

**PARTICIPATION AND INFRASTRUCTURE CONTRACT
REGARDING ASLD SALE NO. 53-123709**

by and between

the STATE OF ARIZONA, by and through the Arizona State Land Department,

and

the party listed on the CP Holder Signature Page

Dated _____, 2024

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**PARTICIPATION AND INFRASTRUCTURE CONTRACT
REGARDING ASLD SALE NO. 53-123709**

This Participation and Infrastructure Contract Regarding ASLD Sale No. 53-123709 (the “**Contract**”) is made the date listed on the cover page to this Contract (the “**Effective Date**”) by and between the STATE OF ARIZONA, by and through the Arizona State Land Department (“**ASLD**”) and the party listed on the CP Holder Signature Page (“**CP Holder**”). ASLD and CP Holder may herein be referred to collectively as the “**Parties**” or individually as a “**Party**.”

RECITALS

A. ASLD is the owner of approximately 3700 acres of land within the City of Phoenix (the “**City**”), Maricopa County, Arizona, which is comprised of (1) approximately 2500 acres of land as more particularly described on Exhibit A-1 hereto (the “**Auction Property**”) and (2) approximately 1200 acres of land as more particularly described on Exhibit A-2 hereto (the “**Retained Property**”). The Auction Property and the Retained Property (together the “**Master Property**”) are depicted in the map attached as Exhibit A-3. The Auction Property is located in an area bounded by Interstate 17 on the East, Sonoran Desert Drive/Loop 303 on the South, Deadman’s Wash on the West, and Carefree Highway/AZ74 on the North, commonly referred to as “North Phoenix 3500,” and the Retained Property is located west of the Auction Property.

B. In accordance with that certain Notice of Public Auction Sale No. 53-123709 (the “**Auction Notice**”), ASLD caused the Auction Property to be publicly sold at auction (the “**Auction**”), on _____, 2024 (the “**Auction Date**”) and as the successful bidder (as defined in the Auction Notice) and pursuant to Certificate of Purchase No. 53-123709 (the “**Certificate of Purchase**”), CP Holder was the purchaser at the auction of the Auction Property. CP Holder or its successors and assigns intend to develop the Auction Property as a mixed-use master planned project (the “**Project**”), by subdividing and developing the Auction Property into a number of legally described lots or parcels (each, a “**Parcel**” and collectively the “**Parcels**”).

C. Pursuant to the conditions described in the Auction Notice and this Contract, CP Holder agrees: (1) to construct, or cause to be constructed, certain improvements for the benefit of the Master Property, (2) to pursue rezoning and entitlements for the Retained Property in accordance with the terms of this Contract, and (3) upon sales by CP Holder of all or portions of the Auction Property, to pay ASLD a Participation Payment in accordance with the terms of this Contract.

D. The Parties acknowledge that this Contract constitutes a participation contract within the meaning of Arizona Revised Statutes (“**A.R.S.**”) §§ 37-101(15) and 37-239.

AGREEMENTS

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties incorporate and agree to the foregoing Recitals, and further covenant and agree as follows:

1. **Definitions**

1.1. **Definitions**. Capitalized words and phrases used in this Contract shall have the meanings set forth where defined in this Contract. A reference guide to terms defined in the text of this Contract is set forth on Schedule 1 to this Contract.

1.2. **Selected Definitions**. For convenience, certain definitions used throughout the Contract are defined as follows (and where not defined here, are cross-referenced in Schedule 1):

(a) **“Affiliate”** means, with respect to any Person (i) any Person directly or indirectly controlling, controlled by, or under common control with such Person (for this purpose, a Person shall be deemed to control another Person if it owns ten percent (10%) or more of the outstanding securities or equity interests in such other Person), (ii) any Person owning or controlling ten percent (10%) or more of the outstanding securities or equity interests in such Person, (iii) any officer, director, partner, manager, trustee, or beneficiary of such Person, and (iv) any Person who is an officer, director, partner, manager, trustee, beneficiary, or holder of ten percent or more the outstanding securities or equity interests in any Person described in clauses (i) through (iii) above.

(b) **“Affiliate Resale Parcel”** means a Parcel that is conveyed by CP Holder to a CP Holder Affiliate to be held by such CP Holder Affiliate for resale to one or more Third Parties. Affiliate Resale Parcels are not CP Holder Parcels.

(c) **“Applicable Laws”** means all applicable federal, state, and local laws, statutes, ordinances, requirements, orders, directions, permits, licenses, rules, regulations, determinations, and court decisions, including, but not limited to zoning ordinances, and building codes, access, health, safety, environmental, and natural resource protection laws and regulations, and all other applicable laws, and design criteria.

(d) **“Arbitration Dispute”** means a good faith dispute designated as such in this Contract which will be resolved in accordance with the procedures for resolving an Arbitration Dispute set forth on Exhibit G (the **“Dispute Resolution Procedures”**). A list of the matters which are Arbitration Disputes is attached hereto as Exhibit H.

(e) **“Business Days”** means any day which is not a Saturday, Sunday, or legal holiday under Federal law or Arizona State law.

(f) **“CFD Reimbursements”** means all revenues received by CP Holder or CP Holder Affiliates from a CFD or improvement districts (to the extent used to fund and/or reimburse Project Costs), but excluding any revenues paid directly to Third Parties by the

CFD (1) to fund the cost of design and construction of improvements, (2) to pay costs of (a) issuance or (b) interest or other fees with respect to issuance of bonds by the CFD.

(g) “**Commissioner**” means the Commissioner of the Arizona State Land Department or his/her designated Deputy Commissioner.

(h) “**Conveyance**” means the sale, conveyance, dedication, subsection to a Ground Lease or an easement, lease or license, or other disposition of all or any part of the Auction Property.

(i) “**County**” means Maricopa County, Arizona.

(j) “**CP Holder**” means the Person listed in the preamble of this Contract and includes, in the event of any assignment of the Certificate of Purchase permitted pursuant to this Contract, the assignee of the Certificate of Purchase.

(k) “**CP Holder Affiliate**” means any Person that is an Affiliate of CP Holder and is not a Vertical Developer.

(l) “**Development Fees**” means (i) development, impact, or other similar fees, however denominated, that are imposed by a municipality or governmental authority or school district for sewer, water, dry utilities, parks, transportation, police and fire protection, public safety, libraries, school facilities, and other similar services or facilities, if applicable, and (ii) meter connection, service installation, hookup, or other comparable fees imposed by a private utility company (as opposed to a municipality) actually providing sewer, water, or dry utility services to Parcels within the Project.

(m) “**Development Fee Reimbursements**” means all amounts actually received by CP Holder or CP Holder Affiliates from municipalities, governmental authorities (including amounts received by ASLD and paid over to CP Holder or CP Holder Affiliates), school districts, private utility companies, or other Third Parties and denominated as a reimbursement, payment, refund, or credit for costs incurred by CP Holder or CP Holder Affiliates for Backbone Infrastructure and other infrastructure, including without limitation, sewer, water, dry utilities, parks, transportation, police and fire protection, public safety, libraries, school facilities, drainage, amenities, and other similar services or facilities relating to the Project. Amounts reimbursed, refunded, paid, or credited to Persons other than CP Holder or CP Holder Affiliates for such costs shall not be taken into account in determining CP Holder’s Overhead. In no event shall any combination of credits and payments received by CP Holder or CP Holder Affiliates with respect to the same item or obligation be counted twice in Development Fee Reimbursements.

(n) “**Ground Lease**” means a contractual arrangement between CP Holder or a CP Holder Affiliate and a Vertical Developer for the long-term lease of a portion of the Auction Property for a lease term of thirty (30) years or more (including ground lessee options to extend the term), under which the ground lessee generally constructs and owns the vertical improvements until the expiration or earlier termination of the lease.

(o) **“Market Value”** means the most probable price which a Parcel in its unimproved, as is condition, should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition are the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and acting in what they consider their own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sale concessions granted by someone associated with the sale.

(p) **“Net Present Value”** means the present value of all Ground Lease payments during the initial term of the Ground Lease (excluding any ground lease payments attributable to vertical improvements constructed or installed by ground lessor) minus all Ground Lease expenses payable by ground lessor under the Ground Lease during the initial term of the Ground Lease plus the reversion value of the land only upon expiration of the initial term of the Ground Lease, discounted to present value using a discount factor equal to the sum of (i) the United States 30-year treasury bond rate determined at the most recent United States treasury auction prior to the effective date of the Ground Lease, plus (ii) two hundred forty (240) basis points.

(q) **“Patent”** refers to a legal document issued by the State of Arizona that grants to CP Holder fee title to land held by the State of Arizona. A **“Partial Patent”** refers to a Patent of less than all of the Auction Property.

(r) **“Project Costs”** mean (and are limited to) those fees, costs, expenses, and reimbursements listed on Exhibit I attached hereto.

(s) **“Person”** means any individual, partnership, corporation, trust, limited liability company, or other entity.

(t) **“Project Milestones”** means the Sales Activity Milestone, Project Cost Milestone, and Phase 1 Infrastructure Milestones, and each individually may sometimes be referred to as a **“Project Milestone.”**

(u) **“Project Revenues”** means all revenues received by CP Holder or CP Holder Affiliates (other than those that are Vertical Developers) from whatever source and generated from the Project, including without limitation, (i) proceeds or other consideration from the Conveyance of any Parcel, including, but not limited to, lot premiums, deferred consideration, and marketing fees, (ii) any infrastructure payments paid by a Vertical Developer to CP Holder, (iii) any earnest money or similar deposits paid by a Vertical Developer that are forfeited to CP Holder as a land seller, (iv) proceeds from any Material Operations, (v) CFD Reimbursements, (vi) Development Fee Reimbursements, and (vii) any interest earned on the Project Revenue Fund. For Ground Lease Conveyances, Project Revenues will be the Attributed Value of the Ground Lease Conveyance; for CP Holder

Parcel Conveyances, Project Revenues will be the CP Holder Parcel Conveyance Price; and for Affiliate Resale Parcels, Project Revenues will be all consideration received by a CP Holder Affiliate from the Conveyance of the Affiliate Resale Parcel(s) by the CP Holder Affiliate to Third Parties.

(v) **“Third Party” or “Third Parties”** means a Person or Persons other than ASLD, CP Holder, and any CP Holder Affiliates.

(w) **“Unpatented Property”** means any portions of the Auction Property for which a Partial Patent has not been issued by ASLD.

(x) **“Vertical Developer”** means a Person who acquires a Parcel from CP Holder or a CP Holder Affiliate for development thereon (including Ground Leases) and may include, without limitation, residential developers, non-residential developers, utility companies, and municipalities or school districts (including CP Holder Affiliates with respect to CP Holder Parcels).

2. **Land Planning, Zoning, and Entitlement of the Property**

2.1. **Master Plans.** Prior to the Auction, ASLD approved the master plan for the Auction Property (the **“AP Master Plan”**).

2.2. **AP Master Plan.** The AP Master Plan is a compilation of plans that are conceptual in nature, and that are designed to provide a general framework for the planning, development, and entitlement activities described in this Contract. The AP Master Plan is comprised of the following elements:

(a) **AP Land Use Plan.** The current version of the **“AP Land Use Plan,”** reflecting the planned land uses and estimated densities/intensities of such uses within the Auction Property, is attached as Exhibit B-1. The AP Land Use Plan was used for purposes of creating the AP Master Backbone Infrastructure Plan. Because the AP Land Use Plan is conceptual in nature, it does not create performance or other milestones for either Party. Without limiting the foregoing, the uses and densities/intensities identified in the AP Land Use Plan are estimates only and are not required to be achieved. The AP PUD Plan (See Section 2.4) shall be the governing document for development of the Auction Property.

(b) **AP Master Backbone Infrastructure Plan.** The current version of the **“AP Master Backbone Infrastructure Plan,”** reflecting the Backbone Infrastructure anticipated as necessary to support the land uses and densities/intensities reflected in the AP Land Use Plan (whether such infrastructure is physically located within the Auction Property or external to the Auction Property), is attached as Exhibit B-2. The AP Master Backbone Infrastructure Plan also addresses infrastructure that will be shared (i) by the various uses developed on the Auction Property and (ii) in some instances uses that are anticipated to be developed on the Retained Property. **“Backbone Infrastructure”** refers to the backbone infrastructure required to support the land uses and densities/intensities reflected in the AP Land Use Plan (whether such infrastructure is physically located within the Auction Property or external to the Auction Property) as more particularly described in the AP Master Backbone Infrastructure Plan. Backbone Infrastructure shall include,

without limitation, roads, curbs, gutters and sidewalks, water, sewer, gas (if applicable), drainage, electrical, fiber, street lighting, wastewater treatment facilities, including recapture and re-use facilities, water treatment facilities, and other improvements to be located either within or outside the boundaries of the Auction Property. Notwithstanding anything contained herein to the contrary, following approval of the Project Entitlements by the City, the AP Master Backbone Infrastructure Plan shall consist of the water, sewer, drainage, and traffic master plans for the Project. CP Holder may amend the AP Master Backbone Infrastructure Plan from time to time as necessary to conform with the AP PUD Plan (including the infrastructure master plans developed as a part thereof). Material amendments or modifications to the AP Master Backbone Infrastructure Plan shall require ASLD approval pursuant to the approval process set forth in Section 2.5(d). If the Parties agree on any material amendments or modification to the AP Master Backbone Infrastructure Plan pursuant to this Section, CP Holder shall revise the AP Master Backbone Infrastructure Plan and, if applicable, the Phase 1 Infrastructure Milestones, and the Parties shall execute an instrument adopting the revised AP Master Backbone Infrastructure Plan and, if applicable, the Phase 1 Infrastructure Milestones.

2.3. RP Master Plan. Promptly following the Auction, CP Holder will prepare a master plan for the Retained Property, subject to ASLD's approval, including with respect to any amendments thereto (the "**RP Master Plan**"). Although CP Holder will use commercially reasonable efforts to obtain approval of the RP Master Plan, the failure to obtain approval of any or all of the RP Master Plan shall not be a default under this Agreement. The RP Master Plan will be comprised of the following elements:

(a) RP Land Use Plan. A land use plan reflecting the planned land uses and estimated densities/intensities of such uses within the Retained Property (the "**RP Land Use Plan**").

(b) RP Master Backbone Infrastructure Plan. The backbone infrastructure anticipated as necessary to support the land uses and densities/intensities reflected in the RP Land Use Plan (whether such infrastructure is physically located within the Retained Property or external to the Retained Property) (the "**RP Master Backbone Infrastructure Plan**"). "**RP Backbone Infrastructure**" refers to the backbone infrastructure required to support the land uses and densities/intensities reflected in the RP Land Use Plan (whether such infrastructure is physically located within the Retained Property or external to the Retained Property) that will be more particularly described in the RP Master Backbone Infrastructure Plan. CP Holder shall have no obligation to construct the RP Backbone Infrastructure to be shown on the RP Master Backbone Infrastructure Plan, including, without limitation, any wastewater treatment capacity to serve the Retained Property.

2.4. Project Entitlements. The Auction Property has been entitled pursuant to City of Phoenix zoning Case No. Z-37-20-1. The Auction Property is currently zoned as a Planned Unit Development ("**AP PUD**") pursuant to a planned unit development zoning and development plan approved in Phoenix zoning Case No. Z-37-20-1 (the "**AP PUD Plan**"). Pursuant to the conditions of its purchase of the Auction Property, CP Holder shall advance the expenses of, and be solely responsible for applying for, pursuing with due diligence (which may include a phased approach in CP Holder's prudent business judgment), and

using commercially reasonable efforts to obtain, all additional entitlements it deems necessary or appropriate for development of the Auction Property (the “**Project Entitlements**”), which shall be consistent with the AP Master Plan, including without limitation, the following:

(a) Zoning. In accordance with Section 2.5(c), CP Holder shall apply for and seek approval from the City to zone all or any portion of the Retained Property as a planned unit development (the “**RP PUD**”) and to obtain any general or specific plan amendments necessary to effectuate the PUD zoning, but the PUD Plan for the Retained Property (the “**RP PUD Plan**”) shall be separate and distinct from the AP PUD Plan such that each may be developed as a stand-alone project. Although CP Holder will use commercially reasonable efforts to obtain approval of the RP PUD Plan, the failure to obtain approval of any or all of the RP PUD Plan shall not be a default under this Agreement.

(b) Development Agreements.

(i) CP Holder may negotiate with the City a development agreement (a “**City DA**”) for the Auction Property, which may address items such as (but not limited to) construction of infrastructure, processing of entitlements, vesting of development rights, administration of the Project, and Development Fees. Without limitation, the City DA may provide for the City to collect Development Fees for payments to CP Holder as reimbursements for any Backbone Infrastructure or other regional infrastructure constructed by CP Holder which serves the Auction Property or other surrounding property including, without limitation, the Retained Property. Any Development Fees payable by the owner of the Retained Property shall not be payable by ASLD, but rather shall be collected from the owner of the Retained Property at the time permits are requested from the City for construction on the Retained Property and/or plats are recorded for portions of the Retained Property.

(ii) In addition to the City DA, CP Holder may negotiate other development agreements with private utility providers, special taxing districts, water conservation districts, school districts, or other Third Parties (together with the City DA, the “**Development Agreements**”) with respect to the construction of public improvements, including, without limitation, sewer, water, and dry utilities infrastructure, open space, drainage facilities, regional parks, and school sites, as applicable, for the Auction Property.

(iii) In accordance with Section 2.5(c), CP Holder shall, if requested by ASLD, simultaneously negotiate one or more Development Agreement(s) for all or any portion of the Retained Property, but the Development Agreement(s) for the Retained Property shall be separate and distinct from the Development Agreement(s) for the Auction Property such that each may be developed as a stand-alone project.

2.5. Entitlement Processing.

(a) Entitlements. The Commissioner shall have absolute authority over the AP PUD Plan and the Development Agreements; provided, however, that to the extent the AP PUD Plan and Development Agreements are consistent with and contain no material deviations from the AP Master Plan already approved by ASLD, such approval shall be deemed given. CP Holder shall provide to ASLD copies of all submissions to the City with respect to the Project Entitlements and notice of all scheduled meetings between CP Holder and the City with respect to Project Entitlements and any public hearings related to the same. The Commissioner shall designate one or more representatives (each an “**ASLD Representative**”) who shall be authorized to make decisions on behalf of the Commissioner at any regularly scheduled meeting or hearing related to the Project Entitlements. At least one ASLD Representative shall attend each hearing to provide ASLD input on matters addressed during the hearing. If an ASLD Representative fails to attend any hearing, then matters decided at such hearing shall be deemed approved by the Commissioner. If an ASLD Representative fails to attend any regularly scheduled meeting, then he/she shall provide input on matters considered at such meeting promptly following request from CP Holder. The Commissioner’s prior written approval shall be required for any amendment to the PUD or AP PUD Plan requiring City Council approval. No approval shall be required from the Commissioner for any “minor general plan amendments” (as that term is used in the AP PUD Plan approved by ASLD) to the Project Entitlement, for amendments or actions pursuant to the AP PUD Plan which are subject only to administrative municipal approval (*e.g.*, approval of plats), or for an isolated amendment to the PUD that applies only to Patented Parcels.

(b) Cooperation. Subject to Section 2.5(a) above, ASLD shall cooperate with CP Holder in obtaining the Project Entitlements, including, without limitation, (i) executing the Development Agreements for the Auction Property and, if applicable, the Retained Property, and (ii) executing such applications or other documents that may be necessary to obtain land use approvals for the Auction Property and, if applicable, the Retained Property.

(c) Retained Property Entitlements. If requested by ASLD, CP Holder shall use commercially reasonable efforts to zone, and if requested by ASLD, to negotiate Development Agreement(s) for the residential and non-residential portions of the Retained Property (the “**Retained Property Entitlements**”) in accordance with the RP Land Use Plan. Although CP Holder will use commercially reasonable efforts to obtain the Retained Property Entitlements, the failure to obtain any or all of the Retained Property Entitlements shall not be a default under this Agreement.

(i) In the event of any (A) amendment to the AP PUD, or AP PUD Plan requiring the approval of the Commissioner, (B) material amendment to any Development Agreement requiring the approval of the Commissioner, or (C) material amendment to the AP Master Backbone Infrastructure Plan other than those needed to conform the AP Master Backbone Infrastructure Plan to the AP PUD Plan, CP Holder shall notify the Commissioner in writing, specifying the reasons for any such amendment requiring approval of the Commissioner, and

ASLD shall have fifteen (15) Business Days to notify CP Holder in writing if the Commissioner disapproves such amendment and the reasons therefor, which disapproval or conditions of approval imposed by the Commissioner must be reasonable. If ASLD fails to respond in writing to any proposed amendment, and CP Holder wishes to pursue such amendment, CP Holder must give a second notice to ASLD requesting approval of such matter, on which the following language must appear in bold print: **“FAILURE TO RESPOND TO THIS NOTICE WITHIN FIVE (5) BUSINESS DAYS FROM ITS RECEIPT SHALL RESULT IN THE AMENDMENT OR MODIFICATION DESCRIBED HEREIN BEING DEEMED APPROVED.”** If ASLD fails to respond in writing to any amendment in such second notice within five (5) Business Days following delivery of such notice, that amendment shall be deemed to have been approved by the Commissioner. If the Commissioner disapproves any proposed amendment, the Parties shall promptly meet and confer as to such amendment and how ASLD’s objections may be addressed. If the Parties are unable to agree on any proposed amendment within ten (10) Business Days following CP Holder’s receipt of the Commissioner’s disapproval, the issue of whether the Commissioner’s disapproval or conditions to approval are reasonable may be treated by CP Holder as an Arbitration Dispute. In addition, the issue of whether a proposed amendment requires the Commissioner’s approval shall be an Arbitration Dispute.

(ii) Neither the RP PUD or the RP PUD Plan, nor any amendment to the RP PUD or RP PUD Plan, shall require CP Holder’s approval unless such amendment would necessitate a change to the Backbone Infrastructure to be constructed on the Auction Property to serve the Retained Property, including, without limitation, the type, location, or size of such Backbone Infrastructure. If CP Holder’s approval is required, such approval shall not be unreasonably withheld, conditioned or delayed so long as such change does not (a) require CP Holder to incur any additional costs or expenses or delay construction and installation of the Backbone Infrastructure, (b) cause CP Holder to modify its land use plan or the intended location of any improvements to be constructed on the Auction Property, or (c) otherwise materially adversely affect CP Holder’s development or sale of all or any portion of the Auction Property, and, in addition, use and occupancy of any CP Holder Parcels.

2.6. Intentionally Omitted

2.7. Community Facilities District. CP Holder may take such action as CP Holder determines is appropriate or necessary to cause all or portions of the Auction Property (the **“CFD Land”**) to be included within the boundaries of one or more community facilities districts (each a **“CFD”**) formed in accordance with A.R.S. Sections 48-701, *et seq.* (the **“CFD Statute”**), and, upon the City’s adoption of a resolution ordering formation of the CFD, to authorize the CFD to issue general obligation bonds to provide monies for public infrastructure purposes (the **“GO Bonds”**), levy ad valorem property taxes for the payment of debt service on the GO Bonds and operation and maintenance expenses of the CFD (the **“GO Tax”** and **“O/M Tax”**, respectively), levy assessments of the costs of public infrastructure purposes (**“CFD Assessments”**) and authorize the CFD

to issue special assessment bonds to provide monies for public infrastructure purposes (“**Assessment Bonds**”, and together with the GO Bonds, “**Bonds**”), to enter into agreements and arrangements providing for the payment of CFD Reimbursements to CP Holder for public infrastructure constructed or installed by or on behalf of CP Holder, and to take other action with respect to the CFD as may be authorized by the CFD Statute. The Parties acknowledge that A.R.S. §37-252 does not prevent the issuance of GO Bonds prior to issuance of a Patent for all of the CFD Land, but agree that the offering documents for any issuance of GO Bonds prior to issuance of the last patent on the CFD Lands will include a disclosure regarding the risk of default in the event that CP Holder forfeits its interest under the Certificate of Purchase. ASLD shall take such commercially reasonable action as may be requested by CP Holder from time to time in connection with the foregoing including, in its capacity as a landowner and issuer of the Certificate of Purchase, executing and delivering such consents and documents as may be requested by CP Holder to cause the CFD to be formed and, upon the City’s adoption of a resolution ordering formation, to authorize the CFD to issue the GO Bonds and levy the GO Tax and O/M Tax and to take such other action with respect to the CFD as may be authorized by the CFD Statute including, without limitation, executing the petition for formation and the general plan; executing a ballot to authorize the GO Bonds and the GO Tax and O/M Tax; and executing a consent to one or more CFD development agreements between CP Holder, the City and the CFD (“**CFD Agreements**”) relating to administration of the CFD, including the construction and acquisition of public infrastructure, levy of the GO Tax, O/M Tax and CFD Assessments and Assessment Bonds, payment of the costs of operation and maintenance and other public infrastructure purposes, and the issuance of GO Bonds and Assessment Bonds; subject, however, to the following conditions with respect to Assessment Bonds only: (a) no Assessment Bonds may be issued prior to such land being patented; (b) CP Holder shall not then be in default under the Certificate of Purchase or this Contract; and (c) no action shall be taken that would result in a monetary encumbrance on the CFD Land prior to such land being patented; and (d) ASLD shall have no obligation to incur any third-party out-of-pocket cost not reimbursed by CP Holder (or otherwise paid); and with respect to GO Bonds only: (a) CP Holder shall not then be in default under the Certificate of Purchase or this Contract; (b) no action shall be taken that would result in a monetary encumbrance on the CFD Land that could be executed upon prior to such land being patented; and (c) ASLD shall have no obligation to incur any third-party out-of-pocket cost not reimbursed by CP Holder (or otherwise paid); (d) without the prior consent of the Commissioner (which ASLD may withhold in its sole discretion), CP Holder may not request the issuance of GO Bond debt by the CFD unless: (i) the request is for reimbursement of costs advanced for public infrastructure purposes only and disbursement of such reimbursement following completion and acceptance of the public infrastructure (as applicable), and (ii) in the aggregate, at least \$0.25 in infrastructure or other amenities and improvements that benefit the CFD Land and, if applicable, the Retained Property, is being concurrently or has been previously advanced for each \$1.00 of debt issued at CP Holder’s request; and (e) in connection with each request for issuance of GO Bond debt by the CFD, CP Holder shall submit a summary statement to ASLD, describing all CFD activity undertaken at CP Holder’s request during the period since the prior statement and certifying that CP Holder has complied with clause (d). The foregoing limitations will not apply to the issuance of CFD Assessments and Assessment Bonds on CFD Land that has

been patented. In the event of CP Holder's default and forfeiture of its interest under the Certificate of Purchase, CP Holder shall concurrently relinquish and assign to ASLD, coupled with an appointment of ASLD as CP Holder's attorney-in-fact for such purpose, all right and interest of CP Holder under the CFD Development Agreement with respect to the CFD Land that is not patented and shall execute and deliver such further consents and documents as ASLD may request to evidence such partial relinquishment and partial assignment, and any CFD Reimbursements received by CP Holder after such default and termination shall be applied, first to reimburse ASLD for any out-of-pocket costs and expenses incurred by ASLD to complete construction and installation of the Phase 1 Infrastructure (that is not paid or reimbursed from the monies deposited into the Infrastructure Escrow, as defined below), and the remainder to CP Holder and ASLD in accordance with Section 7. Formation of a CFD that includes the Auction Property shall not be considered a Project Entitlement, and CP Holder shall not be deemed to have failed to meet any Project Milestones if such CFD is not formed. The parties further acknowledge that future circumstances may warrant consideration of an additional CFD, or other special taxing district provided, in such event, CP Holder may proceed only with the prior written consent of the Commissioner, which may be given or withheld in the sole discretion of ASLD, based on ASLD's determination of the potential benefits and other relevant factors.

