corresponding manufacturer's trademark identification sign.
- Building signs shall be permitted, state the name of the respective dealership, and shall be allowed up to two (2) square foot of sign area for each building front foot. One building sign shall be permitted on each street the dealership fronts. For the purposes of calculating building sign area, private drives provided for the common use of the Automall shall be considered streets.
- Eight (8) foot high monument style signs with twenty-five (25) square feet of sign area per side located at each dealership's retail ingress/egress points.

Shopping Center Development Standards & Signs

General

- "Anchor" or "Major" users may construct buildings up to forty (40) feet in height.
- Drywells and/or buried lateral perforated pipe shall be permitted. All drywells installed within paved areas shall be Maxwell Enviro type or a city approved equivalent.

- Retention basins with side slopes greater than 4:1 shall be permitted provided they are not accessible by the general public or immediately visible from the public right-of-way.
- No increase in historical stormwater retention shall be required in excess of existing Maricopa County flood control data.
- All parking lots shall be screened from public streets with a combination of walls and berms a minimum of thirty-six (36) inches in height above the grade of the most adjacent parking lot or street.
- A flagpole of up to seventy-five (75) feet in height displaying the flag of the United States of America may be installed.
- Special outdoor features and amenities such as patios, plazas, pedestals and courtyards shall be permitted and shall count towards landscape calculations and any open space requirements.
- Vehicle parking areas may be depressed up to eighteen (18) inches.
- Foundation plantings shall not be required at buildings where not visible by the general public.
- Alternative building construction materials, such as tilt-up concrete and pre-engineered metal shall be allowed provided they are in architectural harmony with the remainder of the project.

In addition to signs permitted under the existing ordinance, the following signs shall be permitted for Shopping Center:

Master Shopping Center Signs

- One master freeway identification sign located on Interstate 10, sixty-five (65) feet in height, with 700 square feet of sign area per side. Such sign shall identify the name of the Shopping Center, may display the names of major/anchor users, may be internally lit and have change panels.
- One mini-master identification sign located on 99th Avenue, thirty (30) feet in height, with 250 square feet of sign area per side.
- Directory signs installed throughout the common areas of the Shopping Center.
- All master or common signs shall be of similar style and architecture. Developer may submit a comprehensive sign package at a later date.

Individual User Signs

- Major or Anchor users shall be allowed on building wall sign for each street the user's building space faces, and shall be allowed one and one-half (1 ½) square feet of sign area for each one (1) lineal front foot of building wall.

- Shop space, in-line or pad users shall be allowed on building wall sign for each street the user's building space faces, and shall be allowed one (1) square feet of sign area for each one (1) lineal front foot of building wall.

Summary

We have demonstrated the project's compatibility with the City of Avondale's General Plan and its underlying Growth and Use Plans. It will provide the mechanism for the installation of needed public infrastructure. Each year it will generate millions in City sales taxes and provide a source for thousands of jobs at all levels of pay.

Our goal in developing the proposed Avondale Automall & Shopping Center is to provide a successful marquee project in the City of Avondale. A project that Avondale's residents will cite as a point of pride in their city. A highly functional project that is attractive, safe, and will give its retailers the competitive edge they need to be successful.

Exhibits

The following exhibits are a part of this zoning request:

- Exhibit A Legal Description
- Exhibit B Vicinity Map
- Exhibit C Zoning Context Plan
- Exhibit D Conceptual Site Plan

Exhibit A

LEGAL DESCRIPTION

THE SOUTH HALF OF THE NORTH HALF OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA:

EXCEPT ANY PORTION OF THE ABOVE DESCRIBED PROPERTY LYING BETWEEN LINE NOs. 1 AND 2, AS SET FORTH IN FINAL ORDER OF CONDEMNATION RECORDED IN INSTRUMENT NO. 84-463775, DESCRIBED AS FOLLOWS:

LINE NO. 1

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 5; THENCE S00°-22'39"E, ALONG THE EAST LINE OF SAID SECTION, 300.00 FEET TO THE POINT OF BEGINNING; THENCE S89°37'21"W, 40.00 FEET; THENCE S07°08'11"W, 382.34 FEET; THENCE S88°58'31"W, 50.65 FEET; THENCE S80°16'47"W, 859.88 FEET; THENCE S88°58'31"W, 411.38 FEET; THENCE N50°46'18"W, 99.22 FEET; THENCE N10°31'07"W, 187.67 FEET; THENCE S89°44'25"W, 55.00 FEET TO THE POINT OF ENDING ON THE WEST LINE OF SAID SECTION 5, WHICH POINT BEARS S00°15'35"E, 539.97 FEET FROM THE NORTHWEST CORNER OF SAID SECTION.

LINE NO. 2

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 5; THENCE N00°22'39"W, ALONG THE EAST LINE OF SAID SECTION, 170.48 FEET TO THE POINT OF BEGINNING; THENCE S89°37'21"W, 40.00 FEET; THENCE N00°22'39"W, 1009.75 FEET; THENCE N85°00'46"W, 1014.57 FEET; THENCE S88°58'31"W, 4124.51 FEET; THENCE S06°08'17"W, 403.83 FEET; THENCE S89°44'25"W, 55.00 FEET TO THE POINT OF ENDING ON THE WEST LINE OF SAID SECTION 5, WHICH POINT BEARS N00°15'35"W 900.75 FEET FROM THE WEST QUARTER CORNER OF SAID SECTION; AND ALSO

EXCEPT THAT PORTION OF THE SOUTH HALF OF THE NORTHWEST QUARTER AND OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, WHICH LIES BETWEEN THE EXISTING (1978) SOUTH RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 10 (EHRENBERG-PHOENIX HIGHWAY) AND THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 5; THENCE ALONG THE WEST LINE OF SAID SECTION 5, N00°04'33"W 1500.70 FEET (1500.75 RECORD) TO THE CENTERLINE OF SAID INTERSTATE HIGHWAY 10;

THENCE ALONG SAID CENTERLINE N89°09'33"E, 1071.07 FEET; THENCE S00°-50'27"E, 200.00 FEET TO THE POINT OF BEGINNING ON SAID EXISTING SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10; THENCE CONTINUING S00°-50'27"E, 46.18 FEET; THENCE N87°35'49"E, 960.36 FEET; THENCE N87°31'21"E, 700.29 FEET TO THE POINT OF ENDING ON SAID SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10, AS CONVEYED TO THE STATE OF ARIZONA, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION IN INSTRUMENT NO. 92-0512378; AND ALSO

EXCEPT THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, WHICH LIES BETWEEN THE EXISTING (1978) SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10 (EHRENBERG-PHOENIX) AND THE FOLLOWING DESCRIBED LINE:

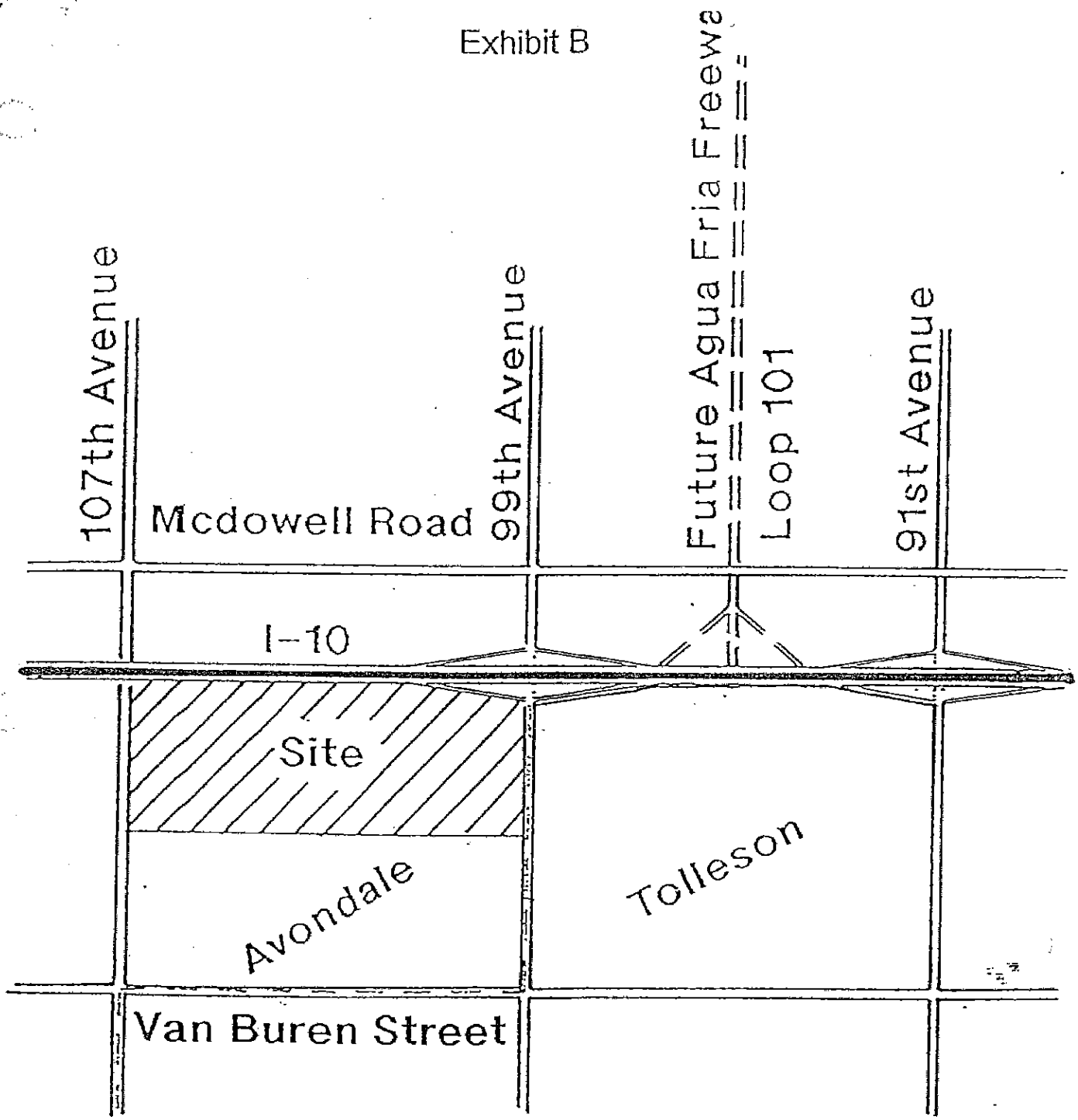
COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 5; THENCE ALONG THE EAST LINE OF SAID SECTION 5, N00°11'37"W A DISTANCE OF 1486.92 FEET TO THE MEDIAN CENTERLINE OF THE AFORESAID INTERSTATE HIGHWAY 10; THENCE S89°09'33"W 1443.24 FEET; THENCE S00°50'27"E 200.00 FEET TO THE POINT OF BEGINNING IN THE AFORESAID SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10; THENCE S88°15'51"E 400.41 FEET; THENCE S84°12'12"E 276.85 FEET; THENCE S82°58'47"E 681.15 FEET; THENCE S41°-35'13"E, 75.02 FEET TO THE POINT OF ENDING ON THE EXISTING WEST RIGHT OF WAY LINE OF 99TH AVENUE AS CONVEYED TO THE STATE OF ARIZONA, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION IN INSTRUMENT NUMBER 92-0406965; AND ALSO

EXCEPT THAT PORTION OF THE SOUTH HALF OF THE NORTHWEST QUARTER AND OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDAIN, MARICOPA COUNTY, ARIZONA, WHICH LIES BETWEEN THE EXISTING (1978) SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10 (EHRENBERG-PHOENIX HIGHWAY) AND THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 5; THENCE ALONG THE WEST LINE OF SAID SECTION 5, N00°04'33"W 1210.70 FEET; THENCE N89°55'27"E 89.76 FEET TO THE POINT OF BEGINNING ON THE EXISTING EAST RIGHT OF WAY LINE OF 107TH AVENUE; THENCE N17°19'36"E 150.91 FEET; THENCE N89°09'33"E 700.01 FEET; THENCE N87°35'49"E 140.05 FEET; THENCE N00°50'27"W 46.18 FEET TO THE POINT OF ENDING ON THE AFORESAID EXISTING SOUTH RIGHT OF WAY OF THE 107TH AVENUE INTERCHANGE AS CONVEYED TO THE STATE OF ARIZONA, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION IN INSTRUMENT NUMBER 92-0406966. AND ALSO:

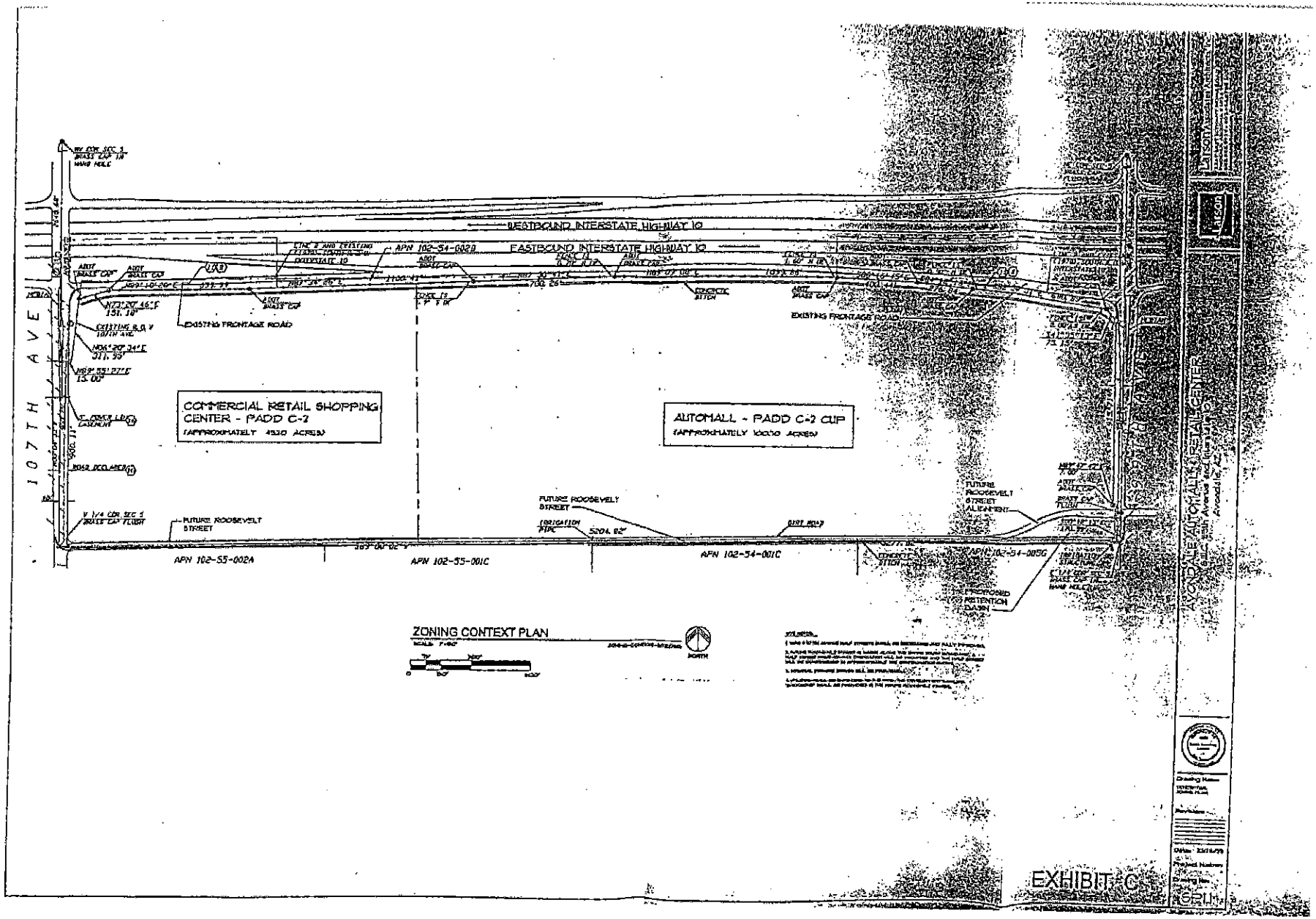
EXCEPT THE WEST 40 FEET AND THE EAST 33 FEET THEREOF.

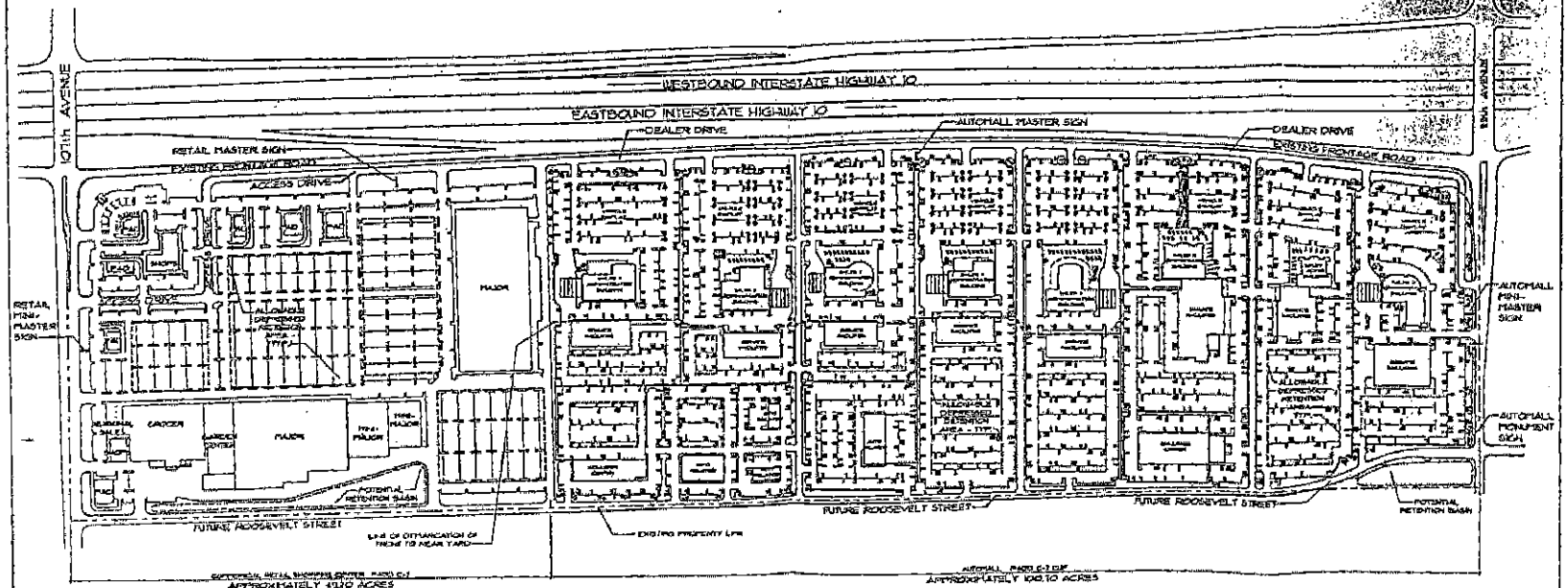
Exhibit B



Vicinity Map

N.T.S.


107TH AVE
WESTBOUND INTERSTATE HIGHWAY 10
EASTBOUND INTERSTATE HIGHWAY 10
APN 102-54-002B
EXISTING FRONTAGE ROAD
EXISTING FRONTAGE ROAD
COMMERCIAL RETAIL SHOPPING CENTER - PADD C-2
(APPROXIMATELY 45.10 ACRES)
AUTOMALL - PADD C-2 CUP
(APPROXIMATELY 100.10 ACRES)
FUTURE ROOSEVELT STREET
FUTURE ROOSEVELT STREET
FUTURE ROOSEVELT STREET ALIGNMENT
IRRIGATION PIPE
5204.82'
APN 102-55-002A
APN 102-55-001C
APN 102-54-001C
APN 102-54-005G
PROPOSED LDS RETENTION BASIN
ZONING CONTEXT PLAN
NORTH
EXHIBIT C



CONCEPTUAL SITE PLAN

SCALE: N.T.S.

SITE PLAN DESIGN IS CONCEPTUAL AND SHOWN ONLY TO ILLUSTRATE A POSSIBLE SITE LAYOUT SCENARIO.

AVONDALE AUTOMALL + RETAIL CENTER
S.W.C. 99th Avenue and Interstate 10
Avondale, AZ

LARSON Associates Architects

EXHIBIT D

SR10.

ORDINANCE NO. 723-99

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AVONDALE, MARICOPA COUNTY, ARIZONA, AMENDING THE ZONING MAP OF THE CITY OF AVONDALE AND CHANGING THE ZONING DESIGNATION OF CERTAIN REAL PROPERTY FROM AG (AGRICULTURAL) TO P.A.D.D. (PLANNED AREA DEVELOPMENT DISTRICT) AND IMPOSING CONDITIONS TO SUCH CHANGE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AVONDALE, MARICOPA COUNTY, ARIZONA, as follows:

SECTION 1. The Zoning Map of the City of Avondale is hereby amended subject to the conditions set forth hereafter to reflect that the real property described in Exhibit "A" attached hereto shall constitute a Planned Area Development District as such District is defined in the Zoning Ordinance of the City of Avondale.

SECTION 2. The amendment to the Zoning Map referred to above is expressly conditioned upon the following:

1. The Developer shall dedicate right-of-way for 107th Avenue and Roosevelt Street as required by the City of Avondale.

2. The Developer shall dedicate right-of-way for 99th Avenue as required by the City of Tolleson.

3. A six (6) foot high block wall shall be constructed to screen the rear surfaces areas of the auto dealership parcels along 99th Avenue, Roosevelt Street and the retail center property line.

4. Any metal structure used for service facility buildings shall be architecturally altered through the application of a veneer so that said buildings are architecturally compatible with the main sales buildings.

PASSED AND ADOPTED by the Mayor and Council of the City of Avondale, Arizona, this 20th day of December, 1999.

MAYOR MORALES

Attest:

City Clerk

Approved as to form:

City Attorney

Exhibit C

2003 PAD, including all applicable staff reports

City of Avondale PLANNING AND BUILDING SERVICES

SUBJECT: Amendment to the Avondale Automall PAD (A03-402-AM1)	**MEETING DATE:** March 20, 2003 **AGENDA ITEM:** 2

PLANNING COMMISSION REPORT

TO: Planning Commission

FROM: Nathan Crane, Planning Manager

THROUGH: Dean Svoboda, Planning and Building Services Director

PREPARED BY: Adrian Williamson, Planner II

PURPOSE AND ACTION REQUESTED:

Mr. Michael Pacheco of AZVT, LLC, 1550 E. Missouri, Suite 300, Phoenix, Arizona, 85014, is requesting an amendment to the Avondale Automall PAD to allow automotive dealerships and related uses to be located on the western 50+ acres of the Automall site. The Automall is located south of Interstate 10, between 99th and 107th Avenues (Exhibits A and B).

	ZONING	LAND USE
Onsite	PAD	Automobile Dealerships, Vacant Commercial
North	PAD and AG	Interstate 10
South	PAD, AG	Williams Travel Center, Agricultural
East	City of Tolleson	Vacant Commercial/Industrial
West	AG	Agricultural

BACKGROUND:

The Avondale Automall PAD zoning includes approximately 150+ acres and was approved by the City Council on December 20, 1999. The PAD approved the site for automobile dealerships and related uses on the eastern 100 acres and a retail commercial center on the western 50+ acres.

Currently there are three dealerships located in the Automall and three additional dealerships under construction. A site plan for a Nissan dealership will be heard by the Commission as a separate agenda item.

Nissan's proposed site overlaps the existing Automall area and the original retail commercial center. The proposed PAD amendment will need to be approved prior to consideration by the City Council of the Nissan site plan.

A revised final plat will also need to be approved by the City Council. This application has not yet been filed.

DISCUSSION:

The proposed amendment would allow motor vehicle dealerships and related uses to be developed on the western 50 acres of the PAD in addition to the originally approved C-2 uses. The amendment will eliminate the possibility of a retail power center. It will allow independent retail sales that can be used for motor vehicle sales or service and general retail uses. Further, auto service uses that normally require a conditional use permit will be permitted outright as a permitted use as currently allowed within the Automall property.

Staff supports the expansion of motor vehicle sales to the western 50 acres. However with this expansion, the PAD needs to be clarified to protect the character of the Automall.

To ensure continuity, dealerships need to be located contiguously. As a result, the location of general retail uses should be limited to the northwest corner of the site. General retail should also be part of a master planned and single center. This will prohibit general retail uses to be scattered throughout the Automall.

Staff believes that auto service uses could be an appropriate secondary use in conjunction with a successful Automall. However, due to the nature and characteristics of these uses a conditional use permit would be appropriate. The location of the uses should be limited to adjacent to Roosevelt Street so as not to downgrade the character of the Automall and the outdoor storage of parts and vehicles unrelated to sales should be prohibited.

Stipulations have been included to address these issues. The stipulations require that dealerships be located contiguously; any general retail uses will be planned and located so that the Automall is uninterrupted; and auto service uses be located adjacent to Roosevelt Street subject to a conditional use permit. Staff believes that these stipulations will contribute to the future success and maintain the character of the Automall.

The infrastructure as approved for the original PAD is sufficient to accommodate the proposed amendment.

The developer has constructed Dealer Drive to the boundary of the current Automall. The half-street improvements for Roosevelt Street from 99th Avenue to 107th Avenue have also been completed. Private access roads between Chrysler and Dodge and between Volkswagen and RV dealerships are either constructed or under construction.

The amended conceptual site plan shows the continuation of Dealer Drive to 107th Avenue and an additional access road between Dealer Drive and Roosevelt Street. Dealer Drive and the access roads are private and are the responsibility of the developer. Additional private access roads may be necessary and will need to be determined prior to Final Plat approval.

The dedication of 107th Avenue right-of-way will be required, as part of the final plat and the improvements of 107th Avenue will be required by the developer as adjacent development occurs.

The PAD approved the site signage for both the Automall and power retail center. The Automall is approved for the following signage:

- Entire Automall – One 75 foot tall, 1,000 square feet per side freeway identification sign;
  One 30 foot tall, 250 square feet per side mini-identification sign on 99th Avenue.
- Dealerships – One 35 foot tall, 150 square feet per side freestanding pylon sign;
  Wall signage calculated at two square feet of sign area per building front foot along each street (including private streets);
  Each retail ingress/egress points of each dealership shall be allowed an 8-foot tall, 25 square foot per side freestanding monument sign.

There are no recommended changes to the sign standards for the Automall and dealerships. The following are the standards for the power retail center:

- Master Center – One 65 foot tall, 700 square feet per side identifying the Center and major/anchor tenants located on Interstate 10;
  One 30 foot tall, 250 square feet per side mini-master identification sign on 99th Avenue.
- Individual Tenants – Major/Anchor user's wall signage is calculated at 1.5 square feet of sign area per building front foot along each street;
  Shop space, in-line or pad user's wall signage is calculated at one square foot of sign area per building front foot along each street.

With the amendment eliminating the power retail center, staff recommends that all signage related to individual retail businesses not associated with a dealership comply with the City of Avondale Sign Ordinance. The Zoning Ordinance permits freeway commercial pylon signs for commercial centers over 40 acres. Individual retail sites or tenants are not allowed freeway commercial pylon signs.

FINDINGS:

The proposed PAD Amendment meets the following findings:

- It is in conformance with the City of Avondale General Plan.

- It is in conformance with the City of Avondale Freeway Corridor Specific Plan.
- Consistent with the existing uses within the Automall.
- Will allow expansion of the existing Automall.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend **APPROVAL** of the proposed PAD Amendment subject to the following stipulations:

1. Development shall comply with the revised context plan dated February 10, 2003 and the PAD General Development Plan and Program as amended.
2. Automobile dealerships shall be developed in a contiguous fashion along Interstate 10 to avoid inter-mixed uses.
3. Automobile service and related uses not directly associated with an automobile dealership shall be located adjacent to Roosevelt Street subject to a Conditional Use Permit.
4. Outdoor storage by individual retail/service businesses of automotive parts and vehicles to be serviced is prohibited.
5. General retail uses shall only be allowed within a planned and a single center at the northeast corner of Dealer Drive and 107th Avenue.
6. The dedication of 107th shall occur with the final plat and improvements for 107th Avenue will be required from the developer as adjacent development occurs.
7. All individual retail developments not associated with an automotive dealership shall comply with the City of Avondale Sign Ordinance.

PROPOSED MOTION:

I move that the Planning Commission accept the findings and forward a recommendation of **APPROVAL** for Case A03-402-AM1, a request for amendment to the Automall PAD zoning, subject to the seven staff recommended stipulations.

ATTACHMENTS:

Exhibit A – Zoning Vicinity Map
Exhibit B – Air Photo 1999
Exhibit C – Proposed Development Plan dated February 10, 2003
Exhibit D – PAD Amendment Narrative dated February 2003
Exhibit E – Proposed Conceptual Site Plan dated February 10, 2003
Exhibit F – Approved Development Plan dated October 26, 1999
Exhibit G – Approved PAD Narrative dated November 1999
Exhibit H – Original Conceptual Site Plan dated November 8, 1999
Exhibit I – City Council Meeting Minutes from December 20, 1999

PLANNING AND BUILDING SERVICES

SUBJECT: Amendment to the Avondale Automall PAD ([illegible] AM1) Public Hearing and Ordinance	MEETING DATE: April 21, 2003

CITY COUNCIL REPORT

TO: Mayor and City Council

FROM: Dean Svoboda, Planning and Building Services Director (623) 932-6088

THROUGH: Todd Hileman, City Manager

PURPOSE AND ACTION REQUESTED:

Mr. Michael Pacheco, AZVT, LLC, 1550 E. Missouri, Suite 300, Phoenix, Arizona, 85014, is requesting an amendment to the Avondale Automall PAD to allow automotive dealerships and related uses to be located on the western 50+ acres of the Automall site. The Automall is located south of Interstate 10, between 99th and 107th Avenues (Exhibits A and B).

	ZONING	LAND USE
Onsite	PAD	Automobile Dealerships, Vacant Commercial
North	PAD and AG	Interstate 10
South	PAD, AG	Williams Travel Center, Agricultural
East	City of Tolleson	Vacant Commercial/Industrial
West	AG	Agricultural

BACKGROUND:

The Avondale Automall PAD zoning includes approximately 150+ acres and was approved by the City Council on December 20, 1999. The PAD approved the site for automobile dealerships and related uses on the eastern 100 acres and a retail commercial center on the western 50+ acres.

Currently there are three dealerships located in the Automall and three additional dealerships under construction. A site plan for a Nissan dealership will be heard by the Council as a separate agenda item. Nissan's proposed site overlaps the existing Automall area and the original retail

commercial center. The proposed PAD amendment will need to be approved prior to Council consideration of the Nissan site plan.

A revised final plat will also need to be approved by the City Council. This application has not yet been filed.

DISCUSSION:

The proposed amendment will allow motor vehicle dealerships and related uses to be developed on the western 50 acres of the PAD in addition to the originally approved C-2 uses. The amendment will eliminate the possibility of a retail power center. It will allow independent retail sales that can be used for motor vehicle sales or service and general retail uses. Further, auto service uses that normally require a conditional use permit will be permitted outright as a permitted use as currently allowed within the Automall property.

Staff supports the expansion of motor vehicle sales to the western 50 acres. However with this expansion, the PAD needs to be clarified to protect the character of the Automall.

To ensure continuity, dealerships need to be located within a contiguous area. As a result, the location of general retail uses should be limited to the northwest corner of the site. General retail should also be part of a single master planned center. This will prohibit general retail uses from being scattered throughout the Automall.

Staff believes that auto service uses could be an appropriate secondary use in conjunction with a successful Automall. However, due to the nature and characteristics of these uses a conditional use permit requirement is appropriate. The location of these uses should be limited to parcels with frontage on Roosevelt Street so as not to downgrade the character of the Automall. The outdoor storage of parts and vehicles unrelated to sales should be prohibited.

Stipulations have been included to address these issues. The stipulations require that dealerships be located contiguously; any general retail uses be planned and located so that the Automall is uninterrupted; and auto service uses be located adjacent to Roosevelt Street subject to a conditional use permit. Staff believes that these stipulations will contribute to the future success of the Autornall and help maintain the character.

The developer has constructed Dealer Drive to the western boundary of the current Automall. The half-street improvements for Roosevelt Street from 99th Avenue to 107th Avenue have also been completed. Private access roads are provided between the Chrysler and Dodge dealerships and between the Volkswagen and Earnhardt RV dealerships.

The amended conceptual site plan shows the continuation of Dealer Drive to 107th Avenue and an additional access road between Dealer Drive and Roosevelt Street. Dealer Drive and the access roads are private and are the responsibility of the developer. Additional private access roads may be necessary and will need to be determined prior to Final Plat approval.

The dedication of 107th Avenue right-of-way will be required, as part of the final plat. The improvement of 107th Avenue will be required as adjacent development occurs.

The original PAD addressed signage for the entire Automall property. This included the following:

Entire Automall	– One 75 foot tall, 1,000 square feet per side freeway identification sign; – One 30 foot tall, 250 square feet per side mini-identification sign on 99th Avenue.
Each Dealership Parcel	– One 35 foot tall, 150 square feet per side freestanding pylon sign; – Wall signage calculated at two square feet of sign area per building front foot along each street (including private streets); – An 8-foot tall, 25 square foot per side freestanding monument sign at each retail ingress/egress points of each dealership.

Based on discussions with the applicant, staff recommends that an additional 30 foot tall mini-identification sign be allowed on 107th Avenue. Staff also recommends that an additional 75 foot tall freeway identification sign be allowed if 75 percent or more of the west fifty acres of the Automall site is developed for automobile dealerships. Otherwise the current PAD standards are sufficient for the Automall expansion.

The original PAD also included signage for the power retail center as follows:

Master Center	– One 65 foot tall, 700 square feet per side multi-tenant freeway identification sign; – One 30 foot tall, 250 square feet per side mini-master identification sign on 107th Avenue.
Individual Tenants	– Major/Anchor user's wall signage calculated at 1.5 square feet of sign area per building front foot along each street; – Shop space, in-line or pad user's wall signage calculated at one square foot of sign area per building front foot along each street.

With the amendment eliminating the power retail center, staff recommends that all signage related to individual retail businesses not associated with a dealership comply with the City of Avondale Sign Ordinance with one exception. A 12 foot high multi-tenant shopping center identification sign should be allowed on 107th Avenue. The Zoning Ordinance only permits freeway commercial pylon signs for centers over 40 acres. Individual retail sites or tenants are not allowed freeway commercial pylon signs. Stipulations have been included to address staff's recommended modifications to the PAD sign standards.

PLANNING COMMISSION ACTION:

The Planning Commission reviewed this request at their meeting on March 20, 2003 (Exhibit J). The Commission voted unanimously to forward a recommendation of approval to the City Council subject to nine stipulations. No one from the public spoke on this item.

FINDINGS:

The proposed PAD Amendment meets the following findings:

- It is in conformance with the City of Avondale General Plan.
- It is in conformance with the City of Avondale Freeway Corridor Specific Plan.
- It is consistent with the existing uses within the Automall.
- It will allow for the expansion of the existing Automall.

RECOMMENDATION:

Staff recommends that the City Council **APPROVE** the proposed PAD Amendment subject to the following stipulations as recommended by the Planning Commission:

1. Development shall be in substantial conformance with the revised context plan dated February 10, 2003 and the PAD Zoning Amendment dated March 5, 2003.
2. Automotive dealerships shall be developed in a linear fashion along Interstate 10. Retail and service uses shall not separate automotive dealerships.
3. Automobile service and related uses not directly associated with an automobile dealership shall be located adjacent to Roosevelt Street subject to a Conditional Use Permit.
4. Outdoor storage by individual retail/service businesses of automotive parts and vehicles to be serviced is prohibited.
5. General retail uses shall only be allowed within a planned, single center at the northeast corner of Dealer Drive and 107th Avenue.
6. The dedication of 107th shall occur with the final plat and improvements for 107th Avenue will be required from the developer as adjacent development occurs.
7. All individual retail developments not associated with an automotive dealership shall comply with the City of Avondale Sign Ordinance.
8. If automobile dealerships occupy 75% or more of the net area of the western 50 acres of the Automall, an additional 35-foot tall, 150 square feet per side freestanding pylon sign shall be allowed on 107th Avenue matching the existing pylon sign on 99th Avenue. An additional 75-foot tall, 573 square feet per side freeway identification sign shall be permitted on the western 50 acres on Dealer Drive matching the existing freeway identification sign on Dealer Drive. These signs shall only identify the Automall and automobile dealerships. These signs shall require sign permits and be approved by staff prior to construction.
9. If a retail commercial center is developed in the northwest corner of the PAD, a 12-foot tall, 84 square feet per side freestanding sign identifying the name of the center and individual tenants shall be permitted along 107th Avenue. This sign shall require a sign permit and be approved by staff prior to construction.

PROPOSED MOTION:

I move that the City Council accept the findings and **APPROVE** Case A03-402-AM1, a request to amend the Automall PAD zoning, subject to the 9 stipulations recommended by the Planning Commission.

ATTACHMENTS:

Exhibit A – Zoning Vicinity Map
Exhibit B – Air Photo 1999
Exhibit C – Proposed Development Plan dated February 10, 2003
Exhibit D – PAD Amendment Narrative dated February 2003
Exhibit E – Preliminary Conceptual Site Plan dated February 10, 2003
Exhibit F – Approved Development Plan dated October 26, 1999
Exhibit G – Approved PAD Narrative dated November 1999
Exhibit H – Original Conceptual Site Plan dated November 8, 1999
Exhibit I – City Council Meeting Minutes from December 20, 1999
Exhibit J – Planning Commission Meeting Minutes from March 20, 2003
Draft Ordinance

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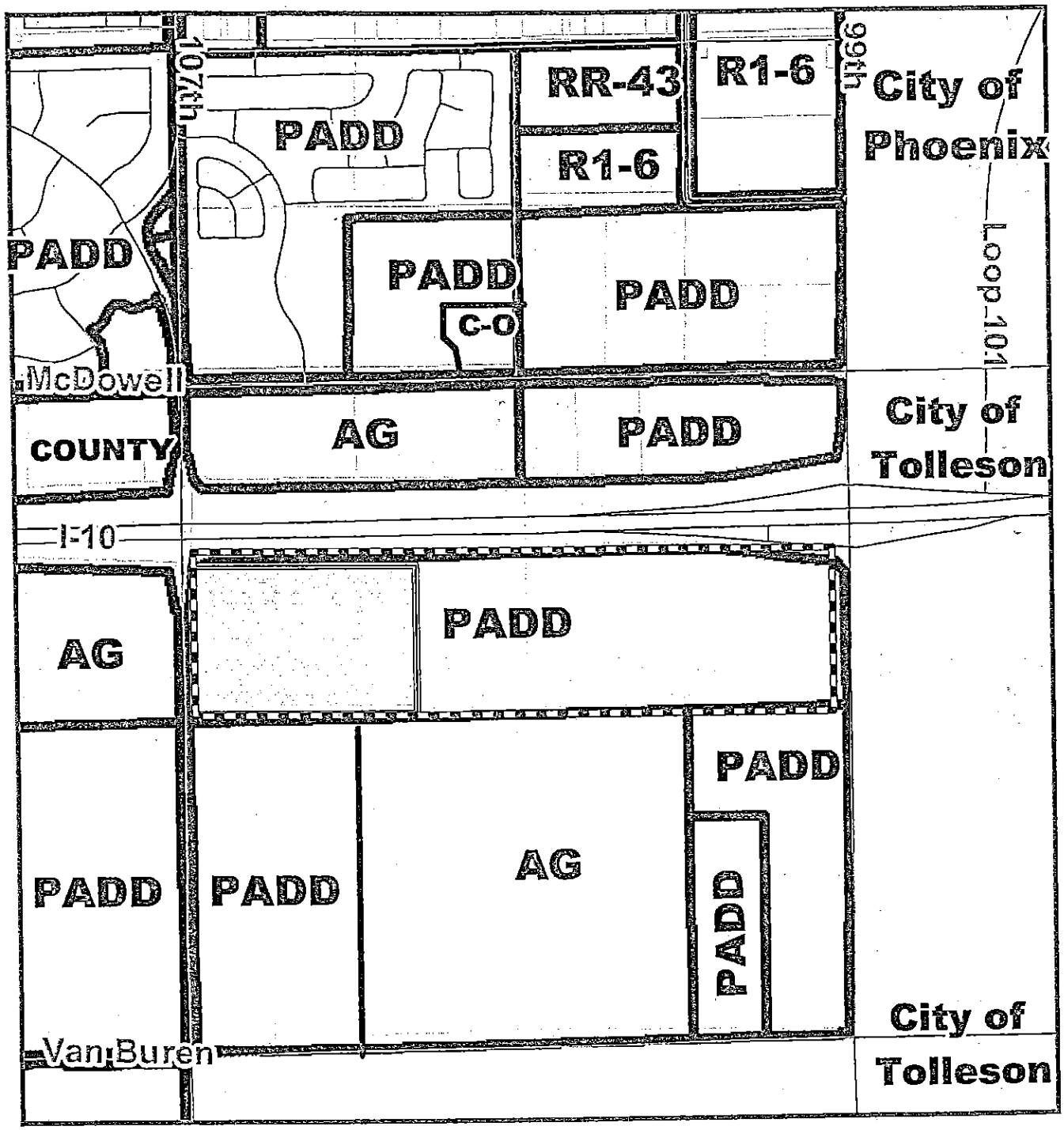
Exhibit A



Zoning Vicinity Map

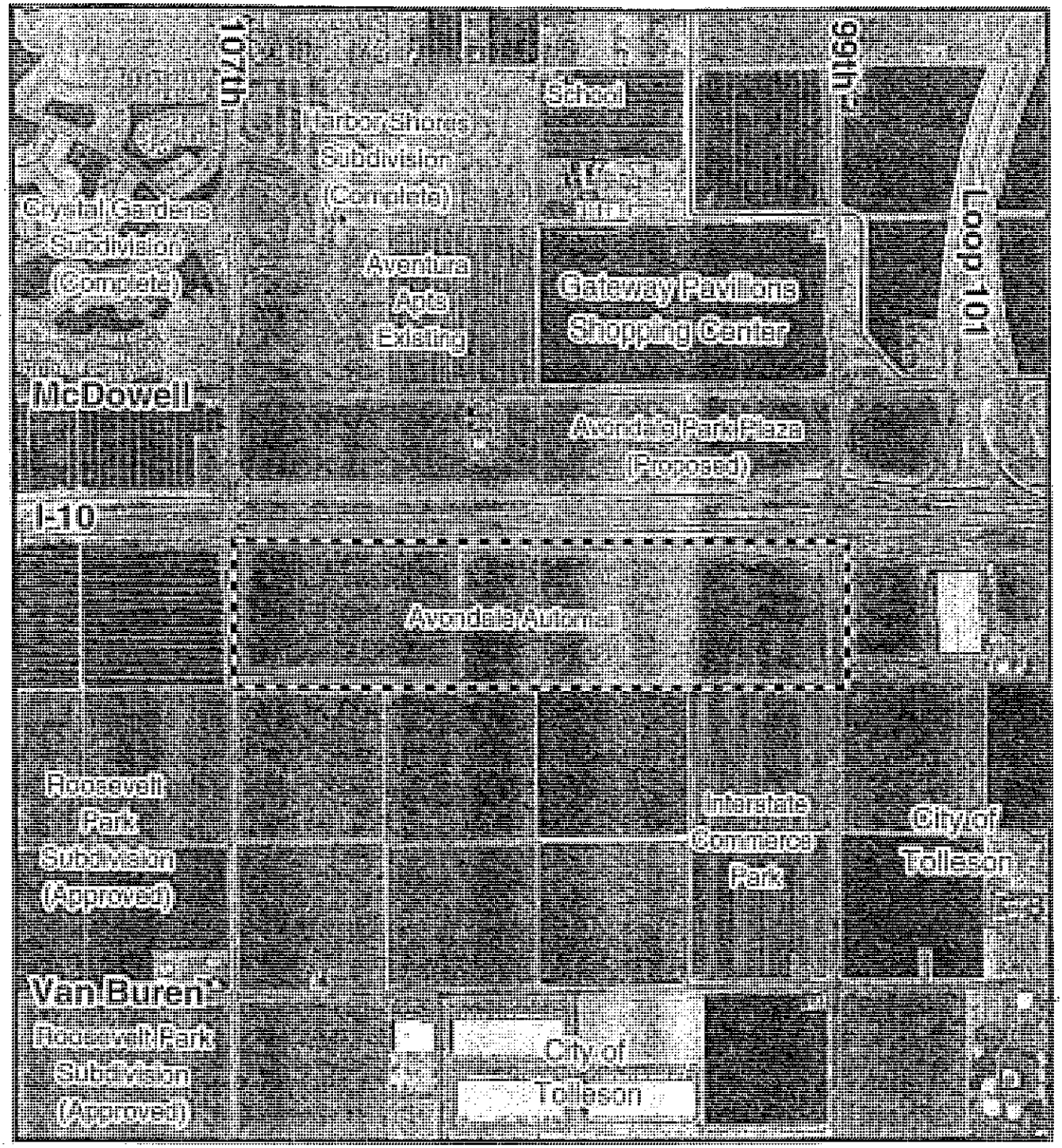
Avondale

Avondale Automall

Subject Property

N

Exhibit B

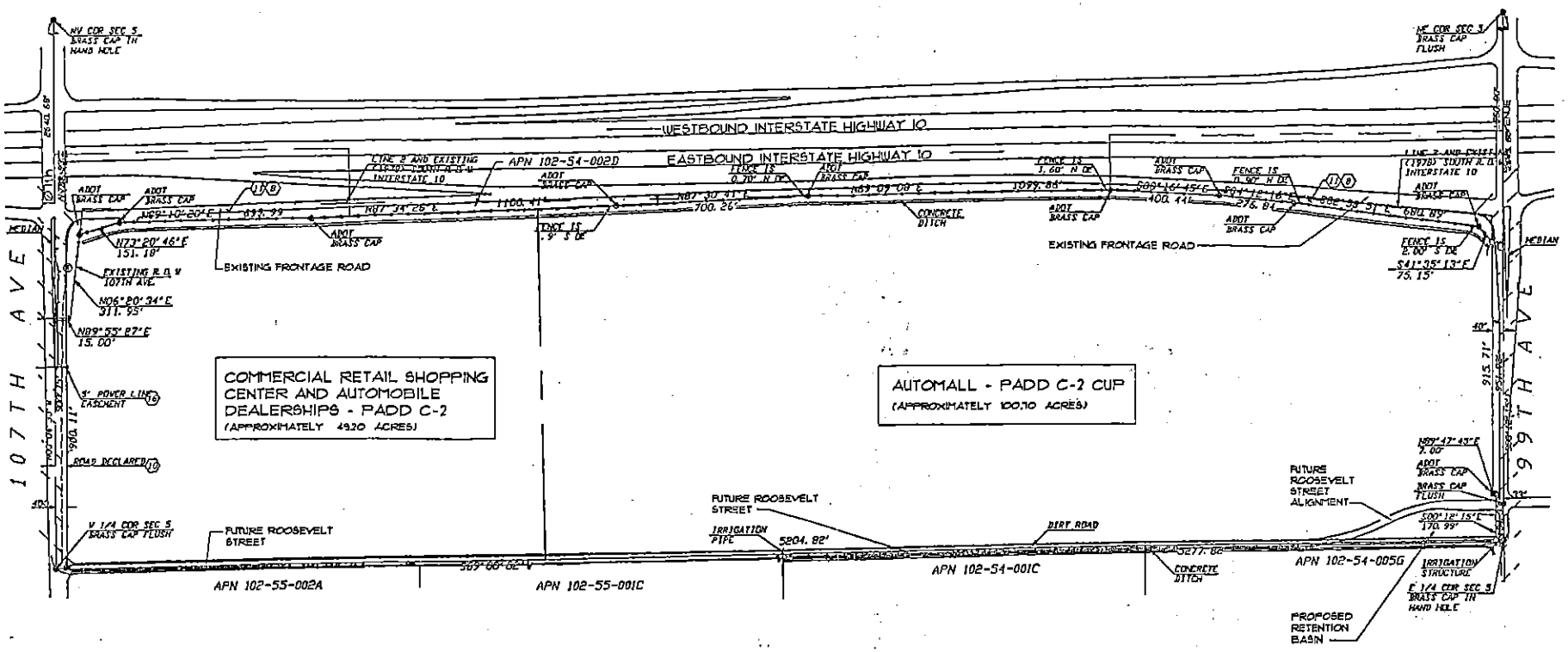


Case Number: A03-402-AM1

Avondale

Air Photo 1999

EXHIBIT C



ZONING CONTEXT PLAN

SCALE: 1"=150'

ZONING-CONTEXT-SITE.DWG

NORTH

0 150' 300' 600'

SITE NOTES:

1. 99TH & 107TH AVENUE HALF STREETS SHALL BE DEDICATED AND FULLY IMPROVED.
2. FUTURE ROOSEVELT STREET IS SHOWN ALONG THE ENTIRE SOUTH BOUNDARY. A HALF STREET RIGHT-OF-WAY DEDICATION WILL BE REQUIRED AND THE HALF STREET WILL BE CONSTRUCTED IN APPROXIMATELY THE CONFIGURATION SHOWN.
3. INTERNAL PRIVATE DRIVES WILL BE PROVIDED.
4. UTILITIES SHALL BE EXTENDED TO THE SITE. THE DEVELOPMENTS UTILITY "BACKBONE" SHALL BE PROVIDED IN THE FUTURE ROOSEVELT STREET.

Larson Associates Architects, Inc.
3507 North 24th Street, Suite 100
Phoenix, AZ 85016
602.955.9939 602.954.4790 FAX
larsonarch@aol.com

Avondale Automall
S.W.C. 99th Avenue and Interstate Highway 10
Avondale, AZ.

Drawing Name: ZONING CONTEXT PLAN

Revisions

Date: 02/10/03

Project Number: 99101-13

Drawing No:

SP1.1

EXHIBIT D

PROJECT NARRATIVE
FOR
AVONDALE AUTOMALL &
RETAIL SHOPPING CENTER

PAD ZONING AMENDMENT

February 2003

History & Project Narrative

AZVT, LLC acquired approximately 150 acres of unimproved land south of Interstate 10 between 99th and 107th Avenues. Subsequently, the project was rezoned to PADD, C-2, with a Conditional Use Permit to allow for new and used vehicle sales and other various automotive related uses on the easternmost 100 acres. The westernmost 50 acres was rezoned to PADD, C-2, with a Conditional Use Permit to allow for commercial and retail uses. Because of the Avondale Automall's success insofar as new vehicle dealers' desires to purchase land within the 50 acre portion of the overall 150 acre property owned by AZVT, LLC, but not within property rezoned as the Avondale Automall, AZVT wishes to obtain the proper zoning to allow for additional new vehicle dealers.

Rezoning Request

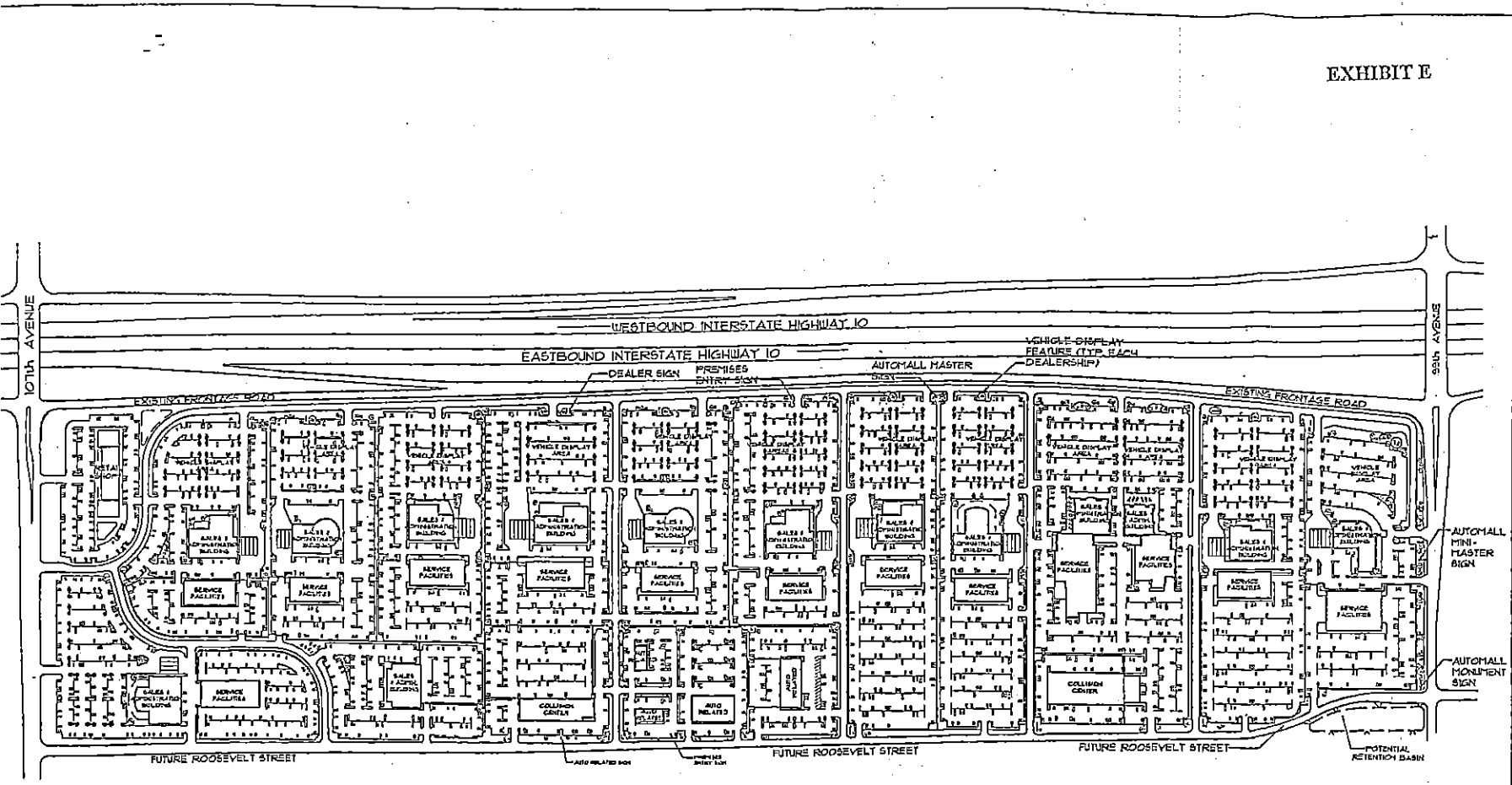
This rezoning request is to amend the existing zoning on AZVT's west 50 acres so that, in addition to the existing C-2 zoning, the following uses are allowed:

Outdoor Automobile Sales: New and Used
Motor Vehicle Repair
Motor Vehicle Parts Storage and Sales
Motor Vehicle Body Shop – provided the use occurs within the south half of the site or is in conjunction with a franchised new motor vehicle dealership
Motorcycle Sales: New and Used with parts sales and service

Additionally, the Modifications to Existing Development Standards, as applicable to the PADD for the Avondale Automall, shall apply to the expansion area of the Avondale Automall covered under this rezoning request. The applicable standards, whether automotive or retail commercial, shall apply to the particular proposed use.

A revised Zoning Context Plan is provided as Exhibit A and a Conceptual Site Plan is provided as Exhibit B.

EXHIBIT E



CONCEPTUAL SITE PLAN

SCALE: N.T.S.

BASEBLOCKS

NORTH

0 150' 300' 600'

SITE PLAN DESIGN IS CONCEPTUAL AND SHOWN ONLY TO ILLUSTRATE A POSSIBLE SITE LAYOUT SCENARIO.

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602.955.9729 602.954.4790 FAX
brocord@aol.com

Avondale Automall
S.W.C. 99th Avenue and Interstate Highway 10
Avondale, AZ.

Drawing Name:
CONCEPTUAL SITE PLAN

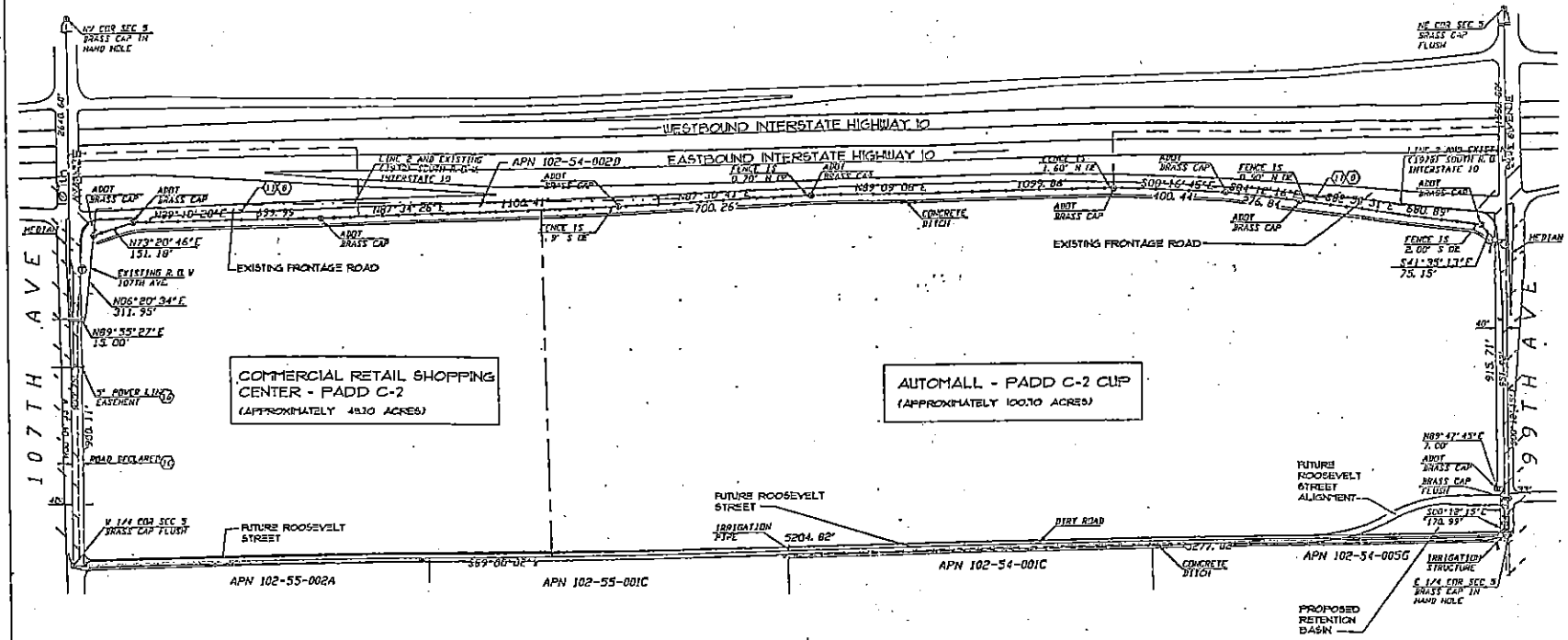
Revisions

Date: 02/10/03

Project Number:
9501-13

Drawing No:

EXHIBIT F



ZONING CONTEXT PLAN

SCALE: 1"=200'

ZONING-CONTEXT-SITEPLAN

NORTH

0 150' 300' 600'

SITE NOTES:

1. WITH 3 SITES AVENUE HALF STREETS SHALL BE DEDICATED AND FULLY IMPROVED.

2. FUTURE ROOSEVELT STREET TO BE ON ALIGNMENT THE ENTIRE SOUTH BOUNDARY, A HALF STREET RIGHT-OF-WAY DEDICATION SHALL BE REQUIRED AND THE HALF STREET SHALL BE CONSTRUCTED IN APPROXIMATELY THE CENTER LOCATION PHASE.

3. INTERNAL PRIVATE STREETS SHALL BE PROVIDED.

4. SITE SHALL BE DEVELOPED IN ACCORDANCE WITH THE DEVELOPMENT AGREEMENT. LANDSCAPING SHALL BE PROVIDED IN THE FUTURE ROOSEVELT STREET.

Larson Associates Architects, Inc.

AVONDALE AUTOMALL & RETAIL CENTER
SWC, 99th Avenue and Interstate 10
Avondale, AZ

Drawing Name
CONCEPTUAL ZONING PLAN

Revisions

Date: 10/16/03

Project Number

Drawing No.

EXHIBIT G

REZONING REQUEST
&
GENERAL DEVELOPMENT PLAN AND PROGRAM

AVONDALE AUTOMALL & RETAIL SHOPPING CENTER

Southwest Corner of 99th Avenue and Interstate 10

Request: Rezoning from AG, Agricultural to PADD, C-2, CUP, Planned Area Development District, Community Commercial, Conditional Use Permit, with Development Standards Modifications

Applicant: AZVT, L.L.C.
P.O. Box 16460
Phoenix, Arizona 85011
Phone: (602) 230-1051
Facsimile: (602) 200-7560
Attention: Michael Pacheco, Development Manager

Co-Applicant: Beus Gilbert
3200 North Central Avenue
Suite 1000
Phoenix, Arizona 85012
Phone: (602) 234-5806
Facsimile: (602) 234-5893
Attention: Paul E. Gilbert, Esq.

CASE # Z99-402-A

Developer: AZVT, L.L.C.
P.O. Box 16460
Phoenix, Arizona 85011
Phone: (602) 230-1051
Facsimile: (602) 200-7560
Attention: Michael Pacheco, Development Manager

Submitted to:

City of Avondale
525 North Central Avenue
Avondale, Arizona 85252
Phone: (602) 932-6088
Facsimile: (602) 932-6119

November 1999

Purpose of Request:

General

This application is a request to rezone approximately 150 acres of unimproved land located at the southwest corner of 99th Avenue and Interstate 10 (the "Site") from its existing zoning of AG, Agricultural to PADD, C-2, CUP, Planned Area Development District, Community Commercial, Conditional Use Permit zoning, with Site Plan approval and Development Standards Modifications. The purpose of this request is to allow for the development of an automall and a retail shopping center, which will host various land uses and amenities.

Automall

The requested PADD, C-2, CUP zoning with Development Standards Modifications is intended to accommodate the development of several full service automobile dealerships and other automotive related uses (the "Automall") on the eastern portion of the Site. Uses requested for the Automall generally include new and used car sales (outdoor and indoor), repair (including mechanical, collision repair and painting) and the storage and sale of automotive parts.

Retail Center

The requested PADD, C-2, CUP zoning with Development Standards Modifications is intended to accommodate the development of a retail shopping center on the western portion of the Site consisting of uses common to "power" and "neighborhood" type shopping centers (the "Shopping Center".)

Compliance with City of Avondale's General Plan

The intent of the City's General Plan and underlying Land Use Plan, consistent with Avondale planning goals, is to manage and guide development, rather than to react to it. The General Plan and Land Use Plan indicates that the future use of the site shall be Mixed-Use Commercial. The uses requested under this PADD, C-2, CUP zoning are compatible and consistent with the General Plan and the Land Use Plan. In particular, they are compatible with the City's Freeway Corridor Specific Plan. Additionally, the proposed development meets the goals and objectives of the City's Future Growth Plan.

Proposed Zoning District Modifications

In addition to the land uses permitted under the Community Commercial C-2 zoning district, this application includes a request for a Conditional Use Permit for the following uses, subject to stipulations:

- Outdoor Automobile Sales; New and Used.
- Motor Vehicle Repair
- Motor Vehicle Parts Storage and Sales
- Motor Vehicle Body Shop; provided the use occurs within the south half of the Site or is in conjunction with a franchised new motor vehicle dealership use.
- Restaurants with Live Entertainment; provided live entertainment does not include "adult" live entertainment.
- Second Hand Merchandising Sales; provided the use is limited to consignment sales.
- Skating Rinks
- Building Materials and Lumberyards; provided there are no milling or planing operations.
- Video Arcade or Similar Amusement Establishment; provided the site is not located within five hundred (500) feet of a public or private school site.
- Animal Kennels; provided the use is limited to veterinarians and retail pet shops.

Public Infrastructure Requirements

The Site lies within what generally can be characterized as an infrastructure deficient area of the City. We have conducted a preliminary investigation of the locations of available utilities and agree to install the following public infrastructure to serve the Site:

- Utilities: Water & Sewer, Electrical, Natural Gas, Telephone.
- Surface Improvements: 99th & 107th Avenues and Roosevelt Street half streets and all of the right-of-way improvements that lie within the Site as a result of the Roosevelt Street alignment at the easternmost end of the Site, including roadways, signalization, curbs & gutters, sidewalks, landscaping, lighting, signing, pavement marking.

Relationship to Surrounding Properties

The Site is bounded by Interstate 10, 99th & 107th Avenues and the future Roosevelt Street. The proposed development is located on the City of Avondale's eastern border and is designated as Mixed Use Commercial on the City's Freeway Corridor Specific Plan.

Currently, there is limited development at the properties that abut the Site. The nearest and only large scale development, the Reckitt & Coleman plant, is of an industrial

use and is located immediately east of the site, in the City of Tolleson. The surrounding land use and zoning designations are as follows:

Direction	Existing Use	Current Zoning
North	Interstate 10	N/A
East	Reckitt & Coleman	Industrial
	Vacant Land	Industrial
South	Unimproved	A-1 (Industrial) and C-2 (Commercial)
West	Unimproved	AG (Agricultural)

The Site is also in close proximity to Phoenix International Raceway ("PIR"). PIR has emerged as a location for major national Stock & Indy Car racing events. We believe this development, and, in particular the Automall will benefit from its "automotive connection" with the raceway.

Site Accessibility

The Site is contiguous with 99th & 107th Avenues, and the future Roosevelt Street. This allows for excellent access via these surface streets to Interstate 10 and the future 101-loop freeway. Additional access to the existing Interstate 10 frontage road is being researched and requested from the Arizona Department of Transportation.

The Site is highly visible from Interstate 10 and the future Loop 101/I-10 interchange. We believe that this condition provides an excellent opportunity to capitalize on the traffic that travels Interstate 10 and the traffic that will travel the Loop 101. Many of the customers purchasing goods and services at the Site will be residents from outside of Avondale.

Traffic Circulation System

The public roads that abut the east (99th Ave.), south (Roosevelt St.) and the west (107th Ave.) sides of the Site are not fully improved. The Developer shall dedicate the necessary right-of-way improvements as required by the City of Avondale and the City of Tolleson. We will construct the public infrastructure as necessary to adequately and safely serve each phase.

On-Site vehicle circulation throughout the Site shall consist of private drives.

Phasing

While the Automall and the Shopping Center developments could potentially occur either simultaneously, overlap or could occur one after the other, the anticipated development phasing program is as follows:

Phase One

- Construction of public infrastructure (utilities, roadways, etc.) necessary for the development of the Automall portion of the Site.
- Approximately eight (8) full service automobile dealerships and various automotive related businesses.

Phase Two

- Construction of remaining public infrastructure necessary for the development of the retail shopping center portion of the Site.
- Shopping Center.

Public Utilities and Services

Water:	City of Avondale
Sewer:	City of Avondale
Refuse:	City of Avondale
Electricity:	Salt River Project (SRP)
Telephone:	US West
Natural Gas:	Southwest Gas
Fire Protection:	City of Avondale
Police Protection:	City of Avondale
Elementary School:	Littleton Elementary School District
High School:	Tolleson Union High School District

Topography

The Site is characterized as being relatively flat with surface drainage generally flowing south to southwest. The Site's is currently farmed and has an approximate elevation of 1,015 above mean sea level.

Proposed Development Standards Modifications

Introduction

Today's automotive sales industry is a highly competitive business. Dealers need every possible advantage to gain an edge on the rapidly expanding competition. The facility plays a big role in accomplishing this goal. If designed properly, an automobile dealership facility acts as a selling tool for its employees. If not, sales can fall short of expectations, and in some instances, even fail. Many dealerships have had to close their doors or build entirely new facilities because of inefficient, inadequate facility design.

This request is to allow for development standards that will give the dealers located in this Automall the ability to build user friendly, state-of-the-art facilities that will not only compete with the valley's existing automobile dealers, but will exceed anyone's expectations for success.

Likewise, the needs of today's shopping center retailers are not unlike those of the automobile dealers. To get the competitive edge they need to be successful, retailers must have flexibility when designing and operating their facilities. The proper development standards will produce an attractive, highly functional development that will allow them to be competitive deeply into the twenty-first century.

Proposed Modifications to Existing Development Standards

In addition to the Development Standards permitted by right under the requested existing C-2 ordinance, this request is to permit the following modifications to the existing Development Standards:

Automall Development Standards & Signs

General

- Drywells and/or buried lateral perforated pipe shall be permitted. All drywells installed within paved areas shall be Maxwell Enviro type or a city approved equivalent.
- Retention basins with side slopes greater than 4:1 shall be permitted provided they are not accessible by the general public or immediately visible from the public right-of-way.
- No increase in historical stormwater retention shall be required in excess of existing Maricopa County flood control data.
- Public right-of-way landscaping may be applied towards landscape calculations and any open space requirements.

- A flagpole of up to seventy-five (75) feet in height displaying the flag of the United States of America may be installed at each dealership.
- The joint use of a single driveway by two (2) or more adjoining parcels shall not be required.

The following shall be allowed in the Front Yard of dealerships:

- Each dealership's main vehicle display area (the "Front Yard") shall be landscaped at a minimum of 5%. Landscaping installed at the perimeter of each dealership shall consist of contours and variations in grade height provided it does not screen the general public's view of the vehicles.
- Special outdoor display features, such as patios, plazas, pedestals and courtyards shall be permitted and shall count towards landscape calculations and any open space requirements.
- Landscaped parking islands shall be provided at a minimum of one (1) for every twenty (20) parking spaces, shall be a minimum of 150 square feet in size (each) and shall be included in the landscape calculations.
- A minimum of two (2) trees for every twenty (20) parking spaces in the Front Yard shall be required.
- Stormwater retention shall not be required to occur in the dealership's Front Yards.
- Decorative fencing, eighteen to twenty-four inches in height shall be installed in lieu of solid walls or berms.
- Alternative building construction materials shall be permitted provided they fit into the dealership's overall architectural character and theme.

The following shall be allowed in the Rear Yard of dealerships:

- Each dealership's service section (the "Rear Yard") shall not require landscaping except for perimeter landscape treatments outside of the required screen wall.
- Vehicle parking and storage areas may be depressed up to eighteen (18) inches in order to accommodate stormwater.
- Foundation plantings shall not be required around buildings.
- Parking islands shall not be required.
- Alternative building construction materials, such as tilt-up concrete and pre-engineered metal shall be allowed. Any portion of a building located in the Back Yard that abuts the Front Yard of the dealership shall meet the finish standards required in the Front Yard.
- Open service bays shall be allowed provided they are screened from public right-of-way.

In addition to signs permitted by right under the existing ordinance, the following signs shall be permitted for the Automall:

Automall Signs

- One master Automall freeway identification sign located on Interstate 10, seventy-five (75) feet in height, with 1,000 square feet of sign area per side. Such sign shall identify the automall, display the names of each dealership and its corresponding manufacturer's logo, shall be internally lit and have change panels. Digital or reader board type sign shall be permitted.
- One mini-master Automall identification sign located on 99th Avenue, thirty (30) feet in height, with 250 square feet of sign area per side.
- Directory signs installed throughout the common areas of the Site.
- All master or common automall signs shall be of similar style and architecture. Developer may submit a comprehensive sign package at a later date.

Individual Dealership Signs

- Banners, pennants, fixed balloons and flags for the purposes of advertising or promoting special sales events shall be permitted on weekends and holidays.
- Decorative seasonal/holiday lighting such as Christmas lights.
- Temporary window painting of vehicles for the purpose of advertising.
- One (1) thirty-five (35) foot high pylon sign per dealership, with 150 square feet of sign area per side. Individual dealer signs may be unique to each corresponding manufacturer's trademark identification sign.
- Building signs shall be permitted, state the name of the respective dealership, and shall be allowed up to two (2) square foot of sign area for each building front foot. One building sign shall be permitted on each street the dealership fronts. For the purposes of calculating building sign area, private drives provided for the common use of the Automall shall be considered streets.
- Eight (8) foot high monument style signs with twenty-five (25) square feet of sign area per side located at each dealership's retail ingress/egress points.

Shopping Center Development Standards & Signs

General

- "Anchor" or "Major" users may construct buildings up to forty (40) feet in height.
- Drywells and/or buried lateral perforated pipe shall be permitted. All drywells installed within paved areas shall be Maxwell Enviro type or a city approved equivalent.

- Retention basins with side slopes greater than 4:1 shall be permitted provided they are not accessible by the general public or immediately visible from the public right-of-way.
- No increase in historical stormwater retention shall be required in excess of existing Maricopa County flood control data.
- All parking lots shall be screened from public streets with a combination of walls and berms a minimum of thirty-six (36) inches in height above the grade of the most adjacent parking lot or street.
- A flagpole of up to seventy-five (75) feet in height displaying the flag of the United States of America may be installed.
- Special outdoor features and amenities such as patios, plazas, pedestals and courtyards shall be permitted and shall count towards landscape calculations and any open space requirements.
- Vehicle parking areas may be depressed up to eighteen (18) inches.
- Foundation plantings shall not be required at buildings where not visible by the general public.
- Alternative building construction materials, such as tilt-up concrete and pre-engineered metal shall be allowed provided they are in architectural harmony with the remainder of the project.

In addition to signs permitted under the existing ordinance, the following signs shall be permitted for Shopping Center:

Master Shopping Center Signs

- One master freeway identification sign located on Interstate 10, sixty-five (65) feet in height, with 700 square feet of sign area per side. Such sign shall identify the name of the Shopping Center, may display the names of major/anchor users, may be internally lit and have change panels.
- One mini-master identification sign located on 99th Avenue, thirty (30) feet in height, with 250 square feet of sign area per side.
- Directory signs installed throughout the common areas of the Shopping Center.
- All master or common signs shall be of similar style and architecture. Developer may submit a comprehensive sign package at a later date.

Individual User Signs

- Major or Anchor users shall be allowed on building wall sign for each street the user's building space faces, and shall be allowed one and one-half (1 ½) square feet of sign area for each one (1) lineal front foot of building wall.

- Shop space, in-line or pad users shall be allowed on building wall sign for each street the user's building space faces, and shall be allowed one (1) square feet of sign area for each one (1) lineal front foot of building wall.

Summary

We have demonstrated the project's compatibility with the City of Avondale's General Plan and its underlying Growth and Use Plans. It will provide the mechanism for the installation of needed public infrastructure. Each year it will generate millions in City sales taxes and provide a source for thousands of jobs at all levels of pay.

Our goal in developing the proposed Avondale Automall & Shopping Center is to provide a successful marquee project in the City of Avondale. A project that Avondale's residents will cite as a point of pride in their city. A highly functional project that is attractive, safe, and will give its retailers the competitive edge they need to be successful.

Exhibits

The following exhibits are a part of this zoning request:

- Exhibit A Legal Description
- Exhibit B Vicinity Map
- Exhibit C Zoning Context Plan
- Exhibit D Conceptual Site Plan

LEGAL DESCRIPTION

THE SOUTH HALF OF THE NORTH HALF OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT ANY PORTION OF THE ABOVE DESCRIBED PROPERTY LYING BETWEEN LINE NOs. 1 AND 2, AS SET FORTH IN FINAL ORDER OF CONDEMNATION RECORDED IN INSTRUMENT NO. 84-463775, DESCRIBED AS FOLLOWS:

LINE NO. 1

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 5; THENCE S00°-22'39"E, ALONG THE EAST LINE OF SAID SECTION, 30D.00 FEET TO THE POINT OF BEGINNING; THENCE S89°37'21"W, 40.00 FEET; THENCE S07°08'11"W, 382.34 FEET; THENCE S88°58'31"W, 58.65 FEET; THENCE S80°16'47"W, 859.88 FEET; THENCE S88°58'31"W, 411.38 FEET; THENCE N50°46'18"W, 99.22 FEET; THENCE N10°31'07"W, 187.67 FEET; THENCE S89°44'25"W, 55.00 FEET TO THE POINT OF ENDING ON THE WEST LINE OF SAID SECTION 5, WHICH POINT BEARS S00°15'35"E, 539.97 FEET FROM THE NORTHWEST CORNER OF SAID SECTION.

LINE NO. 2

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 5; THENCE N00°22'39"W, ALONG THE EAST LINE OF SAID SECTION, 170.48 FEET TO THE POINT OF BEGINNING; THENCE S89°37'21"W, 40.0D FEET; THENCE N00°22'39"W, 1009.75 FEET; THENCE N85°00'46"W, 1014.57 FEET; THENCE S88°58'31"W, 4124.51 FEET; THENCE S06°08'17"W, 403.83 FEET; THENCE S89°44'25"W, 55.00 FEET TO THE POINT OF ENDING ON THE WEST LINE OF SAID SECTION 5, WHICH POINT BEARS N00°15'35"W 900.75 FEET FROM THE WEST QUARTER CORNER OF SAID SECTION; AND ALSO

EXCEPT THAT PORTION OF THE SOUTH HALF OF THE NORTHWEST QUARTER AND OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, WHICH LIES BETWEEN THE EXISTING (1978) SOUTH RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 10 (EHRENBERG-PHOENIX HIGHWAY) AND THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 5; THENCE ALONG THE WEST LINE OF SAID SECTION 5, N00°04'33"W 1500.70 FEET (1500.75 RECORD) TO THE CENTERLINE OF SAID INTERSTATE HIGHWAY 10;

THENCE ALONG SAID CENTERLINE N89°09'33"E, 1071.07 FEET; THENCE S00°-50'27"E, 200.00 FEET TO THE POINT OF BEGINNING ON SAID EXISTING SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10; THENCE CONTINUING S00°-50'27"E, 46.18 FEET; THENCE N87°35'49"E, 960.36 FEET; THENCE N87°31'21"E, 700.29 FEET TO THE POINT OF ENDING ON SAID SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10, AS CONVEYED TO THE STATE OF ARIZONA, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION IN INSTRUMENT NO. 92-0512378; AND ALSO

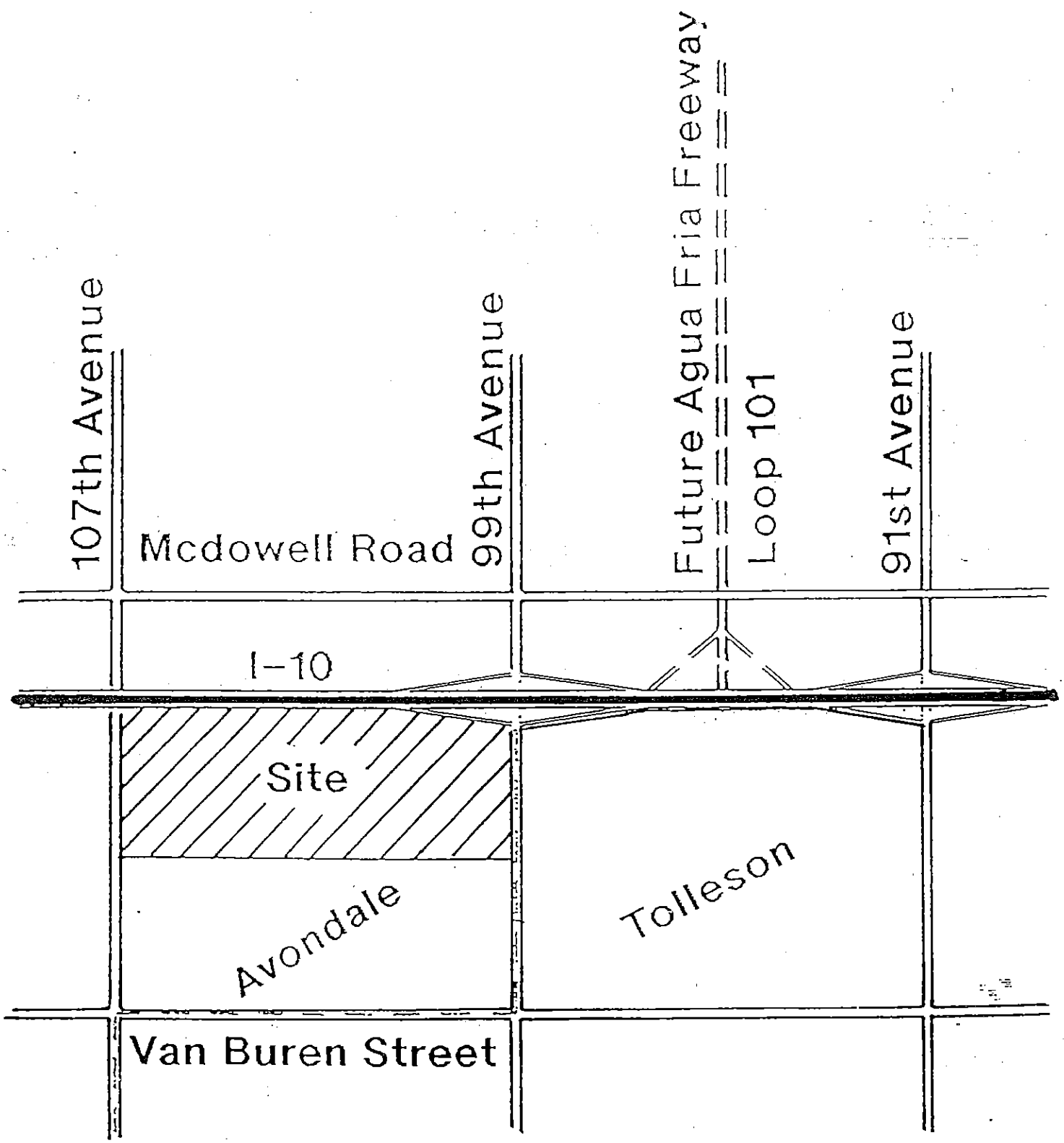
EXCEPT THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, WHICH LIES BETWEEN THE EXISTING (1978) SOUTH RICHT OF WAY LINE OF INTERSTATE HIGHWAY 10 (EHRENBERG-PHOENIX) AND THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 5; THENCE ALONG THE EAST LINE OF SAID SECTION 5, N00°11'37"W A DISTANCE OF 1486.92 FEET TO THE MEDIAN CENTERLINE OF THE AFORESAID INTERSTATE HIGHWAY 10; THENCE S89°09'33"W 1443.24 FEET; THENCE S00°50'27"E 200.00 FEET TO THE POINT OF BEGINNING IN THE AFORESAID SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10; THENCE S88°15'51"E 400.41 FEET; THENCE S84°12'12"E 276.85 FEET; THENCE S82°58'47"E 681.15 FEET; THENCE S41°-35'13"E, 75.02 FEET TO THE POINT OF ENDING ON THE EXISTING WEST RICHT OF WAY LINE OF 99TH AVENUE AS CONVEYED TO THE STATE OF ARIZONA, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION IN INSTRUMENT NUMBER 92-0406965; AND ALSO

EXCEPT THAT PORTION OF THE SOUTH HALF OF THE NORTHWEST QUARTER AND OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDAN, MARICOPA COUNTY, ARIZONA, WHICH LIES BETWEEN THE EXISTING (1978) SOUTH RICHT OF WAY LINE OF INTERSTATE HIGHWAY 10 (EHRENBERG-PHOENIX HICHWAY) AND THE FOLLOWINC DESCRIBED LINE:

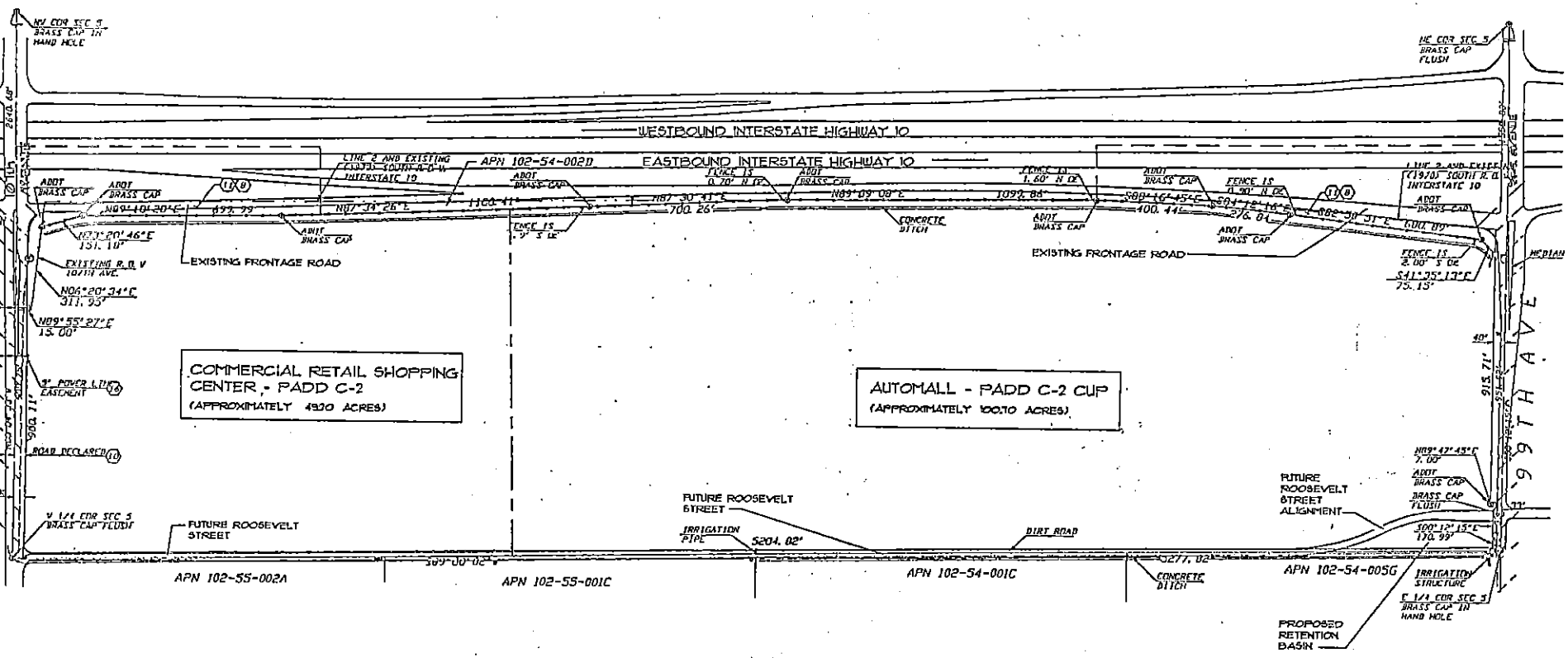
COMMENCING AT THE WEST OUARTER CORNER OF SAID SECTION 5; THENCE ALONG THE WEST LINE OF SAID SECTION 5, N00°04'33"W 1210.70 FEET; THENCE N89°55'27"E 89.76 FEET TO THE POINT OF BEGINNING ON THE EXISTING EAST RIGHT OF WAY LINE OF 107TH AVENUE; THENCE N73°19'36"E 150.91 FEET; THENCE N89°09'33"E 700.01 FEET; THENCE N87°35'49"E 140.05 FEET; THENCE N00°50'27"W 46.18 FEET TO THE POINT OF ENDING ON THE AFORESAID EXISTING SOUTH RICHT OF WAY OF THE 107TH AVENUE INTERCHANGE AS CONVEYED TO THE STATE OF ARIZONA, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION IN INSTRUMENT NUMBER 92-0406966. AND ALSO;

EXCEPT THE WEST 40 FEET AND THE EAST 33 FEET THEREOF.



Vicinity Map

N.T.S.



ZONING CONTEXT PLAN

SCALE: 1"=150'

ZONING-CONTEXT-SITE.DWG

NORTH

0 150' 300' 600'

SITE NOTES:

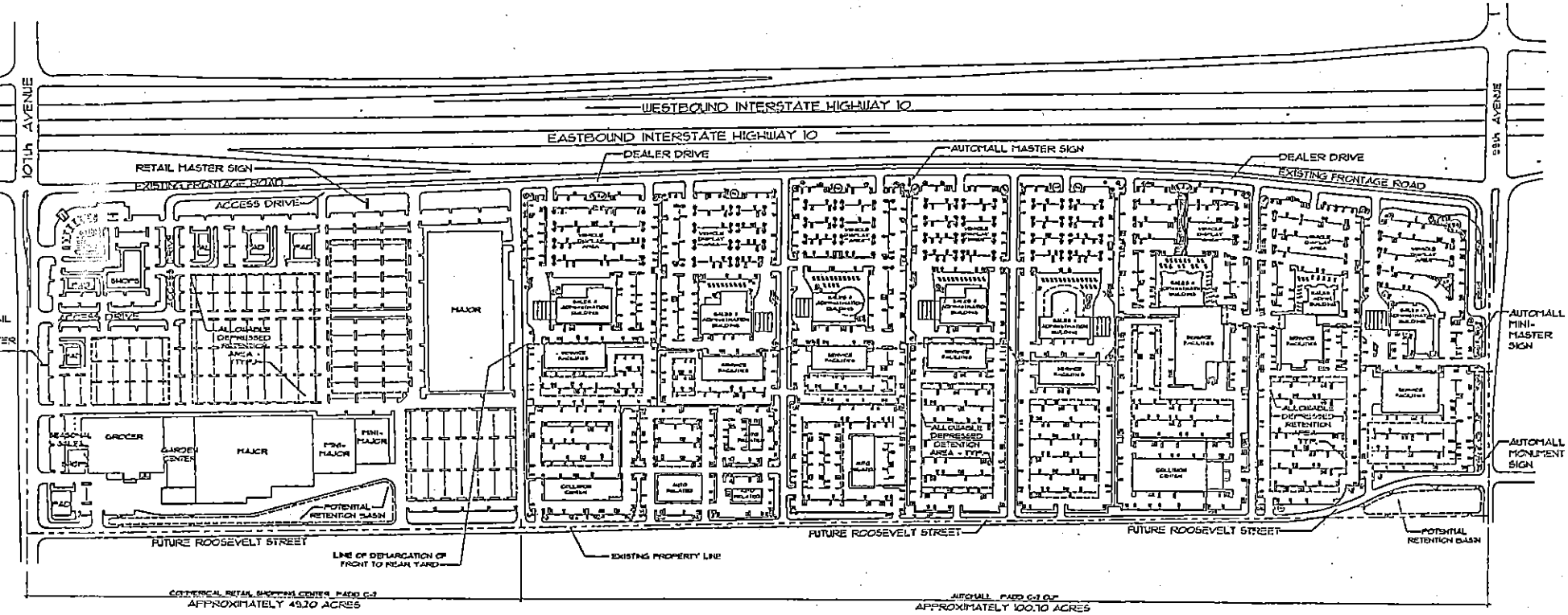
1. 99TH / 107TH AVENUE HALF STREETS SHALL BE DEDICATED AND FULLY IMPROVED.
2. FUTURE ROOSEVELT STREET IS SHOWN ALONG THE SOUTH BOUNDARY. A HALF STREET RIGHT-OF-WAY DEDICATION WILL BE REQUIRED AND THE HALF STREET WILL BE CONSTRUCTED IN APPROXIMATELY THE CONFIGURATION SHOWN.
3. INTERNAL PRIVATE DRIVES WILL BE PROVIDED.
4. ~~ALL TYPES SHALL BE ENTHUSED TO THE SITE. THE DEVELOPMENT'S UTILITY "BACKBONE" SHALL BE PROVIDED IN THE FUTURE ROOSEVELT STREET~~

EXHIBIT C

Larson Associates Architects Inc

AVONDALE AUTOMALL & RETAIL CENTER
SWC 99th Avenue and Interstate 10
Avondale, AZ

Drawing Name: CONCEPTUAL ZONING PLAN
Revisions
Date: 10/16/07
Project Number
Drawing No: SP1.1



CONCEPTUAL SITE PLAN

SCALE: N.T.S.

NORTH

0 150' 300' 600'

SITE PLAN DESIGN IS CONCEPTUAL AND SHOWN ONLY TO ILLUSTRATE A POSSIBLE SITE LAYOUT SCENARIO.

EXHIBIT D

LATSON Associates Architects, Inc.

AVONDALE AUTOMALL & RETAIL CENTER
S.W.C. 99th Avenue and Interstate 10
Avondale, AZ

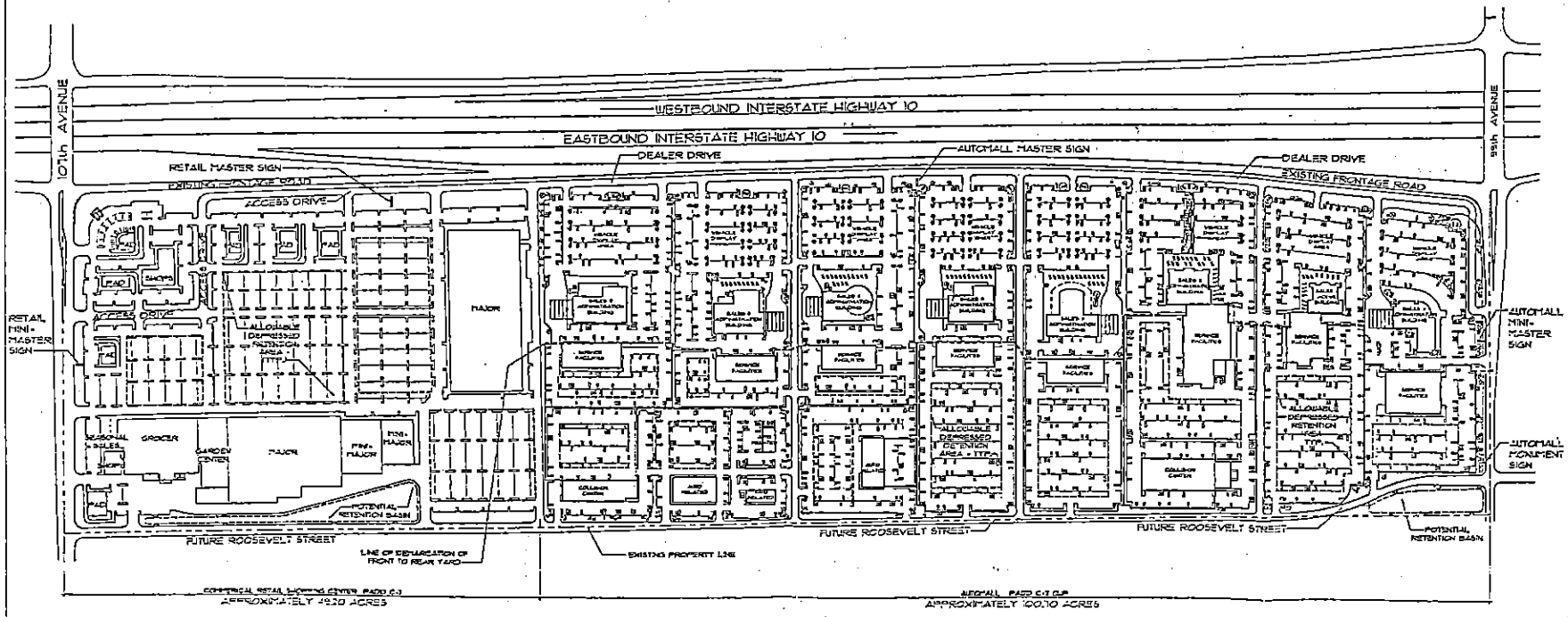
Date

Project Number

Drawing No.

SP1.0

EXHIBIT H



CONCEPTUAL SITE PLAN

SCALE: NTS

BASE/DOUG

NORTH

0 150' 300' 600'

SITE PLAN DESIGN IS CONCEPTUAL AND SHOWN ONLY TO ILLUSTRATE A POSSIBLE SITE LAYOUT SCENARIO.

Larson Associates Architects, Inc.

AVONDALE AUTOMALL & RETAIL CENTER
SWC, 99th Avenue and Interstate 10
Avondale, AZ

Mayor reminded the Council that Item 28 is for a development agreement and not a rezoning item.

Frank Ross read the above resolutions, items # 3A, 4A, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 & 36 by title only. Vice Mayor Beltran moved to approve the resolutions on consent. Councilman Carroll seconded the motion. Roll Call Vote as follows:

Council member Federico	Aye
Council member Shuey	Aye
Council member Rogers	Aye
Councilman Carroll	Aye
Vice Mayor Beltran	Aye
Mayor Morales	Aye

Warren Brown, K.E.Y.S, addressed the Council. He stated that since this is the last meeting of the year he wanted to address the Council at this time. Mr. Brown presented the Council with t-shirts and thanked them for their support. Mr. Brown explained that a grant from the Phoenix Coyotes gave them a chance to do another retreat in October and he recognized two city employees who assisted with that retreat, Jeremy Figueroa and Mike Powell.

Mr. Brown explained that K.E.Y.S. stands for Keeping Excellence in Youth Support and was started about seven years ago by the City of Avondale. He said it was started by a group of individuals who wanted to do something about helping young people in our community. Mr. Brown explained that K.E.Y.S. works with Avondale Elementary School District, Tolleson Elementary District, Westview High School, Tolleson, Millenium and Agua Fria. He said the K.E.Y.S. program model is succeeding in spite of what issue you are dealing with.

Mayor Morales thanked Mr. Brown.

22) **ORDINANCE #723-99- ZONING CASE Z99-402A - AZVT LLC - P.A.D.D.**
Bob Bigando, Senior Planner, addressed the Council. He explained the applicant, AZVT, L.L.C, has requested the rezoning of approximately 150 acres of AG(Agriculture) to P.A.D.D. (Planned Area Development District), consisting of C-2 (Commercial) Zoning. He stated the site is located west of 99th Avenue, east of 107th Avenue, south of Interstate 10 and north of the Roosevelt Street Alignment and is within the City of Avondale Freeway Corridor Specific Plan and designated as Mixed Use.

Mr. Bigando stated the general development plan and program submitted by the applicant identifies two major land uses for the site; the eastern portion of the site has been designated by the development plan as an automall and consists of approximately 100.7 acres, and the plan designates the remaining 49.2 acres within the western portion of the site as a retail shopping center. He stated the conceptual site plan for the project identifies eight full service automobile dealerships and other auto related business sites within the Automall portion of the site; the retail shopping component of the plan includes two major anchor businesses and several pads. Mr. Bigando stated the intended uses for the retail shopping center will consist of uses commonly found in power type shopping centers.

Mr. Bigando stated the application for rezoning includes a request for Conditional Use Permit for several uses and potential uses within the project area. He listed those uses below that are identified in the City of Avondale Zoning Ordinance as uses that are subject to a Conditional Use Permit: Motor Vehicle Repair; Motor Vehicle Parts Storage and Sales; Motor Vehicle Body Shop, Restaurants with Live Entertainment, provided entertainment does not include Aadult@ entertainment; Second Hand Merchandising Sales; Skating Rinks, Building Material and Lumberyard retail operations; Video Arcade or Similar Amusement Establishment, provided the location is not within 500 feet of a school site; and Animal Kennels.

Mr. Bigando listed the applicant requested modifications to the C-2 development standards within the P.A.D.D. plan and program development and modifications to the landscape standards and height standards of the C-2 zone:

1) Retention Basin with side slopes greater that 4 to 1
   Ordinance Standard, maximum slope, 4 to 1

2) Flagpole with height up to 75 feet
   C-2 Ordinance Standard, 35 feet maximum height

3) 5% front yard landscaping area (Automall area)
   C-2 Ordinance Standard, 10%

4) Rear Yard landscaping on perimeter of lot outside of screen wall (Automall area) C-2 Ordinance Standard 10%

5) Parking Lot trees, 2 trees per 20 parking spaces (Automall area) C-2 Ordinance Standard, 1 tree per 8 parking spaces.

6) Waiver of 3 foot high parking screen wall (Automall Area) C-2 Ordinance Standard, 3 foot block wall or berm

required, adjacent to public roads

7) Major or Anchor height allowance of 40 feet (retail shopping center) C-2 Ordinance Standard, 35 feet

Mr. Bigando said these diverge from the existing standards but are in keeping with the overall design of the development and the rather particular nature of the use of the development.

Mr. Bigando stated the Planning and Zoning Commission recommended that the Mayor and City Council **APPROVE** case Z99-402-A with the following stipulations:

1) That the necessary right of way as required by the City of Avondale is dedicated for 107th Avenue and Roosevelt Street; and that the necessary right of way as required by the City of Tolleson is dedicated for 99th Avenue.

2) That a 6 foot high block wall is used to screen the rear service yard of the auto dealership parcels along 99th Avenue, Roosevelt Street and the retail center property line.

3) That any metal structure used for the service facility buildings be architecturally altered through the application of a veneer so that it minimizes metal surfaces and appears architecturally compatible with the main sales building.

Paul Gilbert, 3200 N. Central, on behalf of applicant, AZVT,L.L.C. He introduced Mike Pachenko, Mr. Gambino and Mr. Grant who will hopefully be users of the automall.

Council member Shuey asked for more information about modification #5 with regards to the number of trees per 20 parking spaces. Mr. Gilbert explained that more landscaping is provided elsewhere on the site and they need the area to satisfy their pragmatic requirements for the parking. He stated what they are asking for is not inconsistent with similar approvals granted all over the valley for automobile dealerships of this nature.

Frank Ross read the ordinance by title. Councilman Carroll moved to adopt this ordinance. Vice Mayor Beltran seconded the motion. ROLL CALL VOTE AS FOLLOWS:

Council member Federico	Aye
Council member Shuey	Aye
Council member Rogers	Aye
Councilman Carroll	Aye
Vice Mayor Beltran	Aye

Mayor Morales Aye

1A) **APPOINTMENT OF THE CITY MAGISTRATE**

Carlos Palma, City Manager, explained that per the Charter requirement, a City Magistrate must be appointed to a term of no less than two years. He stated the current contract with Judge Rhodes expired on June 30, 1999 and the Judge has been working under a provision in the city charter.

Council member Rogers stated that she would like to postpone this until the new council has taken office. Council member Shuey seconded the motion.

Council member Shuey explained that he has been privileged to know Judge Rhodes for seventeen years, but stated that he agreed with Council member Rogers because a new Mayor and Council will be taking office in a few days. He stated that this meeting's Council agenda could be cut into two distinct components; one the progress and achievements of the existing Mayor and Council, and one that deals with issues looking forward into the future.

Mayor Morales stated that he disagreed with that reasoning because the present Council had an obligation to take care of this item in May and therefore should take this action.

Councilman Carroll stated that the Council has been lax and should have taken action. He said he appreciated the fact that the judge has worked without a contract and stated he felt it was this Council=s obligation to take care of this item and so he does not support the motion.

Motion was defeated 4-2.

Vice Mayor Beltran moved to approve the appointment of the City Magistrate. Councilman Carroll seconded the motion. Motion carried 4 - 2.

5) **PRESENTATION - PLAQUE - PEDIATRIC BRAIN TUMOR FOUNDATION**

Ken Sowers, Acting Community Development Director, presented the Council with commemorative plaques from the Pediatric Brain Tumor Foundation in appreciation of the work and support of the Community Development and Police Departments during the October 1999 Arizona Ride for Kids event.

Mayor Morales read the plaques.

6) **CITY STAFF REPORT - ZIP CODE BOUNDARIES**

Debbie Kohn, Assistant to the City Manager, updated the Council regarding staff actions to change some zip codes within the City limits. She explained that most of Avondale has the zip code of

Exhibit J

DRAFT
CITY OF AVONDALE, ARIZONA
PLANNING COMMISSION
MEETING MINUTES

Regular Meeting of: March 20, 2003

PRESENT:
Yolanda Gonzales, Commissioner
Rusty Martin, Commissioner
Anita Hedrick, Commissioner
William Moore Jr., Commissioner
Veronica De La O, Commissioner

OTHERS:
Dean Svoboda, Planning & Building Services Director
Nathan Crane, Planning Manager
Adrian Williamson, Planner
Steve Carrecia, Planner
Anna Roedler, Planner
Linda Fifer, Administrative Secretary

EXCUSED:
Bill Malone, Commissioner
Nancy J. Bolton, Commissioner

2) **CASE NO.:** A03-402-AM1
APPLICANT: Mr. Michael Pacheco
AZVT, LLC
1550 E. Missouri, Suite 300
Phoenix, Arizona 85014

REQUEST: Amendment to the Avondale Automall PAD to allow automotive dealerships and related uses to be located on all parcels. The Avondale Automall is located south of Interstate 10, between 99th and 107th Avenues.

Adrian Williamson, Planner II, presented the staff report to the Planning Commission. He said staff recommends approval of the proposed PAD amendment, subject to the seven stipulations contained in the staff report and two additional stipulations provided in a memo to the commission.

Commissioner Martin pointed out the applicant is requesting a conditional use for a number of other businesses, asking if that is why staff added a stipulation limiting the conditional use permits to auto related services. Mr. Williamson stated, while the original PAD listed other uses approved with the PAD, staff feels those uses would no longer be applicable in the subject area. He said, therefore, staff has limited the uses to automotive uses along Roosevelt. Commissioner Martin asked what is the square footage of the proposed retail center. Mr. Williamson said the square footage has not yet been determined. Commissioner Martin asked if the retail center could ultimately be made a dealership. Mr. Williamson responded yes.

Michael Pacheco, Applicant, said, in addition to developing the automall, they are also in the automobile business. He said their initial research, which was used as a model for Phase I, indicated automalls run from 50 to 70 acres. He said, however, they believe they will eventually have the largest automall in the country. He explained the proposed sizing is based on future markets and manufacturers' product line expansions.

Chairperson Hedrick opened the public hearing on Case No. A03-402-AM1. As no comments were made, she closed the public hearing.

Commissioner Martin expressed his opinion the automall will be a boon for the city and west valley.

COMMISSIONER MOORE MADE A MOTION TO FORWARD CASE NO. A03-402-AM1 TO THE MAYOR AND CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL, SUBJECT TO THE STIPULATIONS RECOMMENDED BY STAFF. COMMISSIONER DE LA O SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.

1. Development shall comply with the revised context plan dated February 10, 2003 and the PAD General Development Plan and Program as amended.
2. Automobile dealerships shall be developed in a contiguous fashion along Interstate 10 to avoid inter-mixed uses.
3. Automobile service and related uses not directly associated with an automobile dealership shall be located adjacent to Roosevelt Street subject to a Conditional Use Permit.
4. Outdoor storage by individual retail/service businesses of automotive parts and vehicles to be serviced is prohibited.
5. General retail uses shall only be allowed within a planned and a single center at the northeast corner of Dealer Drive and 107th Avenue.
6. The dedication of 107th shall occur with the final plat and improvements for 107th Avenue will be required from the developer as adjacent development occurs.
7. All individual retail developments not associated with an automotive dealership shall comply with the City of Avondale Sign Ordinance.
8. If automobile dealerships occupy 75% or more of the net area of the western 50 acres of the Automall, an additional 35-foot tall, 150 square feet per side freestanding pylon sign shall be allowed on 107th Avenue matching the existing freeway identification sign on Dealer Drive. These signs shall only identify the Automall and automobile dealerships. These signs shall require sign permits and be approved by staff prior to construction.

9. If a retail commercial center is developed in the northwest corner of the PAD, a 12-foot tall, 84 square feet per side freestanding sign identifying the name of the center and individual tenants shall be permitted along 107th Avenue. This sign shall require a sign permit and be approved by staff prior to construction

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, REAFFIRMING THE PLANNED AREA DEVELOPMENT DISTRICT AMENDING THE PROPERTY DEVELOPMENT STANDARDS FOR APPROXIMATELY 150 ACRES LOCATED AT THE SOUTHWEST CORNER OF 99TH AVENUE AND INTERSTATE 10, AS SHOWN IN FILENAME A03-402-AM1.

WHEREAS, on December 20, 1999, the Council of the City of Avondale, (the "City Council") approved the Avondale Automall PAD zoning for approximately 150 acres of real property generally located at the southwest corner of 99th Avenue and Interstate 10; and

WHEREAS, the City Council desires to amend the Avondale Automall PAD zoning; and

WHEREAS, all due and proper notices of public hearings on this Ordinance held before the City of Avondale Planning and Zoning Commission (the "Commission") and the City Council were given in the time, form, and substance and manner provided by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission held a public hearing on Thursday, March 20, 2003, regarding this zoning amendment; and

WHEREAS, the Commission recommended to the City Council that this zoning amendment be approved; and

WHEREAS, the City Council held a public hearing regarding the zoning amendment on Monday, April 21, 2003.

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

SECTION 1: That the Avondale Automall & Retail Shopping Center PAD approved for the Property on December 20, 1999, is hereby amended subject to the following stipulations:

1. Development shall be in substantial conformance with the revised the zoning context plan dated February 10, 2003 and the PAD Zoning Amendment dated March 5, 2003.
2. Automotive dealerships shall be developed in a linear fashion along Interstate 10. Retail and service uses shall not separate automotive dealerships.
3. Automobile service and related uses not directly associated with an automobile dealership shall be located adjacent to Roosevelt Street subject to a Conditional Use Permit.
4. Outdoor storage by individual retail/service businesses of automotive parts and vehicles to be serviced is prohibited.
5. General retail uses shall only be allowed within a planned, single center at the northeast corner of Dealer Drive and 107th Avenue.

6. The dedication of 107th shall occur with the final plat and improvements for 107th Avenue will be required from the developer as adjacent development occurs.
7. All individual retail developments not associated with an automotive dealership shall comply with the City of Avondale Sign Ordinance.
8. If automobile dealerships occupy 75% or more of the net area of the western 50 acres of the Automall, an additional 35-foot tall, 150 square feet per side freestanding pylon sign shall be allowed on 107th Avenue matching the existing pylon sign on 99th Avenue. An additional 75-foot tall, 573 square feet per side freeway identification sign shall be permitted on the western 50 acres on Dealer Drive matching the existing freeway identification sign on Dealer Drive. These signs shall only identify the Automall and automobile dealerships. These signs shall require sign permits and be approved by staff prior to construction.
9. If a retail commercial center is developed in the northwest corner of the PAD, a 12-foot tall, 84 square feet per side freestanding sign identifying the name of the center and individual tenants shall be permitted along 107th Avenue. This sign shall require a sign permit and be approved by staff prior to construction.

SECTION 3: If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, April 21, 2003.

_____
Ronald J. Drake, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

ORDINANCE NO. 927-03

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE AVONDALE AUTOMALL PLANNED AREA DEVELOPMENT (Z99-402-A) INCLUDING PERMITTED USES AND PROPERTY DEVELOPMENT STANDARDS FOR APPROXIMATELY 50 ACRES LOCATED AT THE SOUTHEAST CORNER OF 107th AVENUE AND INTERSTATE 10, AS SHOWN IN FILENAME A03-402-AM1.

WHEREAS, on December 20, 1999, the Council of the City of Avondale, (the "City Council") approved the Avondale Automall PAD zoning for approximately 150 acres of real property generally located at the southwest corner of 99th Avenue and Interstate 10; and

WHEREAS, the City Council desires to amend the Avondale Automall PAD zoning; and

WHEREAS, all due and proper notices of public hearings on this Ordinance held before the City of Avondale Planning and Zoning Commission (the "Commission") and the City Council were given in the time, form, and substance and manner provided by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission held a public hearing on Thursday, March 20, 2003, regarding this zoning amendment; and

WHEREAS, the Commission recommended to the City Council that this zoning amendment be approved; and

WHEREAS, the City Council held a public hearing regarding the zoning amendment on Monday, April 21, 2003.