2.8. Other Development Approvals. CP Holder may seek other documents, instruments, permits, and items ("**Development Approvals**") that it deems necessary, prudent, or advisable for development of the Auction Property, which may include, without limitation, site plans, maps of dedication, block plats, plats, subdivision maps, applications or requests for variances, special use or similar permits, agreements for the annexation of all or any part of the Auction Property into a school district, service area, or special taxing district of any Person (including Persons providing utility services of any nature to all or any part of the Auction Property), applications for certificates of assured water supply, jurisdictional delineation reports, Clean Water Act Section 404 permits, and Clean Water Act Section 404 declarations of restrictive covenants, and amendments or modifications to any or all of the foregoing (the "**Development Documents**") with respect to the Auction Property. So long as such Development Approvals are consistent with the AP PUD Plan and all Applicable Laws, no approval of the Development Approvals or Development Documents shall be required by ASLD unless such Development Approval or Development Document (a) includes a portion of the Retained Property, (b) includes any Unpatented Property and such Development Document will survive termination of this Agreement after a CP Holder default, or (c) is inconsistent with or contains material deviations from the AP Master Plan already approved by ASLD; in the case of clauses (a) and (c), such approval shall be in the sole discretion of the Commissioner, and in the case of clause (b), to the extent the Development Documents are consistent with and contain no material deviations from the AP Master Plan already approved by ASLD, such approval shall be in the reasonable discretion of the Commissioner (except for the Commissioner's approval of Development Agreements, which are governed by Section 2.5(a)). If requested by CP Holder, ASLD shall execute the Development Documents and any petitions, applications, instruments and agreements related to the Development Approvals as the owner of the Auction Property. Development Approvals may be processed contemporaneously with the Project Entitlements.

3. **Backbone Infrastructure and Minimum Development Activities.**

3.1. **Backbone Infrastructure Requirements.** CP Holder, at its sole cost and expense, shall be responsible for designing, planning, and permitting the Backbone Infrastructure (or causing the same to be completed) substantially in accordance with the AP Master Backbone Infrastructure Plan. The Backbone Infrastructure that will serve the Retained Property as described on the AP Master Backbone Infrastructure Plan, if any, and as described on the RP Master Backbone Infrastructure Plan, shall be designed and sized to accommodate development of both the Auction Property and the Retained Property, but CP Holder shall have no obligation to construct any Backbone Infrastructure serving the Retained Property except the Phase 1 Infrastructure. Notwithstanding the foregoing, CP Holder will not be required to construct and install, or cause to be constructed and installed, wastewater treatment capacity sufficient to serve the Retained Property. CP Holder will construct (or cause to be constructed) the Backbone Infrastructure generally in the locations shown on the AP Master Backbone Infrastructure Plan at no cost to ASLD (but as a Project Cost), subject to CP Holder's right to receive Development Fee Reimbursements pursuant to Section 4.7 and to CP Holder's right to finance portions of such Backbone Infrastructure costs under Section 2.7 or by other means.

3.2. **Condition Precedent to Backbone Infrastructure Construction.** CP Holder may initiate design, prepare plans, and seek any approvals and permits necessary or appropriate from ASLD pursuant to this Contract or from the federal or state governments, the County, the City, or any department thereof, or any utility company with respect to the Backbone Infrastructure concurrently with CP Holder's activities with respect to the Project Entitlements.

3.3. **Milestones.**

(a) **Sales Milestone.** CP Holder shall use commercially reasonable efforts to achieve the following (each a "**Sales Activity Milestone**"):

(i) \$50,000,000 of Sales Activity (as defined below) within one year after the Effective Date, subject to Force Majeure Events, Governmental Events, or Adverse Market Conditions;

(ii) \$125,000,000 of Sales Activity, on a cumulative basis, within two (2) years after the Effective Date, subject to Force Majeure Events, Governmental Events, or Adverse Market Conditions;

(iii) \$250,000,000 of Sales Activity, on a cumulative basis, within three (3) years after the Effective Date, subject to Force Majeure Events, Governmental Events, or Adverse Market Conditions; and

(iv) \$350,000,000 of Sales Activity, on a cumulative basis, within four (4) years after the Effective Date, subject to Force Majeure Events, Governmental Events, or Adverse Market Conditions.

For purposes hereof, “**Sales Activity**” means (1) the gross sales price for fee simple Conveyances and binding contracts for fee simple Conveyances, (2) the Attributed Value (as defined below) for Ground Lease Conveyances and binding contracts for Ground Lease Conveyances, and (3) the aggregate lease, license, or easement payments for lease, license, or easement Conveyances, or binding contracts for a lease, license, or easement Conveyances. For binding contracts for any Conveyances with a closing date later than one year from the date of such binding contract, the consideration for such contract may only be included in the calculation of Sales Activity beginning one year prior to the scheduled closing date in such contract for Conveyance. For Ground Lease Conveyances, the “**Attributed Value**” means the greater of (a) the Net Present Value for that Ground Lease Conveyance, or (b) the Market Value of the Parcel that is the subject of the Ground Lease (excluding any value attributable to vertical improvements constructed or installed by ground lessor). CP Holder will initially propose a Net Present Value for the particular Ground Lease Conveyance. ASLD will then have an opportunity to determine its Net Present Value by using a third-party appraiser. If the Net Present Values are within 5% of each other, the Net Present Value shall be the average of the two proposed values. If not, CP Holder and ASLD shall agree upon a third-party appraiser who will then select (of the two proposed Net Present Values) the value the appraiser believes best reflects the current Net Present Value of the Ground Lease and that value will be the Net Present Value for that Ground Lease Conveyance. If ASLD reasonably believes that the Market Value of the Parcel that is the subject of the Ground Lease (unencumbered by the Ground Lease) is greater than the Net Present Value for that Ground Lease Conveyance, ASLD will then have an opportunity to determine its Market Value by using a third-party appraiser. If ASLD’s Market Value is greater than CP Holder’s Net Present Value, then CP Holder will have an opportunity to determine its Market Value of the Parcel (unencumbered by the Ground Lease) by using a third-party appraiser, and if the Market Values are within 5% of each other, the Attributed Value shall be the average of the two proposed values. If not, CP Holder and ASLD shall agree upon a third-party appraiser who will then select (of the two proposed Market Values) the value the appraiser believes best reflects the current Market Value of the Parcel that is the subject of the Ground Lease (unencumbered by the Ground Lease), and that value will be the Market Value for that Ground Lease Conveyance. The Attributed Value of the Ground Lease Conveyance will be the greater of the Net Present Value or the Market Value of the Parcel that is the subject of the Ground Lease Conveyance. If ASLD does not notify CP Holder in writing within twenty (20) days after the final determination of the Net Present Value of the Ground Lease Conveyance that ASLD intends to obtain an appraisal of the Market Value of the Parcel that is the subject of the Ground Lease, CP Holder must give a notice to ASLD, on which the following language must appear in bold print: **“FAILURE TO NOTIFY CP HOLDER WITHIN FIVE (5) BUSINESS DAYS THAT ASLD INTENDS TO OBTAIN AN APPRAISAL OF THE MARKET VALUE OF THE PARCEL THAT IS THE SUBJECT OF THE GROUND LEASE CONVEYANCE SHALL RESULT IN THE FINAL DETERMINATION OF THE NET PRESENT VALUE OF THE GROUND LEASE CONVEYANCE BEING DEEMED APPROVED.”** If ASLD fails to respond in writing to any such notice within five (5) Business Days following delivery of such notice, the Net Present Value shall be deemed the Attributed Value. If the ground lessee engages CP Holder or a CP Holder Affiliate as a fee developer or contractor to construct and install vertical improvements for the ground lessee under the Ground Lease, the Parcel will not be a CP Holder Parcel and the revenue and costs attributable to such vertical improvements will not be Project Revenue or Project Costs and the value attributable to such vertical improvements will not be included in calculating the

Attributed Value of the Ground Lease, the Sales Activity, or the Participation Payment. CP Holder shall be entitled to patent up to 300 Developable Net Acres (as defined below) of the Auction Property for Ground Lease Conveyances (in addition to the CP Holder Parcels). For purposes of this Agreement “Developable Net Acres” means “net acres” within the applicable Parcel, minus, without duplication, Common Areas and Dedication Property to be conveyed or dedicated in connection with development of the Parcel, measured to the nearest one-one-hundredth of an acre.

(b) Project Cost Milestone. CP Holder shall use commercially reasonable efforts to expend the following (each a “**Project Cost Milestone**”):

(i) \$5,000,000 for Project Costs (excluding the 10% Down Payment for the Property) within one year after the Effective Date, subject to Force Majeure Events, Governmental Events, or Adverse Market Conditions;

(ii) \$35,000,000 for Project Costs (excluding the 10% Down Payment for the Property), on a cumulative basis, within two (2) years after the Effective Date, subject to Force Majeure Events, Governmental Events, or Adverse Market Conditions;

(iii) \$125,000,000 for Project Costs (excluding the 10% Down Payment for the Property), on a cumulative basis, within three (3) years after the Effective Date, subject to Force Majeure Events, Governmental Events, or Adverse Market Conditions, of which at least \$62,500,000 must be for Phase 1 Infrastructure Costs (as defined below), on a cumulative basis, subject to Force Majeure Events, Governmental Events, or Adverse Market Conditions;

(iv) \$175,000,000 for Project Costs (excluding the 10% Down Payment for the Property), on a cumulative basis, within four (4) years after the Effective Date, subject to Force Majeure Events, Governmental Events, or Adverse Market Conditions, of which at least \$87,500,000 must be for Phase 1 Infrastructure Costs, on a cumulative basis, subject to Force Majeure Events, Governmental Events, or Adverse Market Conditions;

(v) \$225,000,000 for Project Costs (excluding the 10% Down Payment for the Property), on a cumulative basis, within five (5) years after the Effective Date, subject to Force Majeure Events, Governmental Events, or Adverse Market Conditions, of which at least \$112,500,000 must be for Phase 1 Infrastructure Costs, on a cumulative basis, subject to Force Majeure Events, Governmental Events, or Adverse Market Conditions; and

(vi) \$300,000,000 for Project Costs (excluding the 10% Down Payment for the Property), on a cumulative basis, within six (6) years after the Effective Date, subject to Force Majeure Events, Governmental Events, or Adverse Market Conditions, of which at least \$150,000,000 must be for Phase 1 Infrastructure Costs, on a cumulative basis, subject to Force Majeure Events, Governmental Events, or Adverse Market Conditions.

For purposes of the Project Cost Milestone only, “**Project Costs**” include Project Costs paid, accrued, or otherwise legally committed by CP Holder; any land buyer secured with Financial Assurances (as defined below); the City; any special taxing district; or any other Third Party secured with Financial Assurances. “**Phase 1 Infrastructure Costs**” mean Project Costs paid, incurred, or otherwise legally committed by CP Holder, any land buyer, the City, any special taxing district, or any other Third Party, for the construction and installation of the Phase 1 Infrastructure Items, including, without limitation, Project Costs for design, engineering, staking, surveying, permitting, approving authority review fees, development impact fees, inspections, construction management, labor, and materials. Any Project Costs incurred by anyone other than CP Holder or CP Holder Affiliates shall not be included in Project Costs for purposes of Section 7 and Exhibit I.

(c) Phase 1 Infrastructure Milestones.

(i) CP Holder shall complete construction and installation of the Backbone Infrastructure for the first phase of the Project generally described on Exhibit E-1 and further refined on the infrastructure improvement plans (the “**Phase 1 On-Site Infrastructure**” and each item comprising a portion of the Phase 1 On-Site Infrastructure shall be referred to as a “**Phase 1 On-Site Infrastructure Item**”) on or before the eighth (8th) anniversary of the Effective Date, without any extension for Force Majeure Events, Governmental Events, or Adverse Market Conditions (the “**Phase 1 On-Site Infrastructure Milestone**”). For purposes of this Section, construction of each Phase 1 On-Site Infrastructure Item shall be deemed to have been completed when the Phase 1 On-Site Infrastructure Item is substantially complete in accordance with the plans therefor and, if applicable, has been accepted by the City or the utility who will own and maintain the same (subject to the completion of any warranty items). The Commissioner shall have the right, but not the obligation, to extend the Phase 1 On-Site Infrastructure Milestone from time to time for good cause shown. Except as set forth in this Section 3.3(c), the timing of the construction of Backbone Infrastructure shall be determined solely by CP Holder, as it deems necessary or appropriate to meet the development needs of the Project.

(ii) CP Holder shall complete construction and installation of the Backbone Infrastructure for the first phase of the Project generally described on Exhibit E-2 and further refined on the infrastructure improvement plans (the “**Phase 1 Off-Site Infrastructure**” and each item comprising a portion of the Phase 1 Off-Site Infrastructure shall be referred to as a “**Phase 1 Off-Site Infrastructure Item**”) on or before the tenth (10th) anniversary of the Effective Date, subject to extension for Force Majeure Events or Governmental Events only (the “**Phase 1 Off-Site Infrastructure Milestone**” and together with the Phase 1 On-Site Infrastructure Milestone, the “**Phase 1 Infrastructure Milestones**”). The Phase 1 Off-Site Infrastructure and the Phase 1 On-Site Infrastructure are sometimes hereinafter referred to collectively as the “**Phase 1 Infrastructure**” and the Phase 1 Off-Site Infrastructure Items and the Phase 1 On-Site Infrastructure Items are sometimes hereinafter referred to collectively as the “**Phase 1 Infrastructure Items**”. For purposes of this Section, construction of each Phase 1 Off-Site

Infrastructure Item shall be deemed to have been completed when the Phase 1 Off-Site Infrastructure Item is substantially complete in accordance with the plans therefor and, if applicable, has been accepted by the City or the utility who will own and maintain the same (subject to the completion of any warranty items). The Commissioner shall have the right, but not the obligation, to extend the Phase 1 Off-Site Infrastructure Milestone from time to time for good cause shown. Except as set forth in this Section 3.3(c), the timing of the construction of Backbone Infrastructure shall be determined solely by CP Holder, as it deems necessary or appropriate to meet the development needs of the Project.

(d) Infrastructure Escrow – Sales Activity Shortfall. If CP Holder fails to meet any Sales Activity Milestone, on a cumulative basis, by the applicable Sales Activity Milestone date, as the same may have been previously extended due to Force Majeure Events, Governmental Events, or Adverse Market Conditions, CP Holder shall establish with an independent escrow agent (the “**Infrastructure Escrow Agent**”) an escrow, if not previously established (the “**Infrastructure Escrow**”), and within thirty (30) days after the applicable Sales Activity Milestone date, CP Holder must deposit into the Infrastructure Escrow Financial Assurances, as security, in an amount equal to fifty percent (50%) of the difference between the Sales Activity threshold and the actual Sales Activity, on a cumulative basis, as of the applicable Sales Activity Milestone date, as the same may have been previously extended due to Force Majeure Events, Governmental Events, or Adverse Market Conditions (the “**Sales Activity Shortfall**”). Any dispute as to the Sales Activity Shortfall shall be treated as an Arbitration Dispute.

(e) Infrastructure Escrow – Project Cost Shortfall. If CP Holder fails to meet any Project Cost Milestone, on a cumulative basis, by the applicable Project Cost Milestone date, as the same may have been previously extended due to Force Majeure Events, Governmental Events, or Adverse Market Conditions, CP Holder shall establish the Infrastructure Escrow with the Infrastructure Escrow Agent, if not previously established, and within thirty (30) days after the applicable Project Cost Milestone date, CP Holder must deposit into the Infrastructure Escrow Financial Assurances, as security, in an amount equal to one hundred percent (100%) of the difference between the Project Cost Milestone and the actual Project Costs or actual Phase 1 Infrastructure Costs, as applicable, on a cumulative basis (the “**Project Cost Shortfall**”). All Financial Assurances held in the Infrastructure Escrow beginning in the first year that a Phase 1 Infrastructure Cost threshold is required shall be applied first to the Phase 1 Infrastructure Costs until the Phase 1 Infrastructure Cost threshold is satisfied, and then to total Project Costs. Any dispute as to the Project Cost Shortfall shall be treated as an Arbitration Dispute.

(f) Intentionally Omitted.

(g) Draw Requests. The amounts deposited into the Infrastructure Escrow will not accrue interest for purposes of the Participation Payment calculation until they are utilized for Project Costs or Phase 1 Infrastructure Costs. Upon CP Holder’s instructions and at CP Holder’s expense, Infrastructure Escrow Agent is instructed to deposit all cash payments to the Infrastructure Escrow in a federally insured money market or other similar account, subject to immediate withdrawal, at a bank or savings and loan institution located

in Phoenix, Arizona. Interest earned on the cash payments shall be treated as part of the Infrastructure Escrow and disbursed in accordance with this Section. At any time when there are cash amounts in the Infrastructure Escrow, CP Holder may withdraw such amounts solely to pay: (1) Phase 1 Infrastructure Costs; and (2) with respect to the Project Costs Shortfall that are not earmarked for Phase 1 Infrastructure Costs, for other Project Costs, by submitting a request (a “**Draw Request**”) to Infrastructure Escrow Agent and ASLD specifying the work covered by such Draw Request. The Draw Request shall be accompanied by invoices or other amounts evidencing the amount to be paid and with respect to any Person that filed a 20-day preliminary lien notice and is entitled to such payments (a “**Lien Claimant**”), a conditional lien waiver. If ASLD does not object to a Draw Request within ten (10) Business Days specifying the reason for such objection, the amount set forth therein shall be disbursed to CP Holder. With any subsequent Draw Request, CP Holder shall submit final lien waivers from each Lien Claimant for the work covered by the preceding draw request. If ASLD timely objects to all or any portion of a Draw Request, the undisputed amount shall be paid to CP Holder and the amounts subject to the dispute (the “**Disputed Amount**”) shall be held in the Infrastructure Escrow and the parties will promptly meet and confer to resolve the Disputed Amount prior to the payment date under the Prompt Pay Statutes (A.R.S. §32-1181, *et seq.*, and any replacements or renumbering thereof). If the objection is not resolved, the matter shall be treated as an Arbitration Dispute, but, notwithstanding such Arbitration Dispute, Escrow Agent may release fifty percent (50%) of the Disputed Amount of the Draw Request to CP Holder for payment to the Lien Claimant prior to resolution of the Arbitration Dispute. If there are Financial Assurances remaining in the Infrastructure Escrow upon completion of all Phase 1 Infrastructure Items, such Financial Assurances shall be paid or released to CP Holder. If this Contract is terminated for any reason other than a default by ASLD, there are Phase 1 Infrastructure Items that are not completed, and there are Financial Assurances remaining in the Infrastructure Escrow, such Financial Assurances shall be paid or assigned to ASLD and ultimately used to complete all Phase 1 Infrastructure Items. If this Contract is terminated on account of a default by ASLD and there are Financial Assurances remaining in the Infrastructure Escrow, such Financial Assurances shall be paid or released to CP Holder. If CP Holder fails to deposit the required full amount into the Infrastructure Escrow when due under any of the provisions of Section 3.3 (d) through (f), ASLD may notify CP Holder in writing (an “**Infrastructure Nonperformance Notice**”) of its intent to cancel the Certificate of Purchase and to terminate this Contract. If CP Holder fails to make such required deposit to the Infrastructure Escrow within fifteen (15) days following such Infrastructure Nonperformance Notice (the “**Infrastructure Cure Period**”), ASLD may, as its sole remedy, commence cancellation of the Certificate of Purchase pursuant to A.R.S. § 37-247, and the Infrastructure Cure Period shall be separate from, and in addition to, the period set forth in A.R.S. § 37-247. For the avoidance of doubt, if all Phase 1 Infrastructure Items are complete before the Infrastructure Escrow is required to be established, CP Holder shall not be required to establish an Infrastructure Escrow or provide Financial Assurances.

(h) Financial Assurances. If required pursuant to Sections 3.3(a) or 3.3(b) above, CP Holder will deposit into the Infrastructure Escrow with the Infrastructure Escrow Agent cash, letters of credit (in a commercially reasonable form approved by the Commissioner), surety bonds (in a commercially reasonable form approved by the

Commissioner), or in the sole discretion of the Commissioner a guaranty from a creditworthy Person, or other assurances approved in the sole discretion of the Commissioner (collectively, “**Financial Assurances**”), in the amounts required in Sections 3.3(d) and 3.3(e) above, as security for the Sales Activity Milestones, Project Cost Milestones, and/or completion of the uncompleted Phase 1 Infrastructure Items. If the City or other approving authority requires financial assurances in the form of a bond (which must be in a form approved by the Commissioner) or letter of credit, CP Holder may cause ASLD to be named as a dual obligee on such bond or letter of credit to satisfy the Financial Assurance requirement (or if Infrastructure Escrow Agent is obligee under such bond or letter of credit, Infrastructure Escrow Agent agrees to act as agent for the City or other approving authority and ASLD), and ASLD hereby approves such bond or letter of credit as the Financial Assurance as long as each obligee can independently exercise its rights under such bond or letter of credit without joinder by the other obligee (or cause Infrastructure Escrow Agent to exercise its rights without joinder by the other obligee) and so long as ASLD will have access to such funds so that ASLD or a successor developer(s) can utilize the same to ultimately complete the items secured thereby including the Phase 1 Infrastructure. Whether ASLD’s disapproval of the forms and terms of any financial assurance is reasonable may be treated by CP Holder as an Arbitration Dispute.

(i) Phase 1 Infrastructure Milestones Termination. If CP Holder fails to complete construction and installation of the Phase 1 On-Site Infrastructure Items on or before the Phase 1 On-Site Infrastructure Milestone, or CP Holder fails to complete construction and installation of the Phase 1 Off-Site Infrastructure Items on or before the Phase 1 Off-Site Infrastructure Milestone, ASLD may deliver to CP Holder an Infrastructure Nonperformance Notice of its intent to cancel the Certificate of Purchase and to terminate this Contract. If CP Holder fails to complete construction and installation of the applicable Phase 1 On-Site Infrastructure Item(s) or Phase 1 Off-Site Infrastructure Item(s) on or before sixty (60) days after receipt of the Infrastructure Nonperformance Notice, then ASLD may, as its sole remedy, commence cancellation of the Certificate of Purchase pursuant to A.R.S. §37-247, and the Infrastructure Cure Period shall be separate from, and in addition to, the period set forth in A.R.S. §37-247; provided, however, if CP Holder cannot reasonably complete construction and installation of the applicable Phase 1 On-Site Infrastructure Item(s) or Phase 1 Off-Site Infrastructure Item(s) within the cure period, CP Holder will not be in default under this Agreement so long as CP Holder commences to cure such failure and thereafter prosecutes diligently such cure to completion within a reasonable time, subject to Force Majeure Events and Governmental Events with respect to the Phase 1 Off-Site Infrastructure Item(s) only. The Commissioner shall have the right, but not the obligation, to further extend the cure period from time to time for good cause shown.

3.4. Access to Infrastructure. Notwithstanding anything contained in this Contract to the contrary, if ASLD consummates an auction of any portion of the Retained Property prior to the earlier of (a) the eighth (8th) anniversary of the Effective Date, or (b) Conveyance of eighty-five percent (85%) of the Developable Net Acres of the Auction Property (the “**Access Date**”), any purchaser of such Retained Property or any portion thereof and its successors will not have the right, absent CP Holder’s approval in its sole and absolute discretion, to connect to or utilize the Backbone Infrastructure or any other

infrastructure constructed by CP Holder until the Access Date, and the Development Agreements may include provisions acknowledging the restriction on access to such infrastructure. In addition, any purchaser of such Retained Property or any portion thereof and its successors that connects to or utilizes, with CP Holder's approval in its sole and absolute discretion, prior to the Access Date the Backbone Infrastructure or any other infrastructure constructed by CP Holder shall pay to CP Holder the cost to oversize or upsize the Backbone Infrastructure or any other infrastructure constructed by CP Holder and utilized by such purchaser or its successors, together with interest at the Stated Rate thereon from the date such costs were incurred by CP Holder until repaid. Notwithstanding the foregoing, there shall be no restriction on access to Backbone Infrastructure in the event of CP Holder's default and termination of this Contract.

4. Development of the Auction Property

4.1. Development of the Auction Property. Subject to the provisions of this Contract and the Certificate of Purchase, at any time and from time to time and without the further consent of ASLD, CP Holder may cause the Auction Property to be developed in accordance with the AP PUD Plan and the AP Master Backbone Infrastructure Plan. CP Holder shall be solely responsible for the design, planning, permitting, and construction, and all expense thereof, with respect to the development of the Auction Property for uses consistent with the Project Entitlements, including without limitation, for the Conveyance of Parcels to one or more purchasers who are Vertical Developers. CP Holder (or CP Holder Affiliates) shall collectively be entitled to patent up to 600 Developable Net Acres of the Auction Property, but no more than 250 Developable Net Acres may be east of 43rd Avenue in the mixed-use area, for development by CP Holder (or a CP Holder Affiliate that is a Vertical Developer) (the "**CP Holder Parcels**") at a sales price for purposes of the Participation Payment equal to the greater of the following (the "**CP Holder Parcel Conveyance Price**"): (a) Market Value or (b) one hundred twenty percent (120%) of the reasonably allocated Project Costs attributable to such CP Holder Parcel, *e.g.*, land costs, interest expense, infrastructure costs, etc., as reasonably determined by CP Holder, for development by CP Holder or conveyance to a CP Holder Affiliate that is a Vertical Developer. Parcels conveyed for Ground Leases to Third Party ground lessees that are Vertical Developers are not CP Holder Parcels. Affiliate Resale Parcels to be held by CP Holder Affiliates for resale are not CP Holder Parcels. CP Holder will initially propose a Market Value for the particular CP Holder Parcel. ASLD will then have an opportunity to determine its market value by using a third-party appraiser. If the market values are within 5% of each other, the Market Value shall be the average of the two proposed values. If not, CP Holder and ASLD shall agree upon a third-party appraiser who will then select (of the two proposed Market Values) the value the appraiser believes best reflects the current Market Value of the CP Holder Parcel and that value will be the Market Value for that property.

4.2. Possession of Unpatented Property. At all times prior to the cancellation of the Certificate of Purchase pursuant to a forfeiture, CP Holder shall have the right to possession of the Unpatented Property and shall have all burdens and benefits associated with the ownership thereof, subject to the provisions of this Contract, the Certificate of Purchase, and Applicable Laws. In accordance with applicable law, CP Holder may construct

Backbone Infrastructure and other site development improvements and amenities on the Unpatented Property. CP Holder may grant easements, licenses, and/or rights of way (a “**Possessory Interest**”) to Third Parties over portions of the Unpatented Property to allow for (a) construction of improvements that are permitted under the terms of this Contract, staging of construction equipment and materials, and cutting, filling, importing, exporting from the Unpatented Property to any Patented Parcel, and stockpiling of dirt and other fill materials in accordance with the grading and drainage plans approved by ASLD, (b) temporary drainage, (c) grant rights of way for roads, drainage, water/sewer, etc. with such rights of way subject to potential relocation as appropriate/necessary, and (d) other activities reasonably required in connection with development of the Auction Property and not otherwise permitted under this Contract, so long as such Possessory Interest (i) does not impose any affirmative obligations on ASLD to construct improvements or pay money with respect to the cost of constructing improvements within such easements or rights of way, (ii) includes insurance and indemnity provisions customarily required by ASLD, and (iii) is terminable upon cancellation of the Certificate of Purchase and upon such termination any improvements (except Phase 1 Infrastructure) will, at the option of ASLD, be removed by the party (at such party’s sole cost) to whom the Possessory Interest is granted. Pursuant to Section 4.6, no Unpatented Property may be dedicated, and no permanent easement may be granted over Unpatented Property until the Property is Patented.

4.3. Use of Materials from Unpatented Property. CP Holder shall not commit waste on the Unpatented Property. The following provisions shall apply with respect to the use of vegetation, rocks and other natural materials that are present on the Unpatented Property:

(a) CP Holder may (i) use and relocate any vegetation, large rocks, and other natural materials that are present on the Unpatented Property for purposes of improving and landscaping the Unpatented Property and any Patented Parcels only and (ii) permit Third Parties to remove vegetation from the Unpatented Property in exchange for payments to ASLD in amounts determined by ASLD (based on the United States Department of Agriculture requirements), which amounts shall not be Project Revenues hereunder but shall be applied to payments due under the Certificate of Purchase pursuant to and subject to the requirements of A.R.S. § 37-246, but no such payments will be required if the vegetation is used to improve the Patented Parcels. CP Holder shall not be permitted to exchange vegetation present on the Unpatented Property for vegetation imported to the Unpatented Property from other locations (except from the Patented Parcels) or for services or consideration other than payments described above.

(b) Removal of vegetation for purposes permitted under this Section 4.3 shall be from any locations on the Unpatented Property at which grading or underground utility infrastructure is then occurring or is reasonably projected by CP Holder to occur before or during the next de-vegetation harvesting season (April through October). One or more nurseries may be established and operated by CP Holder on the Unpatented Property for harvested vegetation until such time as the harvested vegetation can be used, relocated, or sold in accordance with Section 4.3(a). CP Holder shall not be permitted to exchange vegetation present on the Unpatented Property for vegetation imported to the Unpatented

Property from other locations (except from the Patented Parcels) or for other services or consideration.

(c) CP Holder may (i) establish sand and gravel operations on the Unpatented Property, (ii) mine, crush, screen and stockpile aggregate course base on the Unpatented Property, and/or (iii) establish a concrete and/or asphalt batch plant on the Unpatented Property (collectively, “**Materials Operations**”), and use any sand, rock, gravel, course base, and other materials located on, mined, or extracted from the Unpatented Property or produced by the Material Operations (collectively, “**Materials**”) for purpose of improving the Auction Property, without payment to ASLD. With the prior written approval of ASLD, CP Holder may permit Third Parties to remove Materials from the Unpatented Property in accordance with any Applicable Laws in exchange for payments to ASLD in amounts determined by ASLD (unless used for improving the Auction Property), which amounts shall not be Project Revenues hereunder but shall be applied to payments due under the Certificate of Purchase pursuant to and subject to the requirements of A.R.S. § 37-246.

(d) CP Holder may disturb or remove existing roadways and levees on the Unpatented Property as necessary to accomplish drainage patterns and stormwater retention on the Auction Property. Materials removed may be used for any purpose described in Section 4.3(c) or for grading, retention and fill on the Auction Property.

(e) Except as permitted in the foregoing provisions of this Section 4.3, CP Holder shall not use Materials from the Unpatented Property on property other than the Auction Property, sell such Materials to Third Parties or enter into any lease or license of the Unpatented Property permitting the harvesting or disposition of such Materials by Third Parties (except for use on the Auction Property).

(f) If this Contract is terminated prior to issuance of a Patent for all the Auction Property, CP Holder shall promptly restore any damage caused to the Unpatented Property as a result of the removal of vegetation and Materials therefrom by appropriate grading and landscaping by CP Holder or its representatives or agents, but in no event will CP Holder be required to regrade the Property or otherwise remove any improvements unless requested in writing by the Commissioner within ninety (90) days following such termination. CP Holder’s obligation under the immediately preceding sentence shall survive the termination of this Contract and the cancellation of the Certificate of Purchase. Following any such termination and cancellation, ASLD shall, if requested by CP Holder, enter into a right of entry, at no cost to CP Holder, for the sole purpose of granting CP Holder reasonable access to the Unpatented Property to complete the restoration required under this Section 4.3. If requested by ASLD and available on commercially reasonable terms, CP Holder shall obtain a bond naming ASLD as an obligee and assuring the restoration of the Unpatented Property in accordance with this Section.

4.4. Recordable Agreements. For purposes of this Contract, “**Recordable Agreements**” means any agreement, instrument, or other document that will be recorded (or for which a memorandum, notice or other evidence is recorded) against all or any portion of the Unpatented Property covering any portion of the Unpatented Property, and any amendments, modifications, or supplements thereto. ASLD’s approval shall not be

required for (a) covenants, conditions, restrictions and easements and any supplemental or tract declarations, or declarations of annexation recorded pursuant thereto, or reciprocal easement agreements or construction, operation, and reciprocal easement agreements (collectively, “CCRs”), for any portions of the Auction Property for which a Partial Patent has been issued by ASLD, (b) Recordable Agreements that will be recorded at the closing of any Conveyance of a Parcel pursuant to this Contract, if such Recordable Agreements are binding only on the Patented Parcel and on other parcels that have been previously Patented, (c) except as otherwise provided in Section 2.5(a), the Development Agreements, (d) the CFD Agreements, or (e) except as otherwise provided in Section 2.8, any Development Documents. The material terms of any Recordable Agreement other than those described in (a) through (e) above (an “**Other Recordable Agreement**”) to be recorded against all or any portion of the Unpatented Property (or which by its terms provides that all or any portion of the Unpatented Property can be subjected thereto by annexation prior to being Patented by CP Holder) shall require the prior written approval of ASLD, and shall not create any impermissible lien on the Unpatented Property. ASLD shall, at the request of CP Holder, execute any Recordable Agreement that includes Unpatented Property, provided that if any Other Recordable Agreement requires ASLD’s approval under this Section 4.4, such approval shall be a condition to execution. ASLD may condition or withhold its approval of any such Other Recordable Agreement if the Commissioner determines in his or her sole discretion, (i) that any such Other Recordable Agreement would impose an impermissible lien on the Unpatented Property or (ii) that the application of the terms of such Other Recordable Agreement to all or any portion of the Unpatented Property after cancellation of the Certificate of Purchase would adversely impact the future use, marketability, or value of such Unpatented Property. CP Holder shall not record any plat on any Unpatented Property without ASLD’s prior written approval, which may be conditioned or withheld in the Commissioner’s sole discretion.

4.5. Improvements to Unpatented Property.

(a) Permitted Improvements. In addition to the Backbone Infrastructure, the improvement and development of the Auction Property may include, without limitation, the following improvements, which may be constructed in whole or in part on Unpatented Property in accordance with the AP PUD Plan and without the consent of ASLD unless required below:

(i) Construction of vertical improvements that are necessary or desirable for the resale of the Auction Property (such as guard gates, walls, fences, gates, monuments, signs, and shade structures), and other improvements generally consistent with improvements in similar mixed use projects intended to enhance the value or marketability of the Auction Property;

(ii) Subdivision or in-tract infrastructure and the completion of grading, landscaping, local streets, surface parking areas, and other activities associated with the physical appearance of the Auction Property;

(iii) Installation of utilities to serve the Auction Property and, if applicable, the Retained Property, provided that a permanent easement shall not be granted to the utility provider until the subject property is Patented;

(iv) Temporary storage buildings, construction and equipment yards, areas for the storage and transport of vegetation and Materials being moved and relocated on the Auction Property, temporary construction buildings, offices and trailers, temporary sales and marketing offices and trailers, and similar removable improvements to facilitate the improvement and development of the Project, including temporary power and other utilities; and

(v) With the prior written approval of the Commissioner, common amenities such as recreational buildings, golf courses, lakes, continuous trail systems and hiking and biking paths, ramadas, parks, restrooms, guard houses, and other recreational areas; provided that a Partial Patent shall be issued for any such amenities before they are open for use by the public and/or residents, tenants, or users of the Project and their invitees.

All improvements shall be constructed by CP Holder as a Project Cost. In the event of a cancellation of the Certificate of Purchase, ASLD shall not be obligated to reimburse CP Holder for the cost of any such improvements, which shall be deemed rental for the Unpatented Property pursuant to A.R.S. § 37-247(b).

(b) Actions Upon Cancellation.

(i) If the Certificate of Purchase is cancelled, CP Holder shall take such actions in a commercially reasonable time and manner as may be reasonably required to avoid the reckless abandonment of partially completed construction (e.g., filling open trenches and taking steps reasonably required to assure public safety in areas where partially-completed improvements exist and covering or capping utility lines to avoid damage thereto from weather or other conditions at the Auction Property). Any dispute over whether actions are reasonably required in accordance with the preceding sentence shall be an Arbitration Dispute.

(ii) If this Contract is terminated prior to issuance of a Patent for all the Auction Property, CP Holder shall remove any improvements installed pursuant to Section 4.5(a)(i) or Section 4.5(a)(iv) on the Unpatented Property if requested in writing by the Commissioner within ninety (90) days following such termination. CP Holder's obligation under the immediately preceding sentence shall survive the termination of this Contract and the cancellation of the Certificate of Purchase. Following any such termination and cancellation, ASLD shall, if requested by CP Holder, enter into a right of entry, at no cost to CP Holder, for the sole purpose of granting CP Holder reasonable access to the Unpatented Property to complete the restoration required under this Section 4.5.

4.6. Common Areas and Dedication Property. Subject to the provisions of this Contract and consistent with the Project Entitlements, CP Holder may designate portions of the

Auction Property as Common Areas and Dedication Property and may Convey the same to the intended owner thereof which may include, without limitation, property owners' associations, governmental authorities, and utility providers. Any portion of the Auction Property designated as Common Areas or Dedication Property may not be used as such until it is patented by CP Holder, and upon patenting CP Holder shall be required to pay the Patent Price therefor pursuant to Article 6 below. For purposes of this Contract, "**Common Areas**" means areas within a Parcel that are set aside for the common use and benefit of property owners within such Parcel (and other Parcels). Examples of Common Areas include natural and landscaped open space, drainage systems, continuous trail systems and hiking and biking paths, and parks that are not dedicated to a governmental authority or utility provider. For purposes of this Contract, "**Dedication Property**" means (i) sites for police stations, (ii) sites for fire stations, (iii) school sites, (iv) park sites, (v) any washes, channels, or drainage areas, including those delineated by the United States Army Corps of Engineers pursuant to Section 404 of the Clean Water Act, the City, the County, or other governing agencies, (vi) electric generation stations and substations, (vii) any portions of the Auction Property underlying the Backbone Infrastructure, and (viii) any additional portion of the Auction Property that is approved in writing by ASLD as Dedication Property. The Auction Property currently excludes the approximate 63.60-acre parcel intended for the Arizona Public Service Avery substation, but CP Holder may be required to provide Arizona Public Service a perpetual access easement from 43rd Avenue to the substation, in which case such access easement will be Dedication Property.

4.7. Development Fees and Development Fee Reimbursements. CP Holder shall have the authority, without the consent of ASLD, to enter into agreements and arrangements establishing or consenting to the establishment of Development Fees relating to the Project and providing for the payment of Development Fee Reimbursements to CP Holder or CP Holder Affiliates or Vertical Developers on terms and conditions determined by CP Holder in its sole discretion. If ASLD comes into possession of any Development Fee Reimbursements, it shall promptly remit the same to CP Holder. All Development Fees Reimbursements paid to CP Holder or CP Holder Affiliates shall be considered Project Revenues. In the event of cancellation of the Certificate of Purchase and termination of this Contract, Development Fee Reimbursements received by CP Holder (or CP Holder Affiliates) or ASLD (or any successor purchaser of the Unpatented Property) for improvements constructed or installed by or on behalf of CP Holder or CP Holder Affiliates or Vertical Developers shall be treated as Project Revenue and paid to CP Holder and ASLD in accordance with Section 7, and any Development Fee Reimbursements for improvements constructed or installed by or on behalf of ASLD or its successors after cancellation of the Certificate of Purchase and termination of this Contract shall be solely for the benefit of ASLD or its successors. This Section will survive termination of this Contract.

4.8. Intentionally Omitted.

5. Conveyances of Portions of the Auction Property

5.1. Authority of CP Holder. Subject only to the limitations and requirements expressly set forth in this Contract and the Certificate of Purchase, CP Holder shall have the sole

discretion to determine (a) the time or times at which all or any part of the Auction Property is to be sold, conveyed, dedicated, or subjected to a Ground Lease or an easement, lease or license, or otherwise disposed of (collectively, “**Conveyed**”); (b) the Person or Persons to whom all or any part of Auction Property is to be Conveyed; and (c) the consideration to be paid and the other terms and conditions for the sale, conveyance, dedication, subjection to a Ground Lease or an easement, lease or license, or other disposition (each, a “**Conveyance**”) of all or any part of the Auction Property. The consideration, if any, payable with respect to each Conveyance of any part of the Auction Property shall be paid directly to CP Holder.

5.2. Leases. ASLD represents and warrants that upon the execution of this Contract, no portion of the Auction Property is leased to a Third Party. CP Holder may lease all or portions of the Unpatented Property for uses approved by the Commissioner in his/her reasonable discretion and on terms reasonably approved by the Commissioner, which shall include, without limitation, provisions (a) requiring the lessee to indemnify, defend and hold harmless ASLD and CP Holder for, from and against losses, costs, damages and expenses occurring on account of lessee’s use of the leased property, (b) requiring the lessee to obtain customary insurance and, where applicable, name ASLD and CP Holder as additional insureds, and (c) allowing ASLD to terminate the lease in the event of CP Holder’s default and forfeiture of its interest under the Certificate of Purchase. Any rents received from the lease of the Unpatented Property shall be Project Revenues.

5.3. Use of Escrow Agent. Any Conveyance of fee title to a Parcel shall be handled through an escrow established with an independent escrow agent (the “**Escrow Agent**”).

6. **Patent of Parcels**

6.1. Patent Payments.

(a) Pursuant to the terms of the Auction Notice and the Certificate of Purchase, CP Holder agreed to pay a base price for the Auction Property equal to the amount set forth in the Certificate of Purchase (the “**Base Price**”), which is \$_____ per net acre (the “**Per Acre Price**”). At the Auction, CP Holder paid to ASLD an amount equal to ten percent (10%) of the Base Price (the “**10% Down Payment**”). The 10% Down Payment constitutes the collateral satisfying the requirements of A.R.S. § 37-239(E)(3), (8), (10), and (11). The balance of the Base Price will accrue interest from the Auction Date at a simple variable interest rate equal to _____, which shall be subject to change annually based on the applicable rate in effect on the adjustment date (the “**Stated Rate**”) and will be payable as and when Parcels are released from the Certificate of Purchase and a patent (“**Patent**”) is issued therefor (“**Patented**”).

(b) From time-to-time CP Holder may cause Parcels (each a “**Patented Parcel**”) to be Patented, including, but not limited to, Common Areas and Dedication Property. CP Holder may obtain Partial Patents by paying release prices set forth on Exhibit D. Such prices are determined by multiplying the “% of Par” designated for such Parcel on Exhibit D by the Per Acre Price multiplied by the net acres (as defined below) of the Parcel (the “**Patent Price**”). For any Parcels designated as “Variable” on Exhibit D,

CP Holder shall pay to ASLD upon the issuance of a Patent for such Patented Parcel an amount such that the aggregate release prices for all Patented Parcels to date (including the subject Patent) is no less than 101% of the Per Acre Price multiplied by the net acreage of all Patented Parcels to date. However, the release price for any Parcel designated as Variable shall never be less than 70% multiplied by the Per Acre Price multiplied by the net acres of such Parcel (except that the Dedication Property and Common Areas may be less than 70% so long as the aggregate release prices for all Patented Parcels to date (including the subject Patent) is no less than 101% of the Per Acre Price multiplied by the net acreage of all Patented Parcels to date). Upon payment in full of the entire Base Price, including interest accrued thereon, a final Patent for all remaining Unpatented Property will be issued. The 10% Down Payment shall not be applied to any release price until all CP Holder Equity Contributions and ASLD Project Costs have been repaid from Project Revenues such that there are no amounts accruing interest at the Stated Rate. In such event, the 10% Down Payment shall be applied to the release price payable for the next Partial Patent(s) issued by ASLD until such 10% Down Payment has been exhausted. If prior to the application of the entire 10% Down Payment CP Holder makes additional CP Holder Equity Contributions or ASLD incurs additional ASLD Project Costs, then no remaining portion of the 10% Down Payment shall be applied until the additional CP Holder Equity Contributions and/or additional ASLD Project Costs have been repaid from Project Revenues. At all times during the term of this Contract, the value of all remaining Unpatented Property must exceed the remaining balance due under the Certificate of Purchase. For purposes of this Agreement, “**net acres**” or “**net acreage**” means the gross acreage within the exterior boundaries of the Auction Property minus, without duplication, any existing public rights-of-ways for streets, roads, or highways within the exterior boundaries of the Auction Property as of the Auction Date, measured to the nearest one-one-hundredth of an acre.

The following is an example of the application of this subsection (b). If the first Partial Patent requested by CP Holder is for 100 net acres in Region 3, CP Holder will pay a release price equal to 101% of the Per Acre Price. If the second Partial Patent requested by CP Holder is for 100 net acres in Region 6, CP Holder will pay a release price equal to 110% of the Per Acre Price (and the total blended rate will be 105.5% of the Per Acre Price). If the third Partial Patent requested by CP Holder is for 200 net acres in Region 2, CP Holder will pay a release price equal to 96.5% of the Per Acre Price (and the total blended rate will be 101% of the Per Acre Price). If the fourth Partial Patent requested by CP Holder is for 20 net acres for a park in Region 4, CP Holder will pay a release price equal to 101% of the Per Acre Price (and the total blended rate will be 101% of the Per Acre Price). If all CP Holder Equity Contributions and ASLD Project Costs have been repaid from Project Revenues such that there are no amounts accruing interest at the Stated Rate at the time the third Partial Patent is requested by CP Holder (or a CP Holder Affiliate), the entire 10% Down Payment (or the full release price, whichever is less) will be applied to the release price payable by CP Holder (or a CP Holder Affiliate). Provided, however, at the time when a Partial Patent is applied for or issued the value of all remaining Unpatented Property must exceed the amount remaining due under the Certificate of Purchase.

(c) Notwithstanding anything contained herein to the contrary, the Base Price shall be paid in full on or before the twentieth (20th) anniversary of the Auction and upon payment in full of the Base Price a Patent shall be issued for any remaining Unpatented

Property. Other than payments of the Base Price for Patents, no prepayment of the Base Price shall be allowed.

(d) Notwithstanding the provisions of this Article 6, if at any time after three (3) years from the Effective Date and prior to payment in full of the Base Price ASLD determines in the exercise of its reasonable discretion that the value of the remaining Unpatented Property is not greater than the remaining unpaid balance of the Base Price (meaning that the remaining security for payment of the Base Price is inadequate), ASLD may require an increase in the Patent Price formula set forth in Section 6.1(b). If ASLD determines that it does not have adequate security, it will notify CP Holder in writing (an “**Adjustment Notice**”) and allow CP Holder to present information related to the proposed increase in the Patent Price formula. Following such meeting, ASLD will notify CP Holder in writing specifying its proposed increase to the Patent Price formula, and if CP Holder disagrees with such proposal ASLD shall obtain an appraisal which will be used to determine the amount of any increase. Prior to the appraiser issuing his/her opinion of the revised Patent Price formula, he/she shall, at CP Holder’s request, meet with CP Holder so that CP Holder can present information related to the proposed increase. The increased Patent Price determined in accordance with this Section shall be the “**Revised Patent Price**.” Notwithstanding anything contained herein to the contrary, if CP Holder has made a Partial Patent application prior to the Adjustment Notice, the existing Patent Price shall remain in effect (i) for all Patents that are issued prior to the final determination of the Revised Patent Price and (ii) following the determination of the Revised Patent Price, for any Patent that is being issued to complete a Conveyance pursuant to a purchase agreement that was executed prior to an Adjustment Notice. The determination of the Revised Patent Price shall be an Arbitration Dispute.

6.2. Conditions to Issuance of Patent of Portions of Auction Property. The following conditions shall be satisfied prior to issuance of a Patent: (i) the Backbone Infrastructure serving such Patented Parcel is complete or CP Holder or another party is contractually obligated to complete such Backbone Infrastructure following the issuance of a Patent for the Patented Parcel (and with respect to the Phase 1 Infrastructure within any applicable timeframes under this Contract); (ii) CP Holder shall have previously paid the Patent Price to receive a Partial Patent for the Patented Parcel pursuant to the Certificate of Purchase or such Patent Price payment shall be paid from the escrow for the sale of the Patented Parcel; and (iii) following issuance of such Patent, the Unpatented Property will have legal access and will have development potential independent of the acreage that is being Patented pursuant to A.R.S. § 37-251.B(3). The Unpatented Property will be deemed to have legal access if it has ingress and egress to and from any public street or road (A) by crossing other portions of the Unpatented Property, (B) by a perpetual easement (which may be subject to relocation by CP Holder so long as legal access is provided) across property other than Unpatented Property, or (C) by other perpetual right (which may be subject to relocation by CP Holder so long as legal access is provided) to use a private street or road that provides legal ingress and egress to and from a public street so long as, with respect to clauses (B) and (C), the improvements are present to provide physical ingress or egress. This Section 6.2 shall not be deemed to impose any obligation on CP Holder to construct any improvements to provide physical access to the Unpatented Property. Whether the

conditions to issuance of a Patent of any portion of the Auction Property have been satisfied shall be an Arbitration Dispute.

6.3. Partial Patents. Upon payment of the release price as set forth in this Article 6, and in compliance with all requirements of A.R.S. § 37-251, CP Holder may obtain partial patents for Patented Parcels (each a “**Partial Patent**”); provided, however, except for conveyances for Dedications, rights of way, or other public use interests, a Partial Patent shall not be issued for less than forty (40) net acres (or the remaining Auction Property, if smaller). Notwithstanding the foregoing, if approved in writing by the Commissioner in his/her sole and absolute discretion, a Partial Patent of a smaller parcel may be permitted. Upon payment of the Patent Price, a Partial Patent shall be issued for the Patented Parcel and the Memorandum shall be released and shall no longer be binding on the Patented Parcel, but this Contract shall continue in effect as to payment of the Participation Payments by CP Holder and any other obligations of CP Holder remaining hereunder. Upon payment in full of the Base Price, a Patent shall be issued for any remaining Unpatented Property and the Memorandum shall be released and shall no longer be binding on the Patented Parcels, but this Contract shall continue in effect as to payment of the Participation Payments by CP Holder and any other obligations of CP Holder remaining hereunder.

6.4. Escrow Agent as Trustee. With respect to any Parcel for which a Partial Patent has not previously been issued and for which the payment of the Patent Price is to be made from the proceeds of a Conveyance, proceeds of the Conveyance will be deposited with Escrow Agent and the Partial Patent shall be held in escrow pending receipt of written confirmation from the Commissioner or his/her designee (which may be delivered by email) that the release price has been received by the Arizona State Treasurer and that the Patent may be recorded.

6.5. Assignment of Certificate of Purchase. CP Holder shall not make a partial assignment of its interest in the Certificate of Purchase. CP Holder may make a full assignment of its interest in the Certificate of Purchase but shall be required to assign to the assignee of the Certificate of Purchase all rights under this Contract, and assignee shall be required to assume all of CP Holder’s rights and obligations pursuant to this Contract and shall satisfy all requirements for bidders pursuant to the Auction Documents (the “**Bidder Qualifications**”). CP Holder shall notify ASLD in writing of any proposed assignment of the Certificate of Purchase and its interest under this Contract, and ASLD shall have thirty (30) days to object to such assignment if it concludes that the assignee does not satisfy the Bidder Qualifications. If within such thirty-day period ASLD fails to notify CP Holder of any objection to an assignment, such assignment shall be deemed approved. Notwithstanding anything contained herein to the contrary, ASLD shall not have any right to object to an assignment of the entire Certificate of Purchase or CP Holder’s entire interest under this Contract to a CP Holder Affiliate. An assignment by CP Holder shall not release CP Holder from any of its obligations or liabilities under the Certificate of Purchase or this Contract unless the assignee is approved in writing by ASLD, which approval shall not be unreasonably withheld, conditioned or delayed. The issue of whether ASLD unreasonably objected to an assignment shall be an Arbitration Dispute. In the event there has occurred two (2) or more assignments of the Contract to an assignee other than a

CP Holder Affiliate, then any subsequently proposed assignment of the Certificate of Purchase to an assignee that is not a CP Holder Affiliate of the then-CP Holder shall automatically be deemed objected to and disapproved, unless within the aforementioned thirty (30) day period it is approved in writing by the Commissioner in his or her sole discretion, and such decision to approve or not approve shall not be an Arbitration Dispute. CP Holder and assignee shall apply for assignment of the Certificate of Purchase on forms provided by ASLD, shall pay the current application fee for processing such assignment, and shall complete all requirements for the assignment to be reflected in ASLD's public record.

7. Participation Payments

7.1. Participation Payments. In addition to the Base Price, CP Holder shall pay to ASLD fifty percent (50%) (the “**Specified Percentage**”) of the Project Revenues less Project Costs (including the Project Reserve) (the “**Net Project Revenues**”) from the Project (each a “**Participation Payment**” and collectively the “**Participation Payments**”) payable in accordance with this Article 7, and the balance of Net Project Revenues shall be paid to CP Holder. Notwithstanding the foregoing, if the City pays 33.3% or less of the costs and expenses to design, construct, and install the Phase 1 WRF Improvements (including, without limitation, through the upfront issuance of City general obligation bonds) (the “**Phase 1 WRF Improvements Costs**”), the “**Specified Percentage**” will be forty percent (40%); if the City pays more than 33.3% and less than 66.7% of the Phase 1 WRF Improvements Costs, the “**Specified Percentage**” will be forty-five percent (45%); and if the City pays 66.7% or more of the Phase 1 WRF Improvements Costs, the “**Specified Percentage**” will be fifty percent (50%).

7.2. Project Revenue Fund. CP Holder shall maintain an account for all Project Revenues (the “**Project Revenue Fund**”) and shall deposit all Project Revenues received by CP Holder or, with respect to Affiliate Resale Parcels, CP Holder Affiliates, from time to time in the Project Revenue Fund. The Parties anticipate that the balance of the Project Revenue Fund will fluctuate over time and, at certain times, will be zero, but will increase as Project Revenues are deposited. CP Holder or, with respect to Affiliate Resale Parcels, CP Holder Affiliates, may withdraw funds from the Project Revenue Fund at any time to pay any Project Costs. CP Holder and CP Holder Affiliates may not withdraw funds from the Project Revenue Fund to make distributions to the Parties except (a) to reimburse for Project Costs previously paid by CP Holder or CP Holder Affiliates or for ASLD Project Costs, (b) to repay CP Holder or CP Holder Affiliates for CP Holder Equity Contributions, or (c) in accordance with Section 7.5. CP Holder guarantees the deposit into the Project Revenue Fund of all Project Revenues received by CP Holder Affiliates with respect to Affiliate Resale Parcels.

7.3. Payment of Project Costs

(a) Source of Payment. In no event shall Project Costs be paid from any source other than Project Revenues and CP Holder Equity Contributions. ASLD shall have no obligation to pay any Project Costs or to repay any Participation Payment previously paid to ASLD pursuant to this Article 7 to pay Project Costs, provided that the foregoing shall

in no way restrict ASLD's obligation to pay damages in the Event of a Default by ASLD pursuant to Article 8. If the Project Revenues in the Project Revenue Fund are not adequate to pay any Project Costs, CP Holder or CP Holder Affiliates shall pay such Project Costs and such amounts shall be treated as "**CP Holder Equity Contributions**"; provided, however, ASLD Project Costs shall only be payable to ASLD out of Project Revenues in the Project Revenue Fund when available after taking into account the Project Reserve, and not from CP Holder Equity Contributions. CP Holder may not encumber its interest in the Certificate of Purchase to secure repayment of any CP Holder Equity Contributions or any other CP Holder obligations or for any other reason. CP Holder Equity Contributions and ASLD Project Costs shall bear interest at the Stated Rate until repaid from Project Revenues, and CP Holder Equity Contributions (and interest thereon) shall be repaid when Project Revenues are available in the Project Revenue Fund after taking into account the Project Reserve. Project Costs shall be paid when due, first from the Project Revenue Fund until depletion of the Project Revenue Fund after taking into account the Project Reserve, and second from CP Holder Equity Contributions. If Project Revenues in the Project Revenue Fund are not sufficient to pay outstanding ASLD Project Costs and other outstanding Project Costs payable to CP Holder after taking into account the Project Reserve, the Project Costs shall be repaid in the order incurred by the Parties.

(b) CP Holder's Overhead. The Parties intend that CP Holder and CP Holder Affiliates, as applicable, will be paid the CP Holder's Overhead from the Project Revenue Fund as and when sufficient funds then exist in the Project Revenue Fund after taking into account the Project Reserve, and if sufficient funds do not exist in the Project Revenue Fund, shall remain earned, and shall bear interest at the Stated Rate until repaid from Project Revenues.