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

SECTION 1: That the Avondale Automall & Retail Shopping Center PAD approved for the Property on December 20, 1999, is hereby amended subject to the following stipulations:

1. Development shall be in substantial conformance with the revised the zoning context plan dated February 10, 2003 and the PAD Zoning Amendment dated March 5, 2003.
2. Automotive dealerships shall be developed in a linear fashion along Interstate 10. Retail and service uses shall not separate automotive dealerships.
3. Automobile service and related uses not directly associated with an automobile dealership shall be located adjacent to Roosevelt Street subject to a Conditional Use Permit.
4. Outdoor storage by individual retail/service businesses of automotive parts and vehicles to be serviced is prohibited.

5. General retail uses shall only be allowed within a planned, single center at the northeast corner of Dealer Drive and 107th Avenue.
6. The dedication of 107th shall occur with the final plat and improvements for 107th Avenue will be required from the developer as adjacent development occurs.
7. All individual retail developments not associated with an automotive dealership shall comply with the City of Avondale Sign Ordinance.
8. If automobile dealerships occupy 75% or more of the net area of the western 50 acres of the Automall, an additional 35-foot tall, 150 square feet per side freestanding pylon sign shall be allowed on 107th Avenue matching the existing pylon sign on 99th Avenue. An additional 75-foot tall, 573 square feet per side freeway identification sign shall be permitted on the western 50 acres on Dealer Drive matching the existing freeway identification sign on Dealer Drive. These signs shall only identify the Automall and automobile dealerships. These signs shall require sign permits and be approved by staff prior to construction.
9. If a retail commercial center is developed in the northwest corner of the PAD, a 12-foot tall, 84 square feet per side freestanding sign identifying the name of the center and individual tenants shall be permitted along 107th Avenue. This sign shall require a sign permit and be approved by staff prior to construction.
10. The provisions of the original Automall PAD (Z99-402-A) shall apply except as modified by the above stipulations.

SECTION 3: If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, April 21, 2003.

Ronald J. Drake, Mayor

ATTEST:

Linda M. Farris, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

Exhibit D

1999 Development Agreement

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

99-0984467 10/26/99 11:45

CLARK 1 OF 4

When recorded mail to:

Attn: City Clerk
City of Avondale
525 North Central Av
Avondale, Az 85323

DEVELOPMENT AGREEMENT
CITY OF AVONDALE AND AZVT, LLC
Agreement # 99-00-57

Approved by the Mayor and Council
October 18, 1999
RES. #2071-99

99784757

After Recording Return to: City Clerk City of Avondale 525 N. Central Avondale, AZ 85323	City of Avondale

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made as of this 18th day of OCTOBER, 1999, by and between **the CITY OF AVONDALE** (the "City"), an Arizona municipal corporation, and **AZVT, LLC,** an Arizona limited liability company (the "Developer").

RECITALS:

A. Developer owns certain land located generally at the southwest corner of Interstate 10 and 99th Avenue, in Avondale, Arizona which consists of approximately 150 acres, more or less (the "Property"). The legal description describing the Property is attached hereto as Exhibit "A".

B. It is the desire and intention of Developer to develop the Property as follows:

(i) Develop and construct on approximately the east half of the Property an auto mall complex consisting of new car automotive dealerships and other automotive uses (the "Auto Mall"), and

(ii) Develop and construct on approximately the west half of the Property a commercial retail center and related uses (the "Retail Center")(the Auto Mall and the Retail Center are sometimes hereinafter collectively referred to as the "Project"); with the development of the Project to be generally in conformance with the conceptual site development plan attached hereto as Exhibit "B" (the "Development Plan"), it being understood that the Development Plan may be revised by Developer from time-to-time to reflect changes to the Project and as long as the revisions are approved by the City as required by law and do not materially change the Auto Mall and Retail Center to be constructed, such revisions shall not effect the terms of this Agreement.

C. Developer and City both believe that the development of the Project pursuant to this Agreement will result in significant benefits to City, its residents and the general public and enhance the economic ability of City by:

(i) significantly increasing transaction privilege tax (hereinafter "retail sales tax") revenues of the City by encouraging new car automotive dealerships and other retail businesses to be located within Avondale and within the Project in particular;

99984467
99984767

(ii) increasing real property tax revenues based on all of the improvements to be constructed at the Project;

(iii) creating new jobs in businesses to be located within and near the Project; and

(iv) retaining two (2) dealerships within the City who might otherwise relocate to another jurisdiction.

D. City also wishes to obtain from Developer the construction of certain strategic infrastructure improvements and the dedication of certain public rights-of-way at no cost to City. Developer's infrastructure improvements will include extensive permanent water line, sewer line, and other utility extensions; the construction of fully improved, landscaped, lighted and signalized public streets and half-streets to enhance traffic flow; and the installation of landscaped frontage along Interstate 10 to upgrade the Property's current streetscape.

E. Developer shall use its reasonable, good faith and diligent efforts to attract additional automotive dealerships to the Auto Mall, and retail businesses to the Retail Center. To that end, Developer has secured agreements to place both Gateway Chevrolet and Avondale Dodge in the Auto Mall in order to retain, and expand through future growth, the benefits of these dealerships for the City, and avoid the loss of these local businesses to competing sites in Goodyear and Tolleson.

F. In light of the mutual benefits to City and Developer resulting from the Project, City and Developer desire that Developer receive an economic incentive in the form of retail sales tax rebates as described herein.

G. Developer and City understand this Agreement is contingent upon Developer obtaining PADD C-2 zoning and the related use permits from the City for the Property and the Project, and substantially completing the infrastructure improvements described above.

H. Developer and City further understand and acknowledge that this Agreement is within the meaning of, and is entered into pursuant to the terms of, A.R.S. Section 9-500.11, and the terms of this Agreement are intended to be binding upon City and Developer, but only to the extent permitted by law, and their successors and assigns and which terms and provisions will run with the land.

AGREEMENT:

In reliance upon and for the reasons set forth above, and in consideration of the covenants set forth herein, the parties hereto agree as follows:

1.0 Annexation.

1.1 The Property is already annexed into the City.

2.0 Development in Accordance With Zoning and Plat Approval.

2.1 Approvals. The Property is currently zoned for agricultural use, and Developer will apply to the City to rezone the Property to PADD C-2. The PADD C-2 rezoning complies with

the City's present General Plan. Upon the mutual execution of this Agreement by Developer and City, Developer's PADD C-2 zoning application and the required plat for the Project, which shall be in general conformance with the Development Plan, will be submitted to the City for review and processing to obtain the necessary rezoning approval.

3.0 Term of Agreement.

3.1 Term. This Agreement will commence upon the mutual execution of this Agreement by City and Developer, and will continue until the 15th (fifteenth) anniversary of the date the first automobile dealership opens for business.

4.0 Financial Assistance.

4.1 The Benefits of Project to the Community. The City has determined, based upon its independent evaluation, that development of the Project will provide social and economic benefits to the community. The proposed Project will provide a source of employment and creation of jobs within the community, and will generate needed additional retail sales and property tax revenues to the City and other public agencies. The proposed development will enable needed capital projects to be completed which will improve the economic and physical conditions of the community, provide for the public safety and convenience of the community, and will enhance the economic welfare of the inhabitants of the City.

4.2 Financial Assistance. Each auto dealership and retail business within the Project will collect all retail sales tax levied pursuant to the City Tax Code of the City of Avondale resulting from retail sales by such dealerships and retail businesses located within the Project, and will remit the same to the City according to law. As an inducement to Developer to construct the infrastructure improvements, and to develop, attract, and open auto dealerships, other automotive uses, and retail businesses within the Project, and pursuant to the provisions of Section 9-500.11 of the Arizona Revised Statutes, the City hereby agrees to rebate a portion of the retail sales tax generated by each of the auto dealerships and other automotive uses operating within the Auto Mall, and retail businesses operating in facilities greater than 10,000 square feet within the Retail Center, and paid to the City. Upon the substantial completion by Developer of the infrastructure improvements described in Recital D, for the term described in Section 3.1 above, the City will rebate to Developer fifty percent (50%) of the annual retail sales taxes generated by each of the businesses described above located within the Project, payable in annual installments. The City's obligation to pay the annual retail sales tax rebates payments to Developer will automatically cease and the City will have no further obligation to Developer pursuant to this Agreement upon the earlier of the expiration of the fifteen (15) year term described in Section 3.1 above, or upon the Developer receiving a total of Twelve Million Dollars ($12,000,000) (the date of such event being hereinafter referred to as the "Termination Date").

The first annual payment required by the preceding paragraph will be paid no later than sixty (60) days after the first calendar year-end following the opening for business of the first auto dealership or qualifying retail business generating retail sales tax within the Project. Subsequent annual payments will be made no later than sixty (60) days after the end of each succeeding calendar year. Each annual payment will be mailed to Developer at the address for notice set forth in Section 7.0 below, or as otherwise agreed by City and Developer.

The City's obligations under this Agreement, including without limitation, the City's obligations under this Section 4.0 relating to financial assistance are expressly conditioned upon Developer's substantial completion of the infrastructure improvements within the Project. If

there is a period of time during which no retail sales taxes are generated by the qualifying businesses within the Project, then Developer shall not be entitled to any Financial Assistance during that time. However, if, after such time period, retail sales taxes are again generated by the auto dealerships, other automotive uses, and the qualifying retail businesses located within the Project, then the City's obligation to pay the Financial Assistance to Developer (or its successors in interest or assigns pursuant to Section 12.7 below) shall resume until the Termination Date, which shall not be extended beyond the term provided in Section 4.2 above.

Developer shall have the right, as permitted by Section 12.7 below, to assign a portion of its right to receive retail sales tax rebates hereunder to any one or more persons or entities that purchase or lease a portion of the Property within the Project (an "Assignee"). Retail sales tax rebates paid directly by the City to Developer or its Assignee (or its permitted successors and assigns) at the request of and on behalf of the Developer will decrease the remaining retail sales tax rebate payments due the Developer hereunder. Any assignment requested by the Developer shall be approved by the City, such approval not to be unreasonably withheld or delayed.

4.3 Van Buren Sewer Line. As a part of the infrastructure improvements required by this Agreement, Developer agrees to build offsite improvements consisting of a sewer line (the "Van Buren Sewer Line") within the Van Buren Street public right-of-way, all in accordance with the City's latest adopted regulations, ordinances, current engineering design guidelines and construction standard notes/details and county requirements where applicable. Developer shall be responsible for the actual design costs and construction costs of the Van Buren Sewer Line. In consideration for the fact that the Van Buren Sewer Line is essential public infrastructure providing a broad public benefit, Developer shall comply with all City procurement regulations applicable to City participation in funding the cost of the Van Buren Sewer Line.

Developer shall obtain from its contractor and assign to the City a warranty for the Van Buren Sewer Line for a period of at least one(1) year following the issuance date of the City's acceptance document.

The City acknowledges and agrees that a portion of the Van Buren Sewer Line improvement (the "Reimbursable Items") shall benefit other properties and the Developer shall be entitled to reimbursement by such property owners for the cost of the Reimbursable Items. Concurrently with or following the completion of construction and the dedication or other conveyance of the Van Buren Sewer Line to the City, the Developer shall provide the City with a statement setting forth, in reasonable detail, the actual cost of the construction of such sewer line. The determination of the Reimbursable Items shall be based on the actual cost of design and construction of the Van Buren Sewer Line, including all engineering and design fees and costs, the costs of permits, the cost of construction materials and labor, and all other direct costs incurred in connection with such design and construction.

The City further agrees that with respect to each of the Reimbursable Items, it shall require each property owner who is benefited by the Van Buren Sewer Line to pay its proportionate share of the cost of the Reimbursable Items pursuant to a "Reimbursement Agreement", in form reasonably satisfactory to Developer and City before any development shall be permitted on the benefited property, whether as a result of an application for approval of development or improvement plans, an application for approval of a change in the zoning or uses otherwise applicable to such benefited property(ies), an application for approval of a development agreement with the City or otherwise. Each benefited property's share of the cost of the Reimbursable Items shall be determined in accordance with the Reimbursement

Agreement. Reimbursement shall be based on the relative area of the benefited property to the entire assessable area served by the applicable Van Buren Sewer Line, unless otherwise provided in the City Code for the type of improvement involved. Each benefited property owner shall pay its full share of the cost of the Reimbursable Items, in respect of its share, in cash to the City at the time such owner receives its first building permit for any improvements to the benefited property issued after the date of this Agreement as a result of any of the matters hereinabove described. The City shall within a reasonable time following receipt of such payment, not to exceed thirty (30) days, pay to the Developer all reimbursements collected on behalf of the Developer. Any such reimbursements received by Developer will decrease the remaining retail sales tax rebate payments due the Developer hereunder, by the amount of such reimbursement.

4.4 Change in Sales Tax Laws. If the laws which entitle the City to receive the City retail sales tax based on sales at or from the businesses located within the Project are repealed or modified after the date of this Agreement or if the sales tax the City is entitled to receive based on such sales is totally or partially replaced with another source of revenue, then the City's obligation to pay the annual retail sales tax rebate payments will be deemed modified and will be renegotiated. In that event, Developer and the City will fully cooperate with one another in amending this Agreement as necessary or appropriate to facilitate Developer's receiving the payments described in Section 4.2 above, so the intent of this Agreement can be attained.

4.5 Status of Payments. Developer and the City will cooperate with one another in issuing periodic reports of the status of the City's obligation to make annual payments pursuant to this Agreement.

4.6 Completion of the Auto Mall and Retail Center. Notwithstanding any other provision in this Agreement, the City's obligation to pay the annual payments pursuant to Section 4.2 above will apply only if construction of the Auto Mall development begins promptly following the City's approval of Developer's planned PADD C-2 zoning permitting the construction of the Project, and construction of the Retail Center begins promptly following Developer executing contracts for parcel sales or leases with anchor tenants necessary to make the Retail Center financially feasible. Developer's construction will be substantially completed within twenty four (24) months from the date Developer begins construction, except that the time for completion will be extended for a period equal to delays caused by force majure or other causes beyond the reasonable control of Developer, unless such time periods are extended with the approval of the City.

5.0 Default.

5.1 Default by Either Party. If either party fails to perform any obligation, including City's obligation to pay money pursuant to this Agreement, and fails to cure its nonperformance within 30 (thirty) days after notice of nonperformance is given by the non-defaulting party, such party will be in default and the non-defaulting party will have all remedies which are available to it at law or in equity including, without limitation, the remedy of specific performance; provided, however, that if the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 (thirty) days, then the defaulting party will have such additional periods of time as may be reasonable under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance, until its nonperformance has been cured.

6.0 Relationship of the Parties.

6.1 Negation of Agency, Joint Venture or Partnership. The parties acknowledge that in entering into this Agreement, they are acting as independent entities and not as agents of the other in any respect and hereby renounce the existence of any form of joint venture or partnership between them and agree that nothing in this Agreement will be construed as making them joint venturers or partners.

7.0 Notices and Filings.

7.1 Manner of Serving. All notices, filings, consents, approvals and other communications provided for herein or given in connection herewith shall be validly given, filed, made, delivered or served if in writing and delivered personally, sent by facsimile transmission or sent by registered or certified United States Mail, postage prepaid, if to:

The City:	City of Avondale 525 North Central Avenue Avondale, AZ 85323 Attn.: City Manager Facsimile No. (602) 925-2162
The Developer:	AZVT, LLC P.O. Box 16460 Phoenix, AZ 85011 Attn: Mike Pacheco Facsimile No. (602) 230-2826
with a copy to:	BEUS GILBERT PLLC 1000 Great American Tower 3200 North Central Avenue Phoenix, AZ 85012-2417 Attn: Gordon M. Wasson, Esq. Facsimile No. (602) 234-5893

or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner.

7.2 Effective Delivery. If not received sooner, notices, filings, consents, approvals and communication ("Notices") given by mail shall be deemed delivered seventy-two (72) hours following deposit in the U.S. mail, postage prepaid and addressed as set forth above. Notices given by personal delivery are effective upon receipt, and Notices given by facsimile transmission are effective upon electronic verification of delivery or receipt.

8.0 Lender Provisions.

8.1 Lender Not Obligated to Construct. Notwithstanding any of the provisions of this Agreement, including but not limited to, those which are or are intended to be covenants running with the land, any lender who provides construction, interim or permanent financing for all or any part of the Property, and such financing is secured by a lien against the Property ("Lender"), shall in no way be obligated by the provisions of this Agreement to construct or complete the

development of the Project, or any part thereof, or to guarantee such construction completion or any other obligations related thereto. Notwithstanding the foregoing, Lender's purchaser or its other successors in interest in the Project (other than another lender or financial institution or acquirer of Lender) shall be obligated by the provisions of this Agreement.

8.2 Copy of Notice of Default to Lender. Whenever City shall deliver any notice or demand to Developer with respect to any breach or default by Developer under this Agreement, City shall at the same time forward a copy of such notice or demand to each Lender on any portion of the Property which may be affected by such notice provided such Lender has delivered or mailed written notice to City of its interest in the Property and mailing address.

8.3 Lender's Option to Cure Defaults. After any uncured Developer default referred to in Section 5.2 above, each Lender shall (insofar as the rights of City are concerned) have the right, at its option, to cure or remedy such default to the extent that it relates to the part of the Property covered by its lien and to add the cost of such cure to its debt and lien.

8.4 Transfer of the Property to or by the Lender. Nothing contained in this Agreement shall be deemed to prohibit, restrict, or limit in any way the right of Lender to take title to all or any part of the Property, pursuant to a foreclosure proceeding, trustee's sale or deed in lieu of foreclosure.

9.0 Representations and Warranties.

9.1 City Acknowledgement. City acknowledges that Developer has acquired the Property and is entering into this Agreement and has expended, and will continue to expend, substantial time, efforts and money with regard to development of the Project in reliance upon the representations, warranties and covenants of City as described elsewhere in this Agreement and hereinbelow. City represents and warrants to Developer that all of City's representations and warranties set forth in this Agreement are true in all material respects as of the date of this Agreement, including the following:

9.2 City Organization. City is a duly organized, validly existing municipal corporation in the State of Arizona and the person signing this Agreement on behalf of City is authorized to do so. The transactions contemplated by this Agreement and the execution and delivery of all documents required herein, and City's performance hereunder, have been duly authorized by all requisite actions of City and/or other parties. The execution and delivery of this Agreement and any other document required herein and the consummation of the transaction contemplated hereby and thereby will not result in any violation of, or default under, any term or provision of any applicable agreement, instrument, law, rule, regulation or official policy to which City is a party or by which City is bound.

9.3 No City Litigation. There is no litigation, investigation or proceeding pending or, to the knowledge of the City, contemplated or threatened against the City, or the Property which would impair or adversely affect the City's ability to perform its obligations under this Agreement or under any instrument or document related hereto.

9.4 Developer Acknowledgement. Developer acknowledges that City has expended and will continue to expend substantial time and effort with regard to the development of the Project in reliance upon the representations, warranties and covenants of Developer as described elsewhere in this Agreement and hereinbelow. Developer represents and warrants to City that

all of Developer's representations and warranties set forth in this Agreement are true in all material respects as of the date of this Agreement, including the following:

9.5 Developer Organization. Developer is a duly organized validly existing limited liability company in the State of Arizona and the person signing this Agreement on behalf of Developer is authorized to do so. The transactions contemplated by this Agreement and the execution and delivery of all documents required herein, and Developer's performance hereunder, have been duly authorized by all requisite actions of Developer and/or other parties. The execution and delivery of this Agreement and any other document required herein and the consummation of the transaction contemplated hereby and thereby will not result in any violation of, or default under, any term or provision of any application agreement, instrument, law, rule, regulation or official policy to which Developer is a party or by which Developer is bound.

9.6 No Developer Litigation. There is no litigation, investigation or proceeding pending or, to the knowledge of Developer, contemplated or threatened against Developer or the Property which would impair or adversely affect Developer's ability to perform its obligations under this Agreement or under any instrument or document related hereto.

9.7 Restatement of Warranties. At any time, or from time to time, upon the request of Developer, City within ten (10) days following receipt of Developer's request, shall reaffirm and restate any or all of its representations, warranties and covenants as set forth in this Agreement and any other agreements and instruments executed in connection herewith.

10.0 Access to the Property

10.1 Interstate 10 Frontage Road. City agrees to use its best efforts to (i) assist Developer in obtaining one or more curb-cuts (entranceways) into the Project from the Interstate 10 frontage road, and (ii) assist Developer in obtaining the removal and/or redesign and upgrade of the existing chain-link fence parallel to the Project and the Interstate 10 frontage road.

11.0 New Dealerships

11.1 New Dealerships. To the extent legally possible, for the period from the effective date hereof through the Termination Date, City agrees to use its best efforts to refer any new automotive dealerships requesting to locate in the City to the Developer for possible location within the Auto Mall.

12.0 General.

12.1 Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by City or Developer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

12.2 Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof, or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorney's fees by the other party, and in the event any judgement is secured by said prevailing party, all such

costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

12.3 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document.

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

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

12.6 Time Essence. Time is of the essence of this Agreement.

12.7 Successors. All of the provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. Notwithstanding the foregoing, Developer shall have the right, upon fifteen (15) days' prior written notice to City, to assign all or part of its rights hereunder to any one or more persons or entities that purchase or lease a portion of the Property within the Project. Any assignment requested by the Developer shall be approved by the City, such approval not to be unreasonably withheld or delayed. Developer's rights and obligations hereunder may only be assigned by a written instrument expressly assigning such rights and obligations. In the event of a complete assignment by Developer of all rights and obligations of Developer hereunder, Developer's liability hereunder shall terminate effective upon the assumption by Developer's assignee.

12.8 Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

12.9 Amendment. No amendment or waiver of any provision in this Agreement will be binding on the City unless and until it has been approved by the City Council and has become effective, or on Developer unless and until it has been executed by an authorized representative.

12.10 Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.

12.11 Severability. Every provision of this Agreement is and will be construed to be a separate and independent covenant. If any provision in this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will not be affected by that invalidity or unenforceability and each provision in this Agreement will be valid and will be enforced to the extent permitted by law and the parties will negotiate in good faith for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

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12.12 Covenant of Good Faith. In exercising their rights and in performing their obligations pursuant to this Agreement, the parties will cooperate with one another in good faith, so the intent of this Agreement can be attained.

12.13 Exhibits. All Exhibits attached hereto are incorporated herein by reference. The Exhibits are as follows:

Exhibit "A" - Legal Description of Property
Exhibit "B" - Development Plan
Exhibit "C" - Construction Schedule

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

"DEVELOPER"

AZVT, LLC, an Arizona limited liability company

By: _____ 10-8-99
Date

Its: Manager

"CITY"

CITY OF AVONDALE, ARIZONA, an Arizona municipal corporation

By: _____ 10/18/99
Date

Its: VICE MAYOR

Linda M. Gillen City Clerk

99984476?

STATE OF ARIZONA)
)
County of Maricopa)

The foregoing instrument was acknowledged before me this 8th day of October, 1999, by Larry Van Tuyl, who acknowledged himself to be the Manager of AZVT, LLC, an Arizona limited liability company, for and on behalf of the company.

Linda Cortright
Notary Public

My commission expires:

6-30-2002

OFFICIAL SEAL
LINDA CORTRIGHT
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires June 30, 2002

STATE OF ARIZONA)
)
County of Maricopa)

The foregoing instrument was acknowledged before me this 18th day of OCTOBER, 1999, by Henry Bettan & Linda Tyler who acknowledged ~~himself~~ themselves to be the Vice Mayor & City Clerk of the CITY OF AVONDALE, an Arizona municipal corporation, for and on behalf of the municipal corporation.

Sharon K. Marshall
Notary Public

"OFFICIAL SEAL"
Sharon K. Marshall
Notary Public-Arizona
Maricopa County
My Commission Expires 10/19/2002

My Commission Expires:

77075446/
99984476?

EXHIBIT "A"

The South half of the North half of Section 5, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT any portion of the above described property lying between Line Nos. 1 and 2, as set forth in Final Order of Condemnation recorded in Instrument No. 84-463775, described as follows:

LINE NO. 1: COMMENCING at the Northeast corner of said Section 5;
THENCE South 0 degrees 22 minutes 39 seconds East, along the East line of said Section, 300.00 feet to the POINT OF BEGINNING;
THENCE South 89 degrees 37 minutes 21 seconds West, 40.00 feet;
THENCE South 7 degrees 08 minutes 11 seconds West, 382.34 feet;
THENCE South 88 degrees 58 minutes 31 seconds West, 58.65 feet;
THENCE South 80 degrees 16 minutes 47 seconds West, 859.88 feet;
THENCE South 88 degrees 58 minutes 31 seconds West, 4111.38 feet;
THENCE North 50 degrees 46 minutes 18 seconds West, 99.22 feet;
THENCE North 10 degrees 31 minutes 07 seconds West, 187.67 feet;
THENCE South 89 degrees 44 minutes 25 seconds West, 55.00 feet to the POINT OF ENDING on the West line of said Section 5, which point bears South 0 degrees 15 minutes 35 seconds East, 539.97 feet from the Northwest corner of said Section.

LINE NO. 2: COMMENCING at the East quarter corner of said Section 5;
THENCE North 0 degrees 22 minutes 39 seconds West, along the East line of said Section, 170.48 feet to the POINT OF BEGINNING;
THENCE South 89 degrees 37 minutes 21 seconds West, 40.00 feet;
THENCE North 0 degrees 22 minutes 39 seconds West, 1009.75 feet;
THENCE North 85 degrees 00 minutes 46 seconds West, 1014.57 feet;
THENCE South 88 degrees 58 minutes 31 seconds West, 4124.51 feet;
THENCE South 6 degrees 08 minutes 17 seconds West, 403.83 feet;
THENCE South 89 degrees 44 minutes 25 seconds West, 55.00 feet to the POINT OF ENDING on the West line of said Section 5, which point bears North 0 degrees 15 minutes 35 seconds West, 900.75 feet from the West quarter corner of said Section; and also

EXCEPT that portion of the South half of the Northwest quarter and of the Southwest quarter of the Northeast quarter of Section 5, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, which lies between the existing (1978) South right of way line of Interstate Highway 10 (Ehrenberg-Phoenix Highway) and the following described line:

COMMENCING at the West quarter corner of said Section 5;
THENCE along the West line of said Section 5, North 0 degrees 04 minutes 33 seconds West 1500.70 feet (1500.75, record) to the centerline of said Interstate Highway 10;
THENCE along said centerline North 89 degrees 09 minutes 33 seconds East, 1071.07 feet;
THENCE South 0 degrees 50 minutes 27 seconds East, 200.00 feet to the POINT OF BEGINNING on said existing South right of way line of Interstate Highway 10;
THENCE continuing South 0 degrees 50 minutes 27 seconds East, 46.18 feet;
THENCE North 87 degrees 35 minutes 49 seconds East, 960.36 feet;
THENCE North 87 degrees 31 minutes 21 seconds East, 700.29 feet to the POINT OF ENDING on said South right of way line of Interstate Highway 10, as conveyed to the STATE OF ARIZONA, by and through its Department of Transportation in Instrument No. 92-0512378; and also

EXCEPT that portion of the South half of the Northeast quarter of Section 5, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, which lies between the existing (1978) South right of way line of Interstate Highway 10 (Ehrenberg-Phoenix) and the following described line:

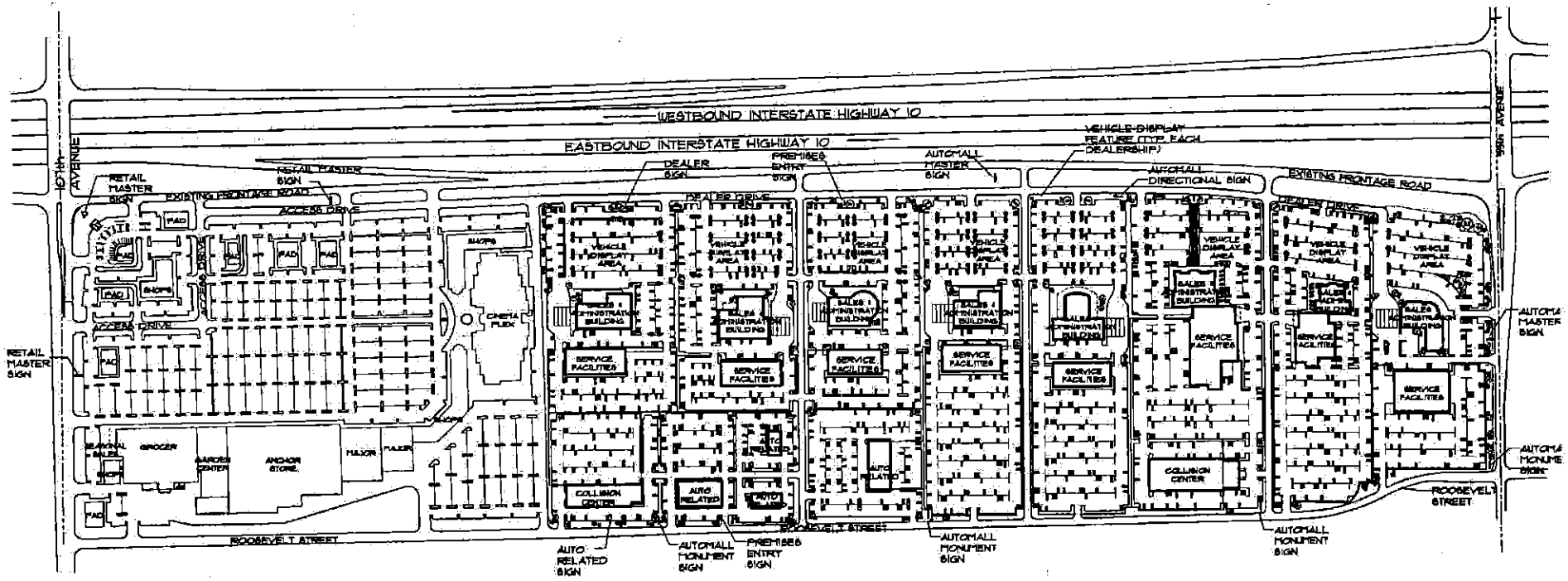
COMMENCING at the East quarter corner of said Section 5;
THENCE along the East line of said Section 5, North 0 degrees 11 minutes 37 seconds West a distance of 1486.92 feet to the Median centerline of the aforesaid Interstate Highway 10;
THENCE South 89 degrees 09 minutes 33 seconds West 1443.24 feet;
THENCE South 0 degrees 50 minutes 27 seconds East 200.00 feet to the POINT OF BEGINNING in the aforesaid South right of way line of Interstate Highway 10;
THENCE South 88 degrees 15 minutes 51 seconds East 400.41 feet;
THENCE South 84 degrees 12 minutes 12 seconds East 276.85 feet;
THENCE South 82 degrees 58 minutes 47 seconds East 681.15 feet;
THENCE South 41 degrees 35 minutes 13 seconds East, 75.02 feet to the POINT OF ENDING on the existing West right of way line of 99th Avenue as conveyed to the STATE OF ARIZONA, by and through its Department of Transportation in Instrument No. 92-0406965; and also;

EXCEPT that portion of the South half of the Northwest quarter and of the Southwest quarter of the Northeast quarter of Section 5, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, which lies between the existing (1978) South right of way line of Interstate Highway 10 (Ehrenberg-Phoenix Highway) and the following described line:

COMMENCING at the West quarter corner of said Section 5;
THENCE along the West line of said Section 5, North 0 degrees 04 minutes 33 seconds West 1210.70 feet;
THENCE North 89 degrees 55 minutes 27 seconds East 89.76 feet to the POINT OF BEGINNING on the existing East right of way line of 107th Avenue;
THENCE North 73 degrees 19 minutes 36 seconds East 150.91 feet;
THENCE North 89 degrees 09 minutes 33 seconds East 700.01 feet;
THENCE North 87 degrees 35 minutes 49 seconds East 140.05 feet;
THENCE North 0 degrees 50 minutes 27 seconds West 46.18 feet to the POINT OF ENDING on the aforesaid existing South right of way of the 107th Avenue Interchange as conveyed to the STATE OF ARIZONA, by and through its Department of Transportation in Instrument No. 92-0406966; and also

EXCEPT the West 40 feet and the East 33 feet thereof.

Exhibit "B"



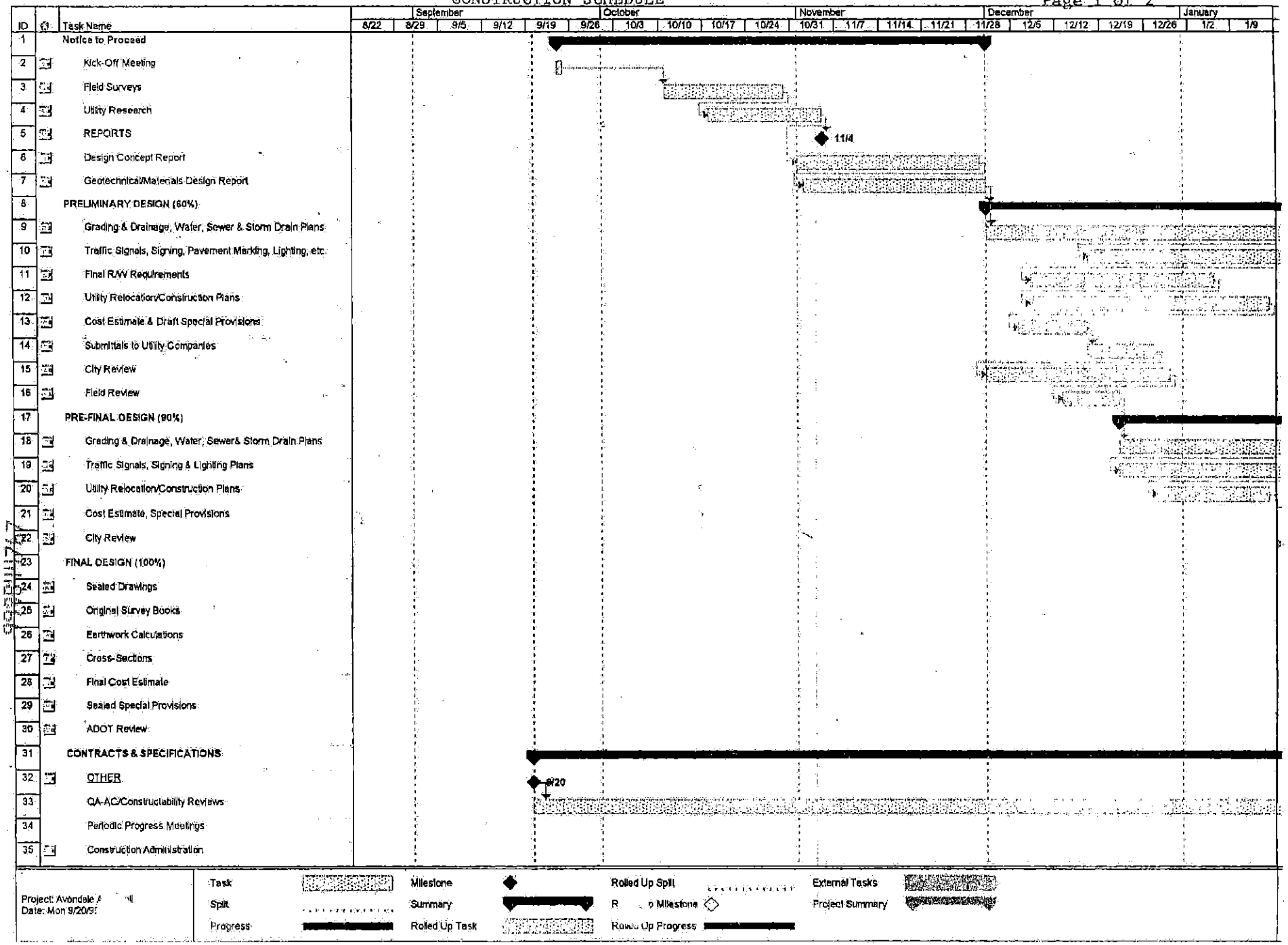
SITE PLAN

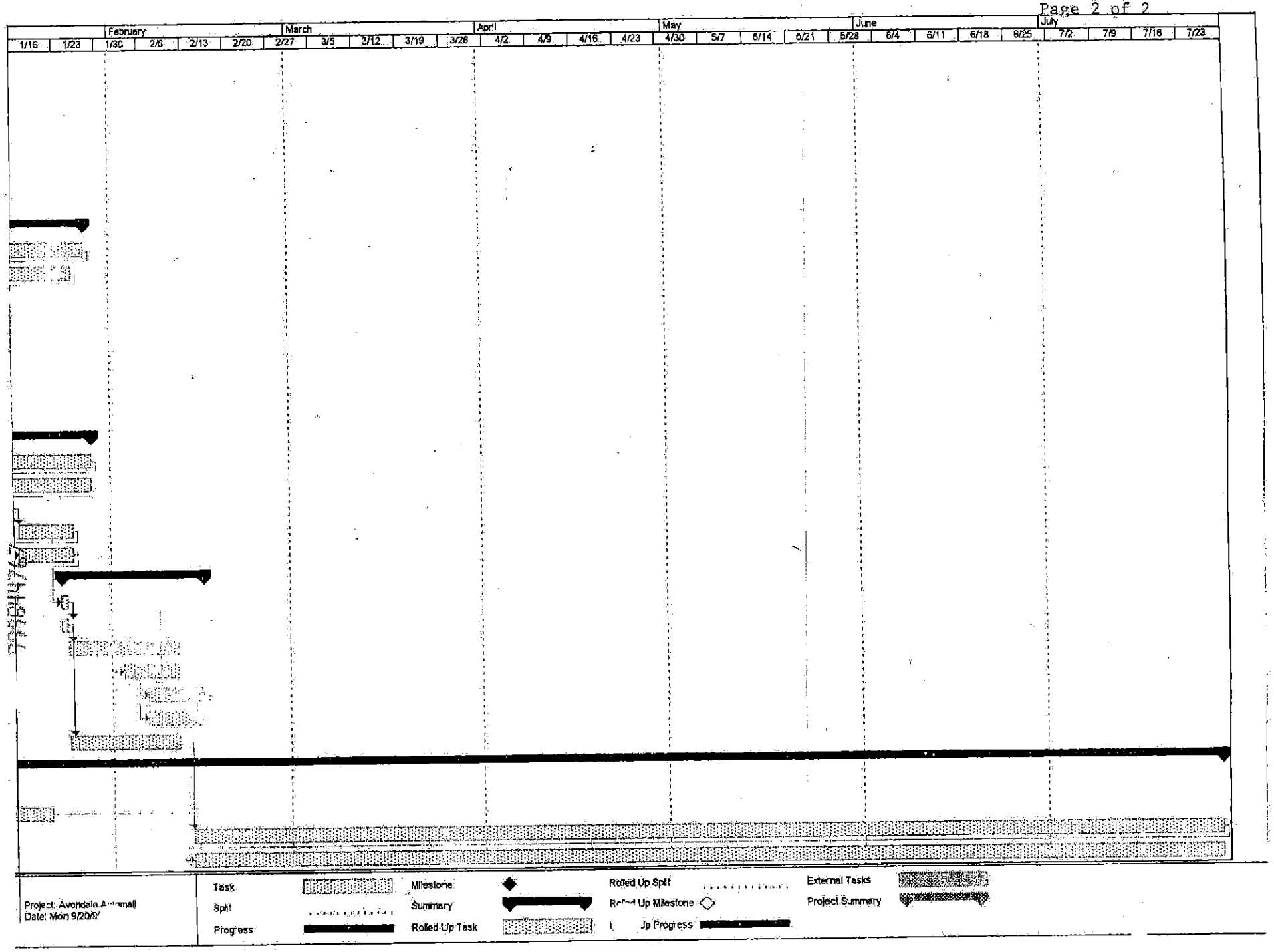
SCALE: NO SCALE

BASES.dwg

THE ABOVE DRAWING IS FOR ILLUSTRATION PURPOSES ONLY. IT IS NOT INTENDED TO REPRESENT THE ACTUAL CONSTRUCTION TO OCCUR. CHANGES AND MODIFICATIONS MAY BE NECESSARY TO MEET REQUIREMENTS FOR THE DEVELOPMENT OF THE PROPERTY.

EXHIBIT "C"
CONSTRUCTION SCHEDULE




February
March
April
May
June
July
1/16
1/23
1/30
2/6
2/13
2/20
2/27
3/5
3/12
3/19
3/26
4/2
4/9
4/16
4/23
4/30
5/7
5/14
5/21
5/28
6/4
6/11
6/18
6/25
7/2
7/9
7/16
7/23
Project: Avondale Aircrmall
Date: Mon 9/20/0
Task
Split
Progress
Milestone
Summary
Rolled Up Task
Rolled Up Split
Rolled Up Milestone
Up Progress
External Tasks
Project Summary

DATA INPUT FORM
PROSPECT INFORMATION

Project Name: Auto Mall
Industry Name: AUTO DEALERS & SVC STATIONS

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10
Total Direct Employment:	240	850	1,090	1,090	1,090	1,090	1,090	1,090	1,090	1,090
Percent of Employees Living in Avondale	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%
Value of Taxable Direct Sales:	$43,750,000	$215,000,000	$270,000,000	$286,200,000	$303,372,000	$321,574,320	$340,868,779	$361,320,906	$383,000,160	$405,980,170
Total Annual Payroll:	$1,189,440	$17,395,560	$21,608,160	$22,256,405	$22,924,097	$23,611,820	$24,320,175	$25,049,780	$25,801,273	$26,575,311
Percent Skilled Workforce	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%
Percent Semi-Skilled Workforce	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%
Percent Unskilled Workforce	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Total Value of New Construction	$12,740,000	$45,500,000	$0	$0	$0	$0	$0	$0	$0	$0
Site Acreage (enter in year of constr. only)	25.0	52.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land Cost per Acre	$141,570	$262,812	$0	$0	$0	$0	$0	$0	$0	$0
Building Square Footage (retail projects only)	98000	350000	0	0	0	0	0	0	0	0
Sales per Square Foot (retail projects only)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Purchase Price (if buying existing building)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Annual Lease Cost (if leasing existing space)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Value of Local Equipment Purchases	$500,000	$1,100,000	$0	$0	$0	$0	$0	$0	$0	$0
Value of Nonlocal Equipment Purchases	$1,200,000	$4,500,000	$0	$0	$0	$0	$0	$0	$0	$0
Est. Monthly Water Use (000 gallons)	25.000	125.500	154.000	154.000	154.000	154.000	154.000	154.000	154.000	154.000
Water meter size (inches)	0.00									
Estimated Monthly Electric Costs	$18,500	$105,502	$135,700	$139,771	$143,964	$148,283	$152,731	$157,313	$162,032	$166,893
New Water Main Miles Added	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
New Street Miles Added	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
New Sanitary Sewer Miles Added	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Excess Monthly Sewer Charges for Pretreatment	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
New Housing Units (res. projects only)	0	0	0	0	0	0	0	0	0	0
If residential, is this a multi-family project? (yes=1, no=0)	0									
Sales Tax Incentives (fixed amount)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Reduced Sales Tax Rate	0.00%	0.00%	0.00%	$0	0.00%	$0	$0	0.00%	0.00%	0.00%
Permit Fees Waived (yes=1, no=0)	2									
State Shared Revenues Adjusted (yes=1,no=0)	0	0	1	$0	0	$0	$0	0	0	0

ECONOMIC IMPACT SUMMARY
CITY OF AVONDALE

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Demographic										
Population	2,741	13,907	17,492	18,322	19,199	20,127	21,108	22,146	23,244	24,405
School Age Population	628	3,186	4,007	4,198	4,398	4,611	4,836	5,074	5,325	5,591
Households	848	4,306	5,416	5,672	5,944	6,231	6,535	6,856	7,196	7,556
Economic										
Employment	1,177	5,970	7,509	7,866	8,242	8,640	9,062	9,507	9,979	10,477
Personal Income	$8,790,322	$56,228,816	$70,345,075	$73,834,453	$77,511,253	$81,386,063	$85,470,086	$89,775,176	$94,313,877	$99,099,467
Output	$108,984,147	$595,850,211	$747,038,086	$788,477,750	$832,302,312	$878,651,827	$927,674,656	$979,527,963	$1,034,378,251	$1,092,401,917
Real Estate										
Residential Units	848	4306	5416	5672	5944	6231	6535	6856	7196	7556
Non-residential Sq. Feet	523,014	2,634,849	3,315,225	3,469,738	3,633,144	3,805,964	3,988,753	4,182,095	4,386,611	4,602,960
Assessed Value	$62,489,293	$309,836,854	$373,119,279	$387,569,953	$402,528,258	$417,991,056	$433,925,729	$451,136,679	$470,171,689	$490,307,975

4/4/2017

FISCAL IMPACT SUMMARY BY FUND
CITY OF AVONDALE
1996 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	NPV* Years 1 to 5	NPV* Years 1 to 10
General Fund-Direct												
Revenues	$936,663	$4,773,790	$5,304,933	$5,579,319	$5,868,023	$6,171,737	$6,491,066	$6,830,392	$7,193,000	$7,576,555	$13,631,840	$37,709,861
Expenditures and Transfers Out	$299,699	$1,401,577	$1,323,363	$1,387,097	$1,454,155	$1,524,701	$1,598,873	$1,677,691	$1,761,916	$1,851,006	$3,642,752	$9,566,970
Net Impact	$636,964	$3,372,214	$3,981,569	$4,192,222	$4,413,867	$4,647,036	$4,892,193	$5,152,702	$5,431,085	$5,725,549	$9,989,088	$28,142,891
Transportation-Direct												
Revenues	$10,457	$52,941	$58,969	$61,966	$65,119	$68,436	$71,924	$75,630	$79,590	$83,779	$151,423	$418,142
Expenditures and Transfers Out	$3,030	$9,605	$16,788	$23,020	$25,097	$25,097	$25,097	$25,097	$25,097	$20,771	$42,486	$131,549
Net Impact	$7,427	$43,337	$42,181	$38,946	$40,022	$43,339	$46,827	$50,533	$54,493	$63,008	$108,937	$286,594
Wastewater Enterprise Fund-Direct												
Revenues	$1,231	$3,224	$3,185	$3,185	$3,185	$3,185	$3,185	$3,185	$3,185	$3,185	$8,996	$20,579
Expenditures and Transfers Out	$1,495	$4,040	$4,993	$6,017	$6,358	$6,358	$6,358	$6,358	$6,358	$6,358	$13,591	$36,713
Net Impact	($264)	($816)	($1,807)	($2,832)	($3,173)	($3,173)	($3,173)	($3,173)	($3,173)	($3,173)	($4,595)	($16,134)
Water Enterprise Funds-Direct												
Revenues	$1,394	$3,802	$3,848	$3,848	$3,848	$3,848	$3,848	$3,848	$3,848	$3,848	$10,701	$24,695
Expenditures and Transfers Out	$2,767	$7,910	$12,177	$16,413	$17,825	$17,825	$3,709	$17,825	$17,825	$17,825	$31,956	$87,983
Net Impact	($1,373)	($4,107)	($8,329)	($12,565)	($13,977)	($13,977)	$139	($13,977)	($13,977)	($13,977)	($21,255)	($63,288)
Direct Net Impact-All Funds	$642,754	$3,410,627	$4,013,614	$4,215,772	$4,436,740	$4,673,226	$4,935,986	$5,186,085	$5,468,428	$5,771,407	$10,072,175	$28,350,063

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REAL ESTATE SUPPORTED BY: Auto Mall
CITY OF AVONDALE

	Square Feet Supported									
Land Use	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Hotel	6,558	35,852	44,949	47,442	50,079	52,868	55,818	58,938	62,238	65,730
Retail	226,263	1,116,667	1,406,340	1,468,603	1,534,449	1,604,089	1,677,745	1,755,654	1,838,066	1,925,246
Office	145,118	770,070	966,692	1,017,263	1,070,745	1,127,308	1,187,134	1,250,414	1,317,351	1,388,161
Industrial	98,180	472,948	596,311	621,038	647,188	674,845	704,097	735,038	767,767	802,390
Hospital	15,258	83,418	104,584	110,385	116,521	123,010	129,873	137,132	144,811	152,934
Utilities	3,722	20,348	25,511	26,926	28,422	30,005	31,679	33,450	35,323	37,304
Government	26,324	126,843	159,926	166,563	173,581	181,004	188,855	197,160	205,944	215,237
Other	1,592	8,704	10,913	11,518	12,158	12,836	13,552	14,309	15,110	15,958
Housing Units	848	4,306	5,416	5,672	5,944	6,231	6,535	6,856	7,196	7,556
Total Square Feet	523,014	2,634,849	3,315,225	3,469,738	3,633,144	3,805,964	3,988,753	4,182,095	4,386,611	4,602,960

Source: U.S. Bureau of Labor Statistics; Applied Economics.

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TOTAL FISCAL IMPACT OF: Auto Mall 0998W767
GENERAL FUND
CITY OF AVONDALE
1996 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5
REVENUES	**$1,642,676**	**$8,297,387**	**$12,362,575**	**$12,740,991**	**$13,233,491**
Taxes					
Sales Tax	$1,010,865	$5,191,566	$5,912,359	$6,231,773	$6,569,570
Primary Property Tax	$158,867	$781,757	$909,917	$939,868	$970,118
Utility Franchise Tax	$40,786	$211,839	$267,055	$279,444	$292,519
Cable TV Franchise	$5,887	$29,872	$37,573	$39,355	$41,239
SRP In-Lieu Tax	$0	$0	$0	$0	$0
Sales Tax Audit Assessment	$0	$0	$0	$0	$0
Licenses and Permits					
Occupational Licenses	$10,755	$54,578	$68,649	$71,904	$75,347
Liquor Licenses	$0	$0	$0	$0	$0
Intergovernmental					
State Sales Tax	$2,188	$11,105	$1,431,483	$1,432,145	$1,432,846
State Income Tax	$2,339	$11,870	$1,530,110	$1,530,818	$1,531,566
Vehicle License Tax	$67,052	$340,255	$427,976	$448,271	$469,734
Other County Reimbursements	$0	$0	$0	$0	$0
Charges for Services					
Building Permit Fees	$56,923	$237,629	$75,615	$18,354	$19,410
Electrical Permit Fees	$1,970	$8,226	$2,617	$635	$672
Plumbing Permit Fees	$1,970	$8,226	$2,617	$635	$672
Engineering Fees	$14,924	$62,303	$19,825	$4,812	$5,089
Planning Application Fees	$3,990	$16,656	$5,300	$1,286	$1,360
Plan Check Fees	$5,572	$23,262	$7,402	$1,797	$1,900
Sanitation Development Fees	$0	$0	$0	$0	$0
Refuse Collection Fees	$168,273	$853,902	$1,074,046	$1,124,977	$1,178,840
Misc Fees	$0	$0	$0	$0	$0
Fines and Forfeits					
Library Fines	$186	$943	$1,186	$1,242	$1,302
Court Fines	$43,977	$221,102	$271,949	$284,845	$298,483
Misc Fines/Forfeits	$660	$3,297	$3,994	$4,183	$4,383
Miscellaneous					
Interest	$24,442	$123,462	$183,951	$189,581	$196,910
Ambulence Fees	$4,745	$24,076	$30,283	$31,720	$33,238
Other	$16,303	$81,460	$98,666	$103,345	$108,293
EXPENDITURES	**$1,023,218**	**$5,045,090**	**$5,860,443**	**$6,087,763**	**$6,378,531**
City Council	$1,084	$5,499	$6,917	$7,245	$7,592
City Manager/Administration	$26,032	$130,450	$159,152	$166,699	$174,680
Human Resources	$20,231	$101,714	$125,105	$131,037	$137,311
Economic Development	$3,360	$17,050	$21,446	$22,463	$23,538
Equipment Management	$53,928	$273,655	$344,206	$360,528	$377,790
Nondepartmental	$99,476	$487,991	$558,426	$579,135	$606,783
Financial Services	$23,679	$119,606	$178,205	$183,660	$190,759
Engineering	$0	$0	$0	$0	$0
City Clerk	$14,590	$74,035	$93,122	$97,538	$102,208
Planning	$51,988	$211,881	$111,300	$116,578	$122,159
Building Inspection	$57,644	$229,993	$53,126	$12,895	$13,637
Facilities and Grounds	$8,858	$44,537	$54,780	$57,377	$60,125
Social Services	$36,201	$183,700	$231,059	$242,016	$253,604
Library	$52,268	$265,233	$333,612	$349,432	$366,163
Police	$264,003	$1,335,629	$1,647,615	$1,726,679	$1,810,294
Court	$26,531	$134,629	$169,338	$177,368	$185,860
Fire	$131,979	$661,367	$806,885	$845,147	$885,612
Sanitation	$151,369	$768,121	$966,149	$1,011,964	$1,060,416
Transfers Out					
Debt Service	$129,754	$662,957	$760,226	$799,004	$839,860
Special Revenue Funds	$11,110	$56,376	$70,911	$74,273	$77,829
Vehicle Replacement	$45,684	$231,824	$291,590	$305,417	$320,040
Equipment Replacement	$2,998	$15,212	$19,134	$20,041	$21,000
Self Insurance	$0	$0	$0	$0	$0
HURF	$17,941	$90,621	$135,020	$139,153	$144,532
Contingency/Appropriated Reserve	$164,268	$829,739	$1,236,257	$1,274,099	$1,323,349
NET IMPACT	**$247,704**	**$1,365,568**	**$3,988,994**	**$4,041,241**	**$4,128,350**

Source: Applied Economics, City of Avondale Annual Budget.

TOTAL FISCAL IMPACT OF Auto Mall 9898UU767
GENERAL FUND
CITY OF AVONDALE
1996 Dollars

	Year 6	Year 7	Year 8	Year 9	Year 10
REVENUES	**$13,752,746**	**$14,300,048**	**$14,880,513**	**$15,498,198**	**$16,151,589**
Taxes					
Sales Tax	$6,926,829	$7,304,694	$7,704,376	$8,127,159	$8,574,402
Primary Property Tax	$1,000,540	$1,030,870	$1,064,518	$1,103,756	$1,145,264
Utility Franchise Tax	$306,320	$320,888	$336,268	$352,506	$369,652
Cable TV Franchise	$43,232	$45,340	$47,569	$49,928	$52,422
SRP In-Lieu Tax	$0	$0	$0	$0	$0
Sales Tax Audit Assessment	$0	$0	$0	$0	$0
Licenses and Permits					
Occupational Licenses	$78,988	$82,839	$86,912	$91,221	$95,779
Liquor Licenses	$0	$0	$0	$0	$0
Intergovernmental					
State Sales Tax	$1,433,586	$1,434,370	$1,435,199	$1,436,075	$1,437,003
State Income Tax	$1,532,358	$1,533,196	$1,534,082	$1,535,019	$1,536,010
Vehicle License Tax	$492,433	$516,441	$541,836	$568,699	$597,115
Other County Reimbursements	$0	$0	$0	$0	$0
Charges for Services					
Building Permit Fees	$20,528	$21,712	$22,966	$24,293	$25,699
Electrical Permit Fees	$711	$752	$795	$841	$890
Plumbing Permit Fees	$711	$752	$795	$841	$890
Engineering Fees	$5,382	$5,693	$6,021	$6,369	$6,738
Planning Application Fees	$1,439	$1,522	$1,610	$1,703	$1,801
Plan Check Fees	$2,010	$2,125	$2,248	$2,378	$2,516
Sanitation Development Fees	$0	$0	$0	$0	$0
Refuse Collection Fees	$1,235,806	$1,296,057	$1,359,788	$1,427,202	$1,498,516
Misc Fees	$0	$0	$0	$0	$0
Fines and Forfeits					
Library Fines	$1,365	$1,431	$1,502	$1,576	$1,655
Court Fines	$312,907	$328,163	$344,299	$361,369	$379,426
Misc Fines/Forfeits	$4,595	$4,819	$5,056	$5,307	$5,572
Miscellaneous					
Interest	$204,636	$212,780	$221,417	$230,608	$240,330
Ambulence Fees	$34,844	$36,543	$38,340	$40,241	$42,252
Other	$113,526	$119,061	$124,916	$131,109	$137,660
EXPENDITURES	**$6,686,026**	**$7,011,227**	**$7,355,230**	**$7,719,177**	**$8,104,181**
City Council	$7,959	$8,347	$8,757	$9,191	$9,651
City Manager/Administration	$183,122	$192,050	$201,493	$211,483	$222,050
Human Resources	$143,947	$150,965	$158,388	$166,241	$174,547
Economic Development	$24,676	$25,879	$27,151	$28,497	$29,921
Equipment Management	$396,046	$415,355	$435,779	$457,384	$480,238
Nondepartmental	$636,021	$666,941	$699,650	$734,256	$770,865
Financial Services	$198,244	$206,133	$214,500	$223,404	$232,823
Engineering	$0	$0	$0	$0	$0
City Clerk	$107,147	$112,371	$117,896	$123,741	$129,924
Planning	$128,063	$134,306	$140,911	$147,896	$155,287
Building Inspection	$14,423	$15,255	$16,135	$17,068	$18,055
Facilities and Grounds	$63,030	$66,103	$69,354	$72,792	$76,429
Social Services	$265,859	$278,821	$292,531	$307,034	$322,376
Library	$383,857	$402,572	$422,368	$443,307	$465,458
Police	$1,898,725	$1,992,258	$2,091,190	$2,195,841	$2,306,546
Court	$194,841	$204,341	$214,389	$225,018	$236,261
Fire	$928,408	$973,673	$1,021,550	$1,072,196	$1,125,771
Sanitation	$1,111,659	$1,165,858	$1,223,186	$1,283,828	$1,347,978
Transfers Out					
Debt Service	$882,898	$928,219	$976,321	$1,027,588	$1,081,818
Special Revenue Funds	$81,590	$85,568	$89,776	$94,227	$98,935
Vehicle Replacement	$335,506	$351,864	$369,166	$387,468	$406,829
Equipment Replacement	$22,015	$23,089	$24,224	$25,425	$26,695
Self Insurance	$0	$0	$0	$0	$0
HURF	$150,203	$156,180	$162,520	$169,266	$176,402
Contingency/Appropriated Reserve	$1,375,275	$1,430,005	$1,488,051	$1,549,820	$1,615,159
NET IMPACT	**$4,219,233**	**$4,313,897**	**$4,415,225**	**$4,525,228**	**$4,641,570**

Source: Applied Economics, City of Avondale Anr

DATA INPUT FORM
PROSPECT INFORMATION

Project Name: 99th /107th Retail Center
Industry Name: MISC RETAIL

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10
Total Direct Employment:	0	950	950	950	950	950	950	950	950	950
Percent of Employees Living in Avondale	0%	75%	75%	75%	75%	75%	75%	75%	75%	75%
Value of Taxable Direct Sales:	$0	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000
Total Annual Payroll:	$0	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000
Percent Skilled Workforce	0%	35%	35%	35%	35%	35%	35%	35%	35%	35%
Percent Semi-Skilled Workforce	0%	40%	40%	40%	40%	40%	40%	40%	40%	40%
Percent Unskilled Workforce	0%	25%	25%	25%	25%	25%	25%	25%	25%	25%
Total Value of New Construction	$50,625,000	$0	$0	$0	$0	$0	$0	$0	$0	$0
Site Acreage (enter in year of constr. only)	150.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land Cost per Acre	$239,580	$0	$0	$0	$0	$0	$0	$0	$0	$0
Building Square Footage (retail projects only)	0	0	0	0	0	0	0	0	0	0
Sales per Square Foot (retail projects only)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Purchase Price (if buying existing building)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Annual Lease Cost (if leasing existing space)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Value of Local Equipment Purchases	$700,000	$0	$0	$0	$0	$0	$0	$0	$0	$0
Value of Nonlocal Equipment Purchases	$6,500,000	$0	$0	$0	$0	$0	$0	$0	$0	$0
Est. Monthly Water Use (000 gallons)	0.000	300.000	300.000	300.000	300.000	300.000	300.000	300.000	300.000	300.000
Water meter size (inches)	0.00									
Estimated Monthly Electric Costs	$0	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000
New Water Main Miles Added	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
New Street Miles Added	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
New Sanitary Sewer Miles Added	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Excess Monthly Sewer Charges for Pretreatment	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
New Housing Units (res. projects only)	0	0	0	0	0	0	0	0	0	0
If residential, is this a multi-family project? (yes=1, no=0)	0									
Sales Tax Incentives (fixed amount)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Reduced Sales Tax Rate	0.00%	0.00%	0.00%	$0	0.00%	$0	$0	0.00%	0.00%	0.00%
Permit Fees Waived (yes=1, no=0)	2									
State Shared Revenues Adjusted (yes=1,no=0)	0	0	1	$0	0	$0	$0	0	0	0

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FISCAL IMPACT SUMMARY BY FUND
CITY OF AVONDALE
1996 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	NPV* Years 1 to 5	NPV* Years 1 to 10
General Fund-Total												
Revenues	$892,245	$3,611,565	$4,208,499	$4,207,701	$4,205,567	$4,200,781	$4,196,283	$4,196,283	$4,196,283	$4,196,283	$10,633,778	$25,902,632
Expenditures	$516,030	$2,279,877	$2,293,758	$2,293,573	$2,293,077	$2,291,965	$2,290,921	$2,290,921	$2,290,921	$2,290,921	$6,095,749	$14,428,618
Net Impact	$376,215	$1,331,688	$1,914,741	$1,914,128	$1,912,489	$1,908,815	$1,905,362	$1,905,362	$1,905,362	$1,905,362	$4,538,029	$11,474,014
Transportation Fund-Total												
Revenues	$9,745	$285,320	$320,116	$320,108	$320,084	$320,032	$319,983	$319,983	$319,983	$319,983	$763,836	$1,927,518
Expenditures and Transfers Out	$11,870	$253,610	$265,381	$269,535	$270,920	$270,920	$270,920	$270,920	$270,920	$270,920	$654,863	$1,640,027
Net Impact	($2,125)	$31,710	$54,736	$50,573	$49,165	$49,112	$49,063	$49,063	$49,063	$49,063	$108,973	$287,490
Wastewater Enterprise Fund-Total												
Revenues	$131	$272,210	$166,670	$166,670	$166,670	$166,670	$166,670	$166,670	$166,670	$166,670	$501,085	$1,107,158
Expenditures and Transfers Out	$318	$239,680	$134,823	$135,506	$135,733	$135,733	$135,733	$135,733	$135,733	$135,733	$423,075	$916,651
Net Impact	($187)	$32,530	$31,847	$31,164	$30,937	$30,937	$30,937	$30,937	$30,937	$30,937	$78,010	$190,507
Water Enterprise Fund-Total												
Revenues	$795	$209,852	$201,371	$201,371	$201,371	$201,371	$201,371	$201,371	$201,371	$201,371	$502,039	$1,234,297
Expenditures and Transfers Out	$1,719	$204,144	$199,578	$202,402	$203,343	$203,343	$203,343	$203,343	$203,343	$203,343	$497,241	$1,236,672
Net Impact	($924)	$5,708	$1,792	($1,031)	($1,973)	($1,973)	($1,973)	($1,973)	($1,973)	($1,973)	$4,798	($2,375)
Total Net Impact-All Funds	$372,978	$1,401,636	$2,003,116	$1,994,834	$1,990,618	$1,986,892	$1,983,389	$1,983,389	$1,983,389	$1,983,389	$4,729,810	$11,949,636
Total Revenues Generated Per Dollar of O&M Expenditures	$1.70	$1.47	$1.69	$1.69	$1.69	$1.68	$1.68	$1.68	$1.68	$1.68		

* Net Present Value of ten-year impact discounted at 7 percent annually.

99784767

REAL ESTATE SUPPORTED BY: 99th /107th Retail Center
CITY OF AVONDALE

	Square Feet Supported									
Land Use	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Hotel	0	56,699	56,699	56,699	56,699	56,699	56,699	56,699	56,699	56,699
Retail	0	388,952	388,952	388,952	388,952	388,952	388,952	388,952	388,952	388,952
Office	0	139,694	139,694	139,694	139,694	139,694	139,694	139,694	139,694	139,694
Industrial	0	133,520	133,520	133,520	133,520	133,520	133,520	133,520	133,520	133,520
Hospital	0	18,779	18,779	18,779	18,779	18,779	18,779	18,779	18,779	18,779
Utilities	0	3,005	3,005	3,005	3,005	3,005	3,005	3,005	3,005	3,005
Government	0	49,067	49,067	49,067	49,067	49,067	49,067	49,067	49,067	49,067
Other	0	8,898	8,898	8,898	8,898	8,898	8,898	8,898	8,898	8,898
Housing Units	0	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302
Total Square Feet	0	798,614	798,614	798,614	798,614	798,614	798,614	798,614	798,614	798,614

Source: U.S. Bureau of Labor Statistics; Applied Economics.

79844767

ECONOMIC IMPACT SUMMARY
CITY OF AVONDALE

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Demographic										
Population	0	4,204	4,204	4,204	4,204	4,204	4,204	4,204	4,204	4,204
School Age Population	0	963	963	963	963	963	963	963	963	963
Households	0	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302
Economic										
Employment	0	1,805	1,805	1,805	1,805	1,805	1,805	1,805	1,805	1,805
Personal Income	$0	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750
Output	$0	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000
Real Estate										
Residential Units	0	1302	1302	1302	1302	1302	1302	1302	1302	1302
Non-residential Sq. Feet	0	798,614	798,614	798,614	798,614	798,614	798,614	798,614	798,614	798,614
Assessed Value	$78,589,150	$159,122,127	$159,263,697	$159,084,947	$158,606,612	$157,534,112	$156,526,112	$156,526,112	$156,526,112	$156,526,112

95984747

TOTAL FISCAL IMPACT OF: 99th/107th Retail Center
GENERAL FUND
CITY OF AVONDALE
1996 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5
REVENUES	**$892,245**	**$3,611,565**	**$4,208,499**	**$4,207,701**	**$4,205,567**
Taxes					
Sales Tax	$524,553	$2,384,961	$2,384,961	$2,384,961	$2,384,961
Primary Property Tax	$345,478	$498,699	$499,321	$498,535	$496,432
Utility Franchise Tax	$0	$65,661	$65,661	$65,661	$65,661
Cable TV Franchise	$0	$9,031	$9,031	$9,031	$9,031
SRP In-Lieu Tax	$0	$0	$0	$0	$0
Sales Tax Audit Assessment	$0	$0	$0	$0	$0
Licenses and Permits					
Occupational Licenses	$0	$16,499	$16,499	$16,499	$16,499
Liquor Licenses	$0	$0	$0	$0	$0
Intergovernmental					
State Sales Tax	$0	$3,357	$344,049	$344,049	$344,049
State Income Tax	$0	$3,588	$367,754	$367,754	$367,754
Vehicle License Tax	$0	$102,862	$102,862	$102,862	$102,862
Other County Reimbursements	$0	$0	$0	$0	$0
Charges for Services					
Building Permit Fees	$0	$78,317	$0	$0	$0
Electrical Permit Fees	$0	$2,711	$0	$0	$0
Plumbing Permit Fees	$0	$2,711	$0	$0	$0
Engineering Fees	$0	$20,533	$0	$0	$0
Planning Application Fees	$0	$5,489	$0	$0	$0
Plan Check Fees	$0	$7,667	$0	$0	$0
Sanitation Development Fees	$0	$0	$0	$0	$0
Refuse Collection Fees	$0	$258,141	$258,141	$258,141	$258,141
Misc Fees	$0	$0	$0	$0	$0
Fines and Forfeits					
Library Fines	$0	$285	$285	$285	$285
Court Fines	$5,444	$65,362	$65,362	$65,362	$65,362
Misc Fines/Forfeits	$136	$960	$960	$960	$960
Miscellaneous					
Interest	$13,276	$53,739	$62,621	$62,609	$62,577
Ambulence Fees	$0	$7,278	$7,278	$7,278	$7,278
Other	$3,357	$23,714	$23,714	$23,714	$23,714
EXPENDITURES	**$324,254**	**$1,471,985**	**$1,419,587**	**$1,419,574**	**$1,419,540**
City Council	$0	$1,662	$1,662	$1,662	$1,662
City Manager/Administration	$4,360	$38,251	$38,251	$38,251	$38,251
Human Resources	$2,505	$30,068	$30,068	$30,068	$30,068
Economic Development	$0	$5,154	$5,154	$5,154	$5,154
Equipment Management	$0	$82,728	$82,728	$82,728	$82,728
Nondepartmental	$36,997	$141,455	$135,477	$135,475	$135,471
Financial Services	$12,862	$52,060	$60,665	$60,653	$60,623
Engineering	$0	$0	$0	$0	$0
City Clerk	$0	$22,381	$22,381	$22,381	$22,381
Planning	$137,293	$26,750	$26,750	$26,750	$26,750
Building Inspection	$70,139	$55,024	$0	$0	$0
Facilities and Grounds	$1,097	$13,166	$13,166	$13,166	$13,166
Social Services	$0	$55,534	$55,534	$55,534	$55,534
Library	$0	$80,182	$80,182	$80,182	$80,182
Police	$36,898	$400,729	$400,729	$400,729	$400,729
Court	$0	$40,699	$40,699	$40,699	$40,699
Fire	$22,105	$193,930	$193,930	$193,930	$193,930
Sanitation	$0	$232,209	$232,209	$232,209	$232,209
Transfers Out					
Debt Service	$92,806	$315,567	$315,633	$315,550	$315,325
Special Revenue Funds	$0	$17,043	$17,043	$17,043	$17,043
Vehicle Replacement	$0	$70,082	$70,082	$70,082	$70,082
Equipment Replacement	$0	$4,599	$4,599	$4,599	$4,599
Self Insurance	$0	$0	$0	$0	$0
HURF	$9,745	$39,444	$45,964	$45,955	$45,932
Contingency/Appropriated Reserve	$89,224	$361,156	$420,850	$420,770	$420,557
NET IMPACT	**$376,215**	**$1,331,688**	**$1,914,741**	**$1,914,128**	**$1,912,489**

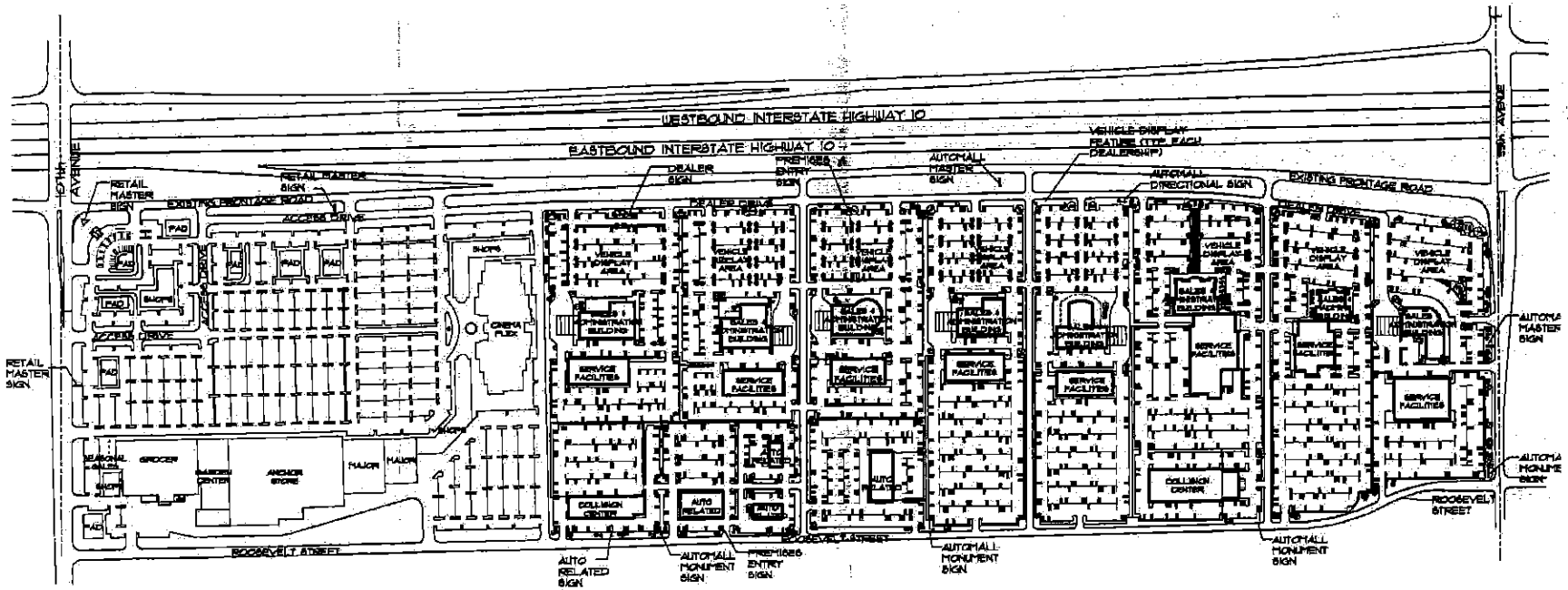
Source: Applied Economics, City of Avondale Annual Budget.

TOTAL FISCAL IMPACT OF 96-107D-R4
GENERAL FUND
CITY OF AVONDALE
1996 Dollars

	Year 6	Year 7	Year 8	Year 9	Year 10
REVENUES	**$4,200,781**	**$4,196,283**	**$4,196,283**	**$4,196,283**	**$4,196,283**
Taxes					
Sales Tax	$2,384,961	$2,384,961	$2,384,961	$2,384,961	$2,384,961
Primary Property Tax	$491,718	$487,286	$487,286	$487,286	$487,286
Utility Franchise Tax	$65,661	$65,661	$65,661	$65,661	$65,661
Cable TV Franchise	$9,031	$9,031	$9,031	$9,031	$9,031
SRP In-Lieu Tax	$0	$0	$0	$0	$0
Sales Tax Audit Assessment	$0	$0	$0	$0	$0
Licenses and Permits					
Occupational Licenses	$16,499	$16,499	$16,499	$16,499	$16,499
Liquor Licenses	$0	$0	$0	$0	$0
Intergovernmental					
State Sales Tax	$344,049	$344,049	$344,049	$344,049	$344,049
State Income Tax	$367,754	$367,754	$367,754	$367,754	$367,754
Vehicle License Tax	$102,862	$102,862	$102,862	$102,862	$102,862
Other County Reimbursements	$0	$0	$0	$0	$0
Charges for Services					
Building Permit Fees	$0	$0	$0	$0	$0
Electrical Permit Fees	$0	$0	$0	$0	$0
Plumbing Permit Fees	$0	$0	$0	$0	$0
Engineering Fees	$0	$0	$0	$0	$0
Planning Application Fees	$0	$0	$0	$0	$0
Plan Check Fees	$0	$0	$0	$0	$0
Sanitation Development Fees	$0	$0	$0	$0	$0
Refuse Collection Fees	$258,141	$258,141	$258,141	$258,141	$258,141
Misc Fees	$0	$0	$0	$0	$0
Fines and Forfeits					
Library Fines	$285	$285	$285	$285	$285
Court Fines	$65,362	$65,362	$65,362	$65,362	$65,362
Misc Fines/Forfeits	$960	$960	$960	$960	$960
Miscellaneous					
Interest	$62,506	$62,439	$62,439	$62,439	$62,439
Ambulence Fees	$7,278	$7,278	$7,278	$7,278	$7,278
Other	$23,714	$23,714	$23,714	$23,714	$23,714
EXPENDITURES	**$1,419,462**	**$1,419,389**	**$1,419,389**	**$1,419,389**	**$1,419,389**
City Council	$1,662	$1,662	$1,662	$1,662	$1,662
City Manager/Administration	$38,251	$38,251	$38,251	$38,251	$38,251
Human Resources	$30,068	$30,068	$30,068	$30,068	$30,068
Economic Development	$5,154	$5,154	$5,154	$5,154	$5,154
Equipment Management	$82,728	$82,728	$82,728	$82,728	$82,728
Nondepartmental	$135,462	$135,454	$135,454	$135,454	$135,454
Financial Services	$60,554	$60,489	$60,489	$60,489	$60,489
Engineering	$0	$0	$0	$0	$0
City Clerk	$22,381	$22,381	$22,381	$22,381	$22,381
Planning	$26,750	$26,750	$26,750	$26,750	$26,750
Building Inspection	$0	$0	$0	$0	$0
Facilities and Grounds	$13,166	$13,166	$13,166	$13,166	$13,166
Social Services	$55,534	$55,534	$55,534	$55,534	$55,534
Library	$80,182	$80,182	$80,182	$80,182	$80,182
Police	$400,729	$400,729	$400,729	$400,729	$400,729
Court	$40,699	$40,699	$40,699	$40,699	$40,699
Fire	$193,930	$193,930	$193,930	$193,930	$193,930
Sanitation	$232,209	$232,209	$232,209	$232,209	$232,209
Transfers Out					
Debt Service	$314,822	$314,350	$314,350	$314,350	$314,350
Special Revenue Funds	$17,043	$17,043	$17,043	$17,043	$17,043
Vehicle Replacement	$70,082	$70,082	$70,082	$70,082	$70,082
Equipment Replacement	$4,599	$4,599	$4,599	$4,599	$4,599
Self Insurance	$0	$0	$0	$0	$0
HURF	$45,879	$45,830	$45,830	$45,830	$45,830
Contingency/Appropriated Reserve	$420,078	$419,628	$419,628	$419,628	$419,628
NET IMPACT	**$1,908,815**	**$1,905,362**	**$1,905,362**	**$1,905,362**	**$1,905,362**

Source: Applied Economics, City of Avondale Ant

Exhibit "B"



SITE PLAN

SCALE: NO SCALE

BASE9.dwg

THE ABOVE DRAWING IS FOR ILLUSTRATION PURPOSES ONLY. IT IS NOT INTENDED TO REPRESENT THE ACTUAL CONSTRUCTION TO OCCUR. CHANGES AND MODIFICATIONS MAY BE NECESSARY TO MEET REQUIREMENTS FOR THE DEVELOPMENT OF THE PROPERTY.

Larson Associates Architects, Inc.

Avondale Automall

S.W.C. 99th Avenue and Interstate Highway 10

Avondale, AZ.

Drawing Name: SITE PLAN

Revisions

Date: 9/23/99

Project Number:

Drawing No: SP1.0

Exhibit E

1999 Corrective Development Agreement

First American Title

Unofficial Document

Recording Requested by:
FIRST AMERICAN TITLE

When recorded mail to:

First American Title Ins. Co.
2398 E. Camelback Rd., Ste. 1030
Phoenix, Az. 85016
Attn: Pam Swoboda

2000-0511508 01/28/2000 04:01
CLARK 1 OF 17

Escrow No.226-100-1258320 1/2

CAPTION HEADING: CORRECTIVE DEVELOPMENT AGREEMENT

THIS DOCUMENT IS BEING RECORDED FOR THE SOLE PURPOSE OF ADDING EXHIBIT "B" TO THE DOCUMENT RECORDED 10/26/99 IN DOCUMENT No. 99-0984467, RECORDS OF MARICOPA COUNTY, ARIZONA.

20000577980

After Recording Return to:	City of Avondale
City Clerk City of Avondale 525 N. Central Avondale, AZ 85323	

226-100-1258320

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made as of this 18th day of OCTOBER, 1999, by and between **the CITY OF AVONDALE** (the "City"), an Arizona municipal corporation, and **AZVT, LLC,** an Arizona limited liability company (the "Developer").

RECITALS:

A. Developer owns certain land located generally at the southwest corner of Interstate 10 and 99th Avenue, in Avondale, Arizona which consists of approximately 150 acres, more or less (the "Property"). The legal description describing the Property is attached hereto as Exhibit "A".

Unofficial Document

B. It is the desire and intention of Developer to develop the Property as follows:

(i) Develop and construct on approximately the east half of the Property an auto mall complex consisting of new car automotive dealerships and other automotive uses (the "Auto Mall"), and

(ii) Develop and construct on approximately the west half of the Property a commercial retail center and related uses (the "Retail Center")(the Auto Mall and the Retail Center are sometimes hereinafter collectively referred to as the "Project"); with the development of the Project to be generally in conformance with the conceptual site development plan attached hereto as Exhibit "B" (the "Development Plan"), it being understood that the Development Plan may be revised by Developer from time-to-time to reflect changes to the Project and as long as the revisions are approved by the City as required by law and do not materially change the Auto Mall and Retail Center to be constructed, such revisions shall not effect the terms of this Agreement.

C. Developer and City both believe that the development of the Project pursuant to this Agreement will result in significant benefits to City, its residents and the general public and enhance the economic ability of City by:

(i) significantly increasing transaction privilege tax (hereinafter "retail sales tax") revenues of the City by encouraging new car automotive dealerships and other retail businesses to be located within Avondale and within the Project in particular;

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(ii) increasing real property tax revenues based on all of the improvements to be constructed at the Project;

(iii) creating new jobs in businesses to be located within and near the Project; and

(iv) retaining two (2) dealerships within the City who might otherwise relocate to another jurisdiction.

D. City also wishes to obtain from Developer the construction of certain strategic infrastructure improvements and the dedication of certain public rights-of-way at no cost to City. Developer's infrastructure improvements will include extensive permanent water line, sewer line, and other utility extensions; the construction of fully improved, landscaped, lighted and signalized public streets and half-streets to enhance traffic flow; and the installation of landscaped frontage along Interstate 10 to upgrade the Property's current streetscape.

E. Developer shall use its reasonable, good faith and diligent efforts to attract additional automotive dealerships to the Auto Mall, and retail businesses to the Retail Center. To that end, Developer has secured agreements to place both Gateway Chevrolet and Avondale Dodge in the Auto Mall in order to retain, and expand through future growth, the benefits of these dealerships for the City, and avoid the loss of these local businesses to competing sites in Goodyear and Tolleson.

F. In light of the mutual benefits to City and Developer resulting from the Project, City and Developer desire that Developer receive an economic incentive in the form of retail sales tax rebates as described herein.

Unofficial Document

G. Developer and City understand this Agreement is contingent upon Developer obtaining PADD C-2 zoning and the related use permits from the City for the Property and the Project, and substantially completing the infrastructure improvements described above.

H. Developer and City further understand and acknowledge that this Agreement is within the meaning of, and is entered into pursuant to the terms of, A.R.S. Section 9-500.11, and the terms of this Agreement are intended to be binding upon City and Developer, but only to the extent permitted by law, and their successors and assigns and which terms and provisions will run with the land.

AGREEMENT:

In reliance upon and for the reasons set forth above, and in consideration of the covenants set forth herein, the parties hereto agree as follows:

1.0 Annexation.

1.1 The Property is already annexed into the City.

2.0 Development in Accordance With Zoning and Plat Approval.

2.1 Approvals. The Property is currently zoned for agricultural use, and Developer will apply to the City to rezone the Property to PADD C-2. The PADD C-2 rezoning complies with

MAICOPA COUNTY

the City's present General Plan. Upon the mutual execution of this Agreement by Developer and City, Developer's PADD C-2 zoning application and the required plat for the Project, which shall be in general conformance with the Development Plan, will be submitted to the City for review and processing to obtain the necessary rezoning approval.

3.0 Term of Agreement.

3.1 Term. This Agreement will commence upon the mutual execution of this Agreement by City and Developer, and will continue until the 15th (fifteenth) anniversary of the date the first automobile dealership opens for business.

4.0 Financial Assistance.

4.1 The Benefits of Project to the Community. The City has determined, based upon its independent evaluation, that development of the Project will provide social and economic benefits to the community. The proposed Project will provide a source of employment and creation of jobs within the community, and will generate needed additional retail sales and property tax revenues to the City and other public agencies. The proposed development will enable needed capital projects to be completed which will improve the economic and physical conditions of the community, provide for the public safety and convenience of the community, and will enhance the economic welfare of the inhabitants of the City.

4.2 Financial Assistance. Each auto dealership and retail business within the Project will collect all retail sales tax levied pursuant to the City Tax Code of the City of Avondale resulting from retail sales by such dealerships and retail businesses located within the Project, and will remit the same to the City according to law. As an inducement to Developer to construct the infrastructure improvements, and to develop, attract, and open auto dealerships, other automotive uses, and retail businesses within the Project, and pursuant to the provisions of Section 9-500.11 of the Arizona Revised Statutes, the City hereby agrees to rebate a portion of the retail sales tax generated by each of the auto dealerships and other automotive uses operating within the Auto Mall, and retail businesses operating in facilities greater than 10,000 square feet within the Retail Center, and paid to the City. Upon the substantial completion by Developer of the infrastructure improvements described in Recital D, for the term described in Section 3.1 above, the City will rebate to Developer fifty percent (50%) of the annual retail sales taxes generated by each of the businesses described above located within the Project, payable in annual installments. The City's obligation to pay the annual retail sales tax rebates payments to Developer will automatically cease and the City will have no further obligation to Developer pursuant to this Agreement upon the earlier of the expiration of the fifteen (15) year term described in Section 3.1 above, or upon the Developer receiving a total of Twelve Million Dollars ($12,000,000) (the date of such event being hereinafter referred to as the "Termination Date").

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The first annual payment required by the preceding paragraph will be paid no later than sixty (60) days after the first calendar year-end following the opening for business of the first auto dealership or qualifying retail business generating retail sales tax within the Project. Subsequent annual payments will be made no later than sixty (60) days after the end of each succeeding calendar year. Each annual payment will be mailed to Developer at the address for notice set forth in Section 7.0 below, or as otherwise agreed by City and Developer.

The City's obligations under this Agreement, including without limitation, the City's obligations under this Section 4.0 relating to financial assistance are expressly conditioned upon Developer's substantial completion of the infrastructure improvements within the Project. If

DOCUMENT #20000577980

there is a period of time during which no retail sales taxes are generated by the qualifying businesses within the Project, then Developer shall not be entitled to any Financial Assistance during that time. However, if, after such time period, retail sales taxes are again generated by the auto dealerships, other automotive uses, and the qualifying retail businesses located within the Project, then the City's obligation to pay the Financial Assistance to Developer (or its successors in interest or assigns pursuant to Section 12.7 below) shall resume until the Termination Date, which shall not be extended beyond the term provided in Section 4.2 above.

Developer shall have the right, as permitted by Section 12.7 below, to assign a portion of its right to receive retail sales tax rebates hereunder to any one or more persons or entities that purchase or lease a portion of the Property within the Project (an "Assignee"). Retail sales tax rebates paid directly by the City to Developer or its Assignee (or its permitted successors and assigns) at the request of and on behalf of the Developer will decrease the remaining retail sales tax rebate payments due the Developer hereunder. Any assignment requested by the Developer shall be approved by the City, such approval not to be unreasonably withheld or delayed.

4.3 Van Buren Sewer Line. As a part of the infrastructure improvements required by this Agreement, Developer agrees to build offsite improvements consisting of a sewer line (the "Van Buren Sewer Line") within the Van Buren Street public right-of-way, all in accordance with the City's latest adopted regulations, ordinances, current engineering design guidelines and construction standard notes/details and county requirements where applicable. Developer shall be responsible for the actual design costs and construction costs of the Van Buren Sewer Line. In consideration for the fact that the Van Buren Sewer Line is essential public infrastructure providing a broad public benefit, Developer shall comply with all City procurement regulations applicable to City participation in funding the cost of the Van Buren Sewer Line.

Unofficial Document

Developer shall obtain from its contractor and assign to the City a warranty for the Van Buren Sewer Line for a period of at least one(1) year following the issuance date of the City's acceptance document.

The City acknowledges and agrees that a portion of the Van Buren Sewer Line improvement (the "Reimbursable Items") shall benefit other properties and the Developer shall be entitled to reimbursement by such property owners for the cost of the Reimbursable Items. Concurrently with or following the completion of construction and the dedication or other conveyance of the Van Buren Sewer Line to the City, the Developer shall provide the City with a statement setting forth, in reasonable detail, the actual cost of the construction of such sewer line. The determination of the Reimbursable Items shall be based on the actual cost of design and construction of the Van Buren Sewer Line, including all engineering and design fees and costs, the costs of permits, the cost of construction materials and labor, and all other direct costs incurred in connection with such design and construction.

The City further agrees that with respect to each of the Reimbursable Items, it shall require each property owner who is benefited by the Van Buren Sewer Line to pay its proportionate share of the cost of the Reimbursable Items pursuant to a "Reimbursement Agreement", in form reasonably satisfactory to Developer and City before any development shall be permitted on the benefited property, whether as a result of an application for approval of development or improvement plans, an application for approval of a change in the zoning or uses otherwise applicable to such benefited property(ies), an application for approval of a development agreement with the City or otherwise. Each benefited property's share of the cost of the Reimbursable Items shall be determined in accordance with the Reimbursement

AMENDED 1/24

Agreement. Reimbursement shall be based on the relative area of the benefited property to the entire assessable area served by the applicable Van Buren Sewer Line, unless otherwise provided in the City Code for the type of improvement involved. Each benefited property owner shall pay its full share of the cost of the Reimbursable Items, in respect of its share, in cash to the City at the time such owner receives its first building permit for any improvements to the benefited property issued after the date of this Agreement as a result of any of the matters hereinabove described. The City shall within a reasonable time following receipt of such payment, not to exceed thirty (30) days, pay to the Developer all reimbursements collected on behalf of the Developer. Any such reimbursements received by Developer will decrease the remaining retail sales tax rebate payments due the Developer hereunder, by the amount of such reimbursement.

4.4 Change in Sales Tax Laws. If the laws which entitle the City to receive the City retail sales tax based on sales at or from the businesses located within the Project are repealed or modified after the date of this Agreement or if the sales tax the City is entitled to receive based on such sales is totally or partially replaced with another source of revenue, then the City's obligation to pay the annual retail sales tax rebate payments will be deemed modified and will be renegotiated. In that event, Developer and the City will fully cooperate with one another in amending this Agreement as necessary or appropriate to facilitate Developer's receiving the payments described in Section 4.2 above, so the intent of this Agreement can be attained.

4.5 Status of Payments. Developer and the City will cooperate with one another in issuing periodic reports of the status of the City's obligation to make annual payments pursuant to this Agreement.

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4.6 Completion of the Auto Mall and Retail Center. Notwithstanding any other provision in this Agreement, the City's obligation to pay the annual payments pursuant to Section 4.2 above will apply only if construction of the Auto Mall development begins promptly following the City's approval of Developer's planned PADD C-2 zoning permitting the construction of the Project, and construction of the Retail Center begins promptly following Developer executing contracts for parcel sales or leases with anchor tenants necessary to make the Retail Center financially feasible. Developer's construction will be substantially completed within twenty four (24) months from the date Developer begins construction, except that the time for completion will be extended for a period equal to delays caused by force majure or other causes beyond the reasonable control of Developer, unless such time periods are extended with the approval of the City.

5.0 Default.

5.1 Default by Either Party. If either party fails to perform any obligation, including City's obligation to pay money pursuant to this Agreement, and fails to cure its nonperformance within 30 (thirty) days after notice of nonperformance is given by the non-defaulting party, such party will be in default and the non-defaulting party will have all remedies which are available to it at law or in equity including, without limitation, the remedy of specific performance; provided, however, that if the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 (thirty) days, then the defaulting party will have such additional periods of time as may be reasonable under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance, until its nonperformance has been cured.

AMENDMENT

6.0 Relationship of the Parties.

6.1 Negation of Agency, Joint Venture or Partnership. The parties acknowledge that in entering into this Agreement, they are acting as independent entities and not as agents of the other in any respect and hereby renounce the existence of any form of joint venture or partnership between them and agree that nothing in this Agreement will be construed as making them joint venturers or partners.

7.0 Notices and Filings.

7.1 Manner of Serving. All notices, filings, consents, approvals and other communications provided for herein or given in connection herewith shall be validly given, filed, made, delivered or served if in writing and delivered personally, sent by facsimile transmission or sent by registered or certified United States Mail, postage prepaid, if to:

The City:
City of Avondale
525 North Central Avenue
Avondale, AZ 85323
Attn.: City Manager
Facsimile No. (602) 925-2162

The Developer:
AZVT, LLC
P.O. Box 16460
Phoenix, AZ 85011
Attn: Mike Pacheco
Facsimile No. (602) 230-2826

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with a copy to:
BEUS GILBERT PLLC
1000 Great American Tower
3200 North Central Avenue
Phoenix, AZ 85012-2417
Attn: Gordon M. Wasson, Esq.
Facsimile No. (602) 234-5893

or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner.

7.2 Effective Delivery. If not received sooner, notices, filings, consents, approvals and communication ("Notices") given by mail shall be deemed delivered seventy-two (72) hours following deposit in the U.S. mail, postage prepaid and addressed as set forth above. Notices given by personal delivery are effective upon receipt, and Notices given by facsimile transmission are effective upon electronic verification of delivery or receipt.

8.0 Lender Provisions.

8.1 Lender Not Obligated to Construct. Notwithstanding any of the provisions of this Agreement, including but not limited to, those which are or are intended to be covenants running with the land, any lender who provides construction, interim or permanent financing for all or any part of the Property, and such financing is secured by a lien against the Property ("Lender"), shall in no way be obligated by the provisions of this Agreement to construct or complete the

development of the Project, or any part thereof, or to guarantee such construction completion or any other obligations related thereto. Notwithstanding the foregoing, Lender's purchaser or its other successors in interest in the Project (other than another lender or financial institution or acquirer of Lender) shall be obligated by the provisions of this Agreement.

8.2 Copy of Notice of Default to Lender. Whenever City shall deliver any notice or demand to Developer with respect to any breach or default by Developer under this Agreement, City shall at the same time forward a copy of such notice or demand to each Lender on any portion of the Property which may be affected by such notice provided such Lender has delivered or mailed written notice to City of its interest in the Property and mailing address.

8.3 Lender's Option to Cure Defaults. After any uncured Developer default referred to in Section 5.2 above, each Lender shall (insofar as the rights of City are concerned) have the right, at its option, to cure or remedy such default to the extent that it relates to the part of the Property covered by its lien and to add the cost of such cure to its debt and lien.

8.4 Transfer of the Property to or by the Lender. Nothing contained in this Agreement shall be deemed to prohibit, restrict, or limit in any way the right of Lender to take title to all or any part of the Property, pursuant to a foreclosure proceeding, trustee's sale or deed in lieu of foreclosure.

9.0 Representations and Warranties.

9.1 City Acknowledgement. City acknowledges that Developer has acquired the Property and is entering into this Agreement and has expended, and will continue to expend, substantial time, efforts and money with regard to development of the Project in reliance upon the representations, warranties and covenants of City as described elsewhere in this Agreement and hereinbelow. City represents and warrants to Developer that all of City's representations and warranties set forth in this Agreement are true in all material respects as of the date of this Agreement, including the following:

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9.2 City Organization. City is a duly organized, validly existing municipal corporation in the State of Arizona and the person signing this Agreement on behalf of City is authorized to do so. The transactions contemplated by this Agreement and the execution and delivery of all documents required herein, and City's performance hereunder, have been duly authorized by all requisite actions of City and/or other parties. The execution and delivery of this Agreement and any other document required herein and the consummation of the transaction contemplated hereby and thereby will not result in any violation of, or default under, any term or provision of any applicable agreement, instrument, law, rule, regulation or official policy to which City is a party or by which City is bound.

9.3 No City Litigation. There is no litigation, investigation or proceeding pending or, to the knowledge of the City, contemplated or threatened against the City, or the Property which would impair or adversely affect the City's ability to perform its obligations under this Agreement or under any instrument or document related hereto.

9.4 Developer Acknowledgement. Developer acknowledges that City has expended and will continue to expend substantial time and effort with regard to the development of the Project in reliance upon the representations, warranties and covenants of Developer as described elsewhere in this Agreement and hereinbelow. Developer represents and warrants to City that

RECORDED

all of Developer's representations and warranties set forth in this Agreement are true in all material respects as of the date of this Agreement, including the following:

9.5 Developer Organization. Developer is a duly organized validly existing limited liability company in the State of Arizona and the person signing this Agreement on behalf of Developer is authorized to do so. The transactions contemplated by this Agreement and the execution and delivery of all documents required herein, and Developer's performance hereunder, have been duly authorized by all requisite actions of Developer and/or other parties. The execution and delivery of this Agreement and any other document required herein and the consummation of the transaction contemplated hereby and thereby will not result in any violation of, or default under, any term or provision of any application agreement, instrument, law, rule, regulation or official policy to which Developer is a party or by which Developer is bound.

9.6 No Developer Litigation. There is no litigation, investigation or proceeding pending or, to the knowledge of Developer, contemplated or threatened against Developer or the Property which would impair or adversely affect Developer's ability to perform its obligations under this Agreement or under any instrument or document related hereto.

9.7 Restatement of Warranties. At any time, or from time to time, upon the request of Developer, City within ten (10) days following receipt of Developer's request, shall reaffirm and restate any or all of its representations, warranties and covenants as set forth in this Agreement and any other agreements and instruments executed in connection herewith.

10.0 Access to the Property

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10.1 Interstate 10 Frontage Road. City agrees to use its best efforts to (i) assist Developer in obtaining one or more curb-cuts (entranceways) into the Project from the Interstate 10 frontage road, and (ii) assist Developer in obtaining the removal and/or redesign and upgrade of the existing chain-link fence parallel to the Project and the Interstate 10 frontage road.

11.0 New Dealerships

11.1 New Dealerships. To the extent legally possible, for the period from the effective date hereof through the Termination Date, City agrees to use its best efforts to refer any new automotive dealerships requesting to locate in the City to the Developer for possible location within the Auto Mall.

12.0 General.

12.1 Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by City or Developer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

12.2 Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof, or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorney's fees by the other party, and in the event any judgement is secured by said prevailing party, all such

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costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

12.3 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document.

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

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

12.6 Time Essence. Time is of the essence of this Agreement.

12.7 Successors. All of the provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. Notwithstanding the foregoing, Developer shall have the right, upon fifteen (15) days' prior written notice to City, to assign all or part of its rights hereunder to any one or more persons or entities that purchase or lease a portion of the Property within the Project. Any assignment requested by the Developer shall be approved by the City, such approval not to be unreasonably withheld or delayed. Developer's rights and obligations hereunder may only be assigned by a written instrument expressly assigning such rights and obligations. In the event of a complete assignment by Developer of all rights and obligations of Developer hereunder, Developer's liability hereunder shall terminate effective upon the assumption by Developer's assignee.

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12.8 Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

12.9 Amendment. No amendment or waiver of any provision in this Agreement will be binding on the City unless and until it has been approved by the City Council and has become effective, or on Developer unless and until it has been executed by an authorized representative.

12.10 Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.

12.11 Severability. Every provision of this Agreement is and will be construed to be a separate and independent covenant. If any provision in this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will not be affected by that invalidity or unenforceability and each provision in this Agreement will be valid and will be enforced to the extent permitted by law and the parties will negotiate in good faith for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

MAICOPA COUNTY

12.12 Covenant of Good Faith. In exercising their rights and in performing their obligations pursuant to this Agreement, the parties will cooperate with one another in good faith, so the intent of this Agreement can be attained.

12.13 Exhibits. All Exhibits attached hereto are incorporated herein by reference. The Exhibits are as follows:

Exhibit "A" - Legal Description of Property
Exhibit "B" - Development Plan
Exhibit "C" - Construction Schedule

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

"DEVELOPER"

AZVT, LLC, an Arizona limited liability company

By: _____ 10-8-99
Date

Its: Manager

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"CITY"

CITY OF AVONDALE, ARIZONA, an Arizona municipal corporation

By: _____ 10/18/99
Date

Its: VICE MAYOR

Lynda M Gee
CITY CLERK

AMENDED

STATE OF ARIZONA)
)
County of Maricopa)

The foregoing instrument was acknowledged before me this 8th day of October, 1999, by LARRY VAN TUYL, who acknowledged himself to be the Manager of AZVT, LLC, an Arizona limited liability company, for and on behalf of the company.

Linda Cortright
Notary Public

My commission expires:

6-30-2002

OFFICIAL SEAL
LINDA CORTRIGHT
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires June 30, 2002

STATE OF ARIZONA)
)
County of Maricopa)

The foregoing instrument was acknowledged before me this 18th day of OCTOBER, 1999, by HENRY BELTRAN & LINDA TY[illegible] Unofficial Document o acknowledged himself to be the VICE MAYOR & CITY CLERK of the CITY OF AVONDALE, an Arizona municipal corporation, for and on behalf of the municipal corporation.

Sharon K. Marshall
Notary Public

"OFFICIAL SEAL"
Sharon K. Marshall
Notary Public-Arizona
Maricopa County
My Commission Expires 10/19/2002

My commission expires:

EXHIBIT "A"

The South half of the North half of Section 5, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT any portion of the above described property lying between Line Nos. 1 and 2, as set forth in Final Order of Condemnation recorded in Instrument No. 84-463775, described as follows:

LINE NO. 1: COMMENCING at the Northeast corner of said Section 5;
THENCE South 0 degrees 22 minutes 39 seconds East, along the East line of said Section, 300.00 feet to the POINT OF BEGINNING;
THENCE South 89 degrees 37 minutes 21 seconds West, 40.00 feet;
THENCE South 7 degrees 08 minutes 11 seconds West, 382.34 feet;
THENCE South 88 degrees 58 minutes 31 seconds West, 58.65 feet;
THENCE South 80 degrees 16 minutes 47 seconds West, 859.88 feet;
THENCE South 88 degrees 58 minutes 31 seconds West, 4111.38 feet;
THENCE North 50 degrees 46 minutes 18 seconds West, 99.22 feet;
THENCE North 10 degrees 31 Unofficial Document 07 seconds West, 187.67 feet;
THENCE South 89 degrees 44 minutes 25 seconds West, 55.00 feet to the POINT OF ENDING on the West line of said Section 5, which point bears South 0 degrees 15 minutes 35 seconds East, 539.97 feet from the Northwest corner of said Section.

LINE NO. 2: COMMENCING at the East quarter corner of said Section 5;
THENCE North 0 degrees 22 minutes 39 seconds West, along the East line of said Section, 170.48 feet to the POINT OF BEGINNING;
THENCE South 89 degrees 37 minutes 21 seconds West, 40.00 feet;
THENCE North 0 degrees 22 minutes 39 seconds West, 1009.75 feet;
THENCE North 85 degrees 00 minutes 46 seconds West, 1014.57 feet;
THENCE South 88 degrees 58 minutes 31 seconds West, 4124.51 feet;
THENCE South 6 degrees 08 minutes 17 seconds West, 403.83 feet;
THENCE South 89 degrees 44 minutes 25 seconds West, 55.00 feet to the POINT OF ENDING on the West line of said Section 5, which point bears North 0 degrees 15 minutes 35 seconds West, 900.75 feet from the West quarter corner of said Section; and also

EXCEPT that portion of the South half of the Northwest quarter and of the Southwest quarter of the Northeast quarter of Section 5, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, which lies between the existing (1978) South right of way line of Interstate Highway 10 (Ehrenberg-Phoenix Highway) and the following described line:

COMMENCING at the West quarter corner of said Section 5;
THENCE along the West line of said Section 5, North 0 degrees 04 minutes 33 seconds West 1500.70 feet (1500.75, record) to the centerline of said Interstate Highway 10;
THENCE along said centerline North 89 degrees 09 minutes 33 seconds East, 1071.07 feet;
THENCE South 0 degrees 50 minutes 27 seconds East, 200.00 feet to the POINT OF BEGINNING on said existing South right of way line of Interstate Highway 10;
THENCE continuing South 0 degrees 50 minutes 27 seconds East, 46.18 feet;
THENCE North 87 degrees 35 minutes 49 seconds East, 960.36 feet;
THENCE North 87 degrees 31 minutes 21 seconds East, 700.29 feet to the POINT OF ENDING on said South right of way line of Interstate Highway 10, as conveyed to the STATE OF ARIZONA, by and through its Department of Transportation in Instrument No. 92-0512378; and also

EXCEPT that portion of the South half of the Northeast quarter of Section 5, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, which lies between the existing (1978) South right of way line of Interstate Highway 10 (Ehrenberg-Phoenix) and the following described line:

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COMMENCING at the East quarter corner of said Section 5;
THENCE along the East line of said Section 5, North 0 degrees 11 minutes 37 seconds West a distance of 1486.92 feet to the Median centerline of the aforesaid Interstate Highway 10;
THENCE South 89 degrees 09 minutes 33 seconds West 1443.24 feet;
THENCE South 0 degrees 50 minutes 27 seconds East 200.00 feet to the POINT OF BEGINNING in the aforesaid South right of way line of Interstate Highway 10;
THENCE South 88 degrees 15 minutes 51 seconds East 400.41 feet;
THENCE South 84 degrees 12 minutes 12 seconds East 276.85 feet;
THENCE South 82 degrees 58 minutes 47 seconds East 681.15 feet;
THENCE South 41 degrees 35 minutes 13 seconds East, 75.02 feet to the POINT OF ENDING on the existing West right of way line of 99th Avenue as conveyed to the STATE OF ARIZONA, by and through its Department of Transportation in Instrument No. 92-0406965; and also;

EXCEPT that portion of the South half of the Northwest quarter and of the Southwest quarter of the Northeast quarter of Section 5, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, which lies between the existing (1978) South right of way line of Interstate Highway 10 (Ehrenberg-Phoenix Highway) and the following described line:

COMMENCING at the West quarter corner of said Section 5;
THENCE along the West line of said Section 5, North 0 degrees 04 minutes 33 seconds West 1210.70 feet;
THENCE North 89 degrees 55 minutes 27 seconds East 89.76 feet to the POINT OF BEGINNING on the existing East right of way line of 107th Avenue;
THENCE North 73 degrees 19 minutes 36 seconds East 150.91 feet;
THENCE North 89 degrees 09 minutes 33 seconds East 700.01 feet;
THENCE North 87 degrees 35 minutes 49 seconds East 140.05 feet;
THENCE North 0 degrees 50 minutes 27 seconds West 46.18 feet to the POINT OF ENDING on the aforesaid existing South right of way of the 107th Avenue Interchange as conveyed to the STATE OF ARIZONA, by and through its Department of Transportation in Instrument No. 92-0406966; and also

EXCEPT the West 40 feet and the East 33 feet thereof.

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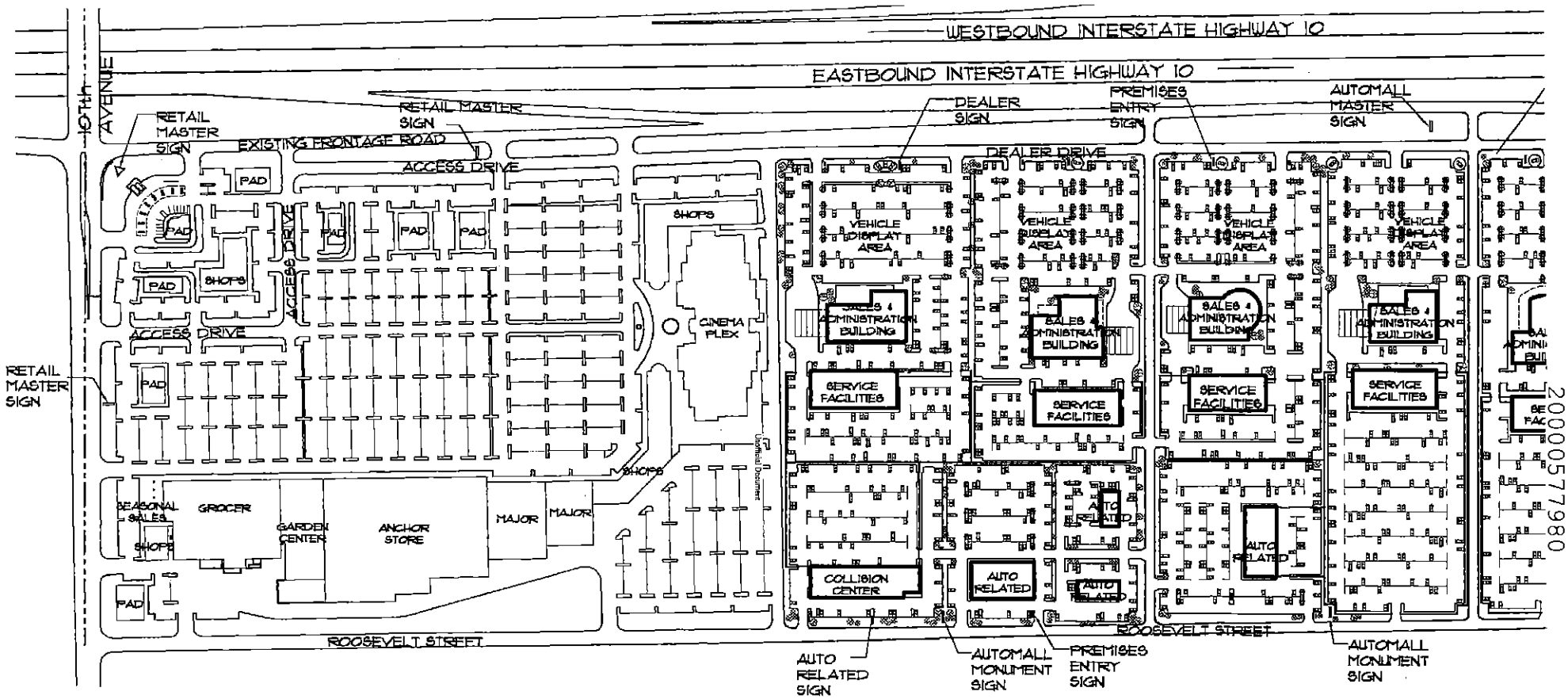

EXHIBIT "B" – PAGE 1 OF 2

SITE PLAN

SCALE: NO SCALE

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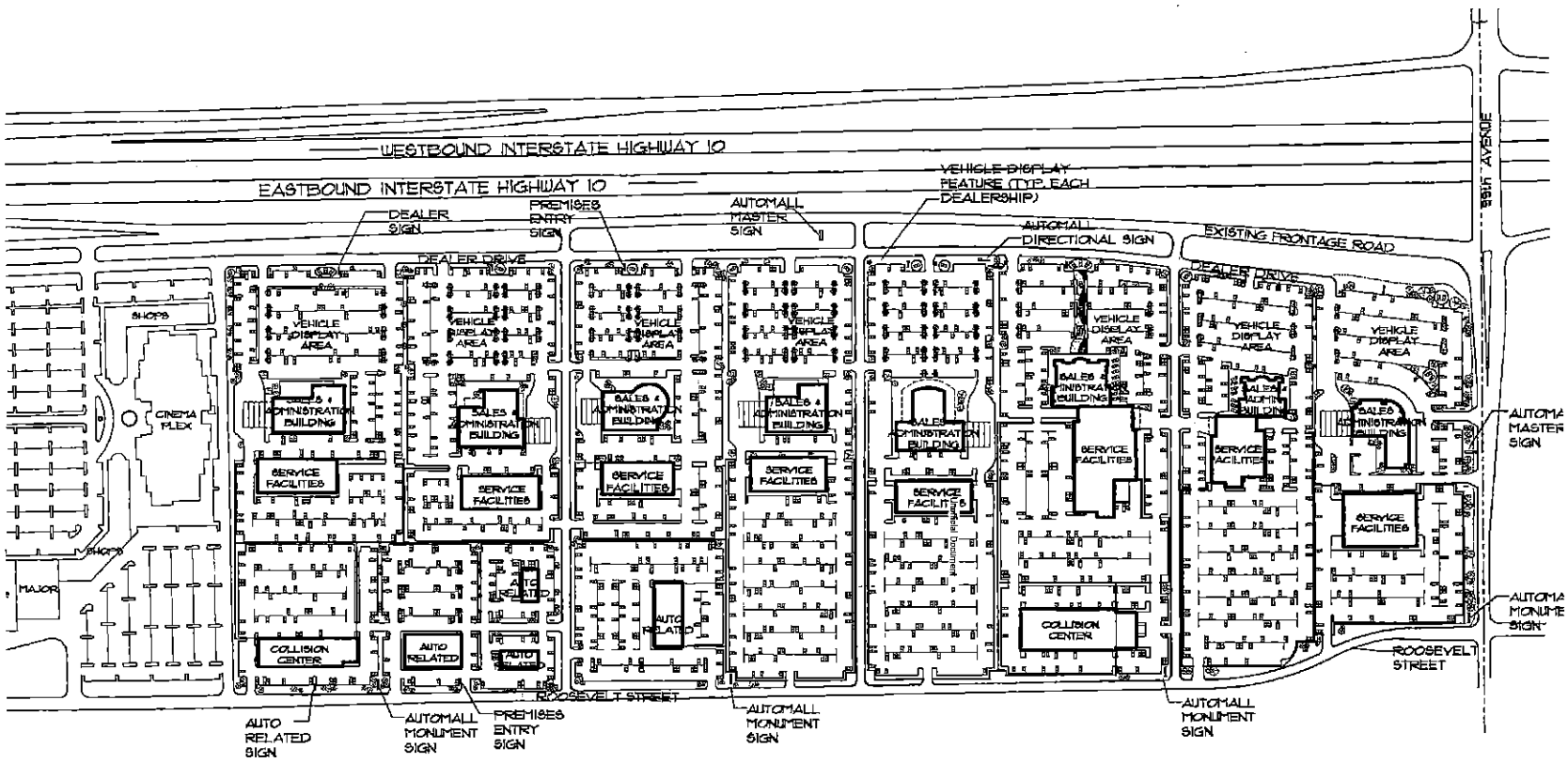

EXHIBIT "B" - PAGE 2 OF 2

BASE3.dwg

THE ABOVE DRAWING IS FOR ILLUSTRATION PURPOSES ONLY. IT IS NOT INTENDED TO REPRESENT THE ACTUAL CONSTRUCTION TO OCCUR. CHANGES AND MODIFICATIONS MAY BE NECESSARY TO MEET REQUIREMENTS FOR THE DEVELOPMENT OF THE PROPERTY.