7.4. Project Business Plan. On an annual basis no later than October 31 of each year, CP Holder shall prepare a narrative of CP Holder's proposed business plan (the "**Project Business Plan**") for marketing, developing, and Patenting specific Parcel(s) within the remaining Unpatented Property in the upcoming five (5) calendar-year period (provided that the first calendar year shall be a partial year, commencing on the Effective Date and ending December 31, 2024), which will include the following information:

(a) A brief narrative report regarding the current calendar year of activities as compared to the then current Project Business Plan (provided that the first calendar year shall be a partial year, commencing on the Effective Date and ending December 31, 2024).

(b) A graphical representation of the status and development activity in the Auction Property.

(c) A financial report reflecting the following information:

(i) Project Revenues, Project Costs (inclusive of ASLD Project Costs), Participation Payments, CP Holder Equity Contributions, CP Holder's Overhead, and remaining cash flow, on a calendar year-by-year basis and on an aggregate basis from the Effective Date;

(ii) Projections for Project Revenues, Project Costs (inclusive of ASLD Project Costs), Participation Payments, CP Holder Equity Contributions, CP Holder's Overhead, and remaining cash flow, on a calendar year-by-year basis for the five (5) year period covered by the Project Business Plan (collectively, the "**Proforma**"); and

(iii) An updated Proforma, together with a comparison to the current Proforma for the most recent calendar year, which will include the recommended amount (if any) to be retained in the Project Revenue Fund following a Distribution Date in lieu of a distribution from Project Revenues to pay the Project Costs estimated to be incurred (the "**Project Reserve**"), if CP Holder estimates that the estimated Project Revenues will not be sufficient to pay the estimated Project Costs. If ASLD objects to any Project Reserve amount, it shall notify CP Holder in writing within thirty (30) days following receipt of the Project Business Plan specifying the reasons for its objection. If the Parties are unable to resolve such objections within thirty (30) days following ASLD's notice, the matter shall be an Arbitration Dispute, and the Project Reserve proposed by CP Holder in the updated Proforma shall remain in effect and govern for purposes of any disbursement of Net Project Revenues and any Participation Payment until the matter is resolved in accordance with the Dispute Resolution Procedures, in which event CP Holder shall make any adjusting payment required on account of the resolution of such Arbitration Dispute.

The Project Business Plan is merely a forecast, and CP Holder makes no representation regarding the accuracy of its projections.

7.5. Distribution Dates. On June 30, 2025 and on each June 30 thereafter (each a "**Distribution Date**"), CP Holder will pay to ASLD out of the Project Revenue Fund, the Specified Percentage of Net Project Revenues determined in accordance with Section 7.1, if any, payable based on the Project Revenue and Project Costs (including the Project Reserve) set forth on the most recent Review (as defined in Section 7.8 below), or company-prepared statement of cash flows prior to the first Review, and shall pay the balance of the Net Project Revenue distributed at that time to CP Holder. Notwithstanding anything contained herein to the contrary, in addition to any June 30 Distribution Date, CP Holder, at its sole option, may declare a Distribution Date at any time when there are funds in the Project Revenue Fund upon written notice to ASLD and may distribute funds to ASLD and CP Holder in accordance with this Section. Within one hundred eighty (180) days following the receipt of all Project Revenues from the Project and the payment of all Project Costs, CP Holder shall distribute all remaining Project Revenues to ASLD and itself.

7.6. No Sharing of Losses. All Project Costs (exclusive of ASLD Project Costs) shall be solely borne by CP Holder and ASLD shall have no obligations or liability with respect to same, nor shall ASLD share in the losses, if any, incurred with respect to development of the Auction Property, but the Project Revenues available for distribution to the Parties shall be reduced by Project Costs.

7.7. Books and Records. CP Holder shall keep and maintain accurate financial books and records with respect to Project Revenue and Project Costs (the “**Books and Records**”) in accordance with generally accepted accounting principles. CP Holder shall maintain the Books and Records related to all Parcels for at least five (5) years after the issuance of the Patent for the last Parcel or the final Distribution Date, whichever is later. Upon at least fifteen (15) days written notice to CP Holder, ASLD may examine the Books and Records at the office of CP Holder. CP Holder will provide a copy of any items from the Books and Records to ASLD only if ASLD requests the same following ASLD’s examination.

Review. At least annually commencing on the year ending December 31 of the year when the first Conveyance of any portion of the Auction Property occurs or any Project Revenues are received and each year thereafter until and including the year when all Project Revenues have been received and distributed and all Project Costs have been paid, CP Holder shall conduct a review of the Project Revenues and Project Costs and the related Books and Records for the subject year (the “**Review**”) performed by a nationally or regionally recognized accounting firm reasonably acceptable to ASLD prepared in accordance with generally accepted accounting principles. CP Holder shall examine the Review for errors prior to notifying ASLD that the Review is available for examination at the office of CP Holder. ASLD will have thirty (30) days to examine the Review following notice from CP Holder and to notify CP Holder of any questions or comments. CP Holder will provide a copy of the Review to ASLD only if requested by ASLD prior to the fifth (5th) anniversary of the issuance of the Patent for the last Parcel or the final Distribution Date, whichever is later.

8. Default and Remedies

8.1. Default. Each of the following shall constitute a material default of this Contract (an “**Event of Default**”):

(a) Monetary Obligation. The failure of a Party (the “**Breaching Party**”) to pay when due to the other Party (the “**Non-Breaching Party**”) any monetary obligation due pursuant to this Contract, including without limitation any Participation Payment, or the failure to timely deposit the Sales Activity Shortfall as required by Section 3.3(d), or the failure to timely deposit the Project Cost Shortfall as required by Section 3.3(e), or the failure to timely deposit the Costs to Complete as required under Section 3.3(f) (a “**Monetary Obligation**”) if such failure continues for fifteen (15) days following written notice from the Non-Breaching Party.

(b) Non-Monetary Obligation. The failure of a Breaching Party to meet, perform, or satisfy any obligation pursuant to this Contract other than a Monetary Obligation (which is governed by Section 8.1(a) hereof) or satisfy the Phase 1 Infrastructure Milestones (which are governed by Section 3.3(c) and 3.3(i) hereof) if such failure continues for sixty (60) days following written notice from the Non-Breaching Party, subject to Force Majeure Events, Governmental Events, or Adverse Market Conditions, provided that if such failure is not susceptible of cure within sixty (60) days, it shall not be an Event of Default if the Breaching Party (i) promptly notifies the Non-Breaching Party of the need for greater than sixty (60) days to cure and (ii) commences to

cure such failure and thereafter prosecutes diligently such cure to completion within a reasonable time, but in no event later than one hundred and fifty (150) days of receipt of written notice from the Non-Breaching Party, subject to Force Majeure Events, Governmental Events, or Adverse Market Conditions, absent in the case the Breaching Party is the CP Holder or CP Holder Affiliate, the Commissioner's written approval to further extend the cure period, which may be given or withheld in the sole discretion of ASLD.

8.2. Remedies. Except as provided in this Article 8, upon the occurrence of an Event of Default under this Contract that is not cured within the applicable cure period allowed, the Non-Breaching Party may, without prejudice to any other rights and remedies available at law, bring an action for actual damages, specific performance, or injunctive relief. In no event shall any Breaching Party be liable for consequential, punitive, special, or indirect damages, or for damages solely attributable to diminution of value or lost profits. In no event shall CP Holder be entitled to set off any damages owed by ASLD against any Patent Price or Participation Payment.

8.3. Termination of Contract. Notwithstanding anything contained in this Contract to the contrary, ASLD may only elect to terminate this Contract in the event of an Event of Default by CP Holder for (i) a failure to pay a Monetary Obligation, or (ii) the failure to timely cure nonperformance identified in the Infrastructure Nonperformance Notice delivered in accordance with the provisions of Section 3.3(i). In the event of any such termination, CP Holder shall forfeit all amounts paid for the Base Price and any Participation Payments paid prior to such termination in accordance with the procedures and timeframes set forth in A.R.S. § 37-247, and such amounts shall be deemed rent for the Auction Property as provided in A.R.S. § 37-241(C)(1). If CP Holder fails to make any payment required pursuant to this Contract or the Certificate of Purchase and fails to obtain, or the Commissioner has elected not to grant, an extension for such payment in accordance with the provisions of A.R.S. § 37-247(C), then the remedies of ASLD shall be as specified by A.R.S. § 37-247.

8.4. Delays; Extension of Time of Performance. For the purposes of any of the provisions of this Contract, neither ASLD nor CP Holder, as the case may be, nor any successor in interest, shall be considered in breach of, or default in, its obligations under this Contract as a result of the enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, (a) acts of God (such as unusually severe weather), acts of the public enemy (including, without limitation, terrorist acts), fires, floods, epidemics, pandemics, or quarantine or "shelter in place" orders or restrictions imposed by an applicable governmental authority due to such pandemic or epidemic, strikes, riots, lockouts, freight embargoes, failure or disruption of utilities or critical electronic systems, unforeseen environmental or archaeological conditions requiring investigation/mitigation by Applicable Laws, or failure by ASLD to perform its obligations within the time periods provided herein (each, a "**Force Majeure Event**") or (b) failure or delays by a governmental agency or authority in granting entitlements, approving plans, issuing permits, or making inspections beyond customary time frames for such actions so long as CP Holder has made timely application or request therefor, if applicable, and has diligently

pursued the same, or failure or delays by a governmental agency or authority in constructing, installing, or commencing to operate any Phase 1 Infrastructure Item that CP Holder reasonably believes will be constructed or installed by a governmental agency or authority with such delay materially affecting CP Holder's ability to timely complete its performance obligation(s) under this Agreement (each, a **"Governmental Event"**); provided that a Governmental Event shall not include denial by a governmental agency or authority of any requested entitlements or approvals; or (c) general market conditions affecting industrial or commercial development in the vicinity of the Auction Property that adversely affect CP Holder's ability to transact Conveyances of land parcels at a sale price of at least one hundred twenty percent (120%) of the reasonably allocated Project Costs attributable to such parcels, *e.g.*, land costs, interest expense, infrastructure costs, etc., as reasonably determined by CP Holder (**"Adverse Market Conditions"**). In the event of the occurrence of a delay due to any Force Majeure Event, Governmental Event, or Adverse Market Conditions, the time or times for performance of the obligation of ASLD or CP Holder (including, without limitation, Project Milestones), as the case may be, shall be extended for the period of the delay caused by such Force Majeure Event, Governmental Event, or Adverse Market Conditions, but only if performance is delayed as the result of such Force Majeure Event, Governmental Event, or Adverse Market Conditions. The Party requesting an extension for a Force Majeure Event, Governmental Event, or Adverse Market Conditions shall provide written notice thereof within thirty (30) days following the date such Party knows (or in the exercise of reasonable diligence should have known) of the Force Majeure Event, Governmental Event, or Adverse Market Conditions (the **"Delay Notice Deadline"**). If a Party fails to give notice of a Force Majeure Event, Governmental Event, or Adverse Market Conditions by the Delay Notice Deadline, the period by which the applicable time or times for performance is extended shall be reduced on a day for day basis by the number of days following the Delay Notice Deadline that such notice is provided. By way of example, if CP Holder becomes aware of a Force Majeure Event on June 1 but does not provide notice of the same to ASLD until July 15, the extension for such Force Majeure Event shall be reduced by 15 days. A Party shall only receive an extension for the actual period of a Force Majeure Delay, Governmental Event, or Adverse Market Conditions (less any reduction provided for in the preceding sentence). Notwithstanding the foregoing, a Force Majeure Event, Governmental Event, or Adverse Market Conditions shall not excuse a delay or failure to timely pay any Monetary Obligation. A dispute over whether a Force Majeure Event, Governmental Event, or Adverse Market Conditions has occurred or caused a delay and the timeliness of the notice thereof shall be an Arbitration Dispute.

8.5. Right to Complete Construction.

(a) Actions Following Termination or Cancellation. Upon termination or cancellation by either of the Parties hereto pursuant to this Contract (other than on account of an Event of Default by ASLD) prior to the issuance of Patents for all of the Auction Property, CP Holder shall (i) deliver to ASLD within thirty (30) days after termination or cancellation, and without cost to ASLD, copies of any and all CP Holder and Third Party documents, reports, inspections, plans, and specifications, contractor's bids, studies, and any other written information or drawings in CP Holder's possession related to the Unpatented Property, except for any documents, reports or other materials that contain any

financial, marketing, trade secret information, or other information that is proprietary, privileged, or otherwise confidential to CP Holder (the “**Development Documents**”); (ii) assign to ASLD and/or its successors and assigns all of its right, title, and interest in and to Development Documents, which ASLD and/or its successors and assigns may use for any lawful purpose which ASLD deems appropriate, in its sole discretion without further notice to or approval by CP Holder, provided that if such items related jointly to the Unpatented Property and portions of the Auction Property that have been previously Patented, such assignment shall be a partial assignment, and ASLD’s rights shall be in common with any other parties (including CP Holder) entitled to use the same; (iii) intentionally omitted, and (iv) assign to ASLD and/or its successors and assigns all rights in the Project Entitlements relating to the Unpatented Property. CP Holder hereby agrees that it shall include a right of assignment to ASLD as a party entitled to obtain and utilize any contracts with Third Parties for construction of improvements to the Unpatented Property (“**Construction Contracts**”) and upon termination or cancellation by either of the Parties hereto pursuant to this Contract (other than on account of an Event of Default by ASLD) prior to the issuance of Patents for all of the Auction Property, CP Holder shall, if requested by ASLD or its successors and assigns, assign such Construction Contracts to ASLD or such successors and assigns so long as (A) ASLD or its successors and assigns assumes such Construction Contracts and (B) the Third Party agrees to release CP Holder from any obligations arising from and after the date of such assignment.

(b) No Liability. ASLD acknowledges and agrees that (i) CP Holder is furnishing the Development Documents to ASLD as a courtesy to ASLD and CP Holder makes no representation or warranty, express or implied, as to the Development Documents, including, without limitation, the content, reliability, accuracy, or completeness thereof; (ii) if ASLD uses or relies on any of the Development Documents, ASLD shall do so solely at ASLD’s own risk, and CP Holder makes no representation, warranty, or assurance as to whether ASLD has any right to use or rely thereon; (iii) the Development Documents will be furnished to ASLD subject to the rights of any engineer, professional, or other consultant that prepared the same and any limitations on use imposed by such Third Parties; and the engineers, professionals, or other consultants that prepared the Development Documents are not the agents of CP Holder; (iv) CP Holder shall have no liability, and is hereby released from all liability, to ASLD, its successors and assigns, with respect to such matters, including without limitation any liability for misrepresentations, misstatements, mistakes, errors, or other inaccuracies. ASLD hereby agrees that if ASLD or any Third Party successor or assign of ASLD uses any of CP Holder’s engineering plans included in the Development Documents, then (1) ASLD or such Third Party shall do so only in connection with the development of the Unpatented Property, and (2) as a condition to any Third Party’s use of the CP Holder’s engineering plans included in the Development Documents, such Third Party shall release and hold CP Holder and all CP Holder Affiliates harmless from all claims, liabilities, damages, costs, and losses, including reasonable attorneys’ fees, arising out of or attributable to such use, and such Third Party shall obtain all necessary licenses, consents, and approvals from the consultant that prepared such engineering plans.

(c) No Payment. CP Holder shall have no right or authority to obligate ASLD to pay any fee or cost as a condition to the assignment and transfer or delivery of the Development Documents to ASLD.

(d) Survival. This Section 8.5 shall survive any termination of this Contract. If CP Holder or its successors defaults under this paragraph, ASLD shall have all of its rights and remedies at law or in equity, including claims for injunctive relief and for reasonable attorney's fees and costs, to enforce the provisions hereof. This provision shall be in addition to any and all other rights and remedies of ASLD.

8.6. Arbitration Dispute. Any dispute designated as an Arbitration Dispute hereunder shall be resolved in accordance with the Dispute Resolution Procedures set forth on Exhibit G. The Parties may jointly elect to resolve other disputes in accordance with such Dispute Resolution Procedures.

9. Miscellaneous

9.1. Term. This Contract shall continue in effect until the occurrence of each of the following: (a) the earlier of (i) the Conveyance of all of the Auction Property or (ii) the cancellation of the Certificate of Purchase, and (b) the payment of all Participation Payments due to ASLD.

9.2. Subject to Law. This Contract is subject to such conditions as may be found in the Enabling Act and the Constitution of the State of Arizona, the Arizona Revised Statutes, other Acts of the Legislature of the State of Arizona, and the rules, regulations, and policies of the State of Arizona, and further shall be subject to such amendments to the foregoing as may be enacted or promulgated hereafter. Any reference in this Contract to a specific Arizona Revised Statute shall mean and refer to the statute as it may be amended from time to time and any successor statute.

9.3. Notice. Any communication, notice, or demand of any kind whatsoever which either Party may be required or may desire to give to or serve upon the other shall be in writing and delivered by a nationally recognized overnight courier service with proof of delivery, by hand delivery, by registered or certified mail, postage prepaid, return receipt requested, or by electronic mail (except for default notices), addressed to the Parties at the addresses listed on the signature pages to this Contract. Notices of default may not be delivered by electronic mail. Any Party may change its address for notice by written notice given to the other in the manner provided in this Section 9.3. Any communication, notice, or demand shall be deemed to have been duly given or served on the date delivered by overnight courier; on the date personally served, if by personal service; three (3) days after being placed in the U.S. Mail, if mailed; or on the date received if sent by electronic mail. Any notices received on a day that is not a Business Day or after 5:00 p.m., Arizona time, on a Business Day shall be deemed received on the next Business Day. Counsel for a Party may give notice or demand on behalf of such Party, and such notice or demand shall be treated as being sent by such Party.

9.4. Binding Effect. Except as otherwise provided in Article 6 with respect to Patented Parcels, the burdens and benefits of this Contract will be binding upon and inure to the benefit of the Parties to the Contract and their respective heirs, administrators, executors, successors, and assigns, and shall run with the land as to the Auction Property. When reference is made in this Contract to either “ASLD” or “CP Holder” the reference shall be deemed to include, wherever applicable, the heirs, administrators, executors, successors, and assigns of those Parties.

9.5. Assignment and Transfer. Except in connection with an assignment of the Certificate of Purchase pursuant to Section 6.5, CP Holder may not assign or transfer responsibility for any obligations pursuant to this Contract. In no event shall the sale or transfer of any interest in the entity comprising CP Holder be deemed an assignment or transfer hereunder as long as CP Holder following such sale or transfer of any interest in CP Holder continues to satisfy the Bidder Qualifications.

9.6. Relationship of Parties. ASLD, as the seller of real property, and CP Holder, as the purchaser of real property, are in the relationship of independent contractors with respect to this Contract. No relationship of partnership, joint venture, agency, master-servant, or employer-employee shall be created or exist between CP Holder and ASLD as a result of the execution of this Contract.

9.7. Severability. Each covenant, condition, and provision of this Contract shall be interpreted in such manner as to be effective and valid under the laws of the State of Arizona, but if any covenant, condition, or provision of this Contract shall be held to be void or invalid, the same shall not affect the remainder hereof which shall be effective as though the void or invalid covenant, condition, or provision had not been contained herein.

9.8. Entire Agreement. The Auction Notice, Certificate of Purchase, Bidder Qualifications, and such other sale documents as described in this Contract and its attachments represent the entire and integrated agreement between the Parties and supersede all prior negotiations, representations, and agreements, whether written or oral.

9.9. Amendment. This Contract (including its Exhibits) may be amended only as permitted by the laws of the State of Arizona, in writing, and upon agreement by both ASLD and CP Holder. Provided CP Holder is, in the discretion of ASLD, diligently pursuing and making reasonable progress with respect to completing the requirements and meeting the deadlines established by any of the Exhibits to this Contract, CP Holder may request and ASLD in its discretion may approve, amendments or adjustments to the timetables, deadlines, or schedules set forth in any of the Exhibits.

9.10. Governing Law. This Contract shall be governed by, construed, and enforced in accordance with the laws of the State of Arizona. Any legal proceeding arising with respect to this Contract shall be brought in the Superior Court of Arizona, Maricopa County.

9.11. Indemnification. In addition to the insurance and indemnity obligations required pursuant to the Certificate of Purchase, CP Holder will indemnify, hold, and save harmless ASLD, the State of Arizona, any of its departments, divisions, agencies, officers, or

employees (“**Indemnitees**”), from all sums which Indemnitees may be obligated to pay to Third Parties or ASLD employees by reason of any loss, damage, liability, expense, cost, or charges incident to or resulting in any way from injuries or damages to any person or any property caused by or resulting from any willful act or omission, error, or negligence in the performance of, or activities conducted under, this Contract by CP Holder, any person employed or directed by CP Holder, or others for whose acts CP Holder is legally liable (expressly reserving breach of contract claims, if any, by ASLD against CP Holder). In the event of any claim or legal action, the above sum will include court costs, expenses of litigation, reasonable attorneys’ fees, and payment of or indemnification for any judgment rendered or settlement made. ASLD and the State of Arizona are not responsible for any payment owed by CP Holder or CP Holder Affiliates to any employee, contractor, or agent or any other Third Party. The indemnification, defense, and hold harmless obligations in this Section (and breach of contract claims, if any, by ASLD against CP Holder) will survive for six (6) years after termination of this Contract pursuant to Section 9.1 above and will then terminate and no claim hereunder may be made after such date.

9.12. No Third-Party Beneficiary. Except for their permitted successors-in-interest or assigns, only ASLD and CP Holder are intended to be Parties to this Contract and there are no third-party beneficiaries to this Contract.

9.13. Counterparts. This Contract may be executed in counterparts (either in original signature, PDF, or facsimile), each of which shall be an original, but all of which shall constitute one and the same instrument.

9.14. Records and Audits. Pursuant to A.R.S. §§ 35-214, 35-215, and 41-2548, all books, accounts, reports, files, and other records relating to this Contract shall be subject, at all reasonable times, to inspection and audit by the State during the term of this Contract and for five (5) years after any expiration, termination, or cancellation of this Contract.

9.15. Captions. Captions at the beginning of each Section of this Contract are for reference only and will in no way define or interpret any provision hereof.

9.16. No Waiver. No delay or omission by either Party in exercising any right or power accruing upon non-compliance or failure to perform by the other Party under any of the provisions of this Contract shall impair any such right or power or be construed to be a waiver thereof. A waiver by either Party of any of the covenants or conditions to be performed by the other Party shall be in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought, and any such waiver shall not be construed as a waiver of any succeeding breach or non-performance of the same or other covenants and conditions hereof.

9.17. Further Acts. In addition to the acts and deeds recited in this Contract and contemplated to be performed, executed, and/or delivered by the Parties, ASLD and CP Holder agree to perform, execute, and/or deliver or cause to be performed, executed, and/or delivered at each Patent or Conveyance or at such other time or times as may be reasonably necessary or appropriate under this Contract any and all further lawful acts, deeds, and

assurances as are reasonably necessary or appropriate to consummate and implement the transactions and agreements reasonably contemplated hereby.

9.18. Correction of Technical Errors. If, by reason of inadvertence, and contrary to the intention of the Parties, errors are made in this Contract in the legal descriptions or the references thereto or within any exhibit with respect to the legal descriptions, in the boundaries of any Parcel in any map or drawing which is an exhibit, or in the typing of this Contract or any of its exhibits or any other similar matters, the Parties by mutual agreement may correct such error by memorandum executed by them without the necessity of amendment of this Contract.

9.19. Cancellation. CP Holder acknowledges that this Contract is subject to cancellation by ASLD or the State of Arizona pursuant to the provisions of A.R.S. § 38-511.

9.20. Arbitration. In the event of a dispute between the Parties to this Contract, (a) if such dispute is an Arbitration Dispute it shall be resolved in accordance with and shall be subject to the Dispute Resolution Procedures and (b) if such dispute is not an Arbitration Dispute the Parties shall use arbitration to resolve the dispute, but only to the extent required by A.R.S. §§ 12-133 and 12-1518.C (“**Compulsory Arbitration**”), and in no event shall Compulsory Arbitration be employed to resolve a dispute which is otherwise subject to administrative review by ASLD. With respect to any dispute which the Parties have submitted for resolution by arbitration, the time for which the matter is pending in arbitration shall be excluded in determining compliance or performance of an act subject to the arbitration

9.21. Non-Discrimination. The Parties agree to be bound by applicable State and federal law governing Equal Employment Opportunity, Non-Discrimination, and Disabilities, including Arizona Executive Order No. 2009-09.

9.22. Time of Essence. Time is of the essence for the performance of all conditions and obligations under this Contract.

9.23. Signature Authority. By signing below, the signer certifies that he or she has the authority to enter into this Contract on behalf of the Party for which it is signing, and that such Party has read the foregoing and agrees to accept the provisions herein.

9.24. Memorandum. Promptly following the execution of this Contract, CP Holder will record a memorandum in the form attached hereto as Exhibit F (the “**Memorandum**”) in the records of the County providing evidence of this Contract.