Larson

Avondale Automall

S.W.C. 99th Avenue and Interstate Highway 10

Avondale, AZ.

Drawing Name:
SITE PLAN

Revisions

Date: 9/23/99

Project Number:

Drawing No.:
SP1.0

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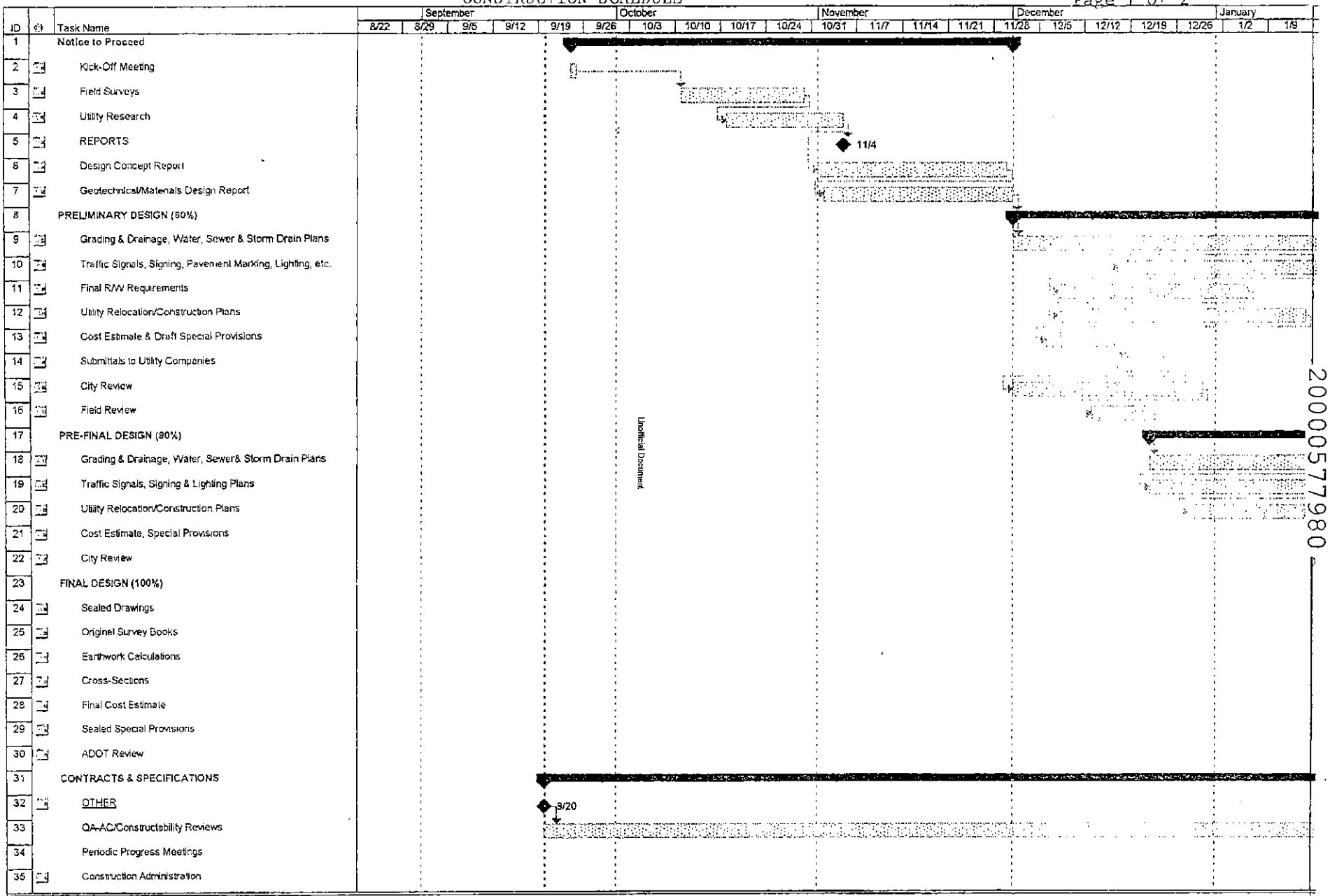
EXHIBIT "C"
CONSTRUCTION SCHEDULE



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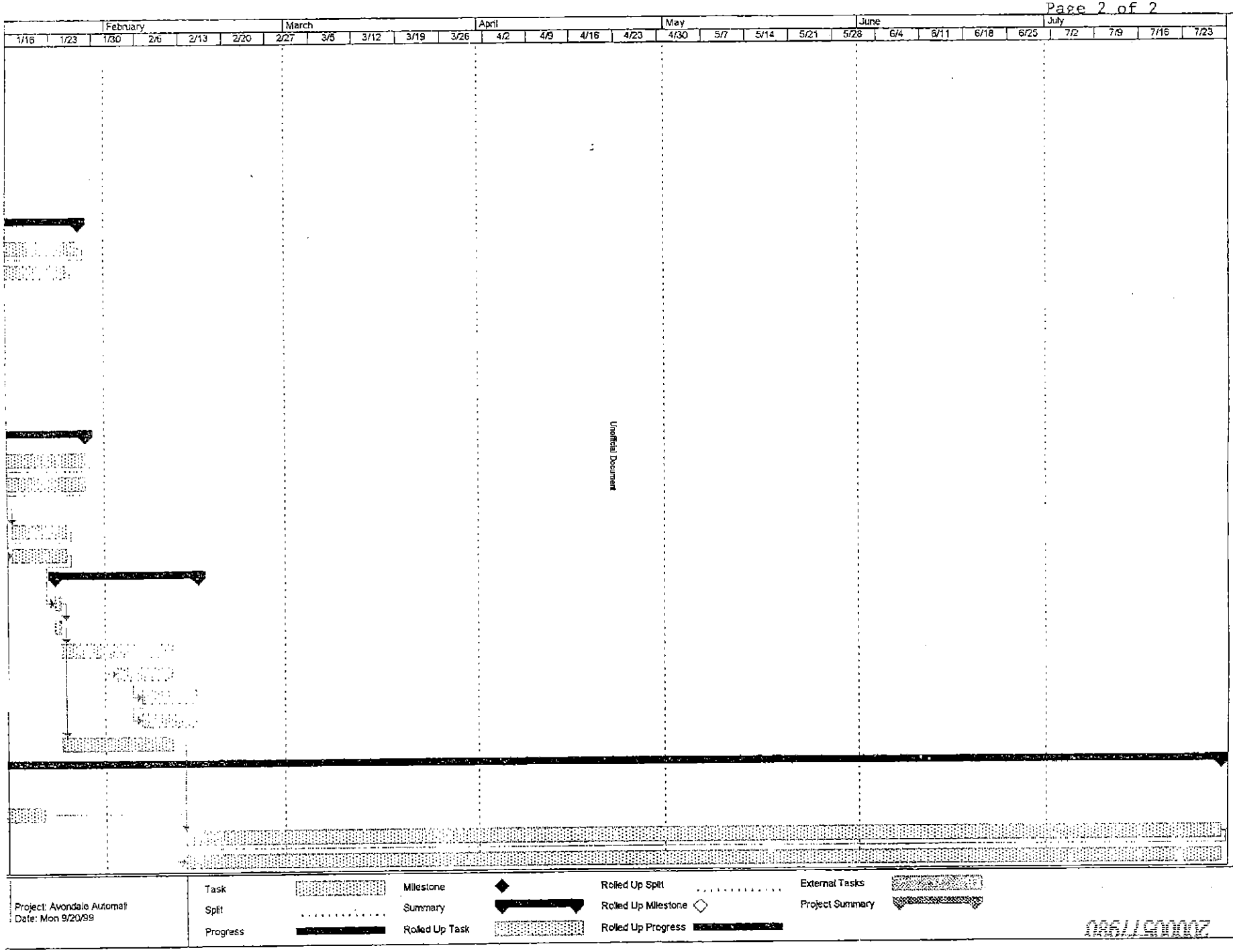

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DATA INPUT FORM
PROSPECT INFORMATION

Project Name: Auto Mall
Industry Name: AUTO DEALERS & SVC STATIONS

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10
Total Direct Employment:	240	850	1,090	1,090	1,090	1,090	1,090	1,090	1,090	1,090
Percent of Employees Living in Avondale	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%
Value of Taxable Direct Sales:	$43,750,000	$215,000,000	$270,000,000	$286,200,000	$303,372,000	$321,574,320	$340,868,779	$361,320,906	$383,000,160	$405,980,170
Total Annual Payroll:	$1,189,440	$17,395,560	$21,608,160	$22,256,405	$22,924,097	$23,611,820	$24,320,175	$25,049,780	$25,801,273	$26,575,311
Percent Skilled Workforce	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%
Percent Semi-Skilled Workforce	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%
Percent Unskilled Workforce	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Total Value of New Construction	$12,740,000	$45,500,000	$0	$0	$0	$0	$0	$0	$0	$0
Site Acreage (enter in year of constr. only)	25.0	52.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land Cost per Acre	$141,570	$262,812	$0	$0	$0	$0	$0	$0	$0	$0
Building Square Footage (retail projects only)	98000	350000	0	0	0	0	0	0	0	0
Sales per Square Foot (retail projects only)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Purchase Price (if buying existing building)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Annual Lease Cost (if leasing existing space)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Value of Local Equipment Purchases	$500,000	$1,100,000	$0	$0	$0	$0	$0	$0	$0	$0
Value of Nonlocal Equipment Purchases	$1,200,000	$4,500,000	$0	$0	$0	$0	$0	$0	$0	$0
Est. Monthly Water Use (000 gallons)	25.000	125.500	154.000	154.000	154.000	154.000	154.000	154.000	154.000	154.000
Water meter size (inches)	0.00									
Estimated Monthly Electric Costs	$18,500	$105,502	$135,700	$139,771	$143,964	$148,283	$152,731	$157,313	$162,032	$166,893
New Water Main Miles Added	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
New Street Miles Added	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
New Sanitary Sewer Miles Added	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Excess Monthly Sewer Charges for Pretreatment	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
New Housing Units (res. projects only)	0	0	0	0	0	0	0	0	0	0
If residential, is this a multi-family project? (yes=1, no=0)	0									
Sales Tax Incentives (fixed amount)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Reduced Sales Tax Rate	0.00%	0.00%	0.00%	$0	0.00%	$0	$0	0.00%	0.00%	0.00%
Permit Fees Waived (yes=1, no=0)	2									
State Shared Revenues Adjusted (yes=1,no=0)	0	0	1	$0	0	$0	$0	0	0	0

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ECONOMIC IMPACT SUMMARY
CITY OF AVONDALE

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Demographic										
Population	2,741	13,907	17,492	18,322	19,199	20,127	21,108	22,146	23,244	24,405
School Age Population	628	3,186	4,007	4,198	4,398	4,611	4,836	5,074	5,325	5,591
Households	848	4,306	5,416	5,672	5,944	6,231	6,535	6,856	7,196	7,556
Economic										
Employment	1,177	5,970	7,509	7,866	8,242	8,640	9,062	9,507	9,979	10,477
Personal Income	$8,790,322	$56,228,816	$70,345,075	$73,834,453	$77,511,253	$81,386,063	$85,470,086	$89,775,176	$94,313,877	$99,099,467
Output	$108,984,147	$595,850,211	$747,038,086	$788,477,750	$832,302,312	$878,651,827	$927,674,656	$979,527,963	$1,034,378,251	$1,092,401,917
Real Estate										
Residential Units	848	4306	5416	5672	5944	6231	6535	6856	7196	7556
Non-residential Sq. Feet	523,014	2,634,849	3,315,225	3,469,738	3,633,144	3,805,964	3,988,753	4,182,095	4,386,611	4,602,960
Assessed Value	$62,489,293	$309,836,854	$373,119,279	$387,569,953	$402,528,258	$417,991,056	$433,925,729	$451,136,679	$470,171,689	$490,307,975

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FISCAL IMPACT SUMMARY BY FUND
CITY OF AVONDALE
1996 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	NPV* Years 1 to 5	NPV* Years 1 to 10
General Fund-Direct												
Revenues	$936,663	$4,773,790	$5,304,933	$5,579,319	$5,868,023	$6,171,737	$6,491,066	$6,830,392	$7,193,000	$7,576,555	$13,631,840	$37,709,861
Expenditures and Transfers Out	$299,699	$1,401,577	$1,323,363	$1,387,097	$1,454,155	$1,524,701	$1,598,873	$1,677,691	$1,761,916	$1,851,006	$3,642,752	$9,566,970
Net Impact	$636.964	$3,372.214	$3,981,569	$4,192,222	$4,413,867	$4,647,036	$4,892,193	$5,152,702	$5,431,085	$5,725,549	$9,989,088	$28,142,891
Transportation-Direct												
Revenues	$10,457	$52,941	$58,969	$61,966	$65,119	$68,436	$71,924	$75,630	$79,590	$83,779	$151,423	$418,142
Expenditures and Transfers Out	$3,030	$9,605	$16,788	$23,020	$25,097	$25,097	$25,097	$25,097	$25,097	$20,771	$42,486	$131,549
Net Impact	$7,427	$43,337	$42,181	$38.946	$40,022	$43,339	$46,827	$50,533	$54,493	$63,008	$108,937	$286,594
Wastewater Enterprise Fund-Direct												
Revenues	$1,231	$3,224	$3,185	$3,185	$3,185	$3,185	$3,185	$3,185	$3,185	$3,185	$8,996	$20,579
Expenditures and Transfers Out	$1,495	$4,040	$4,993	$6,017	$6,358	$6,358	$6,358	$6,358	$6,358	$6,358	$13,591	$36,713
Net Impact	($264)	($816)	($1,807)	($2,832)	($3,173)	($3,173)	($3,173)	($3,173)	($3,173)	($3,173)	($4,595)	($16,134)
Water Enterprise Funds-Direct												
Revenues	$1,394	$3,802	$3,848	$3,848	$3,848	$3,848	$3,848	$3,848	$3,848	$3,848	$10,701	$24,695
Expenditures and Transfers Out	$2,767	$7,910	$12,177	$16,413	$17,825	$17,825	$3,709	$17,825	$17,825	$17,825	$31,956	$87,983
Net Impact	($1,373)	($4,107)	($8,329)	($12,565)	($13,977)	($13,977)	$139	($13,977)	($13,977)	($13,977)	($21,255)	($63,288)
Direct Net Impact-All Funds	$642,754	$3,410,627	$4,013,614	$4,215,772	$4,436,740	$4,673,226	$4,935,986	$5,186,085	$5,468,428	$5,771,407	$10,072,175	$28,350,063

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REAL ESTATE SUPPORTED BY: Auto Mall
CITY OF AVONDALE

	Square Feet Supported									
Land Use	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Hotel	6,558	35,852	44,949	47,442	50,079	52,868	55,818	58,938	62,238	65,730
Retail	226,263	1,116,667	1,406,340	1,468,603	1,534,449	1,604,089	1,677,745	1,755,654	1,838,066	1,925,246
Office	145,118	770,070	966,692	1,017,263	1,070,745	1,127,308	1,187,134	1,250,414	1,317,351	1,388,161
Industrial	98,180	472,948	596,311	621,038	647,188	674,845	704,097	735,038	767,767	802,390
Hospital	15,258	83,418	104,584	110,385	116,521	123,010	129,873	137,132	144,811	152,934
Utilities	3,722	20,348	25,511	26,926	28,422	30,005	31,679	33,450	35,323	37,304
Government	26,324	126,843	159,926	166,563	173,581	181,004	188,855	197,160	205,944	215,237
Other	1,592	8,704	10,913	11,518	12,158	12,836	13,552	14,309	15,110	15,958
Housing Units	848	4,306	5,416	5,672	5,944	6,231	6,535	6,856	7,196	7,556
Total Square Feet	523,014	2,634,849	3,315,225	3,469,738	3,633,144	3,805,964	3,988,753	4,182,095	4,386,611	4,602,960

Source: U.S. Bureau of Labor Statistics; Applied Economics.

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TOTAL FISCAL IMPACT OF: Auto Mall
GENERAL FUND
CITY OF AVONDALE
1996 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5
REVENUES	**$1,642,676**	**$8,297,387**	**$12,362,575**	**$12,740,991**	**$13,233,491**
Taxes					
Sales Tax	$1,010,865	$5,191,566	$5,912,359	$6,231,773	$6,569,570
Primary Property Tax	$158,867	$781,757	$909,917	$939,868	$970,118
Utility Franchise Tax	$40,786	$211,839	$267,055	$279,444	$292,519
Cable TV Franchise	$5,887	$29,872	$37,573	$39,355	$41,239
SRP In-Lieu Tax	$0	$0	$0	$0	$0
Sales Tax Audit Assessment	$0	$0	$0	$0	$0
Licenses and Permits					
Occupational Licenses	$10,755	$54,578	$68,649	$71,904	$75,347
Liquor Licenses	$0	$0	$0	$0	$0
Intergovernmental					
State Sales Tax	$2,188	$11,105	$1,431,483	$1,432,145	$1,432,846
State Income Tax	$2,339	$11,870	$1,530,110	$1,530,818	$1,531,566
Vehicle License Tax	$67,052	$340,255	$427,976	$448,271	$469,734
Other County Reimbursements	$0	$0	$0	$0	$0
Charges for Services					
Building Permit Fees	$56,923	$237,629	$75,615	$18,354	$19,410
Electrical Permit Fees	$1,970	$8,226	$2,617	$635	$672
Plumbing Permit Fees	$1,970	$8,226	$2,617	$635	$672
Engineering Fees	$14,924	$62,303	$19,825	$4,812	$5,089
Planning Application Fees	$3,990	$16,656	$5,300	$1,286	$1,360
Plan Check Fees	$5,572	$23,262	$7,402	$1,797	$1,900
Sanitation Development Fees	$0	$0	$0	$0	$0
Refuse Collection Fees	$168,273	$853,902	$1,074,046	$1,124,977	$1,178,840
Misc Fees	$0	$0	$0	$0	$0
Fines and Forfeits					
Library Fines	$186	$943	$1,186	$1,242	$1,302
Court Fines	$43,977	$221,102	$271,949	$284,845	$298,483
Misc Fines/Forfeits	$660	$3,297	$3,994	$4,183	$4,383
Miscellaneous					
Interest	$24,442	$123,462	$183,951	$189,581	$196,910
Ambulence Fees	$4,745	$24,076	$30,283	$31,720	$33,238
Other	$16,303	$81,460	$98,666	$103,345	$108,293
EXPENDITURES	**$1,023,218**	**$5,045,090**	**$5,860,443**	**$6,087,763**	**$6,378,531**
City Council	$1,084	$5,499	$6,917	$7,245	$7,592
City Manager/Administration	$26,032	$130,450	$159,152	$166,699	$174,680
Human Resources	$20,231	$101,714	$125,105	$131,037	$137,311
Economic Development	$3,360	$17,050	$21,446	$22,463	$23,538
Equipment Management	$53,928	$273,655	$344,206	$360,528	$377,790
Nondepartmental	$99,476	$487,991	$558,426	$579,135	$606,783
Financial Services	$23,679	$119,606	$178,205	$183,660	$190,759
Engineering	$0	$0	$0	$0	$0
City Clerk	$14,590	$74,035	$93,122	$97,538	$102,208
Planning	$51,988	$211,881	$111,300	$116,578	$122,159
Building Inspection	$57,644	$229,993	$53,126	$12,895	$13,637
Facilities and Grounds	$8,858	$44,537	$54,780	$57,377	$60,125
Social Services	$36,201	$183,700	$231,059	$242,016	$253,604
Library	$52,268	$265,233	$333,612	$349,432	$366,163
Police	$264,003	$1,335,629	$1,647,615	$1,726,679	$1,810,294
Court	$26,531	$134,629	$169,338	$177,368	$185,860
Fire	$131,979	$661,367	$806,885	$845,147	$885,612
Sanitation	$151,369	$768,121	$966,149	$1,011,964	$1,060,416
Transfers Out					
Debt Service	$129,754	$662,957	$760,226	$799,004	$839,860
Special Revenue Funds	$11,110	$56,376	$70,911	$74,273	$77,829
Vehicle Replacement	$45,684	$231,824	$291,590	$305,417	$320,040
Equipment Replacement	$2,998	$15,212	$19,134	$20,041	$21,000
Self Insurance	$0	$0	$0	$0	$0
HURF	$17,941	$90,621	$135,020	$139,153	$144,532
Contingency/Appropriated Reserve	$164,268	$829,739	$1,236,257	$1,274,099	$1,323,349
NET IMPACT	**$247,704**	**$1,365,568**	**$3,988,994**	**$4,041,241**	**$4,128,350**

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Source: Applied Economics, City of Avondale Annual Budget.

TOTAL FISCAL IMPACT OF: Auto Mall
GENERAL FUND
CITY OF AVONDALE
1996 Dollars

	Year 6	Year 7	Year 8	Year 9	Year 10
REVENUES	**$13,752,746**	**$14,300,048**	**$14,880,513**	**$15,498,198**	**$16,151,589**
Taxes					
Sales Tax	$6,926,829	$7,304,694	$7,704,376	$8,127,159	$8,574,402
Primary Property Tax	$1,000,540	$1,030,870	$1,064,518	$1,103,756	$1,145,264
Utility Franchise Tax	$306,320	$320,888	$336,268	$352,506	$369,652
Cable TV Franchise	$43,232	$45,340	$47,569	$49,928	$52,422
SRP In-Lieu Tax	$0	$0	$0	$0	$0
Sales Tax Audit Assessment	$0	$0	$0	$0	$0
Licenses and Permits					
Occupational Licenses	$78,988	$82,839	$86,912	$91,221	$95,779
Liquor Licenses	$0	$0	$0	$0	$0
Intergovernmental					
State Sales Tax	$1,433,586	$1,434,370	$1,435,199	$1,436,075	$1,437,003
State Income Tax	$1,532,358	$1,533,196	$1,534,082	$1,535,019	$1,536,010
Vehicle License Tax	$492,433	$516,441	$541,836	$568,699	$597,115
Other County Reimbursements	$0	$0	$0	$0	$0
Charges for Services					
Building Permit Fees	$20,528	$21,712	$22,966	$24,293	$25,699
Electrical Permit Fees	$711	$752	$795	$841	$890
Plumbing Permit Fees	$711	$752	$795	$841	$890
Engineering Fees	$5,382	$5,693	$6,021	$6,369	$6,738
Planning Application Fees	$1,439	$1,522	$1,610	$1,703	$1,801
Plan Check Fees	$2,010	$2,125	$2,248	$2,378	$2,516
Sanitation Development Fees	$0	$0	$0	$0	$0
Refuse Collection Fees	$1,235,806	$1,296,057	$1,359,788	$1,427,202	$1,498,516
Misc Fees	$0	$0	$0	$0	$0
Fines and Forfeits					
Library Fines	$1,365	$1,431	$1,502	$1,576	$1,655
Court Fines	$312,907	$328,163	$344,299	$361,369	$379,426
Misc Fines/Forfeits	$4,595	$4,819	$5,056	$5,307	$5,572
Miscellaneous					
Interest	$204,636	$212,780	$221,417	$230,608	$240,330
Ambulence Fees	$34,844	$36,543	$38,340	$40,241	$42,252
Other	$113,526	$119,061	$124,916	$131,109	$137,660
EXPENDITURES	**$6,686,026**	**$7,011,227**	**$7,355,230**	**$7,719,177**	**$8,104,181**
City Council	$7,959	$8,347	$8,757	$9,191	$9,651
City Manager/Administration	$183,122	$192,050	$201,493	$211,483	$222,050
Human Resources	$143,947	$150,965	$158,388	$166,241	$174,547
Economic Development	$24,676	$25,879	$27,151	$28,497	$29,921
Equipment Management	$396,046	$415,355	$435,779	$457,384	$480,238
Nondepartmental	$636,021	$666,941	$699,650	$734,256	$770,865
Financial Services	$198,244	$206,133	$214,500	$223,404	$232,823
Engineering	$0	$0	$0	$0	$0
City Clerk	$107,147	$112,371	$117,896	$123,741	$129,924
Planning	$128,063	$134,306	$140,911	$147,896	$155,287
Building Inspection	$14,423	$15,255	$16,135	$17,068	$18,055
Facilities and Grounds	$63,030	$66,103	$69,354	$72,792	$76,429
Social Services	$265,859	$278,821	$292,531	$307,034	$322,376
Library	$383,857	$402,572	$422,368	$443,307	$465,458
Police	$1,898,725	$1,992,258	$2,091,190	$2,195,841	$2,306,546
Court	$194,841	$204,341	$214,389	$225,018	$236,261
Fire	$928,408	$973,673	$1,021,550	$1,072,196	$1,125,771
Sanitation	$1,111,659	$1,165,858	$1,223,186	$1,283,828	$1,347,978
Transfers Out					
Debt Service	$882,898	$928,219	$976,321	$1,027,588	$1,081,818
Special Revenue Funds	$81,590	$85,568	$89,776	$94,227	$98,935
Vehicle Replacement	$335,506	$351,864	$369,166	$387,468	$406,829
Equipment Replacement	$22,015	$23,089	$24,224	$25,425	$26,695
Self Insurance	$0	$0	$0	$0	$0
HURF	$150,203	$156,180	$162,520	$169,266	$176,402
Contingency/Appropriated Reserve	$1,375,275	$1,430,005	$1,488,051	$1,549,820	$1,615,159
NET IMPACT	**$4,219,233**	**$4,313,897**	**$4,415,225**	**$4,525,228**	**$4,641,570**

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Source: Applied Economics, City of Avondale Anr

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DATA INPUT FORM
PROSPECT INFORMATION

Project Name: 99th /107th Retail Center
Industry Name: MISC RETAIL

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10
Total Direct Employment:	0	950	950	950	950	950	950	950	950	950
Percent of Employees Living in Avondale	0%	75%	75%	75%	75%	75%	75%	75%	75%	75%
Value of Taxable Direct Sales:	$0	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000
Total Annual Payroll:	$0	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000
Percent Skilled Workforce	0%	35%	35%	35%	35%	35%	35%	35%	35%	35%
Percent Semi-Skilled Workforce	0%	40%	40%	40%	40%	40%	40%	40%	40%	40%
Percent Unskilled Workforce	0%	25%	25%	25%	25%	25%	25%	25%	25%	25%
Total Value of New Construction	$50,625,000	$0	$0	$0	$0	$0	$0	$0	$0	$0
Site Acreage (enter in year of constr. only)	150.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land Cost per Acre	$239,580	$0	$0	$0	$0	$0	$0	$0	$0	$0
Building Square Footage (retail projects only)	0	0	0	0	0	0	0	0	0	0
Sales per Square Foot (retail projects only)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Purchase Price (if buying existing building)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Annual Lease Cost (if leasing existing space)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Value of Local Equipment Purchases	$700,000	$0	$0	$0	$0	$0	$0	$0	$0	$0
Value of Nonlocal Equipment Purchases	$6,500,000	$0	$0	$0	$0	$0	$0	$0	$0	$0
Est. Monthly Water Use (000 gallons)	0.000	300.000	300.000	300.000	300.000	300.000	300.000	300.000	300.000	300.000
Water meter size (inches)	0.00									
Estimated Monthly Electric Costs	$0	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000
New Water Main Miles Added	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
New Street Miles Added	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
New Sanitary Sewer Miles Added	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Excess Monthly Sewer Charges for Pretreatment	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
New Housing Units (res. projects only)	0	0	0	0	0	0	0	0	0	0
If residential, is this a multi-family project? (yes=1, no=0)	0									
Sales Tax Incentives (fixed amount)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Reduced Sales Tax Rate	0.00%	0.00%	0.00%	$0	0.00%	$0	$0	0.00%	0.00%	0.00%
Permit Fees Waived (yes=1, no=0)	2									
State Shared Revenues Adjusted (yes=1,no=0)	0	0	1	$0	0	$0	$0	0	0	0

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FISCAL IMPACT SUMMARY BY FUND
CITY OF AVONDALE
1996 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	NPV* Years 1 to 5	NPV* Years 1 to 10
General Fund-Total												
Revenues	$892,245	$3,611,565	$4,208,499	$4,207,701	$4,205,567	$4,200,781	$4,196,283	$4,196,283	$4,196,283	$4,196,283	$10,633,778	$25,902,632
Expenditures	$516,030	$2,279,877	$2,293,758	$2,293,573	$2,293,077	$2,291,965	$2,290,921	$2,290,921	$2,290,921	$2,290,921	$6,095,749	$14,428,618
Net Impact	$376,215	$1,331,688	$1,914,741	$1,914,128	$1,912,489	$1,908,815	$1,905,362	$1,905,362	$1,905,362	$1,905,362	$4,538,029	$11,474,014
Transportation Fund-Total												
Revenues	$9,745	$285,320	$320,116	$320,108	$320,084	$320,032	$319,983	$319,983	$319,983	$319,983	$763,836	$1,927,518
Expenditures and Transfers Out	$11,870	$253,610	$265,381	$269,535	$270,920	$270,920	$270,920	$270,920	$270,920	$270,920	$654,863	$1,640,027
Net Impact	($2,125)	$31,710	$54,736	$50,573	$49,165	$49,112	$49,063	$49,063	$49,063	$49,063	$108,973	$287,490
Wastewater Enterprise Fund-Total												
Revenues	$131	$272,210	$166,670	$166,670	$166,670	$166,670	$166,670	$166,670	$166,670	$166,670	$501,085	$1,107,158
Expenditures and Transfers Out	$318	$239,680	$134,823	$135,506	$135,733	$135,733	$135,733	$135,733	$135,733	$135,733	$423,075	$916,651
Net Impact	($187)	$32,530	$31,847	$31,164	$30,937	$30,937	$30,937	$30,937	$30,937	$30,937	$78,010	$190,507
Water Enterprise Fund-Total												
Revenues	$795	$209,852	$201,371	$201,371	$201,371	$201,371	$201,371	$201,371	$201,371	$201,371	$502,039	$1,234,297
Expenditures and Transfers Out	$1,719	$204,144	$199,578	$202,402	$203,343	$203,343	$203,343	$203,343	$203,343	$203,343	$497,241	$1,236,672
Net Impact	($924)	$5,708	$1,792	($1,031)	($1,973)	($1,973)	($1,973)	($1,973)	($1,973)	($1,973)	$4,798	($2,375)
Total Net Impact-All Funds	$372,978	$1,401,636	$2,003,116	$1,994,834	$1,990,618	$1,986,892	$1,983,389	$1,983,389	$1,983,389	$1,983,389	$4,729,810	$11,949,636
Total Revenues Generated Per Dollar of O&M Expenditures	$1.70	$1.47	$1.69	$1.69	$1.69	$1.68	$1.68	$1.68	$1.68	$1.68		

* Net Present Value of ten-year impact discounted at 7 percent annually.

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REAL ESTATE SUPPORTED BY: 99th /107th Retail Center
CITY OF AVONDALE

	Square Feet Supported									
Land Use	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Hotel	0	56,699	56,699	56,699	56,699	56,699	56,699	56,699	56,699	56,699
Retail	0	388,952	388,952	388,952	388,952	388,952	388,952	388,952	388,952	388,952
Office	0	139,694	139,694	139,694	139,694	139,694	139,694	139,694	139,694	139,694
Industrial	0	133,520	133,520	133,520	133,520	133,520	133,520	133,520	133,520	133,520
Hospital	0	18,779	18,779	18,779	18,779	18,779	18,779	18,779	18,779	18,779
Utilities	0	3,005	3,005	3,005	3,005	3,005	3,005	3,005	3,005	3,005
Government	0	49,067	49,067	49,067	49,067	49,067	49,067	49,067	49,067	49,067
Other	0	8,898	8,898	8,898	8,898	8,898	8,898	8,898	8,898	8,898
Housing Units	0	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302
Total Square Feet	0	798,614	798,614	798,614	798,614	798,614	798,614	798,614	798,614	798,614

Source: U.S. Bureau of Labor Statistics; Applied Economics.

Unofficial Document

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ECONOMIC IMPACT SUMMARY
CITY OF AVONDALE

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Demographic										
Population	0	4,204	4,204	4,204	4,204	4,204	4,204	4,204	4,204	4,204
School Age Population	0	963	963	963	963	963	963	963	963	963
Households	0	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302
Economic										
Employment	0	1,805	1,805	1,805	1,805	1,805	1,805	1,805	1,805	1,805
Personal Income	$0	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750
Output	$0	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000
Real Estate										
Residential Units	0	1302	1302	1302	1302	1302	1302	1302	1302	1302
Non-residential Sq. Feet	0	798,614	798,614	798,614	798,614	798,614	798,614	798,614	798,614	798,614
Assessed Value	$78,589,150	$159,122,127	$159,263,697	$159,084,947	$158,606,612	$157,534,112	$156,526,112	$156,526,112	$156,526,112	$156,526,112

20000577980

Unofficial Document

TOTAL FISCAL IMPACT OF: 99th /107th Retail Center
GENERAL FUND
CITY OF AVONDALE
1996 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5
REVENUES	**$892,245**	**$3,611,565**	**$4,208,499**	**$4,207,701**	**$4,205,567**
Taxes					
Sales Tax	$524,553	$2,384,961	$2,384,961	$2,384,961	$2,384,961
Primary Property Tax	$345,478	$498,699	$499,321	$498,535	$496,432
Utility Franchise Tax	$0	$65,661	$65,661	$65,661	$65,661
Cable TV Franchise	$0	$9,031	$9,031	$9,031	$9,031
SRP In-Lieu Tax	$0	$0	$0	$0	$0
Sales Tax Audit Assessment	$0	$0	$0	$0	$0
Licenses and Permits					
Occupational Licenses	$0	$16,499	$16,499	$16,499	$16,499
Liquor Licenses	$0	$0	$0	$0	$0
Intergovernmental					
State Sales Tax	$0	$3,357	$344,049	$344,049	$344,049
State Income Tax	$0	$3,588	$367,754	$367,754	$367,754
Vehicle License Tax	$0	$102,862	$102,862	$102,862	$102,862
Other County Reimbursements	$0	$0	$0	$0	$0
Charges for Services					
Building Permit Fees	$0	$78,317	$0	$0	$0
Electrical Permit Fees	$0	$2,711	$0	$0	$0
Plumbing Permit Fees	$0	$2,711	$0	$0	$0
Engineering Fees	$0	$20,533	$0	$0	$0
Planning Application Fees	$0	$5,489	$0	$0	$0
Plan Check Fees	$0	$7,667	$0	$0	$0
Sanitation Development Fees	$0	$0	$0	$0	$0
Refuse Collection Fees	$0	$258,141	$258,141	$258,141	$258,141
Misc Fees	$0	$0	$0	$0	$0
Fines and Forfeits					
Library Fines	$0	$285	$285	$285	$285
Court Fines	$5,444	$65,362	$65,362	$65,362	$65,362
Misc Fines/Forfeits	$136	$960	$960	$960	$960
Miscellaneous					
Interest	$13,276	$53,739	$62,621	$62,609	$62,577
Ambulence Fees	$0	$7,278	$7,278	$7,278	$7,278
Other	$3,357	$23,714	$23,714	$23,714	$23,714
EXPENDITURES	**$324,254**	**$1,471,985**	**$1,419,587**	**$1,419,574**	**$1,419,540**
City Council	$0	$1,662	$1,662	$1,662	$1,662
City Manager/Administration	$4,360	$38,251	$38,251	$38,251	$38,251
Human Resources	$2,505	$30,068	$30,068	$30,068	$30,068
Economic Development	$0	$5,154	$5,154	$5,154	$5,154
Equipment Management	$0	$82,728	$82,728	$82,728	$82,728
Nondepartmental	$36,997	$141,455	$135,477	$135,475	$135,471
Financial Services	$12,862	$52,060	$60,665	$60,653	$60,623
Engineering	$0	$0	$0	$0	$0
City Clerk	$0	$22,381	$22,381	$22,381	$22,381
Planning	$137,293	$26,750	$26,750	$26,750	$26,750
Building Inspection	$70,139	$55,024	$0	$0	$0
Facilities and Grounds	$1,097	$13,166	$13,166	$13,166	$13,166
Social Services	$0	$55,534	$55,534	$55,534	$55,534
Library	$0	$80,182	$80,182	$80,182	$80,182
Police	$36,898	$400,729	$400,729	$400,729	$400,729
Court	$0	$40,699	$40,699	$40,699	$40,699
Fire	$22,105	$193,930	$193,930	$193,930	$193,930
Sanitation	$0	$232,209	$232,209	$232,209	$232,209
Transfers Out					
Debt Service	$92,806	$315,567	$315,633	$315,550	$315,325
Special Revenue Funds	$0	$17,043	$17,043	$17,043	$17,043
Vehicle Replacement	$0	$70,082	$70,082	$70,082	$70,082
Equipment Replacement	$0	$4,599	$4,599	$4,599	$4,599
Self Insurance	$0	$0	$0	$0	$0
HURF	$9,745	$39,444	$45,964	$45,955	$45,932
Contingency/Appropriated Reserve	$89,224	$361,156	$420,850	$420,770	$420,557
NET IMPACT	**$376,215**	**$1,331,688**	**$1,914,741**	**$1,914,128**	**$1,912,489**

Unofficial Document

MAILGRAM

Source: Applied Economics, City of Avondale Annual Budget.

TOTAL FISCAL IMPACT OF: 99th /107th Ret
GENERAL FUND
CITY OF AVONDALE
1996 Dollars

	Year 6	Year 7	Year 8	Year 9	Year 10
REVENUES	**$4,200,781**	**$4,196,283**	**$4,196,283**	**$4,196,283**	**$4,196,283**
Taxes					
Sales Tax	$2,384,961	$2,384,961	$2,384,961	$2,384,961	$2,384,961
Primary Property Tax	$491,718	$487,286	$487,286	$487,286	$487,286
Utility Franchise Tax	$65,661	$65,661	$65,661	$65,661	$65,661
Cable TV Franchise	$9,031	$9,031	$9,031	$9,031	$9,031
SRP In-Lieu Tax	$0	$0	$0	$0	$0
Sales Tax Audit Assessment	$0	$0	$0	$0	$0
Licenses and Permits					
Occupational Licenses	$16,499	$16,499	$16,499	$16,499	$16,499
Liquor Licenses	$0	$0	$0	$0	$0
Intergovernmental					
State Sales Tax	$344,049	$344,049	$344,049	$344,049	$344,049
State Income Tax	$367,754	$367,754	$367,754	$367,754	$367,754
Vehicle License Tax	$102,862	$102,862	$102,862	$102,862	$102,862
Other County Reimbursements	$0	$0	$0	$0	$0
Charges for Services					
Building Permit Fees	$0	$0	$0	$0	$0
Electrical Permit Fees	$0	$0	$0	$0	$0
Plumbing Permit Fees	$0	$0	$0	$0	$0
Engineering Fees	$0	$0	$0	$0	$0
Planning Application Fees	$0	$0	$0	$0	$0
Plan Check Fees	$0	$0	$0	$0	$0
Sanitation Development Fees	$0	$0	$0	$0	$0
Refuse Collection Fees	$258,141	$258,141	$258,141	$258,141	$258,141
Misc Fees	$0	$0	$0	$0	$0
Fines and Forfeits					
Library Fines	$285	$285	$285	$285	$285
Court Fines	$65,362	$65,362	$65,362	$65,362	$65,362
Misc Fines/Forfeits	$960	$960	$960	$960	$960
Miscellaneous	Unofficial Document				
Interest	$62,506	$62,439	$62,439	$62,439	$62,439
Ambulence Fees	$7,278	$7,278	$7,278	$7,278	$7,278
Other	$23,714	$23,714	$23,714	$23,714	$23,714
EXPENDITURES	**$1,419,462**	**$1,419,389**	**$1,419,389**	**$1,419,389**	**$1,419,389**
City Council	$1,662	$1,662	$1,662	$1,662	$1,662
City Manager/Administration	$38,251	$38,251	$38,251	$38,251	$38,251
Human Resources	$30,068	$30,068	$30,068	$30,068	$30,068
Economic Development	$5,154	$5,154	$5,154	$5,154	$5,154
Equipment Management	$82,728	$82,728	$82,728	$82,728	$82,728
Nondepartmental	$135,462	$135,454	$135,454	$135,454	$135,454
Financial Services	$60,554	$60,489	$60,489	$60,489	$60,489
Engineering	$0	$0	$0	$0	$0
City Clerk	$22,381	$22,381	$22,381	$22,381	$22,381
Planning	$26,750	$26,750	$26,750	$26,750	$26,750
Building Inspection	$0	$0	$0	$0	$0
Facilities and Grounds	$13,166	$13,166	$13,166	$13,166	$13,166
Social Services	$55,534	$55,534	$55,534	$55,534	$55,534
Library	$80,182	$80,182	$80,182	$80,182	$80,182
Police	$400,729	$400,729	$400,729	$400,729	$400,729
Court	$40,699	$40,699	$40,699	$40,699	$40,699
Fire	$193,930	$193,930	$193,930	$193,930	$193,930
Sanitation	$232,209	$232,209	$232,209	$232,209	$232,209
Transfers Out					
Debt Service	$314,822	$314,350	$314,350	$314,350	$314,350
Special Revenue Funds	$17,043	$17,043	$17,043	$17,043	$17,043
Vehicle Replacement	$70,082	$70,082	$70,082	$70,082	$70,082
Equipment Replacement	$4,599	$4,599	$4,599	$4,599	$4,599
Self Insurance	$0	$0	$0	$0	$0
HURF	$45,879	$45,830	$45,830	$45,830	$45,830
Contingency/Appropriated Reserve	$420,078	$419,628	$419,628	$419,628	$419,628
NET IMPACT	**$1,908,815**	**$1,905,362**	**$1,905,362**	**$1,905,362**	**$1,905,362**

Source: Applied Economics, City of Avondale Anr

Exhibit F

2002 First Amendment to Development Agreement

FIRST AMENDMENT TO [ECONOMIC] DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AZVT, L.L.C.

THIS FIRST AMENDMENT TO [ECONOMIC] DEVELOPMENT AGREEMENT (this "First Amendment") is made as of May 6, 2002, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City") and AZVT, L.L.C., an Arizona limited liability company (the "Developer"). All capitalized terms used in the First Amendment and not otherwise defined herein shall have the same meaning set forth in the Agreement, as defined below.

RECITALS

A. The City and the Developer entered into that certain development agreement on October 18, 1999 (the "Agreement"), relating to, *inter alia,* development of the Auto Mall located generally at the Southwest corner of 99th Avenue and Interstate 10.

B. The Agreement provided for transaction privilege tax rebates (the "Rebates") to Developer for developing the Auto Mall and attracting new car automobile dealerships to it.

C. The City and Developer have reached an agreement with Earnhardt Auto Centers ("Earnhardt") to bring Earnhardt Volkswagen, Earnhardt Honda and Earnhardt RV to the Auto Mall.

D. The City and Developer desire to amend the Agreement to alter the Rebates so that each may share a portion of its respective share thereof with Earnhardt as an inducement to bring the three additional dealerships to the Auto Mall.

AGREEMENT

NOW, THEREFORE, in consideration foregoing recitals and the covenants and conditions set forth below, the parties hereby agree as follows:

1. Section 4.2 of the Agreement is hereby deleted in its entirety and replaced with the following

4.2 Financial Assistance.

(a) Except as specifically set forth in subsection 4.2(c) below, each auto dealership and retail business within the Project will collect all retail sales tax levied pursuant to the City Tax Code resulting from retail sales by such dealerships and retail businesses located within the Project, and will remit the same to the City according to applicable law. As an inducement to Developer to construct the infrastructure improvements, and to develop, attract, and open auto dealerships, other automotive uses, and retail businesses within the Project, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City hereby agrees to rebate a portion of the retail sales tax generated by each of the auto dealerships and other automotive uses

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operating within the Auto Mall, and retail businesses operating in facilities greater than 10,000 square feet within the Retail Center, and paid to the City. Upon the substantial completion by Developer of the infrastructure improvements described in Recital D, for the term described in Section 3.1 above, the City will rebate to Developer 50% of the annual retail sales taxes collected by the City from each of the businesses described above located within the Project, payable in quarterly installments. The City's obligation to pay the quarterly retail sales tax rebate payments to Developer, pursuant to this subsection 4.2(a), will automatically cease and the City will have no further obligation to Developer pursuant to this Agreement upon the earlier of the expiration of the fifteen (15) year term described in Section 3.1 above, or upon the Developer receiving a total of Twelve Million Dollars ($12,000,000) (the date of such event being hereinafter referred to as the "Termination Date").

(b) The first quarterly payment required by subsection 4.2(a) above will be paid no later than sixty (60) days after the end of the first full quarter following the opening for business of the first auto dealership or qualifying retail business generating retail sales tax within the Project. Subsequent quarterly payments will be made no later than sixty (60) days after the end of each succeeding quarter. Each quarterly payment will be mailed to Developer at the address for notice set forth in Section 7.0 below, or as otherwise agreed by City and Developer.

(c) With respect to Earnhardt Volkswagen, Earnhardt Honda and Earnhardt RV (collectively the "Earnhardt Dealerships"), each such Earnhardt Dealership within the Auto Mall will collect all retail sales tax levied pursuant to the City Tax Code resulting from retail sales by such Earnhardt Dealerships and will remit the same to the City according to applicable law. Developer and the City hereby agree that Developer shall accept a reduced sales tax rebate and the City shall accept reduced sales tax collections for the lots to be occupied by the Earnhardt Dealerships at the Auto Mall to provide funds for a sales tax rebate to Earnhardt to further induce it to develop the Earnhardt Dealerships at the Auto Mall. In furtherance thereof, the City has entered into that certain Economic Development Agreement between the City and Earnhardt, of equal date herewith (the "Earnhardt Agreement"). Developer hereby agrees, with respect to the Earnhardt Dealerships only, to reduce the sales tax rebate generally applicable to dealerships at the Auto Mall as set forth in subsection 4.2(a) above, by 0.25% of the annual taxable retail sales generated by the Earnhardt Dealerships, payable in quarterly installments. Developer agrees to such reduced rebate (i) in consideration of the City's willingness to relinquish a portion of its retail sales tax with respect to the Earnhardt Dealerships, as set forth in the Earnhardt Agreement, (ii) in recognition that the addition of the Earnhardt Dealerships will bring substantial benefits to the Developer and (iii) pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11. Upon (i) the total rebate to Earnhardt reaching $5,000,000.00*, (ii) suspension, for a period exceeding thirty (30) days, of the City's obligation to pay such rebates to Earnhardt or (iii) termination of the City's obligation to pay such rebates to Earnhardt, the City's obligation to pay the reduced quarterly retail sales tax rebate payments to Developer pursuant to this subsection 4.2(c) will automatically cease and the sales tax rebate rate set forth in subsection

* If Earnhardt attracts an additional "similar" dealership ("similar" being defined as comparable quality of products and roughly equivalent to or greater than annual sales of either the Volkswagen dealership or the Honda dealership) to the Auto Mall (the "Fourth Earnhardt Dealership") and such Fourth Earnhardt Dealership opens for business and continues operations at the Auto Mall pursuant to the same terms and conditions of the Earnhardt Agreement applicable to the Earnhardt Dealerships, the total Rebate herein shall be increased to $7,000,000.00.

4.2(a) above shall thereafter apply with respect to the Earnhardt Dealerships until the Termination Date.

(d) The first quarterly payment required by subsection 4.2(c) above will paid no later than 60 days after the end of the first full quarter following the opening for business of the first Earnhardt Dealership generating retail sales tax at the Auto Mall. Subsequent quarterly payments will be made no later than sixty (60) days after the end of each succeeding quarter. Each quarterly payment will mailed to Developer at the address first set forth in Section 7.0 below or as otherwise agreed by the City and Developer.

(e) The City's obligations under this Agreement, including without limitation, the City's obligations under this Section 4.0 relating to financial assistance are expressly conditioned upon Developer's substantial completion of the infrastructure improvements within the Project. If there is a period of time during which no retail sales taxes are generated by the qualifying businesses within the Project, then Developer shall not be entitled to any Financial Assistance during that time. However, if, after such time period, retail sales taxes are again generated by the auto dealerships, other automotive uses, and the qualifying retail businesses located within the Project, then the City's obligation to pay the Financial Assistance to Developer (or its successors in interest or assigns pursuant to Section 12.7 below) shall resume until the Termination Date, which shall not be extended beyond the term provided in subsection 4.2(a) above.

(f) Developer shall have the right, as permitted by Section 12.7 below, to assign a portion of its right to receive retail sales tax rebates hereunder to any one or more persons or entities that purchase or lease a portion of the Property within the Project (as "Assignee"). Retail sales tax rebates paid directly by the City to Developer or its Assignee (or its permitted successors and assigns) at the request of and on behalf of the Developer will decrease the remaining retail sales tax rebate payments due the Developer hereunder. Any assignment requested by the Developer shall be approved by the City, such approval not to be unreasonably withheld or delayed.

2. Pursuant to ARIZ. REV. STAT. § 42-17106, none of the provisions contained in the Agreement or this First Amendment shall be deemed to represent or constitute indebtedness or a general obligation of the City. Neither Developer nor Earnhardt shall have the right to compel payments from the City's general fund for payments of the rebates herein and the terms of this Agreement shall not be construed to be a charge against the general (ad valorem) taxing power of the City. Notwithstanding the foregoing, nothing set forth in this Section 2 shall relieve the City of its obligation to pay the rebates to Developer and Earnhardt. Further, the City's failure to appropriate any amounts necessary to meet its obligations under this Agreement shall not relieve it of its duty to make such payments. Nothing in this Section 2 shall alter or amend the obligations of the City pursuant to Section 4.4 of the Agreement.

3. Except as expressly amended by this First Amendment, all terms and conditions of the Agreement are hereby ratified, confirmed and approved.

4. The Agreement and this First Amendment may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties have executed this First Amendment on the day and year first written above.

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Scott K. Schrader, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

"Developer"

AZVT, LLC., an Arizona limited liability company

By _____
Name: _____
Title: _____

Exhibit G

2003 Second Amendment to Development Agreement

Unofficial Document

MAI
HELEN PURCELL
2003-0658972 05/23/03 12:28
1 OF 2
SOTOA

When recorded mail to:

Attn: City Clerk
City of Avondale
525 North Central Ave
Avondale, AZ 85323

SECOND AMENDMENT
TO
(ECONOMIC) DEVELOPMENT AGREEMENT
BETWEEN
CITY OF AVONDALE AND AZVT, LLC.

Passed and Adopted by the Mayor and Council of the City of Avondale
The 4th Day November, 2002

SECOND AMENDMENT TO [ECONOMIC] DEVELOPMENT AGREEMENT BETWEEN THE CITY OF AVONDALE AND AZVT, L.L.C.

THIS SECOND AMENDMENT TO [ECONOMIC] DEVELOPMENT AGREEMENT this "Second Amendment") is made as of November 4, 2002, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City") and AZVT, L.L.C., an Arizona limited liability company (the "Developer"). All capitalized terms used in this Second Amendment and not otherwise defined herein shall have the same meaning set forth in the Agreement, as defined below.

RECITALS

A. The City and the Developer entered into that certain development agreement on October 18, 1999 (the "Initial Agreement'), relating to, *inter alia*, development of the Auto Mall located generally at the Southwest corner of 99th Avenue and Interstate 10.

B. The Initial Agreement provided for transaction privilege tax rebates (the "Rebates") to Developer for developing the Auto Mall and attracting new car automobile dealerships to it.

C. The City and Developer amended the Initial Agreement on May 6, 2002, to adjust the Rebates to attract several Earnhardt dealerships (the "First Amendment"). The Initial Agreement and the First Amendment are collectively referred to herein as the "Agreement".

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D. The City and Developer desire to further amend the Agreement to increase Developer's total potential Rebates in consideration for (i) Developer extending Dealer Drive west to 107th Avenue and improving the east half of 107th Avenue to comply with existing City standards, to allow expansion of the Auto Mall to accommodate additional auto dealerships and (ii) eliminating certain complex, long-term sewer reimbursement arrangements with the City previously granted in Section 4.3 of the Initial Agreement.

E. Developer and the City understand that Developer will be promptly applying to the City for an amendment to the PADD zoning on the Retail Center portion of the Project to allow for additional auto dealerships. If the City does not approve a zoning change to allow automotive dealerships on the Retail Center portion of the Project within a reasonable time after Developer submits a complete application therefore, this Second Amendment shall be null and void and the Parties' rights and obligations hereunder shall immediately terminate and shall be of no further force and effect.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants and conditions set forth below, the parties hereby agree as follows:

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1. A new subsection 2.2 is added to the Agreement to read as follows:

2.2 Retail Center Rezoning. The Retail Center portion of the Property is currently not zoned for retail automotive use. Both Parties recognize that Developer has significant contacts with the auto dealership distributors and manufacturers and that the addition of more new franchised auto dealerships will bring substantial benefits to the City, its residents and the general public by further enhancing the economic ability of the City. In light of the opportunity to further improve the mutual benefits to City and Developer, Developer shall rezone the Retail Center to expand the permitted retail automotive dealership uses within the Project. Developer shall, within ninety (90) days of the date of this Second Amendment, file a complete application with the City to rezone the Retail Center to permit retail automotive use with the same stipulations as currently exist for the Auto Mall portion of the Project. As a part of this rezoning, the Developer shall agree to a stipulation permitting only retail automotive dealership businesses to front the south side of Dealer Drive. The City shall, through its Zoning Ordinance or any design guidelines applicable to properties along Interstate 10, have the right to approve the site plan and building elevations for the businesses located within the Project.

2. The last sentence of subsection 4.2(a) of the Agreement is hereby amended to read as follows:

The City's obligation to pay the quarterly retail sales tax rebate payments to Developer, pursuant to this subsection 4.2(a), Unofficial Document matically cease and the City will have no further obligation to Developer pursuant to this Agreement upon the earlier of the expiration of the fifteen (15) year term described in Section 3.1 above, or upon the Developer receiving a total of Thirteen Million Five Hundred Thousand Dollars ($13,500,000); provided, however, that the amount of the total Rebate may be increased to Fourteen Million Dollars ($14,000,000) pursuant to subsection 4.2(h) below (the date of Developer reaching either Rebate amount or expiration of the term of this Agreement being hereinafter referred to as the "Termination Date").

3. A new subsection 4.2 (g) is hereby added to the Agreement to read as follows:

(g) Notwithstanding any other provision in this Agreement, the City's obligation to pay One Million Five Hundred Thousand Dollars ($1,500,000) of the additional Rebates relates to construction of the improvements to (i) Dealer Drive to extend it to 107th Avenue and (ii) the east half of 107th Avenue in accordance with City standards, and shall apply only if Developer begins construction thereof promptly following execution of this Second Amendment. Developer's construction shall be substantially completed within twelve (12) months of the date Developer begins construction unless extended (i) for a period equal to delays resulting from force majeure or other causes beyond the reasonable control of the Developer or (ii) by the City's written approval.

4. A new subsection 4.2(h) is hereby added to the Agreement to read as follows:

(h) Notwithstanding any other provision in this Agreement, the total Rebate to be paid by the City to the Developer pursuant to subsection 4.2(a) above shall be increased by Five Hundred Thousand Dollars ($500,000) upon the opening of a Toyota franchised auto dealership in the Auto Mall.

5. Section 4.3 of the Agreement is hereby deleted in its entirety.

6. Pursuant to ARIZ. REV. STAT. § 42-17106, none of the provisions contained in the Agreement or this Second Amendment shall be deemed to represent or constitute indebtedness or a general obligation of the City. Developer shall not have the right to compel payments from the City's general fund for payments of the Rebates herein and the terms of this Agreement shall not be construed to be a charge against the general (ad valorem) taxing power of the City. Notwithstanding the foregoing, nothing set forth in this Section 7 shall relieve the City of its obligation to pay the Rebates to Developer. Further, the City's failure to appropriate any amounts necessary to meet its obligations under this Agreement shall not relieve it of its duty to make such payments. Nothing in this Section 7 shall alter or amend the obligations of the City pursuant to Section 4.4 of the Initial Agreement.

7. Except as expressly amended by this Second Amendment, all terms and conditions of the Agreement are hereby ratified, confirmed and approved.

Unofficial Document

8. The Agreement and this Second Amendment may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties have executed this Second Amendment on the day and year first written above.

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Todd Hileman, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

"Developer"

AZVT, LLC, an Arizona limited liability company

By: _____
Larry Van Tuyl, Manager

2048.005\AZVT-amend2.v4.doc
10-19-02-1

Exhibit H

Economic Development Agreements – Various Dealerships

ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AUTO - RE 3, L.L.C

THIS ECONOMIC DEVELOPMENT AGREEMENT (this "Agreement") is made at 7th, 2003, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City") and AUTO – RE 3, L.L.C., an Arizona Limited liability company ("Toyota Dealer").

RECITALS

A. Toyota Dealer desires to operate a Toyota dealership (the "Dealership") on real property located at the Avondale Auto Mall (the "Auto Mall"), which property is more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Property").

B. The Dealership is anticipated to generate a significant amount of revenue to the City through transaction privilege taxes (levied pursuant to the City Tax Code) resulting from retail sale of vehicles (the "Sales Taxes").

C. The City desires that Toyota Dealer maintain the Dealership at the Auto Mall to (i) generate future transaction privilege tax revenues for the City, (ii) increase the value of the Auto Mall for real property tax purposes and (iii) create opportunities for employment in Avondale.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the City and Toyota Dealer hereby agree as follows:

1. Toyota Dealer Obligation. Toyota Dealer shall enter into a binding agreement entitling Toyota Dealer, its successors or assigns, to occupy the Property for a period of at least fifteen years from the date the Dealership opens for business (the "Operating Period"). Toyota Dealer shall begin construction of the Dealership within twelve months of the "Effective Date" of this Agreement, as defined below, and shall complete construction of and open the Dealership for business, including all sales and services typically offered by other dealerships at the Auto Mall, not later than 18 months from the Effective Date. After construction is completed and the Dealership is opened for business, Toyota Dealer, its successors or assigns shall continuously operate the Dealership during the Operating Period. Toyota Dealer, its successors or assigns shall be permitted to sell both new and used vehicles at the Dealership; provided, however, that Toyota Dealer, its successors or assigns shall, during the entire term of this Agreement, maintain a new car franchise for the Dealership at the Auto Mall.

2. Financial Assistance. Toyota Dealer shall collect all Sales Taxes for the Dealership operating on the Property and shall remit such Sales Taxes to the City according to applicable law. As an inducement to Toyota Dealer, its successors or assigns, to continue operations at the Auto Mall for a period of fifteen years, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City

ORIGINAL

hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Dealership at the Auto Mall and paid to the City. Commencing upon the date a Certificate of Occupancy is issued by the City for the Dealership on the Property (the "Occupancy Date"), and continuing for a period of four years thereafter (the day ending such four-year period being designated as the "Initial Termination Date"), the City shall rebate to Toyota Dealer 0.375% of the annual net taxable retail sales generated by Toyota Dealer at the Dealership. Commencing on the Initial Termination Date and continuing for a period of two years thereafter (the day ending such two-year period being designated as the "Second Termination Date"), the City shall rebate to Toyota Dealer 0.50% of the annual net taxable retail sales generated by Toyota Dealer at the Dealership. Commencing on the Second Termination Date and continuing for a period of two years thereafter (the day ending such two-year period being designated as the "Third Termination Date"), the City shall rebate to Toyota Dealer 0.75% of the annual net taxable retail sales generated by Toyota Dealer at the Dealership (the rebates for years one through eight being designated as the "Initial Rebate"). If, during the 12-month period immediately preceding the Third Termination Date, Toyota Dealer has generated annual net taxable retail sales in excess of $70,000,000.00 at the Toyota Dealership, the City shall extend the Initial Rebate (at 0.75% of the annual net taxable retail sales generated by Toyota Dealer at the Dealership) for an additional 12 months (the "First Extended Rebate"), beginning on the Third Termination Date and ending on the date that is twelve months later (the "First Extended Termination Date"). If, during the 12-month period immediately preceding the First Extended Termination Date, Toyota Dealer has generated annual net taxable retail sales in excess of $70,000,000.00 at the Toyota Dealership, the City shall extend the First Extended Rebate for an additional 12 months (the "Second Extended Rebate"), beginning on the First Extended Termination Date and ending on the date that is 12 months later (the "Second Extended Termination Date"). If, during the 12-month period immediately preceding the Second Extended Termination Date, Toyota Dealer has generated annual net taxable retail sales in excess of $70,000,000.00 at the Toyota Dealership, the City shall extend the Second Extended Rebate for an additional 12 months (the "Third Extended Rebate"), beginning on the Second Extended Termination Date and ending on the date that is 12 months later (the "Third Extended Termination Date"). The Initial Rebate, the First Extended Rebate (if any), the Second Extended Rebate (if any) and the Third Extended Rebate (if any) are collectively referred to herein as the "Rebate", which shall be payable in quarterly installments.

3. Term. This Agreement shall be effective upon the date first set forth above (the "Effective Date") and shall remain in full force and effect until the date that is fifteen years thereafter, unless sooner terminated pursuant to Section 7 below. The Rebate shall become effective on the Effective Date and shall remain in full force and effect until the Initial Termination Date, the First Extended Termination Date, the Second Extended Termination Date or the Third Extended Termination Date, as applicable, unless terminated sooner pursuant to Section 7 below.

4. Payment Method. The first quarterly payment required by Section 2 above shall be paid no later than 60 days after the end of the first full quarter following the Occupancy Date in which Sales Taxes were paid to the City by Toyota Dealer. Subsequent quarterly payments will be made no later than 60 days after the end of each succeeding quarter. Notwithstanding the termination of the City's obligation to make the Rebates pursuant to Section 2 above, the City shall remain obligated to pay, upon the next occurring quarterly payment date, any amounts due to Toyota Dealer that accrued prior to such termination. Each quarterly payment will be mailed to Toyota Dealer at the address set forth in Section 8 below, or as otherwise agreed to by Toyota Dealer and the City.

5. Waiver of Toyota Dealer Confidentiality. Toyota Dealer hereby waives, for the term of this Agreement, any rights it may have to keep confidential from the City any records indicating the amount of sales generated by the Dealership at the Auto Mall. Toyota Dealer further agrees to take all steps necessary and to execute any required documents to permit the City's authorized representative to examine any such records.

6. Sales Tax Rebates Not a Debt; Obligation to Pay Absolute. Pursuant to ARIZ. REV. STAT. § 42-17106, none of the provisions contained herein shall be deemed to represent or constitute indebtedness or a general obligation of the City. Toyota Dealer shall not have the right to compel payments from the City's general fund for payments of the Rebate herein and the terms of this Agreement shall not be construed to be a charge against the general (ad valorem) taxing power of the City. Notwithstanding the foregoing, nothing set forth in this Section 6 shall relieve the City of its obligation to pay the Rebate to Toyota Dealer. Further, the City's failure to annually appropriate any amounts necessary to meet its obligations under this Agreement shall not relieve it of its duty to make such payments.

7. Default. If either party fails to perform any obligation pursuant to this Agreement, including the City's obligation to pay the Rebate, and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement and will have all remedies which are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 120 days.

8. Liquidated Damages. Without limiting the remedies available to the City pursuant to Section 7 above, Toyota Dealer understands and acknowledges that if it fails to fulfill the Toyota Dealer Obligations as set forth in Section 1 above, the City will suffer damages that are difficult to accurately specify and ascertain. Toyota Dealer hereby agrees that, upon its default hereunder and expiration of the cure period set forth in Section 7 above, it shall pay the City, as liquidated damages, within 30 days of receipt of the City's written demand therefore, an amount equal to 100% of the Rebate paid to Toyota Dealer as of the date of the City's written demand. Such liquidated damages shall be payable in immediately available funds of United States currency.

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

If to the City: City of Avondale
525 N. Central Avenue

Avondale, AZ 85323
Facsimile: 623-932-2205
Attn: City Manager

With a copy to: JORDEN, BISCHOFF, MCGUIRE & ROSE, P.L.C.
7272 E. Indian School Rd., Suite 205
Scottsdale, AZ 85251
Facsimile: 480-505-3901
Attn: Andrew J. McGuire, Esq.

If to Toyota Dealer: Auto-RE 3, L.L.C.
2425 E. Camelback Road, Suite 1155
Phoenix, AZ 85016
Facsimile: 602-381-6599
Attn: Mitch Pierce

With a copy to: Auto-RE 3, L.L.C.
2425 E. Camelback Road, Suite 1155
Phoenix, AZ 85016
Facsimile: 602-381-6599
Attn: Brian McCafferty

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 Section. Notices shall be deemed received (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (iv) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

10. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or Toyota Dealer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

11. Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof, or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorneys' fees by the other party and, in the event any judgment is secured by said prevailing party, all such costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

12. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document.

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

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

15. Time of the Essence. Time is of the essence in this Agreement.

16. Assignment. This Agreement may be assigned, in whole or in part, by Toyota Dealer only upon the prior, written approval of the City, as evidenced by the City Manager's signature thereon, which approval may be withheld by the City for any reason.

17. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

18. Amendment. No amendment or waiver of any provision in this Agreement will be binding (i) on the City unless and until it has been approved by the City Council and has become effective or (ii) on Toyota Dealer unless and until it has been executed by an authorized representative.

19. Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.

20. Severability. Every provision of this Agreement is and will be construed to be a separate and independent covenant. If any provision in this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable will not be affected by that invalidity or unenforceability. Each provision in this Agreement will be valid and will be enforced to the extent permitted by law and the parties will negotiate in good faith for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

21. Covenant of Good Faith. In exercising their rights and in performing their obligations pursuant to this Agreement, the parties will cooperate with one another in good faith to ensure the intent of this Agreement can be attained.

22. Conflict of Interest. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

"Toyota Dealer"

AUTO-RE 3, L.L.C., an Arizona limited liability company

By: _____
Mitchell D. Pierce, Member

By: _____
Brian McCafferty, Member

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Todd Hileman, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

(ACKNOWLEDGMENTS)

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 20 day of October, 2003, by Mitchell D. Pierce, a member of Auto-RE 3, L.L.C., an Arizona limited liability company, for and on behalf of the limited liability company.

November 17, 2004
My Commission Expires

Pamela P. Kozel
Notary Public

OFFICIAL SEAL
PAMELA P. KOZEL
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Nov. 17, 2004

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 20 day of October, 2003, by Brian McCafferty, a member of Auto-RE 3, L.L.C., an Arizona limited liability company, for and on behalf of the limited liability company.

November 17, 2004
My Commission Expires

Pamela P. Kozel
Notary Public

OFFICIAL SEAL
PAMELA P. KOZEL
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Nov. 17, 2004

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 7th day of October, 2003, by Todd Hileman, the City Manager of the City of Avondale, Arizona, an Arizona municipal corporation, for and on behalf of the municipal corporation.

June 4th 2006
My Commission Expires

Dixie C. Hunt
Notary Public

"OFFICIAL SEAL"
Dixie C. Hunt
Notary Public-Arizona
Maricopa County
My Commission Expires 6/4/2006

ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AUTO DEALER INVESTMENTS OF AMERICA

THIS ECONOMIC DEVELOPMENT AGREEMENT (this "Agreement") is made June 3, 2003, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City") and Auto Dealer Investments of America, L.L.C., an Arizona limited liability company ("ADIA").

RECITALS

A. ADIA desires to operate a Kia dealership (the "Dealership") on real property (the "Property") located at the Avondale Auto Mall (the "Auto Mall"), which is more particularly described and depicted on Exhibit A attached hereto and incorporated herein by reference.

B. The Dealership is anticipated to generate a significant amount of revenue to the City through transaction privilege taxes levied pursuant to the City Tax Code resulting from retail sale of vehicles (the "Sales Taxes").

C. The Council of the City of Avondale (the "City Council") has determined that the economic welfare of the citizens of Avondale will be enhanced by maintaining the Dealership at the Auto Mall to (i) to generate future transaction privilege tax revenues for the City, (ii) increase the value of the Auto Mall for real property tax purposes and (iii) create opportunities for employment in Avondale.

D. The City Council is empowered, pursuant to ARIZ. REV. STAT. § 9-500.11, to appropriate public funds to further employment and economic enhancement of the City. Accordingly, the City Council desires to rebate a portion of future Sales Taxes to provide the enhanced economic welfare of the City as set forth above.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the City and ADIA hereby agree as follows:

1. ADIA Obligation. ADIA shall enter into a binding agreement entitling ADIA, its successors or assigns, to occupy the Property for a period of at least ten years from the date the Dealership opens for business at the Auto Mall. ADIA, its successors or assigns shall continue operations of the Dealership during that period. ADIA shall complete construction of and open the Dealership for business, including all sales and services typically offered by ADIA at its other dealerships, not later than August 31, 2004. ADIA, its successors or assigns shall be permitted sell both new and used vehicles at the Dealership; provided, however, that ADIA, its successors or assigns shall, during the entire term of this Agreement, maintain a new car franchise for the Dealership at the Auto Mall.

ORIGINAL

2. Financial Assistance. ADIA shall collect all Sales Taxes for the Dealership operating on the Property and shall remit such Sales Taxes to the City according to applicable law. As an inducement to ADIA, its successors or assigns to continue operations at the Auto Mall for a period of ten years, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Dealership at the Auto Mall and paid to the City (the "Rebate"). Commencing upon the opening of the Dealership at the Auto Mall and continuing until the earlier of (i) the permanent cessation of sales by ADIA, its successors or assigns at the Auto Mall or (ii) ten years from the date the Dealership opens for business (the "Opening Date") at the Auto Mall (the date of either event being designated as the "Termination Date"), the City shall rebate to ADIA a portion of the annual taxable retail sales generated by ADIA at the Dealership (the "Taxable Sales"), payable in quarterly installments as follows: (i) beginning on the Opening Date and ending on the day three years thereafter (the "First Ending Date") 0.375% of the Taxable Sales, (ii) beginning on the first day following the First Ending Date and ending on the day four years thereafter (the "Second Ending Date") 0.5% of the Taxable Sales and (iii) beginning on the first day following the Second Ending Date and ending on the day three years thereafter, 0.75% of the Taxable Sales.

3. Term. This Agreement shall be effective when executed by both parties and shall remain in full force and effect until the Termination Date, unless terminated sooner pursuant to Section 7 below.

4. Payment Method. The first quarterly payment required by Section 2 above shall be paid no later than 60 days after the end of the first full quarter following the execution of this Agreement in which Sales Taxes were paid to the City by ADIA. Subsequent quarterly payments will be made no later than 60 days after the end of each succeeding quarter. Notwithstanding the termination of the City's obligation to make the Rebates pnrsuant to Section 2 above, the City shall remain obligated to pay, upon the next occurring quarterly payment date, any amounts due to ADIA that accrued prior to such termination. Each quarterly payment will be mailed to ADIA at the address required for notices to ADIA under this Agreement, or as otherwise agreed to by ADIA and the City.

5. Waiver of Confidentiality. ADIA hereby waives, for the term of this Agreement, its right to keep confidential from the City the records indicating the amount of sales generated by the Dealership at the Auto Mall. ADIA further agrees to take all steps necessary and to execute any required documents to permit the City's authorized representative to examine any such records in a timely fashion such that an appropriation may be designated in the City's annual budget to pay ADIA the necessary Rebate.

6. Sales Tax Rebates Not a Debt; Obligation to Pay Absolute. Pursuant to ARIZ. REV. STAT. § 42-17106, none of the provisions contained herein shall be deemed to represent or constitute indebtedness or a general obligation of the City. ADIA shall not have the right to compel payments from the City's general fund for payments of the Rebate herein and the terms of this Agreement shall not be construed to be a charge against the general (ad valorem) taxing power of the City. Notwithstanding the foregoing, nothing set forth in this Section 6 shall relieve the City of its obligation to pay the Rebate to ADIA. Further, the City's failure to appropriate any amounts

necessary to meet its obligations under this Agreement shall not relieve it of its duty to make such payments.

7. Default. If either party fails to perform any obligation, including the City's obligation to pay the Rebate pursuant to this Agreement, and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default and the non-defaulting party has the option to terminate this Agreement and will have all remedies which are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 120 days.

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

If to the City:	City of Avondale 525 N. Central Avenue Avondale, AZ 85323 Facsimile: 623-932-2205 Attn: City Manager
With copy to:	JORDEN, BISCHOFF, MCGUIRE & ROSE, P.L.C. 7272 E. Indian School Rd., Suite 205 Scottsdale, AZ 85251 Facsimile: 480-505-3901 Attn: Andrew J. McGuire, Esq.
If to ADIA:	John Grant 10101 W. Papago Freeway Avondale, AZ 85323 Facsimile: 623-925-0013 Attn: John Grant

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 Section 9. Notices shall be deemed received (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (iv) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also

given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

9. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or ADIA of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

10. Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof, or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorneys' fees by the other party and, in the event any judgment is secured by said prevailing party, all such costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

11. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document.

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

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

14. Time of the Essence. Time is of the essence in this Agreement.

15. Assignment. This Agreement may not be assigned, in whole or in part, by ADIA without the prior, written consent of the City.

16. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

17. Amendment. No amendment or waiver of any provision in this Agreement will be binding (i) on the City unless and until it has been approved by the City Council and has become effective or (ii) on ADIA unless and until it has been executed by an authorized representative.

18. Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.

19. Severability. Every provision of this Agreement is and will be construed to be a separate and independent covenant. If any provision in this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will not be affected by that invalidity or unenforceability. Each provision in this Agreement will be valid and will be enforced to the extent permitted by law and the parties will negotiate in good faith for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

20. Covenant of Good Faith. In exercising their rights and in performing their obligations pursuant to this Agreement, the parties will cooperate with one another in good faith to ensure the intent of this Agreement can be attained.

21. Cancellation. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

"ADIA"

AUTO DEALER INVESTMENTS OF AMERICA, L.L.C, an Arizona limited liability company.

By: _____

Name: JOHN GRANT

Title: VP/Gm

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Todd Hileman, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

(ACKNOWLEDGMENTS)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on June 3rd, 2003, by Todd Hileman, the City Manager of the City of Avondale, an Arizona municipal corporation, on behalf of the City of Avondale.

Dixie C Hunt
Notary Public in and for the State of Arizona

My Commission Expires:
June 4, 2006

"OFFICIAL SEAL"
Dixie C. Hunt
Notary Public-Arizona
Maricopa County
My Commission Expires 6/4/2006

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on June 9th, 2003, by John Grant, the VP/GM, of Auto Dealer Investments of America, L.L.C., an Arizona limited liability company, on behalf of the company.

"OFFICIAL SEAL"
Dixie C. Hunt
Notary Public-Arizona
Maricopa County
My Commission Expires 6/4/2006

Dixie C Hunt
Notary Public in and for the State of Arizona

My Commission Expires:
June 4, 2006

(ACKNOWLEDGMENTS)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on June 3rd, 2003, by Todd Hileman, the City Manager of the City of Avondale, an Arizona municipal corporation, on behalf of the City of Avondale.

Dixie C. Hunt
Notary Public in and for the State of Arizona

My Commission Expires:
June 4, 2006

"OFFICIAL SEAL"
Dixie C. Hunt
Notary Public-Arizona
Maricopa County
My Commission Expires 6/4/2006

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2003, by _____, the _____, of Auto Dealer Investments of America, L.L.C., an Arizona limited liability company, on behalf of the company.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

_____

City of Avondale

525 North Central Avenue
Avondale, AZ 85323-1999
Phone: (623) 932-2400
Fax: (623) 932-2205
Website: www.avondale.org

MAYOR
Ronald J. Drake

VICE MAYOR
Marie Lopez Rogers

COUNCIL MEMBERS
Albert Carroll, Jr.
Stephanie Karlin
Betty S. Lynch
Raymond H. Shuey
Charles M. Wolf

CITY MANAGER
Todd Hileman

July 28, 2003

Ms. Pat Fletcher
Sr. Account Clerk
Finance Department
114 E. Western Avenue
Avondale, AZ 85323

Phone No: (623) 932-0264
Fax No: (623) 932-7989
Email: pfletcher@avondale.org

Re: Economic Development Agreement

Dear Pat:

Enclosed, please find (1) copy of the Economic Development Agreement between Auto Dealer Investments of America and the City of Avondale for your records.

If I can be of further assistance, or you have any questions or concerns, please call me @ (623) 932-2400 extension 220.

Sincerely,

Dixie C. Hunt
Records Management

Enclosure

COPY

FIRST AMENDMENT TO
AMENDED AND RESTATED
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AUTO DEALER INVESTMENTS OF AMERICA

THIS FIRST AMENDMENT TO AMENDED AND RESTATED ECONOMIC DEVELOPMENT AGREEMENT (this "First Amendment") is made August 9, 2010 (the "Effective Date"), by and between the City of Avondale, an Arizona municipal corporation (the "City") and Auto Dealer Investments of America, L.L.C., an Arizona limited liability company ("ADIA").

RECITALS

A. ADIA and the City entered into that certain Economic Development Agreement dated June 2, 2003 (the "Original Agreement") relating to the construction and operation of a dealership offering sales and service for new and used Kia automobiles (the "Kia Dealership") on real property (the "Kia Property"), which is more particularly described and depicted on Exhibit A attached hereto and incorporated herein by reference, located at the Avondale Auto Mall (the "Auto Mall").

B. The Original Agreement was amended and restated on January 5, 2004 (the "First Amended and Restated Agreement") to include the construction and operation of a dealership offering sales and service for new and used Mitsubishi automobiles (the "Mitsubishi Dealership") on real property (the "Mitsubishi Property") at the Auto Mall, which is more particularly described and depicted on Exhibit B attached hereto and incorporated herein by reference. The Original Agreement and the First Amended and Restated Agreement are collectively referred to as the "Agreement." The Kia Dealership and the Mitsubishi Dealership are collectively referred to herein as the "Dealerships."

C. The City and ADIA are currently engaged in litigation in the Superior Court of the State of Arizona, in and for Maricopa County, Case No. CV2010-001194, related to disputes arising from the Agreement (the "Litigation"). The City and ADIA desire to resolve the Litigation as a condition precedent to execution of this First Amendment.

D. The City collects transaction privilege taxes (levied pursuant to the City Tax Code) for taxable retail sales, service, and all other taxable activities ("Retail Sales Taxes"), for uses related to the Kia Dealership and the Mitsubishi Dealership.

E. The City and ADIA desire to further amend the Agreement to (i) resolve the Litigation, (ii) substitute a dealership offering sales and service for new and used Mazda automobiles (the "Mazda Dealership") on real property (the "Mazda Property") at the Auto Mall, which is more particularly described and depicted on Exhibit C attached hereto and incorporated herein by reference, for the Mitsubishi Dealership, (iii) account for the sale of the Kia Dealership to LGE Motors Limited Partnership, an Arizona limited partnership d/b/a Salazar Kia ("Salazar"), (iv) define the extent of the City's approval of the assignment of the operating obligation for the Kia Dealership

from ADIA to Salazar, including the retention of the right to Rebates (as defined below) by ADIA, (v) extend the required Operating Period and (vi) add provisions for liquidated damages to be assessed in the event that ADIA does not open and operate the Mazda Dealership according to the requirements herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and ADIA hereby agree as follows:

1. Dealership Definition Modified. The term "Dealerships" as used in the Agreement is hereby modified to have the meaning ascribed to term in this First Amendment.

2. ADIA Obligations Modified. Section 1 of the Agreement is hereby deleted in its entirety and replaced with the following:

1. ADIA Obligations.

1.1 Mazda Property. ADIA shall, not later than six months after the Effective Date, purchase the Mazda Property or otherwise commit itself, its successors and assigns to a lease, not less than five years in duration, entitling ADIA to occupy and use the Mazda Property for the purposes set forth herein.

1.2 Mazda Property Improvements. ADIA, its successors or assigns shall make any necessary improvements to the Mazda Property, according to City standards, necessary for ADIA to commence operation of the Mazda Dealership not later than December 31, 2010 (the "Opening Date" shall refer to the earlier to occur of the actual day ADIA permanently opens the Mazda Dealership to the public for business or December 31, 2010). ADIA, its successor or assign agrees and understands that the Retail Tax Rebate (as defined below) is specifically conditioned upon its permanent opening of the Mazda Dealership on the Mazda Property to the public not later than December 31, 2010.

1.3 Mazda Operation. ADIA, its successors or assigns, shall develop the Mazda Property and operate or cause to be operated the Mazda Dealership thereon, including all sales and services typically offered by ADIA at its other new car dealerships, and consistent with operations typically found at a new Mazda car dealership, for the period beginning on the Opening Date and continuing for not less than five years thereafter (the "Operating Period"). After construction is completed and the Mazda Dealership is opened for business on the Mazda Property, ADIA, its successors or assigns shall continuously operate, or cause to be operated, the Mazda Dealership on the Mazda Property during the Operating Period. ADIA, its successors or assigns shall be permitted to sell both new and used vehicles at the Mazda Dealership; provided, however, that ADIA, its successors or assigns shall, during the entire term of this Agreement, maintain a new car franchise for the Mazda Dealership at the Auto Mall.

1.4 Kia Operation. ADIA agrees and understands that, subject only to the "Adjusted Rebate" provisions set forth in Subsection 2.2 below, the City's obligation to pay the Retail Tax Rebate is specifically conditioned upon (A) the continuous operation of the Kia Dealership on the Kia Property during all times while this First Amendment is in effect and (B) ADIA providing to the City written authorization from Salazar pursuant to ARIZ. REV. STAT. § 42-2003(A)(6), in a form acceptable to the City Attorney, (1) waiving its rights to keep confidential information relating to Retail Sales Taxes paid by the Kia Dealership and (2) allowing the City to disclose such information to ADIA for the purpose of calculating the Retail Tax Rebate. The Mazda Property obligations set forth in subsection 1.1 above, the Mazda Improvements obligations set forth in subsection 1.2 above, the Mazda Operation obligations set forth in subsection 1.3 above and the Kia Operation obligations set forth in this subsection 1.4 are collectively referred to herein as the "Performance Obligations."

3. Financial Assistance. Section 2 of the Agreement is hereby deleted in its entirety and replaced with the following:

2. City Obligations.

2.1 Full Rebate. ADIA and Salazar meeting all of the Performance Obligations set forth in Section 1 above shall be a continuing pre-condition to the City's obligations as set forth in this Subsection 2.1. For so long as ADIA and Salazar fully perform the Performance Obligations, the City shall be obligated to perform as set forth below. The City shall collect all Sales Taxes remitted by the Dealerships operating on the Mazda Property and the Kia Property respectively, according to applicable law. Subject to the liquidated damages provisions set forth in Section 22 below, as an inducement to ADIA, its successors or assigns, to continuously maintain both the Mazda Dealership on the Mazda Property and the Kia Dealership on the Kia Property for the Operating Period, the City hereby agrees to rebate a portion of the Retail Sales Taxes generated by sales at the Dealerships and paid to the City. Commencing upon the Opening Date and continuing until August 31, 2011, unless terminated earlier as set forth below in this subsection, the City shall rebate to ADIA 0.50% of the net taxable sales generated by taxable activities on the Mazda Property and the Kia Property for which Retail Sales Taxes are collected. Beginning September 1, 2011 and continuing until August 31, 2014 (the day ending such period being designated as the "Latest Retail Rebate Termination Date"), unless terminated earlier as set forth below in this subsection, the City shall rebate to ADIA 0.75% of the net taxable sales generated by taxable activities on the Mazda Property and the Kia Property for which Retail Sales Taxes are collected (whether 0.50% or 0.75%, the rebate amount is referred to herein as the "Retail Tax Rebate"); provided, however, that no such Retail Tax Rebate shall be paid unless the corresponding Retail Sales Taxes due to the City from the Dealerships have been paid.

2.2 Adjusted Rebate. In the event that Salazar does not meet its obligations regarding the waiver pursuant to ARIZ. REV. STAT. § 42-2003(A)(6) required in Subsection 1.4(B) above, the Retail Tax Rebate set forth in Subsection 2.1 above shall be reduced such that the calculation of the rebate amount shall be based solely on the net taxable

sales generated by taxable activities on the Mazda Property, and no such rebate shall be paid for net taxable sales generated by taxable activities on the Kia Property; provided, however, that if Salazar, its successor or assign fails to continuously operate the Kia Dealership as required by Subsection 1.4(A) above, such failure shall be deemed a default as set forth in Section 7 below and the City's obligation to pay the Retail Tax Rebate shall cease.

2.3 Rebate Payment; Termination. The Retail Tax Rebate shall be payable in annual installments as set forth in Section 4 below. The City's obligation to pay the Retail Tax Rebate payments to ADIA pursuant to this subsection will automatically cease and the City will have no further obligation to ADIA pursuant to this Agreement upon the earlier to occur of (A) the Latest Retail Rebate Termination Date or (B) such earlier date this Agreement is terminated pursuant to Section 7 below, the occurrence of either of which is referred to as the "Retail Rebate Termination."

4. Default. Section 7 of the Agreement is hereby deleted in its entirety and replaced with the following:

7. Default. If either party fails to perform any obligation, including the City's obligation to pay the Retail Tax Rebates, pursuant to this Agreement, and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 120 days. For the purposes of this Section 7, ADIA shall not be deemed to be in default under this Agreement in the event ADIA's failure to satisfy the Mazda Operation obligations as set forth in subsection 1.3 above is solely the result of Mazda Motors America, Inc. d/b/a Mazda North American Operations' (i) ceasing operations; (ii) ceasing operations in the State of Arizona; (iii) becoming a debtor in a proceeding under Title 11, United States Code, or similar statutory scheme, which proceeding is not dismissed within sixty (60) days; or (iv) electing to terminate the Dealer Sales and Service Agreement for the Mazda dealership operated by ADIA, its successors or assigns (collectively, a "Manufacturer Termination Event").

5. Liquidated Damages. A new Section 22 is hereby added to the Agreement to read as follows:

22. Liquidated Damages. Without limiting the remedies available to the City pursuant to Section 7 above, ADIA understands and acknowledges that if it fails to fulfill or cause to be fulfilled the Performance Obligations set forth in Subsections 1.1, 1.2 and 1.3 above (a "Performance Failure"), the City will suffer damages that are difficult to accurately specify and ascertain. ADIA hereby agrees that, upon its default hereunder and expiration of the cure period set forth in Section 7 above, it shall pay the City, as liquidated damages,

within 30 days of receipt of the City's written demand therefore, the following amounts: (i) if the Performance Failure relates to Subsections 1.1 or 1.2 above, $200 per day for each day after December 31, 2010, and continuing until the earlier to occur of the date the Mazda Dealership is permanently open to the public for business or the date this Agreement is terminated pursuant to Section 7 above; (ii) if the Performance Failure relates to Subsection 1.3 above and occurs after the Opening Date, but prior to the Latest Retail Rebate Termination Date, 100% of the Retail Tax Rebate paid to ADIA between the Effective Date and the date of the City's written demand; or (iii) if the Performance Failure relates to Subsection 1.3 above and occurs between the Retail Rebate Termination Date and the end of the Operating Period, 50% of the Retail Tax Rebate paid to ADIA between the Effective Date and the date of the City's written demand. Such liquidated damages shall be payable in immediately available funds of United States currency. If the failure to fulfill or cause to be fulfilled the Performance Obligations is related solely to (a) Salazar's obligations set forth in Subsection 1.4(B) above or (b) a Manufacturer Termination Event, the provisions of this Section 22 shall not apply.

6. Litigation Dismissed. ADIA shall, not later than the Effective Date, cause the Litigation to be dismissed, with prejudice. The parties shall enter into such settlement agreement with respect to the Litigation as may be necessary. Further, ADIA agrees that it is not entitled to any Rebates (as that term is defined in the First Amended and Restated Agreement) for Retail Sales at the Auto Mall for the period beginning on August 14, 2008, and ending on the Opening Date.

7. Notices and Requests. From and after July 5, 2010, the copy of notices to the City's legal counsel shall be to:

GUST ROSENFELD, P.L.C.
One East Washington Street, Suite 1600
Phoenix, Arizona 85004-2553
Facsimile: 602-340-1538
Attn: Andrew J. McGuire, Esq.

8. Cancellation. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

"ADIA"

AUTO DEALER INVESTMENTS OF AMERICA, L.L.C., an Arizona limited liability company

By: _____

Name: JOHN GRANT

Title: VP

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Charles P. McClendon, City Manager

ATTEST:

_____
Carmen Martinez, City Clerk

(ACKNOWLEDGMENTS)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on August 21, 2010, by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the City of Avondale.

Notary Public in and for the State of Arizona

My Commission Expires:

May 11, 2014

AMAPOLA ARREOLA
Notary Public - Arizona
Maricopa County
My Comm. Expires May 11, 2014

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2010, by _____, the _____, of AUTO DEALER INVESTMENTS OF AMERICA, L.L.C., an Arizona limited liability company, on behalf of the company.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

_____

EXHIBIT A
TO
FIRST AMENDMENT TO AMENDED AND RESTATED
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AUTO DEALER INVESTMENTS OF AMERICA

[Kia Property Legal Description and Map]

See following pages.

EXHIBIT B
TO
FIRST AMENDMENT TO AMENDED AND RESTATED
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AUTO DEALER INVESTMENTS OF AMERICA

[Mitsubishi Property Legal Description and Map]

See following pages.

EXHIBIT C
TO
FIRST AMENDMENT TO AMENDED AND RESTATED
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AUTO DEALER INVESTMENTS OF AMERICA

[Mazda Property Legal Description and Map]

See following pages.

ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
EARNHARDT

THIS ECONOMIC DEVELOPMENT AGREEMENT (this "Agreement") is made 5/6/, 2002, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City"), EARNHARDT FORD SALES COMPANY, an Arizona corporation, dba EARNHARDT'S RV ("Earnhardt RV") and EARNHARDT GLENDALE, INC., an Arizona corporation ("Earnhardt Glendale"). Earnhardt RV and Earnhardt Glendale shall be collectively referred to herein as "Earnhardt".

RECITALS

A. Earnhardt desires to operate a Volkswagon dealership, a Honda dealership and a recreational vehicle dealership (individually each may be referred to as a "Dealership" and collectively the "Dealerships") on real property located at the Avondale Auto Mall (the "Auto Mall"), which is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference.

B. The Dealerships are anticipated to generate a significant amount of revenue to the City through transaction privilege taxes levied pursuant to the City Tax Code resulting from retail sale of vehicles (the "Sales Taxes").

C. The City desires that Earnhardt maintain the Dealerships at the Auto Mall (i) to generate future transaction privilege tax revenues for the City, (ii) to increase the value of the Auto Mall for real property tax purposes and (iii) to create opportunities for employment in Avondale.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the City and Earnhardt hereby agree as follows:

1. Earnhardt Obligation. Earnhardt shall enter into a binding agreement entitling Earnhardt, its successors or assigns, to occupy the Property for a period of at least ten years from the date the last Dealership opens for business. Earnhardt, its successors or assigns shall continue operations of all the Dealerships during that period. Earnhardt shall complete construction of and open all of the Dealerships for business, including all sales and services typically offered by Earnhardt at its other dealerships, not later than March 31, 2004. Earnhardt, its successors or assigns shall be permitted sell both new and used vehicles at the Dealerships; provided, however, that Earnhardt, its successors or assigns shall, during the entire term of this Agreement, maintain new car franchises for the Dealerships at the Auto Mall.

2. Temporary RV Sales. As a further inducement from the City to Earnhardt, Earnhardt RV shall be allowed to operate its RV sales center from temporary facilities at the Auto Mall at any

ORIGINAL

time after the execution of this Agreement until the earlier of (i) completion of its permanent facilities for Earnhardt RV at the Auto Mall or (ii) March 31, 2004. Such temporary operation shall be subject to approval by the City's Development Services Director with respect to site design and use, including, but not limited to temporary water, sewer, power, fencing, dust control, lighting and access.

3. Financial Assistance. Earnhardt shall collect all Sales Taxes for the Dealerships operating on the property and shall remit such Sales Taxes to the City according to applicable law. As an inducement to Earnhardt, its successors or assigns to continue operations at the Auto Mall for a period of ten years, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Dealerships at the Auto Mall and paid to the City (the "Rebate"). Commencing upon the opening of the Earnhardt RV temporary sales facility or the first Dealership, whichever occurs first, at the Auto Mall and continuing until the earlier of (i) the permanent cessation of sales by Earnhardt, its successors or assigns at the Auto Mall or (ii) the Rebate reaching a total of $5,000,000.00 (the date of either event being designated as the "Termination Date"), the City shall rebate to Earnhardt 0.5% of the annual taxable retail sales generated by Earnhardt at the Dealerships, payable in quarterly installments. If Earnhardt attracts an additional "similar" dealership ("similar" being defined as comparable quality of products and roughly equivalent to or greater than annual sales of either the Volkswagen Dealership or the Honda Dealership) to the Auto Mall (the "Fourth Dealership") and such Fourth Dealership opens for business and continues operations at the Auto Mall pursuant to the same terms and conditions applicable to the Dealerships, the total Rebate herein shall be increased to $7,000,000.00.

4. Term. This Agreement shall be effective when executed by both parties and shall remain in full force and effect until the Termination Date, unless terminated sooner pursuant to Section 8 below.

5. Payment Method. Earnhardt hereby assigns its rights to the Rebate required by Section 3 above to No Bull, L.L.C., an Arizona limited liability company ("No Bull"), on behalf of Earnhardt. The first quarterly payment required by Section 3 above shall be paid no later than 60 days after the end of the first full quarter following the execution of this Agreement in which Sales Taxes were paid to the City by Earnhardt. Subsequent quarterly payments will be made no later than 60 days after the end of each succeeding quarter. Notwithstanding the termination of the City's obligation to make the Rebates pursuant to Section 3 above, the City shall remain obligated to pay, upon the next occurring quarterly payment date, any amounts due to Earnhardt that accrued prior to such termination. Each quarterly payment will be mailed to No Bull at the address required for notices to Earnhardt under this Agreement, or as otherwise agreed to by Earnhardt and the City.

6. Waiver of Confidentiality. Earnhardt hereby waives, for the term of this Agreement, its right to keep confidential from the City the records indicating the amount of sales generated by the Dealerships at the Auto Mall. Earnhardt further agrees to take all steps necessary and to execute any required documents to permit the City's authorized representative to examine any such records in a timely fashion such that an appropriation may be designated in the City's annual budget to pay Earnhardt the necessary Rebate.

7. Sales Tax Rebates Not a Debt; Obligation to Pay Absolute. Pursuant to ARIZ. REV. STAT. § 42-17106, none of the provisions contained herein shall be deemed to represent or constitute indebtedness or a general obligation of the City. Earnhardt shall not have the right to compel payments from the City's general fund for payments of the Rebate herein and the terms of this Agreement shall not be construed to be a charge against the general (ad valorem) taxing power of the City. Notwithstanding the foregoing, nothing set forth in this Section 7 shall relieve the City of its obligation to pay the Rebate to Earnhardt. Further, the City's failure to appropriate any amounts necessary to meet its obligations under this Agreement shall not relieve it of its duty to make such payments.

8. Default. If either party fails to perform any obligation, including the City's obligation to pay the Rebate pursuant to this Agreement, and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default and the non-defaulting party has the option to terminate this Agreement and will have all remedies which are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 120 days.

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

If to the City:
City of Avondale
525 N. Central Avenue
Avondale, AZ 85323
Facsimile: 623-932-2205
Attn: City Manager

With copy to:
Jorden, Bischoff, McGuire & Rose, P.L.C.
7272 E. Indian School Rd., Suite 205
Scottsdale, AZ 85251
Facsimile: 480-505-3901
Attn: Andrew J. McGuire, Esq.

If to Earnhardt:
Earnhardt Auto Centers
1301 N. Arizona Avenue
Gilbert, Arizona 85233
Facsimile: 480-892-3971
Attn: Hal J. Earnhardt, III

With copies to: Earnhardt Auto Centers
1301 N. Arizona Avenue
Gilbert, Arizona 85233
Facsimile: 480-892-3971
Attn: Mary LaRue Walker, Esq.

Earnhardt Auto Centers
1301 N. Arizona Avenue
Gilbert, Arizona 85233
Facsimile: 480-892-3971
Attn: Robbyn McDowell

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 Section 9. Notices shall be deemed received (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (iv) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

10. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or Earnhardt of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

11. Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof, or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorneys' fees by the other party and, in the event any judgment is secured by said prevailing party, all such costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

12. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document.

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

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

15. Time of the Essence. Time is of the essence in this Agreement.

16. Assignment. This Agreement may not be assigned, in whole or in part, by Earnhardt without the prior, written consent of the City.

17. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

18. Amendment. No amendment or waiver of any provision in this Agreement will be binding (i) on the City unless and until it has been approved by the City Council and has become effective or (ii) on Earnhardt unless and until it has been executed by an authorized representative.

19. Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.

20. Severability. Every provision of this Agreement is and will be construed to be a separate and independent covenant. If any provision in this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will not be affected by that invalidity or unenforceability. Each provision in this Agreement will be valid and will be enforced to the extent permitted by law and the parties will negotiate in good faith for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

21. Covenant of Good Faith. In exercising their rights and in performing their obligations pursuant to this Agreement, the parties will cooperate with one another in good faith to ensure the intent of this Agreement can be attained.

22. Conflict of Interest. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

"Earnhardt Glendale"

EARNHARDT GLENDALE, INC.,
an Arizona corporation

By: _____
Name: Hal J. Earnhardt, III
Title: President

"Earnhardt RV"

EARNHARDT FORD SALES COMPANY,
an Arizona corporation, dba Earnhardt's RV

By: _____
Name: Hal J. Earnhardt, III
Title: President

"City"

CITY OF AVONDALE, an Arizona
municipal corporation

By: _____
Scott K. Schrader, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

(ACKNOWLEDGMENTS)

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 30 day of April, 2002, by HAL J. EARNHARDT, III, the PRESIDENT of Earnhardt Ford Sales Company, an Arizona corporation, dba Earnhardt's RV, for and on behalf of the corporation.

OFFICIAL SEAL
MARIE L. PISHNY
NOTARY PUBLIC-ARIZONA
MARICOPA COUNTY
My Commission Expires Sept 25 2004

My Commission Expires

Marie L. Pishny
Notary Public

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 30 day of April, 2002, by HAL J. EARNHARDT III, the PRESIDENT of Earnhardt Glendale, Inc., an Arizona corporation, for and on behalf of the corporation.

9/25/04

OFFICIAL SEAL
MARIE L. PISHNY
NOTARY PUBLIC-ARIZONA
MARICOPA COUNTY
My Commission Expires Sept 25, 2004

My Commission Expires

Marie L. Pishny
Notary Public

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 7 day of May, 2002, by Scott K. Schrader, the City Manager of the City of Avondale, Arizona, an Arizona municipal corporation, for and on behalf of the municipal corporation.

"OFFICIAL SEAL"
Diane C. Hunt
Notary Public-Arizona
Maricopa County
My Commission Expires 6/4/2002

June 4, 2002
My Commission Expires

Diane C. Hunt
Notary Public

FIRST AMENDMENT TO
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
EARNHARDT

THIS FIRST AMENDMENT TO ECONOMIC DEVELOPMENT AGREEMENT (this "First Amendment") is made March 7, 2011 (the "Effective Date"), by and between the City of Avondale, an Arizona municipal corporation (the "City") and Earnhardt Avondale, Inc., an Arizona corporation ("Earnhardt"). The City and Earnhardt are referred to herein individually as a "Party" or collectively as the "Parties."

RECITALS

A. Earnhardt Ford Sales Company, an Arizona corporation d/b/a Earnhardt's RV ("Earnhardt RV"), Earnhardt Glendale, Inc., an Arizona corporation ("Earnhardt Glendale") and the City entered into that certain Economic Development Agreement dated May 6, 2002 (the "Original Agreement") relating to the construction and operation of three dealerships offering sales and service for new and used (i) Volkswagen automobiles (the "Volkswagen Dealership"), (ii) Honda automobiles (the "Honda Dealership"), and (iii) recreational vehicles (the "RV Dealership") on real property (the "Dealership Property") located at the Avondale Auto Mall (the "Auto Mall") that is more particularly described and depicted on Exhibit 1 attached hereto and incorporated herein by reference. The Volkswagen Dealership, the Honda Dealership and the RV Dealership are collectively referred to herein as the "Original Dealerships." Unless specifically defined otherwise in this First Amendment, all capitalized terms used herein shall have the meanings ascribed to them in the Original Agreement.

B. Earnhardt is the successor in interest to Earnhardt Glendale and is the successor in interest to Earnhardt RV only with respect to the Original Agreement and this First Amendment. Notwithstanding the definition set forth in the Original Agreement, as of the Effective Date of this First Amendment, wherever used in the Original Agreement, "Earnhardt" shall mean Earnhardt Avondale, Inc.

C. The City and Earnhardt desire to amend the Original Agreement to (i) modify the financial assistance provisions, (ii) substitute a dealership offering sales and service for new and used Hyundai automobiles (the "Hyundai Dealership") on the Dealership Property at the Auto Mall for the RV Dealership, (iii) extend the required period during which Earnhardt, its successors and assigns, are required to operate the Dealerships at the Auto Mall and (iv) add provisions for liquidated damages to be assessed in the event that Earnhardt does not operate the Dealerships according to the requirements herein. As used in this First Amendment, "Dealerships" shall collectively refer to the Volkswagen Dealership, the Honda Dealership and the Hyundai Dealership. Each reference in the Original Agreement to "Dealerships" shall hereafter be deemed to have the meaning ascribed to it in this First Amendment and shall no longer refer to the Original Dealerships.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Earnhardt hereby agree as follows:

1. Earnhardt Obligation. Earnhardt shall enter into a binding agreement entitling Earnhardt, its successors or assigns, to occupy real property at the Auto Mall until at least January 1, 2020, and Earnhardt, its successors and assigns shall continuously operate, or cause to be operated, of all of the Dealerships at the Auto Mall until at least January 1, 2020 (the "Operating Period"). Earnhardt, its successors and assigns shall be permitted to sell both new and used vehicles at the Dealerships; provided, however, that Earnhardt, its successors and assigns shall, during the entire Operating Period, maintain new car franchises for all of the Dealerships at the Auto Mall. The obligations set forth in this Section 1 are collectively referred to herein as the "Performance Obligations."

2. Financial Assistance. Section 3 of the Agreement is hereby deleted in its entirety and replaced with the following:

3. Financial Assistance.

3.1 Rebate; Discount. Earnhardt meeting all of the Performance Obligations set forth in Section 1 above shall be a continuing pre-condition to the City's obligations as set forth in this Subsection 3.1. For so long as Earnhardt fully performs the Performance Obligations, the City shall be obligated to perform as set forth below. The City shall collect all Sales Taxes remitted by the Dealerships operating at the Auto Mall according to applicable law. Subject to the liquidated damages provisions set forth in Section 23 below, as an inducement to Earnhardt, its successors or assigns, to continuously maintain all of the Dealerships at the Auto Mall for the Operating Period, the City hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Dealerships and paid to the City. Commencing upon the opening date for the Hyundai Dealership at the Auto Mall (the "Hyundai Opening Date") and continuing until the first to occur of the following: (i) the cessation of sales by Earnhardt, its successors and assigns of any of the Dealerships at the Auto Mall for a period of more than 12 months, (ii) the Rebate (as defined below) reaching a total of $5,000,000, (iii) payment of the "Discount Rebate Payment" as set forth below or (iv) July 1, 2016 (the date of any such event being designated as the "Rebate Termination Date"), unless terminated earlier as set forth below in this subsection, the City shall rebate to Earnhardt 0.50% of the net taxable sales generated by taxable activities on the Dealerships for which Sales Taxes are collected (the "Rebate"); provided, however, that no such Rebate shall be paid unless the corresponding Sales Taxes due to the City from the Dealerships have been paid in full. At the City's option, it may, on the Effective Date, pay to Earnhardt $2,000,000 (the "Discounted Rebate Payment") in full satisfaction of its obligations under this Section 3, and Earnhardt agrees that upon its receipt of the Discounted Rebate Payment, subject only to the extension provisions set forth in Subsection 3.2 below, the City's obligation to pay Rebates pursuant to the Original Agreement, as amended by this First Amendment, shall be completely discharged.

3.2 Extension of Rebate. If, within 12 months following the Effective Date, Earnhardt opens for business at the Auto Mall a new car dealership holding a new car franchise for a Ford Motor Company dealership selling Ford automobiles and operating at sales volumes roughly equivalent to or greater than the Honda Dealership (the "Ford Dealership") and operates the Ford Dealership for the Operating Period, the Rebate Termination Date may be modified until the first to occur of the following: (A) the cessation of sales by Earnhardt, its successors and assigns at any of the Dealerships (the term "Dealerships" shall, upon occurrence of the extension requirements set forth in this Subsection 3.2, be deemed to include the Ford Dealership) at the Auto Mall for a period of more than 12 months, (B) the aggregate Rebate reaching a total of $7,000,000, (C) payment by the City of the "Additional Discounted Rebate Payment" as defined below in this Subsection or (D) July 1, 2016. At the City's option, it may, on the date that is 60 days after the opening date of the Ford Dealership for sales to the general public, pay to Earnhardt $1,400,000 (the "Additional Discounted Rebate Payment") in full satisfaction of its obligations under this Subsection 3.2, and Earnhardt agrees that upon its receipt of the Additional Discounted Rebate Payment, the City's obligation to pay Rebates pursuant to the Original Agreement, as amended by this First Amendment, shall be completely discharged.

3.3 Rebate Payment; Termination. Unless terminated by payment of the Discounted Rebate Payment and Additional Discounted Rebate Payment, if any, as set forth in Subsections 3.1 and 3.2 above, the Rebate shall be payable in quarterly installments as set forth in Section 5 below. The City's obligation to pay the Rebate payments to Earnhardt pursuant to this Subsection will automatically cease and the City will have no further obligation to Earnhardt pursuant to this Agreement upon the earlier to occur of (A) the Rebate Termination Date or (B) such earlier date this Agreement is terminated pursuant to Section 8 below, the occurrence of either of which is referred to as the "Retail Rebate Termination."

3. Default. Section 8 of the Agreement is hereby deleted in its entirety and replaced with the following:

8. Default. If either Party fails to perform any obligation, including the City's obligation to pay the Rebates, pursuant to this Agreement, and such Party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting Party, such Party will be in default. In the event of such default, the non-defaulting Party may terminate this Agreement and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting Party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting Party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting Party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 120 days. For the purposes of this Section 8, Earnhardt shall not be deemed to be in default under this Agreement in the event Earnhardt's failure to satisfy the Performance Obligations as set forth in Section 1 above is solely the result of American Honda Motor Co., Inc., a California corporation, Hyundai Motor America, Inc., a California corporation or

Volkswagen Group of America, Inc., a New Jersey corporation (i) ceasing operations, (ii) ceasing operations in the State of Arizona, (iii) becoming a debtor in a proceeding under Title 11, United States Code, or similar statutory scheme, which proceeding is not dismissed within 60 days, or (iv) electing to terminate the agreement permitting Earnhardt its successors and assigns to operate the Honda Dealership, the Hyundai Dealership or the Volkswagen Dealership through no fault of Earnhardt (collectively, as to each Dealership, a "Manufacturer Termination Event").

4. Liquidated Damages. A new Section 23 is hereby added to the Agreement to read as follows:

23. Liquidated Damages. Without limiting the remedies available to the City pursuant to Section 8 above, Earnhardt understands and acknowledges that if it fails to fulfill or cause to be fulfilled the Performance Obligations set forth in Section 1 above (a "Performance Failure"), the City will suffer damages that are difficult to accurately specify and ascertain. Earnhardt hereby agrees that, upon its default due to a Performance Failure hereunder and expiration of the cure period set forth in Section 8 above, it shall pay the City, as liquidated damages, within 30 days of receipt of the City's written demand therefore, the following amounts: (i) if the Performance Failure occurs after the Hyundai Opening Date, but prior to the Rebate Termination Date, 100% of the Rebate paid to Earnhardt between the Effective Date and the date of the City's written demand, or (ii) if the Performance Failure occurs between the Rebate Termination Date and the end of the Operating Period, 50% of the Rebate paid to Earnhardt between the Effective Date and the date of the City's written demand. Such liquidated damages shall be payable in immediately available funds of United States currency. If the failure to fulfill or cause to be fulfilled the Performance Obligations is related solely to a Manufacturer Termination Event, the provisions of this Section 23 shall not apply.

5. Notices and Requests. Section 9 of the Original Agreement is hereby deleted in its entirety and replaced with the following:

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

If to the City: City of Avondale
11465 West Civic Center Boulevard
Avondale, Arizona 85353-6809
Facsimile: 623-333-0100
Attn: Charles McClendon, City Manager

With copy to:	GUST ROSENFELD, P.L.C. One East Washington Street, Suite 1600 Phoenix, Arizona 85004-2553 Facsimile: 602-254-4878 Attn: Andrew J. McGuire, Esq.
If to Earnhardt:	Earnhardt Auto Centers 7300 West Orchid Lane Chandler, Arizona 85266-1000 Facsimile: 480-783-4625 Attn: Hal J. Earnhardt, III
With copies to:	Earnhardt Auto Centers 7300 West Orchid Lane Chandler, Arizona 85266-1000 Facsimile: 480-783-4625 Attn: Mary LaRue Walker, Esq.
	Earnhardt Auto Centers 7300 West Orchid Lane Chandler, Arizona 85266-1000 Facsimile: 480-783-4625 Attn: Robbyn McDowell

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 (i) when delivered to the Party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (iv) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a Party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a Party shall mean and refer to the date on which the Party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

6. Effect of Amendment. In all other respects, the Original Agreement is affirmed and ratified and, except as expressly modified herein, all terms and conditions of the Original Agreement shall remain in full force and effect.