[Signatures appear on the following pages]

ASLD Signature Page
to
Participation Contract

ASLD:

STATE OF ARIZONA, acting by and through
the Arizona State Land Department

By: _____
_____,
Its Commissioner

Date executed: _____, 2024

Address(es) for Notices:

Arizona State Land Department
1110 W. Washington St. Phoenix, AZ 85007
Attention: State Land Commissioner
e-mail: [insert contact information for State
Land Commissioner]@azland.gov

With copy to:

Arizona Attorney General
2005 N. Central Avenue
Phoenix, Arizona 85004
Attention: Natural Resources Division
e-mail: _____

Date executed: _____,
2024

CP Holder Signature Page
to
Participation Contract

CP HOLDER:

Address(es) for Notices:

_____,
a(n) _____

CP Holder:

By: _____,
Its _____

Date executed: _____,
2024

Attention:

e-mail:

With copy to:

Attention:

e-mail:

Schedule 1
to
Participation and Infrastructure Contract

Table of Defined Terms

Defined Term	Location
10% Down Payment	Section 6.1(a)
AP PUD Plan	Section 2.4(b)
A.R.S.	Recital D
Access Date	Section 3.5
Adjustment Notice	Section 6.1(d)
Affiliate	Section 1.2(a)
Affiliate Resale Parcel	Section 1.2(b)
AP Land Use Plan	Section 2.2(a)
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AP Master Plan	Section 2.1
Applicable Laws	Section 2.8
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Arbitrator	Exhibit G, Section (b)
ASLD	Introductory Paragraph
ASLD Project Costs	Exhibit I, Section 5(r)
ASLD Representative	Section 2.5(a)
Auction	Recital B
Auction Notice	Recital B
Auction Property	Recital A
Backbone Infrastructure	Section 2.2(b)
Base Price	Section 6.1(a)

Defined Term	Location
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CFD Agreements	Section 2.7
CFD Assessment	Section 2.7
CFD Land	Section 2.7
CFD Obligations	Section 2.7
CFD Statute	Section 2.7
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Conveyed	Section 5.1
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CP Holder Equity Contributions	Section 7.3(a)
CP Holder's Overhead	Section 7.3(b)
CP Holder Parcel Conveyance Price	Section 4.1
CP Holder Parcels	Section 4.1
Dedication Property	Section 4.6

Defined Term	Location
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Development Approvals	Section 2.8
Development Documents	Section 2.8
Development Documents	Section 8.5(a)
Development Fee Reimbursements	Section 1.2(m)
Development Fees	Section 1.2(l)
Dispute Notice	Exhibit H, Section (a)
Dispute Resolution Procedures	Section 1.2(d)
Distribution Date	Section 7.5
Draw Request	Section 3.3(c)(i)
Effective Date	Introductory Paragraph
Entitlement Nonperformance Notice	Section 2.6
Entitlement Cure Period	Section 2.6
Entitlement Milestones	Section 2.6
Escrow Agent	Section 5.5
Event of Default	Section 8.1
Exemption Period	Exhibit I, Section 5(a)
Financial Assurances	Section 3.3(h)
Force Majeure Event	Section 8.4
GO Tax	Section 2.7
Governmental Event	Section 8.4
Indemnitees	Section 9.11
Infrastructure Nonperformance Notice	Section 3.3(c)(i)
Infrastructure Cure Period	Section 3.3(c)(i)

Defined Term	Location
Infrastructure Deadline	Section 3.3(c)
Infrastructure Escrow	Section 3.3(c)(i)
Market Terms	Section 4.1
Marketing and Sales Milestones	Section 3.3(c)(ii)
Master Property	Recital A
Materials	Section 4.3(c)
Materials Operations	Section 4.3(c)
Memorandum	Section 9.24
Minimum Development Activities	Section 3.3(c)(ii)
Monetary Obligation	Section 8.1(a)
Net Project Revenues	Section 7.1
Non-Breaching Party	Section 8.1(a)
Non-Comparable Zoning	Section 2.5(c)(ii)
O/M Tax	Section 2.7
Other Recordable Agreement	Section 4.4
PADA	Section 2.4(c)(i)
Parcel	Recital B
Parcels	Recital B
Partial Patent	Section 1.2(i), 6.3
Participation Payment	Section 7.1
Participation Payments	Section 7.1
Parties	Introductory Paragraph
Party	Introductory Paragraph
Patent	Section 1.2(q), 6.1(a)
Patent Price	Section 6.1(b)
Patented	Section 6.1(a)

Defined Term	Location
Patented Parcel	Section 6.1(b)
Per Acre Price	Section 6.1(a)
Person	Section 1.2(s)
Phase 1 Infrastructure	Section 3.3(a)
Phase 1 Infrastructure Item	Section 3.3(a)
Phase 1 WRF Improvements	Exhibit E-2
Phase 1 WRF Improvements Costs	Section 7.1
Possessory Interest	Section 4.2
Pre-Set Meeting	Exhibit H, Section (b)
Project	Recital B
Project Business Plan	Section 7.4
Project Costs	Section 1.2(r), Exhibit I, Introductory Paragraph
Project Costs Cure Period	Section 3.3(c)(ii)
Project Costs Nonperformance Notice	Section 3.3(c)(ii)
Project Entitlements	Section 2.4
Project Milestone	Section 1.2(t)
Project Cost Milestones	Section 3.3(c)(ii)
Project Reserve	Section 7.4(c)(iii)
Project Revenue Fund	Section 7.2
Project Revenues	Section 1.2(u)
PUD	Section 2.4(b)
Recordable Agreements	Section 4.4
Residence	Section 4.1
Retained Property	Recital A
Review	Section 7.8
Revised Patent Price	Section 6.1(d)

Defined Term	Location
RUAA	Exhibit H, Section (d)
Specified Percentage	Section 7.1
Stated Rate	Section 6.1(a)
Third Party(ies)	Section 1.2(v)
Unpatented Property	Section 1.2(w)
Vertical Developer	Section 1.2(x)

Exhibit A-1

Legal Description for Auction Property

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

Revised January 12, 2024
Revised August 30, 2023
July 22, 2022
WP# 205159
Page 1 of 4
See Exhibit "A"

LEGAL DESCRIPTION
North Phoenix 3500
Auction Property

A portion of Sections 7, 8, 9, 10, 11, 14, 15, 17 and 18, Township 5 North, Range 2 East, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the northeast corner of said Section 10, a 3-inch Arizona Department of Transportation (ADOT) brass cap flush stamped T5N R2E S3 S2 S10 S11 RLS 45760 2008, from which the north quarter corner of said Section 10, a 2-inch Maricopa County aluminum cap down 1.0' stamped T5N R2E S3 S10 2001 29891, bears South 88°29'17" West (basis of bearing), a distance of 2480.60 feet;

THENCE along the north line of said Section 10, South 88°29'17" West, a distance of 215.90 feet, to the centerline of Interstate 17 per Arizona State Land Department Document 16-111642 and the **POINT OF BEGINNING**;

THENCE along said centerline, South 09°53'07" East, a distance of 10,729.90 feet, to the centerline of State Route 303 per Arizona State Land Department Document 16-112646 and ADOT right of way plans S 303-A-700 and the south line of said Section 14;

THENCE leaving said centerline, along said centerline of State Route 303 and said south line, South 89°51'58" West, a distance of 1,581.92 feet, to the southwest corner of said Section 14 and the southeast corner of said Section 15;

THENCE leaving said south line, along the south line of said Section 15, North 89°58'41" West, a distance of 2,644.29 feet, to the south quarter corner of said Section 15;

THENCE North 89°57'00" West, a distance of 2,520.43 feet, to the southwest corner of said Section 15;

THENCE leaving said centerline and said south line, along the west line of said Section 15 and the east line of TSMC Arizona Corporation, recorded in Book 1729, page 25, Maricopa County Records (MCR), North 01°53'34" East, a distance of 2,488.36 feet, to the west quarter corner of said Section 15;

THENCE North 00°45'32" East, a distance of 2,651.56 feet, to the northwest corner of said Section 15 and the southwest corner of said Section 10;

THENCE leaving said west line, along the west line of said Section 10, continuing along said east line, North 00°29'57" East, a distance of 865.80 feet, to the northeast corner of said TSMC Arizona Corporation;

**Legal Description
North Phoenix 3500
Auction Property**

Revised January 12, 2024
Revised August 30, 2023
July 22, 2022
WP# 205159
Page 2 of 4
See Exhibit "A"

THENCE leaving said west line, and said east line, along the north line of said TSMC Arizona Corporation, North 90°00'00" West, a distance of 7,543.50 feet, to the beginning of a curve;

THENCE westerly along said curve to the right, having a radius of 4,000.00 feet, concave northerly, through a central angle of 09°12'15", a distance of 642.57 feet, to the northwest corner of said TSMC Arizona Corporation and a point of intersection with a non-tangent line;

THENCE leaving said north line, along the westerly line of said TSMC Arizona Corporation, South 33°44'44" West, a distance of 1,297.95 feet;

THENCE South 43°02'25" West, a distance of 985.55 feet;

THENCE continuing along said westerly line and the southwesterly prolongation thereof, South 54°50'51" West, a distance of 1,245.64 feet, to the east line of said Section 18;

THENCE leaving said prolongation, along said east line, South 00°26'19" West, a distance of 212.86 feet, to the centerline of said State Route 303;

THENCE leaving said east line, along said centerline, North 55°59'58" West, a distance of 874.56 feet, to the beginning of a curve;

THENCE northwesterly along said curve to the left, having a radius of 5,729.58 feet, concave southerly, through a central angle of 17°32'29", a distance of 1,754.14 feet, to the centerline of Deadman Wash and a point of intersection with a non-tangent line;

THENCE leaving said centerline, along said centerline of Deadman Wash, North 25°21'55" East, a distance of 307.53 feet;

THENCE North 39°11'34" East, a distance of 451.94 feet;

THENCE North 35°57'39" East, a distance of 641.09 feet;

THENCE North 26°34'51" East, a distance of 435.18 feet;

THENCE North 42°09'26" East, a distance of 735.00 feet;

THENCE North 50°12'49" East, a distance of 608.17 feet;

THENCE North 36°24'11" East, a distance of 306.24 feet;

THENCE North 25°47'05" East, a distance of 417.81 feet;

THENCE North 37°35'15" East, a distance of 212.82 feet;

THENCE North 60°39'33" East, a distance of 238.27 feet;

THENCE North 32°10'12" East, a distance of 536.40 feet;

THENCE North 45°01'11" East, a distance of 422.11 feet;

THENCE North 53°23'45" East, a distance of 335.41 feet;

THENCE North 43°39'20" East, a distance of 490.19 feet;

THENCE North 56°19'41" East, a distance of 208.26 feet;

THENCE North 63°27'02" East, a distance of 97.50 feet, to the beginning of a curve;

THENCE easterly along said curve to the right, having a radius of 350.00 feet, concave southerly, through a central angle of 59°52'46", a distance of 365.78 feet, to the beginning of a reverse curve;

THENCE easterly along said reverse curve to the left, having a radius of 200.00 feet, concave northerly, through a central angle of 103°26'12", a distance of 361.06 feet, to the curves end;

THENCE North 19°53'37" East, a distance of 454.00 feet;

THENCE North 35°28'26" East, a distance of 422.56 feet;

THENCE North 53°56'52" East, a distance of 300.50 feet;

THENCE North 45°01'11" East, a distance of 133.21 feet, to the centerline of State Route 74 (Carefree Highway) and the north line of said Section 8;

**Legal Description
North Phoenix 3500
Auction Property**

Revised January 12, 2024
Revised August 30, 2023
July 22, 2022
WP# 205159
Page 3 of 4
See Exhibit "A"

THENCE leaving said centerline, along said centerline of State Route 74 and said north line, North 88°04'00" East, a distance of 1,893.22 feet, to the northeast corner of said Section 8 and the northwest corner of said Section 9;

THENCE leaving said north line, along the north line of said Section 9, South 88°31'25" East, a distance of 2,782.89 feet, to the north quarter corner of said Section 9;

THENCE South 88°31'33" East, a distance of 2,782.96 feet, to the northeast corner of said Section 9 and the northwest corner of said Section 10;

THENCE leaving said north line, along the north line of said Section 10, North 88°29'30" East, a distance of 2,478.71 feet, to the north quarter corner of said Section 10;

THENCE North 88°29'17" East, a distance of 2,264.70 feet, to the **POINT OF BEGINNING**.

EXCEPTING THEREFROM

That part of the West Half of Section 15, Township 5 North, Range 2 East, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the Stone marking the West Quarter Corner of said Section 15, from which the Stone marking the Southwest Corner of said Section 15 bears South 01°53'34" West, a distance of 2488.36 feet;

THENCE South 01°53'34" West, along the West line of the Southwest Quarter of said Section 15, a distance of 341.65 feet;

THENCE South 88°06'26" East, Departing said West line, a distance of 1246.34 feet to the **TRUE POINT OF BEGINNING**;

THENCE North 00°00'00" East, a distance of 2175.00 feet;

THENCE North 90°00'00" East, a distance of 1297.63 feet to a point on the Westerly line of the Arizona Public Service Overhead Transmission Line, Arizona State Land Department Right of Way No. 16-112562;

THENCE South 01°15'16" West, along said Westerly line, a distance of 2175.52 feet;

THENCE North 90°00'00" West, departing said Westerly line, a distance of 1250.00 feet to the **TRUE POINT OF BEGINNING**.

Containing 109,276,224 square feet or 2,508.6369 acres, more or less.

Subject to existing right-of-ways and easements.

This parcel description is based on client provided information and is located within an area surveyed by Wood, Patel & Associates, Inc. during the month of July, 2020. Any monumentation noted in this parcel description is within acceptable tolerance (as defined in Arizona Boundary Survey Minimum Standards dated 02/14/2002) of said positions based on said survey.

Y:\WP\Parcel Descriptions\2020\205159 North Phoenix 3500 Auction Property L51R02 01-12-24.docx



EXPIRES 12-31-26

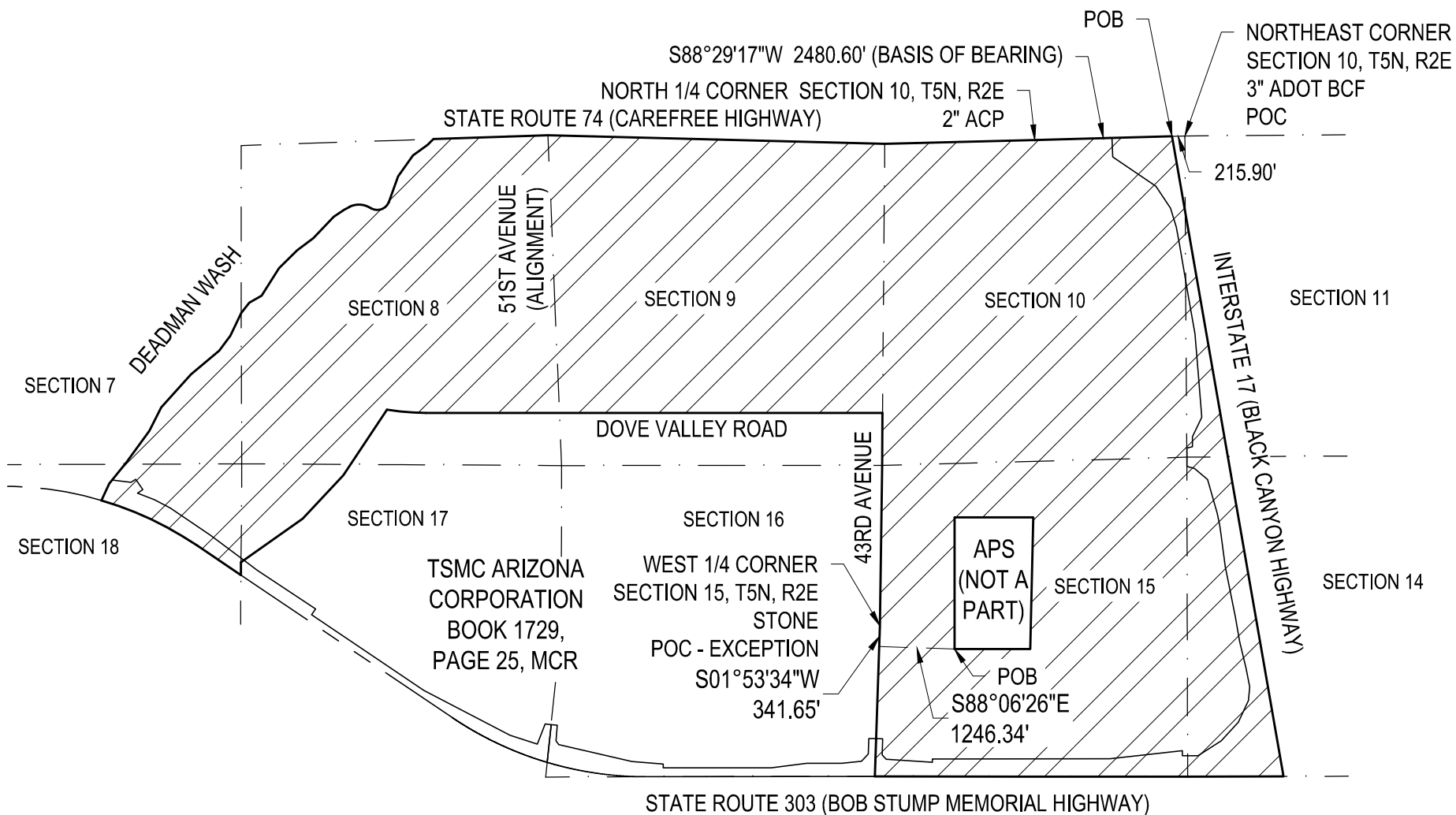


EXHIBIT "A"
 NORTH PHOENIX 3500
 AUCTION PROPERTY
 REVISED 1/12/2024
 WP# 205159
 PAGE 4 OF 4
 NOT TO SCALE

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Exhibit A-2

Legal Description of Retained Property

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

January 18, 2023
WP# 205159.81
Page 1 of 4
See Exhibit "A"

LEGAL DESCRIPTION
North Phoenix 3500 (Biscuit Flats)
ASLD Retained Property

A portion of Sections 11, 12, 13 and 14, Township 5 North, Range 1 East and Sections 7, 8, and 18, Township 5 North, Range 2 East, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the northwest corner of said Section 12, a 3-inch Maricopa County brass cap flush stamped T5N R1E S2 S1 S11 S12 29891 2001, from which the north quarter corner of said Section 12, a 2-inch aluminum cap stamped 1/4 1/12 ARIZ. PLS 7499 2008, bears North 89°22'07" East (basis of bearing), a distance of 2617.24 feet;

THENCE along the north line of said Section 12 and the centerline of State Route 74 (SR-74) Carefree Highway per Arizona Department of Transportation (ADOT) right of way plans project number STP-434(5), North 89°22'07" East, a distance of 470.82 feet, to the westerly municipality line of City of Phoenix, and the **POINT OF BEGINNING**;

THENCE leaving said westerly municipality line, continuing along the centerline of said SR-74, North 89°22'07" East, a distance of 2146.42 feet, to the north quarter corner of said Section 12;

THENCE continuing along said north line, North 89°22'25" East, a distance of 2617.13 feet, to the northeast corner of said Section 12 and the northwest corner of said Section 7;

THENCE leaving said north line, along the north line of said Section 7, South 89°46'54" East, a distance of 2618.44 feet, to the north quarter corner of said Section 7;

THENCE continuing along said north line, South 89°46'46" East, a distance of 2644.47 feet, to the northeast corner of said Section 7 and the northwest corner of said Section 8;

THENCE leaving said north line, along the north line of said Section 8, North 88°04'28" East, a distance of 2535.43 feet, to the north quarter corner of said Section 8;

THENCE continuing along said north line, North 88°04'00" East, a distance of 642.85 feet, to the centerline of Deadman Wash;

THENCE leaving said north line and the centerline of said SR-74, along the centerline of said Deadman Wash, South 45°01'11" West, a distance of 133.21 feet;

THENCE South 53°56'52" West, a distance of 300.50 feet;

THENCE South 35°28'26" West, a distance of 422.56 feet;

THENCE South 19°53'37" West, a distance of 454.00 feet, to the beginning of a curve;

THENCE westerly along said curve to the right, having a radius of 200.00 feet, concave northerly, through a central angle of 103°26'12", a distance of 361.06 feet, to the beginning of a reverse curve;

THENCE westerly along said reverse curve to the left, having a radius of 350.00 feet, concave southerly, through a central angle of 59°52'46", a distance of 365.78 feet, to the curves end;

THENCE South 63°27'02" West, a distance of 97.50 feet;

THENCE South 56°19'41" West, a distance of 208.26 feet;

**Legal Description
North Phoenix 3500 (Biscuit Flats)
ASLD Retained Property**

January 18, 2023
WP# 205159.81
Page 2 of 4
See Exhibit "A"

THENCE South 43°39'20" West, a distance of 490.19 feet;
THENCE South 53°23'45" West, a distance of 335.41 feet;
THENCE South 45°01'11" West, a distance of 422.11 feet;
THENCE South 32°10'12" West, a distance of 536.40 feet;
THENCE South 60°39'33" West, a distance of 238.27 feet;
THENCE South 37°35'15" West, a distance of 212.82 feet;
THENCE South 25°47'05" West, a distance of 417.81 feet;
THENCE South 36°24'11" West, a distance of 306.24 feet;
THENCE South 50°12'49" West, a distance of 608.17 feet;
THENCE South 42°09'26" West, a distance of 735.00 feet;
THENCE South 26°34'51" West, a distance of 435.18 feet;
THENCE South 35°57'39" West, a distance of 641.09 feet;
THENCE South 39°11'34" West, a distance of 451.94 feet;
THENCE South 25°01'55" West, a distance of 307.53 feet, to the centerline of State Route 303 (SR-303) per Arizona State Land Department Document 16-112646 and ADOT right of way plans S 303-A-700 and a point of intersection with a non-tangent curve;
THENCE leaving the centerline of said Deadman Wash, along the centerline of said SR-303, westerly along said non-tangent curve to the left, having a radius of 5729.58 feet, concave southerly, whose radius bears South 16°27'33" West, through a central angle of 32°07'31", a distance of 3212.53 feet, to the curves end;
THENCE South 74°20'00" West, a distance of 2977.52 feet, to the beginning of a curve;
THENCE westerly along said curve to the right, having a radius of 5729.58 feet, concave northerly, through a central angle of 20°25'30", a distance of 2042.50 feet, to the curves end;
THENCE North 85°14'30" West, a distance of 1212.56 feet, to the westerly municipality line of City of Phoenix;
THENCE leaving the centerline of said SR-303, along said westerly municipality line, North 10°04'50" East, a distance of 133.95 feet;
THENCE North 29°21'28" East, a distance of 125.10 feet;
THENCE North 22°37'13" East, a distance of 88.59 feet;
THENCE North 40°21'51" East, a distance of 89.44 feet;
THENCE North 63°26'06" East, a distance of 114.28 feet;
THENCE North 31°09'47" East, a distance of 227.00 feet;
THENCE North 15°04'49" East, a distance of 603.40 feet;
THENCE North 34°56'46" East, a distance of 257.87 feet;
THENCE North 23°12'52" East, a distance of 256.02 feet;
THENCE North 10°47'39" East, a distance of 479.06 feet;
THENCE North 08°22'13" East, a distance of 385.05 feet;
THENCE North 16°07'38" East, a distance of 296.86 feet;
THENCE North 13°23'02" East, a distance of 225.13 feet;
THENCE North 26°35'00" East, a distance of 325.75 feet;
THENCE North 19°40'12" East, a distance of 166.59 feet;
THENCE North 00°00'01" East, a distance of 156.85 feet;
THENCE North 09°28'12" West, a distance of 272.62 feet;
THENCE North 16°24'02" West, a distance of 198.56 feet;
THENCE North 02°07'18" East, a distance of 302.74 feet;

Legal Description
North Phoenix 3500 (Biscuit Flats)
ASLD Retained Property

January 18, 2023
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See Exhibit "A"

THENCE North 12°16'26" East, a distance of 263.72 feet;
THENCE North 34°46'03" East, a distance of 318.62 feet;
THENCE North 31°44'57" East, a distance of 18.73 feet;
THENCE North 24°56'51" East, a distance of 13.00 feet;
THENCE North 28°48'38" East, a distance of 14.66 feet;
THENCE North 30°17'30" East, a distance of 25.04 feet;
THENCE North 26°57'34" East, a distance of 15.10 feet;
THENCE North 29°38'40" East, a distance of 96.11 feet;
THENCE North 29°11'20" East, a distance of 133.91 feet;
THENCE North 02°01'49" West, a distance of 315.34 feet;
THENCE North 01°56'58" East, a distance of 327.42 feet;
THENCE North 05°05'01" West, a distance of 505.07 feet;
THENCE North 01°13'52" East, a distance of 372.31 feet, to the **POINT OF BEGINNING**.

Containing 64,926,988 square feet or 1,490.5185 acres, more or less.

Subject to existing right-of-ways and easements.

This parcel description is based on client provided information and is located within an area surveyed by Wood, Patel & Associates, Inc. during the month of December, 2022. Any monumentation noted in this parcel description is within acceptable tolerance (as defined in Arizona Boundary Survey Minimum Standards dated 02/14/2002) of said positions based on said survey.

Y:\WP\Parcel Descriptions\2021\205159.81 North Phoenix 3500 (Biscuit Flats) ASLD Retained Property L53 01-18-23.docx



EXPIRES 12-31-23

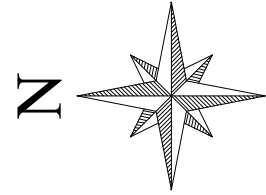
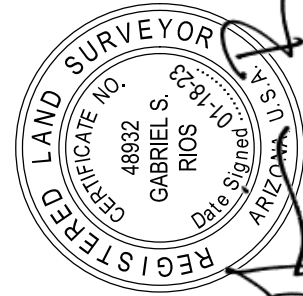
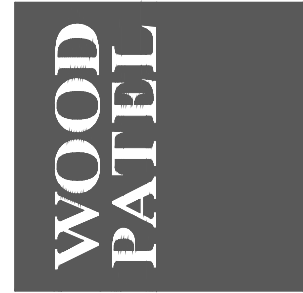
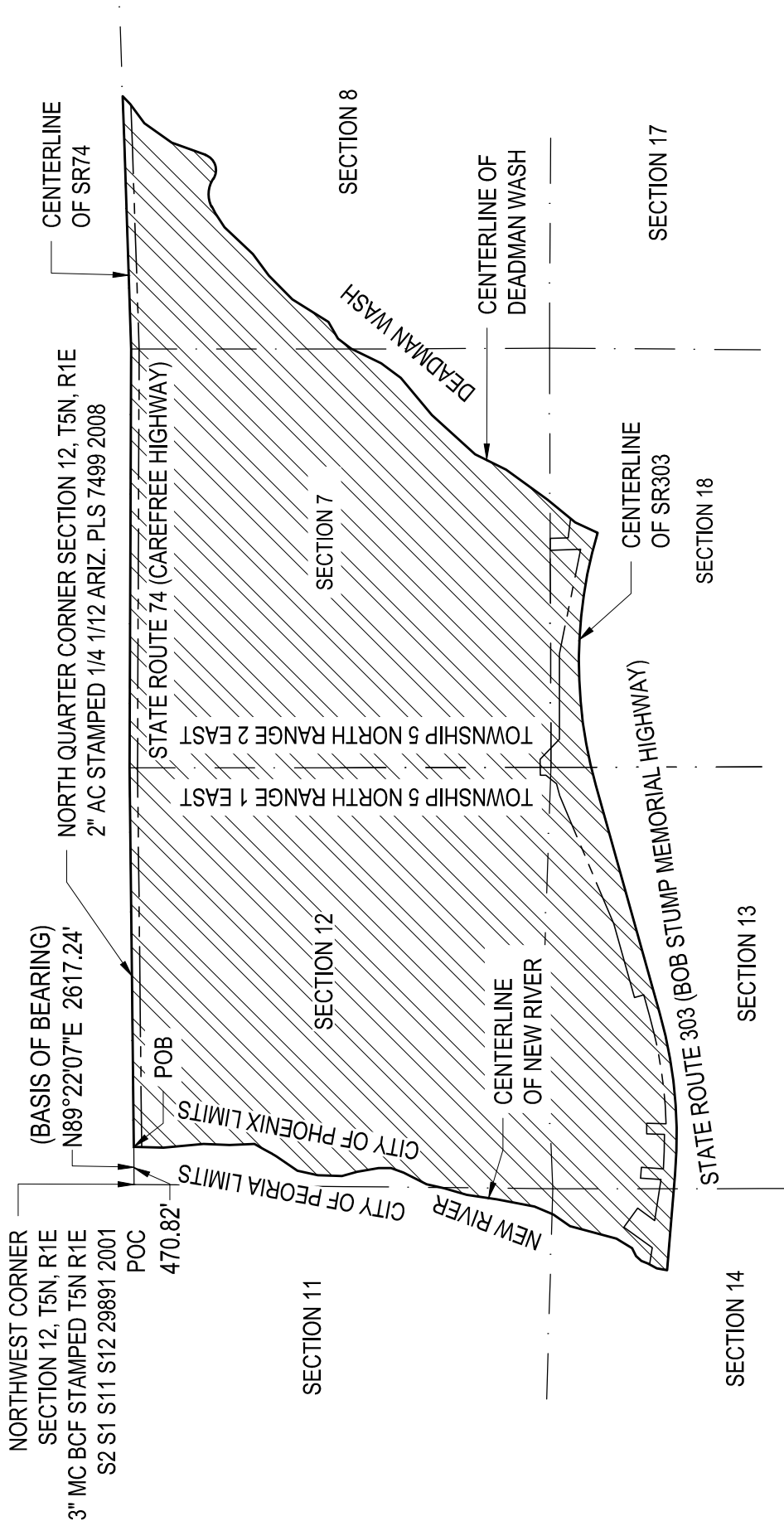
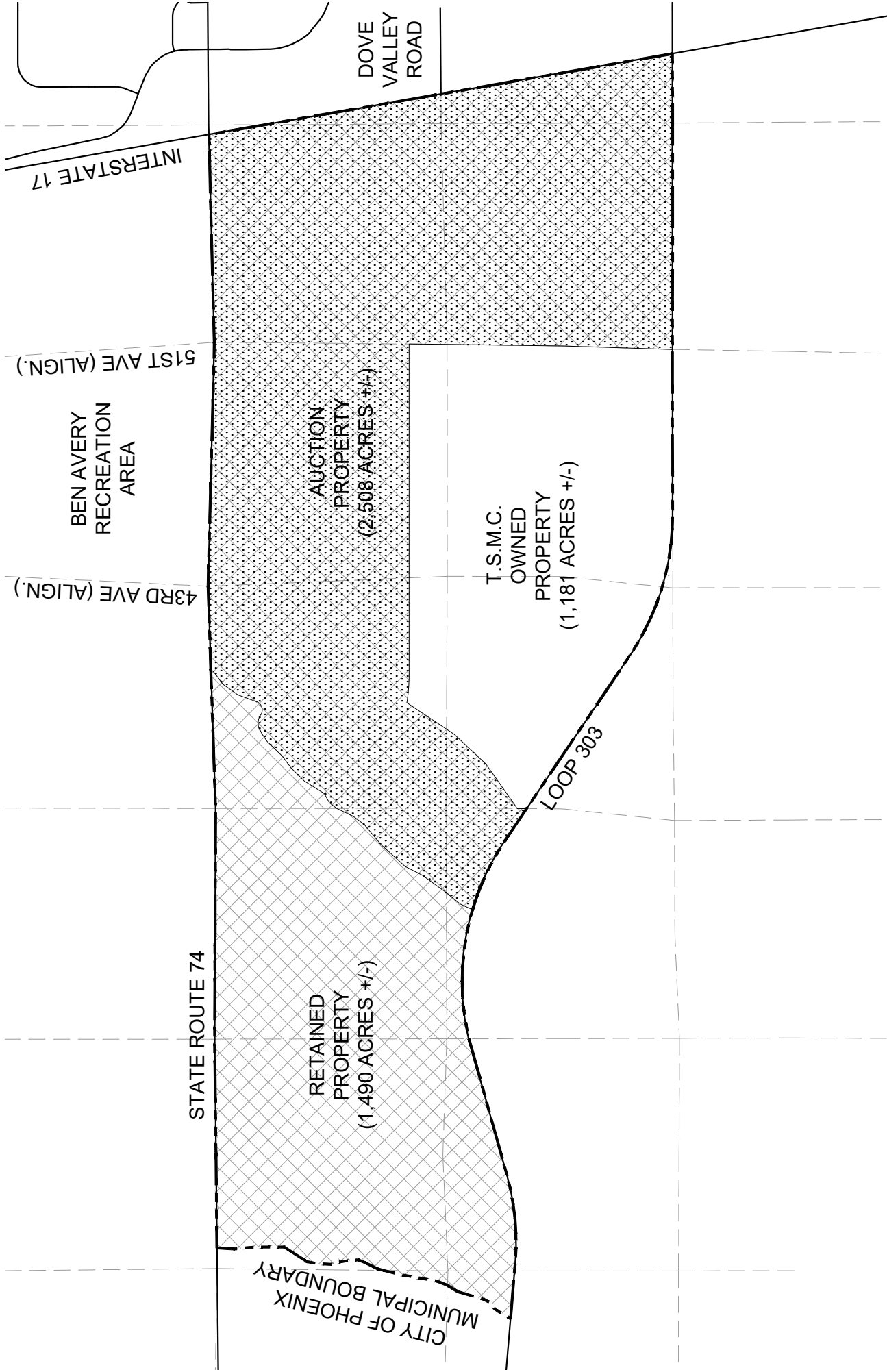