7. Non-Default. By executing this First Amendment, Earnhardt affirmatively asserts that the City is not currently in default, nor has been in default at any time prior to this First Amendment, under any of the terms or conditions of the Original Agreement.

8. Cancellation. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

9. Earnhardt Warranty Regarding RV Dealership. Earnhardt warrants and represents to the City that, by entering into this First Amendment, the City will not be impairing any agreement relating to the Rebates, including, but not limited to, that certain Assignment between No Bull, LLC and Freedom Roads Property Holding Company, LLC, dated August 28, 2007 (the "Rebate Assignment"). Earnhardt further agrees and understands that it shall be solely liable for defending and holding the City harmless for, from and against any and all claims that may occur relating to the Rebate Assignment.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first set forth above.

"Earnhardt"

EARNHARDT AVONDALE, INC.,
an Arizona corporation

By: _____

Name: Hal J. Earnhardt, III

Title: President

"City"

CITY OF AVONDALE, an Arizona
municipal corporation

By: _____
Charles P. McClendon, City Manager

ATTEST:

_____
Carmen Martinez, City Clerk

(ACKNOWLEDGMENTS)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on March 9, 2011, by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the City of Avondale.

Notary Public in and for the State of Arizona

My Commission Expires:

May 11, 2014

AMAPOLA ARREOLA
Notary Public - Arizona
Maricopa County
My Comm. Expires May 11, 2014

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on March 2nd, 2011, by Hal J. Earnhardt, II, the President, of EARNHARDT AVONDALE, INC., an Arizona corporation, on behalf of the company.

Notary Public in and for the State of Arizona

My Commission Expires:

Sept. 14, 2011

Mary Lou Cianculllo
Notary Public - Arizona
Maricopa County
My Commission Expires
September 14, 2011

EXHIBIT 1
TO
FIRST AMENDMENT TO
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
EARNHARDT

[Property Legal Description and Map]

See following pages.

Legal Descriptions of Premises

Earnhardt Avondale Hyundai
10401 W. Papago Freeway
APN 105-54-043

Parcel No. 1:
Lot 10, Avondale Automall, Phase II, recorded in Book 646 of Maps, Page 29, as adjusted by Avondale Automall Lot 10 Lot adjustment recorded in Book 667 of Maps, Page 28, Maricopa County Recorder.

Parcel No. 2:
An easement for access as described in 35-foot private drive easement recorded in Instrument No. 2003-1374506 and accessory private drive easement recorded in instrument No. 2003-1374507.

Earnhardt Honda, Avondale
10151 W. Papago Freeway
APN 102-54-038

Lot 6, Avondale Automall Phase II, recorded in Book 646 of Maps, page 29, Maricopa County Recorder, Arizona.

Larry Miller Volkswagen
10205 W. Papago Freeway
APN 102-54-040B, 102-54-040B

Lot 7A, as depicted on A Minor Land Division Map for Avondale Automall Lot 7, as recorded in Book 747 of Maps Page 9, being a portion of Lot 7 of Avondale Automall Phase 2, as recorded in Book 646 of Maps, Page 29, Records of Maricopa County, Arizona more particularly described as follows:

Commencing at the Southwest Corner of said Lot 7;

thence North 01'11'14" West along the West line of said Lot 7, a distance of 493.34 feet to the true point of beginning;

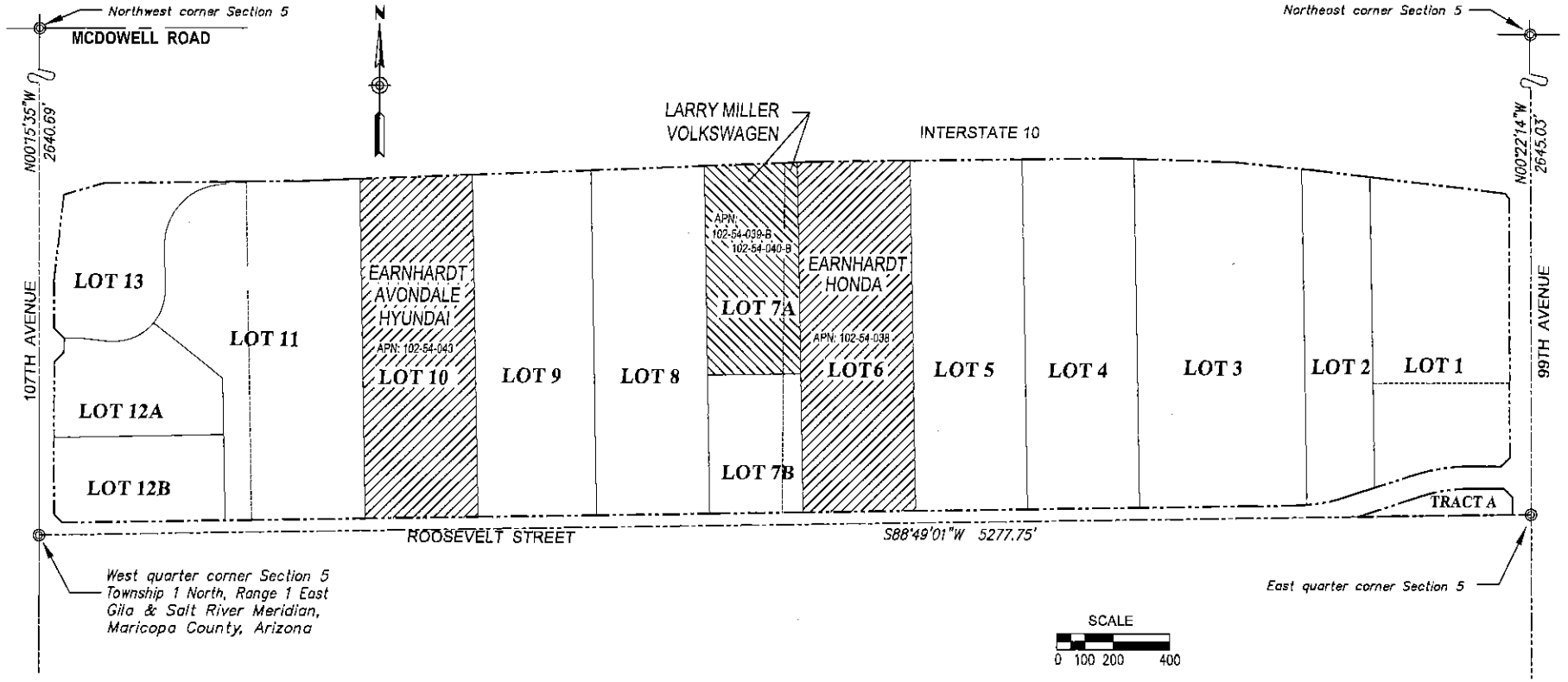
thence continuing at North 01'11'14" West along the West line of Lot 7, a distance of 745.19 feet to the northwest corner of Lot 7;

thence North 87'19'58" East, along the North line of Lot 7, a distance of 329.95 feet to the Northeast corner of Lot 7;

thence south 01'10'59" East, along the East line of Lot 7, a distance of 753.73 feet;

thence south 88'49'01" West, a distance of 329.78 feet to the true point of beginning.

Containing an approximate area of 247,180 square feet or 5.674 acres.



REFERENCE DOCUMENTS

AVONDALE AUTOMALL, ACCORDING TO BOOK 604 PAGE 12, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA.

AVONDALE AUTOMALL LOTS 2 AND 3, LOT ADJUSTMENT, ACCORDING TO BOOK 583 PAGE 41, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA

AVONDALE AUTOMALL PHASE 2, ACCORDING TO BOOK 646 PAGE 29, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA

MINOR LAND DIVISION MAP FOR AVONDALE AUTOMALL LOT 7 ACCORDING TO BOOK 747, PAGE 9 OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA

AVONDALE AUTOMALL LOT 10, LOT ADJUSTMENT, ACCORDING TO BOOK 667 OF MAPS PAGE 28, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA

AVONDALE AUTOMALL LOTS 11 & 12, LOT ADJUSTMENT, ACCORDING TO BOOK 677 PAGE 17 AND BOOK 686 PAGE 6, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA

MINOR LAND DIVISION MAP FOR AVONDALE AUTOMALL LOT 12, ACCORDING TO BOOK 710, PAGE 17 OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA

City of Avondale
ENGINEERING DEPARTMENT

EXHIBIT MAP
Hyundai, Honda & Volkswagen
AVONDALE AUTOMALL

DATE: 2-28-2011
DSN:
DRN. LS
CHK:

PROJECT NAME
Avondale Automall

PAGE
2 OF 2

City of Avondale

March 14, 2011

Earnhardt Legal Department
7300 W. Orchid Ln
Chandler, AZ 85226

Re: First Amendment to Economic Development Agreement

Mary LaRue Walker:

Enclosed, please find (1) original copy of the First Amendment to Economic Development Agreement between Earnhardt Legal Department and the City of Avondale for your records.

If I can be of further assistance, please don't hesitate to call me @ 623-333-1213.

Thank you,

Amapola Arreola
City of Avondale
City Clerk Assistant II
aarreola@avondale.org

ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
M&JP, III, L.L.C.

THIS ECONOMIC DEVELOPMENT AGREEMENT (this "Agreement") is made November 21, 2002, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City") and M&JP, III, L.L.C., a Colorado limited liability company ("Nissan Dealer").

RECITALS

A. Nissan Dealer desires to operate a Nissan dealership (the "Dealership") on real property located at the Avondale Auto Mall (the "Auto Mall"), which property is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property").

B. The Dealership is anticipated to generate a significant amount of revenue to the City through transaction privilege taxes (levied pursuant to the City Tax Code) resulting from retail sale of vehicles (the "Sales Taxes").

C. The City desires that Nissan Dealer maintain the Dealership at the Auto Mall to (i) generate future transaction privilege tax revenues for the City, (ii) increase the value of the Auto Mall for real property tax purposes and (iii) create opportunities for employment in Avondale.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the City and Nissan Dealer hereby agree as follows:

1. Nissan Dealer Obligation. Nissan Dealer shall enter into a binding agreement entitling Nissan Dealer, its successors or assigns, to occupy the Property for a period of at least ten years from the date the Dealership opens for business (the "Lease Period"). Nissan Dealer shall begin construction of the Dealership within twelve months of the "Effective Date" of this Agreement, as defined below, and shall complete construction of and open the Dealership for business, including all sales and services typically offered by other dealerships at the Auto Mall, not later than 24 months from the Effective Date. After construction is completed and the Dealership is opened for business, Nissan Dealer, its successors or assigns shall continuously operate the Dealership during the Lease Period. Nissan Dealer, its successors or assigns shall be permitted to sell both new and used vehicles at the Dealership; provided, however, that Nissan Dealer, its successors or assigns shall, during the entire term of this Agreement, maintain a new car franchise for the Dealership at the Auto Mall.

2. Financial Assistance. Nissan Dealer shall collect all Sales Taxes for the Dealership operating on the Property and shall remit such Sales Taxes to the City according to applicable law. As an inducement to Nissan Dealer, its successors or assigns, to continue operations at the Auto Mall for a period of ten years, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City

ORIGINAL

for a period of ten years, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Dealership at the Auto Mall and paid to the City. Commencing upon the date a Certificate of Occupancy is issued by the City for the Dealership on the Property (the "Occupancy Date") and continuing for a period of seven years thereafter (the day ending such seven-year period being designated as the "Termination Date"), the City shall rebate to Nissan Dealer (i) for a period of five years from the Occupancy Date, 0.375% of the annual taxable retail sales generated by Nissan Dealer at the Dealership and (ii) for a period of two years commencing on the date that is five years after the Occupancy Date, 0.50% of the annual taxable retail sales generated by the Nissan Dealer at the Dealership (collectively, the "Rebate"), payable in quarterly installments.

3. Term. This Agreement shall be effective upon the date first set forth above (the "Effective Date") and shall remain in full force and effect until the Termination Date, unless terminated sooner pursuant to Section 7 below.

4. Payment Method. The first quarterly payment required by Section 2 above shall be paid no later than 60 days after the end of the first full quarter following the Occupancy Date in which Sales Taxes were paid to the City by Nissan Dealer. Subsequent quarterly payments will be made no later than 60 days after the end of each succeeding quarter. Notwithstanding the termination of the City's obligation to make the Rebates pursuant to Section 2 above, the City shall remain obligated to pay, upon the next occurring quarterly payment date, any amounts due to Nissan Dealer that accrued prior to such termination. Each quarterly payment will be mailed to Nissan Dealer at the address set forth in Section 8 below, or as otherwise agreed to by Nissan Dealer and the City.

5. Waiver of Confidentiality. Nissan Dealer hereby waives, for the term of this Agreement, any rights it may have to keep confidential from the City any records indicating the amount of sales generated by the Dealership at the Auto Mall. Nissan Dealer further agrees to take all steps necessary and to execute any required documents to permit the City's authorized representative to examine any such records.

6. Sales Tax Rebates Not a Debt; Obligation to Pay Absolute. Pursuant to ARIZ. REV. STAT. § 42-17106, none of the provisions contained herein shall be deemed to represent or constitute indebtedness or a general obligation of the City. Nissan Dealer shall not have the right to compel payments from the City's general fund for payments of the Rebate herein and the terms of this Agreement shall not be construed to be a charge against the general (ad valorem) taxing power of the City. Notwithstanding the foregoing, nothing set forth in this Section 6 shall relieve the City of its obligation to pay the Rebate to Nissan Dealer. Further, the City's failure to annually appropriate any amounts necessary to meet its obligations under this Agreement shall not relieve it of its duty to make such payments.

7. Default. If either party fails to perform any obligation, including the City's obligation to pay the Rebate, pursuant to this Agreement, and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement and will have all remedies which are available to it at law or in equity including, without limitation, the

remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 120 days.

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

If to the City:	City of Avondale 525 N. Central Avenue Avondale, AZ 85323 Facsimile: 623-932-2205 Attn: City Manager
With copy to:	JORDEN, BISCHOFF, MCGUIRE & ROSE, P.L.C. 7272 E. Indian School Rd., Suite 205 Scottsdale, AZ 85251 Facsimile: 480-505-3901 Attn: Andrew J. McGuire, Esq.
If to Nissan Dealer:	Mitch Pierce 12019 S. Honah Lee Ct. Phoenix, AZ 85044 Facsimile: 480-425-2980

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 Section 9. Notices shall be deemed received (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (iv) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

9. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or Nissan Dealer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

10. Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof, or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorneys' fees by the other party and, in the event any judgment is secured by said prevailing party, all such costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

11. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document.

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

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

14. Time of the Essence. Time is of the essence in this Agreement.

15. Assignment. This Agreement may not be assigned, in whole or in part, by Nissan Dealer without the prior, written consent of the City.

16. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

17. Amendment. No amendment or waiver of any provision in this Agreement will be binding (i) on the City unless and until it has been approved by the City Council and has become effective or (ii) on Nissan Dealer unless and until it has been executed by an authorized representative.

18. Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.

19. Severability. Every provision of this Agreement is and will be construed to be a separate and independent covenant. If any provision in this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable will not be affected by that invalidity or unenforceability. Each provision in this Agreement will be valid and will be enforced to the extent permitted by law and the parties will negotiate in good faith

for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

20. Covenant of Good Faith. In exercising their rights and in performing their obligations pursuant to this Agreement, the parties will cooperate with one another in good faith to ensure the intent of this Agreement can be attained.

21. Conflict of Interest. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

"Nissan Dealer"

M&JP, III, L.L.C., a Colorado limited liability company

By: _____
Name: Mitch Pierce
Title: President

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Todd Hileman, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

(ACKNOWLEDGMENTS)

STATE OF ~~COLORADO~~ ARIZONA)
) ss.
County of MARICOPA)

Acknowledged before me this 21 day of NOVEMBER, 2002, by Mitch Pierce, the managing member of M&JP, III, L.L.C., a Colorado limited liability company, for and on behalf of the company.

NOVEMBER 17, 2004
My Commission Expires

Notary Public

OFFICIAL SEAL
PAMELA F. KOZEL
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Nov. 17, 2004

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 22nd day of November 2002, by Todd Hileman, the City Manager of the City of Avondale, Arizona, an Arizona municipal corporation, for and on behalf of the municipal corporation.

June 4, 2006
My Commission Expires

Notary Public

FIRST AMENDMENT
TO
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
M&JP, III, L.L.C.

THIS FIRST AMENDMENT TO ECONOMIC DEVELOPMENT AGREEMENT (this "First Amendment") is made July 9th 2003, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City") and M&JP, III, L.L.C., a Colorado limited liability company ("Nissan Dealer"). All capitalized terms used in the First Amendment and not otherwise defined herein shall have the same meaning set forth in the Agreement, as defined below.

RECITALS

A. The City and the Nissan Dealer entered into that certain economic development agreement on November 21, 2002 (the "Agreement"), relating to development of a Nissan Dealership at the Auto Mall located generally at the Southwest corner of 99th Avenue and Interstate 10.

B. The Agreement provided for transaction privilege tax rebates to the Nissan Dealer for constructing and operating a new Nissan automobile dealership at the Auto Mall.

C. The City and Nissan Dealer desire to amend the Agreement to correct an oversight in the Agreement relating to a freeze in development fees at the level existing on October 14, 2002, with respect to construction of the Nissan Dealership.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the City and Nissan Dealer hereby agree as follows:

1. That Section 2 of the Agreement is hereby deleted in its entirety and replaced with the following:

2. Financial Assistance.

a. Nissan Dealer shall collect all Sales Taxes for the Dealership operating on the Property and shall remit such Sales Taxes to the City according to applicable law. As an inducement to Nissan Dealer, its successors or assigns, to continue operations at the Auto Mall for a period of ten years, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Dealership at the Auto Mall and paid to the City. Commencing upon the date a Certificate of Occupancy is issued by the City for the Dealership on the Property (the "Occupancy Date") and continuing for a period of seven years thereafter (the day ending such seven-year period

ORIGINAL

FIRST AMENDMENT
TO
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
M&JP, III, L.L.C.

THIS FIRST AMENDMENT TO ECONOMIC DEVELOPMENT AGREEMENT (this "First Amendment") is made July 9th, 2003, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City") and M&JP, III, L.L.C., a Colorado limited liability company ("Nissan Dealer"). All capitalized terms used in the First Amendment and not otherwise defined herein shall have the same meaning set forth in the Agreement, as defined below.

RECITALS

A. The City and the Nissan Dealer entered into that certain economic development agreement on (the "Agreement"), relating to development of a Nissan Dealership at the Auto Mall located generally at the Southwest corner of 99th Avenue and Interstate 10.

B. The Agreement provided for transaction privilege tax rebates to the Nissan Dealer for constructing and operating a new Nissan automobile dealership at the Auto Mall.

C. The City and Nissan Dealer desire to amend the Agreement to correct an oversight in the Agreement relating to a freeze in development fees at the level existing on October 14, 2002, with respect to construction of the Nissan Dealership.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the City and Nissan Dealer hereby agree as follows:

1. That Section 2 of the Agreement is hereby deleted in its entirety and replaced with the following:

2. Financial Assistance.

a. Nissan Dealer shall collect all Sales Taxes for the Dealership operating on the Property and shall remit such Sales Taxes to the City according to applicable law. As an inducement to Nissan Dealer, its successors or assigns, to continue operations at the Auto Mall for a period of ten years, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Dealership at the Auto Mall and paid to the City. Commencing upon the date a Certificate of Occupancy is issued by the City for the Dealership on the Property (the "Occupancy Date") and continuing for a period of seven years thereafter (the day ending such seven-year period

being designated as the "Termination Date"), the City shall rebate to Nissan Dealer (i) for a period of five years from the Occupancy Date, 0.375% of the annual taxable retail sales generated by Nissan Dealer at the Dealership and (ii) for a period of two years commencing on the date that is five years after the Occupancy Date, 0.50% of the annual taxable retail sales generated by the Nissan Dealer at the Dealership (collectively, the "Rebate"), payable in quarterly installments.

b. The City shall charge Nissan Dealer development fees pursuant to Chapter 26 of the Avondale City Code at the rate that existed on October 13, 2002.

2. Except as expressly amended by this First Amendment, all terms and conditions of the Agreement are hereby ratified, confirmed and approved.

3. The Agreement and this First Amendment may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

"Nissan Dealer"

M&JP, III, L.L.C., a Colorado limited liability company

By: _____
Name: Mitch Pierce
Title: Manager

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Todd Hileman, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

(ACKNOWLEDGMENTS)

STATE OF ~~COLORADO~~ ARIZONA)
) ss.
County of MARICOPA)

Acknowledged before me this 16 day of JULY, 2003, by Mitch Pierce, the managing member of M&JP, III, L.L.C., a Colorado limited liability company, for and on behalf of the company.

NOVEMBER 17, 2004
My Commission Expires

Pamela P. Kozel
Notary Public

OFFICIAL SEAL
PAMELA P. KOZEL
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Nov. 17, 2004

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 9th day of July, 2003, by Todd Hileman, the City Manager of the City of Avondale, Arizona, an Arizona municipal corporation, for and on behalf of the municipal corporation.

June 4, 2006
My Commission Expires

Dixie C. Hunt
Notary Public

"OFFICIAL SEAL"
Dixie C. Hunt
Notary Public-Arizona
Maricopa County
My Commission Expires 6/4/2006

ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
SATURN DEVELOPMENT, L.L.C.

THIS ECONOMIC DEVELOPMENT AGREEMENT (this "Agreement") is made August 19th, 2003, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City") and SATURN DEVELOPMENT, L.L.C., a North Dakota limited liability company ("Saturn Dealer").

RECITALS

A. Saturn Dealer desires to operate a Saturn dealership (the "Dealership") on real property located at the Avondale Auto Mall (the "Auto Mall"), which property is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property").

B. The Dealership is anticipated to generate a significant amount of revenue to the City through transaction privilege taxes (levied pursuant to the City Tax Code) resulting from retail sale of vehicles (the "Sales Taxes").

C. The City desires that Saturn Dealer maintain the Dealership at the Auto Mall to (i) generate future transaction privilege tax revenues for the City, (ii) increase the value of the Auto Mall for real property tax purposes and (iii) create opportunities for employment in Avondale.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the City and Saturn Dealer hereby agree as follows:

1. Saturn Dealer Obligation. Saturn Dealer shall enter into a binding agreement entitling Saturn Dealer, its successors or assigns, to occupy the Property for a period of at least ten years from the date the Dealership opens for business (the "Operating Period"). Saturn Dealer shall begin construction of the Dealership within twelve months of the "Effective Date" of this Agreement, as defined below, and shall complete construction of and open the Dealership for business, including all sales and services typically offered by other dealerships at the Auto Mall, not later than 18 months from the Effective Date. After construction is completed and the Dealership is opened for business, Saturn Dealer, its successors or assigns shall continuously operate the Dealership during the Operating Period. Saturn Dealer, its successors or assigns shall be permitted to sell both new and used vehicles at the Dealership; provided, however, that Saturn Dealer, its successors or assigns shall, during the entire term of this Agreement, maintain a new car franchise for the Dealership at the Auto Mall.

2. Financial Assistance. Saturn Dealer shall collect all Sales Taxes for the Dealership operating on the Property and shall remit such Sales Taxes to the City according to applicable law. As an inducement to Saturn Dealer, its successors or assigns, to continue operations at the Auto Mall

OK

for a period of ten years, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Dealership at the Auto Mall and paid to the City. Commencing upon the date a Certificate of Occupancy is issued by the City for the Dealership on the Property (the "Occupancy Date") and continuing for a period of two years thereafter (the day ending such two-year period being designated as the "Initial Termination Date"), the City shall rebate to Saturn Dealer 0.25% of the annual net taxable retail sales generated by Saturn Dealer at the Dealership (the "Initial Rebate"). If, during the 12-month period immediately preceding the Initial Termination Date, Saturn Dealer has generated annual net taxable retail sales in excess of $40,000,000.00 at the Saturn Dealership, the City shall extend the Initial Rebate for an additional 12 months (the "First Extended Rebate"), beginning on the Initial Termination Date and ending on the date that is twelve months later (the "First Extended Termination Date"). If, during the 12-month period immediately preceding the First Extended Termination Date, Saturn Dealer has generated annual net taxable retail sales in excess of $40,000,000.00 at the Saturn Dealership, the City shall extend the First Extended Rebate for an additional 12 months (the "Second Extended Rebate"), beginning on the First Extended Termination Date and ending on the date that is 12 months later (the "Second Extended Termination Date"). The Initial Rebate, the First Extended Rebate (if any) and the Second Extended Rebate (if any) are collectively referred to herein as the "Rebate", which shall be payable in quarterly installments.

3. Term. This Agreement shall be effective upon the date first set forth above (the "Effective Date") and shall remain in full force and effect until the date that is ten years thereafter, unless sooner terminated pursuant to Section 7 below. The Rebate shall become effective on the Effective Date and shall remain in full force and effect until the Initial Termination Date, the First Extended Termination Date or the Second Extended Termination Date, as applicable, unless terminated sooner pursuant to Section 7 below.

4. Payment Method. The first quarterly payment required by Section 2 above shall be paid no later than 60 days after the end of the first full quarter following the Occupancy Date in which Sales Taxes were paid to the City by Saturn Dealer. Subsequent quarterly payments will be made no later than 60 days after the end of each succeeding quarter. Notwithstanding the termination of the City's obligation to make the Rebates pursuant to Section 2 above, the City shall remain obligated to pay, upon the next occurring quarterly payment date, any amounts due to Saturn Dealer that accrued prior to such termination. Each quarterly payment will be mailed to Saturn Dealer at the address set forth in Section 8 below, or as otherwise agreed to by Saturn Dealer and the City.

5. Waiver of Saturn Dealer Confidentiality. Saturn Dealer hereby waives, for the term of this Agreement, any rights it may have to keep confidential from the City any records indicating the amount of sales generated by the Dealership at the Auto Mall. Saturn Dealer further agrees to take all steps necessary and to execute any required documents to permit the City's authorized representative to examine any such records.

6. Sales Tax Rebates Not a Debt; Obligation to Pay Absolute. Pursuant to ARIZ. REV. STAT. § 42-17106, none of the provisions contained herein shall be deemed to represent or constitute indebtedness or a general obligation of the City. Saturn Dealer shall not have the right to compel payments from the City's general fund for payments of the Rebate herein and the terms of this Agreement shall not be construed to be a charge against the general (ad valorem) taxing power of the

City. Notwithstanding the foregoing, nothing set forth in this Section 6 shall relieve the City of its obligation to pay the Rebate to Saturn Dealer. Further, the City's failure to annually appropriate any amounts necessary to meet its obligations under this Agreement shall not relieve it of its duty to make such payments.

7. Default. If either party fails to perform any obligation, including the City's obligation to pay the Rebate, pursuant to this Agreement, and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement and will have all remedies which are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 120 days.

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

If to the City:	City of Avondale 525 N. Central Avenue Avondale, AZ 85323 Facsimile: 623-932-2205 Attn: City Manager
With copy to:	JORDEN, BISCHOFF, MCGUIRE & ROSE, P.L.C. 7272 E. Indian School Rd., Suite 205 Scottsdale, AZ 85251 Facsimile: 480-505-3901 Attn: Andrew J. McGuire, Esq.
If to Saturn Dealer:	Saturn Development, L.C.C. P.O. Box 10813 White Bear Lake, MN 55110 Facsimile: 651-490-9416 Attn: Jim Price, Vice President

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 Section. Notices shall be deemed received (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and

instructing the delivery service to deliver on the following business day, or (iv) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

9. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or Saturn Dealer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

10. Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof, or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorneys' fees by the other party and, in the event any judgment is secured by said prevailing party, all such costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

11. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document.

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

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

14. Time of the Essence. Time is of the essence in this Agreement.

15. Assignment. This Agreement may be assigned, in whole or in part, by Saturn Dealer only upon the prior, written approval of the City, as evidenced by the City Manager's signature thereon, which approval may be withheld by the City for any reason.

16. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

17. Amendment. No amendment or waiver of any provision in this Agreement will be binding (i) on the City unless and until it has been approved by the City Council and has become effective or (ii) on Saturn Dealer unless and until it has been executed by an authorized representative.

18. Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.

19. Severability. Every provision of this Agreement is and will be construed to be a separate and independent covenant. If any provision in this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable will not be affected by that invalidity or unenforceability. Each provision in this Agreement will be valid and will be enforced to the extent permitted by law and the parties will negotiate in good faith for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

20. Covenant of Good Faith. In exercising their rights and in performing their obligations pursuant to this Agreement, the parties will cooperate with one another in good faith to ensure the intent of this Agreement can be attained.

21. Conflict of Interest. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

"Saturn Dealer"

SATURN DEVELOPMENT, L.L.C. a North Dakota limited liability company

By: _____
Name: James Price
Title: Vice President

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Todd Hileman, City Manager

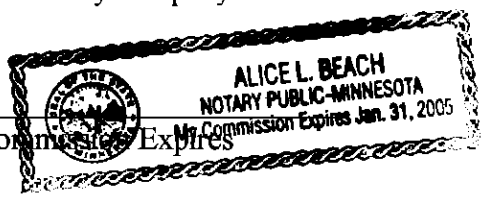
ATTEST:

_____
Linda M. Farris, City Clerk

(ACKNOWLEDGMENTS)

STATE OF _____)
) ss.
County of_____)

Acknowledged before me this ___ day of August, 2003, by Jim Price, the Vice President of Saturn Development, L.L.C., a North Dakota limited liability company, for and on behalf of the limited liability company.



My Commission Expires

Notary Public

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 19th day of August, 2003, by Todd Hileman, the City Manager of the City of Avondale, Arizona, an Arizona municipal corporation, for and on behalf of the municipal corporation.

June 4, 2006

My Commission Expires

Notary Public

11575 C

ASSIGNMENT AND ASSUMPTION
(Agreement)

BY THIS AGREEMENT made and entered into as of the 30th day of August, 2005, SATURN DEVELOPMENT L.L.C., a Minnesota limited liability company (hereinafter called "Assignor"), and SATURN OF WEST PHOENIX, INC., an Arizona corporation, whose address is 8801 West Bell Road, Peoria, AZ 85382 (hereinafter called "Assignee"), in consideration of the recitals and mutual covenants herein contained and other good and valuable consideration, the receipts and sufficiency of which is hereby acknowledged, confirm and agree as follows:

SECTION 1. Recitals.

1.1 Assignor is a party to that Economic Development agreement dated August 19, 2003, between Assignor, and the City of Avondale, Arizona (the "Development Agreement"). Assignor and Assignee are parties to a development agreement to design and construct a retail automobile dealership at 10685 West Papago Freeway, Avondale, Arizona (the "Dealership Agreement"). Pursuant to the Dealership Agreement, all rights, agreements and contracts are being conveyed to Assignee concurrently herewith.

1.2 Assignor desires to transfer and assign to Assignee all of its right, title and interest in and to, and arising under the Development Agreement with respect to the subject property only, and Assignee desires to assume all of the obligations of Assignor under the Development Agreement with respect to the subject property only.

SECTION 2. Assignment and Assumption.

2.1 Assignor does hereby irrevocably grant, sell, convey, assign, transfer, set over and deliver unto Assignee all of Assignor's right, title and interest in and to, and arising under, the Development Agreement with respect to the subject property only.

2.2 Assignee hereby assumes and agrees to perform all of the duties, obligations and promises of Assignor as set forth in or arising under the Development Agreement, to be bound by all of the terms, conditions and provisions of the Development Agreement and to do any and all acts and things required under the Development Agreement to be done by Assignor but all with respect to the subject property only.

2.3 Assignee covenants and agrees to indemnify and hold harmless Assignor form and against any actions, suits, proceedings or claims and expenses (including without limitation reasonable attorneys' fees) incurred in connection therewith, based upon or arising out of any breach or alleged breach of the Development Agreement (with respect to the subject property only) or out of any other statement of facts connected with the Development Agreement (with respect to the subject property only) occurring or alleged to have occurred form and after the effective date hereof. Assignor covenants and agrees to indemnify and hold harmless Assignee from and against any actions, suits, proceedings or claims, and all costs and expenses (including without limitation

reasonable attorneys' fees) incurred in connections therewith, based upon or arising out of any breach or alleged breach of the Development Agreement (with respect to the subject property only) or out of any other statement of facts connected with the Development Agreement (with respect to the subject property only) occurring or alleged to have occurred prior to the effective date hereof.

SECTION 3. **Miscellaneous**.

3.1 The parties shall execute such additional documents and do such other acts as may be reasonably necessary to fully implement the intent of this Assignment and Assumption.

3.2 This Assignment and Assumption shall be governed by and construed according to the laws of the State of Arizona.

3.3 This Assignment and Assumption shall be binding upon, and shall inure to the benefit of, the parties hereto and their heirs, personal representatives, successors and assigns.

IN WITNESS WHEREOF, the parties have executed the Assignment and Assumption as of the date indicated above.

SATURN DEVELOPMENT L.L.C., a Minnesota Limited Liability Company

By: _____
Its: _____

SATURN OF WEST PHOENIX, INC., an Arizona corporation

By: _____
Its: _____

CITY OF AVONDALE, an Arizona Municipal Corporation

By: _____
Charles P. McClendon, City Manager

STATE OF North Dakota)
)ss.
County of Grand Forks)

The foregoing instrument was acknowledged before me this 30 day of August, 2005, by James Price the manager of SATURN DEVELOPMENT L.L.C., for and on behalf of the company.

Marlee Snobl
Notary Public

My commission expires:
June 10, 2011

MARLEE SNOBL
Notary Public
State of North Dakota
My Commission Expires June 10, 2011

STATE OF Arizona)
)ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 30 day of August, 2005, by Dennis W. Lunde the President of SATURN OF WEST PHOENIX, INC., for and on behalf of the company.

JanMarie Mazzone
Notary Public

My commission expires:
3-23-08

Notary Public State of Arizona
Maricopa County
JanMarie Mazzone
Expires March 23, 2008

C:\My Files\D& B PROPERTIES\City of Avondale Sales Tax Rebate Assignement.doc

Exhibit 3

Request for Appeal of Zoning Interpretation, dated October 25, 2015

BEUS GILBERT
PLLC
ATTORNEYS AT LAW

701 NORTH 44TH STREET
PHOENIX, ARIZONA 85008-6504
(480) 429-3000
FAX (480) 429-3100

PAUL E. GILBERT
DIRECT: (480) 429-3002

EMAIL: PGILBERT@BEUSGILBERT.COM

12205-00001

October 28, 2015

Zoning Administrator
c/o Robert Gubser, Planning Manager
City of Avondale
11465 W. Civic Center Drive, Suite 110
Avondale, AZ 85323

Re: Appeal of Zoning Interpretation Letter (PL-15-0210)
Used Vehicle Sales within the Avondale Automall (PAD Z-99-402-A)

Dear Zoning Administrator:

As you are aware, Beus Gilbert PLLC represents AutoMatch USA, LLC ("AutoMatch") in connection with that certain real property located at 10501 W Papago Freeway, in the City of Avondale, which is included in the Avondale Automall Planned Area Development Zoning (the "PAD").

Beus Gilbert is in receipt of the City Planning Manager's formal interpretation dated October 14, 2015 ("Interpretation Letter") which provides that used vehicle sales are not permitted within the Avondale Automall unless used car sales are ancillary to a new car sales use.

On behalf of AutoMatch, we hereby appeal to the City's Board of Adjustment the October 14, 2015 Interpretation Letter for the reasons set forth in our interpretation request letter dated September 1, 2015 ("Interpretation Request"). Our Interpretation Request and the City's Interpretation Letter are attached for your reference.

We look forward to hearing from you with the date and time for the Board of Adjustment hearing.

Very truly yours,

BEUS GILBERT PLLC

Paul E. Gilbert

Attachments – as noted

PEG/arj

MORELAND ARIZONA PROPERTIES LLC

1655 E. Layton Drive
Englewood Co 80113
303-898-4766
wdmoreland@comcast.net

December 2, 2015

City of Avondale
Robert Gubser
Development and Engineering Services Dept
11465 W Civic Center Drive, Suite 110
Avondale AZ 85323-6804

Reference: Appeal of Zoning Administrator Interpretation-Standalone Used Car Sales within Avondale Auto mall.

Robert as per our conversation I am in favor for the board to approve Used Car Sales within the Avondale Auto Mall.

As the previous owner of Avondale Dodge and Avondale Chrysler Jeep, I was the first to commit to be in the mall. I still currently own the six locations in the mall with all locations leases except one. When the conception of the mall was done years ago we never had a concern for only new vehicle sales and new RV sales, but since then things had changed in the new and used vehicle business.

There are many brands that no longer exist : like Pontiac, Hummer, Suzuki, Saturn and many others. So with so many franchises being dissolved we are now limited to who can occupy the open facilities that are left due to so many other restrictions placed on the available franchises. They cannot be located within a certain distance of each other, then there are also state laws that need to be followed.

The used car market is evolving, with the likes of CarMax, they are a more high quality used vehicle sales operations, than an old typical used car lot. As you know CarMax could not be in the Auto Mall and now they are outside the mall taking customers out of Avondale. There are more public and private companies developing used vehicle franchises. Example: Sonic Automotive has now opened three locations in Denver developed as Echo Park, and they are looking to expand. Will they be able to in the Avondale Auto Mall or have to go elsewhere

I recommend that the Planning Department and City of Avondale do whatever they can to add Used Car Sales and Used RV Sales to the Avondale Auto Mall, as long as they are held to the high standards as the franchise dealer in the mall. This would be good for all stakeholders, ie Dealers, property owners, and the City of Avondale.

I am currently part owner of Avondale Mazda and own six facilities in the Avondale Auto Mall.

W D Moreland
Owner and Manager
Moreland Arizona Properties LLC

GUST ROSENFELD P.L.C.
One East Washington, Suite 1600
Phoenix, Arizona 85004-2553
602-257-7475
Andrew J. McGuire – 016653
amcguire@gustlaw.com
Gary Verburg – 005515
gverburg@gustlaw.com
Attorneys for City of Avondale

CITY OF AVONDALE

BOARD OF ADJUSTMENT

In re: Appeal of the Zoning Administrator's Decision Dated October 14, 2015 Relating to Avondale Auto Mall Interpretation (PL-15-0210)	**HEARING MEMORANDUM BY THE CITY OF AVONDALE IN SUPPORT OF THE ZONING ADMINISTRATOR'S DECISION**

I. INTRODUCTION

The case presented to the Board of Adjustment for the City of Avondale is based upon an appeal of the Zoning Administrator's decision dated October 14, 2015, (Exhibit 1) relating to the Avondale Auto Mall (hereinafter "Auto Mall"). The Zoning Administrator determined that "the City Council did not intend for a stand-alone used car dealership to be a permitted use within the Auto Mall." Exhibit 1 at 3.

The Zoning Administrator's decision should be affirmed by the Board of Adjustment because, first, as a regulatory matter, the Planned Area Development (hereinafter "PAD") adopted by the City Council modified the permitted use of the property by requiring "new" automobile dealerships to be located within the PAD area. In addition, the developer who

applied for the PAD zoning classification, AZVT, L.L.C. (hereinafter the "Developer"), contemporaneously with the approval of the PAD, entered into a Development Agreement (Exhibit 2), and two subsequent amendments, which clearly imposes the obligation upon the landowners within the PAD to operate "new" car dealerships. Importantly, this obligation is an obligation which runs with the land and is binding upon successors in interest to the Developer.

II. UNDER THE ZONING CODE, THE ZONING ADMINISTRATOR HAS THE POWER TO INTERPRET THE ZONING ORDINANCE AND HIS OPINION IS PROVIDED DEFERENCE BY THE COURTS

Section 106 B.1 of the City of Avondale Zoning Ordinance provides that "[t]he Zoning Administrator or his designee shall be responsible for interpretation of the Zoning Ordinance." It was based upon this authority that the Zoning Administrator made his decision (Exhibit 1) that only "new" car dealerships are permissible under the PAD zoning at issue in this case. His decision was predicated upon the factual record as stated above.

Importantly, when reviewing zoning appeals, courts provide deference to those who have been charged with the responsibility of administering the ordinance. *Peabody v. City of Phoenix*, 12 Ariz. App. 576, 580, 485 P.2d 565, 569 (Div. 1, 1971) ("In reaching our determination we find particularly persuasive the fact that those who have placed the construction upon the ordinance allowing the private streets concept are also the ones who are charged with the duty of administering and enforcing the ordinance"). It is within this scope of review and context that the Board of Adjustment must render its decision in this appeal.

III. A REVIEW OF THE FACTUAL RECORD RELATED TO THE PAD ZONING CLEARLY DEMONSTRATES THAT NEW CAR DEALERSHIPS MUST BE THE PRIMARY USE ON THE PROPERTY DESIGNATED FOR THE AUTO MALL

On October 18, 1999, the City and the Developer entered into a Development Agreement for the property commonly referred to as the Avondale Auto Mall, which is the same property that is the subject of this appeal (hereinafter the "Property"). Exhibit 2. In a

general sense, the Development Agreement obligated the Developer to create a new car dealership auto mall, with mixed use retail at the western portion of the Property, in exchange for retail sales tax incentives in the amount of $12,000,000. Among other things, the Development Agreement obligated the Developer to "[d]evelop and construct on approximately the east half of the Property an auto mall complex consisting of *new* car automotive dealerships." Exhibit 2, Recitals, Subsection B (emphasis added). It is evident that "new" car dealerships were the intended use. The Developer represented that it already had commitments for new Chevrolet and Dodge dealerships. Exhibit 2, Recitals, Subsection E. The agreement for developing new car dealerships at the Auto Mall was contingent upon the Developer obtaining PADD C-2 zoning from the City. Exhibit 2, Recitals, Subsection G. The Development Agreement further expressly provided that it was binding upon the Developer's "successors and assigns and which terms and provisions will run with the land." Exhibit 2, Recitals, Subsection H.

The Development Agreement further provided that the PADD zoning would "be in general conformance with the Development Plan." Exhibit 2 at 3, Section 2. This is meaningful because, as explained below, the Development Plan also contemplates "new" car dealerships. The requirement that the dealerships be "new" is reinforced by Section 11.1 of the Development Agreement which states that the "City agrees to use its best efforts to refer any new automotive dealerships requesting to locate in the City to the Developer for possible location in the Auto Mall." Exhibit 2 at 8.

In November 1999, as part of the PAD rezoning process, the Developer submitted a Rezoning Request & General Development Plan and Program (hereinafter, "Development Plan"). Exhibit 3. The Development Plan makes clear that the permitted use is for "Outdoor Automobile Sales; New and Used." Exhibit 3 at 3. Thus, the only time used car sales are permitted is when the sales are made in conjunction with new car sales. This conclusion is readily apparent when one considers the signage requirements for the Development Plan. It

states that "the names of each dealership and its corresponding *manufacturer's logo*, shall be internally lit and have change panels." Exhibit 3 at 8 (emphasis added). Obviously, in order to comply with the signage requirements of the Development Plan, the dealership would have to be a "new" car dealership simply because used car dealerships are not associated with any particular "manufacturer" of automobiles. Moreover, as explained in the Zoning Administrator's decision (Exhibit 1), the common meaning of the word "and" requires that both terms, "new" and "used," must be complied with. Appellant's suggested interpretation of the applicable zoning only makes sense if the word "or" is substituted for the word "and" in the Development Plan.

On November 18, 1999, the Planning and Zoning Commission considered the rezoning application. The Staff Report for the meeting is attached hereto as Exhibit 4. The Staff Report references the Development Plan discussed above and states that "eight full service automobile dealerships" are contemplated for the site. Used car dealerships are not "full service" dealerships. The Staff Report to the City Council also references "full service dealerships" as the permitted use for the Property. Exhibit 5.

The PAD zoning was approved on December 20, 1999, by Ordinance No. 723-99. Exhibit 6. Section 1 of the Ordinance establishes the PAD district "as such District is defined in the Zoning Ordinance of the City of Avondale." The significance of this language, as explained in Part IV of this Hearing Memorandum, is that the Zoning Ordinance in effect in 1999 (Exhibit 7) incorporates the Development Plan, discussed above, into the PAD zoning. As such, the Development Plan's requirements are part of the PAD zoning.

On March 23, 2003, the Planning and Zoning Commission considered an amendment to PAD zoning for the property to convert a portion of land designated for retail to additional new car dealerships. As part of the Staff Report for the proposed amendment, a Project Narrative for the Avondale Auto Mall and Retail Shopping Center PAD and Zoning Amendment dated

February 2003, was submitted (the "PAD Amendment"). Exhibit 8.[1] Again, the importance of the Narrative and PAD Amendment is that the zoning code, as of 2003, (Exhibit 9) incorporates it by reference and makes it a part of the zoning.

The March 20, 2003, minutes of the Planning & Zoning Commission related to the PAD Amendment clearly reaffirms that the proposed amendment was intended to accommodate additional new dealerships. Exhibit 10. The applicant "explained the proposed sizing of the zoning is based on future markets and *manufacturers*' product line expansion." Exhibit 10 at 2 (emphasis added). Again, used car dealerships are not associated with automobile manufacturers – only new car dealerships are associated with manufacturers.

On April 23, 2003, the City Council of the City of Avondale adopted Ordinance No. 927-03. Exhibit 11. Section 1 of Ordinance 927-03 states that the development shall be in substantial conformance with the revised zoning context plan and the PAD Amendment dated March 5, 2003, the amendment that incorporates the Project Narrative referred to above as Exhibit 8. In order to be in substantial conformance with the PAD Amendment, only additional "new" dealers could be permitted.

Other collateral agreements entered into between owners of the Property and the City also reflect an intent to limit the Auto Mall to new car dealerships. For example, the First Amendment to [Economic] Development Agreement Between the City of Avondale and AZVT, L.L.C, dated May 6, 2002, was entered into to provide $12,000,000 in retail sales tax incentives for sales made by Earnhardt Volkswagen, Earnhardt Honda and Earnhardt RV, all new car dealerships. Exhibit 12. The 1999 Development Agreement was amended a second time on November 4, 2002, (the "Second Amendment") to provide additional incentives up to $14,000,000 due to the anticipated rezoning of the Property to allow more new car dealerships. Exhibit 13. Section 1 of the Second Amendment to the 1999 Development Agreement makes

[1] The 2003 PAD Amendment expressly states that the amendment was "to obtain the proper zoning to allow for additional *new* vehicle dealers." Exhibit 8 at 1 (emphasis added).

clear that the zoning is intended for "new" car dealerships. As pertinent, it states: "Both Parties recognize that Developer has significant contacts with auto *dealership distributors and manufacturers* and that the addition of more *new* franchised auto dealerships will bring substantial benefits to the City . . ." Exhibit 13 at 2 (emphasis added). The Second Amendment goes on to provide a $500,000 bonus incentive for locating a new Toyota dealership at the Auto Mall.

Similarly, in reliance upon the PAD zoning granted by the City, economic development agreements were entered into with several new car dealerships providing incentives to new car dealerships to locate in the Avondale Auto Mall. Agreements were entered into for a Honda, Volkswagen and RV dealership (Exhibit 14); a Hyundai dealership (Exhibit 14); a Nissan dealership (Exhibit 15); a Saturn dealership (Exhibit 16); a Toyota dealership (Exhibit 17); a Kia dealership (Exhibit 18); and as recently as 2010, a Mazda dealership (Exhibit 19). All of these agreements are with new car dealerships. Each of these agreements has an obligation to open and operate a new car dealership on the site for a period of years. No used car dealerships have been allowed in the PAD zoning district since its adoption. What is clear from this course of conduct is that only new car dealerships are a permitted use within the Avondale Auto Mall PAD.

IV. UNDER THE PAD ZONING, ONLY NEW CAR DEALERSHIPS ARE ALLOWED WITHIN THE PAD

To fully understand the Zoning Administrator's decision in this case it is important to recognize the unique nature of PAD zoning. The leadmg treatise on municipal law, as pertinent, describes PAD zoning as follows:

> A planned unit development, or PUD, is usually the result of *very precise planning* of a development that is . . . as a "unit" on one parcel of land. Generally, a landowner presents an appropriate local governmental agency with a land use development plan that is somewhat at variance with existing zoning. In exchange for approval, *the local government exercises "precise* control." The

> idea is added zoning flexibility in exchange for tighter controls on the development process.

The Law of Municipal Corporations, Eugene Mc Quillen, Third Ed., Vol. 1, section 180, at 147 (emphasis added).

This is exactly what transpired with respect to the zoning on the subject Property. In exchange for PAD zoning, the Developer agreed to limit the zoning to "new" car dealerships, with used car dealerships as an accessory use.

In 1999, when the PAD zoning was approved for the property, the Zoning Ordinance incorporated by reference the Development Plan and Program and made it a part of the zoning regulation which applied to the property. Section 604 of the 1999 Zoning Ordinance, as pertinent, provided:

> . . .
>
> B: The *Development Program submitted as part of the PAD application shall become part of the regulations* governing the use and development of the PAD and shall be adopted as part of the map amendment as outlined in Subsection A above.
>
> C: All conditions, modifications and requirements of approval of the General Development Plan and Program imposed by the City Council, . . . *shall become part of the regulations governing the use and development of the PAD.*

Exhibit 7, Section 604 B and C, (emphasis added).

What is clear from the Zoning Ordinance in effect at the time the PAD in question was adopted is that any provisions contained within the Development Plan and Program become part of zoning for the PAD.

In turn, the Development Plan and Program which was approved by the City Council clearly indicates that only "new" car dealerships were contemplated as permitted uses in the Auto Mall section of the PAD. As noted above, under Proposed Zoning District Modifications, sales were allowed for "New and Used" automobiles. Exhibit 3 at 3. It is clear from reading the document as a whole that "used" car sales would not be permitted unless "new" car sales

were also being made. This is evident because the permitted signage for the Auto Mall would contain "the names of each dealership and its corresponding manufacturers' logo." Exhibit 3 at 8. It is impossible to have a sign with a manufacturer's logo if only used car sales are occurring on the property. Given this requirement, the only interpretation which makes sense is one which restricts the sale of used cars as an accessory use to the sale of new cars.

In conjunction with the adoption of the Development Plan, the City also entered into a Development Agreement which makes it crystal clear that only new car dealerships were contemplated by the PAD zoning. First, the Development Agreement was contingent upon the City adopting the PAD zoning. Exhibit 2, Recital G at 2. There is no ambiguity in the Development Agreement – it states that it is the intention of the Developer to construct an "auto mall complex consisting of *new* car automotive dealerships and other automotive uses." Exhibit 2, Recital B(i) at 1 (emphasis added). In exchange for the new car dealerships, the City agreed to provide up to $12,000,000 in retail sales tax rebate incentives.

The fact that new car dealerships are the intended permitted use within the PAD zoning was reaffirmed in 2003 when the Developer applied for an amendment to the PAD to reduce the area designated for commercial use within the PAD and expand the Auto Mall. Like the Zoning Code provisions in 1999, the Zoning Code in 2003 also incorporated by reference the Development Plan and Program into the approved zoning for the PAD. Exhibit 9, Section 604, B and C. The narrative of the Project Plan makes clear that an amendment to the original PAD was necessary due to the success of new vehicle dealers' desire to purchase land and the desire "to obtain the proper zoning to allow additional *new* vehicle dealers." Exhibit 8 (emphasis added). The minutes of the Planning Commission affirm this intent: the increase in size for the Auto Mall was "based on future markets and manufacturers' product line extensions." Exhibit 9 at 2. Again, only new car dealerships are associated with "manufacturers" of automobiles. Finally, the Ordinance (Exhibit 11) which approved of this amendment to the PAD specifically

incorporates by reference the "PAD Zoning Amendment dated March 5, 2003," which is Exhibit 8.[2]

The same conclusion that the zoning was intended for new car dealerships is corroborated by the fact, over the course of years, that several development agreements were entered into with property owners associated with new automobile dealerships. Exhibits 12 – 19.

A review of the long administrative record associated with the PAD zoning on the Property clearly supports the Zoning Administrator's decision that stand-alone used car dealerships are not allowed in the Auto Mall unless the used cars are sold at a new car dealership. This restriction on the permitted uses is part and parcel of the actual PAD zoning for the Property. When the zoning was adopted, and reaffirmed by amendment, the Development Plans incorporated into the PAD zoning clearly contemplated that the permitted use of the PAD zoning would be restricted to new automobile dealerships, with used car sales as an accessory use. The Zoning Administrator's decision is based upon substantial evidence, is legally correct and it should be upheld by the Board of Adjustment.

V. UNDER THE TERMS OF THE DEVELOPMENT AGREEMENT ONLY NEW CAR DEALERSHIPS ARE A PERMITTED USE AS A MATTER OF CONTRACT

The City and the Developer entered into a Development Agreement which, in addition to the zoning requirements discussed above, made clear that the Developer, in exchange for substantial incentives, agreed to build an "auto mall complex consisting of new car automotive dealerships . . ." Exhibit 2, Recital B. This Development Agreement was duly recorded. Notably, the Development Agreement provides that "[a]ll of the provisions shall inure to the benefit of and be binding upon the successors and assigns." Exhibit 2, Section 12.7. Under the

[2] Exhibit 8, while captioned as a project Narrative, is in fact the Project Plan and Zoning Amendment for purposes of processing the PAD Amendment to the Auto Mall. As the Development and Project plan, its terms are incorporated into the PAD zoning by Section 604, A and B, of the 2003 Zoning Ordinance.

Development Agreement, the obligations of the property owners "run with the land." Exhibit 2, Recital H.

A.R.S. § 9-500.05(D) also provides that, as a matter of law, development agreements are binding upon successors and assigns. It states, "[t]he burdens of the development agreement are binding on, and the benefits of the development agreement inure to, the parties to the agreement and to all their successors in interest and assigns." Case law has recognized the continuing nature of development agreements and has ruled that the obligations imposed by development agreements "run with the land." *Home Builders Association of Arizona v. City of Maricopa*, 215 Ariz. 146, 152, 158 P.3d 869, 875 (2007).

Restrictive covenants which run with the land limiting a property owners permitted use of the land are routinely upheld by Arizona courts. For example, In *Shalimar Ass'n. v. D.O.C. Enterprises Inc.*, 142 Ariz. 36, 688 P.2d 682 (1984), a successor in interest attempted to develop land which had been set aside as a golf course by the original developer. Similar to the facts in this case, the record demonstrated that the golf course designation was intended to restrict and prevent the property from being used for other purposes. The original developer had made representations to purchasers of lots in the subdivision that the golf course would be part of the developed property and that it was an amenity for the surrounding properties. The court held that there was ample evidence to uphold the determination that there was an implied covenant restricting the use of the property to a golf course and that this implied restrictive covenant was binding upon a subsequent purchaser of the golf course property.

The same holds true here, but in this instance the result is even more compelling. The restrictive use of the land in question in this case is express, not implied. The Developer expressly represented and agreed that new car dealerships would be located at the Auto Mall. Significant incentives were provided to the Developer, and its successors, to live up to that promise. The limitation of the use of the Property to new car sales is a restrictive use of the

land which Arizona courts will uphold. It is a burden and obligation which runs with the land and other uses should not be permitted.

VI. CONCLUSION

A review of the factual record and relevant zoning ordinances related to the PAD zoning at issue clearly reflect that the zoning is restricted to new automobile dealerships. This conclusion is supported by the original Development Agreement, Development Plans associated with the original PAD approval and amendments thereto, and subsequent development agreements, all of which uniformly recognize the permitted use of the Property is restricted to new auto sales with used car sales as an accessory use. A review of the evidence submitted clearly supports the Zoning Administrator's decision in this regard and his decision should be upheld by the Board of Adjustment.

A secondary reason to uphold the Zoning Administrator's decision is the firm contractual obligation in the Development Agreement to develop the Property for new automobile dealerships. This obligation is binding upon successors and assigns and runs with the land as a matter of law. After receiving the benefits of the incentives under the Development Agreement, the Developer's successors in interest should not be allowed to renege on this promise and develop the Property for other purposes. The contractual obligations under the Development Agreement serve as an additional legal basis for support of the Zoning Administrator's decision.

RESPECTFULLY SUBMITTED this 4th day of January, 2016.

GUST ROSENFELD P.L.C.

By _____
Gary Verburg
Andrew J. McGuire
Attorneys for City of Avondale

GJV:lmf 2519067.1 12/29/2015

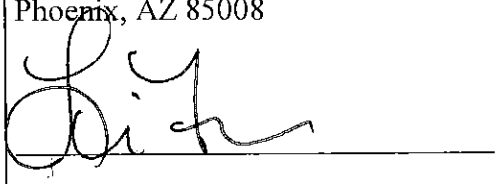
Original and six copies of the foregoing submitted this 4th day of January, 2016, to:

City of Avondale, Board of Adjustment
Attn: Robert Gubser
Development and Engineering Service Department
11465 W. Civic Center Dr.
Avondale, AZ 85323

Copy of the foregoing hand-delivered this 4th day of January, 2016, to:

Bill Bach
5427 E. Hashknife Road
Phoenix, AZ 85054

Paul Gilbert
Beus Gilbert PLLC
701 N. 44 St
Phoenix, AZ 85008



GJV:lmf 2519067.1 12/29/2015

Avondale

Development and Engineering Services Department
11465 W. Civic Center Drive, Suite #110
Avondale, Arizona 85323-6804
Phone: (623) 333-4000 Fax: (623) 333-0420

October 14, 2015

Paul Gilbert
Beus Gilbert PLLC
701 N 44th Street
Phoenix, AZ 85008-6504

RE: Avondale Auto Mall Zoning Interpretation (PL-15-0210)

Dear Mr. Gilbert:

This letter is in response to your formal application received on September 1, 2015 (attached) requesting a zoning interpretation in regards to a prospective business seeking to occupy a site located at 10501 W. Papago Freeway within the Avondale Auto Mall. The property is currently zoned Planned Area Development under case Z-99-402-A. The initial staff assessment provided via Pre-Application meeting on August 5, 2014 (PL-14-0134) was that the intended use of used car sales was not permitted unless is was ancillary to a new car sales use.

Proposed Use
In your letter, you describe the business model for AutoMatch as a full-service dealership that only sells used vehicles. You further define the use as one that displays vehicles of various manufacturers for sale, provides on-site financing, and a repair center with certified mechanics. This proposed use was also provided for staff review through a Pre-Application meeting held on August 5, 2014 (Exhibit 1: Pl-14-0134, Auto Match USA).

Evaluation
In evaluating your request, I have reviewed the original 1999 PAD rezoning application, the 2003 PAD rezoning amendment, and the associated development agreements.

The purpose of the 1999 PAD rezoning, approved by City Council on December 20, 1999, was to allow for the development of an Auto Mall and a retail shopping center. The purpose of the 2003 amendment to the PAD was to eliminate the remaining acreage planned for a retail power center and replace it with dealerships and related uses. The following are references contained in the original PAD and subsequent amendment that address the specifics of dealerships:

1. 1999 PAD, page 2: The purpose of the zoning was to "accommodate the development of several full service automobile dealerships." When read with the remaining language in the paragraph, it is clear that the mention of used car sales is intended to allow for used car sales at the full service dealerships, not to allow for a stand-alone used car lot.

2. 1999 PAD, page 3: The proposed uses in the conditional use permit list refers to "Outdoor Automobile Sales; New and Used" indicating that the two types of sales are to be from a

dealership offering both new and used vehicles. Had it been intended otherwise, the text simply could have used the term "or" instead.

3. 1999 PAD, page 5: Phase One construction was to include eight full service dealerships. The auto mall was clearly planned as a new car sales area, so the use of "eight (8) full service automobile dealerships" is a plain reference to new-car dealerships.

4. 1999 PAD, page 7: Among many other descriptive terms describing services provided at a new car dealership, the rear yard provisions specifically refer to the "service section" of the dealership. On-site manufacturer service facilities are hallmarks of new car dealerships.

5. 1999 PAD, page 8: There are multiple occurrences where the text describing the signs allowed for each dealership specifically refers to "its corresponding manufacturer's logo." These are clearly references to new car dealerships.

6. 2003 PAD, page 1: The last sentence of the first paragraph is clear as to the intent "to obtain the proper zoning to allow for additional new vehicle dealers." As you can see, the language that follows is nearly identical to the 1999 PAD, further supporting the original intent of the 1999 PAD (new car dealerships).

Coupled with the rezoning actions, there were several development agreements that the City entered into with the developer of the Auto Mall. The original DA was in 1999, (with a subsequent corrective DA in 2000), followed by a first and a second amendment in 2002/2003 that addressed the expansion of the Auto Mall. The following are references from those documents:

1. 1999 Development Agreement, page 1: Recital B(i) clearly sets forth the developer's intent to "construct an auto mall complex consisting of new car dealerships."

2. 1999 DA, page 1: Recital C(i) states that there will be significant benefits to the City, its residents and the general public and enhance the economic ability of the City by significantly increasing transaction privilege tax revenues by encouraging new car automotive dealerships.

3. 1999 DA, page 2: Recital E establishes developer's obligation to use best efforts to attract additional dealerships to the auto mall, and it uses two new car dealerships as examples of its commitment to that obligation.

4. First Amend. to DA, page 1: Recital B is again clearly stating new car automobile dealerships.

5. Second Amend. to DA, pages 1 & 2: Recital B and the new language added as subsection 2.2 are both clearly stating new car dealerships.

    - The report transmitted to the City Council on November 4, 2002 regarding the Second Amendment, clearly states that the purpose of the amended DA will allow for expansion of sites suited to new car dealerships. In addition, AZVT was required to promptly complete and submit for approval a PAD amendment that allows for the development of

new car dealerships.

The word "and" as used by the City Council in the 1999 PAD and the subsequent approvals is far more significant than you have concluded. When trying to understand the City Council's intent, we are required (i) to presume the Council meant to use those precise words for a reason and (ii) to give words their common meanings. Using common definition of "and" (utilizing the Merriam-Webster dictionary), it means a logical operator that requires both of two inputs to be present or two conditions to be met for an output to be made or a statement to be executed. The common definition supports the conclusion that that both new and used automobile sales would need to be present to meet the criteria provided outlined in the use listing of the PAD. This is how this use has been applied consistently since the original zoning approval.

The C-2 district at the time of the 1999 rezone allowed, "Auto, recreational vehicle, motorcycle, travel trailer and boat sales and rental." However, with the execution of a PAD as a zoning instrument, the uses may be tailored meeting the needs and goals set-forth by all parties. The allowed uses were modified with the rezoning to PAD and the "Outdoor Automobile Sales; New and Used" was placed as an allowed use subject to receiving a Conditional Use Permit. As stated in the overview of the PAD text above, had it been intended otherwise, the text simply could have used the term "or" instead. Additionally, it could have been completely removed from the Conditional Use Permit listing, as it was an allowed use in the C-2 section of the 1999 Zoning Ordinance. In this instance, it was not removed and we are required to presume the Council meant to adopt the standards in the PAD as controlling for automotive uses at the Auto Mall.

The 2002/2003 PAD Amendment narrative indicates the applicant wishes to "obtain the proper zoning to allow for additional new vehicle dealers." The narrative in PAD's are used to convey the intended character of the development and as such, is used to provide information necessary for the City Council to either support or deny a request. The amendment was approved by Council using the included narrative and the ordinance includes a stipulation that the development shall be in substantial conformance with the PAD Zoning Amendment dated March 5, 2003.

Consistent with the new-car-only intent of the PAD and its amendments, the City Council approved a number of economic development agreements relating to new car dealerships at the Auto Mall. In each of those agreements, the intent is clear that operation of a new automobile franchise is an essential component of the transaction. Copies of each agreement are attached for your review.

Determination

It is my determination as the City's Zoning Administrator that, based on evaluation of the language contained in the original PAD, subsequent amendments to the PAD, numerous economic development agreements, and the supporting staff reports, that the City Council did not intend for a stand-alone used car dealership to be a permitted use within the Auto Mall. The intent to have only new car dealerships in the Auto Mall was made clear from the beginning and has been consistently followed through a series of related agreements and supporting documents.

Appeal Rights
Under the Zoning Ordinance Section 112.B.1, a notice of appeal an interpretation by the Zoning Administrator shall be submitted by the applicant through the Zoning Administrator to the Board of Adjustment within fifteen (15) days from the date of the decision.

If you have any questions, please feel free to contact me at (623) 333-4015 or by email at rgubser@avondale.org.

With regards,

Robert Gubser, AICP
Planning Manager

Exhibits:

A. Pre-Application Meeting comments – dated August 5, 2014
B. 1999 PAD, including all applicable staff reports
C. 2003 PAD amendment, including all applicable staff reports
D. 1999 Development Agreement
E. 1999 Corrective Development Agreement
F. 2002 First Amendment to Development Agreement
G. 2003 Second Amendment to Development Agreement
H. Copies of Economic Development Agreements with various dealerships

Cc: Tracy Stevens, Development and Engineering Services Director
Andrew McGuire, City Attorney
File

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
99-0984467 10/26/99 11:45
CLARK 1 OF 4

When recorded mail to:

Attn: City Clerk
City of Avondale
525 North Central Av
Avondale, Az 85323

DEVELOPMENT AGREEMENT
CITY OF AVONDALE AND AZVT, LLC
Agreement # 99-00-57

Approved by the Mayor and Council
October 18, 1999
RES. #2071-99

99494757

After Recording Return to: City Clerk City of Avondale 525 N. Central Avondale, AZ 85323	City of Avondale

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made as of this 18th day of OCTOBER, 1999, by and between **the CITY OF AVONDALE** (the "City"), an Arizona municipal corporation, and **AZVT, LLC,** an Arizona limited liability company (the "Developer").

RECITALS:

A. Developer owns certain land located generally at the southwest corner of Interstate 10 and 99th Avenue, in Avondale, Arizona which consists of approximately 150 acres, more or less (the "Property"). The legal description describing the Property is attached hereto as Exhibit "A".

B. It is the desire and intention of Developer to develop the Property as follows:

(i) Develop and construct on approximately the east half of the Property an auto mall complex consisting of new car automotive dealerships and other automotive uses (the "Auto Mall"), and

(ii) Develop and construct on approximately the west half of the Property a commercial retail center and related uses (the "Retail Center")(the Auto Mall and the Retail Center are sometimes hereinafter collectively referred to as the "Project"); with the development of the Project to be generally in conformance with the conceptual site development plan attached hereto as Exhibit "B" (the "Development Plan"), it being understood that the Development Plan may be revised by Developer from time-to-time to reflect changes to the Project and as long as the revisions are approved by the City as required by law and do not materially change the Auto Mall and Retail Center to be constructed, such revisions shall not effect the terms of this Agreement.

C. Developer and City both believe that the development of the Project pursuant to this Agreement will result in significant benefits to City, its residents and the general public and enhance the economic ability of City by:

(i) significantly increasing transaction privilege tax (hereinafter "retail sales tax") revenues of the City by encouraging new car automotive dealerships and other retail businesses to be located within Avondale and within the Project in particular;

(ii) increasing real property tax revenues based on all of the improvements to be constructed at the Project;

(iii) creating new jobs in businesses to be located within and near the Project; and

(iv) retaining two (2) dealerships within the City who might otherwise relocate to another jurisdiction.

D. City also wishes to obtain from Developer the construction of certain strategic infrastructure improvements and the dedication of certain public rights-of-way at no cost to City. Developer's infrastructure improvements will include extensive permanent water line, sewer line, and other utility extensions; the construction of fully improved, landscaped, lighted and signalized public streets and half-streets to enhance traffic flow; and the installation of landscaped frontage along Interstate 10 to upgrade the Property's current streetscape.

E. Developer shall use its reasonable, good faith and diligent efforts to attract additional automotive dealerships to the Auto Mall, and retail businesses to the Retail Center. To that end, Developer has secured agreements to place both Gateway Chevrolet and Avondale Dodge in the Auto Mall in order to retain, and expand through future growth, the benefits of these dealerships for the City, and avoid the loss of these local businesses to competing sites in Goodyear and Tolleson.

F. In light of the mutual benefits to City and Developer resulting from the Project, City and Developer desire that Developer receive an economic incentive in the form of retail sales tax rebates as described herein.

G. Developer and City understand this Agreement is contingent upon Developer obtaining PADD C-2 zoning and the related use permits from the City for the Property and the Project, and substantially completing the infrastructure improvements described above.

H. Developer and City further understand and acknowledge that this Agreement is within the meaning of, and is entered into pursuant to the terms of, A.R.S. Section 9-500.11, and the terms of this Agreement are intended to be binding upon City and Developer, but only to the extent permitted by law, and their successors and assigns and which terms and provisions will run with the land.

AGREEMENT:

In reliance upon and for the reasons set forth above, and in consideration of the covenants set forth herein, the parties hereto agree as follows:

1.0 Annexation.

1.1 The Property is already annexed into the City.

2.0 Development In Accordance With Zoning and Plat Approval.

2.1 Approvals. The Property is currently zoned for agricultural use, and Developer will apply to the City to rezone the Property to PADD C-2. The PADD C-2 rezoning complies with

the City's present General Plan. Upon the mutual execution of this Agreement by Developer and City, Developer's PADD C-2 zoning application and the required plat for the Project, which shall be in general conformance with the Development Plan, will be submitted to the City for review and processing to obtain the necessary rezoning approval.

3.0 Term of Agreement.

3.1 Term. This Agreement will commence upon the mutual execution of this Agreement by City and Developer, and will continue until the 15th (fifteenth) anniversary of the date the first automobile dealership opens for business.

4.0 Financial Assistance.

4.1 The Benefits of Project to the Community. The City has determined, based upon its independent evaluation, that development of the Project will provide social and economic benefits to the community. The proposed Project will provide a source of employment and creation of jobs within the community, and will generate needed additional retail sales and property tax revenues to the City and other public agencies. The proposed development will enable needed capital projects to be completed which will improve the economic and physical conditions of the community, provide for the public safety and convenience of the community, and will enhance the economic welfare of the inhabitants of the City.

4.2 Financial Assistance. Each auto dealership and retail business within the Project will collect all retail sales tax levied pursuant to the City Tax Code of the City of Avondale resulting from retail sales by such dealerships and retail businesses located within the Project, and will remit the same to the City according to law. As an inducement to Developer to construct the infrastructure improvements, and to develop, attract, and open auto dealerships, other automotive uses, and retail businesses within the Project, and pursuant to the provisions of Section 9-500.11 of the Arizona Revised Statutes, the City hereby agrees to rebate a portion of the retail sales tax generated by each of the auto dealerships and other automotive uses operating within the Auto Mall, and retail businesses operating in facilities greater than 10,000 square feet within the Retail Center, and paid to the City. Upon the substantial completion by Developer of the infrastructure improvements described in Recital D, for the term described in Section 3.1 above, the City will rebate to Developer fifty percent (50%) of the annual retail sales taxes generated by each of the businesses described above located within the Project, payable in annual installments. The City's obligation to pay the annual retail sales tax rebates payments to Developer will automatically cease and the City will have no further obligation to Developer pursuant to this Agreement upon the earlier of the expiration of the fifteen (15) year term described in Section 3.1 above, or upon the Developer receiving a total of Twelve Million Dollars ($12,000,000) (the date of such event being hereinafter referred to as the "Termination Date").

The first annual payment required by the preceding paragraph will be paid no later than sixty (60) days after the first calendar year-end following the opening for business of the first auto dealership or qualifying retail business generating retail sales tax within the Project. Subsequent annual payments will be made no later than sixty (60) days after the end of each succeeding calendar year. Each annual payment will be mailed to Developer at the address for notice set forth in Section 7.0 below, or as otherwise agreed by City and Developer.

The City's obligations under this Agreement, including without limitation, the City's obligations under this Section 4.0 relating to financial assistance are expressly conditioned upon Developer's substantial completion of the infrastructure improvements within the Project. If

there is a period of time during which no retail sales taxes are generated by the qualifying businesses within the Project, then Developer shall not be entitled to any Financial Assistance during that time. However, if, after such time period, retail sales taxes are again generated by the auto dealerships, other automotive uses, and the qualifying retail businesses located within the Project, then the City's obligation to pay the Financial Assistance to Developer (or its successors in interest or assigns pursuant to Section 12.7 below) shall resume until the Termination Date, which shall not be extended beyond the term provided in Section 4.2 above.

Developer shall have the right, as permitted by Section 12.7 below, to assign a portion of its right to receive retail sales tax rebates hereunder to any one or more persons or entities that purchase or lease a portion of the Property within the Project (an "Assignee"). Retail sales tax rebates paid directly by the City to Developer or its Assignee (or its permitted successors and assigns) at the request of and on behalf of the Developer will decrease the remaining retail sales tax rebate payments due the Developer hereunder. Any assignment requested by the Developer shall be approved by the City, such approval not to be unreasonably withheld or delayed.

4.3 Van Buren Sewer Line. As a part of the infrastructure improvements required by this Agreement, Developer agrees to build offsite improvements consisting of a sewer line (the "Van Buren Sewer Line") within the Van Buren Street public right-of-way, all in accordance with the City's latest adopted regulations, ordinances, current engineering design guidelines and construction standard notes/details and county requirements where applicable. Developer shall be responsible for the actual design costs and construction costs of the Van Buren Sewer Line. In consideration for the fact that the Van Buren Sewer Line is essential public infrastructure providing a broad public benefit, Developer shall comply with all City procurement regulations applicable to City participation in funding the cost of the Van Buren Sewer Line.

Developer shall obtain from its contractor and assign to the City a warranty for the Van Buren Sewer Line for a period of at least one(1) year following the issuance date of the City's acceptance document.

The City acknowledges and agrees that a portion of the Van Buren Sewer Line improvement (the "Reimbursable Items") shall benefit other properties and the Developer shall be entitled to reimbursement by such property owners for the cost of the Reimbursable Items. Concurrently with or following the completion of construction and the dedication or other conveyance of the Van Buren Sewer Line to the City, the Developer shall provide the City with a statement setting forth, in reasonable detail, the actual cost of the construction of such sewer line. The determination of the Reimbursable Items shall be based on the actual cost of design and construction of the Van Buren Sewer Line, including all engineering and design fees and costs, the costs of permits, the cost of construction materials and labor, and all other direct costs incurred in connection with such design and construction.

The City further agrees that with respect to each of the Reimbursable Items, it shall require each property owner who is benefited by the Van Buren Sewer Line to pay its proportionate share of the cost of the Reimbursable Items pursuant to a "Reimbursement Agreement", in form reasonably satisfactory to Developer and City before any development shall be permitted on the benefited property, whether as a result of an application for approval of development or improvement plans, an application for approval of a change in the zoning or uses otherwise applicable to such benefited property(ies), an application for approval of a development agreement with the City or otherwise. Each benefited property's share of the cost of the Reimbursable Items shall be determined in accordance with the Reimbursement

Agreement. Reimbursement shall be based on the relative area of the benefited property to the entire assessable area served by the applicable Van Buren Sewer Line, unless otherwise provided in the City Code for the type of improvement involved. Each benefited property owner shall pay its full share of the cost of the Reimbursable Items, in respect of its share, in cash to the City at the time such owner receives its first building permit for any improvements to the benefited property issued after the date of this Agreement as a result of any of the matters hereinabove described. The City shall within a reasonable time following receipt of such payment, not to exceed thirty (30) days, pay to the Developer all reimbursements collected on behalf of the Developer. Any such reimbursements received by Developer will decrease the remaining retail sales tax rebate payments due the Developer hereunder, by the amount of such reimbursement.

4.4 Change in Sales Tax Laws. If the laws which entitle the City to receive the City retail sales tax based on sales at or from the businesses located within the Project are repealed or modified after the date of this Agreement or if the sales tax the City is entitled to receive based on such sales is totally or partially replaced with another source of revenue, then the City's obligation to pay the annual retail sales tax rebate payments will be deemed modified and will be renegotiated. In that event, Developer and the City will fully cooperate with one another in amending this Agreement as necessary or appropriate to facilitate Developer's receiving the payments described in Section 4.2 above, so the intent of this Agreement can be attained.

4.5 Status of Payments. Developer and the City will cooperate with one another in issuing periodic reports of the status of the City's obligation to make annual payments pursuant to this Agreement.

4.6 Completion of the Auto Mall and Retail Center. Notwithstanding any other provision in this Agreement, the City's obligation to pay the annual payments pursuant to Section 4.2 above will apply only if construction of the Auto Mall development begins promptly following the City's approval of Developer's planned PADD C-2 zoning permitting the construction of the Project, and construction of the Retail Center begins promptly following Developer executing contracts for parcel sales or leases with anchor tenants necessary to make the Retail Center financially feasible. Developer's construction will be substantially completed within twenty four (24) months from the date Developer begins construction, except that the time for completion will be extended for a period equal to delays caused by force majure or other causes beyond the reasonable control of Developer, unless such time periods are extended with the approval of the City.

5.0 Default.

5.1 Default by Either Party. If either party fails to perform any obligation, including City's obligation to pay money pursuant to this Agreement, and fails to cure its nonperformance within 30 (thirty) days after notice of nonperformance is given by the non-defaulting party, such party will be in default and the non-defaulting party will have all remedies which are available to it at law or in equity including, without limitation, the remedy of specific performance; provided, however, that if the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 (thirty) days, then the defaulting party will have such additional periods of time as may be reasonable under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance, until its nonperformance has been cured.

6.0 Relationship of the Parties.

6.1 Negation of Agency, Joint Venture or Partnership. The parties acknowledge that in entering into this Agreement, they are acting as independent entities and not as agents of the other in any respect and hereby renounce the existence of any form of joint venture or partnership between them and agree that nothing in this Agreement will be construed as making them joint venturers or partners.

7.0 Notices and Filings.

7.1 Manner of Serving. All notices, filings, consents, approvals and other communications provided for herein or given in connection herewith shall be validly given, filed, made, delivered or served if in writing and delivered personally, sent by facsimile transmission or sent by registered or certified United States Mail, postage prepaid, if to:

The City:	City of Avondale 525 North Central Avenue Avondale, AZ 85323 Attn.: City Manager Facsimile No. (602) 925-2162
The Developer:	AZVT, LLC P.O. Box 16460 Phoenix, AZ 85011 Attn: Mike Pacheco Facsimile No. (602) 230-2826
with a copy to:	BEUS GILBERT PLLC 1000 Great American Tower 3200 North Central Avenue Phoenix, AZ 85012-2417 Attn: Gordon M. Wasson, Esq. Facsimile No. (602) 234-5893

or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner.

7.2 Effective Delivery. If not received sooner, notices, filings, consents, approvals and communication ("Notices") given by mail shall be deemed delivered seventy-two (72) hours following deposit in the U.S. mail, postage prepaid and addressed as set forth above. Notices given by personal delivery are effective upon receipt, and Notices given by facsimile transmission are effective upon electronic verification of delivery or receipt.

8.0 Lender Provisions.

8.1 Lender Not Obligated to Construct. Notwithstanding any of the provisions of this Agreement, including but not limited to, those which are or are intended to be covenants running with the land, any lender who provides construction, interim or permanent financing for all or any part of the Property, and such financing is secured by a lien against the Property ("Lender"), shall in no way be obligated by the provisions of this Agreement to construct or complete the

development of the Project, or any part thereof, or to guarantee such construction completion or any other obligations related thereto. Notwithstanding the foregoing, Lender's purchaser or its other successors in interest in the Project (other than another lender or financial institution or acquirer of Lender) shall be obligated by the provisions of this Agreement.

8.2 Copy of Notice of Default to Lender. Whenever City shall deliver any notice or demand to Developer with respect to any breach or default by Developer under this Agreement, City shall at the same time forward a copy of such notice or demand to each Lender on any portion of the Property which may be affected by such notice provided such Lender has delivered or mailed written notice to City of its interest in the Property and mailing address.

8.3 Lender's Option to Cure Defaults. After any uncured Developer default referred to in Section 5.2 above, each Lender shall (insofar as the rights of City are concerned) have the right, at its option, to cure or remedy such default to the extent that it relates to the part of the Property covered by its lien and to add the cost of such cure to its debt and lien.

8.4 Transfer of the Property to or by the Lender. Nothing contained in this Agreement shall be deemed to prohibit, restrict, or limit in any way the right of Lender to take title to all or any part of the Property, pursuant to a foreclosure proceeding, trustee's sale or deed in lieu of foreclosure.

9.0 Representations and Warranties.

9.1 City Acknowledgement. City acknowledges that Developer has acquired the Property and is entering into this Agreement and has expended, and will continue to expend, substantial time, efforts and money with regard to development of the Project in reliance upon the representations, warranties and covenants of City as described elsewhere in this Agreement and hereinbelow. City represents and warrants to Developer that all of City's representations and warranties set forth in this Agreement are true in all material respects as of the date of this Agreement, including the following:

9.2 City Organization. City is a duly organized, validly existing municipal corporation in the State of Arizona and the person signing this Agreement on behalf of City is authorized to do so. The transactions contemplated by this Agreement and the execution and delivery of all documents required herein, and City's performance hereunder, have been duly authorized by all requisite actions of City and/or other parties. The execution and delivery of this Agreement and any other document required herein and the consummation of the transaction contemplated hereby and thereby will not result in any violation of, or default under, any term or provision of any applicable agreement, instrument, law, rule, regulation or official policy to which City is a party or by which City is bound.

9.3 No City Litigation. There is no litigation, investigation or proceeding pending or, to the knowledge of the City, contemplated or threatened against the City, or the Property which would impair or adversely affect the City's ability to perform its obligations under this Agreement or under any instrument or document related hereto.

9.4 Developer Acknowledgement. Developer acknowledges that City has expended and will continue to expend substantial time and effort with regard to the development of the Project in reliance upon the representations, warranties and covenants of Developer as described elsewhere in this Agreement and hereinbelow. Developer represents and warrants to City that

all of Developer's representations and warranties set forth in this Agreement are true in all material respects as of the date of this Agreement, including the following:

9.5 Developer Organization. Developer is a duly organized validly existing limited liability company in the State of Arizona and the person signing this Agreement on behalf of Developer is authorized to do so. The transactions contemplated by this Agreement and the execution and delivery of all documents required herein, and Developer's performance hereunder, have been duly authorized by all requisite actions of Developer and/or other parties. The execution and delivery of this Agreement and any other document required herein and the consummation of the transaction contemplated hereby and thereby will not result in any violation of, or default under, any term or provision of any application agreement, instrument, law, rule, regulation or official policy to which Developer is a party or by which Developer is bound.

9.6 No Developer Litigation. There is no litigation, investigation or proceeding pending or, to the knowledge of Developer, contemplated or threatened against Developer or the Property which would impair or adversely affect Developer's ability to perform its obligations under this Agreement or under any instrument or document related hereto.

9.7 Restatement of Warranties. At any time, or from time to time, upon the request of Developer, City within ten (10) days following receipt of Developer's request, shall reaffirm and restate any or all of its representations, warranties and covenants as set forth in this Agreement and any other agreements and instruments executed in connection herewith.

10.0 Access to the Property

10.1 Interstate 10 Frontage Road. City agrees to use its best efforts to (i) assist Developer in obtaining one or more curb-cuts (entranceways) into the Project from the Interstate 10 frontage road, and (ii) assist Developer in obtaining the removal and/or redesign and upgrade of the existing chain-link fence parallel to the Project and the Interstate 10 frontage road.

11.0 New Dealerships

11.1 New Dealerships. To the extent legally possible, for the period from the effective date hereof through the Termination Date, City agrees to use its best efforts to refer any new automotive dealerships requesting to locate in the City to the Developer for possible location within the Auto Mall.

12.0 General.

12.1 Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by City or Developer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

12.2 Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof, or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorney's fees by the other party, and in the event any judgement is secured by said prevailing party, all such

costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

12.3 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document.

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

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

12.6 Time Essence. Time is of the essence of this Agreement.

12.7 Successors. All of the provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. Notwithstanding the foregoing, Developer shall have the right, upon fifteen (15) days' prior written notice to City, to assign all or part of its rights hereunder to any one or more persons or entities that purchase or lease a portion of the Property within the Project. Any assignment requested by the Developer shall be approved by the City, such approval not to be unreasonably withheld or delayed. Developer's rights and obligations hereunder may only be assigned by a written instrument expressly assigning such rights and obligations. In the event of a complete assignment by Developer of all rights and obligations of Developer hereunder, Developer's liability hereunder shall terminate effective upon the assumption by Developer's assignee.

12.8 Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

12.9 Amendment. No amendment or waiver of any provision in this Agreement will be binding on the City unless and until it has been approved by the City Council and has become effective, or on Developer unless and until it has been executed by an authorized representative.

12.10 Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.

12.11 Severability. Every provision of this Agreement is and will be construed to be a separate and independent covenant. If any provision in this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will not be affected by that invalidity or unenforceability and each provision in this Agreement will be valid and will be enforced to the extent permitted by law and the parties will negotiate in good faith for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

12.12 Covenant of Good Faith. In exercising their rights and in performing their obligations pursuant to this Agreement, the parties will cooperate with one another in good faith, so the intent of this Agreement can be attained.

12.13 Exhibits. All Exhibits attached hereto are incorporated herein by reference. The Exhibits are as follows:

Exhibit "A" - Legal Description of Property
Exhibit "B" - Development Plan
Exhibit "C" - Construction Schedule

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

"DEVELOPER"

AZVT, LLC, an Arizona limited liability company

By: _____ 10-8-99
Date

Its: Manager

"CITY"

CITY OF AVONDALE, ARIZONA, an Arizona municipal corporation

By: _____ 10/18/99
Date

Its: VICE MAYOR

_____ City Clerk

99784767

STATE OF ARIZONA)
)
County of Maricopa)

The foregoing instrument was acknowledged before me this 8th day of October, 1999, by Larry Van Tuyl, who acknowledged himself to be the Manager of AZVT, LLC, an Arizona limited liability company, for and on behalf of the company.

Linda Cortright
Notary Public

My commission expires:

6-30-2002

OFFICIAL SEAL
LINDA CORTRIGHT
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires June 30, 2002

STATE OF ARIZONA)
)
County of Maricopa)

The foregoing instrument was acknowledged before me this 18th day of OCTOBER, 1999, by Henry Batton & Linda Tyler who acknowledged ~~himself~~ to be the Vice Mayor & City Clerk of the CITY OF AVONDALE, an Arizona municipal corporation, for and on behalf of the municipal corporation.

Sharon K. Marshall
Notary Public

"OFFICIAL SEAL"
Sharon K. Marshall
Notary Public-Arizona
Maricopa County
My Commission Expires 10/19/2002

My Commission Expires:

99954767

EXHIBIT "A"

The South half of the North half of Section 5, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT any portion of the above described property lying between Line Nos. 1 and 2, as set forth in Final Order of Condemnation recorded in Instrument No. 84-463775, described as follows:

LINE NO. 1: COMMENCING at the Northeast corner of said Section 5;
THENCE South 0 degrees 22 minutes 39 seconds East, along the East line of said Section, 300.00 feet to the POINT OF BEGINNING;
THENCE South 89 degrees 37 minutes 21 seconds West, 40.00 feet;
THENCE South 7 degrees 08 minutes 11 seconds West, 382.34 feet;
THENCE South 88 degrees 58 minutes 31 seconds West, 58.65 feet;
THENCE South 80 degrees 16 minutes 47 seconds West, 859.88 feet;
THENCE South 88 degrees 58 minutes 31 seconds West, 4111.38 feet;
THENCE North 50 degrees 46 minutes 18 seconds West, 99.22 feet;
THENCE North 10 degrees 31 minutes 07 seconds West, 187.67 feet;
THENCE South 89 degrees 44 minutes 25 seconds West, 55.00 feet to the POINT OF ENDING on the West line of said Section 5, which point bears South 0 degrees 15 minutes 35 seconds East, 539.97 feet from the Northwest corner of said Section.

LINE NO. 2: COMMENCING at the East quarter corner of said Section 5;
THENCE North 0 degrees 22 minutes 39 seconds West, along the East line of said Section, 170.48 feet to the POINT OF BEGINNING;
THENCE South 89 degrees 37 minutes 21 seconds West, 40.00 feet;
THENCE North 0 degrees 22 minutes 39 seconds West, 1009.75 feet;
THENCE North 85 degrees 00 minutes 46 seconds West, 1014.57 feet;
THENCE South 88 degrees 58 minutes 31 seconds West, 4124.51 feet;
THENCE South 6 degrees 08 minutes 17 seconds West, 403.83 feet;
THENCE South 89 degrees 44 minutes 25 seconds West, 55.00 feet to the POINT OF ENDING on the West line of said Section 5, which point bears North 0 degrees 15 minutes 35 seconds West, 900.75 feet from the West quarter corner of said Section; and also

EXCEPT that portion of the South half of the Northwest quarter and of the Southwest quarter of the Northeast quarter of Section 5, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, which lies between the existing (1978) South right of way line of Interstate Highway 10 (Ehrenberg-Phoenix Highway) and the following described line:

COMMENCING at the West quarter corner of said Section 5;
THENCE along the West line of said Section 5, North 0 degrees 04 minutes 33 seconds West 1500.70 feet (1500.75, record) to the centerline of said Interstate Highway 10;
THENCE along said centerline North 89 degrees 09 minutes 33 seconds East, 1071.07 feet;
THENCE South 0 degrees 50 minutes 27 seconds East, 200.00 feet to the POINT OF BEGINNING on said existing South right of way line of Interstate Highway 10;
THENCE continuing South 0 degrees 50 minutes 27 seconds East, 46.18 feet;
THENCE North 87 degrees 35 minutes 49 seconds East, 960.36 feet;
THENCE North 87 degrees 31 minutes 21 seconds East, 700.29 feet to the POINT OF ENDING on said South right of way line of Interstate Highway 10, as conveyed to the STATE OF ARIZONA, by and through its Department of Transportation in Instrument No. 92-0512378; and also

EXCEPT that portion of the South half of the Northeast quarter of Section 5, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, which lies between the existing (1978) South right of way line of Interstate Highway 10 (Ehrenberg-Phoenix) and the following described line:

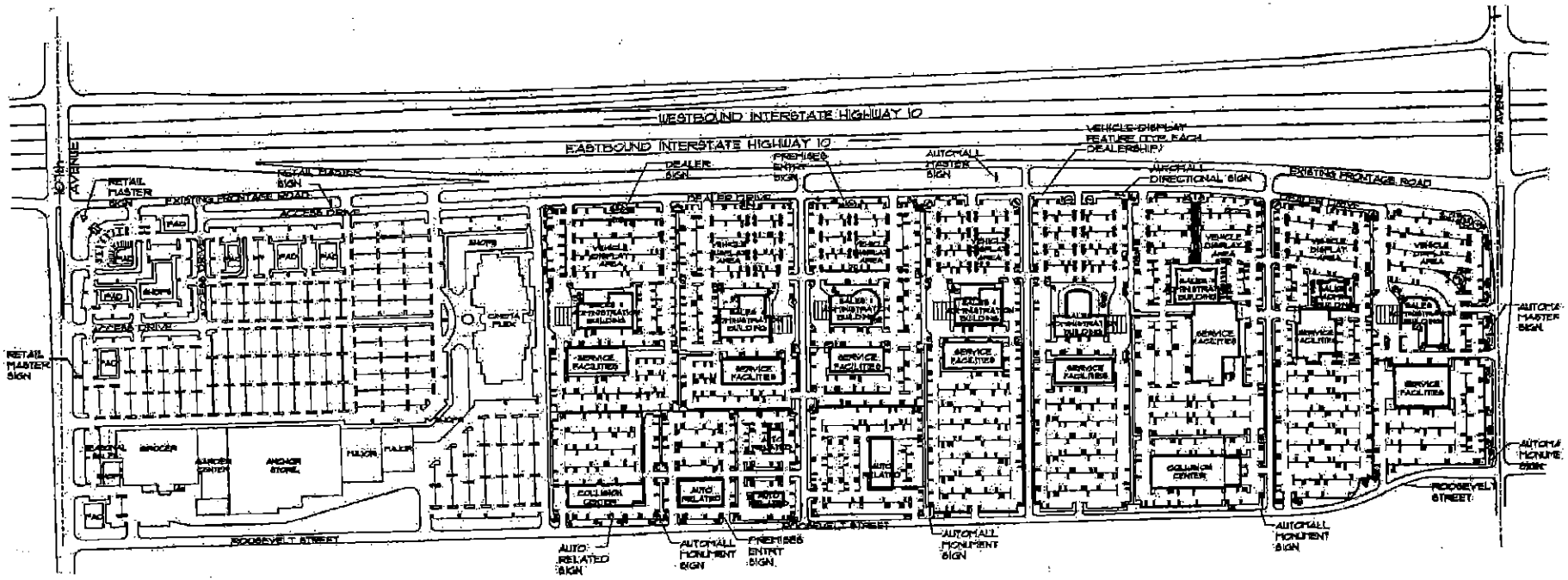
COMMENCING at the East quarter corner of said Section 5;
THENCE along the East line of said Section 5, North 0 degrees 11 minutes 37 seconds West a distance of 1486.92 feet to the Median centerline of the aforesaid Interstate Highway 10;
THENCE South 89 degrees 09 minutes 33 seconds West 1443.24 feet;
THENCE South 0 degrees 50 minutes 27 seconds East 200.00 feet to the POINT OF BEGINNING in the aforesaid South right of way line of Interstate Highway 10;
THENCE South 88 degrees 15 minutes 51 seconds East 400.41 feet;
THENCE South 84 degrees 12 minutes 12 seconds East 276.85 feet;
THENCE South 82 degrees 58 minutes 47 seconds East 681.15 feet;
THENCE South 41 degrees 35 minutes 13 seconds East, 75.02 feet to the POINT OF ENDING on the existing West right of way line of 99th Avenue as conveyed to the STATE OF ARIZONA, by and through its Department of Transportation in Instrument No. 92-0406965; and also;

EXCEPT that portion of the South half of the Northwest quarter and of the Southwest quarter of the Northeast quarter of Section 5, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, which lies between the existing (1978) South right of way line of Interstate Highway 10 (Ehrenberg-Phoenix Highway) and the following described line:

COMMENCING at the West quarter corner of said Section 5;
THENCE along the West line of said Section 5, North 0 degrees 04 minutes 33 seconds West 1210.70 feet;
THENCE North 89 degrees 55 minutes 27 seconds East 89.76 feet to the POINT OF BEGINNING on the existing East right of way line of 107th Avenue;
THENCE North 73 degrees 19 minutes 36 seconds East 150.91 feet;
THENCE North 89 degrees 09 minutes 33 seconds East 700.01 feet;
THENCE North 87 degrees 35 minutes 49 seconds East 140.05 feet;
THENCE North 0 degrees 50 minutes 27 seconds West 46.18 feet to the POINT OF ENDING on the aforesaid existing South right of way of the 107th Avenue Interchange as conveyed to the STATE OF ARIZONA, by and through its Department of Transportation in Instrument No. 92-0406966; and also

EXCEPT the West 40 feet and the East 33 feet thereof.

Exhibit "B"



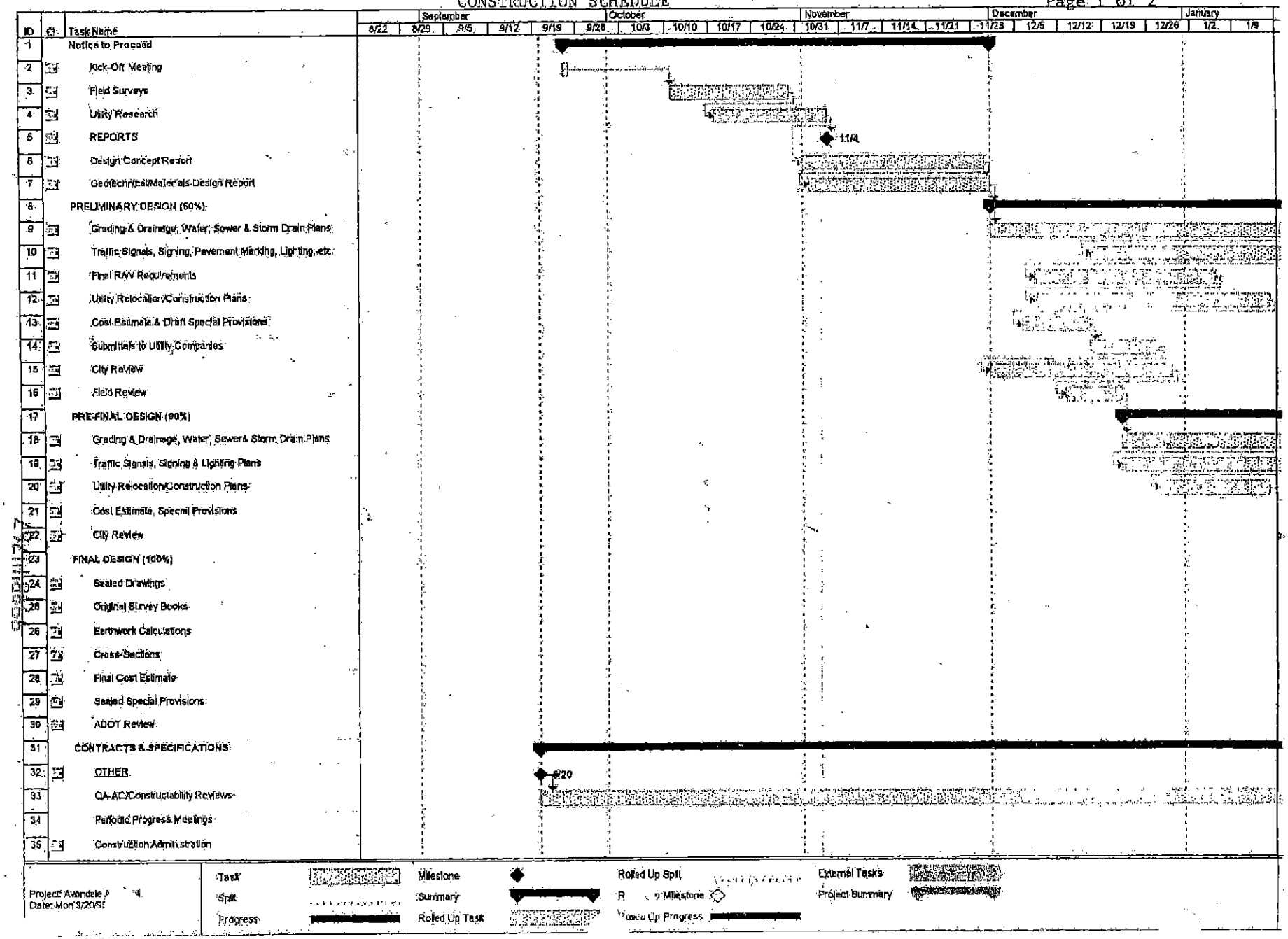
SITE PLAN

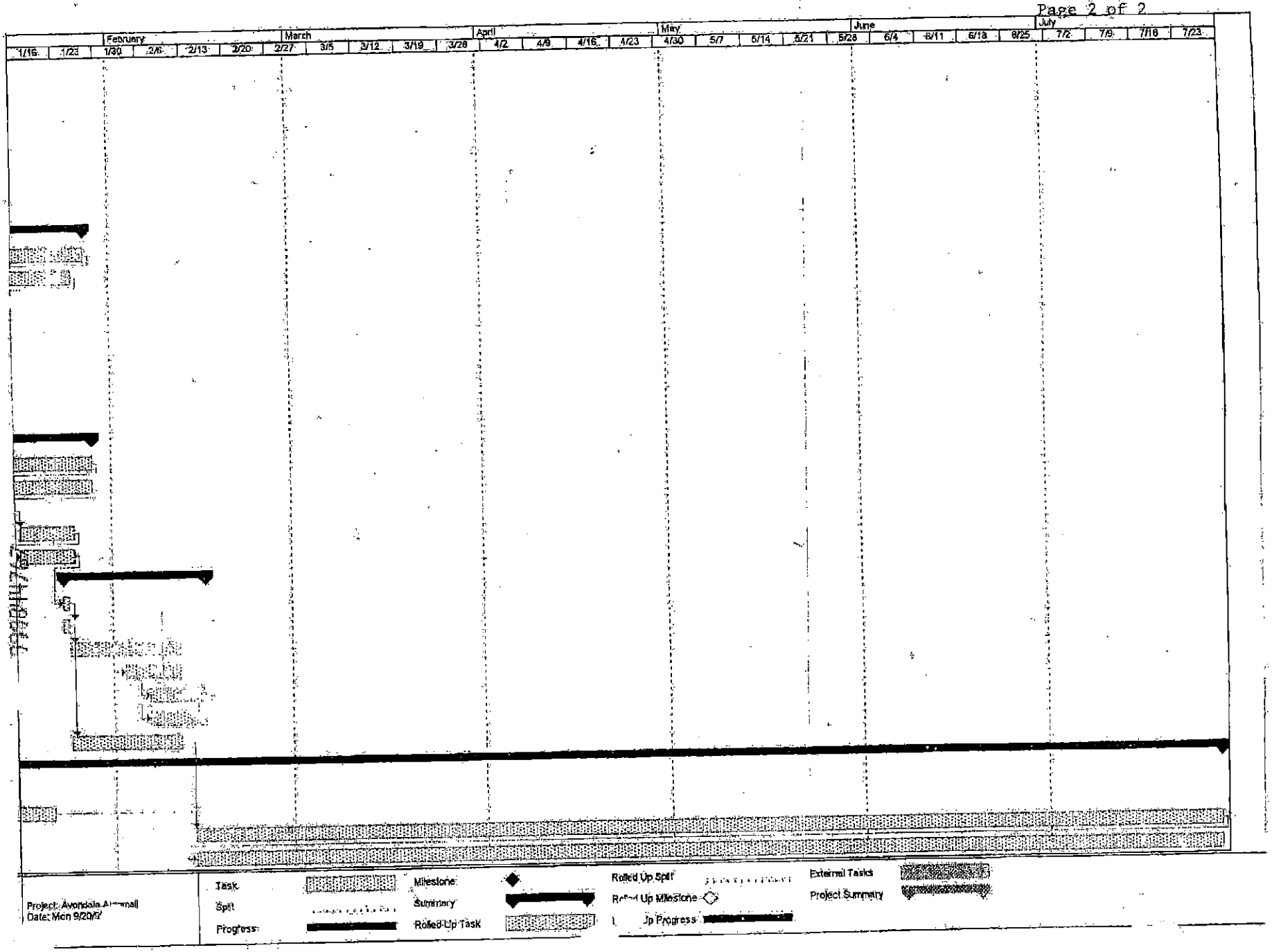
SCALE: NO SCALE

B\ABE\dwg

THE ABOVE DRAWING IS FOR ILLUSTRATION PURPOSES ONLY. IT IS NOT INTENDED TO REPRESENT THE ACTUAL CONSTRUCTION TO OCCUR. CHANGES AND MODIFICATIONS MAY BE NECESSARY TO MEET REQUIREMENTS FOR THE DEVELOPMENT OF THE PROPERTY.

EXHIBIT "C"
CONSTRUCTION SCHEDULE




February
March
April
May
June
July
1/16
1/23
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2/6
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3/5
3/12
3/19
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4/2
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5/21
5/28
6/4
6/11
6/18
6/25
7/2
7/9
7/16
7/23
Project: Avondale Airmall
Date: Mon 9/20/0
Task
Split
Progress
Milestone
Summary
Rolled Up Task
Rolled Up Split
Rolled Up Milestone
Up Progress
External Tasks
Project Summary

DATA INPUT FORM
PROSPECT INFORMATION

Project Name: Auto Mall
Industry Name: AUTO DEALERS & SVC STATIONS

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10
Total Direct Employment:	240	850	1,090	1,090	1,090	1,090	1,090	1,090	1,090	1,090
Percent of Employees Living in Avondale	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%
Value of Taxable Direct Sales:	$43,750,000	$215,000,000	$270,000,000	$286,200,000	$303,372,000	$321,574,320	$340,868,779	$361,320,906	$383,000,160	$405,980,170
Total Annual Payroll:	$1,189,440	$17,395,560	$21,608,160	$22,256,405	$22,924,097	$23,611,820	$24,320,175	$25,049,780	$25,801,273	$26,575,311
Percent Skilled Workforce	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%
Percent Semi-Skilled Workforce	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%
Percent Unskilled Workforce	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Total Value of New Construction	$12,740,000	$45,500,000	$0	$0	$0	$0	$0	$0	$0	$0
Site Acreage (enter in year of constr. only)	25.0	52.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land Cost per Acre	$141,570	$262,812	$0	$0	$0	$0	$0	$0	$0	$0
Building Square Footage (retail projects only)	98000	350000	0	0	0	0	0	0	0	0
Sales per Square Foot (retail projects only)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Purchase Price (if buying existing building)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Annual Lease Cost (if leasing existing space)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Value of Local Equipment Purchases	$500,000	$1,100,000	$0	$0	$0	$0	$0	$0	$0	$0
Value of Nonlocal Equipment Purchases	$1,200,000	$4,500,000	$0	$0	$0	$0	$0	$0	$0	$0
Est Monthly Water Use (000 gallons)	25.000	125.500	154.000	154.000	154.000	154.000	154.000	154.000	154.000	154.000
Water meter size (inches)	0.00									
Estimated Monthly Electric Costs	$18,500	$105,502	$135,700	$139,771	$143,964	$148,283	$152,731	$157,313	$162,032	$166,893
New Water Main Miles Added	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
New Street Miles Added	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
New Sanitary Sewer Miles Added	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Excess Monthly Sewer Charges for Pretreatment	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
New Housing Units (res. projects only)	0	0	0	0	0	0	0	0	0	0
If residential, is this a multi-family project? (yes=1, no=0)	0									
Sales Tax Incentives (fixed amount)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Reduced Sales Tax Rate	0.00%	0.00%	0.00%	$0	0.00%	$0	$0	0.00%	0.00%	0.00%
Permit Fees Waived (yes=1, no=0)	2									
State Shared Revenues Adjusted (yes=1,no=0)	0	0	1	$0	0	$0	$0	0	0	0

ECONOMIC IMPACT SUMMARY
CITY OF AVONDALE

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Demographic										
Population	2,741	13,907	17,492	18,922	19,199	20,127	21,108	22,146	23,244	24,405
School Age Population	628	3,186	4,007	4,198	4,398	4,611	4,836	5,074	5,325	5,591
Households	848	4,306	5,416	5,672	5,944	6,231	6,535	6,856	7,196	7,556
Economic										
Employment	1,177	5,970	7,509	7,866	8,242	8,640	9,062	9,507	9,979	10,477
Personal Income	$8,790,322	$56,228,816	$70,345,075	$73,834,453	$77,511,253	$81,386,063	$85,470,086	$89,775,176	$94,313,877	$99,099,467
Output	$108,984,147	$595,850,211	$747,038,086	$788,477,750	$832,302,312	$878,631,827	$927,674,656	$979,527,963	$1,034,378,251	$1,092,401,917
Real Estate										
Residential Units	848	4306	5416	5672	5944	6231	6535	6856	7196	7556
Non-residential Sq. Feet	523,014	2,834,849	3,315,225	3,469,738	3,633,144	3,805,964	3,988,753	4,182,095	4,386,611	4,602,960
Assessed Value	$62,489,293	$309,836,854	$373,119,279	$387,569,953	$402,528,258	$417,991,056	$433,925,729	$451,136,679	$470,171,689	$490,307,975

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FISCAL IMPACT SUMMARY BY FUND
CITY OF AVONDALE
1996 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	NPV* Years 1 to 5	NPV* Years 1 to 10
General Fund-Direct												
Revenues	$936,663	$4,773,790	$5,304,933	$5,579,319	$5,868,023	$6,171,737	$6,491,066	$6,830,392	$7,193,000	$7,576,555	$19,631,840	$37,709,861
Expenditures and Transfers Out	$299,699	$1,401,577	$1,323,363	$1,387,097	$1,454,155	$1,524,701	$1,598,873	$1,677,691	$1,761,916	$1,851,006	$3,642,752	$9,566,970
Net Impact	$636,964	$3,372,214	$3,981,569	$4,192,222	$4,413,867	$4,647,036	$4,892,193	$5,152,702	$5,431,085	$5,725,549	$15,989,088	$28,142,891
Transportation-Direct												
Revenues	$10,457	$52,941	$58,969	$61,986	$65,119	$68,436	$71,924	$75,630	$79,590	$83,779	$151,423	$418,142
Expenditures and Transfers Out	$3,030	$9,605	$16,788	$23,020	$25,097	$25,097	$25,097	$25,097	$25,097	$20,771	$42,486	$131,549
Net Impact	$7,427	$43,337	$42,181	$38,946	$40,022	$43,339	$46,827	$50,533	$54,493	$63,008	$108,937	$286,594
Wastewater Enterprise Fund-Direct												
Revenues	$1,231	$3,224	$3,185	$3,185	$3,185	$3,185	$3,185	$3,185	$3,185	$3,185	$8,996	$20,579
Expenditures and Transfers Out	$1,495	$4,040	$4,993	$6,017	$6,358	$6,358	$6,358	$6,358	$6,358	$6,358	$13,591	$36,713
Net Impact	($264)	($816)	($1,807)	($2,832)	($3,173)	($3,173)	($3,173)	($3,173)	($3,173)	($3,173)	($4,595)	($16,134)
Water Enterprise Funds-Direct												
Revenues	$1,394	$3,802	$3,848	$3,848	$3,848	$3,848	$3,848	$3,848	$3,848	$3,848	$10,701	$24,695
Expenditures and Transfers Out	$2,767	$7,910	$12,177	$16,413	$17,825	$17,825	$3,709	$17,825	$17,825	$17,825	$31,956	$87,983
Net Impact	($1,373)	($4,107)	($8,329)	($12,565)	($13,977)	($13,977)	$139	($13,977)	($13,977)	($13,977)	($21,255)	($63,288)
Direct Net Impact-All Funds	$642,754	$3,410,627	$4,013,614	$4,215,772	$4,436,740	$4,673,226	$4,935,986	$5,186,085	$5,468,428	$5,771,407	$16,072,175	$28,350,063

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REAL ESTATE SUPPORTED BY: Auto Mall
CITY OF AVONDALE

	Square Feet Supported									
Land Use	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Hotel	6,558	35,852	44,949	47,442	50,079	52,868	55,818	58,938	62,238	65,730
Retail	226,263	1,116,667	1,406,340	1,468,603	1,534,449	1,604,089	1,677,745	1,755,654	1,838,066	1,925,246
Office	145,118	770,070	966,692	1,017,263	1,070,745	1,127,308	1,187,134	1,250,414	1,317,351	1,388,161
Industrial	98,180	472,948	596,311	621,038	647,188	674,845	704,097	735,038	767,767	802,390
Hospital	15,258	83,418	104,584	110,385	116,521	123,010	129,873	137,132	144,811	152,934
Utilities	3,722	20,348	25,511	26,926	28,422	30,005	31,679	33,450	35,323	37,304
Government	26,324	126,843	159,926	166,563	173,581	181,004	188,855	197,160	205,944	215,237
Other	1,592	8,704	10,913	11,518	12,158	12,836	13,552	14,309	15,110	15,958
Housing Units	848	4,306	5,416	5,672	5,944	6,231	6,535	6,856	7,196	7,556
Total Square Feet	523,014	2,634,849	3,315,225	3,469,738	3,633,144	3,805,964	3,988,753	4,182,095	4,386,611	4,602,960

Source: U.S. Bureau of Labor Statistics; Applied Economics.