EXHIBIT "A"
 NORTH PHOENIX 3500 (BISCUIT FLATS)
 ASLD RETAINED PROPERTY
 01/18/2023
 WP# 205159.81
 PAGE 4 OF 4
 NOT TO SCALE
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EXPIRES 12-31-23

Exhibit A-3

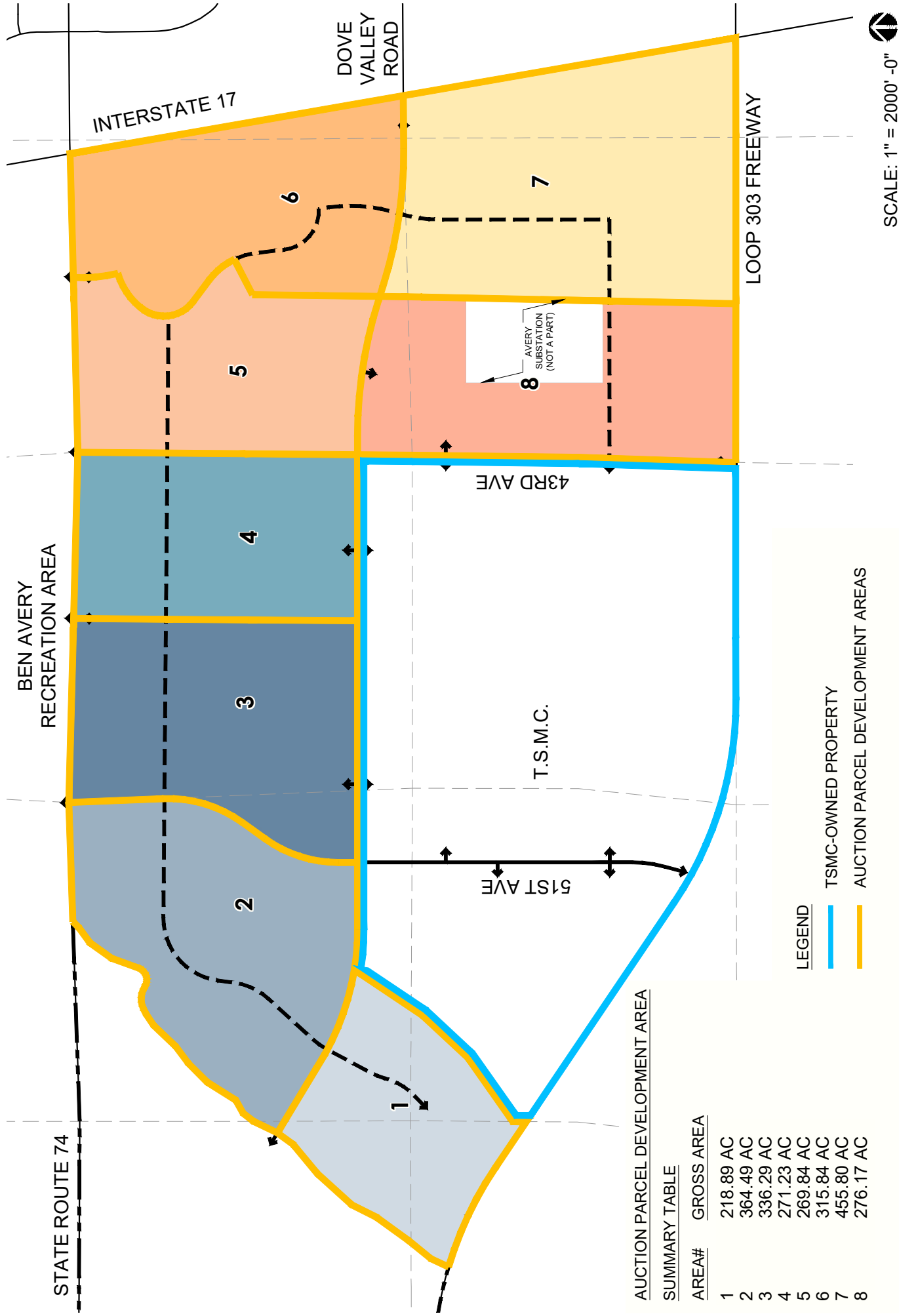
Map showing Master Property



SCALE: NTS

Exhibit B-1

AP Land Use Plan



AUCTION PARCEL DEVELOPMENT AREA

SUMMARY TABLE

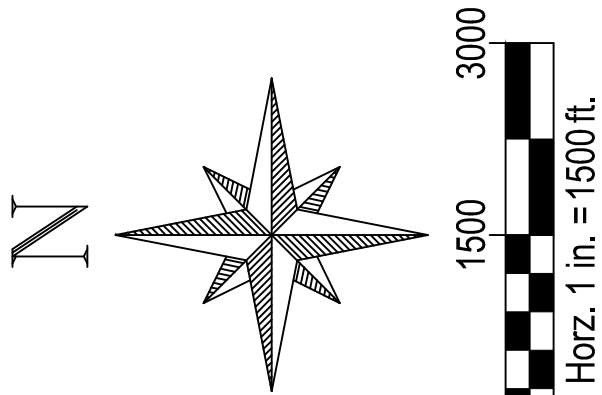
AREA#	GROSS AREA
1	218.89 AC
2	364.49 AC
3	336.29 AC
4	271.23 AC
5	269.84 AC
6	315.84 AC
7	455.80 AC
8	276.17 AC

Exhibit B-2

AP Master Backbone Infrastructure Plan

ITEM DESCRIPTION	QTY	UNIT
8" VCP Sewer Line	11,591	LF
10" VCP Sewer Line	7,925	LF
12" VCP Sewer Line	15,255	LF
15" VCP Sewer Line	8,455	LF
18" VCP Sewer Line	4,178	LF
21" VCP Sewer Line	4,027	LF
24" VCP Sewer Line	2,202	LF
27" VCP Sewer Line	17,724	LF
42" VCP Sewer Line	21,831	LF
5' Diameter Sewer Manhole	237	EA
Jack & Bore (Loop 303)	2	EA
Jack & Bore (I-17)	2	EA
North Gateway WRF	1	LS
LS77 Upgrades	1	LS
Deadman Wash Lift Station	1	EA
24" DIP Force Main Line	13,194	LF

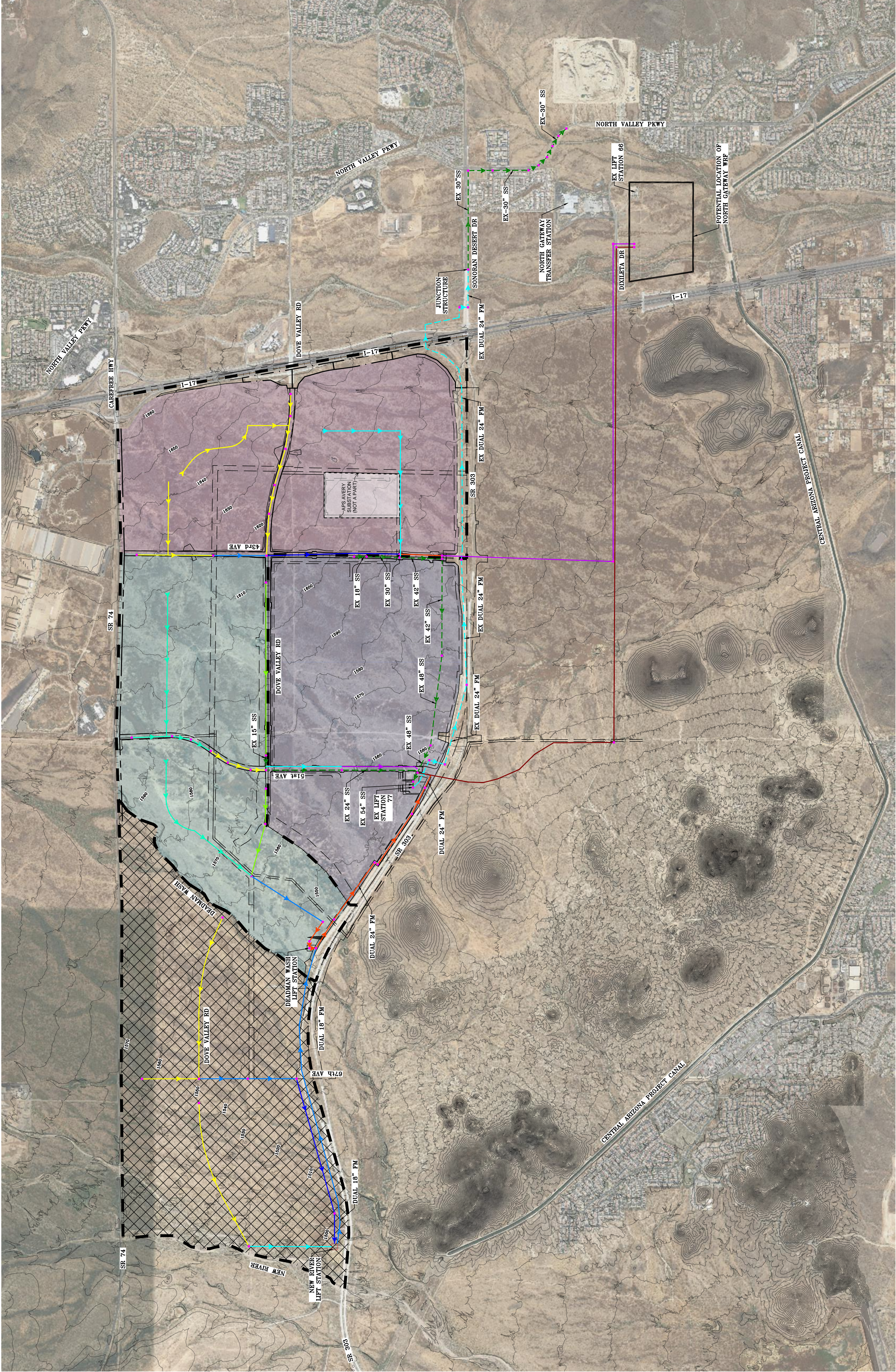
PROVIDED QUANTITIES DO NOT INCLUDE EXISTING INFRASTRUCTURE OR PLANNED INFRASTRUCTURE WITHIN RETAINED PROPERTY



LEGEND

PUBLIC SEWER	PLANNED
8-INCHES	
10-INCHES	
12-INCHES	
15-INCHES	
18-INCHES	
21-INCHES	
24-INCHES	
27-INCHES	
42-INCHES	
EXISTING PIPE	
EXISTING FORCE MAIN	
PROPERTY BOUNDARY	
RETAINED PROPERTY	
EXISTING CONTOUR	
TECH CAMPUS AREA	
FREEWAY MIXED USE AREA	
TECH PARK AREA	

NOTES:
PLANNED INFRASTRUCTURE AND BOUNDARIES ARE CONCEPTUAL AND SUBJECT TO CHANGE.
INFRASTRUCTURE IS SIZED TO ACCOMMODATE THE ASSUMED TECH CAMPUS LAND USE. ACTUAL INFRASTRUCTURE REQUIREMENTS ARE SUBJECT TO FURTHER ENGINEERING, REVIEW, AND APPROVAL BY THE CITY OF PHOENIX.



NOT
FOR
CONSTRUCTION
OR RECORDING

WOOD
PATEL

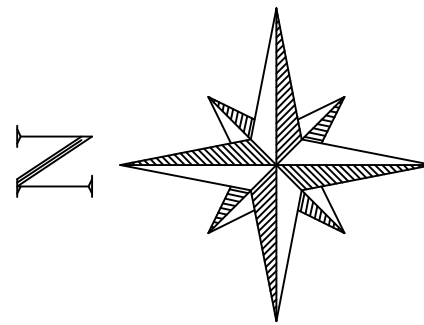
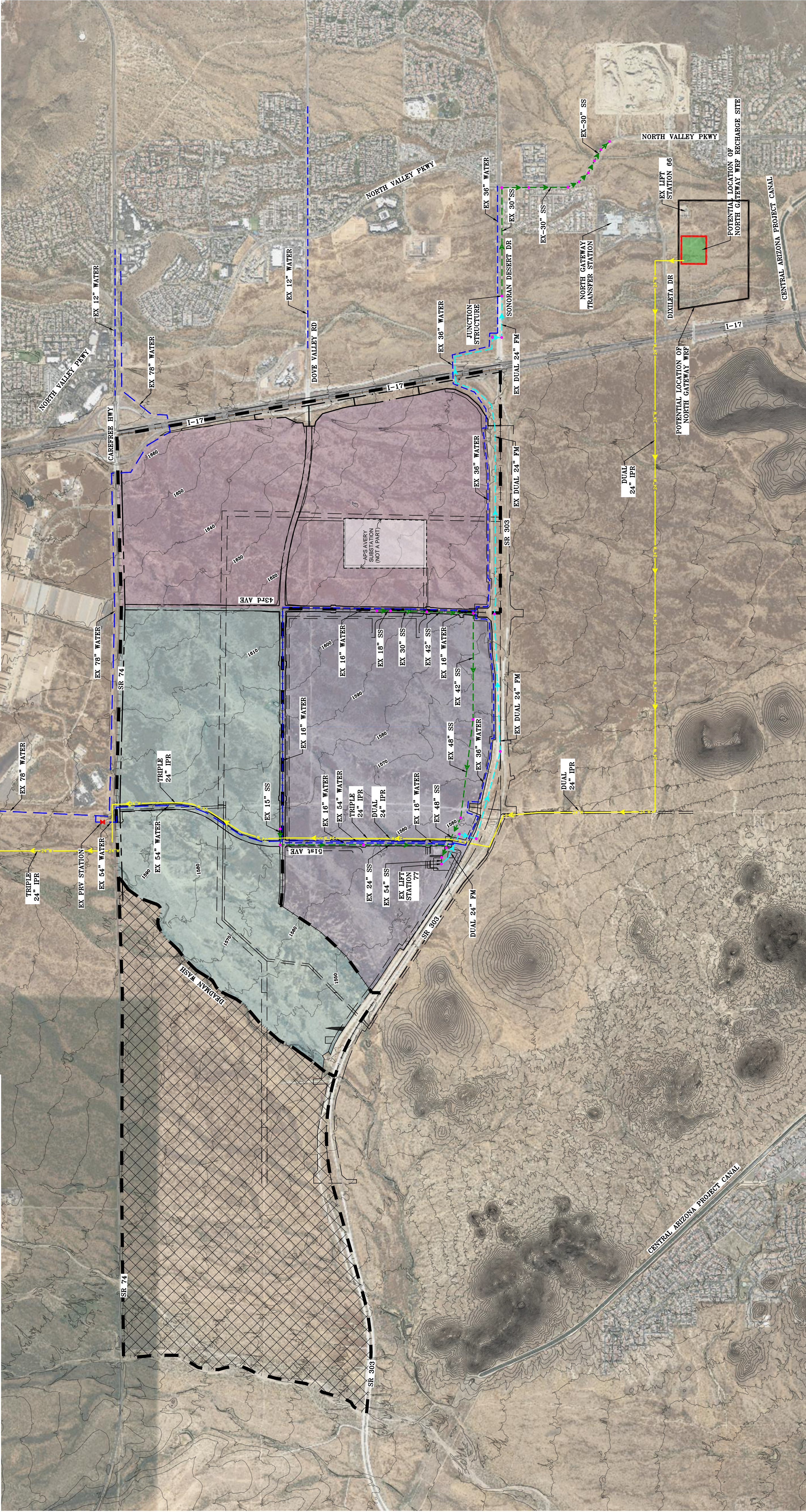
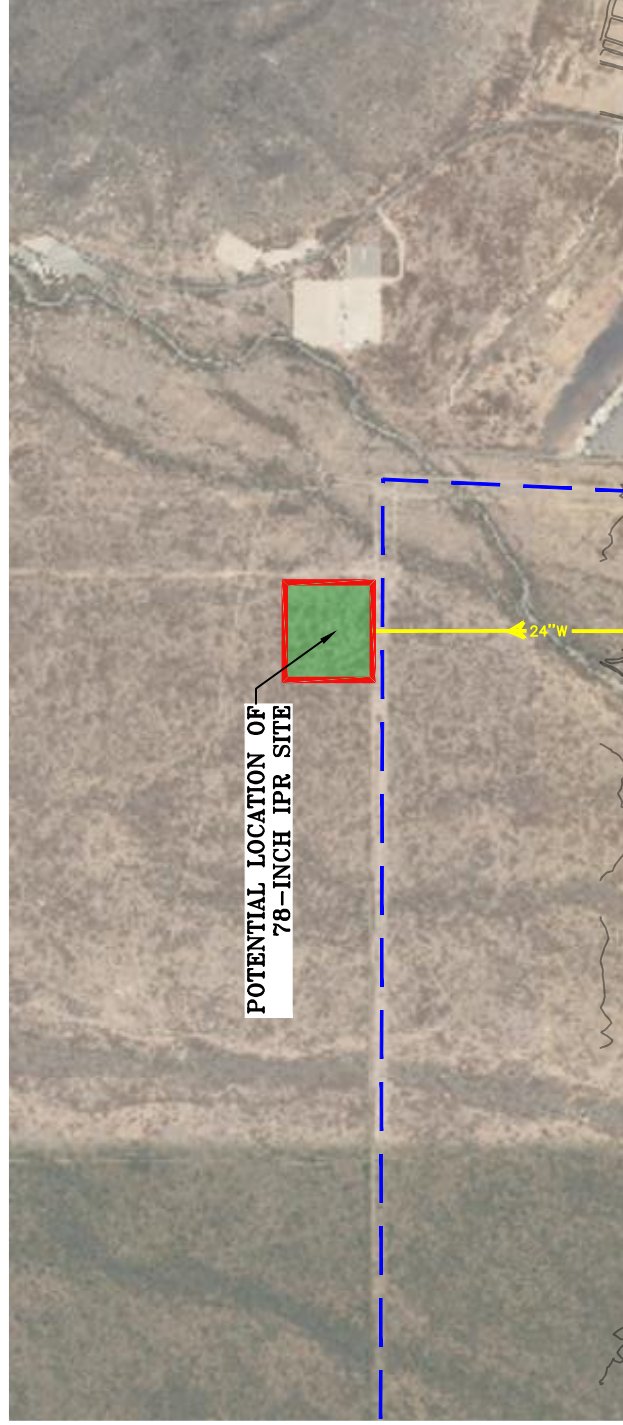
NORTH PHOENIX 3,500 PUD

EXHIBIT B-2
AP MASTER BACKBONE INFRASTRUCTURE PLAN
WASTEWATER EXHIBIT

DATE	07/17/2023	SCALE	1" = 1500'	SHEET	1 OF 5
JOB NO.	205159	DESIGN	EB	DRAWN	LR
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ITEM DESCRIPTION	QTY	UNIT
NGWRF Recharge Site and 78-Inch Indirect Potable Reuse Site (North)	1	LS
24" DIP Indirect Reuse Potable Water Line	90,782	LF

PROVIDED QUANTITIES DO NOT INCLUDE EXISTING INFRASTRUCTURE OR PLANNED INFRASTRUCTURE WITHIN RETAINED PROPERTY



LEGEND

- PUBLIC SEWER

EXISTING SEWER MAIN

EXISTING WATER MAIN

EXISTING FORCE MAIN

INDIRECT POTABLE REUSE MAIN

PRESSURE REDUCING VALVE STATION

PROPERTY BOUNDARY

RETAINED PROPERTY

EXISTING CONTOUR

TECH CAMPUS AREA

FREEWAY MIXED USE AREA

TECH PARK AREA

RECHARGE SITE
- PLANNED
- NOTES:

PLANNED INFRASTRUCTURE AND BOUNDARIES ARE CONCEPTUAL AND SUBJECT TO CHANGE. INFRASTRUCTURE IS SIZED TO ACCOMMODATE THE ASSUMED TECH CAMPUS LAND USE. ACTUAL INFRASTRUCTURE REQUIREMENTS ARE SUBJECT TO FURTHER ENGINEERING, REVIEW, AND APPROVAL BY THE CITY OF PHOENIX.

NOT FOR CONSTRUCTION OR RECORDING

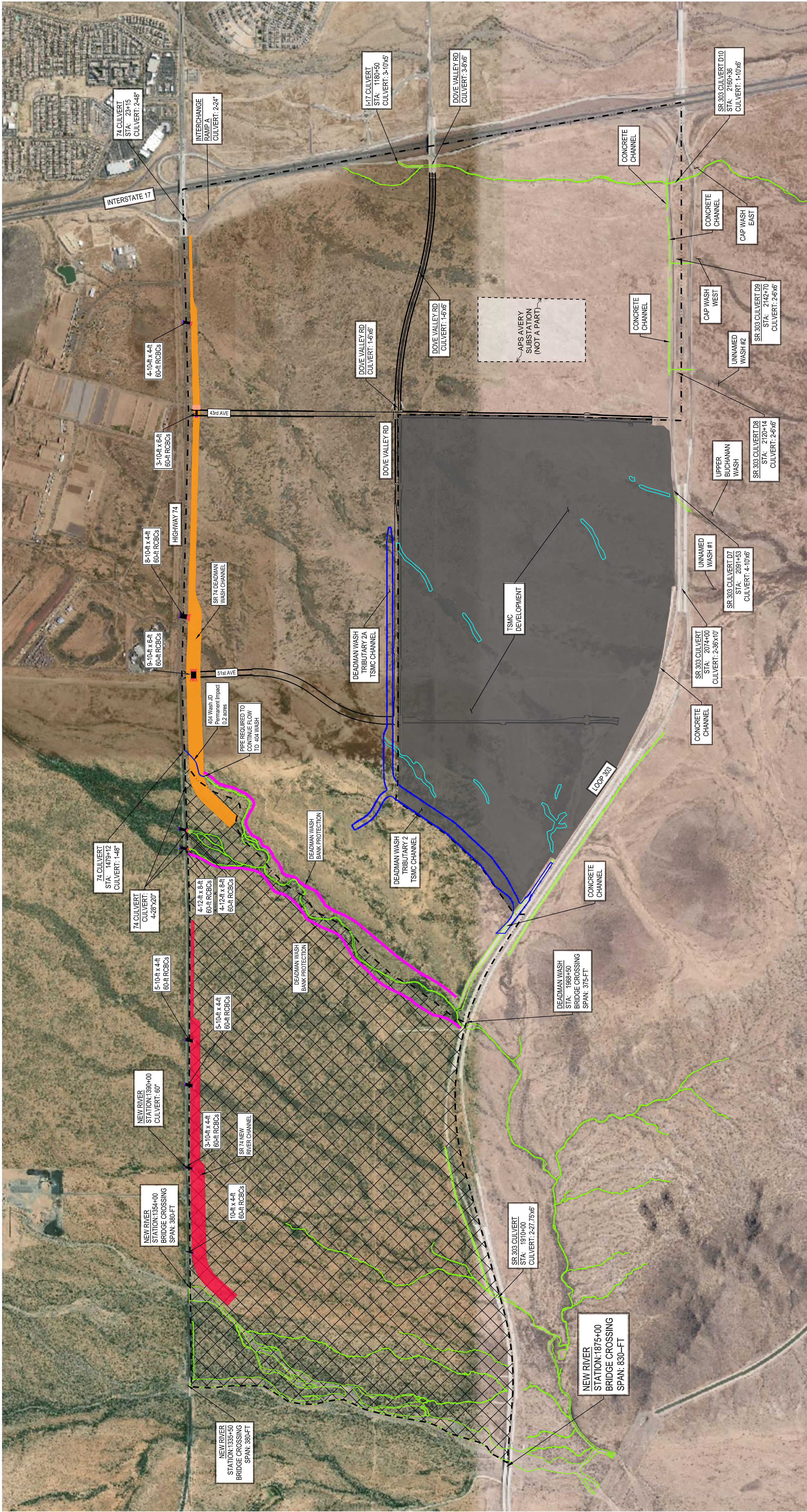
WOOD
PATEL

NORTH PHOENIX 3,500 PUD

EXHIBIT B-2
AP MASTER BACKBONE INFRASTRUCTURE PLAN
INDIRECT POTABLE REUSE

DATE	07/17/2023	SCALE	1" = 1500'	SHEET	3 OF 5
JOB NO.	205159	DESIGN	EB	DRAWN	LR

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ITEM DESCRIPTION - State Route 74 Earthen Channel to Deadman Wash			
MOBILIZATION	QUANTITY	UNIT	
TRAFFIC CONTROL	1	LS	
CLEARING & GRUBBING - INVENTORY SALVAGE	1	LS	
CHANNEL EXCAVATION	57	AC	
BOX CULVERTS AT 43RD & 51ST AVE (12-10x6x155')	488,430	CY	
BOX CULVERTS ALONG SR 74 (12-10'x4'x65')	1,992	CY	
CULVERT HANDRAIL	1,080	CY	
DEADMAN WASH PROTECTION - 9' RENO MATRESS PLUS	254	LF	
CHANNEL TIE-IN AT 1.5' THICK	2,330	CY	
GRADE CONTROLS - RENO MATRESS PLUS	1,600	CY	
CULVERT APRON RIPRAP (12-INCH D50)	2,600	CY	
GUARD RAIL FENCING ALONG SR 74	2,100	CY	
CHAIN LINK FENCE ALONG FUTURE DEVELOPMENT	11,750	LF	
CULVERT INLET CHANNEL PROTECTION - RIPRAP (6-INCH D50)	10,900	LF	
	14,500	CY	

ITEM DESCRIPTION - Deadman Wash Bank Protection			
MOBILIZATION	QUANTITY	UNIT	
CLEARING & GRUBBING - INVENTORY SALVAGE	1	LS	
ENCROACHMENT FILL	17	AC	
CHAIN LINK FENCE ALONG FUTURE DEVELOPMENT	56,000	CY	
BANK PROTECTION - RENO MATRESS PLUS - 9' TH	7,500	LF	
BANK PROTECTION - GABION BOX (3'x3'x1.5')	7,135	CY	
	1,250	CY	

PROVIDED QUANTITIES DO NOT INCLUDE EXISTING INFRASTRUCTURE OR PLANNED INFRASTRUCTURE WITHIN RETAINED PROPERTY

NOTES:
PLANNED INFRASTRUCTURE AND BOUNDARIES ARE CONCEPTUAL AND SUBJECT TO CHANGE. ACTUAL INFRASTRUCTURE REQUIREMENTS ARE SUBJECT TO FURTHER ENGINEERING, REVIEW, AND APPROVAL BY THE CITY OF PHOENIX.

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PATEL

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CONSTRUCTION
OR RECORDING

NORTH PHOENIX 3,500 PUD

EXHIBIT B-2
AP MASTER BACKBONE INFRASTRUCTURE PLAN
DRAINAGE EXHIBIT

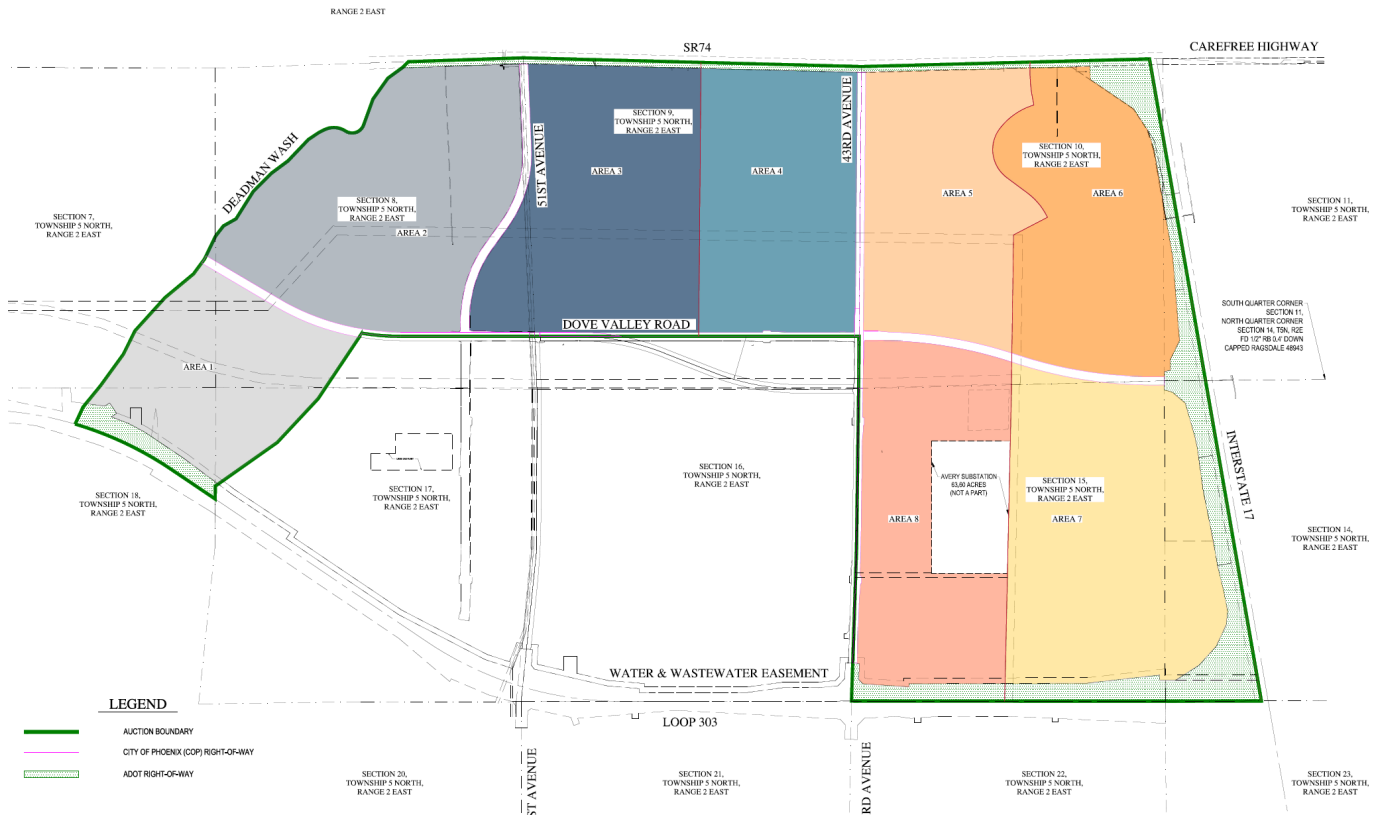
DATE 8/14/2023 SCALE 1" = 1200' SHEET 5 OF 5
JOB NO. 216237 DESIGN JCD DRAWN JCD
Z:\2020\205159\Project_Support\Reports\Drainage\Infrastructure Report\Exhibits\B237-ENG - Section 404 Washes

Exhibit C

Intentionally Omitted

Exhibit D

Partial Patent Release Prices



Region	Estimated Net Acres**	% of Par
Area 1	196.00	Variable *
Area 2	345.17	Variable *
Area 3	315.83	Variable *
Area 4	253.87	Variable *
Area 5	252.41	Variable *
Area 6	266.46	110%
Area 7	370.60	110%
Area 8	245.96	110%

*See Section 6.1 of Agreement

**Includes potential future Common Areas and Dedication Property

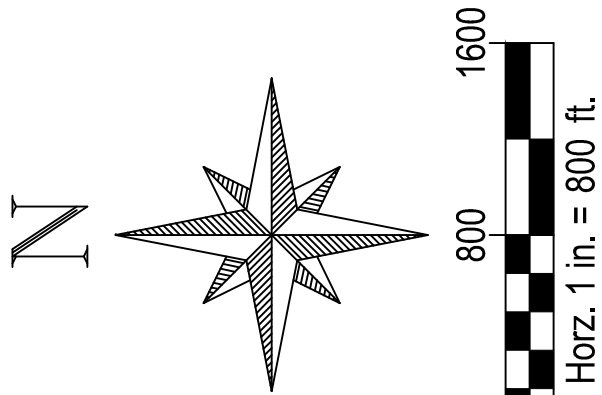
Exhibit E-1

Phase 1 On-Site Infrastructure and Phase 1 On-Site Infrastructure Items

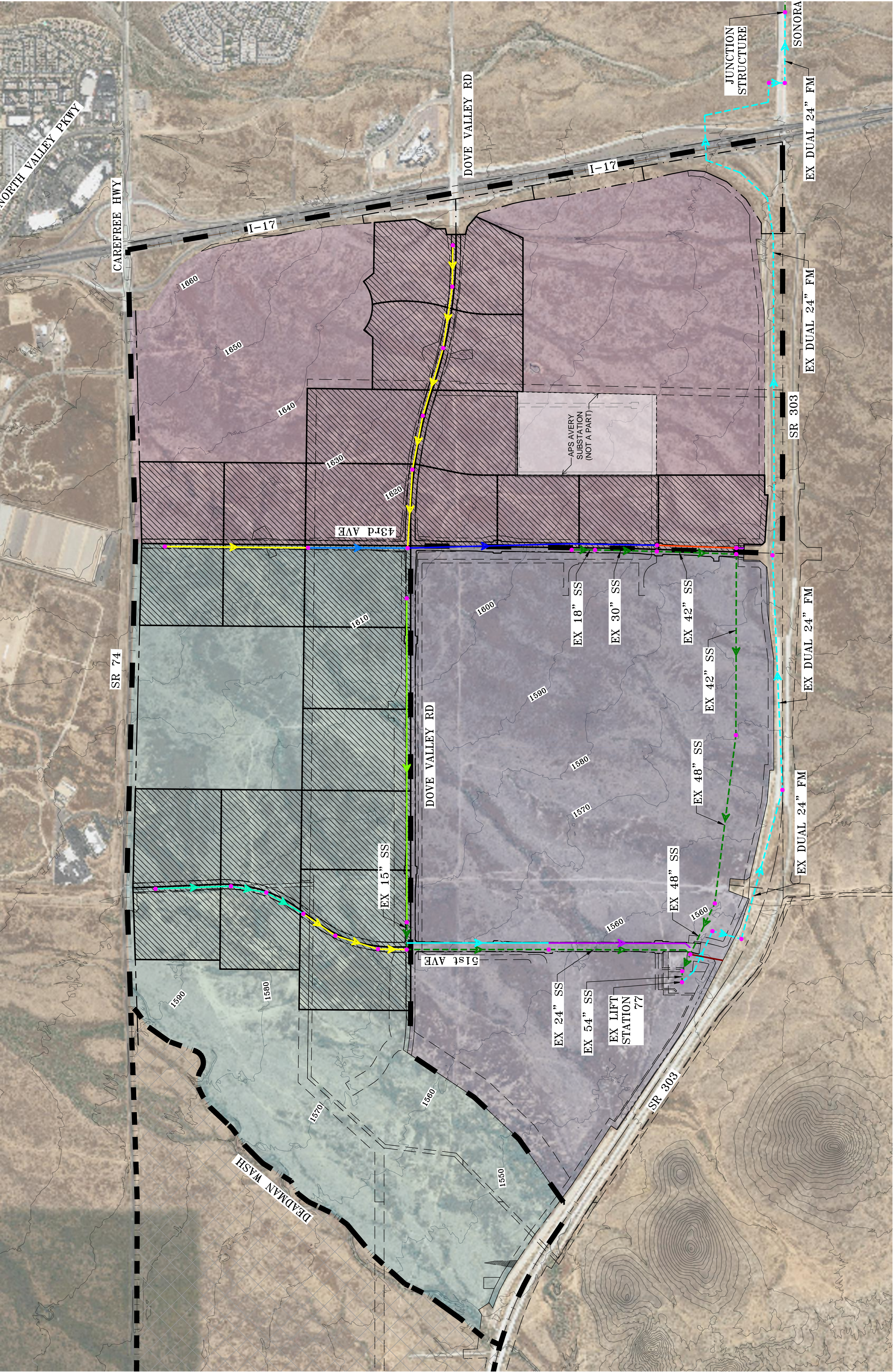
Arterial and collector roadways per applicable city/state standards as depicted in this Exhibit E-1
Stormwater channel along SR 74 and all other stormwater management improvements depicted in this Exhibit E-1
Potable and indirect potable reuse water lines and other water infrastructure as depicted in this Exhibit E-1
Wastewater lines as depicted in this Exhibit E-1

ITEM DESCRIPTION	QTY	UNIT
8" VCP Sewer Line	2,489	LF
10" VCP Sewer Line	5,229	LF
12" VCP Sewer Line	9,090	LF
15" VCP Sewer Line	2,293	LF
18" VCP Sewer Line	1,608	LF
21" VCP Sewer Line	4,028	LF
24" VCP Sewer Line	1,280	LF
27" VCP Sewer Line	2,436	LF
42" VCP Sewer Line	536	LF
5' Diameter Sewer Manhole	72	EA
LS77 Upgrades	1	LS

PROVIDED QUANTITIES DO NOT
INCLUDE EXISTING INFRASTRUCTURE



LEGEND	
PUBLIC SEWER	PLANNED
8-INCHES	
10-INCHES	
12-INCHES	
15-INCHES	
18-INCHES	
21-INCHES	
24-INCHES	
27-INCHES	
42-INCHES	
EXISTING PIPE	
EXISTING FORCE MAIN	
PROPERTY BOUNDARY	
RETAINED PROPERTY	
EXISTING CONTOUR	
TECH CAMPUS AREA	
FREEWAY MIXED USE AREA	
TECH PARK AREA	
PLANNED PHASE I AREA	



NOTES:
PLANNED INFRASTRUCTURE AND BOUNDARIES ARE CONCEPTUAL AND SUBJECT TO CHANGE. INFRASTRUCTURE IS SUBJECT TO ACCOMMODATE THE ASSUMED TECH CAMPUS LAND USE. ACTUAL INFRASTRUCTURE REQUIREMENTS ARE SUBJECT TO FURTHER ENGINEERING REVIEW AND APPROVAL BY THE CITY OF PHOENIX. PHASE I INFRASTRUCTURE IS SIZED TO ACCOMMODATE THE FULL BUILD-OUT.

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OR RECORDING**

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PATEL**

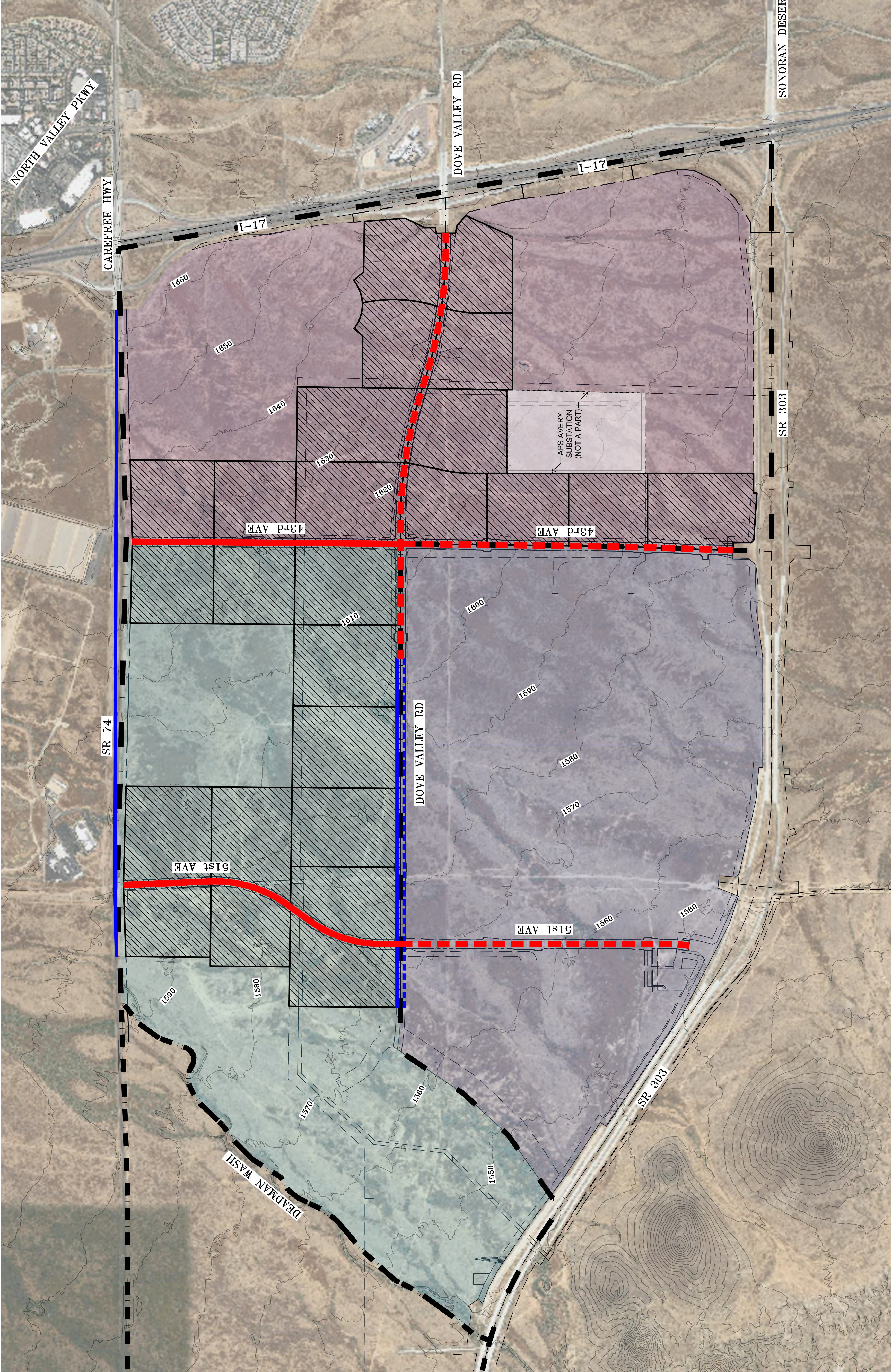
NORTH PHOENIX 3,500 PUD

EXHIBIT E-1
PHASE 1 ON-SITE INFRASTRUCTURE MAP
WASTEWATER EXHIBIT

DATE	07/17/2023	SCALE	1" = 800'	SHEET	1 OF 5
JOB NO.	205159	DESIGN	EB	DRAWN	LR
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ITEM DESCRIPTION	QTY	UNIT
43rd Ave (Full Street Imp.)	4,355	LF
51st Ave (Full Street Imp.)	4,830	LF
Dove Valley Rd (Half Street Imp.)	5,646	LF
SR-74 (Half Street Imp.) Plus Widening	11,280	LF
Traffic Signal	2	EA

PROVIDED QUANTITIES DO NOT
INCLUDE EXISTING INFRASTRUCTURE



NOTES:
STATE ROUTE 74 IS TO BE BUILT TO ADOT STANDARDS. ALL OTHER STREETS ARE TO BE BUILT TO CITY OF PHOENIX STANDARDS. STREET INFRASTRUCTURE INCLUDES CONCRETE, ASPHALT, STORM DRAIN, SIGNING, STRIPING, LANDSCAPING, AND LIGHTING. PLANNED INFRASTRUCTURE AND BOUNDARIES ARE CONCEPTUAL AND SUBJECT TO CHANGE. INFRASTRUCTURE IS SIZED TO ACCOMMODATE THE ASSUMED TECH CAMPUS LAND USE. ACTUAL INFRASTRUCTURE REQUIREMENTS ARE SUBJECT TO FURTHER ENGINEERING, REVIEW, AND APPROVAL BY THE CITY OF PHOENIX OR ADOT. PHASE 1 INFRASTRUCTURE IS SIZED TO ACCOMMODATE THE FULL BUILD-OUT.

LEGEND	
PROPOSED STREETS	PLANNED
PROPERTY BOUNDARY	EXISTING
RETAINED PROPERTY	
ARTERIAL ROADWAY - FULL STREET	
ARTERIAL ROADWAY - HALF STREET	
EXISTING CONTOUR	
TECH CAMPUS AREA	
FREEWAY MIXED USE AREA	
TECH PARK AREA	
PLANNED PHASE 1 AREA	

NOTES:
STATE ROUTE 74 IS TO BE BUILT TO ADOT STANDARDS. ALL OTHER STREETS ARE TO BE BUILT TO CITY OF PHOENIX STANDARDS. STREET INFRASTRUCTURE INCLUDES CONCRETE, ASPHALT, STORM DRAIN, SIGNING, STRIPING, LANDSCAPING, AND LIGHTING. PLANNED INFRASTRUCTURE AND BOUNDARIES ARE CONCEPTUAL AND SUBJECT TO CHANGE. INFRASTRUCTURE IS SIZED TO ACCOMMODATE THE ASSUMED TECH CAMPUS LAND USE. ACTUAL INFRASTRUCTURE REQUIREMENTS ARE SUBJECT TO FURTHER ENGINEERING, REVIEW, AND APPROVAL BY THE CITY OF PHOENIX OR ADOT. PHASE 1 INFRASTRUCTURE IS SIZED TO ACCOMMODATE THE FULL BUILD-OUT.

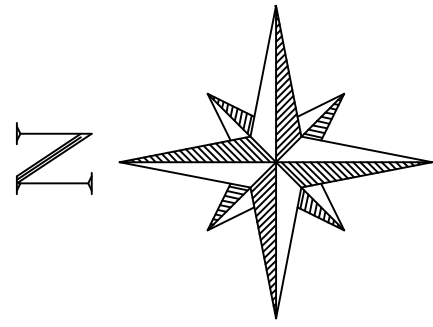
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FOR
CONSTRUCTION
OR RECORDING



NORTH PHOENIX 3,500 PUD

EXHIBIT E-1
PHASE 1 ON-SITE INFRASTRUCTURE MAP
STREETS EXHIBIT

DATE	07/17/2023	SCALE	1" = 800'	SHEET	4 OF 5
JOB NO.	205159	DESIGN	EB	DRAWN	LR
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LEGEND

- PROPERTY BOUNDARY
- PLANNED PHASE 1 AREA
- TSMC CLOMR FEMA SFHA ZONE AE FLOODPLAIN
- FEMA SFHA ZONE A FLOODPLAIN
- EXISTING FLOODPLAIN
- FEMA SFHA ZONE AE FLOODPLAIN & FLOODWAY
- FEMA SFHA ZONE AE FLOODPLAIN
- TSMC DEVELOPMENT
- 10' CONTOUR
- 2' CONTOUR
- SR 74 CHANNEL
- ROCK RIPRAP
- GABION MATTRESS
- CULVERT
- HEADWALL
- RIPRAP

ITEM DESCRIPTION - State Route 74 Earthen Channel to Deadman Wash	QUANTITY	UNIT
MOBILIZATION	1	LS
TRAFFIC CONTROL	1	LS
CLEARING & GRUBBING - INVENTORY SALVAGE	57	AC
CHANNEL EXCAVATION	488,430	CY
BOX CULVERTS AT 43RD & 51ST AVE (12-10'x6'x15')	1,992	CY
BOX CULVERTS ALONG SR 74 (8-12'x8'x8')	1,040	CY
BOX CULVERTS ALONG SR 74 (12-10'x4'x8')	1,080	CY
CULVERT HANDRAIL	254	LF
DEADMAN WASH PROTECTION - 9" RENO MATTRESS PLUS	2,330	CY
CHANNEL TIE-IN	1,600	CY
GRADE CONTROLS - RENO MATTRESS PLUS	2,600	CY
CULVERT APRON RIPRAP (12-INCH D50)	2,100	CY
GUARD RAIL FENCING ALONG SR 74	11,750	LF
CHAIN LINK FENCE ALONG FUTURE DEVELOPMENT	10,900	LF
CULVERT INLET CHANNEL PROTECTION - RIPRAP (8-INCH D50)	14,500	CY

PROVIDED QUANTITIES DO NOT INCLUDE EXISTING INFRASTRUCTURE

NOTES:
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PATEL

NORTH PHOENIX 3,500 PUD

EXHIBIT E-1
PHASE 1 ON-SITE INFRASTRUCTURE MAP
DRAINAGE EXHIBIT

DATE	07/11/2023	SCALE	1" = 800'	SHEET	5 OF 5
JOB NO.	205159	DESIGN	JCD	DRAWN	JCD
Z:\2020\205159\Project Support\Reports\Drainage\Infrastructure Report\Exhibit E-1 SR-E-1E - Phase 1 Map.dwg					



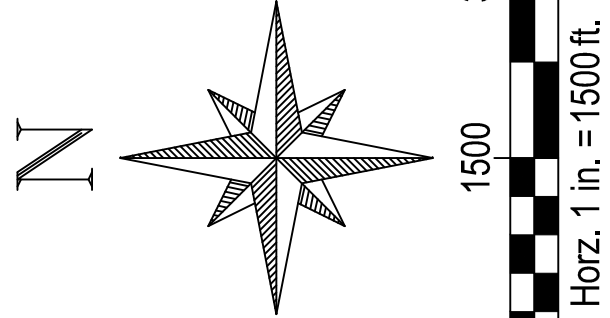
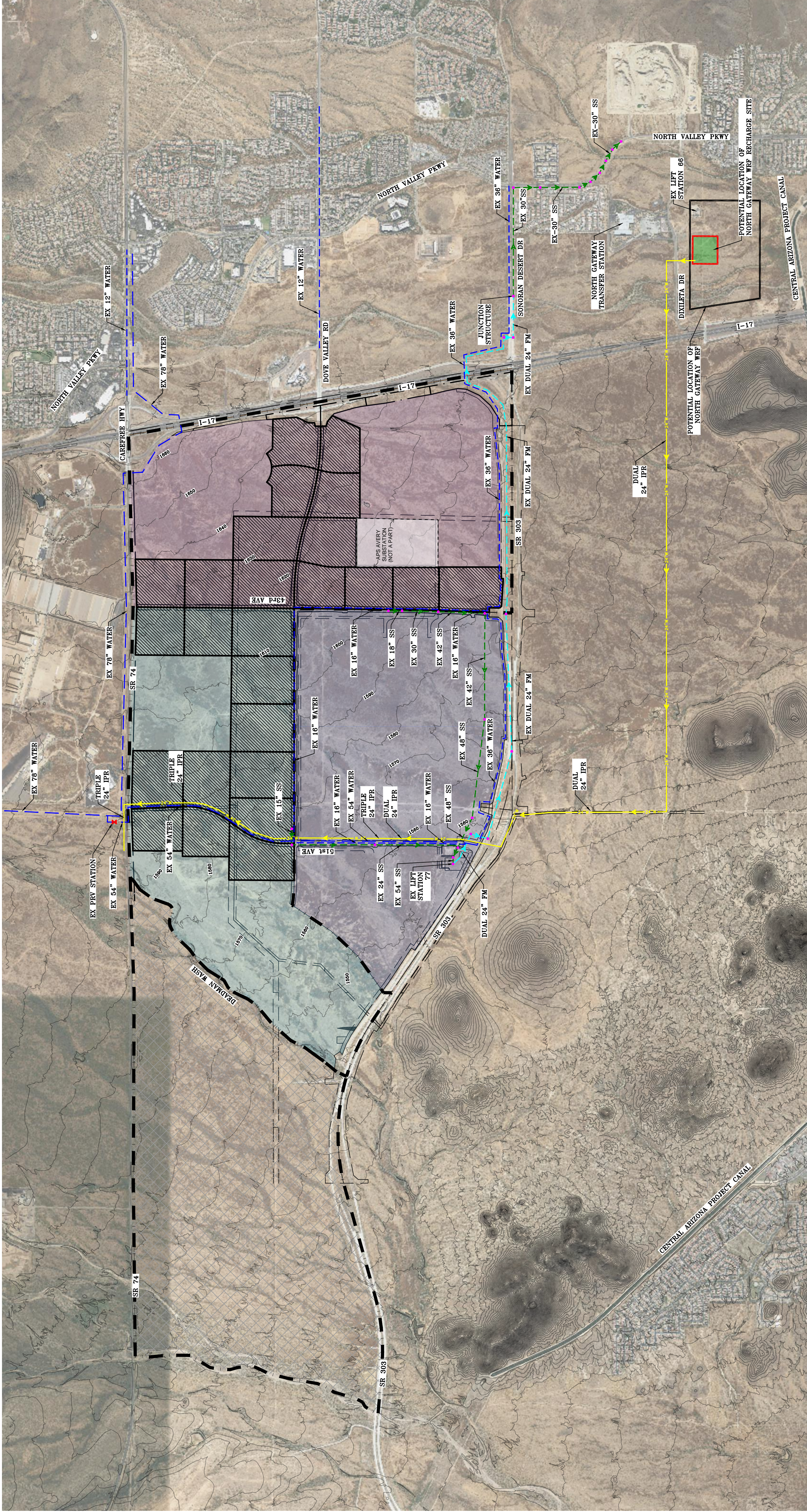
Exhibit E-2

Phase 1 Off-Site Infrastructure and Phase 1 Off-Site Infrastructure Items

North Gateway wastewater reclamation facility with a rated capacity dedicated to the Auction Property of not less than 2 million gallons per day (mgd), located as generally indicated in this Exhibit E-2, together with wastewater lines and other wastewater infrastructure as indicated in this Exhibit E-2, and indirect potable reuse waterlines and other related infrastructure as indicated in this Exhibit E-2 (collectively, the “**Phase 1 WRF Improvements**”).