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TOTAL FISCAL IMPACT OF: Auto Mall 88BW767
GENERAL FUND
CITY OF AVONDALE
1996 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5
REVENUES	**$1,642,676**	**$8,297,387**	**$12,362,575**	**$13,740,991**	**$13,233,491**
Taxes					
Sales Tax	$1,010,865	$5,191,566	$5,912,359	$6,231,773	$6,569,570
Primary Property Tax	$158,867	$781,757	$909,917	$939,868	$970,118
Utility Franchise Tax	$40,786	$211,839	$267,055	$279,444	$292,519
Cable TV Franchise	$5,887	$29,872	$37,573	$39,355	$41,239
SRP In-Lieu Tax	$0	$0	$0	$0	$0
Sales Tax Audit Assessment	$0	$0	$0	$0	$0
Licenses and Permits					
Occupational Licenses	$10,755	$54,578	$68,649	$71,904	$75,347
Liquor Licenses	$0	$0	$0	$0	$0
Intergovernmental					
State Sales Tax	$2,188	$11,105	$1,431,483	$1,432,145	$1,432,846
State Income Tax	$2,339	$11,870	$1,530,110	$1,530,818	$1,531,566
Vehicle License Tax	$67,052	$340,255	$427,976	$448,271	$469,734
Other County Reimbursements	$0	$0	$0	$0	$0
Charges for Services					
Building Permit Fees	$56,923	$237,629	$75,615	$18,354	$19,410
Electrical Permit Fees	$1,970	$8,226	$2,617	$635	$672
Plumbing Permit Fees	$1,970	$8,226	$2,617	$635	$672
Engineering Fees	$14,924	$62,303	$19,825	$4,812	$5,089
Planning Application Fees	$3,990	$16,656	$5,300	$1,286	$1,360
Plan Check Fees	$5,572	$23,262	$7,402	$1,797	$1,900
Sanitation Development Fees	$0	$0	$0	$0	$0
Refuse Collection Fees	$168,273	$853,902	$1,074,046	$1,124,977	$1,178,840
Misc Fees	$0	$0	$0	$0	$0
Fines and Forfeits					
Library Fines	$186	$943	$1,186	$1,242	$1,302
Court Fines	$43,977	$221,102	$271,949	$284,845	$298,483
Misc Fines/Forfeits	$660	$3,297	$3,994	$4,183	$4,383
Miscellaneous					
Interest	$24,442	$123,462	$183,951	$189,581	$196,910
Ambulance Fees	$4,745	$24,076	$30,283	$31,720	$33,238
Other	$16,303	$81,460	$98,666	$103,345	$108,293
EXPENDITURES	**$1,023,218**	**$5,045,090**	**$5,860,443**	**$6,087,763**	**$6,378,531**
City Council	$1,084	$5,499	$6,917	$7,245	$7,592
City Manager/Administration	$26,032	$130,450	$159,152	$166,699	$174,680
Human Resources	$20,231	$101,714	$125,105	$131,037	$137,311
Economic Development	$3,360	$17,050	$21,446	$22,463	$23,538
Equipment Management	$53,928	$273,655	$344,206	$360,528	$377,790
Nondepartmental	$99,476	$487,991	$558,426	$579,135	$606,783
Financial Services	$23,679	$119,606	$178,205	$183,660	$190,759
Engineering	$0	$0	$0	$0	$0
City Clerk	$14,590	$74,035	$93,122	$97,538	$102,208
Planning	$51,988	$211,881	$111,300	$116,578	$122,159
Building Inspection	$57,644	$229,993	$53,126	$12,895	$13,637
Facilities and Grounds	$8,858	$44,537	$54,780	$57,377	$60,125
Social Services	$36,201	$183,700	$231,059	$242,016	$253,604
Library	$52,268	$265,233	$333,612	$349,432	$366,163
Police	$264,003	$1,335,629	$1,647,615	$1,726,679	$1,810,294
Court	$26,531	$134,629	$169,338	$177,368	$185,860
Fire	$131,979	$661,367	$806,885	$845,147	$885,612
Sanitation	$151,369	$768,121	$966,149	$1,011,964	$1,060,416
Transfers Out					
Debt Service	$129,754	$662,957	$760,226	$799,004	$839,860
Special Revenue Funds	$11,110	$56,376	$70,911	$74,273	$77,829
Vehicle Replacement	$45,684	$231,824	$291,590	$305,417	$320,040
Equipment Replacement	$2,998	$15,212	$19,134	$20,041	$21,000
Self Insurance	$0	$0	$0	$0	$0
HURF	$17,941	$90,621	$135,020	$139,153	$144,532
Contingency/Appropriated Reserve	$164,268	$829,739	$1,236,257	$1,274,099	$1,323,349
NET IMPACT	**$247,704**	**$1,365,568**	**$3,988,994**	**$4,041,241**	**$4,128,350**

Source: Applied Economics, City of Avondale Annual Budget.

TOTAL FISCAL IMPACT OF Anti-Mall 767
GENERAL FUND
CITY OF AVONDALE
1996 Dollars

	Year 6	Year 7	Year 8	Year 9	Year 10
REVENUES	**$13,752,746**	**$14,300,048**	**$14,880,513**	**$15,498,198**	**$16,151,589**
Taxes					
Sales Tax	$6,926,829	$7,304,694	$7,704,376	$8,127,159	$8,574,402
Primary Property Tax	$1,000,540	$1,030,870	$1,064,518	$1,103,756	$1,145,264
Utility Franchise Tax	$306,320	$320,888	$336,268	$352,506	$369,652
Cable TV Franchise	$43,232	$45,340	$47,569	$49,928	$52,422
SRP In Lieu Tax	$0	$0	$0	$0	$0
Sales Tax Audit Assessment	$0	$0	$0	$0	$0
Licenses and Permits					
Occupational Licenses	$78,988	$82,839	$86,912	$91,221	$95,779
Liquor Licenses	$0	$0	$0	$0	$0
Intergovernmental					
State Sales Tax	$1,433,586	$1,434,370	$1,435,199	$1,436,075	$1,437,003
State Income Tax	$1,532,358	$1,533,196	$1,534,082	$1,535,019	$1,536,010
Vehicle License Tax	$492,433	$516,441	$541,836	$568,693	$597,115
Other County Reimbursements	$0	$0	$0	$0	$0
Charges for Services					
Building Permit Fees	$20,528	$21,712	$22,966	$24,293	$25,699
Electrical Permit Fees	$711	$752	$795	$841	$890
Plumbing Permit Fees	$711	$752	$795	$841	$890
Engineering Fees	$5,382	$5,693	$6,021	$6,369	$6,738
Planning Application Fees	$1,439	$1,522	$1,610	$1,703	$1,801
Plan Check Fees	$2,010	$2,125	$2,248	$2,378	$2,516
Sanitation Development Fees	$0	$0	$0	$0	$0
Refuse Collection Fees	$1,235,806	$1,296,057	$1,359,788	$1,427,202	$1,498,516
Misc Fees	$0	$0	$0	$0	$0
Fines and Forfeits					
Library Fines	$1,365	$1,431	$1,502	$1,576	$1,655
Court Fines	$312,907	$328,163	$344,299	$361,369	$379,426
Misc Fines/Forfeits	$4,595	$4,819	$5,056	$5,307	$5,572
Miscellaneous					
Interest	$204,636	$212,780	$221,417	$230,608	$240,330
Ambulence Fees	$34,844	$36,543	$38,340	$40,241	$42,252
Other	$113,526	$119,061	$124,916	$131,109	$137,660
EXPENDITURES	**$6,686,026**	**$7,011,227**	**$7,355,230**	**$7,719,177**	**$8,104,181**
City Council	$7,959	$8,347	$8,757	$9,191	$9,651
City Manager/Administration	$183,122	$192,050	$201,493	$211,483	$222,050
Human Resources	$143,947	$150,965	$158,388	$166,241	$174,547
Economic Development	$24,676	$25,879	$27,151	$28,497	$29,921
Equipment Management	$396,046	$415,355	$435,779	$457,384	$480,238
Nondepartmental	$636,021	$666,941	$699,650	$734,256	$770,865
Financial Services	$198,244	$206,133	$214,500	$223,404	$232,823
Engineering	$0	$0	$0	$0	$0
City Clerk	$107,147	$112,371	$117,896	$123,741	$129,924
Planning	$128,053	$134,306	$140,911	$147,896	$155,287
Building Inspection	$14,423	$15,255	$16,135	$17,068	$18,055
Facilities and Grounds	$63,030	$66,103	$69,354	$72,792	$76,429
Social Services	$265,859	$278,821	$292,531	$307,034	$322,376
Library	$383,857	$402,572	$422,368	$443,307	$465,458
Police	$1,898,725	$1,992,258	$2,091,190	$2,195,841	$2,306,546
Court	$194,841	$204,341	$214,389	$225,018	$236,261
Fire	$928,408	$973,673	$1,021,550	$1,072,196	$1,125,771
Sanitation	$1,111,659	$1,165,858	$1,223,186	$1,283,828	$1,347,978
Transfers Out					
Debt Service	$882,898	$928,219	$976,321	$1,027,588	$1,081,818
Special Revenue Funds	$81,590	$85,568	$89,776	$94,227	$98,935
Vehicle Replacement	$335,506	$351,864	$369,166	$387,468	$406,829
Equipment Replacement	$22,015	$23,089	$24,224	$25,425	$26,695
Self Insurance	$0	$0	$0	$0	$0
HURF	$150,203	$156,180	$162,520	$169,266	$176,402
Contingency/Appropriated Reserve	$1,375,275	$1,430,005	$1,488,051	$1,549,820	$1,615,159
NET IMPACT	**$4,219,233**	**$4,313,897**	**$4,415,225**	**$4,525,228**	**$4,641,570**

Source: Applied Economics, City of Avondale Ant

DATA INPUT FORM
PROSPECT INFORMATION

Project Name: 99th/107th Retail Center
Industry Name: MISC RETAIL

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10
Total Direct Employment:	0	950	950	950	950	950	950	950	950	950
Percent of Employees Living in Avondale	0%	75%	75%	75%	75%	75%	75%	75%	75%	75%
Value of Taxable Direct Sales:	$0	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000
Total Annual Payroll:	$0	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000
Percent Skilled Workforce	0%	35%	35%	35%	35%	35%	35%	35%	35%	35%
Percent Semi-Skilled Workforce	0%	40%	40%	40%	40%	40%	40%	40%	40%	40%
Percent Unskilled Workforce	0%	25%	25%	25%	25%	25%	25%	25%	25%	25%
Total Value of New Construction	$50,625,000	$0	$0	$0	$0	$0	$0	$0	$0	$0
Site Acreage (enter in year of constr. only)	150.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land Cost per Acre	$239,580	$0	$0	$0	$0	$0	$0	$0	$0	$0
Building Square Footage (retail projects only)	0	0	0	0	0	0	0	0	0	0
Sales per Square Foot (retail projects only)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Purchase Price (if buying existing building)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Annual Lease Cost (if leasing existing space)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Value of Local Equipment Purchases	$700,000	$0	$0	$0	$0	$0	$0	$0	$0	$0
Value of Nonlocal Equipment Purchases	$6,300,000	$0	$0	$0	$0	$0	$0	$0	$0	$0
Est. Monthly Water Use (000 gallons)	0.000	300.000	300.000	300.000	300.000	300.000	300.000	300.000	300.000	300.000
Water meter size (inches)	0.00									
Estimated Monthly Electric Costs	$0	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000
New Water Main Miles Added	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
New Street Miles Added	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
New Sanitary Sewer Miles Added	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Excess Monthly Sewer Charges for Pretreatment	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
New Housing Units (res. projects only)	0	0	0	0	0	0	0	0	0	0
If residential, is this a multi-family project? (yes=1, no=0)	0									
Sales Tax Incentives (fixed amount)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Reduced Sales Tax Rate	0.00%	0.00%	0.00%	$0	0.00%	$0	$0	0.00%	0.00%	0.00%
Permit Fees Waived (yes=1, no=0)	2									
State Shared Revenues Adjusted (yes=1,no=0)	0	0	1	$0	0	$0	$0	0	0	0

FISCAL IMPACT SUMMARY BY FUND
CITY OF AVONDALE
1996 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	NPV* Years 1 to 5	NPV* Years 1 to 10
General Fund-Total												
Revenues	$892,245	$3,611,565	$4,208,499	$4,207,701	$4,205,567	$4,200,781	$4,196,283	$4,196,283	$4,196,283	$4,196,283	$10,633,778	$25,902,632
Expenditures	$516,030	$2,279,877	$2,293,758	$2,293,573	$2,293,077	$2,291,965	$2,290,921	$2,290,921	$2,290,921	$2,290,921	$6,095,749	$14,428,618
Net Impact	$376,215	$1,331,688	$1,914,741	$1,914,128	$1,912,489	$1,908,815	$1,905,362	$1,905,362	$1,905,362	$1,905,362	$4,538,029	$11,474,014
Transportation Fund-Total												
Revenues	$9,745	$285,320	$320,116	$320,108	$320,084	$320,032	$319,983	$319,983	$319,983	$319,983	$763,836	$1,927,518
Expenditures and Transfers Out	$11,870	$253,610	$265,381	$269,535	$270,920	$270,920	$270,920	$270,920	$270,920	$270,920	$654,863	$1,640,027
Net Impact	($2,125)	$31,710	$54,736	$50,573	$49,165	$49,112	$49,063	$49,063	$49,063	$49,063	$108,973	$287,490
Wastewater Enterprise Fund-Total												
Revenues	$131	$272,210	$166,670	$166,670	$166,670	$166,670	$166,670	$166,670	$166,670	$166,670	$501,085	$1,107,158
Expenditures and Transfers Out	$318	$239,680	$134,823	$135,506	$135,733	$135,733	$135,733	$135,733	$135,733	$135,733	$423,075	$916,651
Net Impact	($187)	$32,530	$31,847	$31,164	$30,937	$30,937	$30,937	$30,937	$30,937	$30,937	$78,010	$190,507
Water Enterprise Fund-Total												
Revenues	$795	$209,852	$201,371	$201,371	$201,371	$201,371	$201,371	$201,371	$201,371	$201,371	$502,039	$1,234,297
Expenditures and Transfers Out	$1,719	$204,144	$199,578	$202,402	$203,343	$203,343	$203,343	$203,343	$203,343	$203,343	$497,241	$1,236,672
Net Impact	($924)	$5,708	$1,792	($1,031)	($1,973)	($1,973)	($1,973)	($1,973)	($1,973)	($1,973)	$4,798	($2,375)
Total Net Impact-All Funds	$372,978	$1,401,636	$2,003,116	$1,994,834	$1,990,618	$1,986,892	$1,983,389	$1,983,389	$1,983,389	$1,983,389	$4,729,810	$11,949,636
Total Revenues Generated Per Dollar of O&M Expenditures	$1.70	$1.47	$1.69	$1.69	$1.69	$1.68	$1.68	$1.68	$1.68	$1.68		

* Net Present Value of ten-year impact discounted at 7 percent annually.

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REAL ESTATE SUPPORTED BY: 99th /107th Retail Center
CITY OF AVONDALE

	Square Feet Supported									
Land Use	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Hotel	0	56,699	56,699	56,699	56,699	56,699	56,699	56,699	56,699	56,699
Retail	0	388,952	388,952	388,952	388,952	388,952	388,952	388,952	388,952	388,952
Office	0	139,694	139,694	139,694	139,694	139,694	139,694	139,694	139,694	139,694
Industrial	0	133,520	133,520	133,520	133,520	133,520	133,520	133,520	133,520	133,520
Hospital	0	18,779	18,779	18,779	18,779	18,779	18,779	18,779	18,779	18,779
Utilities	0	3,005	3,005	3,005	3,005	3,005	3,005	3,005	3,005	3,005
Government	0	49,067	49,067	49,067	49,067	49,067	49,067	49,067	49,067	49,067
Other	0	8,898	8,898	8,898	8,898	8,898	8,898	8,898	8,898	8,898
Housing Units	0	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302
Total Square Feet	0	798,614	798,614	798,614	798,614	798,614	798,614	798,614	798,614	798,614

Source: U.S. Bureau of Labor Statistics; Applied Economics.

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ECONOMIC IMPACT SUMMARY
CITY OF AVONDALE

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Demographic										
Population	0	4,204	4,204	4,204	4,204	4,204	4,204	4,204	4,204	4,204
School Age Population	0	963	963	963	963	963	963	963	963	963
Households	0	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302
Economic										
Employment	0	1,805	1,805	1,805	1,805	1,805	1,805	1,805	1,805	1,805
Personal Income	$0	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750
Output	$0	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000
Real Estate										
Residential Units	0	1302	1302	1302	1302	1302	1302	1302	1302	1302
Non-residential Sq. Feet	0	798,614	798,614	798,614	798,614	798,614	798,614	798,614	798,614	798,614
Assessed Value	$78,589,150	$159,122,127	$159,263,697	$159,084,947	$158,606,612	$157,534,112	$156,526,112	$156,526,112	$156,526,112	$156,526,112

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TOTAL FISCAL IMPACT OF 99th/Thomas Retail Center
GENERAL FUND
CITY OF AVONDALE
1996 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5
REVENUES	**$892,245**	**$3,611,565**	**$4,208,499**	**$4,207,701**	**$4,205,567**
Taxes					
Sales Tax	$524,553	$2,384,961	$2,384,961	$2,384,961	$2,384,961
Primary Property Tax	$345,478	$498,699	$499,321	$498,535	$496,432
Utility Franchise Tax	$0	$65,661	$65,661	$65,661	$65,661
Cable TV Franchise	$0	$9,031	$9,031	$9,031	$9,031
SRP In-Lieu Tax	$0	$0	$0	$0	$0
Sales Tax Audit Assessment	$0	$0	$0	$0	$0
Licenses and Permits					
Occupational Licenses	$0	$16,499	$16,499	$16,499	$16,499
Liquor Licenses	$0	$0	$0	$0	$0
Intergovernmental					
State Sales Tax	$0	$3,357	$344,049	$344,049	$344,049
State Income Tax	$0	$3,588	$367,754	$367,754	$367,754
Vehicle License Tax	$0	$102,862	$102,862	$102,862	$102,862
Other County Reimbursements	$0	$0	$0	$0	$0
Charges for Services					
Building Permit Fees	$0	$78,317	$0	$0	$0
Electrical Permit Fees	$0	$2,711	$0	$0	$0
Plumbing Permit Fees	$0	$2,711	$0	$0	$0
Engineering Fees	$0	$20,533	$0	$0	$0
Planning Application Fees	$0	$5,489	$0	$0	$0
Plan Check Fees	$0	$7,667	$0	$0	$0
Sanitation Development Fees	$0	$0	$0	$0	$0
Refuse Collection Fees	$0	$258,141	$258,141	$258,141	$258,141
Misc Fees	$0	$0	$0	$0	$0
Fines and Forfeits					
Library Fines	$0	$285	$285	$285	$285
Court Fines	$5,444	$65,362	$65,362	$65,362	$65,362
Misc Fines/Forfeits	$136	$960	$960	$960	$960
Miscellaneous					
Interest	$13,276	$53,739	$62,621	$62,609	$62,577
Ambulance Fees	$0	$7,278	$7,278	$7,278	$7,278
Other	$3,357	$23,714	$23,714	$23,714	$23,714
EXPENDITURES	**$324,254**	**$1,471,985**	**$1,419,587**	**$1,419,374**	**$1,419,540**
City Council	$0	$1,662	$1,662	$1,662	$1,662
City Manager/Administration	$4,360	$38,251	$38,251	$38,251	$38,251
Human Resources	$2,505	$30,068	$30,068	$30,068	$30,068
Economic Development	$0	$5,154	$5,154	$5,154	$5,154
Equipment Management	$0	$82,728	$82,728	$82,728	$82,728
Nondepartmental	$36,997	$141,455	$135,477	$135,475	$135,471
Financial Services	$12,862	$52,060	$60,665	$60,653	$60,623
Engineering	$0	$0	$0	$0	$0
City Clerk	$0	$22,381	$22,381	$22,381	$22,381
Planning	$137,293	$26,750	$26,750	$26,750	$26,750
Building Inspection	$70,139	$55,024	$0	$0	$0
Facilities and Grounds	$1,097	$13,166	$13,166	$13,166	$13,166
Social Services	$0	$55,534	$55,534	$55,534	$55,534
Library	$0	$80,182	$80,182	$80,182	$80,182
Police	$36,898	$400,729	$400,729	$400,729	$400,729
Court	$0	$40,699	$40,699	$40,699	$40,699
Fire	$22,105	$193,930	$193,930	$193,930	$193,930
Sanitation	$0	$232,209	$232,209	$232,209	$232,209
Transfers Out					
Debt Service	$92,806	$315,567	$315,633	$315,550	$315,325
Special Revenue Funds	$0	$17,043	$17,043	$17,043	$17,043
Vehicle Replacement	$0	$70,082	$70,082	$70,082	$70,082
Equipment Replacement	$0	$4,599	$4,599	$4,599	$4,599
Self Insurance	$0	$0	$0	$0	$0
HURF	$9,745	$39,444	$45,964	$45,955	$45,932
Contingency/Appropriated Reserve	$89,224	$361,156	$420,850	$420,770	$420,557
NET IMPACT	**$376,215**	**$1,331,688**	**$1,914,741**	**$1,914,128**	**$1,912,489**

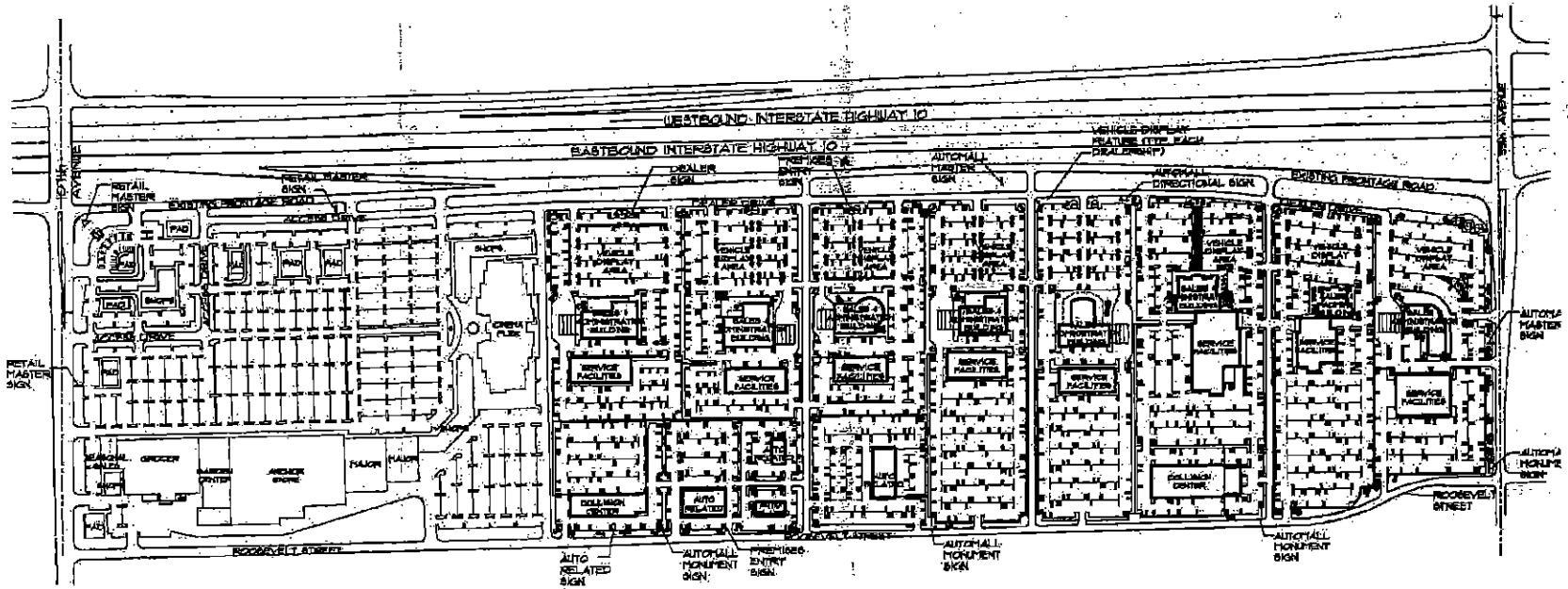
Source: Applied Economics, City of Avondale Annual Budget.

TOTAL FISCAL IMPACT OF [illegible]
GENERAL FUND
CITY OF AVONDALE
1996 Dollars

	Year 6	Year 7	Year 8	Year 9	Year 10
REVENUES	$4,200,781	$4,196,283	$4,196,283	$4,196,283	$4,196,283
Taxes					
Sales Tax	$2,384,961	$2,384,961	$2,384,961	$2,384,961	$2,384,961
Primary Property Tax	$491,718	$487,286	$487,286	$487,286	$487,286
Utility Franchise Tax	$65,661	$65,661	$65,661	$65,661	$65,661
Cable TV Franchise	$9,031	$9,031	$9,031	$9,031	$9,031
SRP In-Lieu Tax	$0	$0	$0	$0	$0
Sales Tax Audit Assessment	$0	$0	$0	$0	$0
Licenses and Permits					
Occupational Licenses	$16,499	$16,499	$16,499	$16,499	$16,499
Liquor Licenses	$0	$0	$0	$0	$0
Intergovernmental					
State Sales Tax	$344,049	$344,049	$344,049	$344,049	$344,049
State Income Tax	$367,754	$367,754	$367,754	$367,754	$367,754
Vehicle License Tax	$102,862	$102,862	$102,862	$102,862	$102,862
Other County Reimbursements	$0	$0	$0	$0	$0
Charges for Services					
Building Permit Fees	$0	$0	$0	$0	$0
Electrical Permit Fees	$0	$0	$0	$0	$0
Plumbing Permit Fees	$0	$0	$0	$0	$0
Engineering Fees	$0	$0	$0	$0	$0
Planning Application Fees	$0	$0	$0	$0	$0
Plan Check Fees	$0	$0	$0	$0	$0
Sanitation Development Fees	$0	$0	$0	$0	$0
Refuse Collection Fees	$258,141	$258,141	$258,141	$258,141	$258,141
Misc Fees	$0	$0	$0	$0	$0
Fines and Forfeits					
Library Fines	$285	$285	$285	$285	$285
Court Fines	$65,362	$65,362	$65,362	$65,362	$65,362
Misc Fines/Forfeits	$960	$960	$960	$960	$960
Miscellaneous					
Interest	$62,506	$62,439	$62,439	$62,439	$62,439
Ambulance Fees	$7,278	$7,278	$7,278	$7,278	$7,278
Other	$23,714	$23,714	$23,714	$23,714	$23,714
EXPENDITURES	$1,419,462	$1,419,389	$1,419,389	$1,419,389	$1,419,389
City Council	$1,662	$1,662	$1,662	$1,662	$1,662
City Manager/Administration	$38,251	$38,251	$38,251	$38,251	$38,251
Human Resources	$30,068	$30,068	$30,068	$30,068	$30,068
Economic Development	$5,154	$5,154	$5,154	$5,154	$5,154
Equipment Management	$82,728	$82,728	$82,728	$82,728	$82,728
Nondepartmental	$135,462	$135,454	$135,454	$135,454	$135,454
Financial Services	$60,554	$60,489	$60,489	$60,489	$60,489
Engineering	$0	$0	$0	$0	$0
City Clerk	$22,381	$22,381	$22,381	$22,381	$22,381
Planning	$26,750	$26,750	$26,750	$26,750	$26,750
Building Inspection	$0	$0	$0	$0	$0
Facilities and Grounds	$13,166	$13,166	$13,166	$13,166	$13,166
Social Services	$55,534	$55,534	$55,534	$55,534	$55,534
Library	$80,182	$80,182	$80,182	$80,182	$80,182
Police	$400,729	$400,729	$400,729	$400,729	$400,729
Court	$40,699	$40,699	$40,699	$40,699	$40,699
Fire	$193,930	$193,930	$193,930	$193,930	$193,930
Sanitation	$232,209	$232,209	$232,209	$232,209	$232,209
Transfers Out					
Debt Service	$314,822	$314,350	$314,350	$314,350	$314,350
Special Revenue Funds	$17,043	$17,043	$17,043	$17,043	$17,043
Vehicle Replacement	$70,082	$70,082	$70,082	$70,082	$70,082
Equipment Replacement	$4,599	$4,599	$4,599	$4,599	$4,599
Self Insurance	$0	$0	$0	$0	$0
HURF	$45,879	$45,830	$45,830	$45,830	$45,830
Contingency/Appropriated Reserve	$420,078	$419,628	$419,628	$419,628	$419,628
NET IMPACT	$1,908,815	$1,905,362	$1,905,362	$1,905,362	$1,905,362

Source: Applied Economics, City of Avondale Ant

Exhibit "B"



SITE PLAN
SCALE: NO SCALE

BASE.dwg

THE ABOVE DRAWING IS FOR ILLUSTRATION PURPOSES ONLY. IT IS NOT INTENDED TO REPRESENT THE ACTUAL CONSTRUCTION TO OCCUR. CHANGES AND MODIFICATIONS MAY BE NECESSARY TO MEET REQUIREMENTS FOR THE DEVELOPMENT OF THE PROPERTY.

Larson Associates Architects, Inc.

Avondale Automall
S.W.C. 99th Avenue and Interstate Highway 10
Avondale, AZ.

Drawing Name: SITE PLAN
Revisions
Date: 9/23/09
Project Number:
Drawing No: SP1.0

Exhibit E

1999 Corrective Development Agreement

First American Title

Unofficial Document

Recording Requested by:
FIRST AMERICAN TITLE

When recorded mail to:

First American Title Ins. Co.
2398 E. Camelback Rd., Ste. 1030
Phoenix, Az. 85016
Attn: Pam Swoboda

2000-0571900 01/20/2000 04:01
CLARK 1 OF 17

Escrow No.226-100-1258320 1/2

CAPTION HEADING: CORRECTIVE DEVELOPMENT AGREEMENT

THIS DOCUMENT IS BEING RECORDED FOR THE SOLE PURPOSE OF ADDING EXHIBIT "B" TO THE DOCUMENT RECORDED 10/26/99 IN DOCUMENT No. 99-0984467, RECORDS OF MARICOPA COUNTY, ARIZONA.

C99-402

REZONING REQUEST
&
GENERAL DEVELOPMENT PLAN AND PROGRAM

AVONDALE AUTOMALL & RETAIL SHOPPING CENTER

Southwest Corner of 99th Avenue and Interstate 10

Request: Rezoning from AG, Agricultural to PADD, C-2, CUP, Planned Area Development District, Community Commercial, Conditional Use Permit, with Development Standards Modifications

Applicant: AZVT, L.L.C.
P.O. Box 16460
Phoenix, Arizona 85011
Phone: (602) 230-1051
Facsimile: (602) 200-7560
Attention: Michael Pacheco, Development Manager

Co-Applicant: Beus Gilbert
3200 North Central Avenue
Suite 1000
Phoenix, Arizona 85012
Phone: (602) 234-5806
Facsimile: (602) 234-5893
Attention: Paul E. Gilbert, Esq.

Developer: AZVT, L.L.C.
P.O. Box 16460
Phoenix, Arizona 85011
Phone: (602) 230-1051
Facsimile: (602) 200-7560
Attention: Michael Pacheco, Development Manager

Submitted to:

City of Avondale
525 North Central Avenue
Avondale, Arizona 85252
Phone: (602) 932-6088
Facsimile: (602) 932-6119

November 1999

Purpose of Request:

General

This application is a request to rezone approximately 150 acres of unimproved land located at the southwest corner of 99th Avenue and Interstate 10 (the "Site") from its existing zoning of AG, Agricultural to PADD, C-2, CUP, Planned Area Development District, Community Commercial, Conditional Use Permit zoning, with Site Plan approval and Development Standards Modifications. The purpose of this request is to allow for the development of an automall and a retail shopping center, which will host various land uses and amenities.

Automall

The requested PADD, C-2, CUP zoning with Development Standards Modifications is intended to accommodate the development of several full service automobile dealerships and other automotive related uses (the "Automall") on the eastern portion of the Site. Uses requested for the Automall generally include new and used car sales (outdoor and indoor), repair (including mechanical, collision repair and painting) and the storage and sale of automotive parts.

Retail Center

The requested PADD, C-2, CUP zoning with Development Standards Modifications is intended to accommodate the development of a retail shopping center on the western portion of the Site consisting of uses common to "power" and "neighborhood" type shopping centers (the "Shopping Center".)

Compliance with City of Avondale's General Plan

The intent of the City's General Plan and underlying Land Use Plan, consistent with Avondale planning goals, is to manage and guide development, rather than to react to it. The General Plan and Land Use Plan indicates that the future use of the site shall be Mixed-Use Commercial. The uses requested under this PADD, C-2, CUP zoning are compatible and consistent with the General Plan and the Land Use Plan. In particular, they are compatible with the City's Freeway Corridor Specific Plan. Additionally, the proposed development meets the goals and objectives of the City's Future Growth Plan.

Proposed Zoning District Modifications

In addition to the land uses permitted under the Community Commercial C-2 zoning district, this application includes a request for a Conditional Use Permit for the following uses, subject to stipulations:

- Outdoor Automobile Sales; New and Used.
- Motor Vehicle Repair
- Motor Vehicle Parts Storage and Sales
- Motor Vehicle Body Shop; provided the use occurs within the south half of the Site or is in conjunction with a franchised new motor vehicle dealership use.
- Restaurants with Live Entertainment; provided live entertainment does not include "adult" live entertainment.
- Second Hand Merchandising Sales; provided the use is limited to consignment sales.
- Skating Rinks
- Building Materials and Lumberyards; provided there are no milling or planing operations.
- Video Arcade or Similar Amusement Establishment; provided the site is not located within five hundred (500) feet of a public or private school site.
- Animal Kennels; provided the use is limited to veterinarians and retail pet shops.

Public Infrastructure Requirements

The Site lies within what generally can be characterized as an infrastructure deficient area of the City. We have conducted a preliminary investigation of the locations of available utilities and agree to install the following public infrastructure to serve the Site:

- Utilities: Water & Sewer, Electrical, Natural Gas, Telephone.
- Surface Improvements: 99th & 107th Avenues and Roosevelt Street half streets and all of the right-of-way improvements that lie within the Site as a result of the Roosevelt Street alignment at the easternmost end of the Site, including roadways, signalization, curbs & gutters, sidewalks, landscaping, lighting, signing, pavement marking.

Relationship to Surrounding Properties

The Site is bounded by Interstate 10, 99th & 107th Avenues and the future Roosevelt Street. The proposed development is located on the City of Avondale's eastern border and is designated as Mixed Use Commercial on the City's Freeway Corridor Specific Plan.

Currently, there is limited development at the properties that abut the Site. The nearest and only large scale development, the Reckitt & Coleman plant, is of an industrial

use and is located immediately east of the site, in the City of Tolleson. The surrounding land use and zoning designations are as follows:

Direction	Existing Use	Current Zoning
North	Interstate 10	N/A
East	Reckitt & Coleman	Industrial
	Vacant Land	Industrial
South	Unimproved	A-1 (Industrial) and C-2 (Commercial)
West	Unimproved	AG (Agricultural)

The Site is also in close proximity to Phoenix International Raceway ("PIR"). PIR has emerged as a location for major national Stock & Indy Car racing events. We believe this development, and, in particular the Automall will benefit from its "automotive connection" with the raceway.

Site Accessibility

The Site is contiguous with 99th & 107th Avenues, and the future Roosevelt Street. This allows for excellent access via these surface streets to Interstate 10 and the future 101-loop freeway. Additional access to the existing Interstate 10 frontage road is being researched and requested from the Arizona Department of Transportation.

The Site is highly visible from Interstate 10 and the future Loop 101/I-10 interchange. We believe that this condition provides an excellent opportunity to capitalize on the traffic that travels Interstate 10 and the traffic that will travel the Loop 101. Many of the customers purchasing goods and services at the Site will be residents from outside of Avondale.

Traffic Circulation System

The public roads that abut the east (99th Ave.), south (Roosevelt St.) and the west (107th Ave.) sides of the Site are not fully improved. The Developer shall dedicate the necessary right-of-way improvements as required by the City of Avondale and the City of Tolleson. We will construct the public infrastructure as necessary to adequately and safely serve each phase.

On-Site vehicle circulation throughout the Site shall consist of private drives.

Phasing

While the Automall and the Shopping Center developments could potentially occur either simultaneously, overlap or could occur one after the other, the anticipated development phasing program is as follows:

Phase One

- Construction of public infrastructure (utilities, roadways, etc.) necessary for the development of the Automall portion of the Site.
- Approximately eight (8) full service automobile dealerships and various automotive related businesses.

Phase Two

- Construction of remaining public infrastructure necessary for the development of the retail shopping center portion of the Site.
- Shopping Center.

Public Utilities and Services

Water:	City of Avondale
Sewer:	City of Avondale
Refuse:	City of Avondale
Electricity:	Salt River Project (SRP)
Telephone:	US West
Natural Gas:	Southwest Gas
Fire Protection:	City of Avondale
Police Protection:	City of Avondale
Elementary School:	Littleton Elementary School District
High School:	Tolleson Union High School District

Topography

The Site is characterized as being relatively flat with surface drainage generally flowing south to southwest. The Site's is currently farmed and has an approximate elevation of 1,015 above mean sea level.

Proposed Development Standards Modifications

Introduction

Today's automotive sales industry is a highly competitive business. Dealers need every possible advantage to gain an edge on the rapidly expanding competition. The facility plays a big role in accomplishing this goal. If designed properly, an automobile dealership facility acts as a selling tool for its employees. If not, sales can fall short of expectations, and in some instances, even fail. Many dealerships have had to close their doors or build entirely new facilities because of inefficient, inadequate facility design.

This request is to allow for development standards that will give the dealers located in this Automall the ability to build user friendly, state-of-the-art facilities that will not only compete with the valley's existing automobile dealers, but will exceed anyone's expectations for success.

Likewise, the needs of today's shopping center retailers are not unlike those of the automobile dealers. To get the competitive edge they need to be successful, retailers must have flexibility when designing and operating their facilities. The proper development standards will produce an attractive, highly functional development that will allow them to be competitive deeply into the twenty-first century.

Proposed Modifications to Existing Development Standards

In addition to the Development Standards permitted by right under the requested existing C-2 ordinance, this request is to permit the following modifications to the existing Development Standards:

Automall Development Standards & Signs

General

- Drywells and/or buried lateral perforated pipe shall be permitted. All drywells installed within paved areas shall be Maxwell Enviro type or a city approved equivalent.
- Retention basins with side slopes greater than 4:1 shall be permitted provided they are not accessible by the general public or immediately visible from the public right-of-way.
- No increase in historical stormwater retention shall be required in excess of existing Maricopa County flood control data.
- Public right-of-way landscaping may be applied towards landscape calculations and any open space requirements.

- A flagpole of up to seventy-five (75) feet in height displaying the flag of the United States of America may be installed at each dealership.
- The joint use of a single driveway by two (2) or more adjoining parcels shall not be required.

The following shall be allowed in the Front Yard of dealerships:

- Each dealership's main vehicle display area (the "Front Yard") shall be landscaped at a minimum of 5%. Landscaping installed at the perimeter of each dealership shall consist of contours and variations in grade height provided it does not screen the general public's view of the vehicles.
- Special outdoor display features, such as patios, plazas, pedestals and courtyards shall be permitted and shall count towards landscape calculations and any open space requirements.
- Landscaped parking islands shall be provided at a minimum of one (1) for every twenty (20) parking spaces, shall be a minimum of 150 square feet in size (each) and shall be included in the landscape calculations.
- A minimum of two (2) trees for every twenty (20) parking spaces in the Front Yard shall be required.
- Stormwater retention shall not be required to occur in the dealership's Front Yards.
- Decorative fencing, eighteen to twenty-four inches in height shall be installed in lieu of solid walls or berms.
- Alternative building construction materials shall be permitted provided they fit into the dealership's overall architectural character and theme.

The following shall be allowed in the Rear Yard of dealerships:

- Each dealership's service section (the "Rear Yard") shall not require landscaping except for perimeter landscape treatments outside of the required screen wall.
- Vehicle parking and storage areas may be depressed up to eighteen (18) inches in order to accommodate stormwater.
- Foundation plantings shall not be required around buildings.
- Parking islands shall not be required.
- Alternative building construction materials, such as tilt-up concrete and pre-engineered metal shall be allowed. Any portion of a building located in the Back Yard that abuts the Front Yard of the dealership shall meet the finish standards required in the Front Yard.
- Open service bays shall be allowed provided they are screened from public right-of-way.

In addition to signs permitted by right under the existing ordinance, the following signs shall be permitted for the Automall:

Automall Signs

- One master Automall freeway identification sign located on Interstate 10, seventy-five (75) feet in height, with 1,000 square feet of sign area per side. Such sign shall identify the automall, display the names of each dealership and its corresponding manufacturer's logo, shall be internally lit and have change panels. Digital or reader board type sign shall be permitted.
- One mini-master Automall identification sign located on 99th Avenue, thirty (30) feet in height, with 250 square feet of sign area per side.
- Directory signs installed throughout the common areas of the Site.
- All master or common automall signs shall be of similar style and architecture. Developer may submit a comprehensive sign package at a later date.

Individual Dealership Signs

- Banners, pennants, fixed balloons and flags for the purposes of advertising or promoting special sales events shall be permitted on weekends and holidays.
- Decorative seasonal/holiday lighting such as Christmas lights.
- Temporary window painting of vehicles for the purpose of advertising.
- One (1) thirty-five (35) foot high pylon sign per dealership, with 150 square feet of sign area per side. Individual dealer signs may be unique to each corresponding manufacturer's trademark identification sign.
- Building signs shall be permitted, state the name of the respective dealership, and shall be allowed up to two (2) square foot of sign area for each building front foot. One building sign shall be permitted on each street the dealership fronts. For the purposes of calculating building sign area, private drives provided for the common use of the Automall shall be considered streets.
- Eight (8) foot high monument style signs with twenty-five (25) square feet of sign area per side located at each dealership's retail ingress/egress points.

Shopping Center Development Standards & Signs

General

- "Anchor" or "Major" users may construct buildings up to forty (40) feet in height.
- Drywells and/or buried lateral perforated pipe shall be permitted. All drywells installed within paved areas shall be Maxwell Enviro type or a city approved equivalent.

- Retention basins with side slopes greater than 4:1 shall be permitted provided they are not accessible by the general public or immediately visible from the public right-of-way.
- No increase in historical stormwater retention shall be required in excess of existing Maricopa County flood control data.
- All parking lots shall be screened from public streets with a combination of walls and berms a minimum of thirty-six (36) inches in height above the grade of the most adjacent parking lot or street.
- A flagpole of up to seventy-five (75) feet in height displaying the flag of the United States of America may be installed.
- Special outdoor features and amenities such as patios, plazas, pedestals and courtyards shall be permitted and shall count towards landscape calculations and any open space requirements.
- Vehicle parking areas may be depressed up to eighteen (18) inches.
- Foundation plantings shall not be required at buildings where not visible by the general public.
- Alternative building construction materials, such as tilt-up concrete and pre-engineered metal shall be allowed provided they are in architectural harmony with the remainder of the project.

In addition to signs permitted under the existing ordinance, the following signs shall be permitted for Shopping Center:

Master Shopping Center Signs

- One master freeway identification sign located on Interstate 10, sixty-five (65) feet in height, with 700 square feet of sign area per side. Such sign shall identify the name of the Shopping Center, may display the names of major/anchor users, may be internally lit and have change panels.
- One mini-master identification sign located on 99th Avenue, thirty (30) feet in height, with 250 square feet of sign area per side.
- Directory signs installed throughout the common areas of the Shopping Center.
- All master or common signs shall be of similar style and architecture. Developer may submit a comprehensive sign package at a later date.

Individual User Signs

- Major or Anchor users shall be allowed on building wall sign for each street the user's building space faces, and shall be allowed one and one-half (1 ½) square feet of sign area for each one (1) lineal front foot of building wall.

- Shop space, in-line or pad users shall be allowed on building wall sign for each street the user's building space faces, and shall be allowed one (1) square feet of sign area for each one (1) lineal front foot of building wall.

Summary

We have demonstrated the project's compatibility with the City of Avondale's General Plan and its underlying Growth and Use Plans. It will provide the mechanism for the installation of needed public infrastructure. Each year it will generate millions in City sales taxes and provide a source for thousands of jobs at all levels of pay.

Our goal in developing the proposed Avondale Automall & Shopping Center is to provide a successful marquee project in the City of Avondale. A project that Avondale's residents will cite as a point of pride in their city. A highly functional project that is attractive, safe, and will give its retailers the competitive edge they need to be successful.

Exhibits

The following exhibits are a part of this zoning request:

- Exhibit A Legal Description
- Exhibit B Vicinity Map
- Exhibit C Zoning Context Plan
- Exhibit D Conceptual Site Plan

Exhibit A

LEGAL DESCRIPTION

THE SOUTH HALF OF THE NORTH HALF OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA:

EXCEPT ANY PORTION OF THE ABOVE DESCRIBED PROPERTY LYING BETWEEN LINE NOs. 1 AND 2, AS SET FORTH IN FINAL ORDER OF CONDEMNATION RECORDED IN INSTRUMENT NO. 84-463775, DESCRIBED AS FOLLOWS:

LINE NO. 1

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 5; THENCE S00°-22'39"E, ALONG THE EAST LINE OF SAID SECTION, 300.00 FEET TO THE POINT OF BEGINNING; THENCE S89°37'21"W, 40.00 FEET; THENCE S07°08'11"W, 382.34 FEET; THENCE S88°58'31"W, 50.65 FEET; THENCE S80°16'47"W, 859.88 FEET; THENCE S88°58'31"W, 1111.38 FEET; THENCE N50°46'18"W, 99.22 FEET; THENCE N10°31'07"W, 187.67 FEET; THENCE S89°44'25"W, 55.00 FEET TO THE POINT OF ENDING ON THE WEST LINE OF SAID SECTION 5, WHICH POINT BEARS S00°15'35"E, 538.97 FEET FROM THE NORTHWEST CORNER OF SAID SECTION.

LINE NO. 2

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 5; THENCE N00°22'39"W, ALONG THE EAST LINE OF SAID SECTION, 170.48 FEET TO THE POINT OF BEGINNING; THENCE S89°37'21"W, 40.00 FEET; THENCE N00°22'39"W, 1009.75 FEET; THENCE N85°00'46"W, 1014.57 FEET; THENCE S88°58'31"W, 4124.51 FEET; THENCE S06°08'17"W, 403.83 FEET; THENCE S89°44'25"W, 55.00 FEET TO THE POINT OF ENDING ON THE WEST LINE OF SAID SECTION 5, WHICH POINT BEARS N00°15'35"W 900.75 FEET FROM THE WEST QUARTER CORNER OF SAID SECTION; AND ALSO

EXCEPT THAT PORTION OF THE SOUTH HALF OF THE NORTHWEST QUARTER AND OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, WHICH LIES BETWEEN THE EXISTING (1978) SOUTH RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 10 (EHRENBERG-PHOENIX HIGHWAY) AND THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 5; THENCE ALONG THE WEST LINE OF SAID SECTION 5, N00°04'33"W 1500.70 FEET (1500.75 RECORD) TO THE CENTERLINE OF SAID INTERSTATE HIGHWAY 10;

THENCE ALONG SAID CENTERLINE N89°09'33"E, 1071.07 FEET; THENCE S00°-50'27"E, 200.00 FEET TO THE POINT OF BEGINNING ON SAID EXISTING SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10; THENCE CONTINUING S00°-50'27"E, 46.18 FEET; THENCE N87°35'49"E, 960.36 FEET; THENCE N87°31'21"E, 700.29 FEET TO THE POINT OF ENDING ON SAID SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10, AS CONVEYED TO THE STATE OF ARIZONA, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION IN INSTRUMENT NO. 92-0512378; AND ALSO

EXCEPT THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, WHICH LIES BETWEEN THE EXISTING (1978) SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10 (EHRENBERG-PHOENIX) AND THE FOLLOWING DESCRIBED LINE:

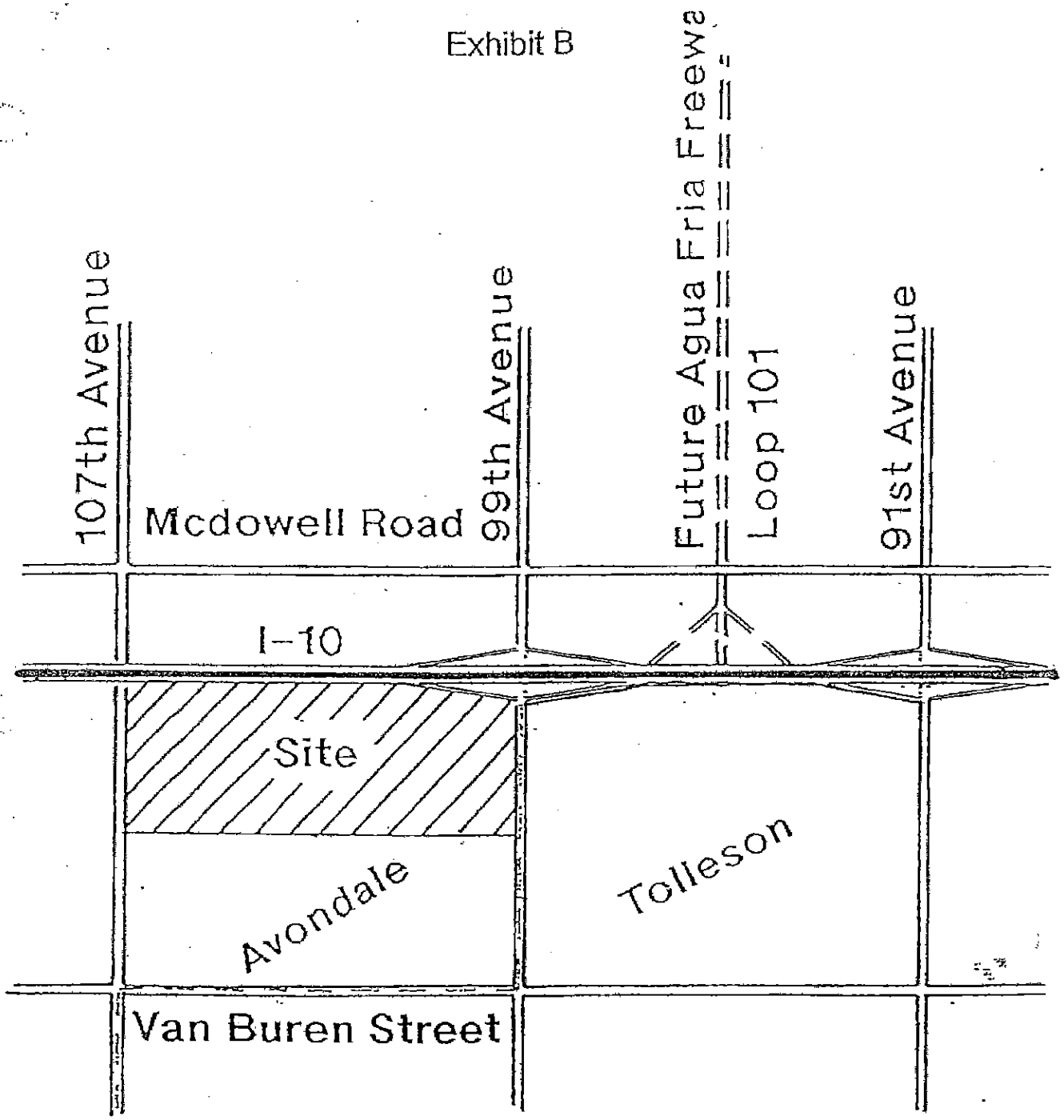
COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 5; THENCE ALONG THE EAST LINE OF SAID SECTION 5, N00°11'37"W A DISTANCE OF 1486.92 FEET TO THE MEDIAN CENTERLINE OF THE AFORESAID INTERSTATE HIGHWAY 10; THENCE S89°09'33"W 1443.24 FEET; THENCE S00°50'27"E 200.00 FEET TO THE POINT OF BEGINNING IN THE AFORESAID SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10; THENCE S88°15'51"E 400.41 FEET; THENCE S84°12'12"E 276.85 FEET; THENCE S82°58'47"E 681.15 FEET; THENCE S41°-35'13"E, 75.02 FEET TO THE POINT OF ENDING ON THE EXISTING WEST RIGHT OF WAY LINE OF 99TH AVENUE AS CONVEYED TO THE STATE OF ARIZONA, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION IN INSTRUMENT NUMBER 92-0406965; AND ALSO

EXCEPT THAT PORTION OF THE SOUTH HALF OF THE NORTHWEST QUARTER AND OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDAIN, MARICOPA COUNTY, ARIZONA, WHICH LIES BETWEEN THE EXISTING (1978) SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10 (EHRENBERG-PHOENIX HIGHWAY) AND THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 5; THENCE ALONG THE WEST LINE OF SAID SECTION 5, N00°04'33"W 1210.70 FEET; THENCE N89°55'27"E 89.76 FEET TO THE POINT OF BEGINNING ON THE EXISTING EAST RIGHT OF WAY LINE OF 107TH AVENUE; THENCE N17°19'36"E 150.91 FEET; THENCE N89°09'33"E 700.01 FEET; THENCE N87°35'49"E 140.05 FEET; THENCE N00°50'27"W 46.18 FEET TO THE POINT OF ENDING ON THE AFORESAID EXISTING SOUTH RIGHT OF WAY OF THE 107TH AVENUE INTERCHANGE AS CONVEYED TO THE STATE OF ARIZONA, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION IN INSTRUMENT NUMBER 92-0406966. AND ALSO:

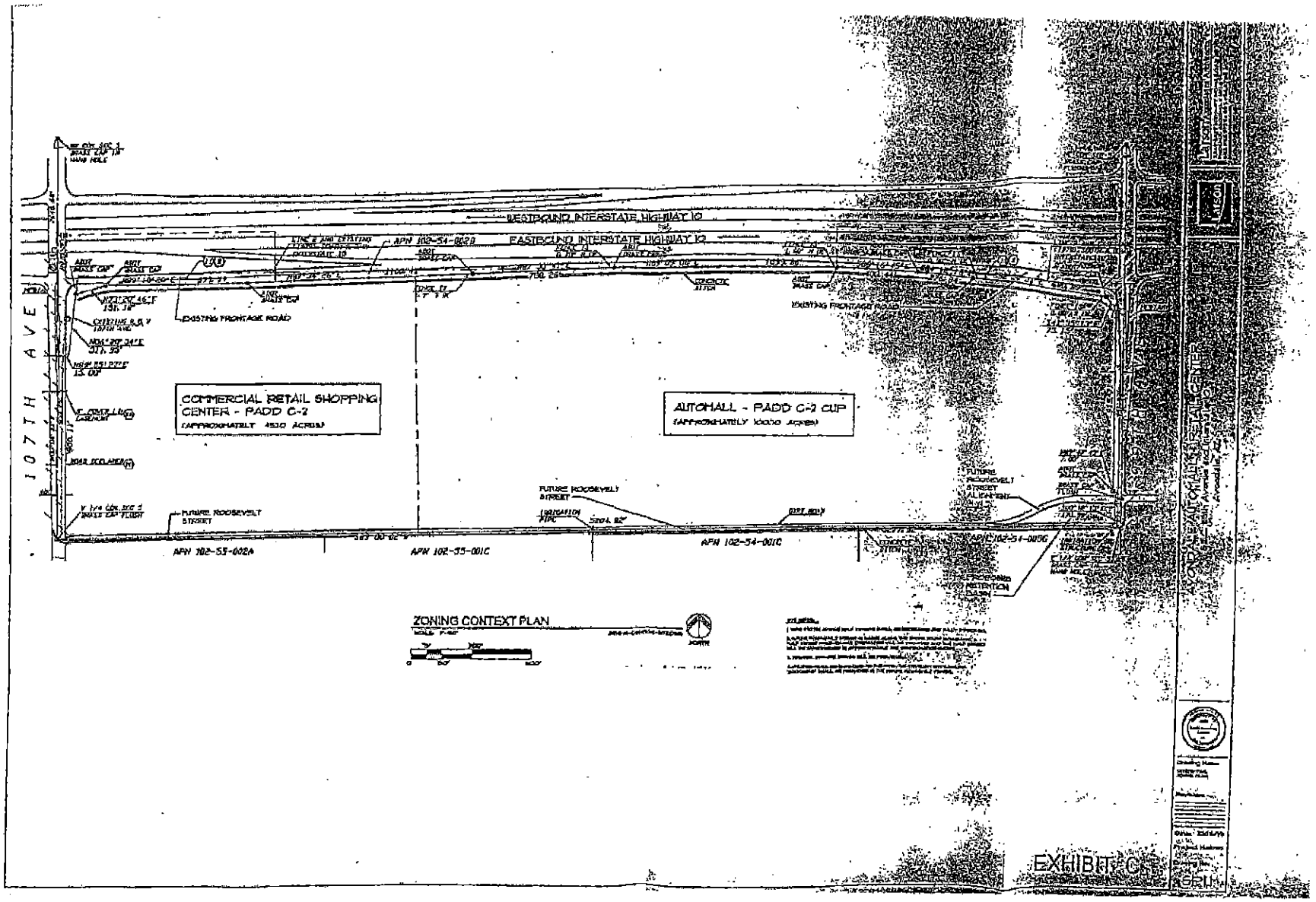
EXCEPT THE WEST 40 FEET AND THE EAST 33 FEET THEREOF.

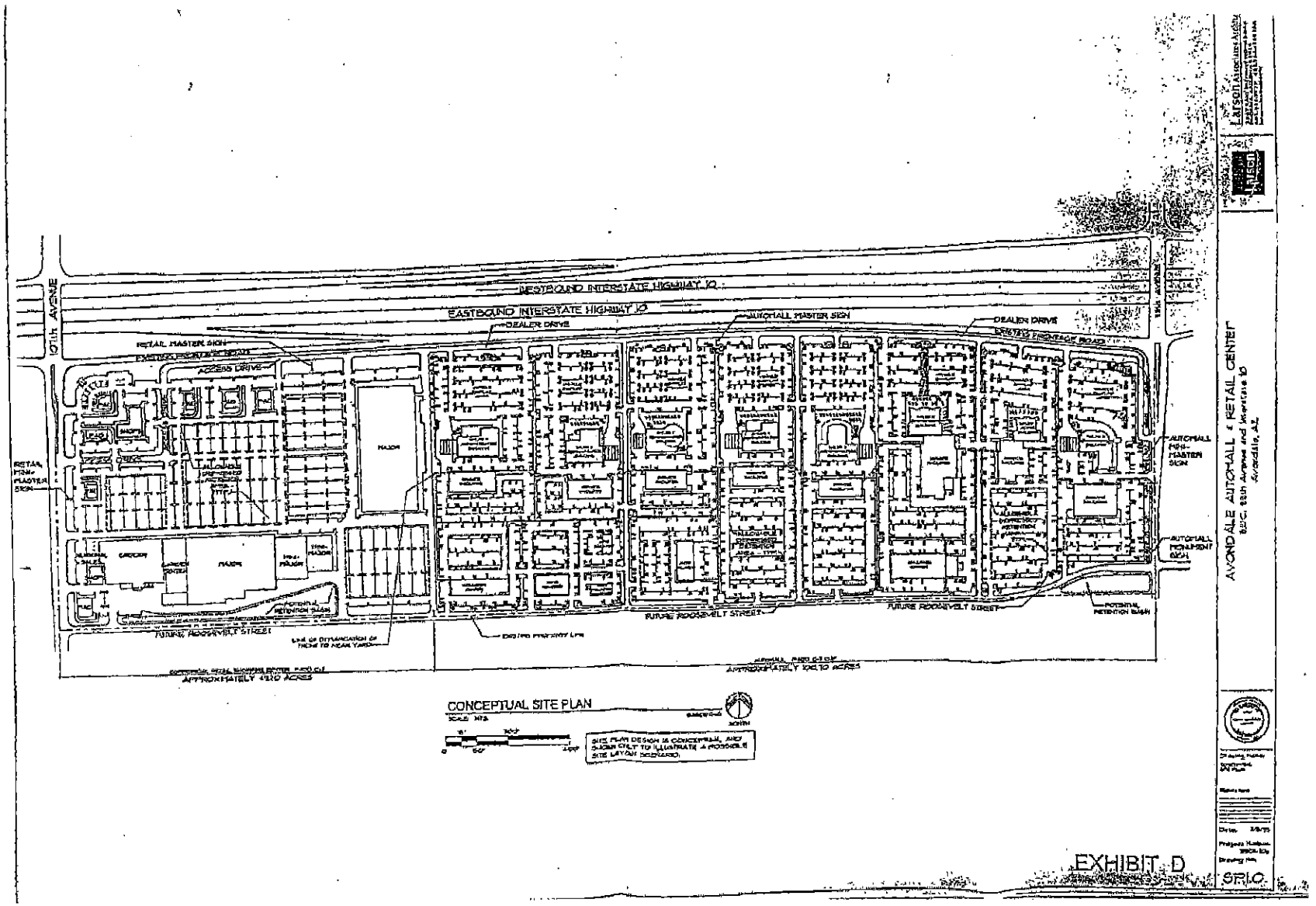
Exhibit B



Vicinity Map

N.T.S.


107TH AVENUE
EASTBOUND INTERSTATE HIGHWAY 10
WESTBOUND INTERSTATE HIGHWAY 10
EXISTING FRONTAGE ROAD
COMMERCIAL RETAIL SHOPPING CENTER - PADD C-2
(APPROXIMATELY 45.10 ACRES)
AUTOMALL - PADD C-2 CUP
(APPROXIMATELY 100.10 ACRES)
FUTURE ROOSEVELT STREET
APN 102-55-002A
APN 102-55-001C
APN 102-54-001C
ZONING CONTEXT PLAN
EXHIBIT C5


WESTBOUND INTERSTATE HIGHWAY 10
EASTBOUND INTERSTATE HIGHWAY 10
107th AVENUE
DEALER DRIVE
AUTOMALL MASTER SIGN
RETAIL MASTER SIGN
ACCESS DRIVE
FUTURE ROOSEVELT STREET
POTENTIAL RETENTION BASIN
AUTOMALL FREE-STANDING SIGN
AUTOMALL FREE-STANDING SIGN
AVONDALE AUTOMALL & RETAIL CENTER
SEC. 83rd Avenue and Interstate 10
Avondale, AZ
CONCEPTUAL SITE PLAN
SCALE: NTS
NORTH
SITE PLAN DESIGN IS CONCEPTUAL AND SHOWN ONLY TO ILLUSTRATE A POSSIBLE SITE LAYOUT SCENARIO
EXHIBIT D
SP1.0

Revised Copy

CITY OF AVONDALE

INCORPORATED 1946

COMMUNITY DEVELOPMENT DEPARTMENT ♦ 1225 SOUTH 4TH STREET
AVONDALE, ARIZONA 85323 ♦ PHONE (623) 932-6088 ♦ FAX (623) 932-6119

CITY OF AVONDALE

PLANNING AND ZONING COMMISSION

STAFF REPORT

MEETING DATE:	November 18, 1999
CASE NO.:	Z99-402-A
APPLICANT:	AZVT, L.L.C, Michael Pacheco P.O Box 16460 Phoenix, AZ 85011
REQUEST:	Request to rezone approximately 150 acres of AG (Agriculture) to P.A.D.D. (Planned Area Development District), consisting of C-2 (Commercial) Zoning
LOCATION:	Project area is located west of 99th Avenue, east of 107th Avenue, south of Interstate 10 and north of the Roosevelt Street Alignment.

BACKGROUND:

The applicant is requesting the rezoning of approximately 150 acres of AG to P.A.D.D. consisting of C-2 zoning. The site is located within the City of Avondale Freeway Corridor Specific Plan and is designated as Mixed Use. The general development plan and program submitted by the applicant identifies two major land uses for the site. The eastern portion of the site has been designated by the development plan as an automall and consists of approximately 100.7 acres. The plan designates the remaining 49.2 acres within the western portion of the site as a retail shopping center.

The conceptual site plan for the project identifies eight full service automobile dealerships and other auto related business sites within the Automall portion of the site. The retail shopping component of the plan includes two major anchor businesses and several pads. Intended uses for the retail shopping center will consist of uses commonly found in power type shopping centers.

Conditional Use Request

The application for rezoning includes a request for Conditional Use Permit for several uses and potential uses within the project area. The uses listed below are identified in the City of Avondale Zoning Ordinance as uses that are subject to a Conditional Use Permit: Motor Vehicle Repair; Motor Vehicle Parts Storage and Sales; Motor Vehicle Body Shop; Restaurants with Live Entertainment, provided entertainment does not include "adult" live entertainment; Second Hand Merchandising Sales; Skating Rinks, Building Material and Lumberyard retail operations; Video Arcade or Similar Amusement Establishment, provided the location is not within 500 feet of a school site; and Animal Kennels.

The project area is surrounded by the I-10 freeway to the north and Industrial to the east. The City of Avondale Freeway Corridor Specific Plan identifies the land to the west as "mixed use" and the property to the south as "transitional". Future residential development would be unlikely within the immediate vicinity surrounding the project site, therefore causing no impact to surrounding neighborhoods by these uses. Staff supports the request for Conditional Use Permit for these uses and proposed uses within the project area.

Requested P.A.D.D. modifications

The applicant has requested modifications to the C-2 development standards within the P.A.D.D. plan and program development. The applicant has also requested modifications to the landscape standards and height standards of the C-2 zone.

Modification Requested:

1) Retention Basin with side slopes greater than 4 to 1
   Ordinance Standard, maximum slope, 4 to 1

2) Flagpole with height up to 75 feet
   C-2 Ordinance Standard, 35 feet maximum height

3) 5% front yard landscaping area (Automall area)
   C-2 Ordinance Standard, 10 %

4) Rear Yard landscaping on perimeter of lot out side of screen wall (Automall Area)
   C-2 Ordinance Standard 10%

5) Parking Lot trees , 2 trees per 20 parking spaces (Automall area)
   C-2 Ordinance Standard, 1 tree per 8 parking spaces

6) Waiver of 3 foot high parking screen wall (Automall area)

C-2 Ordinance Standard, 3 foot block wall or berm required, adjacent to public roads

7) Major or Anchor height allowance of 40 feet (retail shopping center)
C-2 Ordinance Standard, 35 feet

The P.A.D.D. zoning designation of the subject property requires that each final site plan and building elevations within the project will proceed through the Planning and Zoning Commission and the Mayor and City Council for approval. The location of the project is ideally suited for regional commercial activity due to the visibility from both the I-10 freeway and the future 101 freeway interchange. Furthermore, the proposed project is ideal in that it is a use that will not be impacted negatively by freeway noise or the land uses that surround the site. Staff has found that the proposed project is consistent with the City of Avondale Freeway Corridor Specific Plan.

RECOMMENDATION:

Staff recommends that the Planning and Zoning Commission forward case Z99-402-A to the Mayor and City Council with their recommendation of **APPROVAL** with the following stipulations.

1) That the necessary right of way as required by the City of Avondale is dedicated for 107th Avenue and Roosevelt Street; and that the necessary right of way as required by the City of Tolleson is dedicated for 99th Avenue.

2) That a 6 foot high block wall is used to screen the rear service yard of the auto dealership parcels along 99th Avenue, Roosevelt Street and the retail center property line

3) That any metal structure used for the service facility buildings be architecturally altered through the application of a veneer so that it minimizes metal surfaces and appears architecturally compatible with the main sales building.

This is a revised staff report for Zoning Case Z99-402-A. The request for additional signage for the property has been withdrawn from the P.A.D.D. zoning application.

CITY OF AVONDALE INCORPORATED 1946
COMMUNITY DEVELOPMENT DEPARTMENT ♦ 1225 SOUTH 4TH STREET
AVONDALE, ARIZONA 85323 ♦ PHONE (623) 932-6088 ♦ FAX (623) 932-6119

CITY OF AVONDALE

MAYOR AND CITY COUNCIL

STAFF REPORT

MEETING DATE:	December 20, 1999
CASE NO:	Z99-402-A
APPLICANT:	AZVT, L.L.C, Michael Pacheco P.O. Box 16460 Phoenix, AZ 85011
REQUEST:	Request to rezone approximately 150 acres of AG (Agriculture) to P.A.D.D. (Planned Area Development District), consisting of C-2 (Commercial) Zoning
LOCATION:	Project area is located west of 99th Avenue, east of 107th Avenue, south of Interstate 10 and north of the Roosevelt Street Alignment.

BACKGROUND:

The applicant is requesting the rezoning of approximately 150 acres of AG to P.A.D.D. consisting of C-2 zoning. The site is located within the City of Avondale Freeway Corridor Specific Plan and is designated as Mixed Use. The general development plan and program submitted by the applicant identifies two major land uses for the site. The eastern portion of the site has been designated by the development plan as an automall and consists of approximately 100.7 acres. The plan designates the remaining 49.2 acres within the western portion of the site as a retail shopping center.

The conceptual site plan for the project identifies eight full service automobile dealerships and other auto related business sites within the Automall portion of the site. The retail shopping component of the plan includes two major anchor businesses and several pads. Intended uses for the retail shopping center will consist of uses commonly found in power type shopping centers.

Conditional Use Request

The application for rezoning includes a request for Conditional Use Permit for several uses and potential uses within the project area. The uses listed below are identified in the City of Avondale Zoning Ordinance as uses that are subject to a Conditional Use Permit: Motor Vehicle Repair; Motor Vehicle Parts Storage and Sales; Motor Vehicle Body Shop, Restaurants with Live Entertainment, provided entertainment does not include "adult" entertainment; Second Hand Merchandising Sales; Skating Rinks, Building Material and Lumberyard retail operations; Video Arcade or Similar Amusement Establishment, provided the location is not within 500 feet of a school site; and Animal Kennels.

The project area is surrounded by the I-10 freeway to the north and Industrial to the east. The City of Avondale Freeway Corridor Specific Plan identifies the land to the west as "mixed use" and the property to the south as "transitional". Future residential development would be unlikely within the immediate vicinity surrounding the project site, therefore causing no impact to surrounding neighborhoods by these uses. Staff supports the request for Conditional Use Permit for these uses and proposed uses within the project area.

Requested P.A.D.D. modifications

The applicant has requested modifications to the C-2 development standards within the P.A.D.D. plan and program development. The applicant has also requested modifications to the landscape standards and height standards of the C-2 zone.

Modification Requested:

1) Retention Basin with side slopes greater that 4 to 1.
   Ordinance Standard, maximum slope, 4 to 1

2) Flagpole with height up to 75 feet
   C-2 Ordinance Standard, 35 feet maximum height

3) 5% front yard landscaping area (Automall area)
   C-2 Ordinance Standard, 10%

4) Rear Yard landscaping on perimeter of lot outside of screen wall (Automall area)
   C-2 Ordinance Standard 10%

5) Parking Lot trees, 2 trees per 20 parking spaces (Automall area)
   C-2 Ordinance Standard, 1 tree per 8 parking spaces

6) Waiver of 3 foot high parking screen wall (Automall Area)
C-2 Ordinance Standard, 3 foot block wall or berm required, adjacent to public roads

7) Major or Anchor height allowance of 40 feet (retail shopping center)
C-2 Ordinance Standard, 35 feet

The P.A.D.D. zoning designation of the subject property requires that each final site plan and building elevations within the project will proceed through the Planning and Zoning Commission and the Mayor and City Council for approval. The location of the project is ideally suited for regional commercial activity due to the visibility from both the I-10 freeway and the future 101 freeway interchange. Furthermore, the proposed project is ideal in that it is a use that will not be impacted negatively by freeway noise or the land uses that surround the site. Staff has found that the proposed project is consistent with the City of Avondale Freeway Corridor Specific Plan.

The request for additional signage for the property has been withdrawn from the P.A.D.D. zoning application. As required by section 909 C.1. of the Avondale sign code, the applicant will submit a comprehensive sign package to the Community Development Department. The planing division will submit a report of findings to the City Council regarding the compliance with the sign code.

RECOMMENDATION:

The Planning and Zoning Commission recommends that the Mayor and City Council **APPROVE** case Z99-402-A with the following stipulations by ordinance.

1) That the necessary right of way as required by the City of Avondale is dedicated for 107th Avenue and Roosevelt Street; and that the necessary right of way as required by the City of Tolleson is dedicated for 99th Avenue.

2) That a 6 foot high block wall is used to screen the rear service yard of the auto dealership parcels along 99th Avenue, Roosevelt Street and the retail center property line

3) That any metal structure used for the service facility buildings be architecturally altered through the application of a veneer so that it minimizes metal surfaces and appears architecturally compatible with the main sales building.

ORDINANCE NO. 723-99

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AVONDALE, MARICOPA COUNTY, ARIZONA, AMENDING THE ZONING MAP OF THE CITY OF AVONDALE AND CHANGING THE ZONING DESIGNATION OF CERTAIN REAL PROPERTY FROM AG (AGRICULTURAL) TO P.A.D.D. (PLANNED AREA DEVELOPMENT DISTRICT) AND IMPOSING CONDITIONS TO SUCH CHANGE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AVONDALE, MARICOPA COUNTY, ARIZONA, as follows:

SECTION 1. The Zoning Map of the City of Avondale is hereby amended subject to the conditions set forth hereafter to reflect that the real property described in Exhibit "A" attached hereto shall constitute a Planned Area Development District as such District is defined in the Zoning Ordinance of the City of Avondale.

SECTION 2. The amendment to the Zoning Map referred to above is expressly conditioned upon the following:

1. The Developer shall dedicate right-of-way for 107th Avenue and Roosevelt Street as required by the City of Avondale.

2. The Developer shall dedicate right-of-way for 99th Avenue as required by the City of Tolleson.

3. A six (6) foot high block wall shall be constructed to screen the rear surfaces areas of the auto dealership parcels along 99th Avenue, Roosevelt Street and the retail center property line.

4. Any metal structure used for service facility buildings shall be architecturally altered through the application of a veneer so that said buildings are architecturally compatible with the main sales buildings.

PASSED AND ADOPTED by the Mayor and Council of the City of Avondale, Arizona, this 20th day of December, 1999.

MAYOR MORALES

Attest:

City Clerk

Approved as to form:

City Attorney

1994 Code.

SECTION 6

PLANNED AREA DEVELOPMENT DISTRICT

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SECTION 6: PLANNED AREA DEVELOPMENT DISTRICT

Section 601: Purpose

The purpose of the Planned Area Development (PAD) District is to enable and encourage the planned development of large and small tracts of land which are under unified ownership and control, or lands which by reason of existing or planned uses are appropriate for development under this Section, so as to achieve land development patterns which will maintain and enhance the physical, social and economic values of an area.

To this end, there may be provided within such areas a combination of land uses, including a variety of residential types, commercial, industrial, public and semi-public areas, arranged and designed in accordance with modern land planning principles and other development techniques; and in such a manner as to properly relate to each other, the surrounding community, the planned thoroughfare system, and other public facilities such as water and sewer systems, parks, schools, and utilities.

The Planned Area Development District and procedures are further established to provide a land developer with reasonable assurances that specific uses proposed from time to time, if in accordance with an approved development plan, will be acceptable to the City Council and to provide the Planning Commission and the City Council with a long-term proposal for the development of a given area.

This zoning district may only be developed in accordance with a specific development plan. The approved development plan is an integral part of this zoning district and all development shall comply with said plan. The district shall also be an instrument for implementation of the City's Comprehensive Plan.

Section 602: General Provisions

A. Qualifications

A PAD District may be established on any parcel of land.

B. Property Development Standards

All land uses in a PAD District shall conform to the property development standards of comparable zoning districts established in the City of Avondale Zoning Ordinance. The permitted uses allowed, the yard, height, and area requirements, and other requirements within the PAD District shall be those permitted or required in the comparable zoning district, except where modified as hereinafter provided. The City Planner shall determine, primarily on the basis of proposed use and density, which of the districts of this Ordinance are most closely comparable to the proposed uses.

C. Development Standards Modification Procedures

Where necessary to insure compatibility of buildings and uses with each other and with off-site properties, the Council may eliminate otherwise permitted uses in any comparable district. The Council may specify modification of the regulations, requirements, and standards, including but not limited to, conditioning the zoning upon maximum densities, maximum building heights, maximum lot coverage, and greater setback requirements than might be otherwise permitted by the comparable zoning district. Any modification of development standards shall produce an environment equal to or superior to that produced by existing standards.

D. Coordination With Subdivision Regulations

It is the intent of the PAD District that subdivision review under the City of Avondale Subdivision Ordinance be carried out simultaneously with the review of the PAD. Development plans submitted under this Section shall, whenever feasible, be submitted in a form which will satisfy the requirements of the Subdivision Ordinance.

Section 603: PAD Procedures

A. Introduction

The review and approval of a PAD District shall consist of a two-step process composed of (1) a General Development Plan and Program and (2) a Final Development Plan(s). The General Development Plan and Program is intended to provide the City with enough information about the character of the PAD to permit an amendment to the zoning map. Once the General Development Plan and Program is approved, Final Development Plans may then be processed for all or part of the PAD. The Final Development Plan requires more detailed information consistent with the requirements of the City's Subdivision Ordinance or the Site Plan Review Section (Section 106) of this Ordinance, depending on the type of uses or size of the development unit.

B. Application for PAD District

An application for the PAD District shall conform to Section 110: Application and Fees and shall include the following additional materials:

1. A General Development Plan showing at least the following:

   a. the boundaries and approximate acreage of each development unit;

   b. the proposed zoning, land use and acreage of each development unit, keyed to comparable zoning districts;

   c. the approximate location of major and collector streets;

d. the approximate location of public uses proposed, such as schools, parks, playgrounds, drainageways, trails, or other recreation facilities;

e. the topography of the site.

2. A Development Program consisting of text, maps, and other materials describing the PAD including:

a. the number of dwelling units by type and density;

b. the standards of development and types of uses proposed keyed to comparable zoning districts;

c. proposed modifications to comparable zoning districts;

d. preliminary concepts for accommodation of storm drainage, sanitary sewer, and domestic water systems;

e. a statement of the applicant's purpose and objectives of the project;

f. a generalized landscape and open space plan including perimeter treatments of the PAD;

g. a development phasing schedule;

h. other material required to properly evaluate the PAD dependent on the size and scope of the project.

C. Processing of General Development Plan and Program

The General Development Plan and Program shall be processed in accordance with Section 109: Zoning Ordinance Amendments, and shall be subject to all public notice and hearing requirements contained therein.

D. Processing of Final Development Plans

Upon approval of the General Development Plan and Program, Final Development Plans for all or part of the PAD District may be filed. Final Development Plans shall be submitted in accordance with Section 106, Site Plan Review in the case of multi-family, commercial, or industrial development units, or in accordance with the City Subdivision Ordinance in the case of large-scale development units or single-family uses. The Planning Commission and City Council shall review and approve all Final Development Plans within PAD Districts. All Final Development Plans shall be in conformity with the approved General Development Plan and Program.

Section 604: Establishment of PAD District

A. Upon approval of the General Development Plan and Program, the Zoning Map of the City of Avondale shall be amended by ordinance to reflect the PAD District designation on the subject property.

B. The Development Program submitted as part of the PAD application shall become part of the regulations governing the use and development of the PAD and shall be adopted as part of the map amendment as outlined in Subsection A above.

C. All conditions, modifications, and requirements of approval of the General Development Plan and Program imposed by the City Council, which are not included in written documentation submitted as part of the PAD application, shall become part of the regulations governing the use and development of the PAD.

D. The specific zoning classification for a development unit shall vest concurrently with final site plan and/or subdivision approval for that unit. No building permits shall be issued on land within a PAD until a Final Development Plan for the development unit has been approved.

E. Prior to approval of a Final Development Plan for the first development unit, the following additional information shall be submitted and approved:

1. conceptual master drainage plan;

2. master street plan for all major and collector streets abutting or within the site;

3. master water and sanitary sewer plans;

4. conditions, covenants, and restrictions for the project.

Section 605: Amendments to the PAD

Any amendments or modifications to the General Development Plan and Program shall be in accordance with the following procedures.

A. Major Amendments

The following changes to the approved General Development Plan and Program shall be considered major if they involve any one of the following:

1. an increase in the approved totals of dwelling units or in the acreages devoted to commercial or industrial uses;

2. a significant change in boundary lines of development units;

3. any change which could have significant impact on areas adjoining the PAD;

4. any change which could have a significant traffic impact on roadways adjacent or external to the PAD.

Major amendments shall be processed in the same manner as the original General Development Plan and Program in accordance with Section 109.

B. Minor Amendments

All amendments deemed minor by the City Planner shall be reviewed and approved administratively by the City Planner upon finding that the amendment is in substantial conformance to the approved General Development Plan and Program.

Section 606: Common Open Space

Common open space and recreation areas shall be an integral part of a PAD where residential uses are included in the project. The following standards shall apply.

A. A minimum of five (5) percent of the total gross area of the development shall be reserved as common open space and/or recreational areas. The minimum size of open space area counting toward this requirement shall be 5000 square feet.

B. Common open space areas shall be provided and improved by the applicant or project owner at a rate equal to or greater than the rate of construction of residential uses.

Section 607: Enforcement

A. Development of the first development unit shall commence within two (2) years of the date upon which the PAD District amendment was approved. The City Council may, upon request and for good cause, extend for one (1) additional year the period for commencement of development.

B. Failure to commence development within the time limits in Subsection A above shall cause the PAD District classification to become null and void. Thereafter, the City Council shall initiate an amendment to the zoning map to revert the zoning classification to its prior designation.

C. The Planning Department shall monitor development of the PAD to ensure compliance with the development phasing schedule. At such time that the Planning Commission determines that development is not proceeding in accordance with the schedule, a hearing shall be held to determine the cause of such delay. No further vesting of zoning or approval of final site plans or subdivision plats shall occur for that portion of the PAD in non-compliance with the General Development Plan and Program until resolution is agreed upon by the Commission and City Council.

1. The Commission may determine good cause exists for delay in the development of the PAD and may entertain an application to amend the PAD development schedule.

2. Should the Commission determine good cause does not exist for the delay, the Commission may impose additional restrictions and conditions on the PAD.

3. The City Council shall hold a public hearing to affirm or overrule the results of the Commission's deliberations.

Section 608: Findings

At the time of approval of a PAD District, the City Council must find:

A. That the PAD is in substantial conformance with the Comprehensive Plan of the City and can be coordinated with existing and planned development of surrounding areas.

B. That the streets and thoroughfares proposed are suitable and adequate to serve the proposed uses and the anticipated traffic which will be generated.

SECTION 7

SUPPLEMENTARY REGULATIONS

EXHIBIT D

PROJECT NARRATIVE
FOR
AVONDALE AUTOMALL &
RETAIL SHOPPING CENTER

PAD ZONING AMENDMENT

February 2003

History & Project Narrative

AZVT, LLC acquired approximately 150 acres of unimproved land south of Interstate 10 between 99th and 107th Avenues. Subsequently, the project was rezoned to PADD, C-2, with a Conditional Use Permit to allow for new and used vehicle sales and other various automotive related uses on the easternmost 100 acres. The westernmost 50 acres was rezoned to PADD, C-2, with a Conditional Use Permit to allow for commercial and retail uses. Because of the Avondale Automall's success insofar as new vehicle dealers' desires to purchase land within the 50 acre portion of the overall 150 acre property owned by AZVT, LLC, but not within property rezoned as the Avondale Automall, AZVT wishes to obtain the proper zoning to allow for additional new vehicle dealers.

Rezoning Request

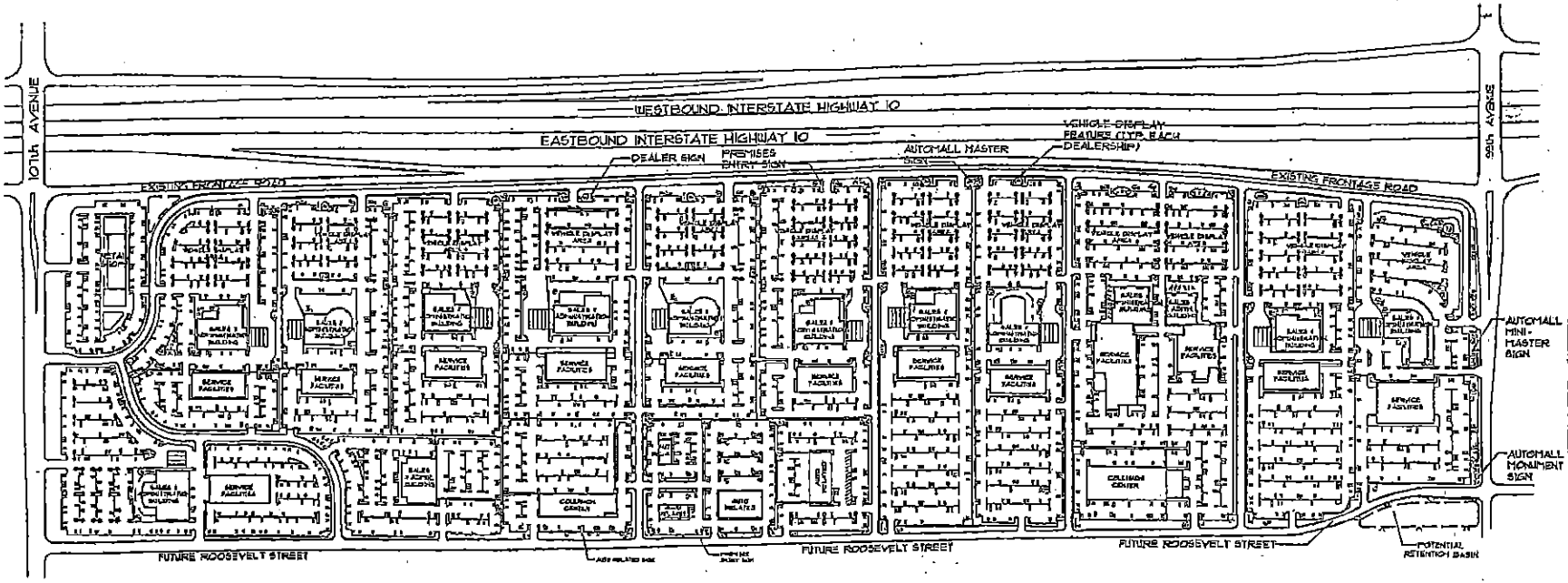
This rezoning request is to amend the existing zoning on AZVT's west 50 acres so that, in addition to the existing C-2 zoning, the following uses are allowed:

Outdoor Automobile Sales: New and Used
Motor Vehicle Repair
Motor Vehicle Parts Storage and Sales
Motor Vehicle Body Shop – provided the use occurs within the south half of the site or is in conjunction with a franchised new motor vehicle dealership
Motorcycle Sales: New and Used with parts sales and service

Additionally, the Modifications to Existing Development Standards, as applicable to the PADD for the Avondale Automall, shall apply to the expansion area of the Avondale Automall covered under this rezoning request. The applicable standards, whether automotive or retail commercial, shall apply to the particular proposed use.

A revised Zoning Context Plan is provided as Exhibit A and a Conceptual Site Plan is provided as Exhibit B.

EXHIBIT E



CONCEPTUAL SITE PLAN

SCALE: N.T.S.

NORTH

SITE PLAN DESIGN IS CONCEPTUAL AND SHOWN ONLY TO ILLUSTRATE A POSSIBLE SITE LAYOUT SCENARIO.

Larson Associates Architects, Inc.
3507 North 24th Street, Suite 100
Phoenix, AZ 85016
602.956.9700 602.956.4790 FAX

Avondale Automall
S.W.C. 99th Avenue and Interstate Highway 10
Avondale, AZ

Drawing Name
CONCEPTUAL SITE PLAN

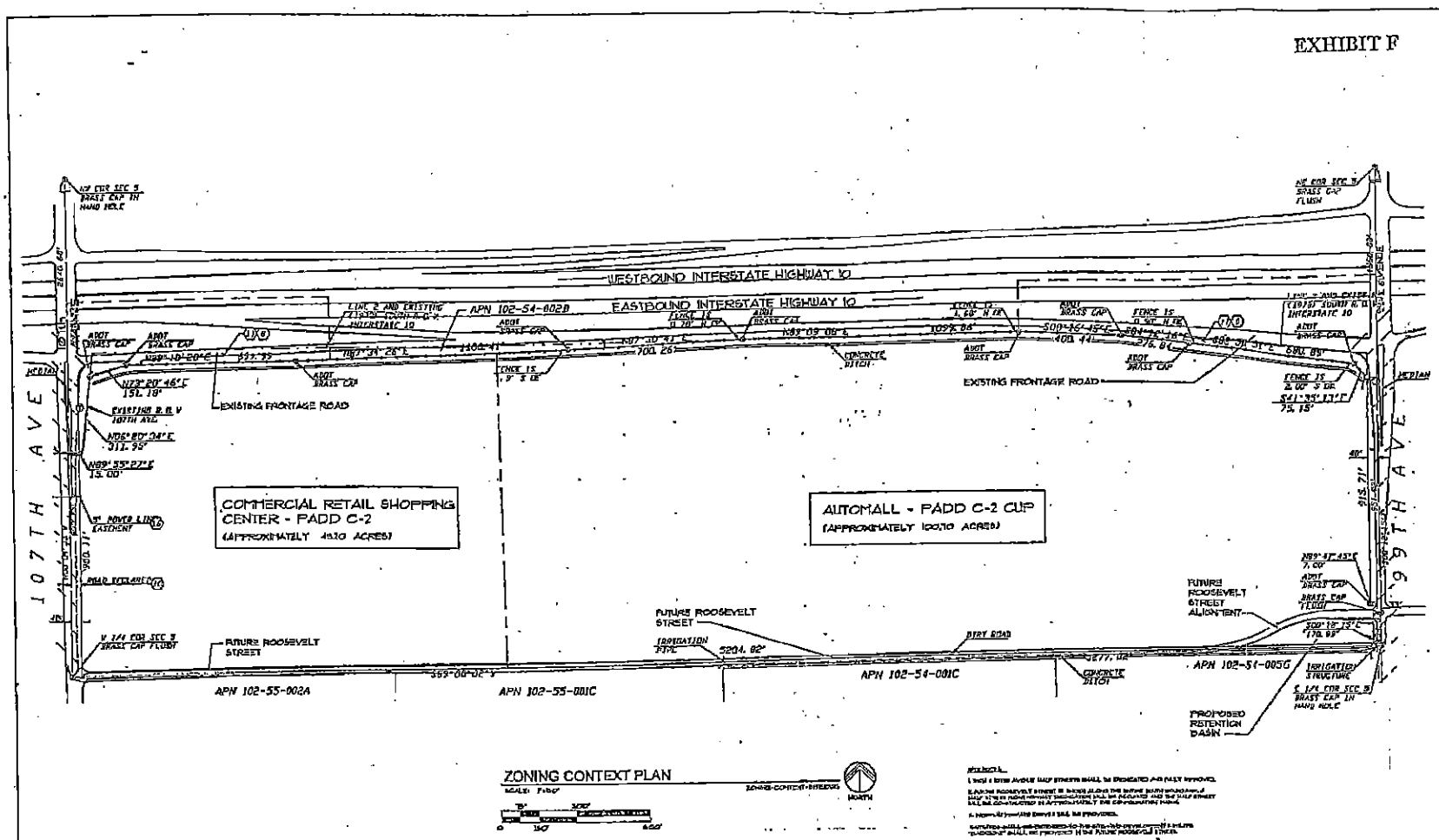
Revisions

Date: 02/06/03

Project Number
9A101.13

Drawing No:

EXHIBIT F



ZONING CONTEXT PLAN

SCALE: 1"=60'

ZONING CONTEXT DIAGRAM

NORTH

0 30' 60' 120'

Larson Associates Architects Inc

AVONDALE AUTOMALL & RETAIL CENTER
SWC. 99th Avenue and Interstate 10
Avondale, AZ

Drawing Name
Revisions
Date
Project Number
Drawing No.

Zoning
2003 - Ordinance

City of Avondale

SECTION 6

PLANNED AREA DEVELOPMENT DISTRICT

SECTION 6: PLANNED AREA DEVELOPMENT DISTRICT

Section 601: Purpose

The purpose of the Planned Area Development (PAD) District is to enable and encourage the planned development of large and small tracts of land which are under unified ownership and control, or lands which by reason of existing or planned uses are appropriate for development under this Section, so as to achieve land development patterns which will maintain and enhance the physical, social and economic values of an area.

To this end, there may be provided within such areas a combination of land uses, including a variety of residential types, commercial, industrial, public and semi-public areas, arranged and designed in accordance with modern land planning principles and other development techniques; and in such a manner as to properly relate to each other, the surrounding community, the planned thoroughfare system, and other public facilities such as water and sewer systems, parks, schools, and utilities.

The Planned Area Development District and procedures are further established to provide a land developer with reasonable assurances that specific uses proposed from time to time, if in accordance with an approved development plan, will be acceptable to the City Council and to provide the Planning Commission and the City Council with a long-term proposal for the development of a given area.

This zoning district may only be developed in accordance with a specific development plan. The approved development plan is an integral part of this zoning district and all development shall comply with said plan. The district shall also be an instrument for implementation of the City's Comprehensive Plan.

Section 602: General Provisions

A. Qualifications

A PAD District may be established on any parcel of land.

B. Property Development Standards

All land uses in a PAD District shall conform to the property development standards of comparable zoning districts established in the City of Avondale Zoning Ordinance. The permitted uses allowed, the yard, height, and area requirements, and other requirements within the PAD District shall be those permitted or required in the comparable zoning district, except where modified as hereinafter provided. The City Planner shall determine, primarily on the basis of

proposed use and density, which of the districts of this Ordinance are most closely comparable to the proposed uses.

C. Development Standards Modification Procedures
Where necessary to insure compatibility of buildings and uses with each other and with off-site properties, the Council may eliminate otherwise permitted uses in any comparable district. The Council may specify modification of the regulations, requirements, and standards, including but not limited to, conditioning the zoning upon maximum densities, maximum building heights, maximum lot coverage, and greater setback requirements than might be otherwise permitted by the comparable zoning district. Any modification of development standards shall produce an environment equal to or superior to that produced by existing standards.

D. Coordination With Subdivision Regulations
It is the intent of the PAD District that subdivision review under the City of Avondale Subdivision Ordinance be carried out simultaneously with the review of the PAD. Development plans submitted under this Section shall, whenever feasible, be submitted in a form which will satisfy the requirements of the Subdivision Ordinance.

Section 603: PAD Procedures

A. Introduction
The review and approval of a PAD District shall consist of a two-step process composed of (1) a General Development Plan and Program and (2) a Final Development Plan(s). The General Development Plan and Program is intended to provide the City with enough information about the character of the PAD to permit an amendment to the zoning map. Once the General Development Plan and Program is approved, Final Development Plans may then be processed for all or part of the PAD. The Final Development Plan requires more detailed information consistent with the requirements of the City's Subdivision Ordinance or the Site Plan Review Section (Section 106) of this Ordinance, depending on the type of uses or size of the development unit.

B. Application for PAD District
An application for the PAD District shall conform to Section 110: Application and Fees and shall include the following additional materials:

1. A General Development Plan showing at least the following:

   a. the boundaries and approximate acreage of each development until;

   b. the proposed zoning, land use and acreage of each development unit, keyed to comparable zoning districts;

   c. the approximate location of major and collector streets;

   d. the approximate location of public uses proposed, such as schools, parks, playgrounds, drainageways, trails, or other recreation facilities;

   e. the topography of the site.

2. A Development Program consisting of text, maps, and other materials describing the PAD including;

   a. the number of dwelling units by type and density;

   b. the standards of development and types of uses proposed keyed to comparable zoning districts;

   c. proposed modifications to comparable zoning districts;

   d. preliminary concepts for accommodation of storm drainage, sanitary sewer, and domestic water systems;

   e. a statement of the applicant's purpose and objectives of the project;

   f. a generalized landscape and open space plan including perimeter treatments of the PAD;

   g. a development phasing schedule;

   h. other material required to properly evaluate the PAD dependent on the size and scope of the project.

C. Processing of General Development Plan and Program
The General Development Plan and Program shall be processed in accordance with Section 109: Zoning Ordinance Amendments, and shall be subject to all public notice and hearing requirements contained therein.

D. Processing of Final Development Plans
Upon approval of the General Development Plan and Program, Final Development Plans for all or part of the PAD District may be filed. Final Development Plans shall be submitted in accordance with Section 106, Site Plan Review in the case of multi-family, commercial, or industrial development units, or in accordance with the City Subdivision Ordinance in the case of large-scale development units or single-family uses. The Planning Commission and City Council shall review and approve all Final Development Plans within PAD Districts. All Final Development Plans shall be in conformity with the approved General Development Plan and Program.

Section 604: Establishment of PAD District

A. Upon approval of the General Development Plan and Program, the Zoning Map of the City of Avondale shall be amended by ordinance to reflect the PAD District designation on the subject property.

B. The Development Program submitted as part of the PAD application shall become part of the regulations governing the use and development of the PAD and shall be adopted as part of the map amendment as outlined in Subsection A above.

C. All conditions, modifications, and requirements of approval of the General Development Plan and Program imposed by the City Council, which are not included in written documentation submitted as part of the PAD application, shall become part of the regulations governing the use and development of the PAD.

D. The specific zoning classification for a development unit shall vest concurrently with final site plan and/or subdivision approval for that unit. No building permits shall be issued on land within a PAD until a Final Development Plan for the development unit has been approved.

E. Prior to approval of a Final Development Plan for the first development unit, the following additional information shall be submitted and approved:

1. conceptual master drainage plan;

2. master street plan for all major and collector streets abutting or within the site;

3. master water and sanitary sewer plans;

4. conditions, covenants, and restrictions for the project.

Section 605: Amendments to the PAD

Any amendments or modifications to the General Development Plan and Program shall be in accordance with the following procedures.

A. Major Amendments

The following changes to the approved General Development Plan and Program shall be considered major if they involve any one of the following:

1. an increase in the approved totals of dwelling units or in the acreages devoted to commercial or industrial uses;

2. a significant change in boundary lines of development units;

3. any change which could have significant impact on areas adjoining the PAD;

4. any change which could have a significant traffic impact on roadways adjacent or external to the PAD.

B. Minor Amendments

All amendments deemed minor by the City Planner shall be reviewed and approved administratively by the City Planner upon finding that the amendment is in substantial conformance to the approved General Development Plan and Program.

Section 606: Common Open Space

Common open space and recreation areas shall be an integral part of a PAD where residential uses are included in the project. The following standards shall apply.

A. A minimum of five (5) percent of the total gross area of the development shall be reserved as common open space and/or recreational areas. The minimum size of open space area counting toward this requirement shall be 5000 square feet.

B. Common open space areas shall be provided and improved by the applicant or project owner at a rate equal to or greater than the rate of construction of residential uses.

Section 607: Enforcement

A. Development of the first development unit shall commence within two(2) years of the date upon which the PAD District amendment was approved. The City Council may, upon request and for good cause, extend for one (1) additional year the period for commencement of development.

B. Failure to commence development within the time limits in Subsection A above shall cause the PAD District classification to become null and void. Thereafter, the City Council shall initiate an amendment to the zoning map to revert the zoning classification to its prior designation.

C. The Planning Department shall monitor development of the PAD to ensure compliance with the development phasing schedule. At such time that the Planning Commission determines that development is not proceeding in accordance with the schedule, a hearing shall be held to determine the cause of such delay. No further vesting of zoning or approval of final site plans or subdivision plats shall occur for that portion of the PAD in non-compliance with the General Development Plan and Program until resolution is agreed upon by the Commission and City Council.

1. The Commission may determine good cause exists for delay in the development of the PAD and may entertain an application to amend the PAD development schedule.

2. Should the Commission determine good cause does not exist for the delay, the Commission may impose additional restrictions and conditions on the PAD.

3. The City Council shall hold a public hearing to affirm or overrule the results of the Commission's deliberations.

Section 608: Findings

At the time of approval of a PAD District, the City Council must find:

A. That the PAD is in substantial conformance with the Comprehensive Plan of the City and can be coordinated with existing and planned development of surrounding areas.

B. That the streets and thoroughfares proposed are suitable and adequate to serve the proposed uses and the anticipated traffic which will be generated.

Section 609: Design Review Criteria

The purpose of a design review process is to promote public and private efforts towards improving the City of Avondale character and image. The intent of the design review process is to encourage development which is attractive, while compatible with surrounding architecture. This process is accomplished by applying design policies to proposed development site plans, building quality, architecture, landscaping design, signage, and compatibility with the surrounding community. The design review process assists in the preservation the City's unique character, benefiting property values, vitality of business, and the maintenance of the tax base for government agencies and schools.

1. In reviewing any single family detached residential application for approval, the following criteria shall be considered:

   a. All materials used in constructing, finishing, or accenting any building, structure, or sign shall be of concrete materials such as tile, stucco or architectural block (as to discourage smooth-face block) and be compatible with any material used in buildings, structures and/or signs in the general proximity to the applicant's property.

   b. The one-site and off-site adjacent Right-Of-Way placement of all power utility lines (less than 69KV) and irrigation ditches shall be underground.

c. The overall design of the building, structure, sign, and site shall not adversely affect the present or potential development of the nearby sites, and shall conform to California Mission, Santa Fe, or Southwestern architectural style. All buildings shall use earth tones for exterior colors, except for California Mission style, which can use white.

d. On-site illumination shall be architecturally compatible with the overall project and shall not create any negative visual effects to surrounding property (See Section 504.C.3).

e. Any principal building should not be less than (1,200) square feet of habitable living area; garages or other areas of similar type usage shall not be included in the area considered as habitable living area, even if such buildings are attached to the principal building.

f. All single family residential developments of (30) acres or greater shall have an average lot size for the overall development of 96,000) square feet. The width of the lot shall be not less than (45) feet. Deviations may be granted for development which exceeds open space requirements or provides exceptional public amenities.

g. No more than (15%) of the total housing project should contain homes less than (1,300) square feet in size.

h. A minimum of three (3) elevations for each house plan is required. No adjacent home or home directly across the street shall have the same elevation or roof line. The roof line can be changed by the following options:

   1. alternating the ridge line from parallel to perpendicular, or vice versa, to the street.

   2. alternating the roof line between flat and pitched.

   3. alternating the roof line between vaults and pitches

   4. alternating between a one (1) and two (2) story home.

i. For all pitched roofs, home builders shall provide at least twelve (12) inches of roof overhang (eve) to all walls of single family homes.

j. Home builders shall offer home buyers not less than six (6) house color combinations, three (3) tile colors, and two (2) tile types. Exterior colors shall be southwestern earth tones.

k. Home builders shall upgrade the appearance of rear or side elevations that are along an arterial or collector street and open space areas along an arterial or collector street. This can be accomplished by adding pop-out or recess window treatments, decks, fireplaces, staggered walls or overhangs to the structure.

l. Rear yard setbacks for lots backing on to arterial roads shall be a minimum of thirty (30) feet from

R.O.W. line. Lots that are side loaded shall have a minimum of a ten (10) feet side yard setback.

m. Curvilinear streets are required for all lot areas of less than five thousand (5,000) square feet lots. Home builders shall stagger front and rear yard setbacks by three (3) feet for all lots less than (5,000) square feet.

n. Home builders shall provide arterial, collector, and local street improvements to Public Works standards. ROW dedications shall be as follows:

1.	Major Arterial	130'
2.	Arterial	110'
3.	Major Collector Street	110'
4.	Collector Street	80'
5.	Major Local Street	60'
6.	Local Street	50'

i. Direct residential driveway access from arterial and collector streets shall be prohibited.

ii. All collector streets shall include an eight (8) foot P.U.E. (Public Utility Easement) outside of the right-of-way.

o. Home builders shall provide unique entry features to the development including water features, signage, special landscaping, and enhanced wall detail.

p. Home builders shall provide recreational open space as follows:

1. A minimum of two (2) acres minimum of open space per every one hundred (100) homes.

2. A minimum of one (1) tot lot play area per every two hundred fifty (250) homes.

3. A minimum of eighty (80%) percent of the open space shall be active recreation, consisting of turf.

4. Twenty (20%) percent of the open space shall be trees, shrubs, and other landscaping materials.

5. Active recreational areas are considered to be playground areas, trail systems, and useable turf area.

2. A home builder shall create and record a set of covenants, conditions, and restrictions, establishing a home owner's association which shall be responsible for the maintenance of all landscaping in all common areas and ROW. The following are landscaping design requirements which shall be included in a development's CC& R's:

a. Landscaping (ADWR-approved) at one (1) tree and two (2) shrubs per twenty (20) feet of linear frontage along arterial or collector streets. Mounding and contouring of landscaped areas is required.

b. A landscaping package for each home shall be provided by the home builder consisting of a minimum of two (2)-fifteen (15) gallon trees.

c. Inorganic ground cover, specifically decomposed granite, shall be three-fourth (3/4) inch minus Jesse Red for all arterial and collector ROW landscaping areas.

3. All perimeter theme walls shall be in accordance with the "City Standard Wall" adopted by the City. All residential walls that front along arterial and collector streets be a combination of six by eight by sixteen (6x8x16) inch smooth face scored block and eight by eight by sixteen (8x8x16) architectural block as seen in design standards. Walls that border common open space shall be six by eight by sixteen (6x8x16) block and shall match the perimeter them wall. Dully walls shall be used only for side yards and rear yards and consist of four by eight by sixteen (4x8x16) inch block.

   A. Common Design Elements

      Wall Bordering arterial and collector streets shall have:

      1. stained and sealed block and be two-tone in color(southwestern earth tone only).

      2. a cap block eight by eight by sixteen (8x8x16) architectural block.

      3. three bottom courses of eight by eight by sixteen (8x8x16)architectural block.

      4. a geometric pattern consisting of architectural block to be repeated every at least every one hundred fifty (150) feet.

      5. a decorative column at least every three (300) hundred feet consisting of architectural block.

   B. The construction specifications must include the following:

      1. eight by eight by sixteen (8x8x16) CMU solid masonry block construction with architectural block finishes.

      2. a maximum thirty (30) feet spacing of complete wall expansion/construction joints.

      3. two greased, smooth steel dowels per wall expansion/construction joint.

Exhibit J

DRAFT
CITY OF AVONDALE, ARIZONA
PLANNING COMMISSION
MEETING MINUTES

Regular Meeting of: March 20, 2003

PRESENT:
Yolanda Gonzales, Commissioner
Rusty Martin, Commissioner
Anita Hedrick, Commissioner
William Moore Jr., Commissioner
Veronica De La O, Commissioner

OTHERS:
Dean Svoboda, Planning & Building Services Director
Nathan Crane, Planning Manager
Adrian Williamson, Planner
Steve Carrecia, Planner
Anna Roedler, Planner
Linda Fifer, Administrative Secretary

EXCUSED:
Bill Malone, Commissioner
Nancy J. Bolton, Commissioner

2) **CASE NO.:** A03-402-AM1
APPLICANT: Mr. Michael Pacheco
AZVT, LLC
1550 E. Missouri, Suite 300
Phoenix, Arizona 85014

REQUEST: Amendment to the Avondale Automall PAD to allow automotive dealerships and related uses to be located on all parcels. The Avondale Automall is located south of Interstate 10, between 99th and 107th Avenues.

Adrian Williamson, Planner II, presented the staff report to the Planning Commission. He said staff recommends approval of the proposed PAD amendment, subject to the seven stipulations contained in the staff report and two additional stipulations provided in a memo to the commission.

Commissioner Martin pointed out the applicant is requesting a conditional use for a number of other businesses, asking if that is why staff added a stipulation limiting the conditional use permits to auto related services. Mr. Williamson stated, while the original PAD listed other uses approved with the PAD, staff feels those uses would no longer be applicable in the subject area. He said, therefore, staff has limited the uses to automotive uses along Roosevelt. Commissioner Martin asked what is the square footage of the proposed retail center. Mr. Williamson said the square footage has not yet been determined. Commissioner Martin asked if the retail center could ultimately be made a dealership. Mr. Williamson responded yes.

Michael Pacheco, Applicant, said, in addition to developing the automall, they are also in the automobile business. He said their initial research, which was used as a model for Phase I, indicated automalls run from 50 to 70 acres. He said, however, they believe they will eventually have the largest automall in the country. He explained the proposed sizing is based on future markets and manufacturers' product line expansions.

Chairperson Hedrick opened the public hearing on Case No. A03-402-AM1. As no comments were made, she closed the public hearing.

Commissioner Martin expressed his opinion the automall will be a boon for the city and west valley.

COMMISSIONER MOORE MADE A MOTION TO FORWARD CASE NO. A03-402-AM1 TO THE MAYOR AND CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL, SUBJECT TO THE STIPULATIONS RECOMMENDED BY STAFF. COMMISSIONER DE LA O SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.

1. Development shall comply with the revised context plan dated February 10, 2003 and the PAD General Development Plan and Program as amended.
2. Automobile dealerships shall be developed in a contiguous fashion along Interstate 10 to avoid inter-mixed uses.
3. Automobile service and related uses not directly associated with an automobile dealership shall be located adjacent to Roosevelt Street subject to a Conditional Use Permit.
4. Outdoor storage by individual retail/service businesses of automotive parts and vehicles to be serviced is prohibited.
5. General retail uses shall only be allowed within a planned and a single center at the northeast corner of Dealer Drive and 107th Avenue.
6. The dedication of 107th shall occur with the final plat and improvements for 107th Avenue will be required from the developer as adjacent development occurs.
7. All individual retail developments not associated with an automotive dealership shall comply with the City of Avondale Sign Ordinance.
8. If automobile dealerships occupy 75% or more of the net area of the western 50 acres of the Automall, an additional 35-foot tall, 150 square feet per side freestanding pylon sign shall be allowed on 107th Avenue matching the existing freeway identification sign on Dealer Drive. These signs shall only identify the Automall and automobile dealerships. These signs shall require sign permits and be approved by staff prior to construction.

9. If a retail commercial center is developed in the northwest corner of the PAD, a 12-foot tall, 84 square feet per side freestanding sign identifying the name of the center and individual tenants shall be permitted along 107th Avenue. This sign shall require a sign permit and be approved by staff prior to construction

ORDINANCE NO. 927-03

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE AVONDALE AUTOMALL PLANNED AREA DEVELOPMENT (Z99-402-A) INCLUDING PERMITTED USES AND PROPERTY DEVELOPMENT STANDARDS FOR APPROXIMATELY 50 ACRES LOCATED AT THE SOUTHEAST CORNER OF 107th AVENUE AND INTERSTATE 10, AS SHOWN IN FILENAME A03-402-AM1.

WHEREAS, on December 20, 1999, the Council of the City of Avondale, (the "City Council") approved the Avondale Automall PAD zoning for approximately 150 acres of real property generally located at the southwest corner of 99th Avenue and Interstate 10; and

WHEREAS, the City Council desires to amend the Avondale Automall PAD zoning; and

WHEREAS, all due and proper notices of public hearings on this Ordinance held before the City of Avondale Planning and Zoning Commission (the "Commission") and the City Council were given in the time, form, and substance and manner provided by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission held a public hearing on Thursday, March 20, 2003, regarding this zoning amendment; and

WHEREAS, the Commission recommended to the City Council that this zoning amendment be approved; and

WHEREAS, the City Council held a public hearing regarding the zoning amendment on Monday, April 21, 2003.