ITEM DESCRIPTION	QTY	UNIT
North Gateway WRF Recharge Site (8MGD)	1	LS
24" DIP Indirect Potable Reuse Water Line	47,966	LF

PROVIDED QUANTITIES DO NOT
INCLUDE EXISTING INFRASTRUCTURE



LEGEND

PUBLIC SEWER	PLANNED
EXISTING SEWER MAIN	
EXISTING WATER MAIN	
EXISTING FORCE MAIN	
INDIRECT POTABLE REUSE MAIN	
PRESSURE REDUCING VALVE STATION	
PROPERTY BOUNDARY	
RETAINED PROPERTY	
EXISTING CONTOUR	
TECH CAMPUS AREA	
FREEWAY MIXED USE AREA	
TECH PARK AREA	
PHASE 1 BOUNDARY	

NOTES:
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OR RECORDING

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NORTH PHOENIX 3,500 PUD

EXHIBIT E-2
PHASE 1 OFF-SITE INFRASTRUCTURE MAP
INDIRECT POTABLE REUSE

DATE	07/17/2023	SCALE	1" = 1500'	SHEET	2 OF 2
JOB NO.	205159	DESIGN	EB DRAWN	LR	

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Exhibit F

Form of Memorandum of Participation Contract

WHEN RECORDED, RETURN TO:

Arizona State Land Department
1110 West Washington Street
Phoenix AZ 85007
Attn: Public Records

**MEMORANDUM OF PARTICIPATION AND INFRASTRUCTURE CONTRACT
REGARDING ASLD AUCTION APPLICATION NO. 53-123709**

This Memorandum of Participation and Infrastructure Contract Regarding ASLD Application No. 53-123709 (this “Memorandum”) is made and entered into as of the _____ day of _____, 2024, by and between the STATE OF ARIZONA, by and through the Arizona State Land Department (“ASLD”), and _____, a(n) _____ (“CP Holder”). ASLD and CP Holder may herein be referred to collectively as the “Parties” or individually as a “Party”.

RECITALS

This Memorandum is made with respect to the following facts:

A. Simultaneously with the execution of this Memorandum, ASLD and CP Holder are entering into a Participation and Infrastructure Contract Regarding ASLD Application No. 53-120190 (the “Contract”), relating to land within the planning boundary of the City of Phoenix, Maricopa County, Arizona, and legally described on Exhibit A attached hereto and by this reference made part hereof (the “Auction Property”).

B. ASLD and CP Holder desire to enter into this Memorandum to give record and constructive notice of the Contract.

C. The Parties acknowledge that the Contract constitutes a participation contract within the meaning of Arizona Revised Statutes (“A.R.S.”) §§ 37-101(15) and 37-239.

AGREEMENT

In consideration of the Contract and the terms and provisions hereof, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both ASLD and CP Holder, the Parties hereby agree as follows:

2. Incorporation of Contract. All terms and conditions set forth in the Contract are incorporated by reference herein as if fully set forth herein. Capitalized terms not defined herein shall have the meaning set forth in the Contract.

3. Termination of Memorandum. In accordance with and subject to the terms and conditions of the Contract, CP Holder intends to develop the Auction Property, and following certain conditions as outlined in the Contract, ASLD will issue Partial Patents for portions of the Auction Property. This Memorandum shall automatically terminate as to any portion of the Auction Property for which a Partial Patent has been issued, and no further action of ASLD shall

be required. Notwithstanding the foregoing, ASLD shall, within ten (10) Business Days following request by CP Holder, execute a document in recordable form evidencing such termination, which shall then be recorded in the official records of Maricopa County. Notwithstanding the termination of this Memorandum, the Contract shall continue in effect as to payment of the Participation Payments by CP Holder and any other obligations of CP Holder remaining thereunder.

4. Conflicts. In the event of any conflict between the terms of the Contract and the terms of this Memorandum, the terms of the Contract shall control.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum on the date first written above.

STATE OF ARIZONA, acting by and through the
Arizona State Land Department

By: _____
Name: _____
Title: _____

STATE OF ARIZONA)
) §§
County of Maricopa)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this _____ day of _____, 202__ by _____, the _____ of the STATE OF ARIZONA, acting by and through the Arizona State Land Department, on behalf thereof.

Notary Public

(Seal)

_____,
a(n) _____

By: _____
Name: _____
Title: _____

STATE OF ARIZONA)
) §§
County of Maricopa)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this _____ day of _____, 202__ by _____, the _____ of _____, on behalf thereof.

Notary Public

(Seal)

Exhibit A

Auction Property

Exhibit G

Dispute Resolution Procedures

For any matters expressly designated in the Contract as an Arbitration Dispute and following any applicable cure period or negotiation period, and for any matter that the Parties may jointly elect to resolve as an Arbitration Dispute, the following provisions shall apply:

(a) Dispute Notice. If either Party believes that an Arbitration Dispute exists with respect to any matter which this Contract designates as an Arbitration Dispute, it shall notify the other Party thereof in writing, which notice (a “**Dispute Notice**”) shall identify the Arbitration Dispute, set forth briefly the notifying Party’s position with respect to the Arbitration Dispute, and state the time and place of the Pre-Set Meeting (as defined below). So long as the Arbitrator does not determine that the Party initiating the Arbitration Dispute was acting in bad faith, all time periods under this Contract will be tolled for a period equal to the number of days from, but not including, the day of delivery of the Dispute Notice to and including the day the Arbitrator’s decision is delivered to the Parties.

(b) Selection of the Arbitrator. As promptly as practicable, and in any event within five (5) Business Days of the giving of the Dispute Notice, the Parties shall meet (either telephonically or in person) (the “**Pre-Set Meeting**”) in an attempt to identify an arbitrator to resolve the Arbitration Dispute (the “**Arbitrator**”). If the Parties are unable to agree on the Arbitrator, each Party shall have five (5) Business Days after the Pre-Set Meeting to designate an arbitrator (each a “**Designee**”), and the Designees shall then have five (5) Business Days to confer and identify the Arbitrator to resolve the Arbitration Dispute. Whether selected by the Parties or the Designees, the Arbitrator shall (i) be an attorney licensed to practice law in the State of Arizona (or a retired attorney who was licensed to practice law in the State of Arizona) with not less than twenty (20) years of experience involving real estate development transactions and/or resolution of commercial disputes and (ii) be independent of the Parties (and their respective Affiliates), and (iii) hold no financial interest in or any material financial or personal relationships with either Party or their respective Affiliates. If either Party fails to designate a Designee within five (5) Business Days after the Pre-Set Meeting or if the Designees fail to identify an Arbitrator within five (5) Business Days after their designation, any Party may apply to the Presiding Civil Judge of the Superior Court of Maricopa County, Arizona, requesting that he or she appoint an Arbitrator with the qualifications described in this Section, and shall provide notice of such application to the other Party. If the Presiding Civil Judge either declines or fails to make such appointment within ten (10) Business Days after his or her receipt of such application, any Party may thereafter file a complaint in the Superior Court of Maricopa County, Arizona, and prosecute such complaint unless and until the court appoints an Arbitrator with the qualifications described in this Section to resolve such Arbitration Dispute.

(c) Disclosure of Relationships; Replacement of Arbitrator. Within five (5) Business Days after the identification of the Arbitrator pursuant to Paragraph (b), the Parties shall disclose to each other in writing all material business and personal relationships that they or their respective Affiliates have had (if any) in the past five (5) years with the selected

Arbitrator. Unless otherwise agreed by the Parties, any Arbitrator for whom a disclosure is made under this Paragraph (c) shall be replaced within five (5) Business Days, either by mutual agreement of the Parties or by the Designees identified in Paragraph (b) above.

(d) Rules of Arbitration. The arbitration process shall be conducted by the designated Arbitrator at a location in Maricopa County, Arizona selected by the Arbitrator (who shall select the most efficient location for completing the arbitration process, based on the issues to be resolved and the other facts and circumstances associated with the arbitration proceedings), and shall be conducted under the Arizona Revised Uniform Arbitration Act, A.R.S. §§ 12-3001 through 12-3029 (“**RUAA**”) subject to this Contract, any other documents executed by the Parties, and Applicable Laws. The Arbitrator shall render a decision on any Arbitration Dispute only in the manner specifically provided below. The Parties shall use reasonable efforts to agree on discovery rules and the extent and scope of discovery with respect to any Arbitration Dispute; provided that at the written request of either Party (delivered to the other Party and the Arbitrator), such matters shall be determined by the Arbitrator in his/her sole discretion in accordance with any applicable provision of the RUAA.

(e) Timing of Arbitration. The Parties shall cooperate in good faith to permit a conclusion of the arbitration hearing within sixty (60) days following selection of the Arbitrator (including, but not limited to, making representatives available for the arbitration, and selecting an Arbitrator who can serve within the time period required), and shall endeavor to submit a joint statement setting forth each Arbitration Dispute to be resolved, including a summary of each Party’s position on each Arbitration Dispute.

(f) Arbitration Hearing. In all events, unless waived by the Parties, the Arbitrator shall conduct an arbitration hearing at which the Parties and their counsel shall be present and have the opportunity to present evidence and examine and cross-examine the evidence presented by the other Party. The proceedings at the arbitration hearing shall, unless waived by the Parties, be conducted under oath and before a court reporter.

(g) Reliance on Experts. If the matters or issues involved in any Arbitration Dispute are outside the scope of expertise of the Arbitrator acting as the arbitrator with respect to such Arbitration Dispute, the Parties shall have the right to obtain and the Arbitrator shall have the right to rely on such experts with respect to the applicable matters or issues (such as appraisers, contractors, lawyers, land planners, accountants, etc.).

(h) Decision of Arbitrator. Within fifteen (15) days following the conclusion of the arbitration hearing, the Arbitrator shall render his or her decision in accordance with the following (whichever is applicable):

(1) In the case of Arbitration Disputes with respect to whether a Party’s approval or consent was unreasonably withheld or conditioned, the Arbitrator’s decision shall be limited to a determination of whether such Party unreasonably withheld or conditioned a requested approval or consent.

(2) In the case of Arbitration Disputes with respect to an amount, the Arbitrator shall and must select the position offered by one of the Parties with respect to each individual matter for which a Dispute Notice was given (i.e., each issue presented for resolution), without variation.

(3) In the case of all other Arbitration Disputes, the Arbitrator shall decide the question presented.

The decision of the Arbitrator with respect to any Arbitration Dispute shall be final and binding on the Parties as of the date on which the decision is delivered to the Parties, unless the Arbitrator exceeds the authority granted in this Contract, in which case (and only in such case) the decision of the Arbitrator will be subject to appeal to a court of appropriate jurisdiction. If the decision includes a determination that a Party unreasonably withheld or conditioned its approval or consent, then such matter shall be deemed to have been approved or consented to by the Party for all purposes under this Contract. Except as otherwise expressly provided herein, as part of its decision, the Arbitrator may render a decision compelling performance by a Party of its obligations under this Contract. Except where expressly provided herein, the Arbitrator of any Arbitration Dispute hereunder shall not have the authority to award monetary damages. Subject to the foregoing, a judgment may be entered and enforced by any court of competent jurisdiction based on any decision rendered by an Arbitrator.

(i) Standards of Conduct. If an Arbitration Dispute is submitted to arbitration, the Parties agree that they will not contact or communicate with the Arbitrator who was appointed as Arbitrator with respect to any Arbitration Dispute either ex parte or outside of the contacts and communications contemplated by this Exhibit.

(j) Costs. The Arbitrator shall have the discretion to award attorneys' fees and costs, including any fees and costs for expert witnesses, to the prevailing Party and to charge the Arbitrator's fees to the non-prevailing party. Absent an order from the Arbitrator to the contrary, the Parties shall bear equally the Arbitrator's fees.

Exhibit H

Arbitration Disputes

Section	Issue
2.5(d)(i)	Whether a proposed amendment requires the Commissioner's approval and whether the Commissioner's disapproval or conditions to approval are reasonable.
3.3(d)	Any dispute as to the Sales Activity Shortfall
3.3(e)	Any dispute as to the Project Cost Shortfall
3.3(g)	ASLD's objection to any Draw Request and the amounts to be held in the Infrastructure Escrow
3.3(h)	Whether ASLD's disapproval of the form and terms of any financial assurance is reasonable
4.5(b)(i)	Any dispute over whether actions required by ASLD under Section 4.5(b)(i) are reasonably required
6.1(d)	The determination of the Revised Patent Price
6.2(a)	Whether the conditions to issuance of a Patent of any portion of the Auction Property have been satisfied
6.5	Whether ASLD unreasonably objected to an assignment. In the event there has occurred two (2) or more assignments of the Contract to an assignee other than a CP Holder Affiliate, then ASLD's objection to any subsequently proposed assignment of the Certificate of Purchase to an assignee that is not a CP Holder Affiliate of the then-CP Holder shall not be an Arbitration Dispute
7.4(c)(iii)	The amount of the Project Reserve.
8.4	Whether a Force Majeure Event, Governmental Event, or Adverse Market Condition has occurred or caused a delay and the timeliness of the notice thereof.
Exhibit I	Whether a cost is a Project Cost and/or is reasonable.
--	Any other dispute that the Parties mutually agree will be subject to the Dispute Resolution Procedures.

Exhibit I

Definition of Project Costs

“Project Costs” shall include, without duplication, any and all fees, costs and expenses incurred which are related to the acquisition, entitlement, development and disposition of the Auction Property in accordance with this Contract and the entitlement of the Retained Property in accordance with this Contract, whether incurred prior to or after the Auction. For purposes of determining Project Costs, any activities otherwise identified below as Project Costs, but which are undertaken by CP Holder outside of Auction Property in accordance with this Contract (i) for the benefit of Auction Property, and/or (ii) if required to be undertaken by Third Parties (such as the City) as a condition to developing the Auction Property, are nevertheless eligible Project Costs. Thus, any reference below to expenses incurred on Auction Property shall also include costs incurred outside of Auction Property for the benefit of Auction Property and/or required to be incurred as a condition to developing the Auction Property, but only to the extent CP Holder is permitted to incur such costs pursuant to this Contract or such costs are approved by ASLD in writing. For purposes of this Exhibit and the determination of Project Costs, “CP Holder” shall include CP Holder and any CP Holder Affiliate who is providing any goods or services with respect to the Auction Property. Project Costs shall include, without limitation:

1. Acquisition Costs. Costs incurred by CP Holder in connection with the acquisition of the Auction Property, including, without limitation:
 - (a) Base Price. The Base Price as and when paid to ASLD and any interest thereon.
 - (b) Administrative Fees. The administrative fee and another other costs or expenses related to the auction as and when paid to ASLD and any interest thereon.
 - (c) Title Costs. Premiums for owner’s title insurance policy and owner’s title policy endorsements obtained by CP Holder, escrow fees and recording fees.
 - (d) Survey. Cost an ALTA/ACSM Land Title Survey of the Auction Property.
 - (e) Planning Contract. As further set forth in this paragraph, costs and expenses incurred prior to the Auction either (i) under a planning contract between CP Holder and ASLD to prepare the Property for Auction if CP Holder was the party to the planning contract *or* (ii) paid by CP Holder to reimburse a Third Party who incurred such costs under a planning contract with ASLD to prepare the Property for Auction if CP Holder was not the party to the planning contract. Prior to the Auction, Biscuit Flats Dev LLC (the “**Applicant**”) and ASLD entered into a Section 37-205 Planning Agreement (the “**Planning Agreement**”) with respect to the Auction Property, pursuant to which, among other things, Applicant undertook some preliminary engineering and site planning work to determine the boundaries of the Auction Parcel acceptable to ASLD and normal and customary due diligence to prepare the Auction Parcel for sale by ASLD in its current condition, and negotiate this Contract with ASLD. Subject to further details as outlined in the Planning Agreement, actual out of pocket costs incurred by Applicant in creating any of this work product for ASLD shall be reimbursed to Applicant in the event Applicant is

not the successful bidder at the auction of the Auction Property. In addition to the above expenses incurred by Applicant pursuant to the Planning Agreement, ASLD has and will incur due diligence expenses for the Auction Property, and current applicants for portions of the Auction Property under Application Nos. 53-121784 (DeRito) and 53-122398 (Marwest) have incurred due diligence expenses for the Auction Property. The successful bidder at auction (including Applicant, if Applicant is the successful bidder) will be required to reimburse the expenses of ASLD, DeRito and Marwest at Auction.

2. Entitlement and CFD Costs.

- (a) Entitlements. All costs incurred by CP Holder in connection with obtaining the Project Entitlements and the Retained Property Entitlements (regardless of whether such Retained Property Entitlements are considered Project Entitlements), the Development Approvals, and any other entitlements related to the Auction Property, including, without limitation, filing fees, consultant's fees, preparation of plans and specifications and other required submissions, and legal fees, whether incurred before or after the Auction.
- (b) CFD. Costs incurred by CP Holder in connection with formation, operation, and maintenance of the CFD and issuance of debt.

3. Development Costs.

- (a) Demolition/Environmental/Archaeological.
 - (i) Costs and expenses of CP Holder associated with any assessment, sampling, investigation, monitoring, reporting, response action (including removal and remediation), reliance letters and other activities relating to environmental matters, including environmental conditions (whether known or unknown).
 - (ii) Costs and expenses of CP Holder associated with any assessment, sampling, investigation, monitoring, reporting, response action (including removal), reliance letters and other activities relating to archaeological matters (whether known or unknown).
 - (iii) Demolition, transportation or relocation of existing improvements on the Auction Property.
 - (iv) Storing, transporting and otherwise managing and handling any fill or excavated or deconstructed materials.
- (b) Construction. All costs, including hard and soft costs reasonably incurred in connection with the construction of the Backbone Infrastructure, other infrastructure and improvements by CP Holder or a Third Party supervised by CP Holder, including without limitation the following:

- (i) Construction regarding water and sewer treatment plants, potable, reclaimed water, wastewater, electric, and chilled water lines, pump stations, groundwater wells, reclaimed water recharge facilities, solar facilities, natural gas, telecom/data/cable TV lines, stormwater detention/retention facilities, drywells, drainage culverts channels and lines, water quality, irrigation, landscaping, hardscape, directional and marketing signage, monumentation, walls, Common Areas and regional parks (including vertical improvements) and roadway infrastructure including curb, gutter, pavement, striping, regulatory signage, street lights, traffic signals and bridges, erosion and sedimentation controls, grading, existing utility relocations, pedestrian bridges, buildings and all other improvements located in or constituting a park, public art pieces and green and/or sustainable features and facilities.
- (ii) Design/engineering/architectural and surveying fees associated with the development of the infrastructure and subdivision/platting, consultant fees including fees of any environmental consultant, archaeological consultant, biological consultant, technology consultant, sustainability consultant, construction materials testing consultant, traffic engineer, geotechnical engineer, structural engineer, MEP engineers, civil engineer, surveyor, landscape architect, architect, planner, SWPPP consultant and other miscellaneous consultants
- (iii) Permit, license and any other governmental fees or charges associated with the Backbone Infrastructure, other infrastructure and improvements (including, without limitation, those related to the subdivision, site development permits and building permits) and all costs and expenses incurred in applying for, pursuing and obtaining same, other than those excluded below.
- (iv) Fees associated with design/engineering/construction/installation of landscaping, hardscaping, irrigation, and monumentation.
- (v) Temporary improvements during construction, including fencing and any security measures, temporary utilities, onsite construction buildings and trailers, temporary sidewalks or trails, temporary drainage and construction water facilities, dust control, temporary landscaping, and temporarily relocating utility or other facilities.
- (vi) Costs relating to the construction of traffic improvements (including pedestrian, bicycle, automobile, streetcar and rail) either within or outside the boundaries of the Auction Property.
- (vii) Costs relating to the construction of offsite drainage improvements required by City and or the County, or as otherwise required by Applicable Laws.

- (viii) Premiums for payment and performance bonds with respect to payment of hard construction costs and performance of related construction work, restoration bonds and any other bonds required pursuant to this Contract.

Any dispute over whether costs were reasonably incurred in connection with the construction of the Backbone Infrastructure shall be an Arbitration Dispute.

- (c) Enforcement. Costs to enforce any design, engineering or construction contract, and costs associated with any dispute, lien or other proceeding relating to such contract unless resulting from the negligence or willful misconduct or breach of the contract by CP Holder.
4. Closing Costs. Except to the extent excluded from Project Revenues, the customary and reasonable amounts of the following expenses to the extent actually incurred in connection with any Conveyance of Unpatented Property, including without limitation:
- (a) Title Costs. Premiums for owner's title insurance policy and owner's title policy endorsements to the extent CP Holder agrees to pay such premiums as part of a Conveyance, escrow fees and recording fees.
 - (b) Survey. Costs of providing a Vertical Developer with an ALTA/ACSM Land Title Survey of the applicable portion of the Auction Property.
 - (c) Brokers' Commissions. Procuring and/or listing broker's commissions.
 - (d) Prorations. Prorated taxes, assessments, association, or other assessments for the then current year (if any).
 - (e) Escrow and Closing Costs. CP Holder's portion of escrow fees, recording fees, and courier fees.
 - (f) Speculative Builder Taxes. Any speculative builder transaction privilege taxes payable by CP Holder to the City in connection with a Conveyance.
5. Other Project Costs. All other Project Costs not listed above, including without limitation the following:
- (a) Taxes and Assessments. Taxes and assessments paid by CP Holder with respect to the Auction Property, and all other assessments paid in connection with any CFD or any other public financing districts charged against the Auction Property; provided, however, that any Unpatented Property will be exempt from property taxes for a period provided by Applicable Laws following the issuance of the Certificate of Purchase (the "**Exemption Period**") pursuant to A.R.S. § 37-251. Consequently, property taxes for Unpatented Property will not be included in Project Costs during the Exemption Period.

- (b) Title and Survey Expenses. Fees and expenses associated with obtaining title reports and surveys and identifying and correcting any matters disclosed on title reports and surveys.
- (c) Interest on CP Holder Equity Contributions. Interest paid out of Project Costs to CP Holder on CP Holder Equity Contributions pursuant to Section 7.3(a).
- (d) CP Holder's Overhead. The amount paid to CP Holder as "**CP Holder's Overhead**," which means an annual fee calculated as follows: (i) for the period commencing on the Effective Date and until December 31 of the year following the third anniversary of the Effective Date, the greater of (1) \$2,000,000 per annum (prorated for the first partial year), or (2) 4.5% of the Project Revenues for each year, and (ii) thereafter, an amount equal to 4.5% of the Project Revenues for each year or portion thereof until all Project Revenues from the Project have been received and disbursed to ASLD and CP Holder.
- (e) Legal Fees. Except as provided herein, legal fees and expenses, including without limitation, costs associated with all Third Party agreements related to the Project, pursuing entitlements, land use and subdivision approvals and agreements, negotiation of purchase agreements and other agreements, preparation of the CCRs, corrective title documents, but excluding therefrom any costs and expenses such as attorneys' fees which are the result of (i) a dispute between ASLD and CP Holder unless a court of competent jurisdiction determines that CP Holder was the prevailing party in the dispute; or (iii) the negligence or willful misconduct or breach of any contract by CP Holder.
- (f) Books and Records. Costs associated with generating the reports/reviews and keeping the books and records required by this Contract including, without limitation, the costs of the Project Revenues and Project Costs Review pursuant to Section 7.8 of this Contract.
- (g) Insurance. Premiums, applied deductibles and applied self-insured retentions, if any, for all insurance (including, without limitation, liability, property and casualty, environmental and pollution liability insurance and workers' compensation) carried by CP Holder or carried by a CP Holder Affiliate and reasonably allocated to CP Holder or the Project.
- (h) Information Requests. Costs associated with responding to Public Information Act requests.
- (i) Marketing. Marketing and branding fees and expenses incurred in connection with the development of the Auction Property, costs associated with public and media relations, advertising, domain registration and costs related to social media and websites.

- (j) Condemnation. Costs, fees and expenditures incurred in connection with any proposed, threatened or filed condemnation action with respect to the Auction Property.
- (k) Legal Claims and Legislative Change. Actual out-of-pocket costs with respect to initiating, responding to, and/or defending a legal claim and/or a proposed or actual legislative change or other governmental action that will affect the development of the Auction Property, and the rights and obligations of the Parties.
- (l) CCRs. Costs to fund the obligations of the declarant under the CCRs, including, without limitation, any assessments, subsidies or shortfalls and costs to form and administer any associations or similar entities governing the Project.
- (m) Maintenance. Costs to maintain the Unpatented Property (and any Patented Property that has not been Conveyed) and any improvements thereon and to maintain, repair, and replace improvements, including, but not limited to, Backbone Infrastructure.
- (n) Repair. Costs to repair any damage to the Unpatented Property (and any Patented Property that has not been Conveyed) and any improvements thereon.
- (o) CFD Financing. Costs incurred by CP Holder or a CP Holder Affiliate in connection with formation, operation and maintenance of the CFD and issuance of bonds.
- (p) Other Financing. Costs incurred by CP Holder or a CP Holder Affiliate in connection with the maintenance or issuance of bonds or other forms of financing for infrastructure costs.
- (q) Infrastructure Escrow Fees. Any fees related to the Infrastructure Escrow, if applicable.
- (r) Applicable Laws Costs. Any cost, fee, or expenditure incurred to comply with Applicable Laws to accomplish the acquisition, entitlement, development and disposition of the Auction Property as reasonably contemplated by this Contract.
- (s) ASLD Project Costs. Costs reasonably incurred by ASLD and payable to Third Parties ("**ASLD Project Costs**") for purposes of (1) satisfying its obligations under this Contract, (2) participating in any public hearings with respect to the Project, (3) participating and assisting CP Holder in fulfilling any CP Holder obligations under the Contract, or (4) Third Party legal and accounting costs related to monitoring CP Holder's performance under the Contract but excluding therefrom any costs and expenses such as attorneys' fees which are the result of (i) a dispute between ASLD and CP Holder unless a court of competent jurisdiction determines that ASLD was the prevailing party in the dispute, (ii) the negligence or willful misconduct or breach of this Contract by ASLD. Any dispute related to whether a cost is an ASLD Project Cost or is reasonable shall be an Arbitration Dispute.

6. Exclusions. The following are expressly not Project Costs unless expressly agreed to by ASLD and CP Holder in writing in their reasonable discretion:

(a) General Costs.

- (i) Penalties, fines, late fees or default fees caused by CP Holder under any contract, agreement, or Applicable Laws relating to the Auction Property.
- (ii) Charitable contributions.
- (iii) Any tax on CP Holder's income, franchise, gross receipts (except speculative builder transaction privilege taxes), corporation, capital levy, excess profits, revenue, or payroll.
- (iv) Depreciation.
- (v) Management, development, construction or other fees payable to CP Holder, except as expressly provided herein.
- (vi) The following costs, which are already taken into account through the CP Holder's Overhead: salaries or fringe benefits of personnel.
- (vii) Costs and expenses incurred or paid, including legal fees, as a result of CP Holder's negligence or willful misconduct or breach of the contract.
- (viii) The following costs, which are already taken into account through the CP Holder's Overhead: administrative and overhead costs, except as expressly provided herein, payroll taxes, meeting expenses, computer maintenance, computer supplies, data/network equipment, entertainment, courier service, office moving expenses, employee functions, office equipment, office furniture, services for equipment, office supplies, temporary services, printing, publications, office rent, training, postage and stationary (excluding those related to marketing as set forth above), telephone services, cell phone services, travel services, salaries and wages, bonus, employee benefits (medical, dental, life, savings, plan, etc.), parking, and miscellaneous other general and administrative costs (except as provided above).
- (ix) CP Holder's costs incurred in selling, syndicating, assigning, or hypothecating any CP Holder's interest in the Auction Property or under this Contract.
- (x) Legal fees incurred by either Party prior to or in connection with the Auction (except as provided in the Planning Agreement).

(b) Construction.

- (i) All fees, costs, charges and expenses related to the vertical development of improvements on the Auction Property, except as otherwise specifically permitted in Section 4.5 with respect to vertical improvements that are necessary or desirable for the resale of the Auction Property.
 - (ii) To the extent payments under contracts or agreements with CP Holder Affiliates to perform services or supply products to the Auction Property are not commercially reasonable or do not represent an arm's length transaction.
 - (iii) Payments deposited in the Infrastructure Escrow shall not be considered Project Costs unless and until such amounts are disbursed pursuant to a Draw Request.
- (c) Financing Costs. Interest, loan fees, points, commitment fees, or other costs paid by CP Holder or a CP Holder Affiliate for any amounts borrowed to finance the acquisition of the Auction Property or CP Holder Equity Contributions except to the extent provided in Section 7.3(a).

Any dispute over whether any costs incurred with respect to the Project are Project Costs shall be an Arbitration Dispute.