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

SECTION 1: That the Avondale Automall & Retail Shopping Center PAD approved for the Property on December 20, 1999, is hereby amended subject to the following stipulations:

1. Development shall be in substantial conformance with the revised the zoning context plan dated February 10, 2003 and the PAD Zoning Amendment dated March 5, 2003.
2. Automotive dealerships shall be developed in a linear fashion along Interstate 10. Retail and service uses shall not separate automotive dealerships.
3. Automobile service and related uses not directly associated with an automobile dealership shall be located adjacent to Roosevelt Street subject to a Conditional Use Permit.
4. Outdoor storage by individual retail/service businesses of automotive parts and vehicles to be serviced is prohibited.

5. General retail uses shall only be allowed within a planned, single center at the northeast corner of Dealer Drive and 107th Avenue.
6. The dedication of 107th shall occur with the final plat and improvements for 107th Avenue will be required from the developer as adjacent development occurs.
7. All individual retail developments not associated with an automotive dealership shall comply with the City of Avondale Sign Ordinance.
8. If automobile dealerships occupy 75% or more of the net area of the western 50 acres of the Automall, an additional 35-foot tall, 150 square feet per side freestanding pylon sign shall be allowed on 107th Avenue matching the existing pylon sign on 99th Avenue. An additional 75-foot tall, 573 square feet per side freeway identification sign shall be permitted on the western 50 acres on Dealer Drive matching the existing freeway identification sign on Dealer Drive. These signs shall only identify the Automall and automobile dealerships. These signs shall require sign permits and be approved by staff prior to construction.
9. If a retail commercial center is developed in the northwest corner of the PAD, a 12-foot tall, 84 square feet per side freestanding sign identifying the name of the center and individual tenants shall be permitted along 107th Avenue. This sign shall require a sign permit and be approved by staff prior to construction.
10. The provisions of the original Automall PAD (Z99-402-A) shall apply except as modified by the above stipulations.

SECTION 3: If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, April 21, 2003.

Ronald J. Drake, Mayor

ATTEST:

Linda M. Farris, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

20000577980

After Recording Return to:	City of Avondale
City Clerk City of Avondale 525 N. Central Avondale, AZ 85323	

226-100-1258320

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made as of this 18th day of OCTOBER, 1999, by and between **the CITY OF AVONDALE** (the "City"), an Arizona municipal corporation, and **AZVT, LLC,** an Arizona limited liability company (the "Developer").

RECITALS:

A. Developer owns certain land located generally at the southwest corner of Interstate 10 and 99th Avenue, in Avondale, Arizona which consists of approximately 150 acres, more or less (the "Property"). The legal description describing the Property is attached hereto as Exhibit "A".

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B. It is the desire and intention of Developer to develop the Property as follows:

(i) Develop and construct on approximately the east half of the Property an auto mall complex consisting of new car automotive dealerships and other automotive uses (the "Auto Mall"), and

(ii) Develop and construct on approximately the west half of the Property a commercial retail center and related uses (the "Retail Center")(the Auto Mall and the Retail Center are sometimes hereinafter collectively referred to as the "Project"); with the development of the Project to be generally in conformance with the conceptual site development plan attached hereto as Exhibit "B" (the "Development Plan"), it being understood that the Development Plan may be revised by Developer from time-to-time to reflect changes to the Project and as long as the revisions are approved by the City as required by law and do not materially change the Auto Mall and Retail Center to be constructed, such revisions shall not effect the terms of this Agreement.

C. Developer and City both believe that the development of the Project pursuant to this Agreement will result in significant benefits to City, its residents and the general public and enhance the economic ability of City by:

(i) significantly increasing transaction privilege tax (hereinafter "retail sales tax") revenues of the City by encouraging new car automotive dealerships and other retail businesses to be located within Avondale and within the Project in particular;

(ii) increasing real property tax revenues based on all of the improvements to be constructed at the Project;

(iii) creating new jobs in businesses to be located within and near the Project; and

(iv) retaining two (2) dealerships within the City who might otherwise relocate to another jurisdiction.

D. City also wishes to obtain from Developer the construction of certain strategic infrastructure improvements and the dedication of certain public rights-of-way at no cost to City. Developer's infrastructure improvements will include extensive permanent water line, sewer line, and other utility extensions; the construction of fully improved, landscaped, lighted and signalized public streets and half-streets to enhance traffic flow; and the installation of landscaped frontage along Interstate 10 to upgrade the Property's current streetscape.

E. Developer shall use its reasonable, good faith and diligent efforts to attract additional automotive dealerships to the Auto Mall, and retail businesses to the Retail Center. To that end, Developer has secured agreements to place both Gateway Chevrolet and Avondale Dodge in the Auto Mall in order to retain, and expand through future growth, the benefits of these dealerships for the City, and avoid the loss of these local businesses to competing sites in Goodyear and Tolleson.

F. In light of the mutual benefits to City and Developer resulting from the Project, City and Developer desire that Developer receive an economic incentive in the form of retail sales tax rebates as described herein.

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G. Developer and City understand this Agreement is contingent upon Developer obtaining PADD C-2 zoning and the related use permits from the City for the Property and the Project, and substantially completing the infrastructure improvements described above.

H. Developer and City further understand and acknowledge that this Agreement is within the meaning of, and is entered into pursuant to the terms of, A.R.S. Section 9-500.11, and the terms of this Agreement are intended to be binding upon City and Developer, but only to the extent permitted by law, and their successors and assigns and which terms and provisions will run with the land.

AGREEMENT:

In reliance upon and for the reasons set forth above, and in consideration of the covenants set forth herein, the parties hereto agree as follows:

1.0 Annexation.

1.1 The Property is already annexed into the City.

2.0 Development In Accordance With Zoning and Plat Approval.

2.1 Approvals. The Property is currently zoned for agricultural use, and Developer will apply to the City to rezone the Property to PADD C-2. The PADD C-2 rezoning complies with

RECORDING

the City's present General Plan. Upon the mutual execution of this Agreement by Developer and City, Developer's PADD C-2 zoning application and the required plat for the Project, which shall be in general conformance with the Development Plan, will be submitted to the City for review and processing to obtain the necessary rezoning approval.

3.0 Term of Agreement.

3.1 Term. This Agreement will commence upon the mutual execution of this Agreement by City and Developer, and will continue until the 15th (fifteenth) anniversary of the date the first automobile dealership opens for business.

4.0 Financial Assistance.

4.1 The Benefits of Project to the Community. The City has determined, based upon its independent evaluation, that development of the Project will provide social and economic benefits to the community. The proposed Project will provide a source of employment and creation of jobs within the community, and will generate needed additional retail sales and property tax revenues to the City and other public agencies. The proposed development will enable needed capital projects to be completed which will improve the economic and physical conditions of the community, provide for the public safety and convenience of the community, and will enhance the economic welfare of the inhabitants of the City.

4.2 Financial Assistance. Each auto dealership and retail business within the Project will collect all retail sales tax levied pursuant to the City Tax Code of the City of Avondale resulting from retail sales by such dealerships and retail businesses located within the Project, and will remit the same to the City according to law. As an inducement to Developer to construct the infrastructure improvements, and to develop, attract, and open auto dealerships, other automotive uses, and retail businesses within the Project, and pursuant to the provisions of Section 9-500.11 of the Arizona Revised Statutes, the City hereby agrees to rebate a portion of the retail sales tax generated by each of the auto dealerships and other automotive uses operating within the Auto Mall, and retail businesses operating in facilities greater than 10,000 square feet within the Retail Center, and paid to the City. Upon the substantial completion by Developer of the infrastructure improvements described in Recital D, for the term described in Section 3.1 above, the City will rebate to Developer fifty percent (50%) of the annual retail sales taxes generated by each of the businesses described above located within the Project, payable in annual installments. The City's obligation to pay the annual retail sales tax rebates payments to Developer will automatically cease and the City will have no further obligation to Developer pursuant to this Agreement upon the earlier of the expiration of the fifteen (15) year term described in Section 3.1 above, or upon the Developer receiving a total of Twelve Million Dollars ($12,000,000) (the date of such event being hereinafter referred to as the "Termination Date").

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The first annual payment required by the preceding paragraph will be paid no later than sixty (60) days after the first calendar year-end following the opening for business of the first auto dealership or qualifying retail business generating retail sales tax within the Project. Subsequent annual payments will be made no later than sixty (60) days after the end of each succeeding calendar year. Each annual payment will be mailed to Developer at the address for notice set forth in Section 7.0 below, or as otherwise agreed by City and Developer.

The City's obligations under this Agreement, including without limitation, the City's obligations under this Section 4.0 relating to financial assistance are expressly conditioned upon Developer's substantial completion of the infrastructure improvements within the Project. If

there is a period of time during which no retail sales taxes are generated by the qualifying businesses within the Project, then Developer shall not be entitled to any Financial Assistance during that time. However, if, after such time period, retail sales taxes are again generated by the auto dealerships, other automotive uses, and the qualifying retail businesses located within the Project, then the City's obligation to pay the Financial Assistance to Developer (or its successors in interest or assigns pursuant to Section 12.7 below) shall resume until the Termination Date, which shall not be extended beyond the term provided in Section 4.2 above.

Developer shall have the right, as permitted by Section 12.7 below, to assign a portion of its right to receive retail sales tax rebates hereunder to any one or more persons or entities that purchase or lease a portion of the Property within the Project (an "Assignee"). Retail sales tax rebates paid directly by the City to Developer or its Assignee (or its permitted successors and assigns) at the request of and on behalf of the Developer will decrease the remaining retail sales tax rebate payments due the Developer hereunder. Any assignment requested by the Developer shall be approved by the City, such approval not to be unreasonably withheld or delayed.

4.3 Van Buren Sewer Line. As a part of the infrastructure improvements required by this Agreement, Developer agrees to build offsite improvements consisting of a sewer line (the "Van Buren Sewer Line") within the Van Buren Street public right-of-way, all in accordance with the City's latest adopted regulations, ordinances, current engineering design guidelines and construction standard notes/details and county requirements where applicable. Developer shall be responsible for the actual design costs and construction costs of the Van Buren Sewer Line. In consideration for the fact that the Van Buren Sewer Line is essential public infrastructure providing a broad public benefit, Developer shall comply with all City procurement regulations applicable to City participation in funding the cost of the Van Buren Sewer Line.

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Developer shall obtain from its contractor and assign to the City a warranty for the Van Buren Sewer Line for a period of at least one(1) year following the issuance date of the City's acceptance document.

The City acknowledges and agrees that a portion of the Van Buren Sewer Line improvement (the "Reimbursable Items") shall benefit other properties and the Developer shall be entitled to reimbursement by such property owners for the cost of the Reimbursable Items. Concurrently with or following the completion of construction and the dedication or other conveyance of the Van Buren Sewer Line to the City, the Developer shall provide the City with a statement setting forth, in reasonable detail, the actual cost of the construction of such sewer line. The determination of the Reimbursable Items shall be based on the actual cost of design and construction of the Van Buren Sewer Line, including all engineering and design fees and costs, the costs of permits, the cost of construction materials and labor, and all other direct costs incurred in connection with such design and construction.

The City further agrees that with respect to each of the Reimbursable Items, it shall require each property owner who is benefited by the Van Buren Sewer Line to pay its proportionate share of the cost of the Reimbursable Items pursuant to a "Reimbursement Agreement", in form reasonably satisfactory to Developer and City before any development shall be permitted on the benefited property, whether as a result of an application for approval of development or improvement plans, an application for approval of a change in the zoning or uses otherwise applicable to such benefited property(ies), an application for approval of a development agreement with the City or otherwise. Each benefited property's share of the cost of the Reimbursable Items shall be determined in accordance with the Reimbursement

INSTRUMENT

Agreement. Reimbursement shall be based on the relative area of the benefited property to the entire assessable area served by the applicable Van Buren Sewer Line, unless otherwise provided in the City Code for the type of improvement involved. Each benefited property owner shall pay its full share of the cost of the Reimbursable Items, in respect of its share, in cash to the City at the time such owner receives its first building permit for any improvements to the benefited property issued after the date of this Agreement as a result of any of the matters hereinabove described. The City shall within a reasonable time following receipt of such payment, not to exceed thirty (30) days, pay to the Developer all reimbursements collected on behalf of the Developer. Any such reimbursements received by Developer will decrease the remaining retail sales tax rebate payments due the Developer hereunder, by the amount of such reimbursement.

4.4 Change in Sales Tax Laws. If the laws which entitle the City to receive the City retail sales tax based on sales at or from the businesses located within the Project are repealed or modified after the date of this Agreement or if the sales tax the City is entitled to receive based on such sales is totally or partially replaced with another source of revenue, then the City's obligation to pay the annual retail sales tax rebate payments will be deemed modified and will be renegotiated. In that event, Developer and the City will fully cooperate with one another in amending this Agreement as necessary or appropriate to facilitate Developer's receiving the payments described in Section 4.2 above, so the intent of this Agreement can be attained.

4.5 Status of Payments. Developer and the City will cooperate with one another in issuing periodic reports of the status of the City's obligation to make annual payments pursuant to this Agreement.

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4.6 Completion of the Auto Mall and Retail Center. Notwithstanding any other provision in this Agreement, the City's obligation to pay the annual payments pursuant to Section 4.2 above will apply only if construction of the Auto Mall development begins promptly following the City's approval of Developer's planned PADD C-2 zoning permitting the construction of the Project, and construction of the Retail Center begins promptly following Developer executing contracts for parcel sales or leases with anchor tenants necessary to make the Retail Center financially feasible. Developer's construction will be substantially completed within twenty four (24) months from the date Developer begins construction, except that the time for completion will be extended for a period equal to delays caused by force majure or other causes beyond the reasonable control of Developer, unless such time periods are extended with the approval of the City.

5.0 Default.

5.1 Default by Either Party. If either party fails to perform any obligation, including City's obligation to pay money pursuant to this Agreement, and fails to cure its nonperformance within 30 (thirty) days after notice of nonperformance is given by the non-defaulting party, such party will be in default and the non-defaulting party will have all remedies which are available to it at law or in equity including, without limitation, the remedy of specific performance; provided, however, that if the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 (thirty) days, then the defaulting party will have such additional periods of time as may be reasonable under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance, until its nonperformance has been cured.

6.0 Relationship of the Parties.

6.1 Negation of Agency, Joint Venture or Partnership. The parties acknowledge that in entering into this Agreement, they are acting as independent entities and not as agents of the other in any respect and hereby renounce the existence of any form of joint venture or partnership between them and agree that nothing in this Agreement will be construed as making them joint venturers or partners.

7.0 Notices and Filings.

7.1 Manner of Serving. All notices, filings, consents, approvals and other communications provided for herein or given in connection herewith shall be validly given, filed, made, delivered or served if in writing and delivered personally, sent by facsimile transmission or sent by registered or certified United States Mail, postage prepaid, if to:

The City:	City of Avondale 525 North Central Avenue Avondale, AZ 85323 Attn.: City Manager Facsimile No. (602) 925-2162
The Developer:	AZVT, LLC P.O. Box 16460 Phoenix, AZ 85011 Attn: Mike Pacheco Facsimile No. (602) 230-2826
with a copy to:	BEUS GILBERT PLLC 1000 Great American Tower 3200 North Central Avenue Phoenix, AZ 85012-2417 Attn: Gordon M. Wasson, Esq. Facsimile No. (602) 234-5893

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or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner.

7.2 Effective Delivery. If not received sooner, notices, filings, consents, approvals and communication ("Notices") given by mail shall be deemed delivered seventy-two (72) hours following deposit in the U.S. mail, postage prepaid and addressed as set forth above. Notices given by personal delivery are effective upon receipt, and Notices given by facsimile transmission are effective upon electronic verification of delivery or receipt.

8.0 Lender Provisions.

8.1 Lender Not Obligated to Construct. Notwithstanding any of the provisions of this Agreement, including but not limited to, those which are or are intended to be covenants running with the land, any lender who provides construction, interim or permanent financing for all or any part of the Property, and such financing is secured by a lien against the Property ("Lender"), shall in no way be obligated by the provisions of this Agreement to construct or complete the

DRAFT COPY

development of the Project, or any part thereof, or to guarantee such construction completion or any other obligations related thereto. Notwithstanding the foregoing, Lender's purchaser or its other successors in interest in the Project (other than another lender or financial institution or acquirer of Lender) shall be obligated by the provisions of this Agreement.

8.2 Copy of Notice of Default to Lender. Whenever City shall deliver any notice or demand to Developer with respect to any breach or default by Developer under this Agreement, City shall at the same time forward a copy of such notice or demand to each Lender on any portion of the Property which may be affected by such notice provided such Lender has delivered or mailed written notice to City of its interest in the Property and mailing address.

8.3 Lender's Option to Cure Defaults. After any uncured Developer default referred to in Section 5.2 above, each Lender shall (insofar as the rights of City are concerned) have the right, at its option, to cure or remedy such default to the extent that it relates to the part of the Property covered by its lien and to add the cost of such cure to its debt and lien.

8.4 Transfer of the Property to or by the Lender. Nothing contained in this Agreement shall be deemed to prohibit, restrict, or limit in any way the right of Lender to take title to all or any part of the Property, pursuant to a foreclosure proceeding, trustee's sale or deed in lieu of foreclosure.

9.0 Representations and Warranties.

9.1 City Acknowledgement. City acknowledges that Developer has acquired the Property and is entering into this Agreement and has expended, and will continue to expend, substantial time, efforts and money with regard to development of the Project in reliance upon the representations, warranties and covenants of City as described elsewhere in this Agreement and hereinbelow. City represents and warrants to Developer that all of City's representations and warranties set forth in this Agreement are true in all material respects as of the date of this Agreement, including the following:

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9.2 City Organization. City is a duly organized, validly existing municipal corporation in the State of Arizona and the person signing this Agreement on behalf of City is authorized to do so. The transactions contemplated by this Agreement and the execution and delivery of all documents required herein, and City's performance hereunder, have been duly authorized by all requisite actions of City and/or other parties. The execution and delivery of this Agreement and any other document required herein and the consummation of the transaction contemplated hereby and thereby will not result in any violation of, or default under, any term or provision of any applicable agreement, instrument, law, rule, regulation or official policy to which City is a party or by which City is bound.

9.3 No City Litigation. There is no litigation, investigation or proceeding pending or, to the knowledge of the City, contemplated or threatened against the City, or the Property which would impair or adversely affect the City's ability to perform its obligations under this Agreement or under any instrument or document related hereto.

9.4 Developer Acknowledgement. Developer acknowledges that City has expended and will continue to expend substantial time and effort with regard to the development of the Project in reliance upon the representations, warranties and covenants of Developer as described elsewhere in this Agreement and hereinbelow. Developer represents and warrants to City that

RECORDING

all of Developer's representations and warranties set forth in this Agreement are true in all material respects as of the date of this Agreement, including the following:

9.5 Developer Organization. Developer is a duly organized validly existing limited liability company in the State of Arizona and the person signing this Agreement on behalf of Developer is authorized to do so. The transactions contemplated by this Agreement and the execution and delivery of all documents required herein, and Developer's performance hereunder, have been duly authorized by all requisite actions of Developer and/or other parties. The execution and delivery of this Agreement and any other document required herein and the consummation of the transaction contemplated hereby and thereby will not result in any violation of, or default under, any term or provision of any application agreement, instrument, law, rule, regulation or official policy to which Developer is a party or by which Developer is bound.

9.6 No Developer Litigation. There is no litigation, investigation or proceeding pending or, to the knowledge of Developer, contemplated or threatened against Developer or the Property which would impair or adversely affect Developer's ability to perform its obligations under this Agreement or under any instrument or document related hereto.

9.7 Restatement of Warranties. At any time, or from time to time, upon the request of Developer, City within ten (10) days following receipt of Developer's request, shall reaffirm and restate any or all of its representations, warranties and covenants as set forth in this Agreement and any other agreements and instruments executed in connection herewith.

10.0 Access to the Property

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10.1 Interstate 10 Frontage Road. City agrees to use its best efforts to (i) assist Developer in obtaining one or more curb-cuts (entranceways) into the Project from the Interstate 10 frontage road, and (ii) assist Developer in obtaining the removal and/or redesign and upgrade of the existing chain-link fence parallel to the Project and the Interstate 10 frontage road.

11.0 New Dealerships

11.1 New Dealerships. To the extent legally possible, for the period from the effective date hereof through the Termination Date, City agrees to use its best efforts to refer any new automotive dealerships requesting to locate in the City to the Developer for possible location within the Auto Mall.

12.0 General.

12.1 Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by City or Developer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

12.2 Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof, or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorney's fees by the other party, and in the event any judgement is secured by said prevailing party, all such

costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

12.3 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document.

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

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

12.6 Time Essence. Time is of the essence of this Agreement.

12.7 Successors. All of the provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. Notwithstanding the foregoing, Developer shall have the right, upon fifteen (15) days' prior written notice to City, to assign all or part of its rights hereunder to any one or more persons or entities that purchase or lease a portion of the Property within the Project. Any assignment requested by the Developer shall be approved by the City, such approval not to be unreasonably withheld or delayed. Developer's rights and obligations hereunder may only be assigned by a written instrument expressly assigning such rights and obligations. In the event of a complete assignment by Developer of all rights and obligations of Developer hereunder, Developer's liability hereunder shall terminate effective upon the assumption by Developer's assignee.

Unofficial Document

12.8 Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

12.9 Amendment. No amendment or waiver of any provision in this Agreement will be binding on the City unless and until it has been approved by the City Council and has become effective, or on Developer unless and until it has been executed by an authorized representative.

12.10 Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.

12.11 Severability. Every provision of this Agreement is and will be construed to be a separate and independent covenant. If any provision in this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will not be affected by that invalidity or unenforceability and each provision in this Agreement will be valid and will be enforced to the extent permitted by law and the parties will negotiate in good faith for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

10/15/1999

12.12 Covenant of Good Faith. In exercising their rights and in performing their obligations pursuant to this Agreement, the parties will cooperate with one another in good faith, so the intent of this Agreement can be attained.

12.13 Exhibits. All Exhibits attached hereto are incorporated herein by reference. The Exhibits are as follows:

Exhibit "A" - Legal Description of Property
Exhibit "B" - Development Plan
Exhibit "C" - Construction Schedule

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

"DEVELOPER"

AZVT, LLC, an Arizona limited liability company

By: _____ 10-8-99
Date

Its: Manager

Unofficial Document

"CITY"

CITY OF AVONDALE, ARIZONA, an Arizona municipal corporation

By: _____ 10/18/99
Date

Its: VICE MAYOR

CITY CLERK

STATE OF ARIZONA)
)
County of Maricopa)

The foregoing instrument was acknowledged before me this 8th day of October, 1999, by LARRY VAN TUYL, who acknowledged himself to be the Manager of AZVT, LLC, an Arizona limited liability company, for and on behalf of the company.

Linda Cortright
Notary Public

My commission expires:

6-30-2002

OFFICIAL SEAL
LINDA CORTRIGHT
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires June 30, 2002

STATE OF ARIZONA)
)
County of Maricopa)

The foregoing instrument was acknowledged before me this 18th day of OCTOBER, 1999, by HENRY BELTRAN & LINDA TYLER, acknowledged himself to be the VICE MAYOR & CITY CLERK of the CITY OF AVONDALE, an Arizona municipal corporation, for and on behalf of the municipal corporation.

Sharon K. Marshall
Notary Public

"OFFICIAL SEAL"
Sharon K. Marshall
Notary Public Arizona
Maricopa County
My Commission Expires 10/19/2002

Document is NOT OFFICIAL!

EXHIBIT "A"

The South half of the North half of Section 5, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

EXCEPT any portion of the above described property lying between Line Nos. 1 and 2, as set forth in Final Order of Condemnation recorded in Instrument No. 84-463775, described as follows:

LINE NO. 1: COMMENCING at the Northeast corner of said Section 5;
THENCE South 0 degrees 22 minutes 39 seconds East, along the East line of said Section, 300.00 feet to the POINT OF BEGINNING;
THENCE South 89 degrees 37 minutes 21 seconds West, 40.00 feet;
THENCE South 7 degrees 08 minutes 11 seconds West, 382.34 feet;
THENCE South 88 degrees 58 minutes 31 seconds West, 58.65 feet;
THENCE South 80 degrees 16 minutes 47 seconds West, 859.88 feet;
THENCE South 88 degrees 58 minutes 31 seconds West, 4111.38 feet;
THENCE North 50 degrees 46 minutes 18 seconds West, 99.22 feet;
THENCE North 10 degrees 31 Unofficial Document 07 seconds West, 187.67 feet;
THENCE South 89 degrees 44 minutes 25 seconds West, 55.00 feet to the POINT OF ENDING on the West line of said Section 5, which point bears South 0 degrees 15 minutes 35 seconds East, 539.97 feet from the Northwest corner of said Section.

LINE NO. 2: COMMENCING at the East quarter corner of said Section 5;
THENCE North 0 degrees 22 minutes 39 seconds West, along the East line of said Section, 170.48 feet to the POINT OF BEGINNING;
THENCE South 89 degrees 37 minutes 21 seconds West, 40.00 feet;
THENCE North 0 degrees 22 minutes 39 seconds West, 1009.75 feet;
THENCE North 85 degrees 00 minutes 46 seconds West, 1014.57 feet;
THENCE South 88 degrees 58 minutes 31 seconds West, 4124.51 feet;
THENCE South 6 degrees 08 minutes 17 seconds West, 403.83 feet;
THENCE South 89 degrees 44 minutes 25 seconds West, 55.00 feet to the POINT OF ENDING on the West line of said Section 5, which point bears North 0 degrees 15 minutes 35 seconds West, 900.75 feet from the West quarter corner of said Section; and also

EXCEPT that portion of the South half of the Northwest quarter and of the Southwest quarter of the Northeast quarter of Section 5, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, which lies between the existing (1978) South right of way line of Interstate Highway 10 (Ehrenberg-Phoenix Highway) and the following described line:

COMMENCING at the West quarter corner of said Section 5;
THENCE along the West line of said Section 5, North 0 degrees 04 minutes 33 seconds West 1500.70 feet (1500.75, record) to the centerline of said Interstate Highway 10;
THENCE along said centerline North 89 degrees 09 minutes 33 seconds East, 1071.07 feet;
THENCE South 0 degrees 50 minutes 27 seconds East, 200.00 feet to the POINT OF BEGINNING on said existing South right of way line of Interstate Highway 10;
THENCE continuing South 0 degrees 50 minutes 27 seconds East, 46.18 feet;
THENCE North 87 degrees 35 minutes 49 seconds East, 960.36 feet;
THENCE North 87 degrees 31 minutes 21 seconds East, 700.29 feet to the POINT OF ENDING on said South right of way line of Interstate Highway 10, as conveyed to the STATE OF ARIZONA, by and through its Department of Transportation in Instrument No. 92-0512378; and also

EXCEPT that portion of the South half of the Northeast quarter of Section 5, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, which lies between the existing (1978) South right of way line of Interstate Highway 10 (Ehrenberg-Phoenix) and the following described line:

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COMMENCING at the East quarter corner of said Section 5;
THENCE along the East line of said Section 5, North 0 degrees 11 minutes 37 seconds West a distance of 1486.92 feet to the Median centerline of the aforesaid Interstate Highway 10;
THENCE South 89 degrees 09 minutes 33 seconds West 1443.24 feet;
THENCE South 0 degrees 50 minutes 27 seconds East 200.00 feet to the POINT OF BEGINNING in the aforesaid South right of way line of Interstate Highway 10;
THENCE South 88 degrees 15 minutes 51 seconds East 400.41 feet;
THENCE South 84 degrees 12 minutes 12 seconds East 276.85 feet;
THENCE South 82 degrees 58 minutes 47 seconds East 681.15 feet;
THENCE South 41 degrees 35 minutes 13 seconds East, 75.02 feet to the POINT OF ENDING on the existing West right of way line of 99th Avenue as conveyed to the STATE OF ARIZONA, by and through its Department of Transportation in Instrument No. 92-0406965; and also;

EXCEPT that portion of the South half of the Northwest quarter and of the Southwest quarter of the Northeast quarter of Section 5, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, which lies between the existing (1978) South right of way line of Interstate Highway 10 (Ehrenberg-Phoenix Highway) and the following described line:

COMMENCING at the West quarter corner of said Section 5;
THENCE along the West line of said Section 5, North 0 degrees 04 minutes 33 seconds West 1210.70 feet;
THENCE North 89 degrees 55 minutes 27 seconds East 89.76 feet to the POINT OF BEGINNING on the existing East right of way line of 107th Avenue;
THENCE North 73 degrees 19 minutes 36 seconds East 150.91 feet;
THENCE North 89 degrees 09 minutes 33 seconds East 700.01 feet;
THENCE North 87 degrees 35 minutes 49 seconds East 140.05 feet;
THENCE North 0 degrees 50 minutes 27 seconds West 46.18 feet to the POINT OF ENDING on the aforesaid existing South right of way of the 107th Avenue Interchange as conveyed to the STATE OF ARIZONA, by and through its Department of Transportation in Instrument No. 92-0406966; and also

EXCEPT the West 40 feet and the East 33 feet thereof.

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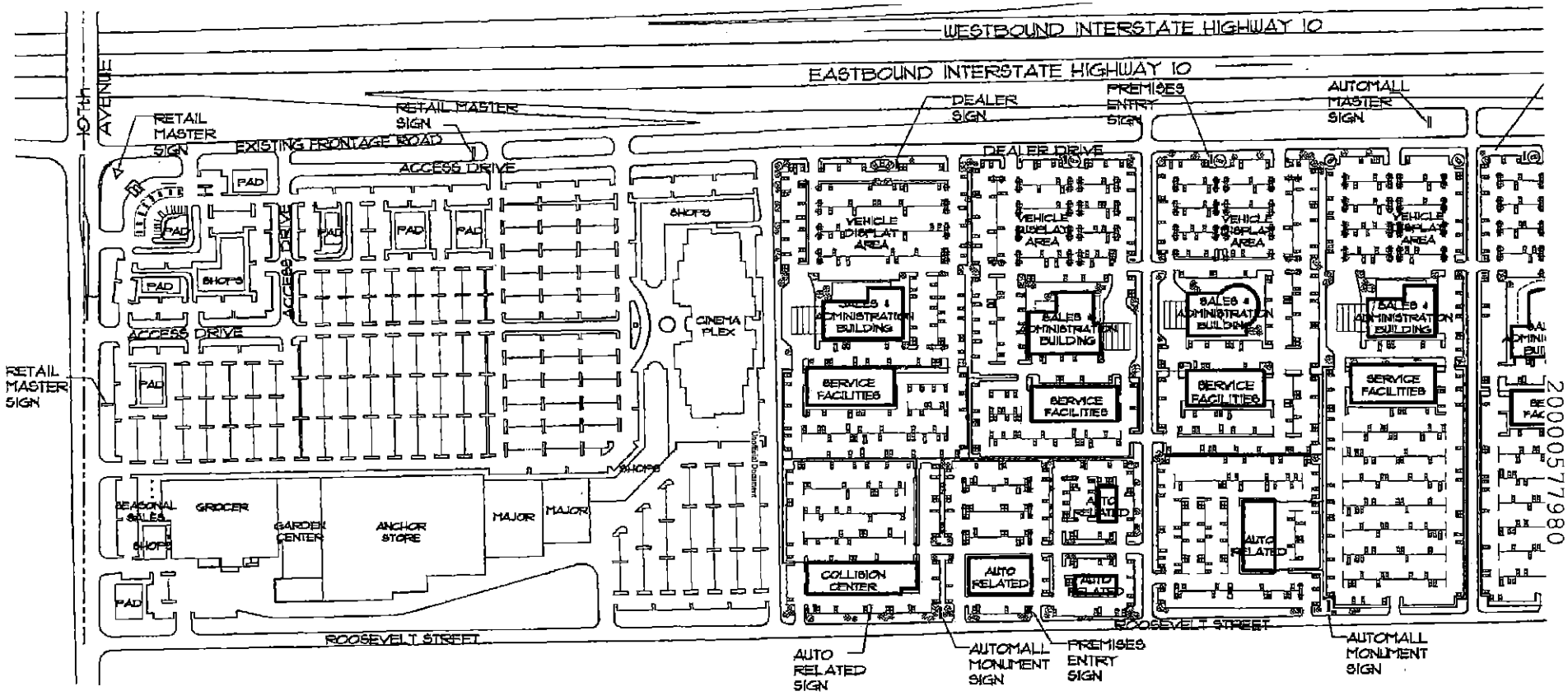

EXHIBIT "B" - PAGE 1 OF 2

SITE PLAN

SCALE: NO SCALE

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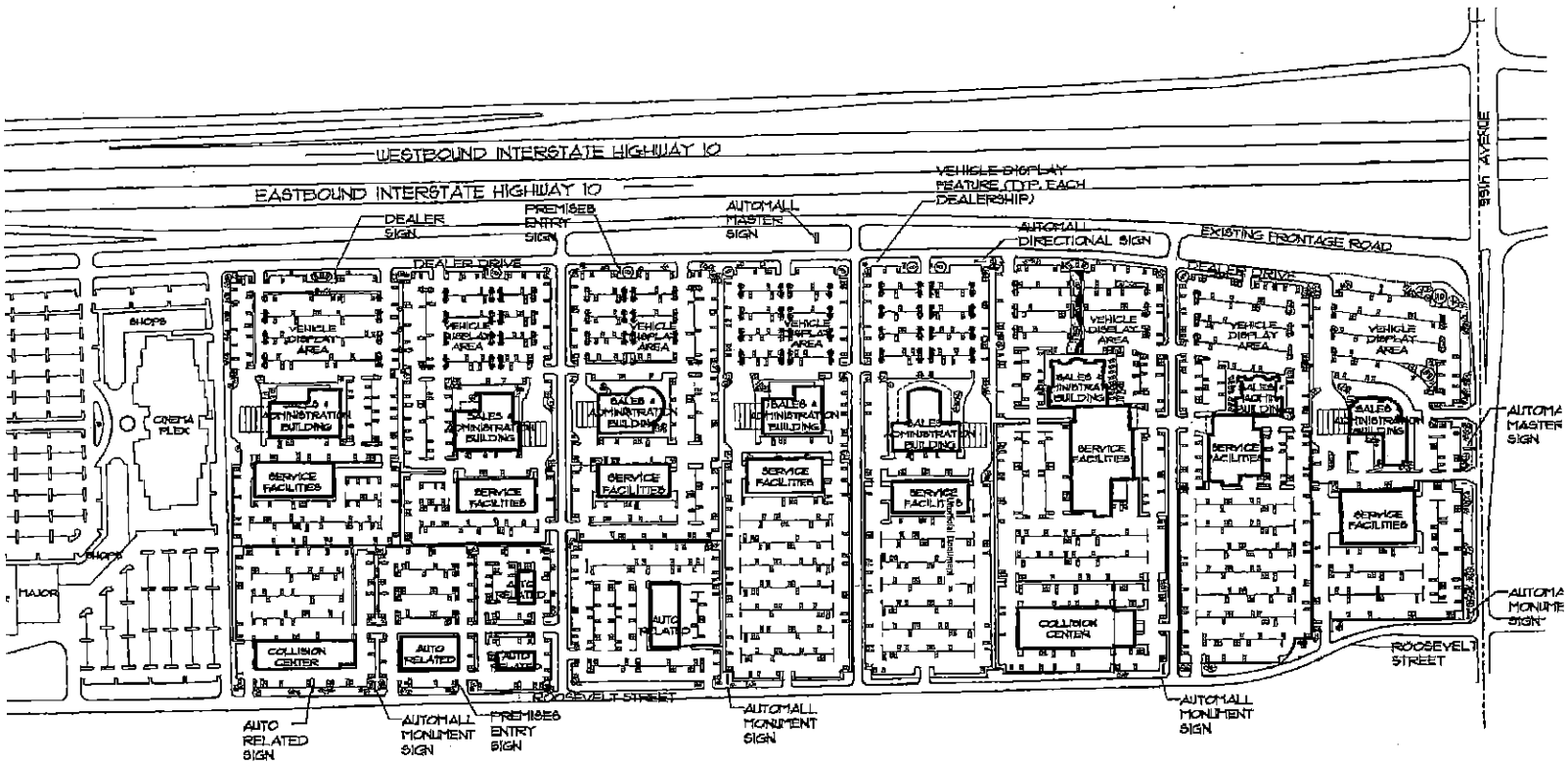

EXHIBIT "B" – PAGE 2 OF 2

BASE1.dwg

THE ABOVE DRAWING IS FOR ILLUSTRATION PURPOSES ONLY. IT IS NOT INTENDED TO REPRESENT THE ACTUAL CONSTRUCTION TO OCCUR. CHANGES AND MODIFICATIONS MAY BE NECESSARY TO MEET REQUIREMENTS FOR THE DEVELOPMENT OF THE PROPERTY.

Larson

Avondale Automall

S.W.C. 99th Avenue and Interstate Highway 10

Avondale, AZ.

Drawing Name: SITE PLAN

Revisions

Date: 9/23/99

Project Number:

Drawing No.: SP1.0

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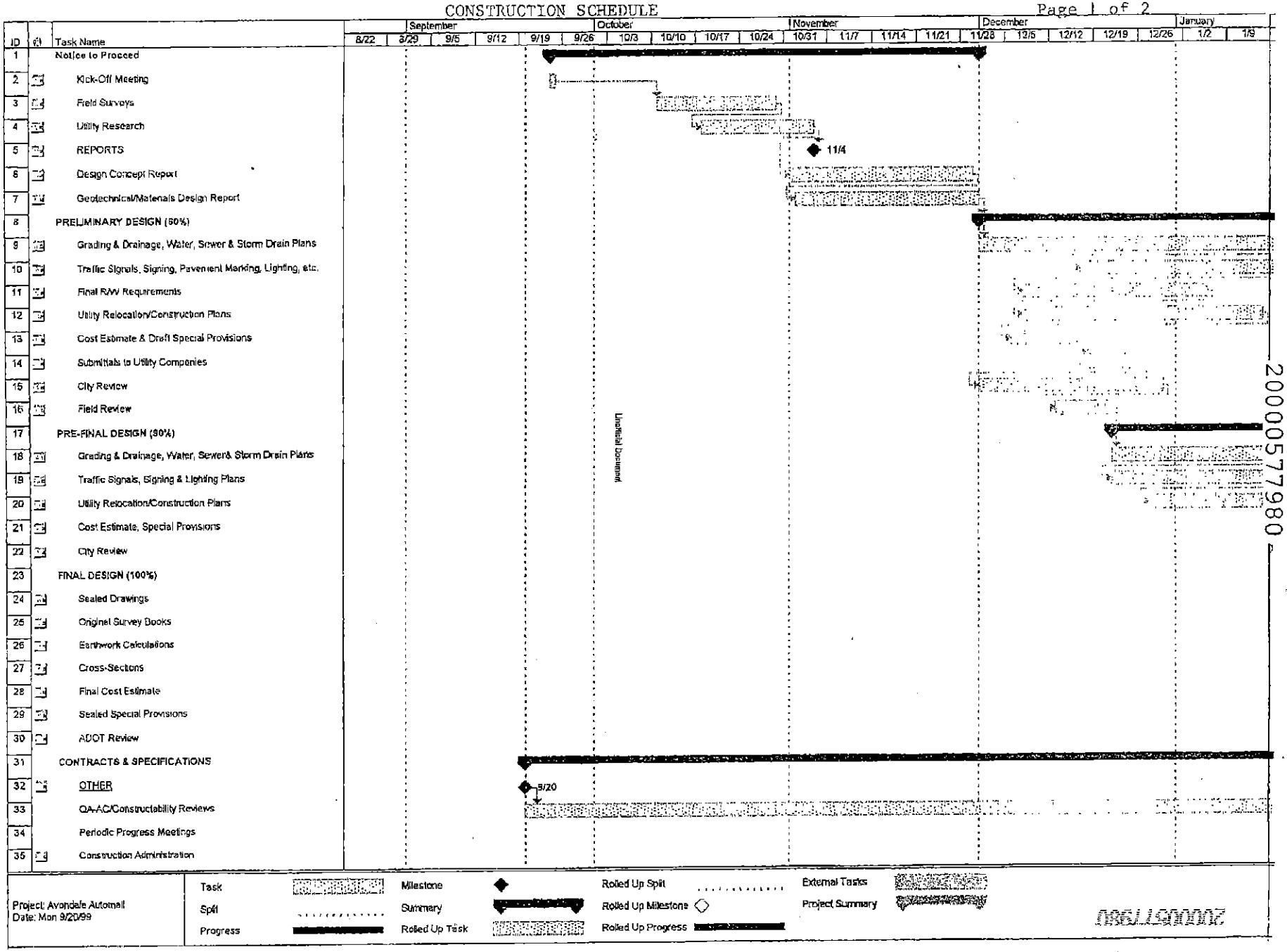
EXHIBIT "C"
CONSTRUCTION SCHEDULE



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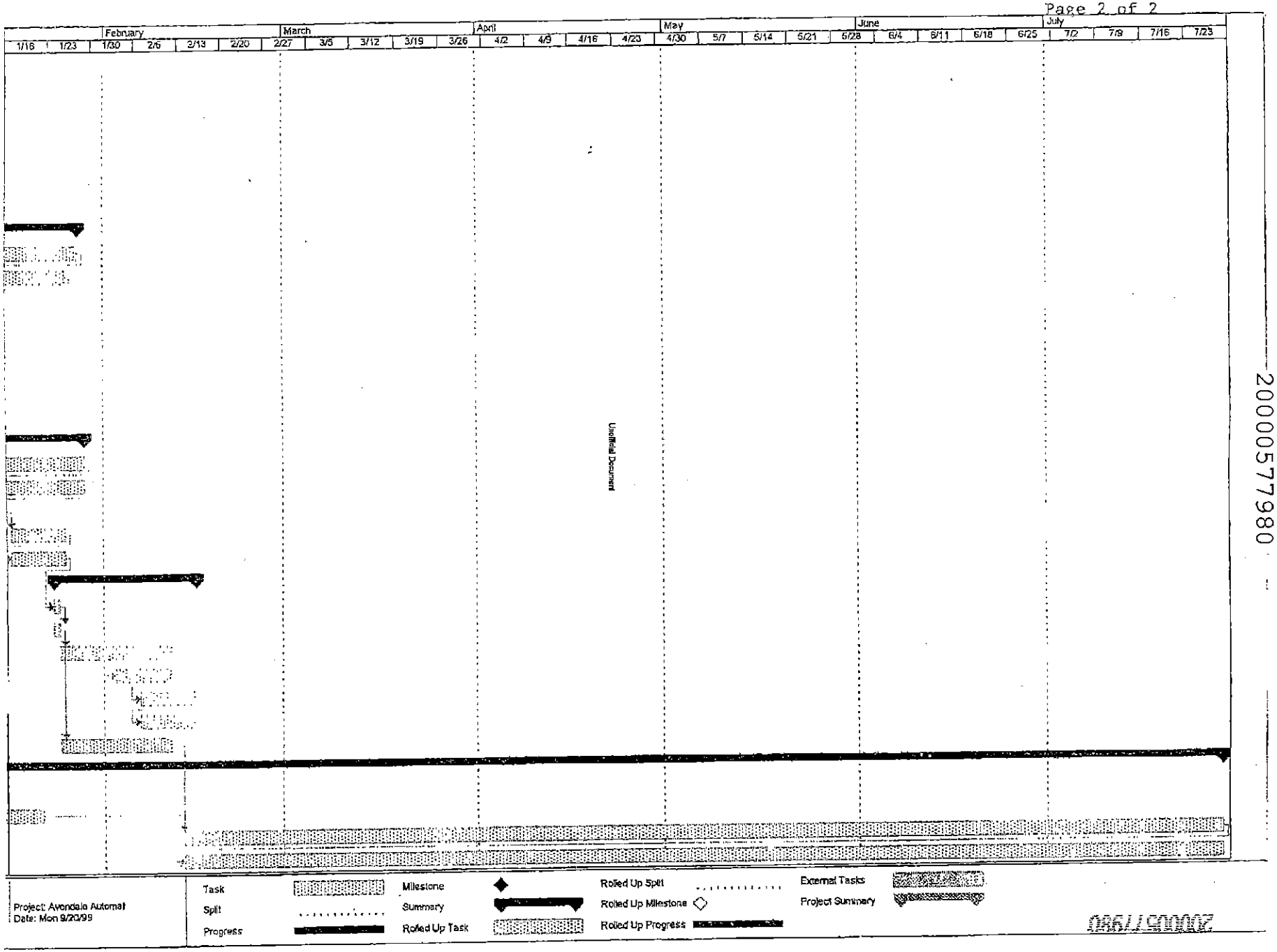

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DATA INPUT FORM
PROSPECT INFORMATION

Project Name: Auto Mall
Industry Name: AUTO DEALERS & SVC STATIONS

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10
Total Direct Employment:	240	850	1,090	1,090	1,090	1,090	1,090	1,090	1,090	1,090
Percent of Employees Living in Avondale	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%
Value of Taxable Direct Sales:	$43,750,000	$215,000,000	$270,000,000	$286,200,000	$303,372,000	$321,574,320	$340,868,779	$361,320,906	$383,000,160	$405,980,170
Total Annual Payroll:	$1,189,440	$17,395,560	$21,608,160	$22,256,405	$22,924,097	$23,611,820	$24,320,175	$25,049,780	$25,801,273	$26,575,311
Percent Skilled Workforce	10%	10%	10%	10%	10%	10%	10%	10%	10%	10%
Percent Semi-Skilled Workforce	90%	90%	90%	90%	90%	90%	90%	90%	90%	90%
Percent Unskilled Workforce	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Total Value of New Construction	$12,740,000	$45,500,000	$0	$0	$0	$0	$0	$0	$0	$0
Site Acreage (enter in year of constr. only)	25.0	52.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land Cost per Acre	$141,570	$262,812	$0	$0	$0	$0	$0	$0	$0	$0
Building Square Footage (retail projects only)	98000	350000	0	0	0	0	0	0	0	0
Sales per Square Foot (retail projects only)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Purchase Price (if buying existing building)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Annual Lease Cost (if leasing existing space)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Value of Local Equipment Purchases	$500,000	$1,100,000	$0	$0	$0	$0	$0	$0	$0	$0
Value of Nonlocal Equipment Purchases	$1,200,000	$4,500,000	$0	$0	$0	$0	$0	$0	$0	$0
Est. Monthly Water Use (000 gallons)	25.000	125.500	154.000	154.000	154.000	154.000	154.000	154.000	154.000	154.000
Water meter size (inches)	0.00									
Estimated Monthly Electric Costs	$18,500	$105,502	$135,700	$139,771	$143,964	$148,283	$152,731	$157,313	$162,032	$166,893
New Water Main Miles Added	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
New Street Miles Added	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
New Sanitary Sewer Miles Added	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Excess Monthly Sewer Charges for Prerreatment	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
New Housing Units (res. projects only)	0	0	0	0	0	0	0	0	0	0
If residential, is this a multi-family project? (yes=1, no=0)	0									
Sales Tax Incentives (fixed amount)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Reduced Sales Tax Rate	0.00%	0.00%	0.00%	$0	0.00%	$0	$0	0.00%	0.00%	0.00%
Permit Fees Waived (yes=1, no=0)	2									
State Shared Revenues Adjusted (yes=1,no=0)	0	0	1	$0	0	$0	$0	0	0	0

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ECONOMIC IMPACT SUMMARY
CITY OF AVONDALE

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Demographic										
Population	2,741	13,907	17,492	18,322	19,199	20,127	21,108	22,146	23,244	24,405
School Age Population	628	3,186	4,007	4,198	4,398	4,611	4,836	5,074	5,325	5,591
Households	848	4,306	5,416	5,672	5,944	6,231	6,535	6,856	7,196	7,556
Economic										
Employment	1,177	5,970	7,509	7,866	8,242	8,640	9,062	9,507	9,979	10,477
Personal Income	$8,790,322	$56,228,816	$70,345,075	$73,834,453	$77,511,253	$81,386,063	$85,470,086	$89,775,176	$94,313,877	$99,099,467
Output	$108,984,147	$595,850,211	$747,038,086	$788,477,750	$832,302,312	$878,651,827	$927,674,656	$979,527,963	$1,034,378,251	$1,092,401,917
Real Estate										
Residential Units	848	4306	5416	5672	5944	6231	6535	6856	7196	7556
Non-residential Sq. Feet	523,014	2,634,849	3,315,225	3,469,738	3,633,144	3,805,964	3,988,753	4,182,095	4,386,611	4,602,960
Assessed Value	$62,489,293	$309,836,854	$373,119,279	$387,569,953	$402,528,258	$417,991,056	$433,925,729	$451,136,679	$470,171,689	$490,307,975

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FISCAL IMPACT SUMMARY BY FUND
CITY OF AVONDALE
1996 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	NPV* Years 1 to 5	NPV* Years 1 to 10
General Fund-Direct												
Revenues	$936,663	$4,773,790	$5,304,933	$5,579,319	$5,868,023	$6,171,737	$6,491,066	$6,830,392	$7,193,000	$7,576,555	$13,631,840	$37,709,861
Expenditures and Transfers Out	$299,699	$1,401,577	$1,323,363	$1,387,097	$1,454,155	$1,524,701	$1,598,873	$1,677,691	$1,761,916	$1,851,006	$3,642,752	$9,566,970
Net Impact	$636,964	$3,372,214	$3,981,569	$4,192,222	$4,413,867	$4,647,036	$4,892,193	$5,152,702	$5,431,085	$5,725,549	$9,989,088	$28,142,891
Transportation-Direct												
Revenues	$10,457	$52,941	$58,969	$61,966	$65,119	$68,436	$71,924	$75,630	$79,590	$83,779	$151,423	$418,142
Expenditures and Transfers Out	$3,030	$9,605	$16,788	$23,020	$25,097	$25,097	$25,097	$25,097	$25,097	$20,771	$42,486	$131,549
Net Impact	$7,427	$43,337	$42,181	$38,946	$40,022	$43,339	$46,827	$50,533	$54,493	$63,008	$108,937	$286,594
Wastewater Enterprise Fund-Direct												
Revenues	$1,231	$3,224	$3,185	$3,185	$3,185	$3,185	$3,185	$3,185	$3,185	$3,185	$8,996	$20,579
Expenditures and Transfers Out	$1,495	$4,040	$4,993	$6,017	$6,358	$6,358	$6,358	$6,358	$6,358	$6,358	$13,591	$36,713
Net Impact	($264)	($816)	($1,807)	($2,832)	($3,173)	($3,173)	($3,173)	($3,173)	($3,173)	($3,173)	($4,595)	($16,134)
Water Enterprise Funds-Direct												
Revenues	$1,394	$3,802	$3,848	$3,848	$3,848	$3,848	$3,848	$3,848	$3,848	$3,848	$10,701	$24,695
Expenditures and Transfers Out	$2,767	$7,910	$12,177	$16,413	$17,825	$17,825	$3,709	$17,825	$17,825	$17,825	$31,956	$87,983
Net Impact	($1,373)	($4,107)	($8,329)	($12,565)	($13,977)	($13,977)	$139	($13,977)	($13,977)	($13,977)	($21,255)	($63,288)
Direct Net Impact-All Funds	$642,754	$3,410,627	$4,013,614	$4,215,772	$4,436,740	$4,673,226	$4,935,586	$5,186,085	$5,468,428	$5,771,407	$10,072,175	$28,350,063

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REAL ESTATE SUPPORTED BY: Auto Mall
CITY OF AVONDALE

	Square Feet Supported									
Land Use	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Hotel	6,558	35,852	44,949	47,442	50,079	52,868	55,818	58,938	62,238	65,730
Retail	226,263	1,116,667	1,406,340	1,468,603	1,534,449	1,604,089	1,677,745	1,755,654	1,838,066	1,925,246
Office	145,118	770,070	966,692	1,017,263	1,070,745	1,127,308	1,187,134	1,250,414	1,317,351	1,388,161
Industrial	98,180	472,948	596,311	621,038	647,188	674,845	704,097	735,038	767,767	802,390
Hospital	15,258	83,418	104,584	110,385	116,521	123,010	129,873	137,132	144,811	152,934
Utilities	3,722	20,348	25,511	26,926	28,422	30,005	31,679	33,450	35,323	37,304
Government	26,324	126,843	159,926	166,563	173,581	181,004	188,855	197,160	205,944	215,237
Other	1,592	8,704	10,913	11,518	12,158	12,836	13,552	14,309	15,110	15,958
Housing Units	848	4,306	5,416	5,672	5,944	6,231	6,535	6,856	7,196	7,556
Total Square Feet	523,014	2,634,849	3,315,225	3,469,738	3,633,144	3,805,964	3,988,753	4,182,095	4,386,611	4,602,960

Source: U.S. Bureau of Labor Statistics; Applied Economics.

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TOTAL FISCAL IMPACT OF: Auto Mall
GENERAL FUND
CITY OF AVONDALE
1996 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5
REVENUES	**$1,642,676**	**$8,297,387**	**$12,362,575**	**$12,740,991**	**$13,233,491**
Taxes					
Sales Tax	$1,010,865	$5,191,566	$5,912,359	$6,231,773	$6,569,570
Primary Property Tax	$158,867	$781,757	$909,917	$939,868	$970,118
Utility Franchise Tax	$40,786	$211,839	$267,055	$279,444	$292,519
Cable TV Franchise	$5,887	$29,872	$37,573	$39,355	$41,239
SRP In-Lieu Tax	$0	$0	$0	$0	$0
Sales Tax Audit Assessment	$0	$0	$0	$0	$0
Licenses and Permits					
Occupational Licenses	$10,755	$54,578	$68,649	$71,904	$75,347
Liquor Licenses	$0	$0	$0	$0	$0
Intergovernmental					
State Sales Tax	$2,188	$11,105	$1,431,483	$1,432,145	$1,432,846
State Income Tax	$2,339	$11,870	$1,530,110	$1,530,818	$1,531,566
Vehicle License Tax	$67,052	$340,255	$427,976	$448,271	$469,734
Other County Reimbursements	$0	$0	$0	$0	$0
Charges for Services					
Building Permit Fees	$56,923	$237,629	$75,615	$18,354	$19,410
Electrical Permit Fees	$1,970	$8,226	$2,617	$635	$672
Plumbing Permit Fees	$1,970	$8,226	$2,617	$635	$672
Engineering Fees	$14,924	$62,303	$19,825	$4,812	$5,089
Planning Application Fees	$3,990	$16,656	$5,300	$1,286	$1,360
Plan Check Fees	$5,572	$23,262	$7,402	$1,797	$1,900
Sanitation Development Fees	$0	$0	$0	$0	$0
Refuse Collection Fees	$168,273	$853,902	$1,074,046	$1,124,977	$1,178,840
Misc Fees	$0	$0	$0	$0	$0
Fines and Forfeits					
Library Fines	$186	$943	$1,186	$1,242	$1,302
Court Fines	$43,977	$221,102	$271,949	$284,845	$298,483
Misc Fines/Forfeits	$660	$3,297	$3,994	$4,183	$4,383
Miscellaneous					
Interest	$24,442	$123,462	$183,951	$189,581	$196,910
Ambulence Fees	$4,745	$24,076	$30,283	$31,720	$33,238
Other	$16,303	$81,460	$98,666	$103,345	$108,293
EXPENDITURES	**$1,023,218**	**$5,045,090**	**$5,860,443**	**$6,087,763**	**$6,378,531**
City Council	$1,084	$5,499	$6,917	$7,245	$7,592
City Manager/Administration	$26,032	$130,450	$159,152	$166,699	$174,680
Human Resources	$20,231	$101,714	$125,105	$131,037	$137,311
Economic Development	$3,360	$17,050	$21,446	$22,463	$23,538
Equipment Management	$53,928	$273,655	$344,206	$360,528	$377,790
Nondepartmental	$99,476	$487,991	$558,426	$579,135	$606,783
Financial Services	$23,679	$119,606	$178,205	$183,660	$190,759
Engineering	$0	$0	$0	$0	$0
City Clerk	$14,590	$74,035	$93,122	$97,538	$102,208
Planning	$51,988	$211,881	$111,300	$116,578	$122,159
Building Inspection	$57,644	$229,993	$53,126	$12,895	$13,637
Facilities and Grounds	$8,858	$44,537	$54,780	$57,377	$60,125
Social Services	$36,201	$183,700	$231,059	$242,016	$253,604
Library	$52,268	$265,233	$333,612	$349,432	$366,163
Police	$264,003	$1,335,629	$1,647,615	$1,726,679	$1,810,294
Court	$26,531	$134,629	$169,338	$177,368	$185,860
Fire	$131,979	$661,367	$806,885	$845,147	$885,612
Sanitation	$151,369	$768,121	$966,149	$1,011,964	$1,060,416
Transfers Out					
Debt Service	$129,754	$662,957	$760,226	$799,004	$839,860
Special Revenue Funds	$11,110	$56,375	$70,911	$74,273	$77,829
Vehicle Replacement	$45,684	$231,824	$291,590	$305,417	$320,040
Equipment Replacement	$2,998	$15,212	$19,134	$20,041	$21,000
Self Insurance	$0	$0	$0	$0	$0
HURF	$17,941	$90,621	$135,020	$139,153	$144,532
Contingency/Appropriated Reserve	$164,268	$829,739	$1,236,257	$1,274,099	$1,323,349
NET IMPACT	**$247,704**	**$1,365,568**	**$3,988,994**	**$4,041,241**	**$4,128,350**

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Source: Applied Economics, City of Avondale Annual Budget.

TOTAL FISCAL IMPACT OF: Auto Mall
GENERAL FUND
CITY OF AVONDALE
1996 Dollars

	Year 6	Year 7	Year 8	Year 9	Year 10
REVENUES	**$13,752,746**	**$14,300,048**	**$14,880,513**	**$15,498,198**	**$16,151,589**
Taxes					
Sales Tax	$6,926,829	$7,304,694	$7,704,376	$8,127,159	$8,574,402
Primary Property Tax	$1,000,540	$1,030,870	$1,064,518	$1,103,756	$1,145,264
Utility Franchise Tax	$306,320	$320,888	$336,268	$352,506	$369,652
Cable TV Franchise	$43,232	$45,340	$47,569	$49,928	$52,422
SRP In-Lieu Tax	$0	$0	$0	$0	$0
Sales Tax Audit Assessment	$0	$0	$0	$0	$0
Licenses and Permits					
Occupational Licenses	$78,988	$82,839	$86,912	$91,221	$95,779
Liquor Licenses	$0	$0	$0	$0	$0
Intergovernmental					
State Sales Tax	$1,433,586	$1,434,370	$1,435,199	$1,436,075	$1,437,003
State Income Tax	$1,532,358	$1,533,196	$1,534,082	$1,535,019	$1,536,010
Vehicle License Tax	$492,433	$516,441	$541,836	$568,699	$597,115
Other County Reimbursements	$0	$0	$0	$0	$0
Charges for Services					
Building Permit Fees	$20,528	$21,712	$22,966	$24,293	$25,699
Electrical Permit Fees	$711	$752	$795	$841	$890
Plumbing Permit Fees	$711	$752	$795	$841	$890
Engineering Fees	$5,382	$5,693	$6,021	$6,369	$6,738
Planning Application Fees	$1,439	$1,522	$1,610	$1,703	$1,801
Plan Check Fees	$2,010	$2,125	$2,248	$2,378	$2,516
Sanitation Development Fees	$0	$0	$0	$0	$0
Refuse Collection Fees	$1,235,806	$1,296,057	$1,359,788	$1,427,202	$1,498,516
Misc Fees	$0	$0	$0	$0	$0
Fines and Forfeits					
Library Fines	$1,365	$1,431	$1,502	$1,576	$1,655
Court Fines	$312,907	$328,163	$344,299	$361,369	$379,426
Misc Fines/Forfeits	$4,595	$4,819	$5,056	$5,307	$5,572
Miscellaneous					
Interest	$204,636	$212,780	$221,417	$230,608	$240,330
Ambulance Fees	$34,844	$36,543	$38,340	$40,241	$42,252
Other	$113,526	$119,061	$124,916	$131,109	$137,660
EXPENDITURES	**$6,686,026**	**$7,011,227**	**$7,355,230**	**$7,719,177**	**$8,104,181**
City Council	$7,959	$8,347	$8,757	$9,191	$9,651
City Manager/Administration	$183,122	$192,050	$201,493	$211,483	$222,050
Human Resources	$143,947	$150,965	$158,388	$166,241	$174,547
Economic Development	$24,676	$25,879	$27,151	$28,497	$29,921
Equipment Management	$396,046	$415,355	$435,779	$457,384	$480,238
Nondepartmental	$636,021	$666,941	$699,650	$734,256	$770,865
Financial Services	$198,244	$206,133	$214,500	$223,404	$232,823
Engineering	$0	$0	$0	$0	$0
City Clerk	$107,147	$112,371	$117,896	$123,741	$129,924
Planning	$128,063	$134,306	$140,911	$147,896	$155,287
Building Inspection	$14,423	$15,255	$16,135	$17,068	$18,055
Facilities and Grounds	$63,030	$66,103	$69,354	$72,792	$76,429
Social Services	$265,859	$278,821	$292,531	$307,034	$322,376
Library	$383,857	$402,572	$422,368	$443,307	$465,458
Police	$1,898,725	$1,992,258	$2,091,190	$2,195,841	$2,306,546
Court	$194,841	$204,341	$214,389	$225,018	$236,261
Fire	$928,408	$973,673	$1,021,550	$1,072,196	$1,125,771
Sanitation	$1,111,659	$1,165,858	$1,223,186	$1,283,828	$1,347,978
Transfers Out					
Debt Service	$882,898	$928,219	$976,321	$1,027,588	$1,081,818
Special Revenue Funds	$81,590	$85,568	$89,776	$94,227	$98,935
Vehicle Replacement	$335,506	$351,864	$369,166	$387,468	$406,829
Equipment Replacement	$22,015	$23,089	$24,224	$25,425	$26,695
Self Insurance	$0	$0	$0	$0	$0
HURF	$150,203	$156,180	$162,520	$169,266	$176,402
Contingency/Appropriated Reserve	$1,375,275	$1,430,005	$1,488,051	$1,549,820	$1,615,159
NET IMPACT	**$4,219,233**	**$4,313,897**	**$4,415,225**	**$4,525,228**	**$4,641,570**

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Source: Applied Economics, City of Avondale Anr

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DATA INPUT FORM
PROSPECT INFORMATION

Project Name: 99th /107th Retail Center
Industry Name: MISC RETAIL

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10
Total Direct Employment:	0	950	950	950	950	950	950	950	950	950
Percent of Employees Living in Avondale	0%	75%	75%	75%	75%	75%	75%	75%	75%	75%
Value of Taxable Direct Sales:	$0	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000	$140,000,000
Total Annual Payroll:	$0	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000	$15,245,000
Percent Skilled Workforce	0%	35%	35%	35%	35%	35%	35%	35%	35%	35%
Percent Semi-Skilled Workforce	0%	40%	40%	40%	40%	40%	40%	40%	40%	40%
Percent Unskilled Workforce	0%	25%	25%	25%	25%	25%	25%	25%	25%	25%
Total Value of New Construction	$50,625,000	$0	$0	$0	$0	$0	$0	$0	$0	$0
Site Acreage (enter in year of constr. only)	150.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land Cost per Acre	$239,580	$0	$0	$0	$0	$0	$0	$0	$0	$0
Building Square Footage (retail projects only)	0	0	0	0	0	0	0	0	0	0
Sales per Square Foot (retail projects only)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Purchase Price (if buying existing building)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Annual Lease Cost (if leasing existing space)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Value of Local Equipment Purchases	$700,000	$0	$0	$0	$0	$0	$0	$0	$0	$0
Value of Nonlocal Equipment Purchases	$6,500,000	$0	$0	$0	$0	$0	$0	$0	$0	$0
Est. Monthly Water Use (000 gallons)	0.000	300.000	300.000	300.000	300.000	300.000	300.000	300.000	300.000	300.000
Water meter size (inches)	0.00									
Estimated Monthly Electric Costs	$0	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000	$55,000
New Water Main Miles Added	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
New Street Miles Added	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
New Sanitary Sewer Miles Added	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Excess Monthly Sewer Charges for Pretreatment	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
New Housing Units (res. projects only)	0	0	0	0	0	0	0	0	0	0
If residential, is this a multi-family project? (yes=1, no=0)	0									
Sales Tax Incentives (fixed amount)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Reduced Sales Tax Rate	0.00%	0.00%	0.00%	$0	0.00%	$0	$0	0.00%	0.00%	0.00%
Permit Fees Waived (yes=1, no=0)	2									
State Shared Revenues Adjusted (yes=1,no=0)	0	0	1	$0	0	$0	$0	0	0	0

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FISCAL IMPACT SUMMARY BY FUND
~~CITY OF AVONDALE~~
1996 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	NPV* Years 1 to 5	NPV* Years 1 to 10
General Fund-Total												
Revenues	$892,245	$3,611,565	$4,208,499	$4,207,701	$4,205,567	$4,200,781	$4,196,283	$4,196,283	$4,196,283	$4,196,283	$10,633,778	$25,902,632
Expenditures	$516,030	$2,279,877	$2,293,758	$2,293,573	$2,293,077	$2,291,965	$2,290,921	$2,290,921	$2,290,921	$2,290,921	$6,095,749	$14,428,618
Net Impact	$376,215	$1,331,688	$1,914,741	$1,914,128	$1,912,489	$1,908,815	$1,905,362	$1,905,362	$1,905,362	$1,905,362	$4,538,029	$11,474,014
Transportation Fund-Total												
Revenues	$9,745	$285,320	$320,116	$320,108	$320,084	$320,032	$319,983	$319,983	$319,983	$319,983	$763,836	$1,927,518
Expenditures and Transfers Out	$11,870	$253,610	$265,381	$269,535	$270,920	$270,920	$270,920	$270,920	$270,920	$270,920	$654,863	$1,640,027
Net Impact	($2,125)	$31,710	$54,736	$50,573	$49,165	$49,112	$49,063	$49,063	$49,063	$49,063	$108,973	$287,490
Wastewater Enterprise Fund-Total												
Revenues	$131	$272,210	$166,670	$166,670	$166,670	$166,670	$166,670	$166,670	$166,670	$166,670	$501,085	$1,107,158
Expenditures and Transfers Out	$318	$239,680	$134,823	$135,506	$135,733	$135,733	$135,733	$135,733	$135,733	$135,733	$423,075	$916,651
Net Impact	($187)	$32,530	$31,847	$31,164	$30,937	$30,937	$30,937	$30,937	$30,937	$30,937	$78,010	$190,507
Water Enterprise Fund-Total												
Revenues	$795	$209,852	$201,371	$201,371	$201,371	$201,371	$201,371	$201,371	$201,371	$201,371	$502,039	$1,234,297
Expenditures and Transfers Out	$1,719	$204,144	$199,578	$202,402	$203,343	$203,343	$203,343	$203,343	$203,343	$203,343	$497,241	$1,236,672
Net Impact	($924)	$5,708	$1,792	($1,031)	($1,973)	($1,973)	($1,973)	($1,973)	($1,973)	($1,973)	$4,798	($2,375)
Total Net Impact-All Funds	$372,978	$1,401,636	$2,003,116	$1,994,834	$1,990,618	$1,986,892	$1,983,389	$1,983,389	$1,983,389	$1,983,389	$4,729,810	$11,949,636
Total Revenues Generated Per Dollar of O&M Expenditures	$1.70	$1.47	$1.69	$1.69	$1.69	$1.68	$1.68	$1.68	$1.68	$1.68		

* Net Present Value of ten-year impact discounted at 7 percent annually.

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REAL ESTATE SUPPORTED BY: 99th /107th Retail Center
CITY OF AVONDALE

	Square Feet Supported									
Land Use	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Hotel	0	56,699	56,699	56,699	56,699	56,699	56,699	56,699	56,699	56,699
Retail	0	388,952	388,952	388,952	388,952	388,952	388,952	388,952	388,952	388,952
Office	0	139,694	139,694	139,694	139,694	139,694	139,694	139,694	139,694	139,694
Industrial	0	133,520	133,520	133,520	133,520	133,520	133,520	133,520	133,520	133,520
Hospital	0	18,779	18,779	18,779	18,779	18,779	18,779	18,779	18,779	18,779
Utilities	0	3,005	3,005	3,005	3,005	3,005	3,005	3,005	3,005	3,005
Government	0	49,067	49,067	49,067	49,067	49,067	49,067	49,067	49,067	49,067
Other	0	8,898	8,898	8,898	8,898	8,898	8,898	8,898	8,898	8,898
Housing Units	0	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302
Total Square Feet	0	798,614	798,614	798,614	798,614	798,614	798,614	798,614	798,614	798,614

Source: U.S. Bureau of Labor Statistics; Applied Economics.

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ECONOMIC IMPACT SUMMARY
CITY OF AVONDALE

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Demographic										
Population	0	4,204	4,204	4,204	4,204	4,204	4,204	4,204	4,204	4,204
School Age Population	0	963	963	963	963	963	963	963	963	963
Households	0	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302
Economic										
Employment	0	1,805	1,805	1,805	1,805	1,805	1,805	1,805	1,805	1,805
Personal Income	$0	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750	$61,791,750
Output	$0	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000	$196,434,000
Real Estate										
Residential Units	0	1302	1302	1302	1302	1302	1302	1302	1302	1302
Non-residential Sq. Feet	0	798,614	798,614	798,614	798,614	798,614	798,614	798,614	798,614	798,614
Assessed Value	$78,589,150	$159,122,127	$159,263,697	$159,084,947	$158,606,612	$157,534,112	$156,526,112	$156,526,112	$156,526,112	$156,526,112

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TOTAL FISCAL IMPACT OF: 99th /107th Retail Center
GENERAL FUND
CITY OF AVONDALE
1996 Dollars

	Year 1	Year 2	Year 3	Year 4	Year 5
REVENUES	**$892,245**	**$3,611,565**	**$4,208,499**	**$4,207,701**	**$4,205,567**
Taxes					
Sales Tax	$524,553	$2,384,961	$2,384,961	$2,384,961	$2,384,961
Primary Property Tax	$345,478	$498,699	$499,321	$498,535	$496,432
Utility Franchise Tax	$0	$65,661	$65,661	$65,661	$65,661
Cable TV Franchise	$0	$9,031	$9,031	$9,031	$9,031
SRP In-Lieu Tax	$0	$0	$0	$0	$0
Sales Tax Audit Assessment	$0	$0	$0	$0	$0
Licenses and Permits					
Occupational Licenses	$0	$16,499	$16,499	$16,499	$16,499
Liquor Licenses	$0	$0	$0	$0	$0
Intergovernmental					
State Sales Tax	$0	$3,357	$344,049	$344,049	$344,049
State Income Tax	$0	$3,588	$367,754	$367,754	$367,754
Vehicle License Tax	$0	$102,862	$102,862	$102,862	$102,862
Other County Reimbursements	$0	$0	$0	$0	$0
Charges for Services					
Building Permit Fees	$0	$78,317	$0	$0	$0
Electrical Permit Fees	$0	$2,711	$0	$0	$0
Plumbing Permit Fees	$0	$2,711	$0	$0	$0
Engineering Fees	$0	$20,533	$0	$0	$0
Planning Application Fees	$0	$5,489	$0	$0	$0
Plan Check Fees	$0	$7,667	$0	$0	$0
Sanitation Development Fees	$0	$0	$0	$0	$0
Refuse Collection Fees	$0	$258,141	$258,141	$258,141	$258,141
Misc Fees	$0	$0	$0	$0	$0
Fines and Forfeits					
Library Fines	$0	$285	$285	$285	$285
Court Fines	$5,444	$65,362	$65,362	$65,362	$65,362
Misc Fines/Forfeits	$136	$960	$960	$960	$960
Miscellaneous					
Interest	$13,276	$53,739	$62,621	$62,609	$62,577
Ambulence Fees	$0	$7,278	$7,278	$7,278	$7,278
Other	$3,357	$23,714	$23,714	$23,714	$23,714
EXPENDITURES	**$324,254**	**$1,471,985**	**$1,419,587**	**$1,419,574**	**$1,419,540**
City Council	$0	$1,662	$1,662	$1,662	$1,662
City Manager/Administration	$4,360	$38,251	$38,251	$38,251	$38,251
Human Resources	$2,505	$30,068	$30,068	$30,068	$30,068
Economic Development	$0	$5,154	$5,154	$5,154	$5,154
Equipment Management	$0	$82,728	$82,728	$82,728	$82,728
Nondepartmental	$36,997	$141,455	$135,477	$135,475	$135,471
Financial Services	$12,862	$52,060	$60,665	$60,653	$60,623
Engineering	$0	$0	$0	$0	$0
City Clerk	$0	$22,381	$22,381	$22,381	$22,381
Planning	$137,293	$26,750	$26,750	$26,750	$26,750
Building Inspection	$70,139	$55,024	$0	$0	$0
Facilities and Grounds	$1,097	$13,166	$13,166	$13,166	$13,166
Social Services	$0	$55,534	$55,534	$55,534	$55,534
Library	$0	$80,182	$80,182	$80,182	$80,182
Police	$36,898	$400,729	$400,729	$400,729	$400,729
Court	$0	$40,699	$40,699	$40,699	$40,699
Fire	$22,105	$193,930	$193,930	$193,930	$193,930
Sanitation	$0	$232,209	$232,209	$232,209	$232,209
Transfers Out					
Debt Service	$92,806	$315,567	$315,633	$315,550	$315,325
Special Revenue Funds	$0	$17,043	$17,043	$17,043	$17,043
Vehicle Replacement	$0	$70,082	$70,082	$70,082	$70,082
Equipment Replacement	$0	$4,599	$4,599	$4,599	$4,599
Self Insurance	$0	$0	$0	$0	$0
HURF	$9,745	$39,444	$45,964	$45,955	$45,932
Contingency/Appropriated Reserve	$89,224	$361,156	$420,850	$420,770	$420,557
NET IMPACT	**$376,215**	**$1,331,688**	**$1,914,741**	**$1,914,128**	**$1,912,489**

Unofficial Document

Source: Applied Economics, City of Avondale Annual Budget.

TOTAL FISCAL IMPACT OF: 99th /107th Ret
GENERAL FUND
CITY OF AVONDALE
1996 Dollars

	Year 6	Year 7	Year 8	Year 9	Year 10
REVENUES	**$4,200,781**	**$4,196,283**	**$4,196,283**	**$4,196,283**	**$4,196,283**
Taxes					
Sales Tax	$2,384,961	$2,384,961	$2,384,961	$2,384,961	$2,384,961
Primary Property Tax	$491,718	$487,286	$487,286	$487,286	$487,286
Utility Franchise Tax	$65,661	$65,661	$65,661	$65,661	$65,661
Cable TV Franchise	$9,031	$9,031	$9,031	$9,031	$9,031
SRP In-Lieu Tax	$0	$0	$0	$0	$0
Sales Tax Audit Assessment	$0	$0	$0	$0	$0
Licenses and Permits					
Occupational Licenses	$16,499	$16,499	$16,499	$16,499	$16,499
Liquor Licenses	$0	$0	$0	$0	$0
Intergovernmental					
State Sales Tax	$344,049	$344,049	$344,049	$344,049	$344,049
State Income Tax	$367,754	$367,754	$367,754	$367,754	$367,754
Vehicle License Tax	$102,862	$102,862	$102,862	$102,862	$102,862
Other County Reimbursements	$0	$0	$0	$0	$0
Charges for Services					
Building Permit Fees	$0	$0	$0	$0	$0
Electrical Permit Fees	$0	$0	$0	$0	$0
Plumbing Permit Fees	$0	$0	$0	$0	$0
Engineering Fees	$0	$0	$0	$0	$0
Planning Application Fees	$0	$0	$0	$0	$0
Plan Check Fees	$0	$0	$0	$0	$0
Sanitation Development Fees	$0	$0	$0	$0	$0
Refuse Collection Fees	$258,141	$258,141	$258,141	$258,141	$258,141
Misc Fees	$0	$0	$0	$0	$0
Fines and Forfeits					
Library Fines	$285	$285	$285	$285	$285
Court Fines	$65,362	$65,362	$65,362	$65,362	$65,362
Misc Fines/Forfeits	$960	$960	$960	$960	$960
Miscellaneous					
Interest	$62,506	$62,439	$62,439	$62,439	$62,439
Ambulence Fees	$7,278	$7,278	$7,278	$7,278	$7,278
Other	$23,714	$23,714	$23,714	$23,714	$23,714
EXPENDITURES	**$1,419,462**	**$1,419,389**	**$1,419,389**	**$1,419,389**	**$1,419,389**
City Council	$1,662	$1,662	$1,662	$1,662	$1,662
City Manager/Administration	$38,251	$38,251	$38,251	$38,251	$38,251
Human Resources	$30,068	$30,068	$30,068	$30,068	$30,068
Economic Development	$5,154	$5,154	$5,154	$5,154	$5,154
Equipment Management	$82,728	$82,728	$82,728	$82,728	$82,728
Nondepartmental	$135,462	$135,454	$135,454	$135,454	$135,454
Financial Services	$60,554	$60,489	$60,489	$60,489	$60,489
Engineering	$0	$0	$0	$0	$0
City Clerk	$22,381	$22,381	$22,381	$22,381	$22,381
Planning	$26,750	$26,750	$26,750	$26,750	$26,750
Building Inspection	$0	$0	$0	$0	$0
Facilities and Grounds	$13,166	$13,166	$13,166	$13,166	$13,166
Social Services	$55,534	$55,534	$55,534	$55,534	$55,534
Library	$80,182	$80,182	$80,182	$80,182	$80,182
Police	$400,729	$400,729	$400,729	$400,729	$400,729
Court	$40,699	$40,699	$40,699	$40,699	$40,699
Fire	$193,930	$193,930	$193,930	$193,930	$193,930
Sanitation	$232,209	$232,209	$232,209	$232,209	$232,209
Transfers Out					
Debt Service	$314,822	$314,350	$314,350	$314,350	$314,350
Special Revenue Funds	$17,043	$17,043	$17,043	$17,043	$17,043
Vehicle Replacement	$70,082	$70,082	$70,082	$70,082	$70,082
Equipment Replacement	$4,599	$4,599	$4,599	$4,599	$4,599
Self Insurance	$0	$0	$0	$0	$0
HURF	$45,879	$45,830	$45,830	$45,830	$45,830
Contingency/Appropriated Reserve	$420,078	$419,628	$419,628	$419,628	$419,628
NET IMPACT	**$1,908,815**	**$1,905,362**	**$1,905,362**	**$1,905,362**	**$1,905,362**

Unofficial Document

Source: Applied Economics, City of Avondale Ant

Exhibit F

2002 First Amendment to Development Agreement

FIRST AMENDMENT TO [ECONOMIC] DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AZVT, L.L.C.

THIS FIRST AMENDMENT TO [ECONOMIC] DEVELOPMENT AGREEMENT (this "First Amendment") is made as of May 6, 2002, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City") and AZVT, L.L.C., an Arizona limited liability company (the "Developer"). All capitalized terms used in the First Amendment and not otherwise defined herein shall have the same meaning set forth in the Agreement, as defined below.

RECITALS

A. The City and the Developer entered into that certain development agreement on October 18, 1999 (the "Agreement"), relating to, *inter alia,* development of the Auto Mall located generally at the Southwest corner of 99th Avenue and Interstate 10.

B. The Agreement provided for transaction privilege tax rebates (the "Rebates") to Developer for developing the Auto Mall and attracting new car automobile dealerships to it.

C. The City and Developer have reached an agreement with Earnhardt Auto Centers ("Earnhardt") to bring Earnhardt Volkswagen, Earnhardt Honda and Earnhardt RV to the Auto Mall.

D. The City and Developer desire to amend the Agreement to alter the Rebates so that each may share a portion of its respective share thereof with Earnhardt as an inducement to bring the three additional dealerships to the Auto Mall.

AGREEMENT

NOW, THEREFORE, in consideration foregoing recitals and the covenants and conditions set forth below, the parties hereby agree as follows:

1. Section 4.2 of the Agreement is hereby deleted in its entirety and replaced with the following

4.2 Financial Assistance.

(a) Except as specifically set forth in subsection 4.2(c) below, each auto dealership and retail business within the Project will collect all retail sales tax levied pursuant to the City Tax Code resulting from retail sales by such dealerships and retail businesses located within the Project, and will remit the same to the City according to applicable law. As an inducement to Developer to construct the infrastructure improvements, and to develop, attract, and open auto dealerships, other automotive uses, and retail businesses within the Project, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City hereby agrees to rebate a portion of the retail sales tax generated by each of the auto dealerships and other automotive uses

ORIGINAL

operating within the Auto Mall, and retail businesses operating in facilities greater than 10,000 square feet within the Retail Center, and paid to the City. Upon the substantial completion by Developer of the infrastructure improvements described in Recital D, for the term described in Section 3.1 above, the City will rebate to Developer 50% of the annual retail sales taxes collected by the City from each of the businesses described above located within the Project, payable in quarterly installments. The City's obligation to pay the quarterly retail sales tax rebate payments to Developer, pursuant to this subsection 4.2(a), will automatically cease and the City will have no further obligation to Developer pursuant to this Agreement upon the earlier of the expiration of the fifteen (15) year term described in Section 3.1 above, or upon the Developer receiving a total of Twelve Million Dollars ($12,000,000) (the date of such event being hereinafter referred to as the "Termination Date").

(b) The first quarterly payment required by subsection 4.2(a) above will be paid no later than sixty (60) days after the end of the first full quarter following the opening for business of the first auto dealership or qualifying retail business generating retail sales tax within the Project. Subsequent quarterly payments will be made no later than sixty (60) days after the end of each succeeding quarter. Each quarterly payment will be mailed to Developer at the address for notice set forth in Section 7.0 below, or as otherwise agreed by City and Developer.

(c) With respect to Earnhardt Volkswagen, Earnhardt Honda and Earnhardt RV (collectively the "Earnhardt Dealerships"), each such Earnhardt Dealership within the Auto Mall will collect all retail sales tax levied pursuant to the City Tax Code resulting from retail sales by such Earnhardt Dealerships and will remit the same to the City according to applicable law. Developer and the City hereby agree that Developer shall accept a reduced sales tax rebate and the City shall accept reduced sales tax collections for the lots to be occupied by the Earnhardt Dealerships at the Auto Mall to provide funds for a sales tax rebate to Earnhardt to further induce it to develop the Earnhardt Dealerships at the Auto Mall. In furtherance thereof, the City has entered into that certain Economic Development Agreement between the City and Earnhardt, of equal date herewith (the "Earnhardt Agreement"). Developer hereby agrees, with respect to the Earnhardt Dealerships only, to reduce the sales tax rebate generally applicable to dealerships at the Auto Mall as set forth in subsection 4.2(a) above, by 0.25% of the annual taxable retail sales generated by the Earnhardt Dealerships, payable in quarterly installments. Developer agrees to such reduced rebate (i) in consideration of the City's willingness to relinquish a portion of its retail sales tax with respect to the Earnhardt Dealerships, as set forth in the Earnhardt Agreement, (ii) in recognition that the addition of the Earnhardt Dealerships will bring substantial benefits to the Developer and (iii) pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11. Upon (i) the total rebate to Earnhardt reaching $5,000,000.00*, (ii) suspension, for a period exceeding thirty (30) days, of the City's obligation to pay such rebates to Earnhardt or (iii) termination of the City's obligation to pay such rebates to Earnhardt, the City's obligation to pay the reduced quarterly retail sales tax rebate payments to Developer pursuant to this subsection 4.2(c) will automatically cease and the sales tax rebate rate set forth in subsection

* If Earnhardt attracts an additional "similar" dealership ("similar" being defined as comparable quality of products and roughly equivalent to or greater than annual sales of either the Volkswagen dealership or the Honda dealership) to the Auto Mall (the "Fourth Earnhardt Dealership") and such Fourth Earnhardt Dealership opens for business and continues operations at the Auto Mall pursuant to the same terms and conditions of the Earnhardt Agreement applicable to the Earnhardt Dealerships, the total Rebate herein shall be increased to $7,000,000.00.

4.2(a) above shall thereafter apply with respect to the Earnhardt Dealerships until the Termination Date.

(d) The first quarterly payment required by subsection 4.2(c) above will paid no later than 60 days after the end of the first full quarter following the opening for business of the first Earnhardt Dealership generating retail sales tax at the Auto Mall. Subsequent quarterly payments will be made no later than sixty (60) days after the end of each succeeding quarter. Each quarterly payment will mailed to Developer at the address first set forth in Section 7.0 below or as otherwise agreed by the City and Developer.

(e) The City's obligations under this Agreement, including without limitation, the City's obligations under this Section 4.0 relating to financial assistance are expressly conditioned upon Developer's substantial completion of the infrastructure improvements within the Project. If there is a period of time during which no retail sales taxes are generated by the qualifying businesses within the Project, then Developer shall not be entitled to any Financial Assistance during that time. However, if, after such time period, retail sales taxes are again generated by the auto dealerships, other automotive uses, and the qualifying retail businesses located within the Project, then the City's obligation to pay the Financial Assistance to Developer (or its successors in interest or assigns pursuant to Section 12.7 below) shall resume until the Termination Date, which shall not be extended beyond the term provided in subsection 4.2(a) above.

(f) Developer shall have the right, as permitted by Section 12.7 below, to assign a portion of its right to receive retail sales tax rebates hereunder to any one or more persons or entities that purchase or lease a portion of the Property within the Project (as "Assignee"). Retail sales tax rebates paid directly by the City to Developer or its Assignee (or its permitted successors and assigns) at the request of and on behalf of the Developer will decrease the remaining retail sales tax rebate payments due the Developer hereunder. Any assignment requested by the Developer shall be approved by the City, such approval not to be unreasonably withheld or delayed.

2. Pursuant to ARIZ. REV. STAT. § 42-17106, none of the provisions contained in the Agreement or this First Amendment shall be deemed to represent or constitute indebtedness or a general obligation of the City. Neither Developer nor Earnhardt shall have the right to compel payments from the City's general fund for payments of the rebates herein and the terms of this Agreement shall not be construed to be a charge against the general (ad valorem) taxing power of the City. Notwithstanding the foregoing, nothing set forth in this Section 2 shall relieve the City of its obligation to pay the rebates to Developer and Earnhardt. Further, the City's failure to appropriate any amounts necessary to meet its obligations under this Agreement shall not relieve it of its duty to make such payments. Nothing in this Section 2 shall alter or amend the obligations of the City pursuant to Section 4.4 of the Agreement.

3. Except as expressly amended by this First Amendment, all terms and conditions of the Agreement are hereby ratified, confirmed and approved.

4. The Agreement and this First Amendment may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties have executed this First Amendment on the day and year first written above.

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Scott K. Schrader, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

"Developer"

AZVT, LLC., an Arizona limited liability company

By: _____
Name: _____
Title: _____

Exhibit G

2003 Second Amendment to Development Agreement

Unofficial Document

MAI
HELEN PURCELL
2003-0658972 05/23/03 12:28
1 OF 2
sotoa

When recorded mail to:

Attn: City Clerk
City of Avondale
525 North Central Ave
Avondale, AZ 85323

SECOND AMENDMENT
TO
(ECONOMIC) DEVELOPMENT AGREEMENT
BETWEEN
CITY OF AVONDALE AND AZVT, LLC.

Passed and Adopted by the Mayor and Council of the City of Avondale
The 4th Day November, 2002

SECOND AMENDMENT TO [ECONOMIC] DEVELOPMENT AGREEMENT BETWEEN THE CITY OF AVONDALE AND AZVT, L.L.C.

THIS SECOND AMENDMENT TO [ECONOMIC] DEVELOPMENT AGREEMENT this "Second Amendment") is made as of November 4, 2002, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City") and AZVT, L.L.C., an Arizona limited liability company (the "Developer"). All capitalized terms used in this Second Amendment and not otherwise defined herein shall have the same meaning set forth in the Agreement, as defined below.

RECITALS

A. The City and the Developer entered into that certain development agreement on October 18, 1999 (the "Initial Agreement'), relating to, *inter alia*, development of the Auto Mall located generally at the Southwest corner of 99th Avenue and Interstate 10.

B. The Initial Agreement provided for transaction privilege tax rebates (the "Rebates") to Developer for developing the Auto Mall and attracting new car automobile dealerships to it.

C. The City and Developer amended the Initial Agreement on May 6, 2002, to adjust the Rebates to attract several Earnhardt dealerships (the "First Amendment"). The Initial Agreement and the First Amendment are collectively referred to herein as the "Agreement".

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D. The City and Developer desire to further amend the Agreement to increase Developer's total potential Rebates in consideration for (i) Developer extending Dealer Drive west to 107th Avenue and improving the east half of 107th Avenue to comply with existing City standards, to allow expansion of the Auto Mall to accommodate additional auto dealerships and (ii) eliminating certain complex, long-term sewer reimbursement arrangements with the City previously granted in Section 4.3 of the Initial Agreement.

E. Developer and the City understand that Developer will be promptly applying to the City for an amendment to the PADD zoning on the Retail Center portion of the Project to allow for additional auto dealerships. If the City does not approve a zoning change to allow automotive dealerships on the Retail Center portion of the Project within a reasonable time after Developer submits a complete application therefore, this Second Amendment shall be null and void and the Parties' rights and obligations hereunder shall immediately terminate and shall be of no further force and effect.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants and conditions set forth below, the parties hereby agree as follows:

ORIGINAL

1. A new subsection 2.2 is added to the Agreement to read as follows:

2.2 Retail Center Rezoning. The Retail Center portion of the Property is currently not zoned for retail automotive use. Both Parties recognize that Developer has significant contacts with the auto dealership distributors and manufacturers and that the addition of more new franchised auto dealerships will bring substantial benefits to the City, its residents and the general public by further enhancing the economic ability of the City. In light of the opportunity to further improve the mutual benefits to City and Developer, Developer shall rezone the Retail Center to expand the permitted retail automotive dealership uses within the Project. Developer shall, within ninety (90) days of the date of this Second Amendment, file a complete application with the City to rezone the Retail Center to permit retail automotive use with the same stipulations as currently exist for the Auto Mall portion of the Project. As a part of this rezoning, the Developer shall agree to a stipulation permitting only retail automotive dealership businesses to front the south side of Dealer Drive. The City shall, through its Zoning Ordinance or any design guidelines applicable to properties along Interstate 10, have the right to approve the site plan and building elevations for the businesses located within the Project.

2. The last sentence of subsection 4.2(a) of the Agreement is hereby amended to read as follows:

The City's obligation to pay the quarterly retail sales tax rebate payments to Developer, pursuant to this subsection 4.2(a), Unofficial Document matically cease and the City will have no further obligation to Developer pursuant to this Agreement upon the earlier of the expiration of the fifteen (15) year term described in Section 3.1 above, or upon the Developer receiving a total of Thirteen Million Five Hundred Thousand Dollars ($13,500,000); provided, however, that the amount of the total Rebate may be increased to Fourteen Million Dollars ($14,000,000) pursuant to subsection 4.2(h) below (the date of Developer reaching either Rebate amount or expiration of the term of this Agreement being hereinafter referred to as the "Termination Date").

3. A new subsection 4.2 (g) is hereby added to the Agreement to read as follows:

(g) Notwithstanding any other provision in this Agreement, the City's obligation to pay One Million Five Hundred Thousand Dollars ($1,500,000) of the additional Rebates relates to construction of the improvements to (i) Dealer Drive to extend it to 107th Avenue and (ii) the east half of 107th Avenue in accordance with City standards, and shall apply only if Developer begins construction thereof promptly following execution of this Second Amendment. Developer's construction shall be substantially completed within twelve (12) months of the date Developer begins construction unless extended (i) for a period equal to delays resulting from force majeure or other causes beyond the reasonable control of the Developer or (ii) by the City's written approval.

4. A new subsection 4.2(h) is hereby added to the Agreement to read as follows:

(h) Notwithstanding any other provision in this Agreement, the total Rebate to be paid by the City to the Developer pursuant to subsection 4.2(a) above shall be increased by Five Hundred Thousand Dollars ($500,000) upon the opening of a Toyota franchised auto dealership in the Auto Mall.

5. Section 4.3 of the Agreement is hereby deleted in its entirety.

6. Pursuant to ARIZ. REV. STAT. § 42-17106, none of the provisions contained in the Agreement or this Second Amendment shall be deemed to represent or constitute indebtedness or a general obligation of the City. Developer shall not have the right to compel payments from the City's general fund for payments of the Rebates herein and the terms of this Agreement shall not be construed to be a charge against the general (ad valorem) taxing power of the City. Notwithstanding the foregoing, nothing set forth in this Section 7 shall relieve the City of its obligation to pay the Rebates to Developer. Further, the City's failure to appropriate any amounts necessary to meet its obligations under this Agreement shall not relieve it of its duty to make such payments. Nothing in this Section 7 shall alter or amend the obligations of the City pursuant to Section 4.4 of the Initial Agreement.

7. Except as expressly amended by this Second Amendment, all terms and conditions of the Agreement are hereby ratified, confirmed and approved.

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8. The Agreement and this Second Amendment may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties have executed this Second Amendment on the day and year first written above.

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Todd Hileman, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

"Developer"

AZVT, LLC, an Arizona limited liability company

By: _____
Larry Van Tuyl, Manager

2048.005\AZVT-amend2.v4.doc
10-19-02-1

Exhibit H

Economic Development Agreements – Various Dealerships

City of Avondale

March 14, 2011

Earnhardt Legal Department
7300 W. Orchid Ln
Chandler, AZ 85226

Re: First Amendment to Economic Development Agreement

Mary LaRue Walker:

Enclosed, please find (1) original copy of the First Amendment to Economic Development Agreement between Earnhardt Legal Department and the City of Avondale for your records.

If I can be of further assistance, please don't hesitate to call me @ 623-333-1213.

Thank you,

Amapola Arreola
City of Avondale
City Clerk Assistant II
aarreola@avondale.org

ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
EARNHARDT

THIS ECONOMIC DEVELOPMENT AGREEMENT (this "Agreement") is made 5/6/, 2002, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City"), EARNHARDT FORD SALES COMPANY, an Arizona corporation, dba EARNHARDT'S RV ("Earnhardt RV") and EARNHARDT GLENDALE, INC., an Arizona corporation ("Earnhardt Glendale"). Earnhardt RV and Earnhardt Glendale shall be collectively referred to herein as "Earnhardt".

RECITALS

A. Earnhardt desires to operate a Volkswagon dealership, a Honda dealership and a recreational vehicle dealership (individually each may be referred to as a "Dealership" and collectively the "Dealerships") on real property located at the Avondale Auto Mall (the "Auto Mall"), which is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference.

B. The Dealerships are anticipated to generate a significant amount of revenue to the City through transaction privilege taxes levied pursuant to the City Tax Code resulting from retail sale of vehicles (the "Sales Taxes").

C. The City desires that Earnhardt maintain the Dealerships at the Auto Mall (i) to generate future transaction privilege tax revenues for the City, (ii) to increase the value of the Auto Mall for real property tax purposes and (iii) to create opportunities for employment in Avondale.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the City and Earnhardt hereby agree as follows:

1. Earnhardt Obligation. Earnhardt shall enter into a binding agreement entitling Earnhardt, its successors or assigns, to occupy the Property for a period of at least ten years from the date the last Dealership opens for business. Earnhardt, its successors or assigns shall continue operations of all the Dealerships during that period. Earnhardt shall complete construction of and open all of the Dealerships for business, including all sales and services typically offered by Earnhardt at its other dealerships, not later than March 31, 2004. Earnhardt, its successors or assigns shall be permitted sell both new and used vehicles at the Dealerships; provided, however, that Earnhardt, its successors or assigns shall, during the entire term of this Agreement, maintain new car franchises for the Dealerships at the Auto Mall.

2. Temporary RV Sales. As a further inducement from the City to Earnhardt, Earnhardt RV shall be allowed to operate its RV sales center from temporary facilities at the Auto Mall at any

ORIGINAL

time after the execution of this Agreement until the earlier of (i) completion of its permanent facilities for Earnhardt RV at the Auto Mall or (ii) March 31, 2004. Such temporary operation shall be subject to approval by the City's Development Services Director with respect to site design and use, including, but not limited to temporary water, sewer, power, fencing, dust control, lighting and access.

3. Financial Assistance. Earnhardt shall collect all Sales Taxes for the Dealerships operating on the property and shall remit such Sales Taxes to the City according to applicable law. As an inducement to Earnhardt, its successors or assigns to continue operations at the Auto Mall for a period of ten years, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Dealerships at the Auto Mall and paid to the City (the "Rebate"). Commencing upon the opening of the Earnhardt RV temporary sales facility or the first Dealership, whichever occurs first, at the Auto Mall and continuing until the earlier of (i) the permanent cessation of sales by Earnhardt, its successors or assigns at the Auto Mall or (ii) the Rebate reaching a total of $5,000,000.00 (the date of either event being designated as the "Termination Date"), the City shall rebate to Earnhardt 0.5% of the annual taxable retail sales generated by Earnhardt at the Dealerships, payable in quarterly installments. If Earnhardt attracts an additional "similar" dealership ("similar" being defined as comparable quality of products and roughly equivalent to or greater than annual sales of either the Volkswagen Dealership or the Honda Dealership) to the Auto Mall (the "Fourth Dealership") and such Fourth Dealership opens for business and continues operations at the Auto Mall pursuant to the same terms and conditions applicable to the Dealerships, the total Rebate herein shall be increased to $7,000,000.00.

4. Term. This Agreement shall be effective when executed by both parties and shall remain in full force and effect until the Termination Date, unless terminated sooner pursuant to Section 8 below.

5. Payment Method. Earnhardt hereby assigns its rights to the Rebate required by Section 3 above to No Bull, L.L.C., an Arizona limited liability company ("No Bull"), on behalf of Earnhardt. The first quarterly payment required by Section 3 above shall be paid no later than 60 days after the end of the first full quarter following the execution of this Agreement in which Sales Taxes were paid to the City by Earnhardt. Subsequent quarterly payments will be made no later than 60 days after the end of each succeeding quarter. Notwithstanding the termination of the City's obligation to make the Rebates pursuant to Section 3 above, the City shall remain obligated to pay, upon the next occurring quarterly payment date, any amounts due to Earnhardt that accrued prior to such termination. Each quarterly payment will be mailed to No Bull at the address required for notices to Earnhardt under this Agreement, or as otherwise agreed to by Earnhardt and the City.

6. Waiver of Confidentiality. Earnhardt hereby waives, for the term of this Agreement, its right to keep confidential from the City the records indicating the amount of sales generated by the Dealerships at the Auto Mall. Earnhardt further agrees to take all steps necessary and to execute any required documents to permit the City's authorized representative to examine any such records in a timely fashion such that an appropriation may be designated in the City's annual budget to pay Earnhardt the necessary Rebate.

7. Sales Tax Rebates Not a Debt; Obligation to Pay Absolute. Pursuant to ARIZ. REV. STAT. § 42-17106, none of the provisions contained herein shall be deemed to represent or constitute indebtedness or a general obligation of the City. Earnhardt shall not have the right to compel payments from the City's general fund for payments of the Rebate herein and the terms of this Agreement shall not be construed to be a charge against the general (ad valorem) taxing power of the City. Notwithstanding the foregoing, nothing set forth in this Section 7 shall relieve the City of its obligation to pay the Rebate to Earnhardt. Further, the City's failure to appropriate any amounts necessary to meet its obligations under this Agreement shall not relieve it of its duty to make such payments.

8. Default. If either party fails to perform any obligation, including the City's obligation to pay the Rebate pursuant to this Agreement, and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default and the non-defaulting party has the option to terminate this Agreement and will have all remedies which are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 120 days.

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

If to the City:
City of Avondale
525 N. Central Avenue
Avondale, AZ 85323
Facsimile: 623-932-2205
Attn: City Manager

With copy to:
Jorden, Bischoff, McGuire & Rose, P.L.C.
7272 E. Indian School Rd., Suite 205
Scottsdale, AZ 85251
Facsimile: 480-505-3901
Attn: Andrew J. McGuire, Esq.

If to Earnhardt:
Earnhardt Auto Centers
1301 N. Arizona Avenue
Gilbert, Arizona 85233
Facsimile: 480-892-3971
Attn: Hal J. Earnhardt, III

With copies to: Earnhardt Auto Centers
1301 N. Arizona Avenue
Gilbert, Arizona 85233
Facsimile: 480-892-3971
Attn: Mary LaRue Walker, Esq.

Earnhardt Auto Centers
1301 N. Arizona Avenue
Gilbert, Arizona 85233
Facsimile: 480-892-3971
Attn: Robbyn McDowell

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 Section 9. Notices shall be deemed received (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (iv) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

10. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or Earnhardt of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

11. Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof, or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorneys' fees by the other party and, in the event any judgment is secured by said prevailing party, all such costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

12. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document.

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

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

15. Time of the Essence. Time is of the essence in this Agreement.

16. Assignment. This Agreement may not be assigned, in whole or in part, by Earnhardt without the prior, written consent of the City.

17. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

18. Amendment. No amendment or waiver of any provision in this Agreement will be binding (i) on the City unless and until it has been approved by the City Council and has become effective or (ii) on Earnhardt unless and until it has been executed by an authorized representative.

19. Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.

20. Severability. Every provision of this Agreement is and will be construed to be a separate and independent covenant. If any provision in this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will not be affected by that invalidity or unenforceability. Each provision in this Agreement will be valid and will be enforced to the extent permitted by law and the parties will negotiate in good faith for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

21. Covenant of Good Faith. In exercising their rights and in performing their obligations pursuant to this Agreement, the parties will cooperate with one another in good faith to ensure the intent of this Agreement can be attained.

22. Conflict of Interest. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

"Earnhardt Glendale"

EARNHARDT GLENDALE, INC.,
an Arizona corporation

By: _____
Name: Hal J. Earnhardt, III
Title: President

"Earnhardt RV"

EARNHARDT FORD SALES COMPANY,
an Arizona corporation, dba Earnhardt's RV

By: _____
Name: Hal J. Earnhardt, III
Title: President

"City"

CITY OF AVONDALE, an Arizona
municipal corporation

By: _____
Scott K. Schrader, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

(ACKNOWLEDGMENTS)

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 30 day of April, 2002, by Hal J. Earnhardt III, the President of Earnhardt Ford Sales Company, an Arizona corporation, dba Earnhardt's RV, for and on behalf of the corporation.

OFFICIAL SEAL
MARIE L. PISHNY
NOTARY PUBLIC-ARIZONA
MARICOPA COUNTY
My Commission Expires Sept 25 2004

My Commission Expires

Marie L. Pishny
Notary Public

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 30 day of April, 2002, by Hal J. Earnhardt III, the President of Earnhardt Glendale, Inc., an Arizona corporation, for and on behalf of the corporation.

9/25/04
OFFICIAL SEAL
MARIE L. PISHNY
NOTARY PUBLIC-ARIZONA
MARICOPA COUNTY
My Commission Expires Sept 25, 2004

My Commission Expires

Marie L. Pishny
Notary Public

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 7 day of May, 2002, by Scott K. Schrader, the City Manager of the City of Avondale, Arizona, an Arizona municipal corporation, for and on behalf of the municipal corporation.

"OFFICIAL SEAL"
Diane C. Hunt
Notary Public-Arizona
Maricopa County
My Commission Expires 6/4/2002

June 4, 2002
My Commission Expires

Diane C. Hunt
Notary Public

FIRST AMENDMENT TO
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
EARNHARDT

THIS FIRST AMENDMENT TO ECONOMIC DEVELOPMENT AGREEMENT (this "First Amendment") is made March 7, 2011 (the "Effective Date"), by and between the City of Avondale, an Arizona municipal corporation (the "City") and Earnhardt Avondale, Inc., an Arizona corporation ("Earnhardt"). The City and Earnhardt are referred to herein individually as a "Party" or collectively as the "Parties."

RECITALS

A. Earnhardt Ford Sales Company, an Arizona corporation d/b/a Earnhardt's RV ("Earnhardt RV"), Earnhardt Glendale, Inc., an Arizona corporation ("Earnhardt Glendale") and the City entered into that certain Economic Development Agreement dated May 6, 2002 (the "Original Agreement") relating to the construction and operation of three dealerships offering sales and service for new and used (i) Volkswagen automobiles (the "Volkswagen Dealership"), (ii) Honda automobiles (the "Honda Dealership"), and (iii) recreational vehicles (the "RV Dealership") on real property (the "Dealership Property") located at the Avondale Auto Mall (the "Auto Mall") that is more particularly described and depicted on Exhibit 1 attached hereto and incorporated herein by reference. The Volkswagen Dealership, the Honda Dealership and the RV Dealership are collectively referred to herein as the "Original Dealerships." Unless specifically defined otherwise in this First Amendment, all capitalized terms used herein shall have the meanings ascribed to them in the Original Agreement.

B. Earnhardt is the successor in interest to Earnhardt Glendale and is the successor in interest to Earnhardt RV only with respect to the Original Agreement and this First Amendment. Notwithstanding the definition set forth in the Original Agreement, as of the Effective Date of this First Amendment, wherever used in the Original Agreement, "Earnhardt" shall mean Earnhardt Avondale, Inc.

C. The City and Earnhardt desire to amend the Original Agreement to (i) modify the financial assistance provisions, (ii) substitute a dealership offering sales and service for new and used Hyundai automobiles (the "Hyundai Dealership") on the Dealership Property at the Auto Mall for the RV Dealership, (iii) extend the required period during which Earnhardt, its successors and assigns, are required to operate the Dealerships at the Auto Mall and (iv) add provisions for liquidated damages to be assessed in the event that Earnhardt does not operate the Dealerships according to the requirements herein. As used in this First Amendment, "Dealerships" shall collectively refer to the Volkswagen Dealership, the Honda Dealership and the Hyundai Dealership. Each reference in the Original Agreement to "Dealerships" shall hereafter be deemed to have the meaning ascribed to it in this First Amendment and shall no longer refer to the Original Dealerships.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Earnhardt hereby agree as follows:

1. Earnhardt Obligation. Earnhardt shall enter into a binding agreement entitling Earnhardt, its successors or assigns, to occupy real property at the Auto Mall until at least January 1, 2020, and Earnhardt, its successors and assigns shall continuously operate, or cause to be operated, of all of the Dealerships at the Auto Mall until at least January 1, 2020 (the "Operating Period"). Earnhardt, its successors and assigns shall be permitted to sell both new and used vehicles at the Dealerships; provided, however, that Earnhardt, its successors and assigns shall, during the entire Operating Period, maintain new car franchises for all of the Dealerships at the Auto Mall. The obligations set forth in this Section 1 are collectively referred to herein as the "Performance Obligations."

2. Financial Assistance. Section 3 of the Agreement is hereby deleted in its entirety and replaced with the following:

3. Financial Assistance.

3.1 Rebate; Discount. Earnhardt meeting all of the Performance Obligations set forth in Section 1 above shall be a continuing pre-condition to the City's obligations as set forth in this Subsection 3.1. For so long as Earnhardt fully performs the Performance Obligations, the City shall be obligated to perform as set forth below. The City shall collect all Sales Taxes remitted by the Dealerships operating at the Auto Mall according to applicable law. Subject to the liquidated damages provisions set forth in Section 23 below, as an inducement to Earnhardt, its successors or assigns, to continuously maintain all of the Dealerships at the Auto Mall for the Operating Period, the City hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Dealerships and paid to the City. Commencing upon the opening date for the Hyundai Dealership at the Auto Mall (the "Hyundai Opening Date") and continuing until the first to occur of the following: (i) the cessation of sales by Earnhardt, its successors and assigns of any of the Dealerships at the Auto Mall for a period of more than 12 months, (ii) the Rebate (as defined below) reaching a total of $5,000,000, (iii) payment of the "Discount Rebate Payment" as set forth below or (iv) July 1, 2016 (the date of any such event being designated as the "Rebate Termination Date"), unless terminated earlier as set forth below in this subsection, the City shall rebate to Earnhardt 0.50% of the net taxable sales generated by taxable activities on the Dealerships for which Sales Taxes are collected (the "Rebate"); provided, however, that no such Rebate shall be paid unless the corresponding Sales Taxes due to the City from the Dealerships have been paid in full. At the City's option, it may, on the Effective Date, pay to Earnhardt $2,000,000 (the "Discounted Rebate Payment") in full satisfaction of its obligations under this Section 3, and Earnhardt agrees that upon its receipt of the Discounted Rebate Payment, subject only to the extension provisions set forth in Subsection 3.2 below, the City's obligation to pay Rebates pursuant to the Original Agreement, as amended by this First Amendment, shall be completely discharged.

3.2 Extension of Rebate. If, within 12 months following the Effective Date, Earnhardt opens for business at the Auto Mall a new car dealership holding a new car franchise for a Ford Motor Company dealership selling Ford automobiles and operating at sales volumes roughly equivalent to or greater than the Honda Dealership (the "Ford Dealership") and operates the Ford Dealership for the Operating Period, the Rebate Termination Date may be modified until the first to occur of the following: (A) the cessation of sales by Earnhardt, its successors and assigns at any of the Dealerships (the term "Dealerships" shall, upon occurrence of the extension requirements set forth in this Subsection 3.2, be deemed to include the Ford Dealership) at the Auto Mall for a period of more than 12 months, (B) the aggregate Rebate reaching a total of $7,000,000, (C) payment by the City of the "Additional Discounted Rebate Payment" as defined below in this Subsection or (D) July 1, 2016. At the City's option, it may, on the date that is 60 days after the opening date of the Ford Dealership for sales to the general public, pay to Earnhardt $1,400,000 (the "Additional Discounted Rebate Payment") in full satisfaction of its obligations under this Subsection 3.2, and Earnhardt agrees that upon its receipt of the Additional Discounted Rebate Payment, the City's obligation to pay Rebates pursuant to the Original Agreement, as amended by this First Amendment, shall be completely discharged.

3.3 Rebate Payment; Termination. Unless terminated by payment of the Discounted Rebate Payment and Additional Discounted Rebate Payment, if any, as set forth in Subsections 3.1 and 3.2 above, the Rebate shall be payable in quarterly installments as set forth in Section 5 below. The City's obligation to pay the Rebate payments to Earnhardt pursuant to this Subsection will automatically cease and the City will have no further obligation to Earnhardt pursuant to this Agreement upon the earlier to occur of (A) the Rebate Termination Date or (B) such earlier date this Agreement is terminated pursuant to Section 8 below, the occurrence of either of which is referred to as the "Retail Rebate Termination."

3. Default. Section 8 of the Agreement is hereby deleted in its entirety and replaced with the following:

8. Default. If either Party fails to perform any obligation, including the City's obligation to pay the Rebates, pursuant to this Agreement, and such Party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting Party, such Party will be in default. In the event of such default, the non-defaulting Party may terminate this Agreement and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting Party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting Party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting Party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 120 days. For the purposes of this Section 8, Earnhardt shall not be deemed to be in default under this Agreement in the event Earnhardt's failure to satisfy the Performance Obligations as set forth in Section 1 above is solely the result of American Honda Motor Co., Inc., a California corporation, Hyundai Motor America, Inc., a California corporation or

Volkswagen Group of America, Inc., a New Jersey corporation (i) ceasing operations, (ii) ceasing operations in the State of Arizona, (iii) becoming a debtor in a proceeding under Title 11, United States Code, or similar statutory scheme, which proceeding is not dismissed within 60 days, or (iv) electing to terminate the agreement permitting Earnhardt its successors and assigns to operate the Honda Dealership, the Hyundai Dealership or the Volkswagen Dealership through no fault of Earnhardt (collectively, as to each Dealership, a "Manufacturer Termination Event").

4. Liquidated Damages. A new Section 23 is hereby added to the Agreement to read as follows:

23. Liquidated Damages. Without limiting the remedies available to the City pursuant to Section 8 above, Earnhardt understands and acknowledges that if it fails to fulfill or cause to be fulfilled the Performance Obligations set forth in Section 1 above (a "Performance Failure"), the City will suffer damages that are difficult to accurately specify and ascertain. Earnhardt hereby agrees that, upon its default due to a Performance Failure hereunder and expiration of the cure period set forth in Section 8 above, it shall pay the City, as liquidated damages, within 30 days of receipt of the City's written demand therefore, the following amounts: (i) if the Performance Failure occurs after the Hyundai Opening Date, but prior to the Rebate Termination Date, 100% of the Rebate paid to Earnhardt between the Effective Date and the date of the City's written demand, or (ii) if the Performance Failure occurs between the Rebate Termination Date and the end of the Operating Period, 50% of the Rebate paid to Earnhardt between the Effective Date and the date of the City's written demand. Such liquidated damages shall be payable in immediately available funds of United States currency. If the failure to fulfill or cause to be fulfilled the Performance Obligations is related solely to a Manufacturer Termination Event, the provisions of this Section 23 shall not apply.

5. Notices and Requests. Section 9 of the Original Agreement is hereby deleted in its entirety and replaced with the following:

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

If to the City: City of Avondale
11465 West Civic Center Boulevard
Avondale, Arizona 85353-6809
Facsimile: 623-333-0100
Attn: Charles McClendon, City Manager

With copy to: GUST ROSENFELD, P.L.C.
One East Washington Street, Suite 1600
Phoenix, Arizona 85004-2553
Facsimile: 602-254-4878
Attn: Andrew J. McGuire, Esq.

If to Earnhardt: Earnhardt Auto Centers
7300 West Orchid Lane
Chandler, Arizona 85266-1000
Facsimile: 480-783-4625
Attn: Hal J. Earnhardt, III

With copies to: Earnhardt Auto Centers
7300 West Orchid Lane
Chandler, Arizona 85266-1000
Facsimile: 480-783-4625
Attn: Mary LaRue Walker, Esq.

Earnhardt Auto Centers
7300 West Orchid Lane
Chandler, Arizona 85266-1000
Facsimile: 480-783-4625
Attn: Robbyn McDowell

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 (i) when delivered to the Party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (iv) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a Party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a Party shall mean and refer to the date on which the Party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

6. Effect of Amendment. In all other respects, the Original Agreement is affirmed and ratified and, except as expressly modified herein, all terms and conditions of the Original Agreement shall remain in full force and effect.

7. Non-Default. By executing this First Amendment, Earnhardt affirmatively asserts that the City is not currently in default, nor has been in default at any time prior to this First Amendment, under any of the terms or conditions of the Original Agreement.

8. Cancellation. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

9. Earnhardt Warranty Regarding RV Dealership. Earnhardt warrants and represents to the City that, by entering into this First Amendment, the City will not be impairing any agreement relating to the Rebates, including, but not limited to, that certain Assignment between No Bull, LLC and Freedom Roads Property Holding Company, LLC, dated August 28, 2007 (the "Rebate Assignment"). Earnhardt further agrees and understands that it shall be solely liable for defending and holding the City harmless for, from and against any and all claims that may occur relating to the Rebate Assignment.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first set forth above.

"Earnhardt"

EARNHARDT AVONDALE, INC.,
an Arizona corporation

By: _____

Name: Hal J. Earnhardt, III

Title: President

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Charles P. McClendon, City Manager

ATTEST:

_____
Carmen Martinez, City Clerk

(ACKNOWLEDGMENTS)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on March 9, 2011, by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the City of Avondale.

Notary Public in and for the State of Arizona

My Commission Expires:

May 11, 2014

AMAPOLA ARREOLA
Notary Public - Arizona
Maricopa County
My Comm. Expires May 11, 2014

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on March 2nd, 2011, by Hal J. Earnhardt, III, the President, of EARNHARDT AVONDALE, INC., an Arizona corporation, on behalf of the company.

Notary Public in and for the State of Arizona

My Commission Expires:

Sept. 14, 2011

Mary Lou Cianculllo
Notary Public - Arizona
Maricopa County
My Commission Expires
September 14, 2011

EXHIBIT 1
TO
FIRST AMENDMENT TO
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
EARNHARDT

[Property Legal Description and Map]

See following pages.

Legal Descriptions of Premises

Earnhardt Avondale Hyundai
10401 W. Papago Freeway
APN 105-54-043

Parcel No. 1:
Lot 10, Avondale Automall, Phase II, recorded in Book 646 of Maps, Page 29, as adjusted by Avondale Automall Lot 10 Lot adjustment recorded in Book 667 of Maps, Page 28, Maricopa County Recorder.

Parcel No. 2:
An easement for access as described in 35-foot private drive easement recorded in Instrument No. 2003-1374506 and accessory private drive easement recorded in instrument No. 2003-1374507.

Earnhardt Honda, Avondale
10151 W. Papago Freeway
APN 102-54-038

Lot 6, Avondale Automall Phase II, recorded in Book 646 of Maps, page 29, Maricopa County Recorder, Arizona.

Larry Miller Volkswagen
10205 W. Papago Freeway
APN 102-54-040B, 102-54-040B

Lot 7A, as depicted on A Minor Land Division Map for Avondale Automall Lot 7, as recorded in Book 747 of Maps Page 9, being a portion of Lot 7 of Avondale Automall Phase 2, as recorded in Book 646 of Maps, Page 29, Records of Maricopa County, Arizona more particularly described as follows:

Commencing at the Southwest Corner of said Lot 7;

thence North 01'11'14" West along the West line of said Lot 7, a distance of 493.34 feet to the true point of beginning;

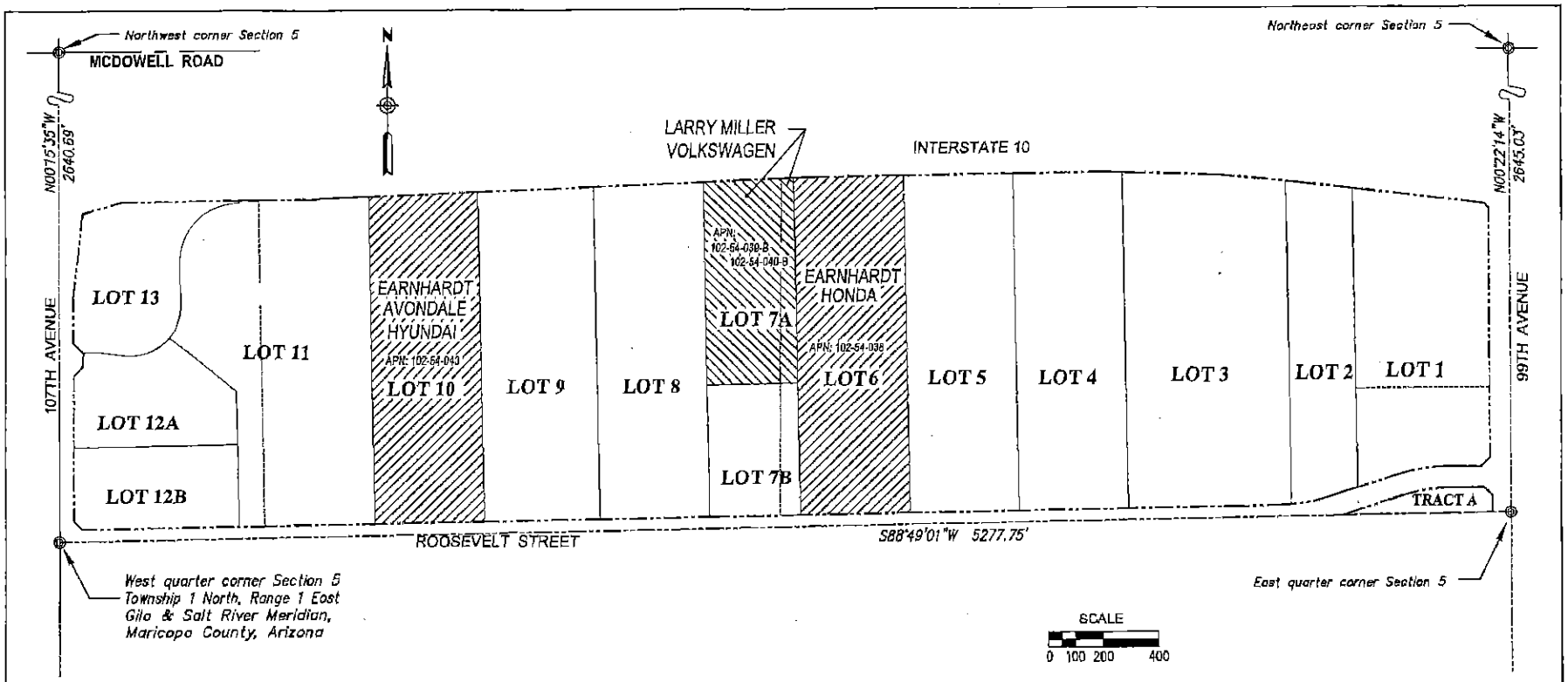
thence continuing at North 01'11'14" West along the West line of Lot 7, a distance of 745.19 feet to the northwest corner of Lot 7;

thence North 87'19'58" East, along the North line of Lot 7, a distance of 329.95 feet to the Northeast corner of Lot 7;

thence south 01'10'59" East, along the East line of Lot 7, a distance of 753.73 feet;

thence south 88'49'01" West, a distance of 329.78 feet to the true point of beginning.

Containing an approximate area of 247,180 square feet or 5.674 acres.



REFERENCE DOCUMENTS

AVONDALE AUTOMALL, ACCORDING TO BOOK 604 PAGE 12, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA.

AVONDALE AUTOMALL LOTS 2 AND 3, LOT ADJUSTMENT, ACCORDING TO BOOK 583 PAGE 41, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA

AVONDALE AUTOMALL PHASE 2, ACCORDING TO BOOK 646 PAGE 29, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA

MINOR LAND DIVISION MAP FOR AVONDALE AUTOMALL LOT 7 ACCORDING TO BOOK 747, PAGE 9 OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA

AVONDALE AUTOMALL LOT 10, LOT ADJUSTMENT, ACCORDING TO BOOK 667 OF MAPS PAGE 28, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA

AVONDALE AUTOMALL LOTS 11 & 12, LOT ADJUSTMENT, ACCORDING TO BOOK 677 PAGE 17 AND BOOK 686 PAGE 6, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA

MINOR LAND DIVISION MAP FOR AVONDALE AUTOMALL LOT 12, ACCORDING TO BOOK 710, PAGE 17 OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA

City of Avondale

ENGINEERING DEPARTMENT

EXHIBIT MAP
Hyundai, Honda & Volkswagen
AVONDALE AUTOMALL

DATE: 2-28-2011
DSN:
DRN: LS
CHK:

PROJECT NAME
Avondale Automall

PAGE
2 OF 2

ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
M&JP, III, L.L.C.

THIS ECONOMIC DEVELOPMENT AGREEMENT (this "Agreement") is made November 21, 2002, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City") and M&JP, III, L.L.C., a Colorado limited liability company ("Nissan Dealer").

RECITALS

A. Nissan Dealer desires to operate a Nissan dealership (the "Dealership") on real property located at the Avondale Auto Mall (the "Auto Mall"), which property is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property").

B. The Dealership is anticipated to generate a significant amount of revenue to the City through transaction privilege taxes (levied pursuant to the City Tax Code) resulting from retail sale of vehicles (the "Sales Taxes").

C. The City desires that Nissan Dealer maintain the Dealership at the Auto Mall to (i) generate future transaction privilege tax revenues for the City, (ii) increase the value of the Auto Mall for real property tax purposes and (iii) create opportunities for employment in Avondale.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the City and Nissan Dealer hereby agree as follows:

1. Nissan Dealer Obligation. Nissan Dealer shall enter into a binding agreement entitling Nissan Dealer, its successors or assigns, to occupy the Property for a period of at least ten years from the date the Dealership opens for business (the "Lease Period"). Nissan Dealer shall begin construction of the Dealership within twelve months of the "Effective Date" of this Agreement, as defined below, and shall complete construction of and open the Dealership for business, including all sales and services typically offered by other dealerships at the Auto Mall, not later than 24 months from the Effective Date. After construction is completed and the Dealership is opened for business, Nissan Dealer, its successors or assigns shall continuously operate the Dealership during the Lease Period. Nissan Dealer, its successors or assigns shall be permitted to sell both new and used vehicles at the Dealership; provided, however, that Nissan Dealer, its successors or assigns shall, during the entire term of this Agreement, maintain a new car franchise for the Dealership at the Auto Mall.

2. Financial Assistance. Nissan Dealer shall collect all Sales Taxes for the Dealership operating on the Property and shall remit such Sales Taxes to the City according to applicable law. As an inducement to Nissan Dealer, its successors or assigns, to continue operations at the Auto Mall for a period of ten years, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City

ORIGINAL

for a period of ten years, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Dealership at the Auto Mall and paid to the City. Commencing upon the date a Certificate of Occupancy is issued by the City for the Dealership on the Property (the "Occupancy Date") and continuing for a period of seven years thereafter (the day ending such seven-year period being designated as the "Termination Date"), the City shall rebate to Nissan Dealer (i) for a period of five years from the Occupancy Date, 0.375% of the annual taxable retail sales generated by Nissan Dealer at the Dealership and (ii) for a period of two years commencing on the date that is five years after the Occupancy Date, 0.50% of the annual taxable retail sales generated by the Nissan Dealer at the Dealership (collectively, the "Rebate"), payable in quarterly installments.

3. Term. This Agreement shall be effective upon the date first set forth above (the "Effective Date") and shall remain in full force and effect until the Termination Date, unless terminated sooner pursuant to Section 7 below.

4. Payment Method. The first quarterly payment required by Section 2 above shall be paid no later than 60 days after the end of the first full quarter following the Occupancy Date in which Sales Taxes were paid to the City by Nissan Dealer. Subsequent quarterly payments will be made no later than 60 days after the end of each succeeding quarter. Notwithstanding the termination of the City's obligation to make the Rebates pursuant to Section 2 above, the City shall remain obligated to pay, upon the next occurring quarterly payment date, any amounts due to Nissan Dealer that accrued prior to such termination. Each quarterly payment will be mailed to Nissan Dealer at the address set forth in Section 8 below, or as otherwise agreed to by Nissan Dealer and the City.

5. Waiver of Confidentiality. Nissan Dealer hereby waives, for the term of this Agreement, any rights it may have to keep confidential from the City any records indicating the amount of sales generated by the Dealership at the Auto Mall. Nissan Dealer further agrees to take all steps necessary and to execute any required documents to permit the City's authorized representative to examine any such records.

6. Sales Tax Rebates Not a Debt; Obligation to Pay Absolute. Pursuant to ARIZ. REV. STAT. § 42-17106, none of the provisions contained herein shall be deemed to represent or constitute indebtedness or a general obligation of the City. Nissan Dealer shall not have the right to compel payments from the City's general fund for payments of the Rebate herein and the terms of this Agreement shall not be construed to be a charge against the general (ad valorem) taxing power of the City. Notwithstanding the foregoing, nothing set forth in this Section 6 shall relieve the City of its obligation to pay the Rebate to Nissan Dealer. Further, the City's failure to annually appropriate any amounts necessary to meet its obligations under this Agreement shall not relieve it of its duty to make such payments.

7. Default. If either party fails to perform any obligation, including the City's obligation to pay the Rebate, pursuant to this Agreement, and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement and will have all remedies which are available to it at law or in equity including, without limitation, the

remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 120 days.

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

If to the City:	City of Avondale 525 N. Central Avenue Avondale, AZ 85323 Facsimile: 623-932-2205 Attn: City Manager
With copy to:	JORDEN, BISCHOFF, MCGUIRE & ROSE, P.L.C. 7272 E. Indian School Rd., Suite 205 Scottsdale, AZ 85251 Facsimile: 480-505-3901 Attn: Andrew J. McGuire, Esq.
If to Nissan Dealer:	Mitch Pierce 12019 S. Honah Lee Ct. Phoenix, AZ 85044 Facsimile: 480-425-2980

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 Section 9. Notices shall be deemed received (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (iv) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

9. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or Nissan Dealer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

10. Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof, or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorneys' fees by the other party and, in the event any judgment is secured by said prevailing party, all such costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

11. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document.

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

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

14. Time of the Essence. Time is of the essence in this Agreement.

15. Assignment. This Agreement may not be assigned, in whole or in part, by Nissan Dealer without the prior, written consent of the City.

16. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

17. Amendment. No amendment or waiver of any provision in this Agreement will be binding (i) on the City unless and until it has been approved by the City Council and has become effective or (ii) on Nissan Dealer unless and until it has been executed by an authorized representative.

18. Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.

19. Severability. Every provision of this Agreement is and will be construed to be a separate and independent covenant. If any provision in this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable will not be affected by that invalidity or unenforceability. Each provision in this Agreement will be valid and will be enforced to the extent permitted by law and the parties will negotiate in good faith

for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

20. Covenant of Good Faith. In exercising their rights and in performing their obligations pursuant to this Agreement, the parties will cooperate with one another in good faith to ensure the intent of this Agreement can be attained.

21. Conflict of Interest. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

"Nissan Dealer"

M&JP, III, L.L.C., a Colorado limited liability company

By: _____
Name: Mitch Pierce
Title: President

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Todd Hileman, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

(ACKNOWLEDGMENTS)

STATE OF ~~COLORADO~~ ARIZONA)
) ss.
County of MARICOPA)

Acknowledged before me this 21 day of NOVEMBER, 2002, by Mitch Pierce, the managing member of M&JP, III, L.L.C., a Colorado limited liability company, for and on behalf of the company.

NOVEMBER 17, 2004
My Commission Expires

Notary Public

OFFICIAL SEAL
PAMELA P. KOZEL
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Nov. 17, 2004

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 22nd day of November 2002, by Todd Hileman, the City Manager of the City of Avondale, Arizona, an Arizona municipal corporation, for and on behalf of the municipal corporation.

June 4, 2006
My Commission Expires

Notary Public

FIRST AMENDMENT
TO
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
M&JP, III, L.L.C.

THIS FIRST AMENDMENT TO ECONOMIC DEVELOPMENT AGREEMENT (this "First Amendment") is made July 9th, 2003, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City") and M&JP, III, L.L.C., a Colorado limited liability company ("Nissan Dealer"). All capitalized terms used in the First Amendment and not otherwise defined herein shall have the same meaning set forth in the Agreement, as defined below.

RECITALS

A. The City and the Nissan Dealer entered into that certain economic development agreement on November 21, 2002 (the "Agreement"), relating to development of a Nissan Dealership at the Auto Mall located generally at the Southwest corner of 99th Avenue and Interstate 10.

B. The Agreement provided for transaction privilege tax rebates to the Nissan Dealer for constructing and operating a new Nissan automobile dealership at the Auto Mall.

C. The City and Nissan Dealer desire to amend the Agreement to correct an oversight in the Agreement relating to a freeze in development fees at the level existing on October 14, 2002, with respect to construction of the Nissan Dealership.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the City and Nissan Dealer hereby agree as follows:

1. That Section 2 of the Agreement is hereby deleted in its entirety and replaced with the following:

2. Financial Assistance.

a. Nissan Dealer shall collect all Sales Taxes for the Dealership operating on the Property and shall remit such Sales Taxes to the City according to applicable law. As an inducement to Nissan Dealer, its successors or assigns, to continue operations at the Auto Mall for a period of ten years, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Dealership at the Auto Mall and paid to the City. Commencing upon the date a Certificate of Occupancy is issued by the City for the Dealership on the Property (the "Occupancy Date") and continuing for a period of seven years thereafter (the day ending such seven-year period

ORIGINAL

FIRST AMENDMENT
TO
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
M&JP, III, L.L.C.

THIS FIRST AMENDMENT TO ECONOMIC DEVELOPMENT AGREEMENT (this "First Amendment") is made July 9th, 2003, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City") and M&JP, III, L.L.C., a Colorado limited liability company ("Nissan Dealer"). All capitalized terms used in the First Amendment and not otherwise defined herein shall have the same meaning set forth in the Agreement, as defined below.

RECITALS

A. The City and the Nissan Dealer entered into that certain economic development agreement on (the "Agreement"), relating to development of a Nissan Dealership at the Auto Mall located generally at the Southwest corner of 99th Avenue and Interstate 10.

B. The Agreement provided for transaction privilege tax rebates to the Nissan Dealer for constructing and operating a new Nissan automobile dealership at the Auto Mall.

C. The City and Nissan Dealer desire to amend the Agreement to correct an oversight in the Agreement relating to a freeze in development fees at the level existing on October 14, 2002, with respect to construction of the Nissan Dealership.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the City and Nissan Dealer hereby agree as follows:

1. That Section 2 of the Agreement is hereby deleted in its entirety and replaced with the following:

2. Financial Assistance.

a. Nissan Dealer shall collect all Sales Taxes for the Dealership operating on the Property and shall remit such Sales Taxes to the City according to applicable law. As an inducement to Nissan Dealer, its successors or assigns, to continue operations at the Auto Mall for a period of ten years, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Dealership at the Auto Mall and paid to the City. Commencing upon the date a Certificate of Occupancy is issued by the City for the Dealership on the Property (the "Occupancy Date") and continuing for a period of seven years thereafter (the day ending such seven-year period

OFFICIAL

being designated as the "Termination Date"), the City shall rebate to Nissan Dealer (i) for a period of five years from the Occupancy Date, 0.375% of the annual taxable retail sales generated by Nissan Dealer at the Dealership and (ii) for a period of two years commencing on the date that is five years after the Occupancy Date, 0.50% of the annual taxable retail sales generated by the Nissan Dealer at the Dealership (collectively, the "Rebate"), payable in quarterly installments.

b. The City shall charge Nissan Dealer development fees pursuant to Chapter 26 of the Avondale City Code at the rate that existed on October 13, 2002.

2. Except as expressly amended by this First Amendment, all terms and conditions of the Agreement are hereby ratified, confirmed and approved.

3. The Agreement and this First Amendment may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

"Nissan Dealer"

M&JP, III, L.L.C., a Colorado limited liability company

By: _____
Name: Mike Pierce
Title: Manager

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Todd Hileman, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

(ACKNOWLEDGMENTS)

STATE OF ~~COLORADO~~ ARIZONA)
) ss.
County of MARICOPA)

Acknowledged before me this 16 day of JULY, 2003, by Mitch Pierce, the managing member of M&JP, III, L.L.C., a Colorado limited liability company, for and on behalf of the company.

NOVEMBER 17, 2004
My Commission Expires

Pamela P. Kozel
Notary Public

OFFICIAL SEAL
PAMELA P. KOZEL
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Nov. 17, 2004

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 9th day of July, 2003, by Todd Hileman, the City Manager of the City of Avondale, Arizona, an Arizona municipal corporation, for and on behalf of the municipal corporation.

June 4, 2006
My Commission Expires

Dixie C. Hunt
Notary Public

"OFFICIAL SEAL"
Dixie C. Hunt
Notary Public-Arizona
Maricopa County
My Commission Expires 6/4/2006

ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
SATURN DEVELOPMENT, L.L.C.

THIS ECONOMIC DEVELOPMENT AGREEMENT (this "Agreement") is made August 19th, 2003, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City") and SATURN DEVELOPMENT, L.L.C., a North Dakota limited liability company ("Saturn Dealer").

RECITALS

A. Saturn Dealer desires to operate a Saturn dealership (the "Dealership") on real property located at the Avondale Auto Mall (the "Auto Mall"), which property is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property").

B. The Dealership is anticipated to generate a significant amount of revenue to the City through transaction privilege taxes (levied pursuant to the City Tax Code) resulting from retail sale of vehicles (the "Sales Taxes").

C. The City desires that Saturn Dealer maintain the Dealership at the Auto Mall to (i) generate future transaction privilege tax revenues for the City, (ii) increase the value of the Auto Mall for real property tax purposes and (iii) create opportunities for employment in Avondale.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the City and Saturn Dealer hereby agree as follows:

1. Saturn Dealer Obligation. Saturn Dealer shall enter into a binding agreement entitling Saturn Dealer, its successors or assigns, to occupy the Property for a period of at least ten years from the date the Dealership opens for business (the "Operating Period"). Saturn Dealer shall begin construction of the Dealership within twelve months of the "Effective Date" of this Agreement, as defined below, and shall complete construction of and open the Dealership for business, including all sales and services typically offered by other dealerships at the Auto Mall, not later than 18 months from the Effective Date. After construction is completed and the Dealership is opened for business, Saturn Dealer, its successors or assigns shall continuously operate the Dealership during the Operating Period. Saturn Dealer, its successors or assigns shall be permitted to sell both new and used vehicles at the Dealership; provided, however, that Saturn Dealer, its successors or assigns shall, during the entire term of this Agreement, maintain a new car franchise for the Dealership at the Auto Mall.

2. Financial Assistance. Saturn Dealer shall collect all Sales Taxes for the Dealership operating on the Property and shall remit such Sales Taxes to the City according to applicable law. As an inducement to Saturn Dealer, its successors or assigns, to continue operations at the Auto Mall

OF

for a period of ten years, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Dealership at the Auto Mall and paid to the City. Commencing upon the date a Certificate of Occupancy is issued by the City for the Dealership on the Property (the "Occupancy Date") and continuing for a period of two years thereafter (the day ending such two-year period being designated as the "Initial Termination Date"), the City shall rebate to Saturn Dealer 0.25% of the annual net taxable retail sales generated by Saturn Dealer at the Dealership (the "Initial Rebate"). If, during the 12-month period immediately preceding the Initial Termination Date, Saturn Dealer has generated annual net taxable retail sales in excess of $40,000,000.00 at the Saturn Dealership, the City shall extend the Initial Rebate for an additional 12 months (the "First Extended Rebate"), beginning on the Initial Termination Date and ending on the date that is twelve months later (the "First Extended Termination Date"). If, during the 12-month period immediately preceding the First Extended Termination Date, Saturn Dealer has generated annual net taxable retail sales in excess of $40,000,000.00 at the Saturn Dealership, the City shall extend the First Extended Rebate for an additional 12 months (the "Second Extended Rebate"), beginning on the First Extended Termination Date and ending on the date that is 12 months later (the "Second Extended Termination Date"). The Initial Rebate, the First Extended Rebate (if any) and the Second Extended Rebate (if any) are collectively referred to herein as the "Rebate", which shall be payable in quarterly installments.

3. Term. This Agreement shall be effective upon the date first set forth above (the "Effective Date") and shall remain in full force and effect until the date that is ten years thereafter, unless sooner terminated pursuant to Section 7 below. The Rebate shall become effective on the Effective Date and shall remain in full force and effect until the Initial Termination Date, the First Extended Termination Date or the Second Extended Termination Date, as applicable, unless terminated sooner pursuant to Section 7 below.

4. Payment Method. The first quarterly payment required by Section 2 above shall be paid no later than 60 days after the end of the first full quarter following the Occupancy Date in which Sales Taxes were paid to the City by Saturn Dealer. Subsequent quarterly payments will be made no later than 60 days after the end of each succeeding quarter. Notwithstanding the termination of the City's obligation to make the Rebates pursuant to Section 2 above, the City shall remain obligated to pay, upon the next occurring quarterly payment date, any amounts due to Saturn Dealer that accrued prior to such termination. Each quarterly payment will be mailed to Saturn Dealer at the address set forth in Section 8 below, or as otherwise agreed to by Saturn Dealer and the City.

5. Waiver of Saturn Dealer Confidentiality. Saturn Dealer hereby waives, for the term of this Agreement, any rights it may have to keep confidential from the City any records indicating the amount of sales generated by the Dealership at the Auto Mall. Saturn Dealer further agrees to take all steps necessary and to execute any required documents to permit the City's authorized representative to examine any such records.

6. Sales Tax Rebates Not a Debt; Obligation to Pay Absolute. Pursuant to ARIZ. REV. STAT. § 42-17106, none of the provisions contained herein shall be deemed to represent or constitute indebtedness or a general obligation of the City. Saturn Dealer shall not have the right to compel payments from the City's general fund for payments of the Rebate herein and the terms of this Agreement shall not be construed to be a charge against the general (ad valorem) taxing power of the

City. Notwithstanding the foregoing, nothing set forth in this Section 6 shall relieve the City of its obligation to pay the Rebate to Saturn Dealer. Further, the City's failure to annually appropriate any amounts necessary to meet its obligations under this Agreement shall not relieve it of its duty to make such payments.

7. Default. If either party fails to perform any obligation, including the City's obligation to pay the Rebate, pursuant to this Agreement, and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement and will have all remedies which are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 120 days.

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

If to the City:
City of Avondale
525 N. Central Avenue
Avondale, AZ 85323
Facsimile: 623-932-2205
Attn: City Manager

With copy to:
JORDEN, BISCHOFF, MCGUIRE & ROSE, P.L.C.
7272 E. Indian School Rd., Suite 205
Scottsdale, AZ 85251
Facsimile: 480-505-3901
Attn: Andrew J. McGuire, Esq.

If to Saturn Dealer:
Saturn Development, L.C.C.
P.O. Box 10813
White Bear Lake, MN 55110
Facsimile: 651-490-9416
Attn: Jim Price, Vice President

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 Section. Notices shall be deemed received (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and

instructing the delivery service to deliver on the following business day, or (iv) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

9. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or Saturn Dealer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

10. Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof, or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorneys' fees by the other party and, in the event any judgment is secured by said prevailing party, all such costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

11. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document.

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

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

14. Time of the Essence. Time is of the essence in this Agreement.

15. Assignment. This Agreement may be assigned, in whole or in part, by Saturn Dealer only upon the prior, written approval of the City, as evidenced by the City Manager's signature thereon, which approval may be withheld by the City for any reason.

16. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

17. Amendment. No amendment or waiver of any provision in this Agreement will be binding (i) on the City unless and until it has been approved by the City Council and has become effective or (ii) on Saturn Dealer unless and until it has been executed by an authorized representative.

18. Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.

19. Severability. Every provision of this Agreement is and will be construed to be a separate and independent covenant. If any provision in this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable will not be affected by that invalidity or unenforceability. Each provision in this Agreement will be valid and will be enforced to the extent permitted by law and the parties will negotiate in good faith for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

20. Covenant of Good Faith. In exercising their rights and in performing their obligations pursuant to this Agreement, the parties will cooperate with one another in good faith to ensure the intent of this Agreement can be attained.

21. Conflict of Interest. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

"Saturn Dealer"

SATURN DEVELOPMENT, L.L.C. a North Dakota limited liability company

By: _____
Name: _____
Title: _____

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Todd Hileman, City Manager

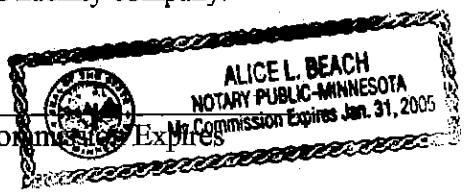
ATTEST:

_____
Linda M. Farris, City Clerk

(ACKNOWLEDGMENTS)

STATE OF _____)
) ss.
County of_____)

Acknowledged before me this ___ day of August, 2003, by Jim Price, the Vice President of Saturn Development, L.L.C., a North Dakota limited liability company, for and on behalf of the limited liability company.



My Commission Expires

Notary Public

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 19th day of August, 2003, by Todd Hileman, the City Manager of the City of Avondale, Arizona, an Arizona municipal corporation, for and on behalf of the municipal corporation.

June 4, 2006

My Commission Expires

Notary Public

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ASSIGNMENT AND ASSUMPTION
(Agreement)

BY THIS AGREEMENT made and entered into as of the 30th day of August, 2005, SATURN DEVELOPMENT L.L.C., a Minnesota limited liability company (hereinafter called "Assignor"), and SATURN OF WEST PHOENIX, INC., an Arizona corporation, whose address is 8801 West Bell Road, Peoria, AZ 85382 (hereinafter called "Assignee"), in consideration of the recitals and mutual covenants herein contained and other good and valuable consideration, the receipts and sufficiency of which is hereby acknowledged, confirm and agree as follows:

SECTION 1. **Recitals.**

1.1 Assignor is a party to that Economic Development agreement dated August 19, 2003, between Assignor, and the City of Avondale, Arizona (the "Development Agreement"). Assignor and Assignee are parties to a development agreement to design and construct a retail automobile dealership at 10685 West Papago Freeway, Avondale, Arizona (the "Dealership Agreement"). Pursuant to the Dealership Agreement, all rights, agreements and contracts are being conveyed to Assignee concurrently herewith.

1.2 Assignor desires to transfer and assign to Assignee all of its right, title and interest in and to, and arising under the Development Agreement with respect to the subject property only, and Assignee desires to assume all of the obligations of Assignor under the Development Agreement with respect to the subject property only.

SECTION 2. **Assignment and Assumption.**

2.1 Assignor does hereby irrevocably grant, sell, convey, assign, transfer, set over and deliver unto Assignee all of Assignor's right, title and interest in and to, and arising under, the Development Agreement with respect to the subject property only.

2.2 Assignee hereby assumes and agrees to perform all of the duties, obligations and promises of Assignor as set forth in or arising under the Development Agreement, to be bound by all of the terms, conditions and provisions of the Development Agreement and to do any and all acts and things required under the Development Agreement to be done by Assignor but all with respect to the subject property only.

2.3 Assignee covenants and agrees to indemnify and hold harmless Assignor form and against any actions, suits, proceedings or claims and expenses (including without limitation reasonable attorneys' fees) incurred in connection therewith, based upon or arising out of any breach or alleged breach of the Development Agreement (with respect to the subject property only) or out of any other statement of facts connected with the Development Agreement (with respect to the subject property only) occurring or alleged to have occurred form and after the effective date hereof. Assignor covenants and agrees to indemnify and hold harmless Assignee from and against any actions, suits, proceedings or claims, and all costs and expenses (including without limitation

reasonable attorneys' fees) incurred in connections therewith, based upon or arising out of any breach or alleged breach of the Development Agreement (with respect to the subject property only) or out of any other statement of facts connected with the Development Agreement (with respect to the subject property only) occurring or alleged to have occurred prior to the effective date hereof.

SECTION 3. **Miscellaneous.**

3.1 The parties shall execute such additional documents and do such other acts as may be reasonably necessary to fully implement the intent of this Assignment and Assumption.

3.2 This Assignment and Assumption shall be governed by and construed according to the laws of the State of Arizona.

3.3 This Assignment and Assumption shall be binding upon, and shall inure to the benefit of, the parties hereto and their heirs, personal representatives, successors and assigns.

IN WITNESS WHEREOF, the parties have executed the Assignment and Assumption as of the date indicated above.

SATURN DEVELOPMENT L.L.C., a Minnesota Limited Liability Company

By: _____
Its: _____

SATURN OF WEST PHOENIX, INC., an Arizona corporation

By: _____
Its: Pres.

CITY OF AVONDALE, an Arizona Municipal Corporation

By: _____
Charles P. McClendon, City Manager

STATE OF North Dakota)
)ss.
County of Grand Forks)

The foregoing instrument was acknowledged before me this 30 day of August, 2005, by James Price the manager of SATURN DEVELOPMENT L.L.C., for and on behalf of the company.

Marlee Snobl
Notary Public

My commission expires:
June 10, 2011

MARLEE SNOBL
Notary Public
State of North Dakota
My Commission Expires June 10, 2011

STATE OF Arizona)
)ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 30 day of August, 2005, by Dennis W. Lunde the President of SATURN OF WEST PHOENIX, INC., for and on behalf of the company.

JanMarie Mazzone
Notary Public

My commission expires:
3-23-08

Notary Public State of Arizona
Maricopa County
JanMarie Mazzone
Expires March 23, 2008

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ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AUTO - RE 3, L.L.C

THIS ECONOMIC DEVELOPMENT AGREEMENT (this "Agreement") is made Oct 7th, 2003, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City") and AUTO – RE 3, L.L.C., an Arizona Limited liability company ("Toyota Dealer").

RECITALS

A. Toyota Dealer desires to operate a Toyota dealership (the "Dealership") on real property located at the Avondale Auto Mall (the "Auto Mall"), which property is more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Property").

B. The Dealership is anticipated to generate a significant amount of revenue to the City through transaction privilege taxes (levied pursuant to the City Tax Code) resulting from retail sale of vehicles (the "Sales Taxes").

C. The City desires that Toyota Dealer maintain the Dealership at the Auto Mall to (i) generate future transaction privilege tax revenues for the City, (ii) increase the value of the Auto Mall for real property tax purposes and (iii) create opportunities for employment in Avondale.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the City and Toyota Dealer hereby agree as follows:

1. Toyota Dealer Obligation. Toyota Dealer shall enter into a binding agreement entitling Toyota Dealer, its successors or assigns, to occupy the Property for a period of at least fifteen years from the date the Dealership opens for business (the "Operating Period"). Toyota Dealer shall begin construction of the Dealership within twelve months of the "Effective Date" of this Agreement, as defined below, and shall complete construction of and open the Dealership for business, including all sales and services typically offered by other dealerships at the Auto Mall, not later than 18 months from the Effective Date. After construction is completed and the Dealership is opened for business, Toyota Dealer, its successors or assigns shall continuously operate the Dealership during the Operating Period. Toyota Dealer, its successors or assigns shall be permitted to sell both new and used vehicles at the Dealership; provided, however, that Toyota Dealer, its successors or assigns shall, during the entire term of this Agreement, maintain a new car franchise for the Dealership at the Auto Mall.

2. Financial Assistance. Toyota Dealer shall collect all Sales Taxes for the Dealership operating on the Property and shall remit such Sales Taxes to the City according to applicable law. As an inducement to Toyota Dealer, its successors or assigns, to continue operations at the Auto Mall for a period of fifteen years, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City

ORIGINAL

hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Dealership at the Auto Mall and paid to the City. Commencing upon the date a Certificate of Occupancy is issued by the City for the Dealership on the Property (the "Occupancy Date"), and continuing for a period of four years thereafter (the day ending such four-year period being designated as the "Initial Termination Date"), the City shall rebate to Toyota Dealer 0.375% of the annual net taxable retail sales generated by Toyota Dealer at the Dealership. Commencing on the Initial Termination Date and continuing for a period of two years thereafter (the day ending such two-year period being designated as the "Second Termination Date"), the City shall rebate to Toyota Dealer 0.50% of the annual net taxable retail sales generated by Toyota Dealer at the Dealership. Commencing on the Second Termination Date and continuing for a period of two years thereafter (the day ending such two-year period being designated as the "Third Termination Date"), the City shall rebate to Toyota Dealer 0.75% of the annual net taxable retail sales generated by Toyota Dealer at the Dealership (the rebates for years one through eight being designated as the "Initial Rebate"). If, during the 12-month period immediately preceding the Third Termination Date, Toyota Dealer has generated annual net taxable retail sales in excess of $70,000,000.00 at the Toyota Dealership, the City shall extend the Initial Rebate (at 0.75% of the annual net taxable retail sales generated by Toyota Dealer at the Dealership) for an additional 12 months (the "First Extended Rebate"), beginning on the Third Termination Date and ending on the date that is twelve months later (the "First Extended Termination Date"). If, during the 12-month period immediately preceding the First Extended Termination Date, Toyota Dealer has generated annual net taxable retail sales in excess of $70,000,000.00 at the Toyota Dealership, the City shall extend the First Extended Rebate for an additional 12 months (the "Second Extended Rebate"), beginning on the First Extended Termination Date and ending on the date that is 12 months later (the "Second Extended Termination Date"). If, during the 12-month period immediately preceding the Second Extended Termination Date, Toyota Dealer has generated annual net taxable retail sales in excess of $70,000,000.00 at the Toyota Dealership, the City shall extend the Second Extended Rebate for an additional 12 months (the "Third Extended Rebate"), beginning on the Second Extended Termination Date and ending on the date that is 12 months later (the "Third Extended Termination Date"). The Initial Rebate, the First Extended Rebate (if any), the Second Extended Rebate (if any) and the Third Extended Rebate (if any) are collectively referred to herein as the "Rebate", which shall be payable in quarterly installments.

3. Term. This Agreement shall be effective upon the date first set forth above (the "Effective Date") and shall remain in full force and effect until the date that is fifteen years thereafter, unless sooner terminated pursuant to Section 7 below. The Rebate shall become effective on the Effective Date and shall remain in full force and effect until the Initial Termination Date, the First Extended Termination Date, the Second Extended Termination Date or the Third Extended Termination Date, as applicable, unless terminated sooner pursuant to Section 7 below.

4. Payment Method. The first quarterly payment required by Section 2 above shall be paid no later than 60 days after the end of the first full quarter following the Occupancy Date in which Sales Taxes were paid to the City by Toyota Dealer. Subsequent quarterly payments will be made no later than 60 days after the end of each succeeding quarter. Notwithstanding the termination of the City's obligation to make the Rebates pursuant to Section 2 above, the City shall remain obligated to pay, upon the next occurring quarterly payment date, any amounts due to Toyota Dealer that accrued prior to such termination. Each quarterly payment will be mailed to Toyota Dealer at the address set forth in Section 8 below, or as otherwise agreed to by Toyota Dealer and the City.

5. Waiver of Toyota Dealer Confidentiality. Toyota Dealer hereby waives, for the term of this Agreement, any rights it may have to keep confidential from the City any records indicating the amount of sales generated by the Dealership at the Auto Mall. Toyota Dealer further agrees to take all steps necessary and to execute any required documents to permit the City's authorized representative to examine any such records.

6. Sales Tax Rebates Not a Debt; Obligation to Pay Absolute. Pursuant to ARIZ. REV. STAT. § 42-17106, none of the provisions contained herein shall be deemed to represent or constitute indebtedness or a general obligation of the City. Toyota Dealer shall not have the right to compel payments from the City's general fund for payments of the Rebate herein and the terms of this Agreement shall not be construed to be a charge against the general (ad valorem) taxing power of the City. Notwithstanding the foregoing, nothing set forth in this Section 6 shall relieve the City of its obligation to pay the Rebate to Toyota Dealer. Further, the City's failure to annually appropriate any amounts necessary to meet its obligations under this Agreement shall not relieve it of its duty to make such payments.

7. Default. If either party fails to perform any obligation pursuant to this Agreement, including the City's obligation to pay the Rebate, and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement and will have all remedies which are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 120 days.

8. Liquidated Damages. Without limiting the remedies available to the City pursuant to Section 7 above, Toyota Dealer understands and acknowledges that if it fails to fulfill the Toyota Dealer Obligations as set forth in Section 1 above, the City will suffer damages that are difficult to accurately specify and ascertain. Toyota Dealer hereby agrees that, upon its default hereunder and expiration of the cure period set forth in Section 7 above, it shall pay the City, as liquidated damages, within 30 days of receipt of the City's written demand therefore, an amount equal to 100% of the Rebate paid to Toyota Dealer as of the date of the City's written demand. Such liquidated damages shall be payable in immediately available funds of United States currency.

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

If to the City: City of Avondale
525 N. Central Avenue

Avondale, AZ 85323
Facsimile: 623-932-2205
Attn: City Manager

With a copy to: JORDEN, BISCHOFF, MCGUIRE & ROSE, P.L.C.
7272 E. Indian School Rd., Suite 205
Scottsdale, AZ 85251
Facsimile: 480-505-3901
Attn: Andrew J. McGuire, Esq.

If to Toyota Dealer: Auto-RE 3, L.L.C.
2425 E. Camelback Road, Suite 1155
Phoenix, AZ 85016
Facsimile: 602-381-6599
Attn: Mitch Pierce

With a copy to: Auto-RE 3, L.L.C.
2425 E. Camelback Road, Suite 1155
Phoenix, AZ 85016
Facsimile: 602-381-6599
Attn: Brian McCafferty

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 Section. Notices shall be deemed received (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (iv) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

10. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or Toyota Dealer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

11. Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof, or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorneys' fees by the other party and, in the event any judgment is secured by said prevailing party, all such costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

12. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document.

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

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

15. Time of the Essence. Time is of the essence in this Agreement.

16. Assignment. This Agreement may be assigned, in whole or in part, by Toyota Dealer only upon the prior, written approval of the City, as evidenced by the City Manager's signature thereon, which approval may be withheld by the City for any reason.

17. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

18. Amendment. No amendment or waiver of any provision in this Agreement will be binding (i) on the City unless and until it has been approved by the City Council and has become effective or (ii) on Toyota Dealer unless and until it has been executed by an authorized representative.

19. Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.

20. Severability. Every provision of this Agreement is and will be construed to be a separate and independent covenant. If any provision in this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable will not be affected by that invalidity or unenforceability. Each provision in this Agreement will be valid and will be enforced to the extent permitted by law and the parties will negotiate in good faith for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

21. Covenant of Good Faith. In exercising their rights and in performing their obligations pursuant to this Agreement, the parties will cooperate with one another in good faith to ensure the intent of this Agreement can be attained.

22. Conflict of Interest. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

"Toyota Dealer"

AUTO-RE 3, L.L.C., an Arizona limited liability company

By: _____
Mitchell D. Pierce, Member

By: _____
Brian McCafferty, Member

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Todd Hileman, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

(ACKNOWLEDGMENTS)

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 20 day of October, 2003, by Mitchell D. Pierce, a member of Auto-RE 3, L.L.C., an Arizona limited liability company, for and on behalf of the limited liability company.

November 17, 2004
My Commission Expires

Pamela P. Kozel
Notary Public

OFFICIAL SEAL
PAMELA P. KOZEL
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Nov. 17, 2004

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 20 day of October, 2003, by Brian McCafferty, a member of Auto-RE 3, L.L.C., an Arizona limited liability company, for and on behalf of the limited liability company.

November 17, 2004
My Commission Expires

Pamela P. Kozel
Notary Public

OFFICIAL SEAL
PAMELA P. KOZEL
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires Nov. 17, 2004

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 7th day of October, 2003, by Todd Hileman, the City Manager of the City of Avondale, Arizona, an Arizona municipal corporation, for and on behalf of the municipal corporation.

June 4th 2006
My Commission Expires

Dixie C. Hunt
Notary Public

"OFFICIAL SEAL"
Dixie C. Hunt
Notary Public-Arizona
Maricopa County
My Commission Expires 6/4/2006

ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AUTO DEALER INVESTMENTS OF AMERICA

THIS ECONOMIC DEVELOPMENT AGREEMENT (this "Agreement") is made June 4, 2003, by and between the CITY OF AVONDALE, an Arizona municipal corporation (the "City") and Auto Dealer Investments of America, L.L.C., an Arizona limited liability company ("ADIA").

RECITALS

A. ADIA desires to operate a Kia dealership (the "Dealership") on real property (the "Property") located at the Avondale Auto Mall (the "Auto Mall"), which is more particularly described and depicted on Exhibit A attached hereto and incorporated herein by reference.

B. The Dealership is anticipated to generate a significant amount of revenue to the City through transaction privilege taxes levied pursuant to the City Tax Code resulting from retail sale of vehicles (the "Sales Taxes").

C. The Council of the City of Avondale (the "City Council") has determined that the economic welfare of the citizens of Avondale will be enhanced by maintaining the Dealership at the Auto Mall to (i) to generate future transaction privilege tax revenues for the City, (ii) increase the value of the Auto Mall for real property tax purposes and (iii) create opportunities for employment in Avondale.

D. The City Council is empowered, pursuant to ARIZ. REV. STAT. § 9-500.11, to appropriate public fuuds to further employment and economic enhancement of the City. Accordingly, the City Council desires to rebate a portion of future Sales Taxes to provide the enhanced economic welfare of the City as set forth above.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the City and ADIA hereby agree as follows:

1. ADIA Obligation. ADIA shall enter into a binding agreement entitling ADIA, its successors or assigns, to occupy the Property for a period of at least ten years from the date the Dealership opens for business at the Auto Mall. ADIA, its successors or assigns shall continue operations of the Dealership during that period. ADIA shall complete construction of and open the Dealership for business, including all sales and services typically offered by ADIA at its other dealerships, not later than August 31, 2004. ADIA, its successors or assigns shall be permitted sell both new and used vehicles at the Dealership; provided, however, that ADIA, its successors or assigns shall, during the entire term of this Agreement, maintain a new car franchise for the Dealership at the Auto Mall.

ORIGINAL

2. Financial Assistance. ADIA shall collect all Sales Taxes for the Dealership operating on the Property and shall remit such Sales Taxes to the City according to applicable law. As an inducement to ADIA, its successors or assigns to continue operations at the Auto Mall for a period of ten years, and pursuant to the provisions of ARIZ. REV. STAT. § 9-500.11, the City hereby agrees to rebate a portion of the Sales Taxes generated by sales at the Dealership at the Auto Mall and paid to the City (the "Rebate"). Commencing upon the opening of the Dealership at the Auto Mall and continuing until the earlier of (i) the permanent cessation of sales by ADIA, its successors or assigns at the Auto Mall or (ii) ten years from the date the Dealership opens for business (the "Opening Date") at the Auto Mall (the date of either event being designated as the "Termination Date"), the City shall rebate to ADIA a portion of the annual taxable retail sales generated by ADIA at the Dealership (the "Taxable Sales"), payable in quarterly installments as follows: (i) beginning on the Opening Date and ending on the day three years thereafter (the "First Ending Date") 0.375% of the Taxable Sales, (ii) beginning on the first day following the First Ending Date and ending on the day four years thereafter (the "Second Ending Date") 0.5% of the Taxable Sales and (iii) beginning on the first day following the Second Ending Date and ending on the day three years thereafter, 0.75% of the Taxable Sales.

3. Term. This Agreement shall be effective when executed by both parties and shall remain in full force and effect until the Termination Date, unless terminated sooner pursuant to Section 7 below.

4. Payment Method. The first quarterly payment required by Section 2 above shall be paid no later than 60 days after the end of the first full quarter following the execution of this Agreement in which Sales Taxes were paid to the City by ADIA. Subsequent quarterly payments will be made no later than 60 days after the end of each succeeding quarter. Notwithstanding the termination of the City's obligation to make the Rebates pursuant to Section 2 above, the City shall remain obligated to pay, upon the next occurring quarterly payment date, any amounts due to ADIA that accrued prior to such termination. Each quarterly payment will be mailed to ADIA at the address required for notices to ADIA under this Agreement, or as otherwise agreed to by ADIA and the City.

5. Waiver of Confidentiality. ADIA hereby waives, for the term of this Agreement, its right to keep confidential from the City the records indicating the amount of sales generated by the Dealership at the Auto Mall. ADIA further agrees to take all steps necessary and to execute any required documents to permit the City's authorized representative to examine any such records in a timely fashion such that an appropriation may be designated in the City's annual budget to pay ADIA the necessary Rebate.

6. Sales Tax Rebates Not a Debt; Obligation to Pay Absolute. Pursuant to ARIZ. REV. STAT. § 42-17106, none of the provisions contained herein shall be deemed to represent or constitute indebtedness or a general obligation of the City. ADIA shall not have the right to compel payments from the City's general fund for payments of the Rebate herein and the terms of this Agreement shall not be construed to be a charge against the general (ad valorem) taxing power of the City. Notwithstanding the foregoing, nothing set forth in this Section 6 shall relieve the City of its obligation to pay the Rebate to ADIA. Further, the City's failure to appropriate any amounts

necessary to meet its obligations under this Agreement shall not relieve it of its duty to make such payments.

7. Default. If either party fails to perform any obligation, including the City's obligation to pay the Rebate pursuant to this Agreement, and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default and the non-defaulting party has the option to terminate this Agreement and will have all remedies which are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 120 days.

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

If to the City:
City of Avondale
525 N. Central Avenue
Avondale, AZ 85323
Facsimile: 623-932-2205
Attn: City Manager

With copy to:
JORDEN, BISCHOFF, MCGUIRE & ROSE, P.L.C.
7272 E. Indian School Rd., Suite 205
Scottsdale, AZ 85251
Facsimile: 480-505-3901
Attn: Andrew J. McGuire, Esq.

If to ADIA:
John Grant
10101 W. Papago Freeway
Avondale, AZ 85323
Facsimile: 623-925-0013
Attn: John Grant

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 Section 9. Notices shall be deemed received (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (iv) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also

given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

9. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or ADIA of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

10. Attorneys' Fees. In the event either party finds it necessary to bring any action at law or other proceeding against the other party to enforce any of the terms, covenants or conditions hereof, or by reason of any breach or default hereunder, the party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorneys' fees by the other party and, in the event any judgment is secured by said prevailing party, all such costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

11. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signature of all parties may be physically attached to a single document.

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

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

14. Time of the Essence. Time is of the essence in this Agreement.

15. Assignment. This Agreement may not be assigned, in whole or in part, by ADIA without the prior, written consent of the City.

16. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

17. Amendment. No amendment or waiver of any provision in this Agreement will be binding (i) on the City unless and until it has been approved by the City Council and has become effective or (ii) on ADIA unless and until it has been executed by an authorized representative.

18. Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.

19. Severability. Every provision of this Agreement is and will be construed to be a separate and independent covenant. If any provision in this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will not be affected by that invalidity or unenforceability. Each provision in this Agreement will be valid and will be enforced to the extent permitted by law and the parties will negotiate in good faith for such amendments of this Agreement as may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

20. Covenant of Good Faith. In exercising their rights and in performing their obligations pursuant to this Agreement, the parties will cooperate with one another in good faith to ensure the intent of this Agreement can be attained.

21. Cancellation. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

"ADIA"

AUTO DEALER INVESTMENTS OF AMERICA, L.L.C, an Arizona limited liability company.

By: _____

Name: JOHN GRANT

Title: VP/Gm

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Todd Hileman, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

(ACKNOWLEDGMENTS)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on June 3rd, 2003, by Todd Hileman, the City Manager of the City of Avondale, an Arizona municipal corporation, on behalf of the City of Avondale.

Dixie C Hunt
Notary Public in and for the State of Arizona

My Commission Expires:
June 4, 2006

"OFFICIAL SEAL"
Dixie C. Hunt
Notary Public-Arizona
Maricopa County
My Commission Expires 6/4/2006

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on June 9th, 2003, by John Grant, the VP/GM, of Auto Dealer Investments of America, L.L.C., an Arizona limited liability company, on behalf of the company.

"OFFICIAL SEAL"
Dixie C. Hunt
Notary Public-Arizona
Maricopa County
My Commission Expires 6/4/2006

Dixie C Hunt
Notary Public in and for the State of Arizona

My Commission Expires:
June 4, 2006

(ACKNOWLEDGMENTS)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on June 3rd, 2003, by Todd Hileman, the City Manager of the City of Avondale, an Arizona municipal corporation, on behalf of the City of Avondale.

Dixie C. Hunt
Notary Public in and for the State of Arizona

My Commission Expires:
June 4, 2006

"OFFICIAL SEAL"
Dixie C. Hunt
Notary Public-Arizona
Maricopa County
My Commission Expires 6/4/2006

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2003, by _____, the _____, of Auto Dealer Investments of America, L.L.C., an Arizona limited liability company, on behalf of the company.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

_____

City of Avondale

525 North Central Avenue
Avondale, AZ 85323-1999
Phone: (623) 932-2400
Fax: (623) 932-2205
Website: www.avondale.org

MAYOR
Ronald J. Drake

VICE MAYOR
Marie Lopez Rogers

COUNCIL MEMBERS
Albert Carroll, Jr.
Stephanie Karlin
Betty S. Lynch
Raymond H. Shuey
Charles M. Wolf

CITY MANAGER
Todd Hileman

July 28, 2003

Ms. Pat Fletcher
Sr. Account Clerk
Finance Department
114 E. Western Avenue
Avondale, AZ 85323

Phone No: (623) 932-0264
Fax No: (623) 932-7989
Email: pfletcher@avondale.org

Re: Economic Development Agreement

Dear Pat:

Enclosed, please find (1) copy of the Economic Development Agreement between Auto Dealer Investments of America and the City of Avondale for your records.

If I can be of further assistance, or you have any questions or concerns, please call me @ (623) 932-2400 extension 220.

Sincerely

Dixie C. Hunt
Records Management

Enclosure

COPY

FIRST AMENDMENT TO
AMENDED AND RESTATED
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AUTO DEALER INVESTMENTS OF AMERICA

THIS FIRST AMENDMENT TO AMENDED AND RESTATED ECONOMIC DEVELOPMENT AGREEMENT (this "First Amendment") is made August 9, 2010 (the "Effective Date"), by and between the City of Avondale, an Arizona municipal corporation (the "City") and Auto Dealer Investments of America, L.L.C., an Arizona limited liability company ("ADIA").

RECITALS

A. ADIA and the City entered into that certain Economic Development Agreement dated June 2, 2003 (the "Original Agreement") relating to the construction and operation of a dealership offering sales and service for new and used Kia automobiles (the "Kia Dealership") on real property (the "Kia Property"), which is more particularly described and depicted on Exhibit A attached hereto and incorporated herein by reference, located at the Avondale Auto Mall (the "Auto Mall").

B. The Original Agreement was amended and restated on January 5, 2004 (the "First Amended and Restated Agreement") to include the construction and operation of a dealership offering sales and service for new and used Mitsubishi automobiles (the "Mitsubishi Dealership") on real property (the "Mitsubishi Property") at the Auto Mall, which is more particularly described and depicted on Exhibit B attached hereto and incorporated herein by reference. The Original Agreement and the First Amended and Restated Agreement are collectively referred to as the "Agreement." The Kia Dealership and the Mitsubishi Dealership are collectively referred to herein as the "Dealerships."

C. The City and ADIA are currently engaged in litigation in the Superior Court of the State of Arizona, in and for Maricopa County, Case No. CV2010-001194, related to disputes arising from the Agreement (the "Litigation"). The City and ADIA desire to resolve the Litigation as a condition precedent to execution of this First Amendment.

D. The City collects transaction privilege taxes (levied pursuant to the City Tax Code) for taxable retail sales, service, and all other taxable activities ("Retail Sales Taxes"), for uses related to the Kia Dealership and the Mitsubishi Dealership.

E. The City and ADIA desire to further amend the Agreement to (i) resolve the Litigation, (ii) substitute a dealership offering sales and service for new and used Mazda automobiles (the "Mazda Dealership") on real property (the "Mazda Property") at the Auto Mall, which is more particularly described and depicted on Exhibit C attached hereto and incorporated herein by reference, for the Mitsubishi Dealership, (iii) account for the sale of the Kia Dealership to LGE Motors Limited Partnership, an Arizona limited partnership d/b/a Salazar Kia ("Salazar"), (iv) define the extent of the City's approval of the assignment of the operating obligation for the Kia Dealership

from ADIA to Salazar, including the retention of the right to Rebates (as defined below) by ADIA, (v) extend the required Operating Period and (vi) add provisions for liquidated damages to be assessed in the event that ADIA does not open and operate the Mazda Dealership according to the requirements herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and ADIA hereby agree as follows:

1. Dealership Definition Modified. The term "Dealerships" as used in the Agreement is hereby modified to have the meaning ascribed to term in this First Amendment.

2. ADIA Obligations Modified. Section 1 of the Agreement is hereby deleted in its entirety and replaced with the following:

1. ADIA Obligations.

1.1 Mazda Property. ADIA shall, not later than six months after the Effective Date, purchase the Mazda Property or otherwise commit itself, its successors and assigns to a lease, not less than five years in duration, entitling ADIA to occupy and use the Mazda Property for the purposes set forth herein.

1.2 Mazda Property Improvements. ADIA, its successors or assigns shall make any necessary improvements to the Mazda Property, according to City standards, necessary for ADIA to commence operation of the Mazda Dealership not later than December 31, 2010 (the "Opening Date" shall refer to the earlier to occur of the actual day ADIA permanently opens the Mazda Dealership to the public for business or December 31, 2010). ADIA, its successor or assign agrees and understands that the Retail Tax Rebate (as defined below) is specifically conditioned upon its permanent opening of the Mazda Dealership on the Mazda Property to the public not later than December 31, 2010.

1.3 Mazda Operation. ADIA, its successors or assigns, shall develop the Mazda Property and operate or cause to be operated the Mazda Dealership thereon, including all sales and services typically offered by ADIA at its other new car dealerships, and consistent with operations typically found at a new Mazda car dealership, for the period beginning on the Opening Date and continuing for not less than five years thereafter (the "Operating Period"). After construction is completed and the Mazda Dealership is opened for business on the Mazda Property, ADIA, its successors or assigns shall continuously operate, or cause to be operated, the Mazda Dealership on the Mazda Property during the Operating Period. ADIA, its successors or assigns shall be permitted to sell both new and used vehicles at the Mazda Dealership; provided, however, that ADIA, its successors or assigns shall, during the entire term of this Agreement, maintain a new car franchise for the Mazda Dealership at the Auto Mall.

1.4 Kia Operation. ADIA agrees and understands that, subject only to the "Adjusted Rebate" provisions set forth in Subsection 2.2 below, the City's obligation to pay the Retail Tax Rebate is specifically conditioned upon (A) the continuous operation of the Kia Dealership on the Kia Property during all times while this First Amendment is in effect and (B) ADIA providing to the City written authorization from Salazar pursuant to ARIZ. REV. STAT. § 42-2003(A)(6), in a form acceptable to the City Attorney, (1) waiving its rights to keep confidential information relating to Retail Sales Taxes paid by the Kia Dealership and (2) allowing the City to disclose such information to ADIA for the purpose of calculating the Retail Tax Rebate. The Mazda Property obligations set forth in subsection 1.1 above, the Mazda Improvements obligations set forth in subsection 1.2 above, the Mazda Operation obligations set forth in subsection 1.3 above and the Kia Operation obligations set forth in this subsection 1.4 are collectively referred to herein as the "Performance Obligations."

3. Financial Assistance. Section 2 of the Agreement is hereby deleted in its entirety and replaced with the following:

2. City Obligations.

2.1 Full Rebate. ADIA and Salazar meeting all of the Performance Obligations set forth in Section 1 above shall be a continuing pre-condition to the City's obligations as set forth in this Subsection 2.1. For so long as ADIA and Salazar fully perform the Performance Obligations, the City shall be obligated to perform as set forth below. The City shall collect all Sales Taxes remitted by the Dealerships operating on the Mazda Property and the Kia Property respectively, according to applicable law. Subject to the liquidated damages provisions set forth in Section 22 below, as an inducement to ADIA, its successors or assigns, to continuously maintain both the Mazda Dealership on the Mazda Property and the Kia Dealership on the Kia Property for the Operating Period, the City hereby agrees to rebate a portion of the Retail Sales Taxes generated by sales at the Dealerships and paid to the City. Commencing upon the Opening Date and continuing until August 31, 2011, unless terminated earlier as set forth below in this subsection, the City shall rebate to ADIA 0.50% of the net taxable sales generated by taxable activities on the Mazda Property and the Kia Property for which Retail Sales Taxes are collected. Beginning September 1, 2011 and continuing until August 31, 2014 (the day ending such period being designated as the "Latest Retail Rebate Termination Date"), unless terminated earlier as set forth below in this subsection, the City shall rebate to ADIA 0.75% of the net taxable sales generated by taxable activities on the Mazda Property and the Kia Property for which Retail Sales Taxes are collected (whether 0.50% or 0.75%, the rebate amount is referred to herein as the "Retail Tax Rebate"); provided, however, that no such Retail Tax Rebate shall be paid unless the corresponding Retail Sales Taxes due to the City from the Dealerships have been paid.

2.2 Adjusted Rebate. In the event that Salazar does not meet its obligations regarding the waiver pursuant to ARIZ. REV. STAT. § 42-2003(A)(6) required in Subsection 1.4(B) above, the Retail Tax Rebate set forth in Subsection 2.1 above shall be reduced such that the calculation of the rebate amount shall be based solely on the net taxable

sales generated by taxable activities on the Mazda Property, and no such rebate shall be paid for net taxable sales generated by taxable activities on the Kia Property; provided, however, that if Salazar, its successor or assign fails to continuously operate the Kia Dealership as required by Subsection 1.4(A) above, such failure shall be deemed a default as set forth in Section 7 below and the City's obligation to pay the Retail Tax Rebate shall cease.

2.3 Rebate Payment; Termination. The Retail Tax Rebate shall be payable in annual installments as set forth in Section 4 below. The City's obligation to pay the Retail Tax Rebate payments to ADIA pursuant to this subsection will automatically cease and the City will have no further obligation to ADIA pursuant to this Agreement upon the earlier to occur of (A) the Latest Retail Rebate Termination Date or (B) such earlier date this Agreement is terminated pursuant to Section 7 below, the occurrence of either of which is referred to as the "Retail Rebate Termination."

4. Default. Section 7 of the Agreement is hereby deleted in its entirety and replaced with the following:

7. Default. If either party fails to perform any obligation, including the City's obligation to pay the Retail Tax Rebates, pursuant to this Agreement, and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 120 days. For the purposes of this Section 7, ADIA shall not be deemed to be in default under this Agreement in the event ADIA's failure to satisfy the Mazda Operation obligations as set forth in subsection 1.3 above is solely the result of Mazda Motors America, Inc. d/b/a Mazda North American Operations' (i) ceasing operations; (ii) ceasing operations in the State of Arizona; (iii) becoming a debtor in a proceeding under Title 11, United States Code, or similar statutory scheme, which proceeding is not dismissed within sixty (60) days; or (iv) electing to terminate the Dealer Sales and Service Agreement for the Mazda dealership operated by ADIA, its successors or assigns (collectively, a "Manufacturer Termination Event").

5. Liquidated Damages. A new Section 22 is hereby added to the Agreement to read as follows:

22. Liquidated Damages. Without limiting the remedies available to the City pursuant to Section 7 above, ADIA understands and acknowledges that if it fails to fulfill or cause to be fulfilled the Performance Obligations set forth in Subsections 1.1, 1.2 and 1.3 above (a "Performance Failure"), the City will suffer damages that are difficult to accurately specify and ascertain. ADIA hereby agrees that, upon its default hereunder and expiration of the cure period set forth in Section 7 above, it shall pay the City, as liquidated damages,

within 30 days of receipt of the City's written demand therefore, the following amounts: (i) if the Performance Failure relates to Subsections 1.1 or 1.2 above, $200 per day for each day after December 31, 2010, and continuing until the earlier to occur of the date the Mazda Dealership is permanently open to the public for business or the date this Agreement is terminated pursuant to Section 7 above; (ii) if the Performance Failure relates to Subsection 1.3 above and occurs after the Opening Date, but prior to the Latest Retail Rebate Termination Date, 100% of the Retail Tax Rebate paid to ADIA between the Effective Date and the date of the City's written demand; or (iii) if the Performance Failure relates to Subsection 1.3 above and occurs between the Retail Rebate Termination Date and the end of the Operating Period, 50% of the Retail Tax Rebate paid to ADIA between the Effective Date and the date of the City's written demand. Such liquidated damages shall be payable in immediately available funds of United States currency. If the failure to fulfill or cause to be fulfilled the Performance Obligations is related solely to (a) Salazar's obligations set forth in Subsection 1.4(B) above or (b) a Manufacturer Termination Event, the provisions of this Section 22 shall not apply.

6. Litigation Dismissed. ADIA shall, not later than the Effective Date, cause the Litigation to be dismissed, with prejudice. The parties shall enter into such settlement agreement with respect to the Litigation as may be necessary. Further, ADIA agrees that it is not entitled to any Rebates (as that term is defined in the First Amended and Restated Agreement) for Retail Sales at the Auto Mall for the period beginning on August 14, 2008, and ending on the Opening Date.

7. Notices and Requests. From and after July 5, 2010, the copy of notices to the City's legal counsel shall be to:

GUST ROSENFELD, P.L.C.
One East Washington Street, Suite 1600
Phoenix, Arizona 85004-2553
Facsimile: 602-340-1538
Attn: Andrew J. McGuire, Esq.

8. Cancellation. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

"ADIA"

AUTO DEALER INVESTMENTS OF AMERICA, L.L.C., an Arizona limited liability company

By: _____

Name: JOHN GRANT

Title: VP

"City"

CITY OF AVONDALE, an Arizona municipal corporation

By: _____
Charles P. McClendon, City Manager

ATTEST:

_____
Carmen Martinez, City Clerk

(ACKNOWLEDGMENTS)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on August 17, 2010, by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the City of Avondale.

Notary Public in and for the State of Arizona

My Commission Expires:

May 11, 2014

AMAPOLA ARREOLA
Notary Public - Arizona
Maricopa County
My Comm. Expires May 11, 2014

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2010, by _____, the _____, of AUTO DEALER INVESTMENTS OF AMERICA, L.L.C., an Arizona limited liability company, on behalf of the company.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

_____

EXHIBIT A
TO
FIRST AMENDMENT TO AMENDED AND RESTATED
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AUTO DEALER INVESTMENTS OF AMERICA

[Kia Property Legal Description and Map]

See following pages.

EXHIBIT B
TO
FIRST AMENDMENT TO AMENDED AND RESTATED
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AUTO DEALER INVESTMENTS OF AMERICA

[Mitsubishi Property Legal Description and Map]

See following pages.

EXHIBIT C
TO
FIRST AMENDMENT TO AMENDED AND RESTATED
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AUTO DEALER INVESTMENTS OF AMERICA

[Mazda Property Legal Description and Map]

See following pages.

BEUS GILBERT PLLC
ATTORNEYS AT LAW
701 NORTH 44TH STREET
PHOENIX, ARIZONA 85008-6504
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cayres@beusgilbert.com

Attorneys for Claimant AutoMatch USA, LLC

CITY OF AVONDALE

BOARD OF ADJUSTMENT

In re: Appeal of Zoning Interpretation Dated October 14, 2105 AutoMatch USA, LLC Claimant	Case No.: PL15-0246 **CLAIMANT'S HEARING MEMORANDUM** Board of Adjustment Hearing: January 12, 2016 6:00 p.m.

Claimant AutoMatch USA, LLC ("Claimant" or "AutoMatch"), by and through undersigned counsel, hereby provides the Board of Adjustment of the City of Avondale ("City") with the following Memorandum in advance of the Hearing scheduled currently for January 12, 2016 concerning AutoMatch's appeal ("Appeal") of the City Planning Manager's Interpretation Letter (PL15-0246) dated October 14, 2015. [Exhibit 1, Interpretation Letter.]

I. INTRODUCTION

AutoMatch operates full-service certified used car dealerships. AutoMatch leases property located at 10501 West Papago Freeway in the City of Avondale (the "Property").

AutoMatch leased the Property intending to remodel the existing vacant car dealership and service center and operate a certified used car sales lot. As required by the City, AutoMatch met with City Staff and presented its proposed plans for the Property. Staff advised AutoMatch that it could not operate a used car business on the Property because such activity is not allowed under the Avondale Automall Planned Area Development Zoning ("PAD") on the Property, unless used car sales are ancillary to a new car sales use. [Exhibit 2, PAD.]

For the reasons set forth herein, AutoMatch believes the City is incorrect, and that the PAD allows a used car dealership to operate on the Property as a primary use. In order to exhaust its administrative remedies, AutoMatch asked the City for a formal interpretation of the PAD. The Interpretation Letter concludes that used vehicle sales are not permitted within the Avondale Automall unless used car sales are ancillary to a new car sales use.

The following Memorandum describes the reasons AutoMatch believes the City is incorrect, basing its interpretation on opinion, rather than the facts of the zoning case in question.

II. MEMORANDUM

A. AutoMatch's Proposed Use

AutoMatch is a full-service certified used car dealership. [Exhibit 3, AutoMatch brochure.] Gently used vehicles are selected from various manufactures and are then reconditioned to high safety and functionality standards before being offered for sale. Vehicles are prepared and classified into two categories: (1) SavingsMatch certified and (2) AutoMatch certified. SavingsMatch certified vehicles are required to receive a full inspection, after which all mechanical deficiencies are corrected and any required maintenance is performed. AutoMatch certified vehicles are held to an even higher standard. These exceptional vehicles complete a rigorous inspection and are restored to a "like-new"

condition. Only those vehicles that are less than seven years old and have less than 100,000 miles can bear the AutoMatch certified nameplate.

As a full-service dealership, AutoMatch also provides vehicle maintenance and service for all makes and models at competitive prices. The service centers are state-of-the-art, and all technicians are Automotive Service Excellence ("ASE") certified and receive continuous training on the latest industry advancements. In order for a technician to become ASE certified, they must pass a test as well as possess two years of on the job training, or one year of on the job training and a two-year degree in automotive repair. ASE certification is typical of a manufacture's dealership, and further demonstrates AutoMatch's commitment to providing the highest level of customer support. In sum, AutoMatch is a first-class used vehicle full-service dealership that offers fair prices on quality used cars with a quick and hassle-free sales process.

B. PAD Excerpts

The Interpretation Letter relies on six excerpts from the 1999 PAD and 2003 amendment that expanded the Automall. Those excerpts are numbered; AutoMatch's responses are immediately below each excerpt.

1. 1999 PAD, page 2: The purpose of the zoning was to "accommodate the development of several full service automobile dealerships." When read with the remaining language in the paragraph, it is clear that the mention of used car sales is intended to allow for used car sales at the full service dealerships, not to allow for a stand-alone used car lot.

AutoMatch Response: The PAD paragraph referenced is titled "Automall" and lays the predicate that the intent of the PAD was to establish an automall on the east half of the street, and a retail power center on the west half of the street. The retail center was replaced with more Automall in a zoning amendment. The PAD references "full service automobile dealerships" and then elaborates that the uses would include "new and used car sales

(outdoor and indoor), repair (including mechanical, collision repair and painting), and the storage and sale of automotive parts."

AutoMatch is not a "stand-alone used car lot" as the City suggested. Rather, AutoMatch is a "full service automobile dealership," in the same vein as the existing dealerships in the Automall. At an AutoMatch facility vehicles from various manufacturers are displayed for sale, on-site financing is available, as well as complete service and repair center.

If the PAD language were to be construed as the City suggests, e.g. that both new and used car sales must occur at every "full service dealership," following that to its logical conclusion, every dealership must also include "outdoor and indoor" sales, "mechanical, collision repair and painting" repairs, as well as "storage and sale" of parts. While some of the foregoing uses are provided at the dealerships in the Automall, not all of them do. It is preposterous to posit that the use of the word "and" in this descriptive paragraph mandates that each of the listed uses is required at each dealership. Under the City's interpretation the dealerships that are not providing all of the foregoing uses are in violation of the zoning.

2. 1999 PAD, page 3: The proposed uses in the conditional use permit list refers to "Outdoor Automobile Sales; New and Used" indicating that the two types of sales are to be from a dealership offering both new and used vehicles. Had it been intended otherwise, the text simply could have used the term "or" instead.

AutoMatch Response: Reference to the inclusion of "Outdoor Automobile Sales; New and Used" in the list of conditionally permitted uses is a selective reading of the PAD and the uses allowed on the Property. The PAD states "In addition to the land uses permitted under the Community Commercial C-2 zoning district, this application includes a request for a Conditional Use Permit for the following uses, subject to stipulations:"(emphasis added) The City's argument that the use of the word "and" restricts dealerships to both new and

used vehicle sales because the PAD lists "Outdoor Automobile Sales, New and Used" with the list of conditionally permitted uses is irrelevant and duplicative. New and used automobile sales were already permitted uses under the C-2 zoning district. [Exhibit 4, C-2 permitted used.] The PAD sought to increase the number of uses already allowed. Therefore, all land uses allowed previously within the C-2 Zoning district were permitted and continue to be permitted within the Automall.[1]

3. 1999 PAD, page 5: Phase One construction was to include eight full service dealerships. The auto mall was clearly planned as a new car sales area, so the use of "eight (8) full service automobile dealerships" is a plain reference to new-car dealerships.

AutoMatch Response: A "full service automobile dealership" is not always a "new car dealership," and vice versa. Nothing in the PAD establishes that the two terms are synonymous. Used car dealerships can be and are full service automobile dealerships. As stated above, AutoMatch is a full service dealership that provides the same level of customer services and experience that a traditional manufacture's dealership provides, just with gently used vehicles from a variety of manufacturers.

4. 1999 PAD, page 7: Among many other descriptive terms describing services provided at a new car dealership, the rear yard provisions specifically refer to the "service section" of the dealership. On-site manufacturer service facilities are hallmarks of new car dealerships.

AutoMatch Response: The City misrepresents the language of the PAD by adding an adjective not present in the document, specifically the word "manufacturer," and then making the unsupported conclusion that "manufacturer service facilities are hallmarks of

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[1] This portion of the Automall PAD and the specific language detailing the allowed uses on the property is discussed below in the paragraph entitled PAD Permitted Land Uses.

new car dealerships." To be clear, the PAD refers to a "service section," not a "manufacturer's service section." Moreover, the City is relying on an archaic version of what constitutes a new car dealership. AutoMatch sites provide state-of-the-art service facilities equipped with the latest vehicle service and diagnostic technology. All its technicians are ASE Certified. Its service facilities are no different or better than those offered by the City's concept of a traditional "new car dealership." Further, as stated above, the City has not, and cannot, argue that it believes a new car dealership without a service bay is in violation of the PAD. Such an interpretation would lead to absurd results.

5. 1999 PAD, page 8: There are multiple occurrences where the text describing the signs allowed for each dealership specifically refers to "its corresponding manufacturer's logo." These are clearly references to new car dealerships.

AutoMatch Response: The City's reliance on the above is misplaced. The specific quote and reference is actually found in the description for the 75 foot tall Automall freeway sign, which identifies dealerships in the entire Automall, it is not related to individual dealership signs. Again, the City misrepresents the text of the PAD. There is no specific reference to logos and the PAD only states that "Individual dealer signs may be unique to each corresponding manufacturer's trademark identification sign." (emphasis added)

The City's interpretation is illogical. Reference to the allowance for a dealership to display a manufacturer's logo cannot be construed as a requirement for a dealership to have one manufacturer for their vehicles, and does not imply that the PAD was meant for new car dealerships. AutoMatch sells most manufacturers' vehicles. It is also possible and quite common for multiple manufacturers' vehicles to be sold out of a single dealership, including new car dealerships. Within the Avondale Automall for example, Chrysler and Jeep are sold out of a single dealership, as are Toyota and Scion. Larry H. Miller Dodge also advertises "Ram" with a separate logo on their signs. Camping World sells new recreational vehicles

from multiple manufacturers, and of course every dealership within the Automall sells used vehicles from other car manufacturers.

6. 2003 PAD, page 1: The last sentence of the first paragraph is clear as to the intent "to obtain the proper zoning to allow for additional new vehicle dealers." As you can see, the language that follows is nearly identical to the 1999 PAD, further supporting the original intent of the 1999 PAD (new car dealerships).

AutoMatch Response: The 2003 PAD Amendment expanded the Automall into the area designated originally in the 1999 PAD as a retail power center. In the opening paragraph of the narrative, the property owner was only indicating its intent to obtain the zoning to allow for additional new car dealers, because that is who was approaching the owner for additional sites. Related to the allowed uses on the Property, the 2003 PAD language retained the same wording of the original 1999 PAD which allows all existing C-2 uses on the Property, including new vehicle sales, used vehicle sales, or any combination thereof.

C. Development Agreement Excerpts

The Interpretation Letter also includes five excerpts from certain Development Agreements that the City Council entered into with various dealers in the Automall. The Development Agreements concern sales tax rebates designed to entice dealers to locate within the Automall. The Development Agreements do not discuss the zoning of the Automall or other uses within the Automall. The Development Agreements do not supersede zoning laws and make no attempt to limit the permitted uses on the Property, other than as approved by the PAD.

Those excerpts are numbered; AutoMatch's responses are immediately below each excerpt.

1. Development Agreement, page 1: Recital B(i) clearly sets forth the developers intent to "construct an auto mall complex consisting of new car dealerships."

AutoMatch's Response: The City's interpretation is misguided and based on a selective portion. Recital B(i) also clearly provides for "other automotive uses." "Other automotive uses" includes the sale of recreational vehicles, which are also already occurring in the Automall. Under the City's interpretation, Camping World could not operate its current RV dealership because RVs are not cars. However, the City has not, and cannot, argue that Camping World is in violation of the zoning or the Development Agreement. Therefore, used car dealerships can and should be included in "other automotive uses."

Recital B(ii) also states that "the Development Plan may be revised by Developer from time-to-time to reflect changes to the Project and as long as the revisions ... do not materially change the Auto Mall." Allowing for a used car lot is not an alteration when every new car dealer in the Auto Mall also sells used cars

The Development Agreement does not state how many new car dealerships must be secured other than the reference in Recital C(i) that requires the Developer to retain two (2) dealerships that could relocate elsewhere. That requirement was satisfied and continues to be satisfied.

2. 1999 DA page 1: Recital C(i) states that there will be significant benefits to the City, its residents and the general public and enhance the economic ability of the City by significantly increasing transaction privilege tax revenues by encouraging new car automobile dealerships.

AutoMatch Response: This recital confirms the intent of the Agreement to offer tax rebates to new car dealerships. It does not change the fact that the PAD zoning allows other uses, including used car dealerships, which can locate in the Automall without the tax rebate.

3. 1999 DA, page 2: Recital E establishes developer's obligation to use best efforts to attract additional dealerships to the auto mall, and it uses two new car dealerships as examples of its commitment to that obligation.

AutoMatch Response: The Developer used reasonable, good faith and diligent efforts to attract additional automotive dealerships to the Automall. Thus, the Developer complied with this Recital. In addition to Gateway Chevrolet and Avondale Dodge, which are specifically mentioned in this Agreement, prior to the recession, many other dealerships were located in the Automall. Some of those dealerships have closed, leaving vacant buildings including the one on the Property that AutoMatch would like to fill.

In addition, Recital E does not provide that additional automotive dealerships must to be new car dealerships. The two examples identify those dealerships that had been secured at the time the Agreement was entered. They are not exclusive examples of the only type that can be acquired

4. First Amend. to DA, page 1: Recital B is again clearly stating new car dealerships.

AutoMatch Response: As stated above, it is clear that transaction privilege tax rebates were offered to attract new car dealerships. Recital C bolsters this intent in that the Amendment is specific to the addition of Earnhardt Volkswagen, Honda, and RVs to the Automall. The Development Agreement does not provide a number of how many new car dealerships must be secured other than the reference in Recital C(i) of the Development Agreement that requires the Developer to retain two (2) dealerships that could relocate elsewhere. Again, as stated above, that requirement was satisfied and continues to be satisfied. Furthermore, neither the Development Agreement, nor the Amendment supersedes the PAD zoning.

5. Second Amend. to DA, pages 1 & 2: Recital B and the new language added as subsection 2.2 are both clearly stating new car dealerships.

AutoMatch Response: As stated above; it is clear that transaction privilege tax rebates were offered to attract new car dealerships. Recital C bolsters this intent in that the Amendment is specific to the addition of Earnhardt Volkswagen, Honda, and RVs to the Automall. The Development Agreement does not provide a number of how many new car dealerships must be secured other than the reference in Recital C(i) of the Development Agreement that requires the Developer to retain two (2) dealerships that could relocate elsewhere. Again, as stated above, that requirement was satisfied and continues to be satisfied. Furthermore, neither the Development Agreement, nor the Amendment supersedes the PAD zoning.

Recital D clearly indicates that the intent of the Second Amendment is to increase the potential rebates for infrastructure increases to "accommodate additional auto dealerships...." Additional auto dealerships would include both used and new car dealers.

Further, the City misrepresents the "new language" in Section 2.2. The actual language provides that the rezone shall "permit retail automotive dealership uses within the Project." Section 2.2 does not specify new or used, but rather uses the broad term "retail automotive dealership uses." Used car dealerships are a "retail automotive dealership use."

D. PAD Permitted Land Uses

Page 3 of the PAD lists the allowed used within the Automall. It provides: "In addition to the land uses permitted under the Community Commercial C-2 zoning district, this application includes a request for a Conditional Use Permit for the following uses, subject to stipulations:" (emphasis added.) This language clearly states that all uses within the C-2 zoning district are allowed within the PAD, in addition to the specifically listed uses which were added by a Conditional Use Permit granted within the PAD.

In 1999, when the PAD was approved, the Avondale Zoning Ordinance, specifically listed "Auto, recreational vehicle, motorcycle, travel trailer and boat sales and rental" as a permitted use within the Community Commercial C-2 District. There is no distinction between new and used vehicles or that one could not sell used vehicles without also selling new vehicles. The 1999 Zoning Ordinance also included the following definition of an Automobile, Boat, Truck and Trailer Sales Lot: "An open area used for the display, sales and/or rental of new or used automobiles, boats, trucks and trailers but where no repair repainting or remodeling is performed." (Emphasis added)

In sum, if a use was allowed under C-2 zoning when the 1999 PAD was adopted, it continued to be allowed thereafter. AutoMatch's use of the Property was allowed under the C-2 zoning, therefore it is allowed under the PAD.

E. There Was No Intent to Modify the Allowed Uses in the PAD

Planned Area Development zoning can be used to restrict or modify allowed uses on a property. In the Interpretation Letter, staff agrees that (in 1999) C-2 zoning allowed for used vehicles as a primary use. However, they claim that the additional reference to automobile sales in the conditional use permit list, and the language utilized, "Outdoor Automobile Sales, New and Used", was intended to restrict the automobile sales.

Had the intent been to restrict or limit used vehicles sales, by using the word "and" to require that all automobile dealerships must have new and used vehicles for sale, the PAD documents would have listed auto sales separately, thereby clarifying that the C-2 zoning district allowed uses were modified and auto sales were further restricted within the PAD. In this case, the PAD makes no mention of restricting uses, just that the C-2 zoning district uses are allowed along with the listed conditional uses, which includes the second and superfluous reference to "Outdoor Automobile Sales."

F. **Definition and Use of the Word "and"**

In the Interpretation Letter, the City puts a great deal of emphasis on the use of the word "and" in the PAD. The City believes the Council "meant to use those precise words for a reason," and that the Council meant "to give words their common meanings." The flaw in the City's arguments is that the definition upon which it relies is incorrect. The City cites the Merriam-Webster definition for "and" as a noun, as used in computer programming, where the operating system is being instructed to require two or more inputs or conditions to be met before executing a task.

Instead, the word "and" in the PAD functions as a conjunction, which has an entirely different Merriam-Webster Dictionary definition: "Used as a function word to indicate a connection or addition especially of items within the same class or type; used to join sentence elements of the same grammatical rank or function." As a conjunction, the use of the word "and" joins similar uses together but does not require that both uses must occur.

Irrespective of dictionary definitions, the common meaning of the word "and" as it relates to the PAD must be as it is typically used by the City for zoning purposes. For example, the 1999 version of the Avondale Zoning Ordinance uses the word "and" in numerous occasions when describing land uses in a fashion similar to that used within the PAD.

- Auto, recreational vehicle, motorcycle, travel trailer and boat sales, and rental
- Commercial parking lots and garages
- Mini-storage and vehicle storage areas provided sites are used for dead storage only, not for retail purposes.
- Printing and copying shops

- Building materials and lumber yards provided there are no milling or planning operations.
- Farm implements and machinery sales and repair
- Radio and television studios with receiving and transmitting towers
- Barber shops and beauty salons
- Medical and dental laboratories
- Medical offices and clinics

Following the City's logic, each of the above examples must occur together or not at all. However, the City's interpretation leads to absurd results. Are travel trailer sales not allowed without boat sales on the same parcel? Are printing shops only allowed if they also offer copying too? Is vehicle storage a required component of a mini-storage facility? Would a television studio be prohibited in Avondale if they were also not a radio studio at the same time with both a receiving tower and a transmitting tower? Would a medical laboratory not be allowed without offering dental laboratory services as well? None of those are the case. Therefore, the City's tortured interpretation of the PAD as not allowing facilities that sell only used cars should be disregarded.

The City argues that had the PAD intended to allow only used vehicles to be sold at a dealership, the PAD could have used the word 'or' instead of "and." As demonstrated above, given the clear precedent set by language of the Avondale Zoning Ordinance, the terms "and" and "or" are regularly used interchangeably. Therefore, the City cannot argue that use of the word "and" in and of itself modifies the PAD to require that all dealerships within the Automall may only sell used cars as an ancillary use to new car sales.

G. No Evidence of Intent to Restrict Uses

The PAD specifically states "In addition to the land uses permitted under the Community Commercial C-2 zoning district, this application includes a request for a Conditional Use Permit for the following uses, subject to stipulations:" (Emphasis added) The PAD then includes a list of additional uses of which "Outdoor Automobile Sales, New and Used" is the first in the list. This phrase expands the use that was already allowed under the C-2 zoning (auto, recreational vehicles, motorcycles, travel trailers, and boat sales and rentals). The additional phrase "New and Used" modifies "Outdoor Automobile Sales" and provides that new and used outdoor automobile sales in the Automall are an allowed use with a Conditional Use Permit.

The City's interpretation stretches common sense and logic to the limit. If the City's interpretation was as important as the City claims, it would have been a critical topic for discussion during the hearings at which the PAD and amendments were discussed. It was not. In fact, the record is devoid of any references to the City's interpretation.

1. Planning and Zoning Commission Hearing - November 18, 1999

The paragraph titled "Conditional Use Request" in the Staff Report prepared for the Commission Hearing concerning the PAD, contains no reference to auto sales. [Exhibit 5, November 18, 1999 Planning and Zoning Commission Staff Report.] The Staff Report also contains has a paragraph titled "Requested P.A.D.D. modifications." It likewise contains no reference to the City's interpretation. The meeting minutes from the November 1999 hearing include a presentation by staff detailing the request for C-2 zoning with a Conditional Use Permit for several uses with no mention of auto sales being restricted or modified. [Exhibit 6, November 18, 1999 Meeting Minutes.]

2. City Council Hearing – December 20, 1999

The Staff Report prepared for the City Council matches that for the Commission Hearing. [Exhibit 7, December 20, 1999 City Council Staff Report.] Again, there is no mention that the sale of used automobiles, an allowed C-2 use, was being modified or restricted in any way. The meeting minutes indicate a presentation by staff detailing the request for C-2 zoning along with a Conditional Use Permit. [Exhibit 8, December 20, 1999 Meeting Minutes.] Nine specific uses were listed by staff at the hearing. There was no suggestion that auto sales were to be restricted, nor was there any discussion by the City Council requesting or directing staff that they wanted auto sales to be restricted.

3. Planning and Commission Hearing – March 20, 2003

In 2003 the PAD was amended to change the area designated originally for the retail power center to expand the location for dealerships. The four-page Staff Report summarizes the background of the Automall and the request for the amendment stating that it "would allow motor vehicle dealerships...." There is no intent evident of the City's interpretation that only new car dealerships would be allowed in either the Staff Report or the meeting minutes. [Exhibits 9 and 10, March 20, 2003 Staff Report and Meeting Minutes, respectively.]

4. City Council Hearing – April 21, 2003

As with the previous Staff Reports and meeting minutes, the City makes no reference at the April 21, 2003 City Council hearing to an intent to restrict or prohibit the sale of used cars to an ancillary use. [Exhibits 11 and 12, April 21, 2003 Staff Report and Meeting Minutes, respectively.]

Between the original rezoning application in 1999 and the amendment in 2003, there were four public hearings on the Automall zoning. None of the Staff Reports or approved

meeting minutes contain any statements or discussions demonstrating an intent to prohibit or restrict used auto sales to an ancillary use within the Automall.

In sum, contrary to the City's argument, there is simply no evidence to either support the City's interpretation or the assertion that the City Council specifically required language in the zoning to restrict used car sales in the Automall to an ancillary use. Had the Council made such a request, it would be reflected in the public record.

H. PAD Narrative Language and Substantial Conformance

The PAD narrative for the 2003 amendment states that the applicant wishes to "obtain the proper zoning to allow for additional new vehicle dealerships." However, the foregoing statement does not abrogate the uses that were already allowed and did not modify the language of the PAD other than to eliminate the retail center. At that time, the applicant did want to the retail power center from the PAD and open additional new vehicle dealerships because the developer was trying to bring new manufacturers to the Automall. Such a statement does not infer than only new vehicle dealerships are allowed because the PAD still allows for all C-2 uses.

III. CONCLUSION

For the reasons set forth herein, AutoMatch respectfully requests that the Board reverse the decision of the City that under the PAD used car sales are only allowed as an ancillary use to new car sales and instead find that used car sales as a primary use is allowed in the Automall under the PAD.

///

DATED this 6th day of January, 2016.

BEUS GILBERT PLLC

By _____

Paul E. Gilbert
Cassandra H. Ayres
701 North 44th Street
Phoenix, AZ 85008-6504
Attorneys for AutoMatch USA, LLC

The foregoing was emailed
this 6th day of January, 2016
and six copies hand-delivered to:

City of Avondale, Board of Adjustment
Attn: Robert Gubser
Development and Engineering Service Department
11465 W. Civic Center Drive
Avondale, AZ 85323
rgubser@avondale.org

Copy of the foregoing emailed and hand-delivered
this 6th day of January, 2016 to:

William Bock
5427 E. Hashknife Road
Phoenix, AZ 85054
Wbock1@cox.net
Special counsel for the Board of Adjustment

Andrew J. McGuire
Gary Verburg
Gust Rosenfeld, P.L.C.
One East Washington, Suite 1600
Phoenix, Arizona 85004-2553
amcguire@gustlaw.com
gverburg@gustlaw.com

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INDEX OF EXHIBITS
AUTOMATCH USA, LLC'S BOARD OF ADJUSTMENT HEARING MEMORANDUM

TAB		DOCUMENT TITLE
1		Interpretation Letter
2		1999 Avondale Automall Planned Area Development Zoning and 2003 Amendment
3		AutoMatch Brochure
4		C-2 Permitted Uses
5		November 18, 1999 Planning and Zoning Commission Staff Report
6		November 18, 1999 Planning and Zoning Commission Meeting Minutes
7		December 20, 1999 City Council Staff Report
8		December 20, 1999 City Council Meeting Minutes
9		March 20, 2003 Planning and Zoning Commission Staff Report
10		March 20, 2003 Planning and Zoning Meeting Minutes
11		April 21, 2003 City Council Staff Report
12		April 21, 2003 City Council Meeting Minutes

Exhibit 1

Avondale

Development and Engineering Services Department
11465 W. Civic Center Drive, Suite #110
Avondale, Arizona 85323-6804
Phone: (623) 333-4000 Fax: (623) 333-0420

October 14, 2015

Paul Gilbert
Beus Gilbert PLLC
701 N 44th Street
Phoenix, AZ 85008-6504

RE: Avondale Auto Mall Zoning Interpretation (PL-15-0210)

Dear Mr. Gilbert:

This letter is in response to your formal application received on September 1, 2015 (attached) requesting a zoning interpretation in regards to a prospective business seeking to occupy a site located at 10501 W. Papago Freeway within the Avondale Auto Mall. The property is currently zoned Planned Area Development under case Z-99-402-A. The initial staff assessment provided via Pre-Application meeting on August 5, 2014 (PL-14-0134) was that the intended use of used car sales was not permitted unless is was ancillary to a new car sales use.

Proposed Use
In your letter, you describe the business model for AutoMatch as a full-service dealership that only sells used vehicles. You further define the use as one that displays vehicles of various manufacturers for sale, provides on-site financing, and a repair center with certified mechanics. This proposed use was also provided for staff review through a Pre-Application meeting held on August 5, 2014 (Exhibit 1: Pl-14-0134, Auto Match USA).

Evaluation
In evaluating your request, I have reviewed the original 1999 PAD rezoning application, the 2003 PAD rezoning amendment, and the associated development agreements.

The purpose of the 1999 PAD rezoning, approved by City Council on December 20, 1999, was to allow for the development of an Auto Mall and a retail shopping center. The purpose of the 2003 amendment to the PAD was to eliminate the remaining acreage planned for a retail power center and replace it with dealerships and related uses. The following are references contained in the original PAD and subsequent amendment that address the specifics of dealerships:

1. 1999 PAD, page 2: The purpose of the zoning was to "accommodate the development of several full service automobile dealerships." When read with the remaining language in the paragraph, it is clear that the mention of used car sales is intended to allow for used car sales at the full service dealerships, not to allow for a stand-alone used car lot.

2. 1999 PAD, page 3: The proposed uses in the conditional use permit list refers to "Outdoor Automobile Sales; New and Used" indicating that the two types of sales are to be from a

dealership offering both new and used vehicles. Had it been intended otherwise, the text simply could have used the term "or" instead.

3. 1999 PAD, page 5: Phase One construction was to include eight full service dealerships. The auto mall was clearly planned as a new car sales area, so the use of "eight (8) full service automobile dealerships" is a plain reference to new-car dealerships.

4. 1999 PAD, page 7: Among many other descriptive terms describing services provided at a new car dealership, the rear yard provisions specifically refer to the "service section" of the dealership. On-site manufacturer service facilities are hallmarks of new car dealerships.

5. 1999 PAD, page 8: There are multiple occurrences where the text describing the signs allowed for each dealership specifically refers to "its corresponding manufacturer's logo." These are clearly references to new car dealerships.

6. 2003 PAD, page 1: The last sentence of the first paragraph is clear as to the intent "to obtain the proper zoning to allow for additional new vehicle dealers." As you can see, the language that follows is nearly identical to the 1999 PAD, further supporting the original intent of the 1999 PAD (new car dealerships).

Coupled with the rezoning actions, there were several development agreements that the City entered into with the developer of the Auto Mall. The original DA was in 1999, (with a subsequent corrective DA in 2000), followed by a first and a second amendment in 2002/2003 that addressed the expansion of the Auto Mall. The following are references from those documents:

1. 1999 Development Agreement, page 1: Recital B(i) clearly sets forth the developer's intent to "construct an auto mall complex consisting of new car dealerships."

2. 1999 DA, page 1: Recital C(i) states that there will be significant benefits to the City, its residents and the general public and enhance the economic ability of the City by significantly increasing transaction privilege tax revenues by encouraging new car automotive dealerships.

3. 1999 DA, page 2: Recital E establishes developer's obligation to use best efforts to attract additional dealerships to the auto mall, and it uses two new car dealerships as examples of its commitment to that obligation.

4. First Amend. to DA, page 1: Recital B is again clearly stating new car automobile dealerships.

5. Second Amend. to DA, pages 1 & 2: Recital B and the new language added as subsection 2.2 are both clearly stating new car dealerships.

    - The report transmitted to the City Council on November 4, 2002 regarding the Second Amendment, clearly states that the purpose of the amended DA will allow for expansion of sites suited to new car dealerships. In addition, AZVT was required to promptly complete and submit for approval a PAD amendment that allows for the development of

new car dealerships.

The word "and" as used by the City Council in the 1999 PAD and the subsequent approvals is far more significant than you have concluded. When trying to understand the City Council's intent, we are required (i) to presume the Council meant to use those precise words for a reason and (ii) to give words their common meanings. Using common definition of "and" (utilizing the Merriam-Webster dictionary), it means a logical operator that requires both of two inputs to be present or two conditions to be met for an output to be made or a statement to be executed. The common definition supports the conclusion that that both new and used automobile sales would need to be present to meet the criteria provided outlined in the use listing of the PAD. This is how this use has been applied consistently since the original zoning approval.

The C-2 district at the time of the 1999 rezone allowed, "Auto, recreational vehicle, motorcycle, travel trailer and boat sales and rental." However, with the execution of a PAD as a zoning instrument, the uses may be tailored meeting the needs and goals set-forth by all parties. The allowed uses were modified with the rezoning to PAD and the "Outdoor Automobile Sales; New and Used" was placed as an allowed use subject to receiving a Conditional Use Permit. As stated in the overview of the PAD text above, had it been intended otherwise, the text simply could have used the term "or" instead. Additionally, it could have been completely removed from the Conditional Use Permit listing, as it was an allowed use in the C-2 section of the 1999 Zoning Ordinance. In this instance, it was not removed and we are required to presume the Council meant to adopt the standards in the PAD as controlling for automotive uses at the Auto Mall.

The 2002/2003 PAD Amendment narrative indicates the applicant wishes to "obtain the proper zoning to allow for additional new vehicle dealers." The narrative in PAD's are used to convey the intended character of the development and as such, is used to provide information necessary for the City Council to either support or deny a request. The amendment was approved by Council using the included narrative and the ordinance includes a stipulation that the development shall be in substantial conformance with the PAD Zoning Amendment dated March 5, 2003.

Consistent with the new-car-only intent of the PAD and its amendments, the City Council approved a number of economic development agreements relating to new car dealerships at the Auto Mall. In each of those agreements, the intent is clear that operation of a new automobile franchise is an essential component of the transaction. Copies of each agreement are attached for your review.

Determination

It is my determination as the City's Zoning Administrator that, based on evaluation of the language contained in the original PAD, subsequent amendments to the PAD, numerous economic development agreements, and the supporting staff reports, that the City Council did not intend for a stand-alone used car dealership to be a permitted use within the Auto Mall. The intent to have only new car dealerships in the Auto Mall was made clear from the beginning and has been consistently followed through a series of related agreements and supporting documents.

Appeal Rights
Under the Zoning Ordinance Section 112.B.1, a notice of appeal an interpretation by the Zoning Administrator shall be submitted by the applicant through the Zoning Administrator to the Board of Adjustment within fifteen (15) days from the date of the decision.

If you have any questions, please feel free to contact me at (623) 333-4015 or by email at rgubser@avondale.org.

With regards,

Robert Gubser, AICP
Planning Manager

Exhibits:

A. Pre-Application Meeting comments – dated August 5, 2014
B. 1999 PAD, including all applicable staff reports
C. 2003 PAD amendment, including all applicable staff reports
D. 1999 Development Agreement
E. 1999 Corrective Development Agreement
F. 2002 First Amendment to Development Agreement
G. 2003 Second Amendment to Development Agreement
H. Copies of Economic Development Agreements with various dealerships

Cc: Tracy Stevens, Development and Engineering Services Director
Andrew McGuire, City Attorney
File

Exhibit 2

C99-402

REZONING REQUEST
&
GENERAL DEVELOPMENT PLAN AND PROGRAM

AVONDALE AUTOMALL & RETAIL SHOPPING CENTER

Southwest Corner of 99th Avenue and Interstate 10

Request: Rezoning from AG, Agricultural to PADD, C-2, CUP, Planned Area Development District, Community Commercial, Conditional Use Permit, with Development Standards Modifications

Applicant: AZVT, L.L.C.
P.O. Box 16460
Phoenix, Arizona 85011
Phone: (602) 230-1051
Facsimile: (602) 200-7560
Attention: Michael Pacheco, Development Manager

Co-Applicant: Beus Gilbert
3200 North Central Avenue
Suite 1000
Phoenix, Arizona 85012
Phone: (602) 234-5806
Facsimile: (602) 234-5893
Attention: Paul E. Gilbert, Esq.

Developer: AZVT, L.L.C.
P.O. Box 16460
Phoenix, Arizona 85011
Phone: (602) 230-1051
Facsimile: (602) 200-7560
Attention: Michael Pacheco, Development Manager

Submitted to:

City of Avondale
525 North Central Avenue
Avondale, Arizona 85252
Phone: (602) 932-6088
Facsimile: (602) 932-6119

November 1999

Purpose of Request:

General

This application is a request to rezone approximately 150 acres of unimproved land located at the southwest corner of 99th Avenue and Interstate 10 (the "Site") from its existing zoning of AG, Agricultural to PADD, C-2, CUP, Planned Area Development District, Community Commercial, Conditional Use Permit zoning, with Site Plan approval and Development Standards Modifications. The purpose of this request is to allow for the development of an automall and a retail shopping center, which will host various land uses and amenities.

Automall

The requested PADD, C-2, CUP zoning with Development Standards Modifications is intended to accommodate the development of several full service automobile dealerships and other automotive related uses (the "Automall") on the eastern portion of the Site. Uses requested for the Automall generally include new and used car sales (outdoor and indoor), repair (including mechanical, collision repair and painting) and the storage and sale of automotive parts.

Retail Center

The requested PADD, C-2, CUP zoning with Development Standards Modifications is intended to accommodate the development of a retail shopping center on the western portion of the Site consisting of uses common to "power" and "neighborhood" type shopping centers (the "Shopping Center".)

Compliance with City of Avondale's General Plan

The intent of the City's General Plan and underlying Land Use Plan, consistent with Avondale planning goals, is to manage and guide development, rather than to react to it. The General Plan and Land Use Plan indicates that the future use of the site shall be Mixed-Use Commercial. The uses requested under this PADD, C-2, CUP zoning are compatible and consistent with the General Plan and the Land Use Plan. In particular, they are compatible with the City's Freeway Corridor Specific Plan. Additionally, the proposed development meets the goals and objectives of the City's Future Growth Plan.

Proposed Zoning District Modifications

In addition to the land uses permitted under the Community Commercial C-2 zoning district, this application includes a request for a Conditional Use Permit for the following uses, subject to stipulations:

- Outdoor Automobile Sales; New and Used.
- Motor Vehicle Repair
- Motor Vehicle Parts Storage and Sales
- Motor Vehicle Body Shop; provided the use occurs within the south half of the Site or is in conjunction with a franchised new motor vehicle dealership use.
- Restaurants with Live Entertainment; provided live entertainment does not include "adult" live entertainment.
- Second Hand Merchandising Sales; provided the use is limited to consignment sales.
- Skating Rinks
- Building Materials and Lumberyards; provided there are no milling or planing operations.
- Video Arcade or Similar Amusement Establishment; provided the site is not located within five hundred (500) feet of a public or private school site.
- Animal Kennels; provided the use is limited to veterinarians and retail pet shops.

Public Infrastructure Requirements

The Site lies within what generally can be characterized as an infrastructure deficient area of the City. We have conducted a preliminary investigation of the locations of available utilities and agree to install the following public infrastructure to serve the Site:

- Utilities: Water & Sewer, Electrical, Natural Gas, Telephone.
- Surface Improvements: 99th & 107th Avenues and Roosevelt Street half streets and all of the right-of-way improvements that lie within the Site as a result of the Roosevelt Street alignment at the easternmost end of the Site, including roadways, signalization, curbs & gutters, sidewalks, landscaping, lighting, signing, pavement marking.

Relationship to Surrounding Properties

The Site is bounded by Interstate 10, 99th & 107th Avenues and the future Roosevelt Street. The proposed development is located on the City of Avondale's eastern border and is designated as Mixed Use Commercial on the City's Freeway Corridor Specific Plan.

Currently, there is limited development at the properties that abut the Site. The nearest and only large scale development, the Reckitt & Coleman plant, is of an industrial

use and is located immediately east of the site, in the City of Tolleson. The surrounding land use and zoning designations are as follows:

Direction	Existing Use	Current Zoning
North	Interstate 10	N/A
East	Reckitt & Coleman	Industrial
	Vacant Land	Industrial
South	Unimproved	A-1 (Industrial) and C-2 (Commercial)
West	Unimproved	AG (Agricultural)

The Site is also in close proximity to Phoenix International Raceway ("PIR"). PIR has emerged as a location for major national Stock & Indy Car racing events. We believe this development, and, in particular the Automall will benefit from its "automotive connection" with the raceway.

Site Accessibility

The Site is contiguous with 99th & 107th Avenues, and the future Roosevelt Street. This allows for excellent access via these surface streets to Interstate 10 and the future 101-loop freeway. Additional access to the existing Interstate 10 frontage road is being researched and requested from the Arizona Department of Transportation.

The Site is highly visible from Interstate 10 and the future Loop 101/I-10 interchange. We believe that this condition provides an excellent opportunity to capitalize on the traffic that travels Interstate 10 and the traffic that will travel the Loop 101. Many of the customers purchasing goods and services at the Site will be residents from outside of Avondale.

Traffic Circulation System

The public roads that abut the east (99th Ave.), south (Roosevelt St.) and the west (107th Ave.) sides of the Site are not fully improved. The Developer shall dedicate the necessary right-of-way improvements as required by the City of Avondale and the City of Tolleson. We will construct the public infrastructure as necessary to adequately and safely serve each phase.

On-Site vehicle circulation throughout the Site shall consist of private drives.

Phasing

While the Automall and the Shopping Center developments could potentially occur either simultaneously, overlap or could occur one after the other, the anticipated development phasing program is as follows:

Phase One

- Construction of public infrastructure (utilities, roadways, etc.) necessary for the development of the Automall portion of the Site.
- Approximately eight (8) full service automobile dealerships and various automotive related businesses.

Phase Two

- Construction of remaining public infrastructure necessary for the development of the retail shopping center portion of the Site.
- Shopping Center.

Public Utilities and Services

Water:	City of Avondale
Sewer:	City of Avondale
Refuse:	City of Avondale
Electricity:	Salt River Project (SRP)
Telephone:	US West
Natural Gas:	Southwest Gas
Fire Protection:	City of Avondale
Police Protection:	City of Avondale
Elementary School:	Littleton Elementary School District
High School:	Tolleson Union High School District

Topography

The Site is characterized as being relatively flat with surface drainage generally flowing south to southwest. The Site's is currently farmed and has an approximate elevation of 1,015 above mean sea level.

Proposed Development Standards Modifications

Introduction

Today's automotive sales industry is a highly competitive business. Dealers need every possible advantage to gain an edge on the rapidly expanding competition. The facility plays a big role in accomplishing this goal. If designed properly, an automobile dealership facility acts as a selling tool for its employees. If not, sales can fall short of expectations, and in some instances, even fail. Many dealerships have had to close their doors or build entirely new facilities because of inefficient, inadequate facility design.

This request is to allow for development standards that will give the dealers located in this Automall the ability to build user friendly, state-of-the-art facilities that will not only compete with the valley's existing automobile dealers, but will exceed anyone's expectations for success.

Likewise, the needs of today's shopping center retailers are not unlike those of the automobile dealers. To get the competitive edge they need to be successful, retailers must have flexibility when designing and operating their facilities. The proper development standards will produce an attractive, highly functional development that will allow them to be competitive deeply into the twenty-first century.

Proposed Modifications to Existing Development Standards

In addition to the Development Standards permitted by right under the requested existing C-2 ordinance, this request is to permit the following modifications to the existing Development Standards:

Automall Development Standards & Signs

General

- Drywells and/or buried lateral perforated pipe shall be permitted. All drywells installed within paved areas shall be Maxwell Enviro type or a city approved equivalent.
- Retention basins with side slopes greater than 4:1 shall be permitted provided they are not accessible by the general public or immediately visible from the public right-of-way.
- No increase in historical stormwater retention shall be required in excess of existing Maricopa County flood control data.
- Public right-of-way landscaping may be applied towards landscape calculations and any open space requirements.

- A flagpole of up to seventy-five (75) feet in height displaying the flag of the United States of America may be installed at each dealership.
- The joint use of a single driveway by two (2) or more adjoining parcels shall not be required.

The following shall be allowed in the Front Yard of dealerships:

- Each dealership's main vehicle display area (the "Front Yard") shall be landscaped at a minimum of 5%. Landscaping installed at the perimeter of each dealership shall consist of contours and variations in grade height provided it does not screen the general public's view of the vehicles.
- Special outdoor display features, such as patios, plazas, pedestals and courtyards shall be permitted and shall count towards landscape calculations and any open space requirements.
- Landscaped parking islands shall be provided at a minimum of one (1) for every twenty (20) parking spaces, shall be a minimum of 150 square feet in size (each) and shall be included in the landscape calculations.
- A minimum of two (2) trees for every twenty (20) parking spaces in the Front Yard shall be required.
- Stormwater retention shall not be required to occur in the dealership's Front Yards.
- Decorative fencing, eighteen to twenty-four inches in height shall be installed in lieu of solid walls or berms.
- Alternative building construction materials shall be permitted provided they fit into the dealership's overall architectural character and theme.

The following shall be allowed in the Rear Yard of dealerships:

- Each dealership's service section (the "Rear Yard") shall not require landscaping except for perimeter landscape treatments outside of the required screen wall.
- Vehicle parking and storage areas may be depressed up to eighteen (18) inches in order to accommodate stormwater.
- Foundation plantings shall not be required around buildings.
- Parking islands shall not be required.
- Alternative building construction materials, such as tilt-up concrete and pre-engineered metal shall be allowed. Any portion of a building located in the Back Yard that abuts the Front Yard of the dealership shall meet the finish standards required in the Front Yard.
- Open service bays shall be allowed provided they are screened from public right-of-way.

In addition to signs permitted by right under the existing ordinance, the following signs shall be permitted for the Automall:

Automall Signs

- One master Automall freeway identification sign located on Interstate 10, seventy-five (75) feet in height, with 1,000 square feet of sign area per side. Such sign shall identify the automall, display the names of each dealership and its corresponding manufacturer's logo, shall be internally lit and have change panels. Digital or reader board type sign shall be permitted.
- One mini-master Automall identification sign located on 99th Avenue, thirty (30) feet in height, with 250 square feet of sign area per side.
- Directory signs installed throughout the common areas of the Site.
- All master or common automall signs shall be of similar style and architecture. Developer may submit a comprehensive sign package at a later date.

Individual Dealership Signs

- Banners, pennants, fixed balloons and flags for the purposes of advertising or promoting special sales events shall be permitted on weekends and holidays.
- Decorative seasonal/holiday lighting such as Christmas lights.
- Temporary window painting of vehicles for the purpose of advertising.
- One (1) thirty-five (35) foot high pylon sign per dealership, with 150 square feet of sign area per side. Individual dealer signs may be unique to each corresponding manufacturer's trademark identification sign.
- Building signs shall be permitted, state the name of the respective dealership, and shall be allowed up to two (2) square foot of sign area for each building front foot. One building sign shall be permitted on each street the dealership fronts. For the purposes of calculating building sign area, private drives provided for the common use of the Automall shall be considered streets.
- Eight (8) foot high monument style signs with twenty-five (25) square feet of sign area per side located at each dealership's retail ingress/egress points.

Shopping Center Development Standards & Signs

General

- "Anchor" or "Major" users may construct buildings up to forty (40) feet in height.
- Drywells and/or buried lateral perforated pipe shall be permitted. All drywells installed within paved areas shall be Maxwell Enviro type or a city approved equivalent.

- Retention basins with side slopes greater than 4:1 shall be permitted provided they are not accessible by the general public or immediately visible from the public right-of-way.
- No increase in historical stormwater retention shall be required in excess of existing Maricopa County flood control data.
- All parking lots shall be screened from public streets with a combination of walls and berms a minimum of thirty-six (36) inches in height above the grade of the most adjacent parking lot or street.
- A flagpole of up to seventy-five (75) feet in height displaying the flag of the United States of America may be installed.
- Special outdoor features and amenities such as patios; plazas, pedestals and courtyards shall be permitted and shall count towards landscape calculations and any open space requirements.
- Vehicle parking areas may be depressed up to eighteen (18) inches.
- Foundation plantings shall not be required at buildings where not visible by the general public.
- Alternative building construction materials, such as tilt-up concrete and pre-engineered metal shall be allowed provided they are in architectural harmony with the remainder of the project.

In addition to signs permitted under the existing ordinance, the following signs shall be permitted for Shopping Center:

Master Shopping Center Signs

- One master freeway identification sign located on Interstate 10, sixty-five (65) feet in height, with 700 square feet of sign area per side. Such sign shall identify the name of the Shopping Center, may display the names of major/anchor users, may be internally lit and have change panels.
- One mini-master identification sign located on 99th Avenue, thirty (30) feet in height, with 250 square feet of sign area per side.
- Directory signs installed throughout the common areas of the Shopping Center.
- All master or common signs shall be of similar style and architecture. Developer may submit a comprehensive sign package at a later date.

Individual User Signs

- Major or Anchor users shall be allowed on building wall sign for each street the user's building space faces, and shall be allowed one and one-half (1 ½) square feet of sign area for each one (1) lineal front foot of building wall.

- Shop space, in-line or pad users shall be allowed on building wall sign for each street the user's building space faces, and shall be allowed one (1) square feet of sign area for each one (1) lineal front foot of building wall.

Summary

We have demonstrated the project's compatibility with the City of Avondale's General Plan and its underlying Growth and Use Plans. It will provide the mechanism for the installation of needed public infrastructure. Each year it will generate millions in City sales taxes and provide a source for thousands of jobs at all levels of pay.

Our goal in developing the proposed Avondale Automall & Shopping Center is to provide a successful marquee project in the City of Avondale. A project that Avondale's residents will cite as a point of pride in their city. A highly functional project that is attractive, safe, and will give its retailers the competitive edge they need to be successful.

Exhibits

The following exhibits are a part of this zoning request:

- Exhibit A — Legal Description
- Exhibit B — Vicinity Map
- Exhibit C — Zoning Context Plan
- Exhibit D — Conceptual Site Plan

Exhibit A

LEGAL DESCRIPTION

THE SOUTH HALF OF THE NORTH HALF OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA:

EXCEPT ANY PORTION OF THE ABOVE DESCRIBED PROPERTY LYING BETWEEN LINE NOs. 1 AND 2, AS SET FORTH IN FINAL ORDER OF CONDEMNATION RECORDED IN INSTRUMENT NO. 84-463775, DESCRIBED AS FOLLOWS:

LINE NO. 1

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 5; THENCE S00°-22'39"E, ALONG THE EAST LINE OF SAID SECTION, 300.00 FEET TO THE POINT OF BEGINNING; THENCE S89°37'21"W, 40.00 FEET; THENCE S07°08'11"W, 382.34 FEET; THENCE S88°58'31"W, 58.65 FEET; THENCE S80°16'47"W, 859.88 FEET; THENCE S88°58'31"W, 410.38 FEET; THENCE N50°46'18"W, 99.22 FEET; THENCE N10°31'07"W, 187.67 FEET; THENCE S89°44'25"W, 55.00 FEET TO THE POINT OF ENDING ON THE WEST LINE OF SAID SECTION 5, WHICH POINT BEARS S00°15'35"E, 539.97 FEET FROM THE NORTHWEST CORNER OF SAID SECTION.

LINE NO. 2

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 5; THENCE N00°22'39"W, ALONG THE EAST LINE OF SAID SECTION, 170.48 FEET TO THE POINT OF BEGINNING; THENCE S89°37'21"W, 40.00 FEET; THENCE N00°22'39"W, 1009.75 FEET; THENCE N85°00'46"W, 1014.57 FEET; THENCE S88°58'31"W, 4124.51 FEET; THENCE S06°08'17"W, 403.83 FEET; THENCE S89°44'25"W, 55.00 FEET TO THE POINT OF ENDING ON THE WEST LINE OF SAID SECTION 5, WHICH POINT BEARS N00°15'35"W 900.75 FEET FROM THE WEST QUARTER CORNER OF SAID SECTION; AND ALSO

EXCEPT THAT PORTION OF THE SOUTH HALF OF THE NORTHWEST QUARTER AND OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, WHICH LIES BETWEEN THE EXISTING (1978) SOUTH RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 10 (EHRENBERG-PHOENIX HIGHWAY) AND THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 5; THENCE ALONG THE WEST LINE OF SAID SECTION 5, N00°04'33"W 1500.70 FEET (1500.75 RECORD) TO THE CENTERLINE OF SAID INTERSTATE HIGHWAY 10;

THENCE ALONG SAID CENTERLINE N89°09'33"E, 1071.07 FEET; THENCE S00°-50'27"E, 200.00 FEET TO THE POINT OF BEGINNING ON SAID EXISTING SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10; THENCE CONTINUING S00°-50'27"E, 46.18 FEET; THENCE N87°35'49"E, 980.36 FEET; THENCE N87°31'21"E, 700.29 FEET TO THE POINT OF ENDING ON SAID SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10, AS CONVEYED TO THE STATE OF ARIZONA, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION IN INSTRUMENT NO. 92-0512378; AND ALSO

EXCEPT THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, WHICH LIES BETWEEN THE EXISTING (1978) SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10 (EHRENBERG-PHOENIX) AND THE FOLLOWING DESCRIBED LINE:

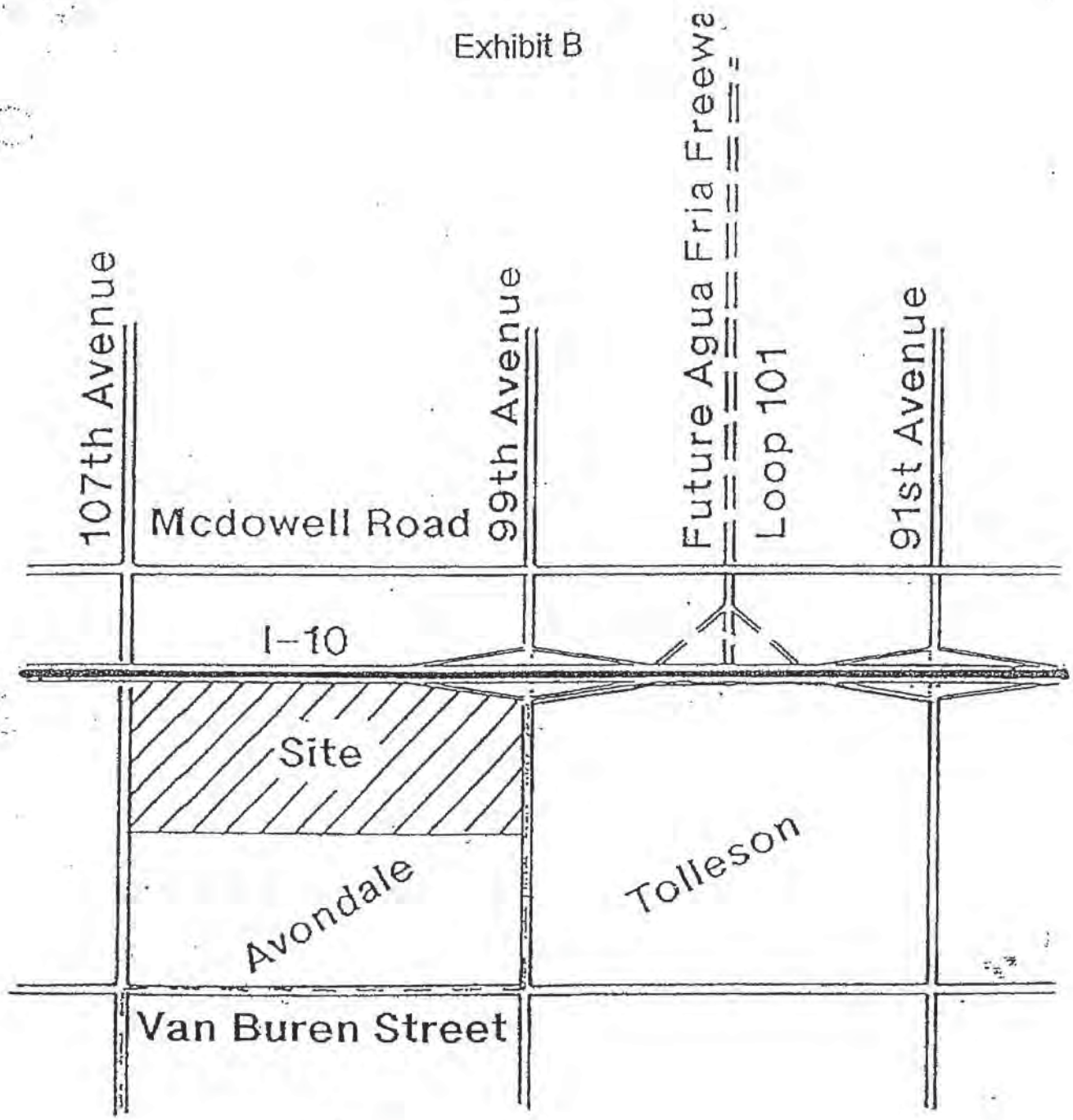
COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 5; THENCE ALONG THE EAST LINE OF SAID SECTION 5, N00°11'37"W A DISTANCE OF 1486.92 FEET TO THE MEDIAN CENTERLINE OF THE AFORESAID INTERSTATE HIGHWAY 10; THENCE S89°09'33"W 1443.24 FEET; THENCE S00°50'27"E 200.00 FEET TO THE POINT OF BEGINNING IN THE AFORESAID SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10; THENCE S88°15'51"E 400.41 FEET; THENCE S84°12'12"E 276.85 FEET; THENCE S82°58'47"E 681.15 FEET; THENCE S41°-35'13"E, 75.02 FEET TO THE POINT OF ENDING ON THE EXISTING WEST RIGHT OF WAY LINE OF 99TH AVENUE AS CONVEYED TO THE STATE OF ARIZONA, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION IN INSTRUMENT NUMBER 92-0406965; AND ALSO

EXCEPT THAT PORTION OF THE SOUTH HALF OF THE NORTHWEST QUARTER AND OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDAIN, MARICOPA COUNTY, ARIZONA, WHICH LIES BETWEEN THE EXISTING (1978) SOUTH RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 10 (EHRENBERG-PHOENIX HIGHWAY) AND THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 5; THENCE ALONG THE WEST LINE OF SAID SECTION 5, N00°04'33"W 1210.70 FEET; THENCE N89°55'27"E 89.76 FEET TO THE POINT OF BEGINNING ON THE EXISTING EAST RIGHT OF WAY LINE OF 107TH AVENUE; THENCE N73°19'36"E 150.91 FEET; THENCE N89°09'33"E 700.01 FEET; THENCE N87°35'49"E 140.05 FEET; THENCE N00°50'27"W 46.18 FEET TO THE POINT OF ENDING ON THE AFORESAID EXISTING SOUTH RIGHT OF WAY OF THE 107TH AVENUE INTERCHANGE AS CONVEYED TO THE STATE OF ARIZONA, BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION IN INSTRUMENT NUMBER 92-0406966. AND ALSO:

EXCEPT THE WEST 40 FEET AND THE EAST 33 FEET THEREOF.

Exhibit B



Vicinity Map

N.T.S.

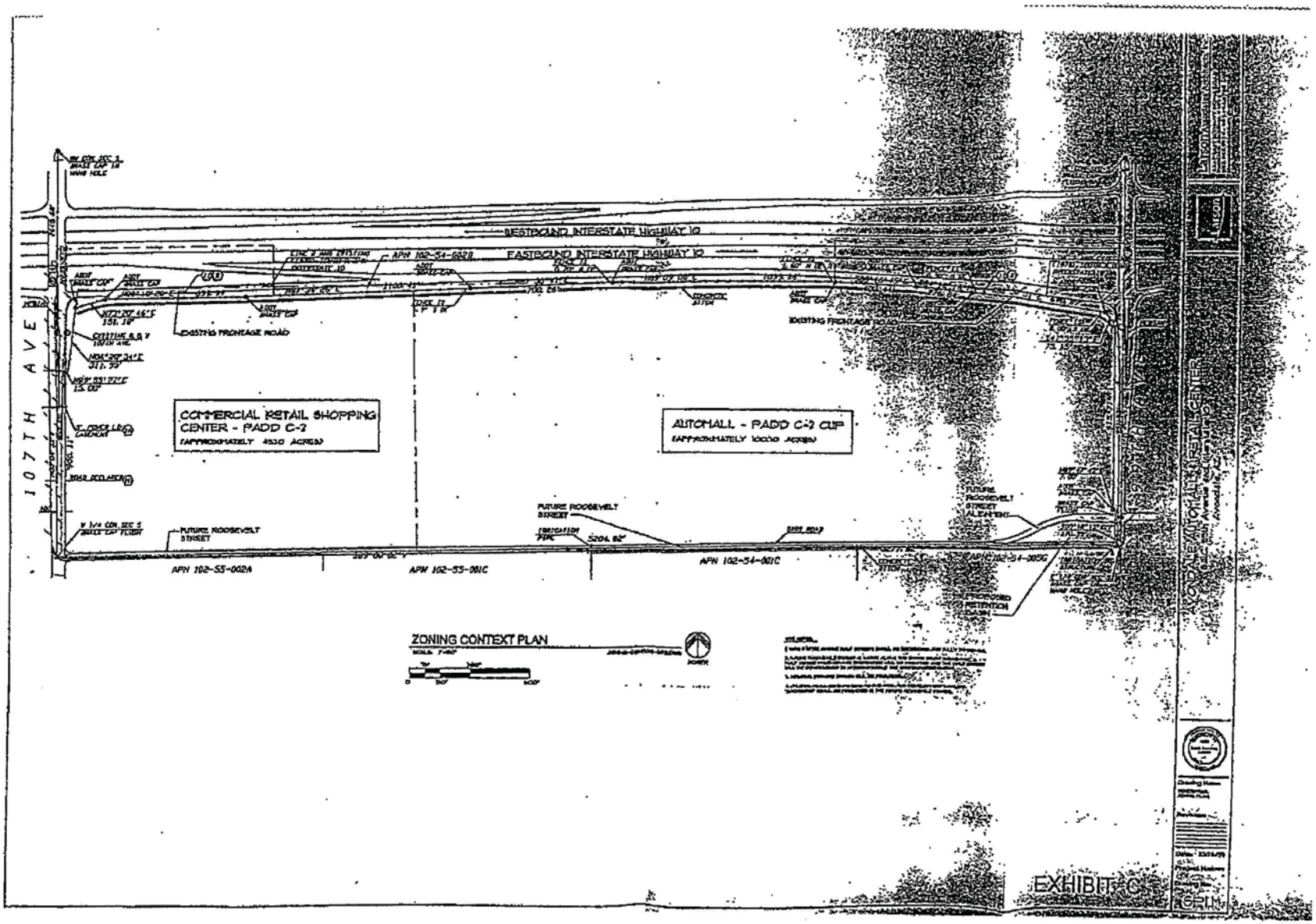

107TH AVE
WESTBOUND INTERSTATE HIGHWAY 10
EASTBOUND INTERSTATE HIGHWAY 10
EXISTING FRONTAGE ROAD
COMMERCIAL RETAIL SHOPPING CENTER - PADD C-2
(APPROXIMATELY 45.30 ACRES)
AUTOMALL - PADD C-2 CUP
(APPROXIMATELY 100.00 ACRES)
FUTURE ROOSEVELT STREET
APN 102-55-002A
APN 102-55-001C
APN 102-54-001C
ZONING CONTEXT PLAN
EXHIBIT C

EXHIBIT D

107th AVENUE
EASTBOUND INTERSTATE HIGHWAY 10
WESTBOUND INTERSTATE HIGHWAY 10
DEALER DRIVE
AUTOMALL MASTER SIGN
RETAIL MASTER SIGN
FUTURE ROOSEVELT STREET
CONCEPTUAL SITE PLAN
AVONDALE AUTOMALL & RETAIL CENTER
SWC 99th Avenue and Interstate 10
Avondale, AZ
Larson Associates Architects

EXHIBIT D

PROJECT NARRATIVE
FOR
AVONDALE AUTOMALL &
RETAIL SHOPPING CENTER

PAD ZONING AMENDMENT

February 2003

History & Project Narrative

AZVT, LLC acquired approximately 150 acres of unimproved land south of Interstate 10 between 99th and 107th Avenues. Subsequently, the project was rezoned to PADD, C-2, with a Conditional Use Permit to allow for new and used vehicle sales and other various automotive related uses on the easternmost 100 acres. The westernmost 50 acres was rezoned to PADD, C-2, with a Conditional Use Permit to allow for commercial and retail uses. Because of the Avondale Automall's success insofar as new vehicle dealers' desires to purchase land within the 50 acre portion of the overall 150 acre property owned by AZVT, LLC, but not within property rezoned as the Avondale Automall, AZVT wishes to obtain the proper zoning to allow for additional new vehicle dealers.

Rezoning Request

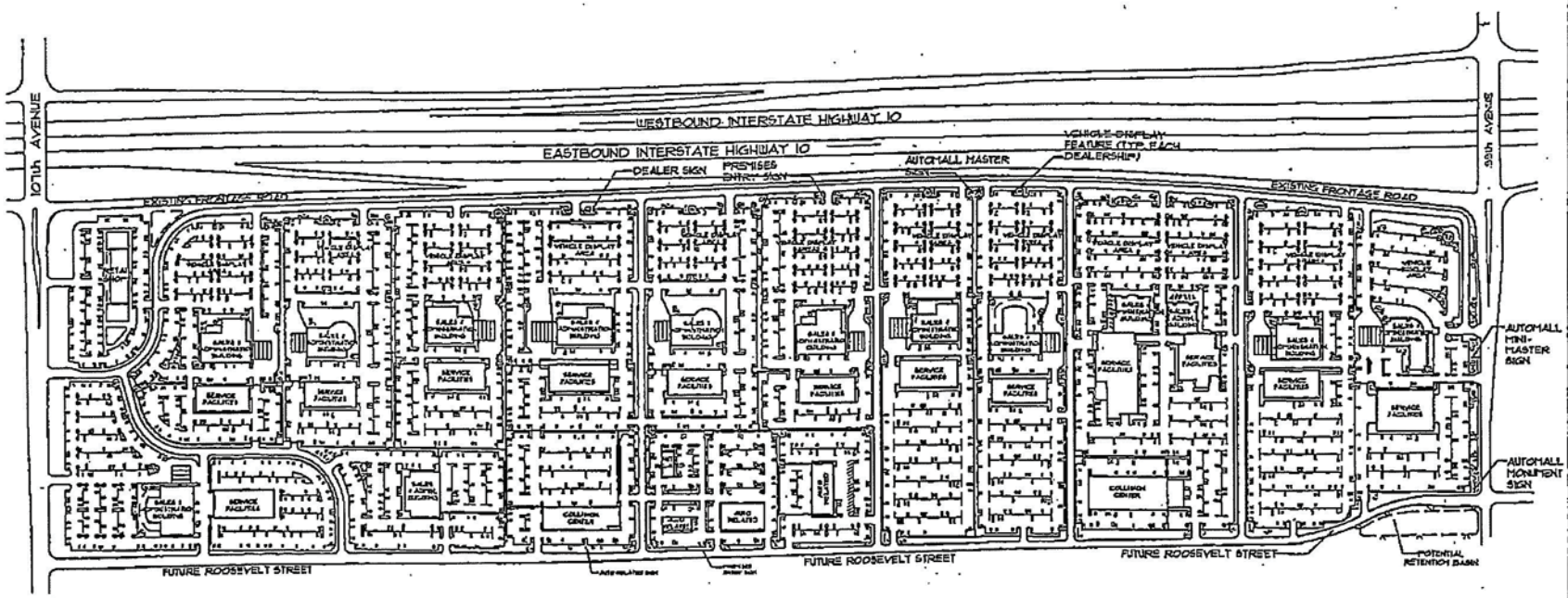
This rezoning request is to amend the existing zoning on AZVT's west 50 acres so that, in addition to the existing C-2 zoning, the following uses are allowed:

Outdoor Automobile Sales: New and Used
Motor Vehicle Repair
Motor Vehicle Parts Storage and Sales
Motor Vehicle Body Shop – provided the use occurs within the south half of the site or is in conjunction with a franchised new motor vehicle dealership
Motorcycle Sales: New and Used with parts sales and service

Additionally, the Modifications to Existing Development Standards, as applicable to the PADD for the Avondale Automall, shall apply to the expansion area of the Avondale Automall covered under this rezoning request. The applicable standards, whether automotive or retail commercial, shall apply to the particular proposed use.

A revised Zoning Context Plan is provided as Exhibit A and a Conceptual Site Plan is provided as Exhibit B.

EXHIBIT E



CONCEPTUAL SITE PLAN

SCALE: N.T.S.

BASED ON

NORTH

0 50' 100'

SITE PLAN DESIGN IS CONCEPTUAL AND SHOWN ONLY TO ILLUSTRATE A POSSIBLE SITE LAYOUT SCENARIO.

Lotson Associates Architects, Inc.
3507 North 24th Street, Suite 100
Phoenix, AZ 85016
602.955.9929 602.954.4790 FAX
lotsonaz@aol.com

Avondale Automall
S.W.C. 99th Avenue and Interstate Highway 10
Avondale, AZ

Drawing Name
CONCEPTUAL SITE PLAN

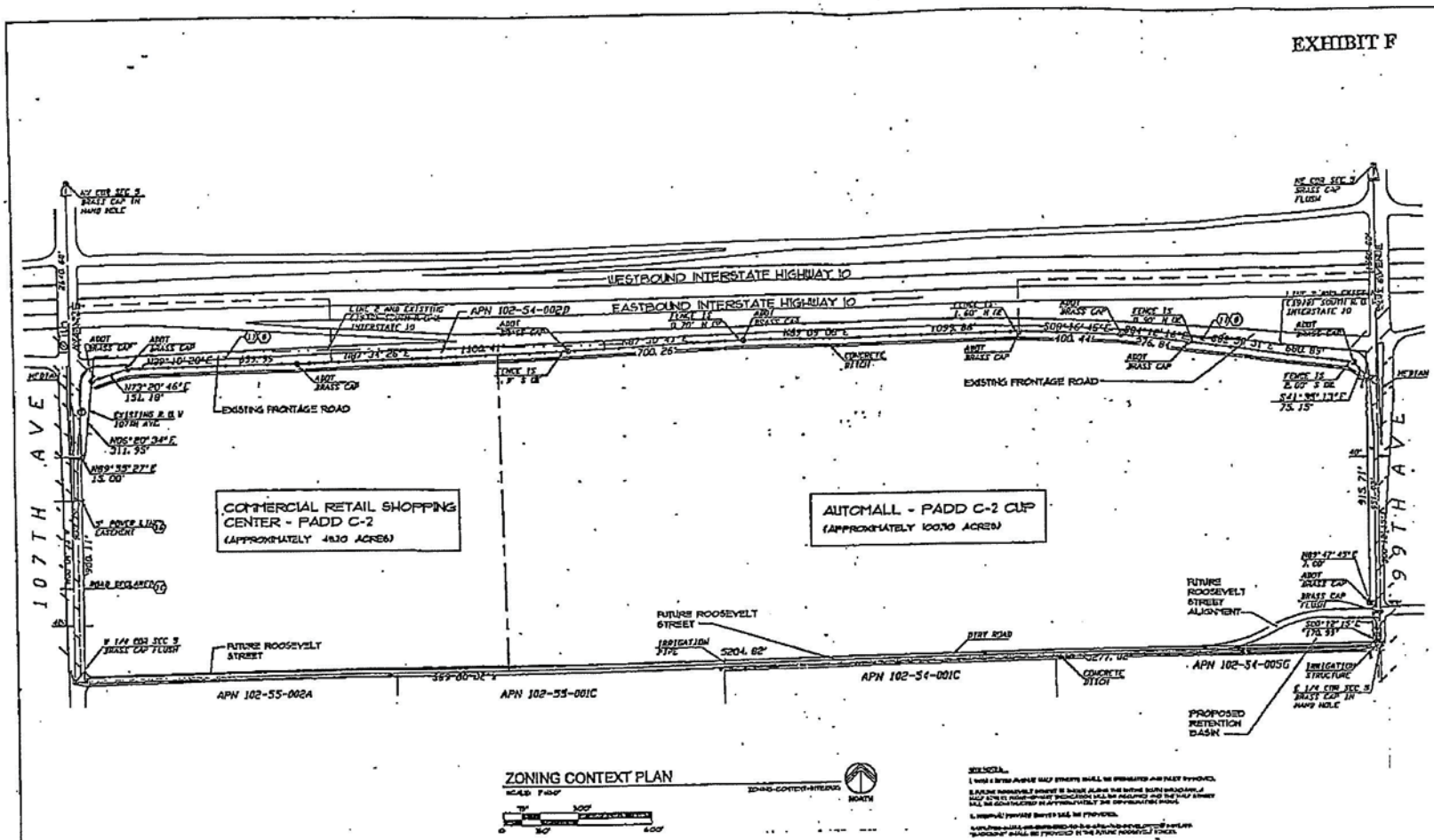
Revisions

Date: 02/20/09

Project Number
#5101-13

Drawing No:

EXHIBIT F



ZONING CONTEXT PLAN

SCALE: 1"=400'

ZONING CONTEXT MAP

NORTH

0 200' 400'

Larson Associates Architects, Inc.

AVONDALE AUTOMALL 4 RETAIL CENTER
SWC 99th Avenue and Interstate 10
Avondale, AZ

Drawing Name
COMMERCIAL ZONING PLAN

Revisions

Date 10/26/05

Project Number

Drawing No.

Exhibit 3

AutoMatch USA

You'll fall in love with our quality cars at unbeatable prices!

AutoMatch USA

Since the beginning there has been only one thing wrong with the automobile business: the car buying experience. For over 100 years buyers have been forced to choose between dealerships that offer a slight of hand sales process that leaves them confused and frustrated or an inflexible process that gives them only a "one price" take it or leave it offer. Neither scenario offers a truly favorable customer driven experience. That's why we've created AutoMatch USA. We have reinvented the car buying experience and for the first time ever the customer will truly control the process.

We understand that the two most important commodities for a consumer during this transaction are their time and money. Our process caters to the value of both. Our customer driven experience is a product of our exclusive ***AutoMatching System*** ® in which the customer can quickly identify the vehicles that match their specific needs and upon selection of their perfect match they can take advantage of our ***Just Purchased 1 Hour Delivery*** process.

To instill confidence in purchasing with AutoMatch USA we put all of our cars through a rigorous 160 point inspection and they are ***AutoReconditioned*** to look like new. Each vehicle is aggressively priced below the market place and will come with free Road Side Assistance.

It's a new day for the car business and AutoMatch USA is truly redefining the way consumers are choosing to purchase their next car or truck.

AutoMatch USA

The Brand

At AutoMatch USA we understand that in addition to paying a better than fair price for a quality used car, customers universally prefer a quick and hassle free process that comes with a relationship after the sale that they can count on 24 hours a day, 7 seven days a week.

Years of trying to control the customer and forcing them from one step to the next in an antiquated "road to the sale" has created a climate in which people loath the car buying experience. It shouldn't be that way, so we've created the The Fluid Sales Approach. This approach is powered by our Sales Force desking tool and allows the customer to truly control the entire sales process...

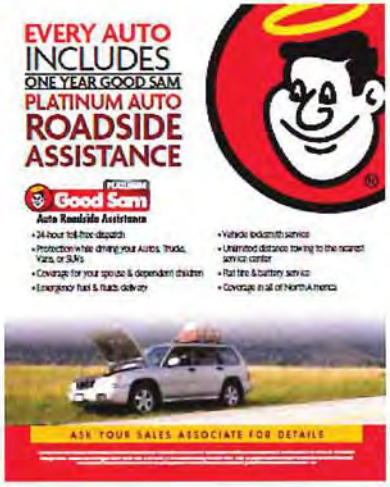
"You tell us Mr. and Mrs. Customer, where you would like to begin the process, what is most important to you?"

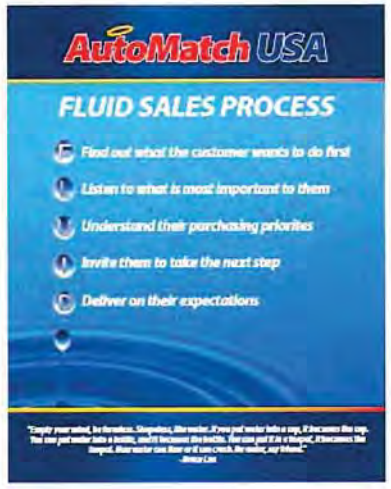
In addition to our customer driven sales process the technology behind our website and our AutoMatching System allows the customer to efficiently and accurately identify the right vehicle for them based on their own specific matching criteria.

Once we have identified their perfect match, they can then take advantage of our 1 Hour Delivery Commitment and drive home confidently with the reassurances provided by our Good Sam Road side assistance.

The Brand Experience

The Brand Experience





AutoMatch USA

Website and AutoMatching System

AutoMatch USA

AutoMatch USA

AutoMatch USA

125-POINT INSPECTION

Interior Condition & Appearance
- Seat Belts operate as designed
- Inflatable Restraint system operates as designed
- Seats/Head rest operate as designed
- All Drivers controls operate as designed.
- Any appearance deficiencies corrected

Trunk Compartment
- Spare Tire Present, in good condition and secure
- All Jack components present and in working order
- Trunk light and Trim Appearance
- Storage area clean
- Compartment locks secure and emergency release operate as designed

Engine Compartment
- Complete Oil Service performed
- Filters replaced as necessary
- Battery tested and serviced
- Belts and hoses inspected
- Engine performance and driveability tested

Braking System
- Inspect Hydraulic system, calipers and lines
- ABS systems operates as designed
- Panic Stop tested
- Brake linings have over 50% useful life remaining
- Parking Brakes operates and releases properly
- Stopping performance smooth and straight

Frame, Structure & Underbody
- Frame / Unibody free of defects
- Sub frame/Cradle mountings secure and solid
- Driveline mounts secure and solid
- Exhaust system secure and free of leaks
- All Suspension mounting secure and solid

Tires, Suspension & Steering
- Tire fitment, proper and in excess of 5/32" tread remaining
- Free of shimmy or vibrations at hwy speeds
- Suspension, Shocks/Struts free of leaks and springs operate smoothly
- Steering components secure and operates smoothly
- Alignment free of pull or drift

QUALITY IS OUR TOP PRIORITY

*At **AutoMatch USA**, we are committed to putting the highest quality vehicles on the road. Each AutoMatch Approved vehicle must meet or exceed an intensive **125-point quality inspection**, which includes mechanical, detailing and appearance standards. Our trained technicians complete any necessary repairs and reconditioning before the vehicle is sold. Buy with confidence and enjoy your AutoMatch USA vehicle for years to come!*

AutoMatch Certified

2013 CHEVROLET EQUINOX LT

Exterior: White **Interior: Grey**

Vehicle Identitifcation Number: ES0032488
Engine Number: ED568743
Stock Number: 54FF3440
Transmission Number: 444TSED3

Cylinders: 6
Turbo: Included
Mileage: 77,000 miles
Transmission: Manual

STANDARD EQUIPMENT (AT NO EXTRA COST)

EXTERIOR
- Liftgate, rear manual with fixed glass Door handles, body-color.
- Wiper, rear variable-speed, intermittent.
- Mirrors, outside heated power-adjustable, body-color and integral spotter mirror
- Glass, deep-tinted (all windows except light-tinted glass on windshield and driver and front passenger-side glass)
- LT Exterior Appearance includes body-color bumpers with Charcoal lowers, Charcoal lug gage rails, body-color door handles.
- Liftgate, rear manual with fixed glass Door handles, body-color.
- Wiper, rear variable-speed, intermittent.
- Mirrors, outside heated power-adjustable, body-color and integral spotter mirror
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- Glass, deep-tinted (all windows except light-tinted glass on windshield and driver and front passenger-side glass)

MECHANICAL
- Liftgate, rear manual with fixed glass Door handles, body-color.
- Wiper, rear variable-speed, intermittent.
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ENTERTAINMENT
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- Wiper, rear variable-speed, intermittent.
- Mirrors, outside heated power-adjustable, body-color and integral spotter mirror
- Glass, deep-tinted (all windows except light-tinted glass on windshield and driver and front passenger-side glass)

OTHER
- Liftgate, rear manual with fixed glass Door handles, body-color.
- Wiper, rear variable-speed, intermittent.
- Mirrors, outside heated power-adjustable, body-color and integral spotter mirror
- Glass, deep-tinted (all windows except light-tinted glass on windshield and driver and front passenger-side glass)

EXTRA EQUIPMENT

EXTERIOR
- Liftgate, rear manual with fixed glass Door handles, body-color.
- Wiper, rear variable-speed, intermittent.
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- Wiper, rear variable-speed, intermittent.
- Mirrors, outside heated power-adjustable, body-color and integral spotter mirror
- Glass, deep-tinted (all windows except light-tinted glass on windshield and driver and front passenger-side glass)

NOTES

This label has been applied pursuant to Federal Law - Do not remove prior to delivery to the ultimate purchaser. *Includes Manufacturer's Recommended Pre-Delivery Service. Does not included dealer installed options and accessories not listed above, local taxes or license fees.

EPA FUEL ECONOMY ESTIMATES

CITY MPG **21**

Expected range for most drivers is between 18 and 24 MPG

Estimated Annual Fuel Cost **$1,876**

Based on 15,000 miles at $3.00 per gallon

HIGHWAY MPG **24**

Expected range for most drivers is between 21 and 27 MPG

Combined Fuel Economy

24

10 — 32

YOUR ACTUAL MILEAGE WILL VARY depending on how you drive and maintain your vehicle.

GOVERNMENT SAFETY RATINGS

OVERALL VEHICLE SCORE

★★★★★

Based on the combined ratings of frontal, side and rollover. Should ONLY be compared to other vehicles of similar size and weight. Safety Concern: Visit SaferCar.gov for more details.

FRONTAL CRASH

DRIVER ★★★★★
PASSENGER ★★★★★

Based on the risk of injury in a frontal impact. Should ONLY be compared to other vehicles of similar size and weight.

SIDE CRASH

FRONT SEAT ★★★★★
REAR SEAT ★★★★★

Based on the risk of injury in a side impact.

ROLLOVER

★★★★★

Based on the risk of rollover in a single-vehicle crash.

FIND YOUR PERFECT AUTOMATCH
1-HOUR DELIVERY – GUARANTEED

AutoMatch APPROVED

AutoMatch USA

AutoMatch USA

SavingsMatch Approved

2013 CHEVROLET EQUINOX LT

Exterior: White **Interior:** Grey

Vehicle Identitifcation Number: ES0032488
Engine Number: ED568743
Stock Number: 54FF3440
Transmission Number: 444TSED3

Cylinders: 6
Turbo: Included
Mileage: 77,000 miles
Transmission: Manual

STANDARD EQUIPMENT (AT NO EXTRA COST)

EXTERIOR
- Liftgate, rear manual with fixed glass Door handles, body-color.
- Wiper, rear variable-speed, intermittent.
- Mirrors, outside heated power-adjustable, body-color and integral spotter mirror
- Glass, deep-tinted (all windows except light-tinted glass on windshield and driver and front passenger-side glass)
- LT Exterior Appearance includes body-color bumpers with Charcoal lowers, Charcoal lug gage rails, body-color door handles.
- Liftgate, rear manual with fixed glass Door handles, body-color.
- Wiper, rear variable-speed, intermittent.
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- Wiper, rear variable-speed, intermittent.
- Mirrors, outside heated power-adjustable, body-color and integral spotter mirror
- Glass, deep-tinted (all windows except light-tinted glass on windshield and driver and front passenger-side glass)

ENTERTAINMENT
- Liftgate, rear manual with fixed glass Door handles, body-color.
- Wiper, rear variable-speed, intermittent.
- Mirrors, outside heated power-adjustable, body-color and integral spotter mirror
- Glass, deep-tinted (all windows except light-tinted glass on windshield and driver and front passenger-side glass)

OTHER
- Liftgate, rear manual with fixed glass Door handles, body-color.
- Wiper, rear variable-speed, intermittent.
- Mirrors, outside heated power-adjustable, body-color and integral spotter mirror
- Glass, deep-tinted (all windows except light-tinted glass on windshield and driver and front passenger-side glass)

EXTRA EQUIPMENT

EXTERIOR
- Liftgate, rear manual with fixed glass Door handles, body-color.
- Wiper, rear variable-speed, intermittent.
- Mirrors, outside heated power-adjustable, body-color and integral spotter mirror
- Glass, deep-tinted (all windows except light-tinted glass on windshield and driver and front passenger-side glass)

INTERIOR
- Liftgate, rear manual with fixed glass Door handles, body-color.
- Wiper, rear variable-speed, intermittent.
- Mirrors, outside heated power-adjustable, body-color and integral spotter mirror
- Glass, deep-tinted (all windows except light-tinted glass on windshield and driver and front passenger-side glass)

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EPA FUEL ECONOMY ESTIMATES

CITY MPG **21**

Expected range for most drivers is between 18 and 24 MPG

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HIGHWAY MPG **24**

Expected range for most drivers is between 21 and 27 MPG

Combined Fuel Economy **24**

10 — 32

YOUR ACTUAL MILEAGE WILL VARY depending on how you drive and maintain your vehicle.

GOVERNMENT SAFETY RATINGS

OVERALL VEHICLE SCORE
★★★★★

Based on the combined ratings of frontal, side and rollover. Should ONLY be compared to other vehicles of similar size and weight. Safety Concern: Visit SaferCar.gov for more details.

FRONTAL CRASH
DRIVER ★★★★★
PASSENGER ★★★★★

Based on the risk of injury in a frontal impact. Should ONLY be compared to other vehicles of similar size and weight.

SIDE CRASH
FRONT SEAT ★★★★★
REAR SEAT ★★★★★

Based on the risk of injury in a side impact.

ROLLOVER
★★★★★

Based on the risk of rollover in a single-vehicle crash.

FIND YOUR PERFECT AUTOMATCH
1-HOUR DELIVERY – GUARANTEED

SavingsMatch APPROVED

AutoMatch USA

AutoMatch USA

AutoMatch and SavingsMatch

AutoMatch USA

SavingsMatch APPROVED

SavingsMatch Approved vehicles are reconditioned to high standards with regard to safety and functionality, any substandard items are repaired.

SavingsMatch Approved Requirements:

- History inspection, full maintenance & road test
- Oil change, oil filter replacement & chassis lubrication
- Air filter replacement*
- Cabin filter replacement*
- Windshield wiper insert/blade replacement*
- Battery terminal service & load test
- Complete detail, interior shampoo, buff & wax

*As Necessary

AutoMatch APPROVED

AutoMatch Approved vehicles have all the attributes of our SavingsMatch Approved brand, but are held to exceptional standards. These vehicles are subject to our highest level of reconditioning; all interior or exterior appearance deficiencies are restored to like-new condition.

AutoMatch Approved Requirements:

- Rigorous 125-point inspection
- Clean vehicle history report
- Model is less than seven years old
- Must not exceed 100,000 miles

All AutoMatch USA vehicles are fully serviced and ready for the open road!

AutoMatch USA

Fixed Operations - AutoReconditioning Standards

In order to capture and deliver on a promise of the highest quality pre-owned vehicles, each unit must be evaluated, inspected and then reconditioned to the highest standard possible with respect to various markets, vehicle condition, age and mileage. Therefore, based on several qualifying factors there are two levels of reconditioning.

All Levels of reconditioning (*except for wholesale trades*) will be subject to a minimum reconditioning of the following

- Oil Change, Oil Filter Replacement and Chassis Lubrication
- Air Filter Replacement (as necessary)
- Cabin Filter Replacement (as necessary)
- Windshield Wiper Insert/Blade Replacement (as necessary)
- Battery Terminal Service and Load test
- Complete Detail, Interior Shampoo, Buff and wax.

AutoMatch Reconditioning Highest level of reconditioning. These vehicles will be subject to a 160 point inspection. Any substandard safety related items will be repaired. All other items found to be substandard, broken or inoperative will be repaired to an extent of retaining value in the product. All Interior appearance items, interior cuts, tears, or worn areas, Exterior deficiencies such as scratches, dings, dents and the like will be repaired to present the highest standards with regard to cost while retaining value in the product. Tires must all match, brand and model and size per the MFG door plate and require a minimum tread depth of 5/32. Brakes linings must have a minimum of 50% useful material front and rear.

Qualifiers for AutoMatch Reconditioning

- Clean Vehicle History report. Clean Title, No Accidents
- Must not exceed 7 model years old
- Must not exceed 100,000 miles
- Vehicle must not have been modified other than minor appearance items
- Any open Recall/Campaigns must be completed **prior** to any reconditioning

AutoMatch USA

Fixed Operations - AutoReconditioning Standards

SavingsMatch Reconditioned ..Units that do not Qualify for AutoMatch Certified are reconditioned to the same high standards with regard to Safety and function but may exhibit some minor appearance flaws. These vehicles are also subject to a history inspection, Full Maintenance and Road Test. Items found to be substandard functionally will be repaired to proper operation. Appearance Items both interior and Exterior will be addressed to an acceptable level to present value in the product. This level will be determined by the location Sales Management.

Cost to Unit..

AutoMatch Reconditioned

- **Inspection** 267.00 plus Maintenance Parts and Materials (Oil, Filters and the like)
- **Detail** 120.00

Savings Match Reconditioned

- **Inspection** 89.00 plus Maintenance Parts and Materials (Oil, Filters and the like)
- **Detail** 120.00

Recondition and repair pricing.. all using flat Rate times established through ***All Data*** and standard parts grid mark up's. All sublet repairs used standard 20% Mark up.

AutoMatch USA

AutoReconditioning Process

- Unit arrives on lot from trade or purchase/auction
- Sales Manager checks in vehicle and determines to Recondition or Wholesale
- Sales Management performs history investigation (Car Fax/Auto Check)
- Wholesale units are given an exterior wash and vacuum and staged in wholesale line, no further action taken.
- Retail units are staged in retail area for Reconditioning.
- Sales Manager begins a '160 Point Check List' form populating the following
  - Stock #, Date Received, VIN, Year, Make, Model, Mileage and Color.
  - Sales Management Determines ***AutoMatch*** Certified or ***SavingsMatch*** Certified
- Form presented along with History report to Service Advisor/ Reconditioning Coordinator
- First in First out (FIFO) process to be used
- Any open Recalls are immediately sublet to the appropriate Franchise Dealer for correction
- Repair Order is created and Vehicle is Dispatched to Technician for Inspection (FIFO)

Inspection/Repair/Detail

- Qualification verified for AutoMatch Certified Yes or No
- Road Test performed, Minimum of 5 miles, various road conditions and achieving highway speeds of 65 mph if possible.
- All Maintenance items performed
- ***AutoMatch*** units then subject to complete 160 point inspection. All deficiencies or anything not meeting standards are noted.
- ***SavingsMatch*** units are subject to a general Inspection with emphasis on Safety related items and any other operational deficiencies found are noted.
- Inspection form with Repair Order is returned to Advisor.
- Advisor creates an estimate for all needed repairs and presents to Sales Management.
- Each individual repair is listed separately on individual job lines of the Repair order.
- Any declined repairs are noted on 1 job line of the repair order along with estimated costs, stating "Declined Repairs" and by whom.

AutoReconditioning Process (cont.)

- Repair Order is Dispatched to the technician to perform approved repairs.
- After repairs are complete, vehicle is dispatched to our approved sublet vendor for all appearance... Body /paint, interior and the like repairs.
- All Reconditioning repairs are complete unit is dispatched to detail department for final buff, Wax, shampoo and complete detail.
- Vehicle is presented to Sales Management for final inspection.
- Sales Management signs off on accepted condition and unit is placed in inventory, 'Front Line Ready' for spot delivery.
- Repair Order is finalized and filed along with bottom copy of 160 point inspection form.
- Top two copies on Inspection form are retained by sales Department in Vehicle Sales Jacket along with copy of completed Work order for use as a sales tool.

Appearance Reconditioning

Appearance reconditioning will be sublet to our National Preferred Vendor, Dent Wizard. Dent Wizard has committed to their "Front Line Fast" program that will recondition most units within 48 hrs. Relationships will be established in the local market with the local Market Manager. They will provide reconditioning of the following items:

- Paint less dent Repair (PDR)
- Bumper Repairs (Scuffs, Scrapes and Abrasions)
- Minor Body Repairs/Painting
- Interior Repairs
- Alloy Wheel Repairs (Refinishing and Straightening)
- Head Light Restoration

Inventory walk will be conducted and an estimate provided from Dent Wizard's Team Market manager for each new unit arriving at the location. Sales Management will determine the extent of repairs done to each unit to make saleable with regard to quality and cost to unit, and provide approval to Service Department. The Service Department will contract with Dent Wizard for all reconditioning work approved by Sales Management and process all documentation through the work order.

Automotive Service

Service Mission Statement.

To provide the highest quality Automotive Dealership service experience to our guests for all makes and models at competitive prices.

- Management Staffing plan and process that embraces a customer friendly experience
- All ASE Certified Technicians
  - Continuous training on all the latest industry advancements
- State of the art Service Center.
  - Equipped with the latest technology in all aspects of vehicle service and diagnostic equipment
- Ability to handle all Service and appearance needs

Exhibit 4

ZONING ORDINANCE

CITY OF AVONDALE ARIZONA

BEUS, GILBERT & DEVITT, P.L.L.C.
3200 N. CENTRAL, STE. 1000
PHOENIX, AZ 85012-2417

AUGUST 1990

KFX
1092
AV 102

Current As
Of 10-31-98

4. Day care and nursery schools.

5. Tailor, dressmaking.

6. Shoe repair.

7. Barber shops and beauty salons.

8. Dry cleaning and laundry stores, including on-site cleaning facilities.

9. Bakery shops.

10. Photo studio, photographer.

11. The manufacture of goods for retail sale on the premises provided such manufacturing is clearly incidental to and operated in connection with the main use of the property.

B. Uses Permitted Subject to a Conditional Use Permit

1. Grocery or convenience markets (dispensing of gasoline, propane or similar fuels prohibited).

2. Clubs and lodges.

3. Hospitals.

4. Restaurants, closed building only with no drive-thru.

5. Institutions for medical rehabilitation and care.

6. Homes for the aged.

7. Veterinary offices, provided such offices are in accordance with Section 302.B.1.

8. Comprehensive child care facility.

9. Group recovery home.

10. Accessory uses in accordance with Section 303.B.2.

Section 305: Community Commercial (C-2) District

A. Permitted Uses

1. All uses permitted in the C-O and C-1 Districts and all uses permitted in the C-O and C-1 Districts subject to a conditional use permit.

2. Athletic clubs, health clubs (enclosed buildings).

3. Auto, recreational vehicle, motorcycle, travel trailer and boat sales and rental.

4. Bowling alleys.

5. Car washes.

6. Commercial parking lots and garages.

7. Commercial, trade, business, dance and similar schools except those of industrial character.

8. Convenience stores with gasoline dispensing.

9. Drive-in restaurants.

10. Equipment rentals.

11. Hotels and motels.

12. Mini-storage and vehicle storage areas provided the sites are used for dead storage only, not for retail purposes.

13. Mortuaries, funeral homes, crematoria, cemeteries.

14. Plant nurseries with outdoor display.

15. Printing and copying shops.

16. Repair shops for appliances, radios, upholstery, plumbing including limited manufacturing and assembly for such uses as awning sales or other similar uses.

17. Restaurants with a bar or cocktail lounge as an accessory use.

18. Restaurants with drive-thru windows.

19. Service stations.

20. Theaters (enclosed buildings).

21. Wholesale sales for restaurant and hospital equipment.

22. The manufacture of goods for retail sale on the premises provided such manufacturing is clearly incidental to and operated in connection with the main use of the property.

B. Uses Permitted Subject to a Conditional Use Permit

1. Motor vehicle repair.

2. Cocktail lounge, bars, nightclubs, taverns.

3. Commercial recreation facilities such as swimming or tennis clubs.

4. Restaurants with live entertainment.

5. Second hand merchandise sales.

6. Skating rinks.

7. Adult bookstore, adult theaters, and adult live entertainment establishments provided:

   a. None of the above listed uses may be located within one-thousand (1,000) feet of any other use in the same category as measured from building to building; and,

   b. None of the above listed uses may be located within five-hundred (500) feet of a public or private school, church or any residential district listed in Section 2, as measured from the building containing the adult establishment to the closest point of the residential district, public or private school parcel or church parcel.

8. Amusement Park such as a swim or water park, kiddie-land or similar use.

9. Motor vehicle body shop.

10. Building materials and lumber yards provided there are no milling or planing operations.

11. Bus terminal.

12. Drive-in theaters.

13. Farm implements and machinery sales and repair.

14. Golf/baseball driving range.

15. Animal kennels.

16. Miniature golf.

17. Taxi dispatch station.

18. Video arcade or similar amusement establishment, provided the site is not located within five-hundred (500) feet of a public or private school site.

19. Truck stop.

20. Radio and television studios with receiving and transmitting towers.

21. Massage parlor provided the establishment is not conducted on the same premises where there is a cocktail lounge, photo studio, model studio, art studio, telephone answering service, motion picture theater, or bookstore.

22. Recreational vehicle park subject to the following standards.

a. One recreation vehicle per space permitted.

b. Accessory uses common to recreational vehicle parks are permitted including community recreational buildings, parking areas, laundry facilities, manager's office and living quarters, boat and trailer storage and other similar accessory uses for the exclusive benefit of park residents.

c. The sale of convenience type items is permitted for those persons using the park provided that the maximum sales area is not greater than 600 square feet and provided there are no outside signs to advertise the sales area.

d. The minimum size of a recreational vehicle park shall be two (2) acres.

e. The maximum number of recreational vehicle spaces or units per acre shall be eighteen (18).

f. The minimum width of private driveways or accessways within the park shall be twenty (20) feet. Each unit shall have access to a private driveway or accessway connected to a public street.

g. The minimum space between recreational vehicles shall be fourteen (14) feet. This dimension may be reduced to ten (10) feet between awnings or canopies.

h. No recreational vehicle shall be closer than eight (8) feet to a private driveway.

i. A minimum of three (3) percent of the site shall be devoted to usable common open space for all residents, excluding streets and private driveways, parking and storage areas, or required setbacks at the exterior boundaries of the site.

j. All areas not covered by structures or paving shall be landscaped.

k. The maximum height of any building shall be thirty (30) feet.

l. Vehicle parking shall be provided at a rate of 1.1 parking spaces per recreational vehicle space (see Section 804).

m. No recreational vehicle shall be located closer than twenty (20) feet to the perimeter of the park. Within such area, trees with a minimum size of fifteen (15) gallons shall be planted every 20 feet on center.

n. A minimum six (6) foot and maximum eight (8) foot wall shall be constructed around the perimeter of the park. Where said wall fronts onto a public street, the wall shall be constructed of slump block, brick or masonry with a stucco finish.

o. Any part of the recreational vehicle park fronting on a public street shall meet the screening and landscaping standards for commercial developments contained in Section 5.

23. Any uses similar to and not more detrimental than the uses permitted herein.

Section 306: Yard, Height, and Area Requirements

The following table outlines the minimum development standards within each district. Yard, height, and area requirements in excess of these minimum standards may be required in accordance with design standards outlined in Section 5.

COMMERCIAL DISTRICTS			
DISTRICT	C-0	C-1	C-2
MINIMUM NET SITE AREA	6000 SF	-	-
MINIMUM LOT WIDTH	60′	-	-
MINIMUM LOT DEPTH	100′	-	-
MAXIMUM HEIGHT	30′	30′	35′
MAXIMUM BLDG. COVERAGE	35%	-	-
MINIMUM SETBACKS:			
FRONT YARD	20′	20′	20′
SIDE YARD *	10′	-	-
REAR YARD *	15′	-	-
STREET SIDE	20′	20′	20′

* WHEN ADJACENT TO A RESIDENTIAL DISTRICT OR USE, THE FOLLOWING SIDE AND REAR SETBACKS SHALL APPLY:

BUILDING HEIGHT	SETBACK
1 STORY (15′)	25′
2 STORY (35′)	50′

Exhibit 5

Revised Copy

CITY OF AVONDALE

INCORPORATED 1946

COMMUNITY DEVELOPMENT DEPARTMENT ♦ 1225 SOUTH 4TH STREET
AVONDALE, ARIZONA 85323 ♦ PHONE (623) 932-6088 ♦ FAX (623) 932-6119

CITY OF AVONDALE

PLANNING AND ZONING COMMISSION

STAFF REPORT

MEETING DATE: November 18, 1999

CASE NO.: Z99-402-A

APPLICANT: AZVT, L.L.C, Michael Pacheco
P.O Box 16460
Phoenix, AZ
85011

REQUEST: Request to rezone approximately 150 acres of AG (Agriculture) to P.A.D.D. (Planned Area Development District), consisting of C-2 (Commercial) Zoning

LOCATION: Project area is located west of 99th Avenue, east of 107th Avenue, south of Interstate 10 and north of the Roosevelt Street Alignment.

BACKGROUND:

The applicant is requesting the rezoning of approximately 150 acres of AG to P.A.D.D. consisting of C-2 zoning. The site is located within the City of Avondale Freeway Corridor Specific Plan and is designated as Mixed Use. The general development plan and program submitted by the applicant identifies two major land uses for the site. The eastern portion of the site has been designated by the development plan as an automall and consists of approximately 100.7 acres. The plan designates the remaining 49.2 acres within the western portion of the site as a retail shopping center.

The conceptual site plan for the project identifies eight full service automobile dealerships and other auto related business sites within the Automall portion of the site. The retail shopping component of the plan includes two major anchor businesses and several pads. Intended uses for the retail shopping center will consist of uses commonly found in power type shopping centers.

Conditional Use Request

The application for rezoning includes a request for Conditional Use Permit for several uses and potential uses within the project area. The uses listed below are identified in the City of Avondale Zoning Ordinance as uses that are subject to a Conditional Use Permit: Motor Vehicle Repair; Motor Vehicle Parts Storage and Sales; Motor Vehicle Body Shop; Restaurants with Live Entertainment, provided entertainment does not include "adult" live entertainment; Second Hand Merchandising Sales; Skating Rinks, Building Material and Lumberyard retail operations; Video Arcade or Similar Amusement Establishment, provided the location is not within 500 feet of a school site; and Animal Kennels.

The project area is surrounded by the I-10 freeway to the north and Industrial to the east. The City of Avondale Freeway Corridor Specific Plan identifies the land to the west as "mixed use" and the property to the south as "transitional". Future residential development would be unlikely within the immediate vicinity surrounding the project site, therefore causing no impact to surrounding neighborhoods by these uses. Staff supports the request for Conditional Use Permit for these uses and proposed uses within the project area.

Requested P.A.D.D. modifications

The applicant has requested modifications to the C-2 development standards within the P.A.D.D. plan and program development. The applicant has also requested modifications to the landscape standards and height standards of the C-2 zone.

Modification Requested:

1) Retention Basin with side slopes greater than 4 to 1
   Ordinance Standard, maximum slope, 4 to 1

2) Flagpole with height up to 75 feet
   C-2 Ordinance Standard, 35 feet maximum height

3) 5% front yard landscaping area (Automall area)
   C-2 Ordinance Standard, 10 %

4) Rear Yard landscaping on perimeter of lot out side of screen wall (Automall Area)
   C-2 Ordinance Standard 10%

5) Parking Lot trees , 2 trees per 20 parking spaces (Automall area)
   C-2 Ordinance Standard, 1 tree per 8 parking spaces

6) Waiver of 3 foot high parking screen wall (Automall area)

C-2 Ordinance Standard, 3 foot block wall or berm required, adjacent to public roads

7) Major or Anchor height allowance of 40 feet (retail shopping center)
C-2 Ordinance Standard, 35 feet

The P.A.D.D. zoning designation of the subject property requires that each final site plan and building elevations within the project will proceed through the Planning and Zoning Commission and the Mayor and City Council for approval. The location of the project is ideally suited for regional commercial activity due to the visibility from both the 1-10 freeway and the future 101 freeway interchange. Furthermore, the proposed project is ideal in that it is a use that will not be impacted negatively by freeway noise or the land uses that surround the site. Staff has found that the proposed project is consistent with the City of Avondale Freeway Corridor Specific Plan.

RECOMMENDATION:

Staff recommends that the Planning and Zoning Commission forward case Z99-402-A to the Mayor and City Council with their recommendation of **APPROVAL** with the following stipulations.

1) That the necessary right of way as required by the City of Avondale is dedicated for 107th Avenue and Roosevelt Street; and that the necessary right of way as required by the City of Tolleson is dedicated for 99th Avenue.

2) That a 6 foot high block wall is used to screen the rear service yard of the auto dealership parcels along 99th Avenue, Roosevelt Street and the retail center property line

3) That any metal structure used for the service facility buildings be architecturally altered through the application of a veneer so that it minimizes metal surfaces and appears architecturally compatible with the main sales building.

This is a revised staff report for Zoning Case Z99-402-A. The request for additional signage for the property has been withdrawn from the P.A.D.D. zoning application.

Exhibit 6

PLANNING AND ZONING COMMISSION
MEETING MINUTES

Regular Meeting of: November 18, 1999

PRESENT:
Marie Rogers, Commissioner
Lora Isaacs, Commissioner
Earnest Tillman, Commissioner
Gonzalo Ortiz, Commissioer
Donald Turner, Chairman

OTHERS:
Bob Bigando, Senior Planner
Desmond McGeough,Planner
Karen Carranza, Staff

EXCUSED:
Homero Arjona, Vice-Chairman

A. **CALL TO ORDER:**
The Planning and Zoning Commission meeting of November 18, 1999 was called to order by Chairman Turner at 7:05 p.m.

B. **ROLL CALL:**
Those present are noted above

C. **APPROVAL OF MINUTES:** Regular Meeting of October 21, 1999

EARNEST TILLMAN MADE A MOTION TO APPROVE THE MINUTES OF OCTOBER 21, 1999. GONZALO ORTIZ SECONDED THE MOTION. MOTION WAS PASSED UNANIMOUSLY.

D. **HEARINGS:**

1) **CASE NO:** Z99-369-B

APPLICANT: Virgil Doerfler
1125 W. Pasadena #1
Phoenix, Arizona 85213

REQUEST: Preliminary Plat approval for 35 acres of P.A.D.D. (Planned Area Development District) consisting of Single-family Residential and Commercial.

LOCATION: Northeast corner of Litchfield Road and Lower Buckeye.

ROLL CALL WAS AS FOLLOWS:

Marie Rogers	**Aye**
Lora Isaacs	**Aye**
Earnest Tillman	**Aye**
Gonzalo Ortiz	**Aye**
Donald Turner	**Aye**

Motion was passed unanimously.

3) **CASE NO:** Z99-402-A

APPLICANT: AZVT, L.L.C, Michael Pacheco
P.O. Box 16460
Phoenix, AZ 85011

REQUEST: Request to rezone approximately 150 acres of AG (Agriculture) to P.A.D.D. (Planned Area Development District), consisting of C-2 (Commercial) Zoning.

LOCATION: Project area is located west of 99th Avenue, east of 107th Avenue, south of Interstate 10 and north of the Roosevelt Street Alignment.

Mr. McGeough presented the staff report to the Planning and Zoning. He stated that the applicant is requesting the rezoning of approximately 150 acres of AG to P.A.D.D. consisting of C-2 zoning. The site is located within the City of Avondale Freeway Corridor Specific Plan and is designated as Mixed Use. The general development plan and program submitted by the applicant identifies two major land uses for the site. The eastern portion of the site has been designated by the development plan as an automall and consists of approximately 100.7 acres. The plan designates the remaining 49.2 acres within the western portion of the site as a retail shopping center.

Mr. McGeough stated the conceptual site plan for the project identifies eight full service automobile dealerships and other auto related business sites within the Automall portion of the site. The retail shopping component of the plan includes two major anchor businesses and several pads. Intended uses for the retail shopping center will consist of uses commonly found in power type shopping centers.

The application for rezoning includes a request for Conditional Use Permit for several uses and potential uses within the project area. The uses listed below are identified in the City of Avondale Zoning Ordinance as uses that are subject to a Conditional Use Permit; Motor Vehicle

Repair; Motor Vehicle Parts Storage and Sales; Motor Vehicle Body Shop; Restaurants with Live

Entertainment, provided entertainment does not include "adult" live entertainment; Second Hand Merchandising Sales; Skating Rinks, Building Material and Lumberyard retail operations; Video Arcade for Similar Amusement Establishment, provided the location is not within 500 feet of a school site; and Animal Kennels.

The project area is surrounded by the I-10 freeway to the north and Industrial uses to the east. The City of Avondale Freeway Corridor Specific Plan identifies the land of the west as "mixed use" and the property to the south as "transitional." Future residential development would be unlikely within the immediate vicinity surrounding the project site, therefore causing no impact to surrounding neighborhoods by these uses. Staff supports the request for Conditional Use Permit for these uses and proposed uses within the project area.

Mr. McGeough stated the applicant has requested modifications to the C-2 development standards within the P.A.D.D. plan and program development. The applicant has also requested modifications to the landscape standards and height standards of the C-2 zone.

The modifications are as follows:

1) Retention Basin with side slopes greater that 4 to 1, Ordinance Standard, maximum slope, 4 to 1

2) Flagpole with height up to 75 feet, C-2 Ordinance Standard, 35 feet maximum height

3) 5% front yard landscaping area (Automall area), C-2 Ordinance Standard, 10%

4) Rear Yard landscaping on perimeter of lot out side of screen wall (Automall Area), C-2 Ordinance Standard 10%

5) Parking lot trees, 2 trees per 20 parking spaces (Automall Area) C-2 Ordinance Standard 10%

6) Waiver if 3 foot high parking screen wall (Automall area), C-2 Ordinance Standard, 3 foot block wall of berm required, adjacent to public roads

7) Major or Anchor heigh allowance of 40 feet (retail shopping center) C-2 Ordinance Standard, 35 feet

The P.A.D.D. zoning designation of the subject property requires that each final site plan and building elevations within the project will proceed through the Planning and Zoning Commission

and the Mayor and City Council for approval. The location of the project is ideally suited for regional commercial activity due to the visibility from both the I-10 freeway and the future 101

freeway interchange. Furthermore, the proposed project is ideal in that it is a use that will not be impacted negatively by freeway noise or the land uses that surround the site. Staff has found that the proposed project is consistent with the City of Avondale Freeway Corridor Specific Plan.

Mr. McGeough stated that staff recommends that the Planning and Zoning Commission forward case Z99-402-A to the Mayor and City Council with their recommendation of approval with the following stipulations.

1) That the necessary right of way as required by the City of Avondale is dedicated for 107th Avenue and Roosevelt Street; and that the necessary right of way as required by the City of Tolleson is dedicated for 99th Avenue.

2) That a 6 foot high block wall is used to screen the rear service yard of the auto dealership parcels along 99th Avenue, Roosevelt Street and the retail center property line.

3) That any metal structure used for the service facility buildings be architecturally altered through the application of a veneer so that it minimizes metal surfaces and appears architecturally compatible with the main sales building.

Chairman Turner asked if there were any questions of staff. Chairman Turner asked if the idea behind P.A.D.D. was that the standards are set up and if the applicant wants to modify those standards for some reason that there is offsetting benefits to the City of Avondale. He explained that the modifications the applicant is requesting does not benefit the city and why they should receive extra benefits. Mr. McGeough explained that some of the request that are being made in terms of landscaping and such the main portion and retail activity of this site will be taking place outside and an area that accommodates the number of cars that they will be bringing and so they are trying to maximize the area, which is a strong economic impact for the city in terms of sales tax generation. Chairman Turner stated that it is no different that Target or Albertsons. Chairman Turner discussed on how why they should receive extra benefits. Chairman Turner explained that he understood why the applicant was requesting modifications but wanted to know why it should be done if the city does not benefit from it. Mr. McGeough stated that the benefit in a whole is the economic benefit it would bring to the city with financial impact for these requested modifications. Chairman Turner asked is there were any other questions. Chairman Turner asked the applicant was present and would like to make a presentation. Paul Gilbert and Mike Pacheco were present with two dealerships that are interested in locating at this site. Mr. Gilbert stated that this project is a very infrastructure area. The infrastructure that is necessary to make this happen does not exist and therefore developing this property is a very expensive process. He explained that they need to bring water, sewer, electrical, natural gas, and telephone to serve the site and bringing it at a more substantially greater distance than is normally the case

and that is in great detail in the development agreement. Mr. Gilbert explained that they are asking for fewer changes than they normally do. He explained the benefits to city are that

automalls are the number one generator of sales tax of any user anywhere. He stated that other benefits are jobs and opportunities. He also explained that the most important thing it to keep the automall going and in order to keep it going, they need the changes that they are asking for. Mr. Gilbert stated to summarized the benefits are an immense sales tax rate that the town will acquire and more importantly job opportunities. He stated that in summary he believes this request is appropriate because it will result in a major land use that provides jobs, sales tax opportunities, it will not have a detrimental impact on the surrounding properties and to in his knowledge he know of no oppositions at this take from the surrounding development or property owners, they are compatible with the general plan, with the freeway corridor plan, and exactly what the Avondale wants to be located at this location. He believes that these are good reasons and to recommend approval and they have a strong recommendation of support from the planning staff. Chairman Turner asked if there were any questions of the applicant. Commissioner Tillman asked how long it would take to start the project. Mr. Gilbert answered that they intend to start this as fast as they can get approvals and infrastructure agreements and everything in place. They hope to be under construction very quickly within a year. Commissioner Isaacs stated that she was very excited about this project and different have any problems with a majority of the modification. She did have a concern about cutting the landscaping are from 10% to 5% . Mr. Gilbert explained the reason for that was because they are selling cars and they need the space to demonstrate and place the cars where they need to be and need to flexibility to do that. Commissioner Isaacs asked if they would later see the sign modifications. Mr. Gilbert stated that they would see them at a later time. Chairman Turner asked if there were any other questions of staff.

EARNEST TILLMAN MADE A MOTION TO FORWARD CASE Z99-402-A WITH THE ATTACHED STIPULATIONS, WITH THEIR RECOMMENDATION OF APPROVAL TO THE MAYOR AND CITY COUNCIL. COMMISSIONER ORTIZ SECONDED THE MOTION. ROLL CALL WAS AS FOLLOWS:

Marie Rogers	**Aye**
Lora Isaacs	**Aye**
Earnest Tillman	**Aye**
Gonzalo Ortiz	**Aye**
Donald Turner	**Aye**

Motion was passed unanimously.

E. **UNSCHEDULED PUBLIC APPEARANCE:**

1. Olinda Luna-Hernandez stated that she is impressed by the commission asking all the questions and asking for clarifications on these projects. She stated that she

Exhibit 7

CITY OF AVONDALE

INCORPORATED 1946

COMMUNITY DEVELOPMENT DEPARTMENT ♦ 1225 SOUTH 4TH STREET
AVONDALE, ARIZONA 85323 ♦ PHONE (623) 932-6088 ♦ FAX (623) 932-6119

CITY OF AVONDALE

MAYOR AND CITY COUNCIL

STAFF REPORT

MEETING DATE:	December 20, 1999
CASE NO:	Z99-402-A
APPLICANT:	AZVT, L.L.C, Michael Pacheco P.O. Box 16460 Phoenix, AZ 85011
REQUEST:	Request to rezone approximately 150 acres of AG (Agriculture) to P.A.D.D. (Planned Area Development District), consisting of C-2 (Commercial) Zoning
LOCATION:	Project area is located west of 99th Avenue, east of 107th Avenue, south of Interstate 10 and north of the Roosevelt Street Alignment.

BACKGROUND:

The applicant is requesting the rezoning of approximately 150 acres of AG to P.A.D.D. consisting of C-2 zoning. The site is located within the City of Avondale Freeway Corridor Specific Plan and is designated as Mixed Use. The general development plan and program submitted by the applicant identifies two major land uses for the site. The eastern portion of the site has been designated by the development plan as an automall and consists of approximately 100.7 acres. The plan designates the remaining 49.2 acres within the western portion of the site as a retail shopping center.

The conceptual site plan for the project identifies eight full service automobile dealerships and other auto related business sites within the Automall portion of the site. The retail shopping component of the plan includes two major anchor businesses and several pads. Intended uses for the retail shopping center will consist of uses commonly found in power type shopping centers.

Conditional Use Request

The application for rezoning includes a request for Conditional Use Permit for several uses and potential uses within the project area. The uses listed below are identified in the City of Avondale Zoning Ordinance as uses that are subject to a Conditional Use Permit: Motor Vehicle Repair; Motor Vehicle Parts Storage and Sales; Motor Vehicle Body Shop, Restaurants with Live Entertainment, provided entertainment does not include "adult" entertainment; Second Hand Merchandising Sales; Skating Rinks, Building Material and Lumberyard retail operations; Video Arcade or Similar Amusement Establishment, provided the location is not within 500 feet of a school site; and Animal Kennels.

The project area is surrounded by the I-10 freeway to the north and Industrial to the east. The City of Avondale Freeway Corridor Specific Plan identifies the land to the west as "mixed use" and the property to the south as "transitional". Future residential development would be unlikely within the immediate vicinity surrounding the project site, therefore causing no impact to surrounding neighborhoods by these uses. Staff supports the request for Conditional Use Permit for these uses and proposed uses within the project area.

Requested P.A.D.D. modifications

The applicant has requested modifications to the C-2 development standards within the P.A.D.D. plan and program development. The applicant has also requested modifications to the landscape standards and height standards of the C-2 zone.

Modification Requested:

1) Retention Basin with side slopes greater that 4 to 1
   Ordinance Standard, maximum slope, 4 to 1

2) Flagpole with height up to 75 feet
   C-2 Ordinance Standard, 35 feet maximum height

3) 5% front yard landscaping area (Automall area)
   C-2 Ordinance Standard, 10%

4) Rear Yard landscaping on perimeter of lot outside of screen wall (Automall area)
   C-2 Ordinance Standard 10%

5) Parking Lot trees, 2 trees per 20 parking spaces (Automall area)
   C-2 Ordinance Standard, 1 tree per 8 parking spaces

6) Waiver of 3 foot high parking screen wall (Automall Area)
C-2 Ordinance Standard, 3 foot block wall or berm required, adjacent to public roads

7) Major or Anchor height allowance of 40 feet (retail shopping center)
C-2 Ordinance Standard, 35 feet

The P.A.D.D. zoning designation of the subject property requires that each final site plan and building elevations within the project will proceed through the Planning and Zoning Commission and the Mayor and City Council for approval. The location of the project is ideally suited for regional commercial activity due to the visibility from both the I-10 freeway and the future 101 freeway interchange. Furthermore, the proposed project is ideal in that it is a use that will not be impacted negatively by freeway noise or the land uses that surround the site. Staff has found that the proposed project is consistent with the City of Avondale Freeway Corridor Specific Plan.

The request for additional signage for the property has been withdrawn from the P.A.D.D. zoning application. As required by section 909 C.1. of the Avondale sign code, the applicant will submit a comprehensive sign package to the Community Development Department. The planing division will submit a report of findings to the City Council regarding the compliance with the sign code.

RECOMMENDATION:

The Planning and Zoning Commission recommends that the Mayor and City Council **APPROVE** case Z99-402-A with the following stipulations by ordinance.

1) That the necessary right of way as required by the City of Avondale is dedicated for 107th Avenue and Roosevelt Street; and that the necessary right of way as required by the City of Tolleson is dedicated for 99th Avenue.

2) That a 6 foot high block wall is used to screen the rear service yard of the auto dealership parcels along 99th Avenue, Roosevelt Street and the retail center property line

3) That any metal structure used for the service facility buildings be architecturally altered through the application of a veneer so that it minimizes metal surfaces and appears architecturally compatible with the main sales building.

Exhibit 8

Minutes of the regular meeting of December 20, 1999 held at 7:30 p.m. in the Council Chambers.

MEMBERS PRESENT

Mayor Thomas F. Morales and Council Members	Henry Beltran
	Albert Carroll, Jr.
	Raymond Shuey
	Marie Lopez-Rogers
	Mike C. Federico

ALSO PRESENT

City Manager	Carlos V. Palma
City Attorney	Frank L. Ross

ABSENT/EXCUSED

Peggy Jones

CONSENT AGENDA

The following items were considered for action on the consent agenda:

3) **MINUTES** - December 6, 1999

4) **ZONING CASE Z99-347C - INFINITY ENGINEERING - FINAL PLAT - SAGE CREEK**
Final plat approval for Sage Creek, located at the north east corner of Dysart Road and Osborn road alignment.

2A) **SIGN PACKAGE - AZVT, L.L.C.**
Approval from AZVT, L.L.C., of the proposed sign package for the Avondale Automall and Retail Shopping Center.

11) **COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION**
Authorization to proceed with the applications for HOME and CDBG Project Year XXIII, the paving of Elwood Street from Vermeersch to 127th Avenue and the construction of sidewalks in the Cashion neighborhood.

14) **UPGRADE - ENGINEERING TECH AIDE - PUBLIC WORKS**
Upgrade the current engineering intern part time position to an Engineering Tech Aide full-time position and allow the processing of said position.

15) **BUDGET TRANSFER - DOMESTIC VIOLENCE SPECIALIST**
Transfer of $10,000 within the Social Services Department budget from a line item created to provide contract services for domestic violence victims to salary and benefits in order to continue the Domestic Violence Specialist position.

would that have any affect on this rezoning. Mr. Ross stated no, it would not affect it.

Mayor reminded the Council that Item 28 is for a development agreement and not a rezoning item.

Frank Ross read the above resolutions, items # 3A, 4A, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 & 36 by title only. Vice Mayor Beltran moved to approve the resolutions on consent. Councilman Carroll seconded the motion. Roll Call Vote as follows:

Council member Federico	Aye
Council member Shuey	Aye
Council member Rogers	Aye
Councilman Carroll	Aye
Vice Mayor Beltran	Aye
Mayor Morales	Aye

Warren Brown, K.E.Y.S, addressed the Council. He stated that since this is the last meeting of the year he wanted to address the Council at this time. Mr. Brown presented the Council with t-shirts and thanked them for their support. Mr. Brown explained that a grant from the Phoenix Coyotes gave them a chance to do another retreat in October and he recognized two city employees who assisted with that retreat, Jeremy Figueroa and Mike Powell.

Mr. Brown explained that K.E.Y.S. stands for Keeping Excellence in Youth Support and was started about seven years ago by the City of Avondale. He said it was started by a group of individuals who wanted to do something about helping young people in our community. Mr. Brown explained that K.E.Y.S. works with Avondale Elementary School District, Tolleson Elementary District, Westview High School, Tolleson, Millenium and Agua Fria. He said the K.E.Y.S. program model is succeeding in spite of what issue you are dealing with.

Mayor Morales thanked Mr. Brown.

22) **ORDINANCE #723-99- ZONING CASE Z99-402A - AZVT LLC - P.A.D.D.**
Bob Bigando, Senior Planner, addressed the Council. He explained the applicant, AZVT, L.L.C, has requested the rezoning of approximately 150 acres of AG(Agriculture) to P.A.D.D. (Planned Area Development District), consisting of C-2 (Commercial) Zoning. He stated the site is located west of 99th Avenue, east of 107th Avenue, south of Interstate 10 and north of the Roosevelt Street Alignment and is within the City of Avondale

Freeway Corridor Specific Plan and designated as Mixed Use.

Mr. Bigando stated the general development plan and program submitted by the applicant identifies two major land uses for the site; the eastern portion of the site has been designated by the development plan as an automall and consists of approximately 100.7 acres, and the plan designates the remaining 49.2 acres within the western portion of the site as a retail shopping center. He stated the conceptual site plan for the project identifies eight full service automobile dealerships and other auto related business sites within the Automall portion of the site; the retail shopping component of the plan includes two major anchor businesses and several pads. Mr. Bigando stated the intended uses for the retail shopping center will consist of uses commonly found in power type shopping centers.

Mr. Bigando stated the application for rezoning includes a request for Conditional Use Permit for several uses and potential uses within the project area. He listed those uses below that are identified in the City of Avondale Zoning Ordinance as uses that are subject to a Conditional Use Permit: Motor Vehicle Repair; Motor Vehicle Parts Storage and Sales; Motor Vehicle Body Shop, Restaurants with Live Entertainment, provided entertainment does not include Aadult@ entertainment; Second Hand Merchandising Sales; Skating Rinks, Building Material and Lumberyard retail operations; Video Arcade or Similar Amusement Establishment, provided the location is not within 500 feet of a school site; and Animal Kennels.

Mr. Bigando listed the applicant requested modifications to the C-2 development standards within the P.A.D.D. plan and program development and modifications to the landscape standards and height standards of the C-2 zone:

1) Retention Basin with side slopes greater that 4 to 1
   Ordinance Standard, maximum slope, 4 to 1

2) Flagpole with height up to 75 feet
   C-2 Ordinance Standard, 35 feet maximum height

3) 5% front yard landscaping area (Automall area)
   C-2 Ordinance Standard, 10%

4) Rear Yard landscaping on perimeter of lot outside of screen wall (Automall area) C-2 Ordinance Standard 10%

5) Parking Lot trees, 2 trees per 20 parking spaces (Automall area) C-2 Ordinance Standard, 1 tree per 8 parking spaces.

6) Waiver of 3 foot high parking screen wall (Automall Area) C-2 Ordinance Standard, 3 foot block wall or berm required, adjacent to public roads

7) Major or Anchor height allowance of 40 feet (retail shopping center) C-2 Ordinance Standard, 35 feet

Mr. Bigando said these diverge from the existing standards but are in keeping with the overall design of the development and the rather particular nature of the use of the development.

Mr. Bigando stated the Planning and Zoning Commission recommended that the Mayor and City Council **APPROVE** case Z99-402-A with the following stipulations:

1) That the necessary right of way as required by the City of Avondale is dedicated for 107th Avenue and Roosevelt Street; and that the necessary right of way as required by the City of Tolleson is dedicated for 99th Avenue.

2) That a 6 foot high block wall is used to screen the rear service yard of the auto dealership parcels along 99th Avenue, Roosevelt Street and the retail center property line.

3) That any metal structure used for the service facility buildings be architecturally altered through the application of a veneer so that it minimizes metal surfaces and appears architecturally compatible with the main sales building.

Paul Gilbert, 3200 N. Central, on behalf of applicant, AZVT,L.L.C. He introduced Mike Pachenko, Mr. Gambino and Mr. Grant who will hopefully be users of the automall.

Council member Shuey asked for more information about modification #5 with regards to the number of trees per 20 parking spaces. Mr. Gilbert explained that more landscaping is provided elsewhere on the site and they need the area to satisfy their pragmatic requirements for the parking. He stated what they are asking for is not inconsistent with similar approvals granted all over the valley for automobile dealerships of this nature.

Frank Ross read the ordinance by title. Councilman Carroll moved to adopt this ordinance. Vice Mayor Beltran seconded the motion. ROLL CALL VOTE AS FOLLOWS:

Council member Federico	Aye
Council member Shuey	Aye
Council member Rogers	Aye
Councilman Carroll	Aye
Vice Mayor Beltran	Aye
Mayor Morales	Aye

1A) **APPOINTMENT OF THE CITY MAGISTRATE**
Carlos Palma, City Manager, explained that per the Charter requirement, a City Magistrate must be appointed to a term of no less than two years. He stated the current contract with Judge Rhodes expired on June 30, 1999 and the Judge has been working under a provision in the city charter.

Council member Rogers stated that she would like to postpone this until the new council has taken office. Council member Shuey seconded the motion.

Council member Shuey explained that he has been privileged to know Judge Rhodes for seventeen years, but stated that he agreed with Council member Rogers because a new Mayor and Council will be taking office in a few days. He stated that this meeting's Council agenda could be cut into two distinct components; one the progress and achievements of the existing Mayor and Council, and one that deals with issues looking forward into the future.

Mayor Morales stated that he disagreed with that reasoning because the present Council had an obligation to take care of this item in May and therefore should take this action.

Councilman Carroll stated that the Council has been lax and should have taken action. He said he appreciated the fact that the judge has worked without a contract and stated he felt it was this Council=s obligation to take care of this item and so he does not support the motion.

Motion was defeated 4-2.

Vice Mayor Beltran moved to approve the appointment of the City Magistrate. Councilman Carroll seconded the motion. Motion carried 4 - 2.

5) PRESENTATION - PLAQUE - PEDIATRIC BRAIN TUMOR FOUNDATION
Ken Sowers, Acting Community Development Director, presented the Council with commemorative plaques from the Pediatric Brain Tumor Foundation in appreciation of the work and support of the Community Development and Police Departments during the October

Exhibit 9

PLANNING AND BUILDING SERVICES

SUBJECT: Amendment to the Avondale Automall PAD (A03-402-AM1)	**MEETING DATE:** March 20, 2003 **AGENDA ITEM:** 2

PLANNING COMMISSION REPORT

TO: Planning Commission

FROM: Nathan Crane, Planning Manager

THROUGH: Dean Svoboda, Planning and Building Services Director

PREPARED BY: Adrian Williamson, Planner II

PURPOSE AND ACTION REQUESTED:

Mr. Michael Pacheco of AZVT, LLC, 1550 E. Missouri, Suite 300, Phoenix, Arizona, 85014, is requesting an amendment to the Avondale Automall PAD to allow automotive dealerships and related uses to be located on the western 50+ acres of the Automall site. The Automall is located south of Interstate 10, between 99th and 107th Avenues (Exhibits A and B).

	ZONING	LAND USE
Onsite	PAD	Automobile Dealerships, Vacant Commercial
North	PAD and AG	Interstate 10
South	PAD, AG	Williams Travel Center, Agricultural
East	City of Tolleson	Vacant Commercial/Industrial
West	AG	Agricultural

BACKGROUND:

The Avondale Automall PAD zoning includes approximately 150+ acres and was approved by the City Council on December 20, 1999. The PAD approved the site for automobile dealerships and related uses on the eastern 100 acres and a retail commercial center on the western 50+ acres.

Currently there are three dealerships located in the Automall and three additional dealerships under construction. A site plan for a Nissan dealership will be heard by the Commission as a separate agenda item.

Nissan's proposed site overlaps the existing Automall area and the original retail commercial center. The proposed PAD amendment will need to be approved prior to consideration by the City Council of the Nissan site plan.

A revised final plat will also need to be approved by the City Council. This application has not yet been filed.

DISCUSSION:

The proposed amendment would allow motor vehicle dealerships and related uses to be developed on the western 50 acres of the PAD in addition to the originally approved C-2 uses. The amendment will eliminate the possibility of a retail power center. It will allow independent retail sales that can be used for motor vehicle sales or service and general retail uses. Further, auto service uses that normally require a conditional use permit will be permitted outright as a permitted use as currently allowed within the Automall property.

Staff supports the expansion of motor vehicle sales to the western 50 acres. However with this expansion, the PAD needs to be clarified to protect the character of the Automall.

To ensure continuity, dealerships need to be located contiguously. As a result, the location of general retail uses should be limited to the northwest corner of the site. General retail should also be part of a master planned and single center. This will prohibit general retail uses to be scattered throughout the Automall.

Staff believes that auto service uses could be an appropriate secondary use in conjunction with a successful Automall. However, due to the nature and characteristics of these uses a conditional use permit would be appropriate. The location of the uses should be limited to adjacent to Roosevelt Street so as not to downgrade the character of the Automall and the outdoor storage of parts and vehicles unrelated to sales should be prohibited.

Stipulations have been included to address these issues. The stipulations require that dealerships be located contiguously; any general retail uses will be planned and located so that the Automall is uninterrupted; and auto service uses be located adjacent to Roosevelt Street subject to a conditional use permit. Staff believes that these stipulations will contribute to the future success and maintain the character of the Automall.

The infrastructure as approved for the original PAD is sufficient to accommodate the proposed amendment.

The developer has constructed Dealer Drive to the boundary of the current Automall. The half-street improvements for Roosevelt Street from 99th Avenue to 107th Avenue have also been completed. Private access roads between Chrysler and Dodge and between Volkswagen and RV dealerships are either constructed or under construction.

The amended conceptual site plan shows the continuation of Dealer Drive to 107th Avenue and an additional access road between Dealer Drive and Roosevelt Street. Dealer Drive and the access roads are private and are the responsibility of the developer. Additional private access roads may be necessary and will need to be determined prior to Final Plat approval.

The dedication of 107th Avenue right-of-way will be required, as part of the final plat and the improvements of 107th Avenue will be required by the developer as adjacent development occurs.

The PAD approved the site signage for both the Automall and power retail center. The Automall is approved for the following signage:

- Entire Automall – One 75 foot tall, 1,000 square feet per side freeway identification sign;
  One 30 foot tall, 250 square feet per side mini-identification sign on 99th Avenue.
- Dealerships – One 35 foot tall, 150 square feet per side freestanding pylon sign;
  Wall signage calculated at two square feet of sign area per building front foot along each street (including private streets);
  Each retail ingress/egress points of each dealership shall be allowed an 8-foot tall, 25 square foot per side freestanding monument sign.

There are no recommended changes to the sign standards for the Automall and dealerships. The following are the standards for the power retail center:

- Master Center – One 65 foot tall, 700 square feet per side identifying the Center and major/anchor tenants located on Interstate 10;
  One 30 foot tall, 250 square feet per side mini-master identification sign on 99th Avenue.
- Individual Tenants – Major/Anchor user's wall signage is calculated at 1.5 square feet of sign area per building front foot along each street;
  Shop space, in-line or pad user's wall signage is calculated at one square foot of sign area per building front foot along each street.

With the amendment eliminating the power retail center, staff recommends that all signage related to individual retail businesses not associated with a dealership comply with the City of Avondale Sign Ordinance. The Zoning Ordinance permits freeway commercial pylon signs for commercial centers over 40 acres. Individual retail sites or tenants are not allowed freeway commercial pylon signs.

FINDINGS:

The proposed PAD Amendment meets the following findings:

- It is in conformance with the City of Avondale General Plan.

- It is in conformance with the City of Avondale Freeway Corridor Specific Plan.
- Consistent with the existing uses within the Automall.
- Will allow expansion of the existing Automall.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend **APPROVAL** of the proposed PAD Amendment subject to the following stipulations:

1. Development shall comply with the revised context plan dated February 10, 2003 and the PAD General Development Plan and Program as amended.
2. Automobile dealerships shall be developed in a contiguous fashion along Interstate 10 to avoid inter-mixed uses.
3. Automobile service and related uses not directly associated with an automobile dealership shall be located adjacent to Roosevelt Street subject to a Conditional Use Permit.
4. Outdoor storage by individual retail/service businesses of automotive parts and vehicles to be serviced is prohibited.
5. General retail uses shall only be allowed within a planned and a single center at the northeast corner of Dealer Drive and 107th Avenue.
6. The dedication of 107th shall occur with the final plat and improvements for 107th Avenue will be required from the developer as adjacent development occurs.
7. All individual retail developments not associated with an automotive dealership shall comply with the City of Avondale Sign Ordinance.

PROPOSED MOTION:

I move that the Planning Commission accept the findings and forward a recommendation of **APPROVAL** for Case A03-402-AM1, a request for amendment to the Automall PAD zoning, subject to the seven staff recommended stipulations.

ATTACHMENTS:

Exhibit A – Zoning Vicinity Map
Exhibit B – Air Photo 1999
Exhibit C – Proposed Development Plan dated February 10, 2003
Exhibit D – PAD Amendment Narrative dated February 2003
Exhibit E – Proposed Conceptual Site Plan dated February 10, 2003
Exhibit F – Approved Development Plan dated October 26, 1999
Exhibit G – Approved PAD Narrative dated November 1999
Exhibit H – Original Conceptual Site Plan dated November 8, 1999
Exhibit I – City Council Meeting Minutes from December 20, 1999

Exhibit 10

CITY OF AVONDALE, ARIZONA
PLANNING COMMISSION
MEETING MINUTES

Regular Meeting of: March 20, 2003

PRESENT:
Yolanda Gonzales, Commissioner
William Moore, Commissioner
Veronica De La O, Commissioner
Rusty Martin, Commissioner
Anita Hedrick, Commissioner

ALSO PRESENT:
Gail Pastrano, Alternate

OTHERS:
Dean Svoboda, Planning & Building Services Director
Nathan Crane, Planning Manager
Anna Roedler, Planner I
Adrian Williamson, Planner II
Stephen Careccia, Planner II
Linda Fifer, Administrative Secretary

ABSENT:
EXCUSED
Bill Malone, Commissioner
Nancy Bolton, Commissioner

UNEXCUSED
None

A. CALL TO ORDER:

The Planning Commission of Avondale, Arizona convened in regular session in Council Chambers at 521 East Western Avenue, Avondale, Arizona on March 20, 2003. The meeting was called to order by Chairperson Hedrick at 7:10 p.m.

B. ROLL CALL:

Those present are noted above.

COMMISSIONER MOORE MADE A MOTION TO EXCUSE BILL MALONE AND NANCY BOLTON FROM THE MEETING OF MARCH 20, 2003 OF THE PLANNING COMMISSION. COMMISSIONER GONZALES SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

C. OPENING STATEMENT:

Nathan Crane, Planning Manager, read the opening statement.

1. All development shall substantially conform to the site plan, landscape plan, and building elevations date stamped January 7, 2003, except as modified by the amended site plan date stamped March 12, 2003.
2. All loading docks shall be screened with an 8-foot masonry wall that matches the architecture of the plaza.
3. All signage shall require a separate permit.
4. All proposed buildings, including those of franchise uses, within the plaza will match the approved Materials and Color Elevations Board dated December 31, 2002.
5. Plaza drives along 115th Avenue shall be coordinated with the Littleton Elementary drives as determined by the City Engineer.
6. The centerline of the northern most driveway on 113th Avenue shall line up with the centerline of Joblanca Road.
7. Trash enclosures shall be constructed per City of Avondale Garbage Enclosure Specifications.
8. A final landscape and irrigation plan shall be submitted to and approved by the Planning and Building Services Department prior to the issuance of a building permit.
9. In accordance with Section 106.C.4. of the City of Avondale Zoning Ordinance, the site plan shall expire within one year of approval if a building permit has not been issued.
10. Pads B-E will require administrative site plan review and approval by the Planning and Building Services Department prior to development.
11. The landscape plan shall be revised to eliminate the Mexican Fan Palms and a substitute tree shall be approved by staff.
12. The public access easement along the south perimeter shall be provided unless the existing PADD zoning is amended to eliminate this requirement.
13. The developer shall provide a physical barrier to discourage pedestrian traffic through the rear retention basin as determined by staff prior to construction plan approval.

F. NEW BUSINESS: PUBLIC HEARINGS and/or ACTION:

2) CASE NO.: A03-402-AM1

APPLICANT: Mr. Michael Pacheco
AZVT, LLC
1550 E. Missouri, Suite 300
Phoenix, Arizona 85014

REQUEST: Amendment to the Avondale Automall PAD to allow automotive dealerships and related uses to be located on all parcels. The Avondale Automall is located south of Interstate 10, between 99th and 107th Avenues.

Adrian Williamson, Planner II, presented the staff report to the Planning Commission. He said staff recommends approval of the proposed PAD amendment, subject to the seven stipulations contained in the staff report and two additional stipulations provided in a memo to the commission.

Commissioner Martin pointed out the applicant is requesting a conditional use for a number of other businesses, asking if that is why staff added a stipulation limiting the conditional use permits to auto related services. Mr. Williamson stated, while the original PAD listed other uses approved with the PAD, staff feels those uses would no longer be applicable in the subject area. He said, therefore, staff has limited the uses to automotive uses along Roosevelt. Commissioner Martin asked what is the square footage of the proposed retail center. Mr. Williamson said the square footage has not yet been determined. Commissioner Martin asked if the retail center could ultimately be made a dealership. Mr. Williamson responded yes.

Michael Pacheco, Applicant, said, in addition to developing the automall, they are also in the automobile business. He said their initial research, which was used as a model for Phase I, indicated automalls run from 50 to 70 acres. He said, however, they believe they will eventually have the largest automall in the country. He explained the proposed sizing is based on future markets and manufacturers' product line expansions.

Chairperson Hedrick opened the public hearing on Case No. A03-402-AM1. As no comments were made, she closed the public hearing.

Commissioner Martin expressed his opinion the automall will be a boon for the city and west valley.

COMMISSIONER MOORE MADE A MOTION TO FORWARD CASE NO. A03-402-AM1 TO THE MAYOR AND CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL, SUBJECT TO THE STIPULATIONS RECOMMENDED BY STAFF. COMMISSIONER DE LA O SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.

1. Development shall comply with the revised context plan dated February 10, 2003 and the PAD General Development Plan and Program as amended.
2. Automobile dealerships shall be developed in a contiguous fashion along Interstate 10 to avoid inter-mixed uses.
3. Automobile service and related uses not directly associated with an automobile dealership shall be located adjacent to Roosevelt Street subject to a Conditional Use Permit.

4. Outdoor storage by individual retail/service businesses of automotive parts and vehicles to be serviced is prohibited.
5. General retail uses shall only be allowed within a planned and a single center at the northeast corner of Dealer Drive and 107th Avenue.
6. The dedication of 107th shall occur with the final plat and improvements for 107th Avenue will be required from the developer as adjacent development occurs.
7. All individual retail developments not associated with an automotive dealership shall comply with the City of Avondale Sign Ordinance.
8. If automobile dealerships occupy 75% or more of the net area of the western 50 acres of the Automall, an additional 35-foot tall, 150 square feet per side freestanding pylon sign shall be allowed on 107th Avenue matching the existing freeway identification sign on Dealer Drive. These signs shall only identify the Automall and automobile dealerships. These signs shall require sign permits and be approved by staff prior to construction.
9. If a retail commercial center is developed in the northwest corner of the PAD, a 12-foot tall, 84 square feet per side freestanding sign identifying the name of the center and individual tenants shall be permitted along 107th Avenue. This sign shall require a sign permit and be approved by staff prior to construction

4) **CASE NO.:** AR03-608
APPLICANT: Mr. John Mahoney
John Mahoney Architect
1819 W. Drake Drive, #101
Tempe, Arizona 85283

REQUEST: Site plan approval for Avondale Nissan. Avondale Nissan will be located within the Avondale Automall. The Avondale Automall is located south of Interstate 10, between 99th and 107th Avenues.

Mr. Careccia presented the staff report to the Planning Commission. He said staff recommends approval of the proposed site plan, subject to the seven stipulations contained in the staff report.

Chairperson Hedrick asked if anyone would like to comment on Case No. AR03-608.

Mr. Pacheco thanked City of Avondale Planning staff, stating he received excellent service. He noted the person who will ultimately own the facility started Tempe Toyota in the east valley.

Exhibit 11

PLANNING AND BUILDING SERVICES

SUBJECT: Amendment to the Avondale Automall PAD (A03-402-AM1) Public Hearing and Ordinance	**MEETING DATE:** April 21, 2003

CITY COUNCIL REPORT

TO: Mayor and City Council

FROM: Dean Svoboda, Planning and Building Services Director (623) 932-6088

THROUGH: Todd Hileman, City Manager

PURPOSE AND ACTION REQUESTED:

Mr. Michael Pacheco, AZVT, LLC, 1550 E. Missouri, Suite 300, Phoenix, Arizona, 85014, is requesting an amendment to the Avondale Automall PAD to allow automotive dealerships and related uses to be located on the western 50+ acres of the Automall site. The Automall is located south of Interstate 10, between 99th and 107th Avenues (Exhibits A and B).

	ZONING	LAND USE
Onsite	PAD	Automobile Dealerships, Vacant Commercial
North	PAD and AG	Interstate 10
South	PAD, AG	Williams Travel Center, Agricultural
East	City of Tolleson	Vacant Commercial/Industrial
West	AG	Agricultural

BACKGROUND:

The Avondale Automall PAD zoning includes approximately 150+ acres and was approved by the City Council on December 20, 1999. The PAD approved the site for automobile dealerships and related uses on the eastern 100 acres and a retail commercial center on the western 50+ acres.

Currently there are three dealerships located in the Automall and three additional dealerships under construction. A site plan for a Nissan dealership will be heard by the Council as a separate agenda item. Nissan's proposed site overlaps the existing Automall area and the original retail

commercial center. The proposed PAD amendment will need to be approved prior to Council consideration of the Nissan site plan.

A revised final plat will also need to be approved by the City Council. This application has not yet been filed.

DISCUSSION:

The proposed amendment will allow motor vehicle dealerships and related uses to be developed on the western 50 acres of the PAD in addition to the originally approved C-2 uses. The amendment will eliminate the possibility of a retail power center. It will allow independent retail sales that can be used for motor vehicle sales or service and general retail uses. Further, auto service uses that normally require a conditional use permit will be permitted outright as a permitted use as currently allowed within the Automall property.

Staff supports the expansion of motor vehicle sales to the western 50 acres. However with this expansion, the PAD needs to be clarified to protect the character of the Automall.

To ensure continuity, dealerships need to be located within a contiguous area. As a result, the location of general retail uses should be limited to the northwest corner of the site. General retail should also be part of a single master planned center. This will prohibit general retail uses from being scattered throughout the Automall.

Staff believes that auto service uses could be an appropriate secondary use in conjunction with a successful Automall. However, due to the nature and characteristics of these uses a conditional use permit requirement is appropriate. The location of these uses should be limited to parcels with frontage on Roosevelt Street so as not to downgrade the character of the Automall. The outdoor storage of parts and vehicles unrelated to sales should be prohibited.

Stipulations have been included to address these issues. The stipulations require that dealerships be located contiguously; any general retail uses be planned and located so that the Automall is uninterrupted; and auto service uses be located adjacent to Roosevelt Street subject to a conditional use permit. Staff believes that these stipulations will contribute to the future success of the Automall and help maintain the character.

The developer has constructed Dealer Drive to the western boundary of the current Automall. The half-street improvements for Roosevelt Street from 99th Avenue to 107th Avenue have also been completed. Private access roads are provided between the Chrysler and Dodge dealerships and between the Volkswagen and Earnhardt RV dealerships.

The amended conceptual site plan shows the continuation of Dealer Drive to 107th Avenue and an additional access road between Dealer Drive and Roosevelt Street. Dealer Drive and the access roads are private and are the responsibility of the developer. Additional private access roads may be necessary and will need to be determined prior to Final Plat approval.

The dedication of 107th Avenue right-of-way will be required, as part of the final plat. The improvement of 107th Avenue will be required as adjacent development occurs.

The original PAD addressed signage for the entire Automall property. This included the following:

Entire Automall	– One 75 foot tall, 1,000 square feet per side freeway identification sign; – One 30 foot tall, 250 square feet per side mini-identification sign on 99th Avenue.
Each Dealership Parcel	– One 35 foot tall, 150 square feet per side freestanding pylon sign; – Wall signage calculated at two square feet of sign area per building front foot along each street (including private streets); – An 8-foot tall, 25 square foot per side freestanding monument sign at each retail ingress/egress points of each dealership.

Based on discussions with the applicant, staff recommends that an additional 30 foot tall mini-identification sign be allowed on 107th Avenue. Staff also recommends that an additional 75 foot tall freeway identification sign be allowed if 75 percent or more of the west fifty acres of the Automall site is developed for automobile dealerships. Otherwise the current PAD standards are sufficient for the Automall expansion.

The original PAD also included signage for the power retail center as follows:

Master Center	– One 65 foot tall, 700 square feet per side multi-tenant freeway identification sign; – One 30 foot tall, 250 square feet per side mini-master identification sign on 107th Avenue.
Individual Tenants	– Major/Anchor user's wall signage calculated at 1.5 square feet of sign area per building front foot along each street; – Shop space, in-line or pad user's wall signage calculated at one square foot of sign area per building front foot along each street.

With the amendment eliminating the power retail center, staff recommends that all signage related to individual retail businesses not associated with a dealership comply with the City of Avondale Sign Ordinance with one exception. A 12 foot high multi-tenant shopping center identification sign should be allowed on 107th Avenue. The Zoning Ordinance only permits freeway commercial pylon signs for centers over 40 acres. Individual retail sites or tenants are not allowed freeway commercial pylon signs. Stipulations have been included to address staff's recommended modifications to the PAD sign standards.

PLANNING COMMISSION ACTION:

The Planning Commission reviewed this request at their meeting on March 20, 2003 (Exhibit J). The Commission voted unanimously to forward a recommendation of approval to the City Council subject to nine stipulations. No one from the public spoke on this item.

FINDINGS:

The proposed PAD Amendment meets the following findings:

- It is in conformance with the City of Avondale General Plan.
- It is in conformance with the City of Avondale Freeway Corridor Specific Plan.
- It is consistent with the existing uses within the Automall.
- It will allow for the expansion of the existing Automall.

RECOMMENDATION:

Staff recommends that the City Council **APPROVE** the proposed PAD Amendment subject to the following stipulations as recommended by the Planning Commission:

1. Development shall be in substantial conformance with the revised context plan dated February 10, 2003 and the PAD Zoning Amendment dated March 5, 2003.
2. Automotive dealerships shall be developed in a linear fashion along Interstate 10. Retail and service uses shall not separate automotive dealerships.
3. Automobile service and related uses not directly associated with an automobile dealership shall be located adjacent to Roosevelt Street subject to a Conditional Use Permit.
4. Outdoor storage by individual retail/service businesses of automotive parts and vehicles to be serviced is prohibited.
5. General retail uses shall only be allowed within a planned, single center at the northeast corner of Dealer Drive and 107th Avenue.
6. The dedication of 107th shall occur with the final plat and improvements for 107th Avenue will be required from the developer as adjacent development occurs.
7. All individual retail developments not associated with an automotive dealership shall comply with the City of Avondale Sign Ordinance.
8. If automobile dealerships occupy 75% or more of the net area of the western 50 acres of the Automall, an additional 35-foot tall, 150 square feet per side freestanding pylon sign shall be allowed on 107th Avenue matching the existing pylon sign on 99th Avenue. An additional 75-foot tall, 573 square feet per side freeway identification sign shall be permitted on the western 50 acres on Dealer Drive matching the existing freeway identification sign on Dealer Drive. These signs shall only identify the Automall and automobile dealerships. These signs shall require sign permits and be approved by staff prior to construction.
9. If a retail commercial center is developed in the northwest corner of the PAD, a 12-foot tall, 84 square feet per side freestanding sign identifying the name of the center and individual tenants shall be permitted along 107th Avenue. This sign shall require a sign permit and be approved by staff prior to construction.

PROPOSED MOTION:

I move that the City Council accept the findings and **APPROVE** Case A03-402-AM1, a request to amend the Automall PAD zoning and adopt the attached ordinance, subject to the 9 stipulations recommended by the Planning Commission.

ATTACHMENTS:

Exhibit A – Zoning Vicinity Map
Exhibit B – Air Photo 1999
Exhibit C – Proposed Development Plan dated February 10, 2003
Exhibit D – PAD Amendment Narrative dated February 2003
Exhibit E – Preliminary Conceptual Site Plan dated February 10, 2003
Exhibit F – Approved Development Plan dated October 26, 1999
Exhibit G – Approved PAD Narrative dated November 1999
Exhibit H – Original Conceptual Site Plan dated November 8, 1999
Exhibit I – City Council Meeting Minutes from December 20, 1999
Exhibit J – Planning Commission Meeting Minutes from March 20, 2003
Draft Ordinance

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Exhibit 12

Minutes of the Regular Meeting held April 21, 2003 at 7:00 p.m. in the Council Chambers.

MEMBERS PRESENT
Mayor Ronald Drake and Council Members

Marie Lopez Rogers
Peggy Jones
Stephanie Karlin
Raymond Shuey
Betty Lynch
Albert Carroll, Jr.

ALSO PRESENT
Todd Hileman, City Manager
Andrew McGuire, City Attorney

STATEMENT BY THE CITY CLERK

Linda Farris, City Clerk, read the statement regarding public appearances.

4) RECOGNITION ITEMS (MAYOR PRESENTATIONS)

a. Recognition of Congressman Pastor

Mayor Drake read a proclamation in recognition of United States Congressman, Ed Pastor for his years of integrity, commitment to and support of the City and the citizens of Avondale.

Congressman Pastor stated that he was thankful for the honor of representing Avondale.

b. National Volunteer Week Proclamation

Mayor Drake stated that there was a proclamation in recognition of all of the volunteers across Avondale in appreciation for their efforts.

5) UNSCHEDULED PUBLIC APPEARANCE

Ernest Bustamante, Legislative Delegate, stated that he wanted to introduce himself and stay in contact with the community.

Jane Houx, 306 N. 3rd Place, Avondale, stated that she wanted to thank the Public Works Department for their outstanding service and that a clean up was needed in her neighborhood. She stated that the speed limit needed to be lowered to 25 mph on Central Avenue and that she did not agree with the proposed tax increase.

6) SCHEDULED PUBLIC APPEARANCE
Brian Sperber, President of the Phoenix International Raceway, stated that improvements were made to the fan concourse along with the creation of new luxury boxes and the corporate

Dean Svoboda, Director, Planning and Building Services, stated that the 39-acre subdivision would consist of 8 lots and was part of the Palm Valley/Avondale PAD that was approved in 1994. He stated that the lots were configured differently to accommodate future sale to individual pad users. He stated that the bulk of development in the future would occur on Lot Nos. 7 and 8. He stated that Lot No. 7 was where the Kohl's Department Store would be and Lot No. 8 was where the rest of the major tenants would be. He stated that perimeter landscaping had already been installed and staff recommended approval subject to the following two stipulations:

1. The recorded plat shall be in conformance with the final plat date stamped February 24, 2003.
2. The final plat shall meet all of the City of Avondale Engineering Code requirements and landscapte ordinance requirement within ninety (90) days of final plat approval and prior to recordation of the final plat.

Council Member Lynch asked if the sign package was approved yet.

Mr. Svoboda stated that the sign package was still being processed but a neighborhood meeting was held.

Council Member Karlin moved to approve the item as recommended subject to the two stipulations. Vice-Mayor Rogers seconded the motion. Motion carried unanimously.

Mayor Drake declared a 10 minute recess. The Council reconvened at 9:00 p.m. in the same location with all members present.

10) PUBLIC HEARING AND ORDINANCE - AMENDMENT – AVONDALE AUTOMALL PAD (A03-402-AMI)

Public hearing to consider an ordinance reaffirming the Planned Area Development District amending the property development standards for approximately 150 acres located at the southwest corner of 99th Avenue and Interstate 10.

Dean Svoboda, Director, Planning and Building Services, stated that the Auto mall was located south of I-10 between 99th and 107th Avenues and included over 150 acres. He stated that the eastern 2/3 of the site had zoning approved for automobile dealerships and other uses. He stated that western most 50 acres, when the original PAD was approved in 1999, called for the development of a power center and the provision for automobile dealerships was not extended to that portion of the property. He stated that the proposed amendment would allow motor vehicle dealerships and related uses to be developed on that 50 acres and would forever eliminate the possibility of a power center.

Mr. Svoboda stated that staff and the applicant worked closely on the item and felt it the amendment was necessary to allow the ultimate expansion of the auto center to meet its market

potential. He stated that there were several stipulations to address the fact that any general retail uses would be located in the northwest corner of the property and any vehicle service areas would be located in the Roosevelt Alignment subject to conditional use permit approval. He stated that another issue of concern was with the continuity of dealerships within the auto mall so that retail uses were not randomly interspersed.

Mr. Svoboda stated that another aspect involved the signage and more signs might be needed. He stated that the Planning and Zoning Commission recommended approval subject to nine stipulations. He stated that he would suggest the following additional stipulation:

10. The provisions of the original auto mall PAD (Z99-402-A) shall apply except as modified by the above stipulations.

Mike Pacheco, AZVT, stated that the Auto mall was being planned much better than the ones along Bell Road where there were a lot of traffic problems. He stated that he wanted to compliment staff and enjoyed working with them.

Council Member Lynch stated that she wanted to thank Mr. Pacheco for his belief in Avondale.

Mayor Drake stated that a card was received from Brent Heiss indicating that he was in favor of the item.

Andrew McGuire, City Attorney, read Ordinance No. 927-03 by title only. Council Member Lynch moved to adopt the ordinance. Council Member Karlin seconded the motion. ROLL CALL VOTE AS FOLLOWS:

Council Member Jones	Aye
Council Member Karlin	Aye
Council Member Shuey	Aye
Council Member Lynch	Aye
Council Member Carroll	Aye
Vice Mayor Rogers	Aye
Mayor Drake	Aye

Motion carried unanimously.

11) SITE PLAN – AVONDALE NISSAN (AR03-608)

Request by John Mahoney for site plan approval for Avondale Nissan, a proposed dealership within the Avondale Auto mall, located south of Interstate 10, between 99th Avenue and 107th Avenue.

Dean Svoboda, Director, Planning and Building Services, stated that the proposed dealership occupied a portion of existing Lot No. 8 and a portion of the unsubdivided portion on the west.