

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, APPROVING AND AUTHORIZING THE CITY MANAGER TO ENTER INTO THE FIRST AMENDMENT TO THE EXISTING DEVELOPMENT AGREEMENT ON THE PROPERTY LOCATED ON THE NORTH-EAST CORNER OF ELLIOTT ROAD AND HAWES ROAD BETWEEN THE CITY OF MESA AND NKS GROUP III LIMITED PARTNERSHIP.

A. WHEREAS, NKS GROUP III LIMITED PARTNERSHIP owns approximately 122 acres of property located on the north-east side of the Elliot Road and Hawes Road in the City of Mesa, AZ ("Property"); and

B. WHEREAS, the existing development agreement entered into between the City and NKS GROUP III LIMITED PARTMENTSHIP, recorded on June 1, 2007, as Instrument No. 2007-0637500 in the Official Records of Maricopa County, is terminated by mutual consent of the parties, except for the Sections, therein, that prohibit (i) any uses already prohibited in the Limited Commercial zoning district,(ii) drive thru or "fast food" restaurants and (iii) muffler shops, transmissions shops, auto repair shops, body shops, parts shops or other automobile uses.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, COUNTY OF MARICOPA, STATE OF ARIZONA, AS FOLLOWS:

Section 1: That the City Council hereby terminates the existing development agreement, entered into between the City and NKS GROUP III LIMITED PARTNERSHIP, dated May 21, 2007, and recorded on June 1, 2007, as Instrument No. 2007-0637500 in the Official Records of Maricopa County, as it pertains Sections to 3.2,3.2,3.3,3.4,3.5 and 3.6, except Section 3.6.3 for the Property legally described in the attached legal description.

Section 2: That the City Manager, or his designee, is authorized to enter into an Amendment to the Development Agreement with NKS GROUP III LIMITED PARTNERSHIP, dated May 21, 2007, and recorded on June 1, 2007, as Instrument No. 2007-0637500 in the Official Records of Maricopa County, as it pertains to Sections to 3.2,3.2,3.3,3.4,3.5 and 3.6, except Section 3.6.3 for the Property legally described in the attached legal description, together with all other documents and amendments necessary to carry out the provisions of such agreements. The City Manager may make minor modifications to the terms set forth in the Amendment to the Development Agreement so long as such modifications do not materially alter the overall agreements, as presented to the City Council.

Section 3: That the City Clerk is authorized and directed to attest to the signature of the City Manager, or his designee, on all such documents.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 11th day of September, 2017.

APPROVED:

\_\_\_\_\_  
John Giles, Mayor

ATTEST:

\_\_\_\_\_  
DeeAnn Mickelsen, City Clerk

**EXHIBIT A**  
**LEGAL DESCRIPTION OF PROPERTY**

**Parcel 5 (APN 304-03-043-A)**

A portion of the Southwest quarter of Section 9, Township 1 South, Range 7 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at a brass cap flush marking the West quarter corner of said Section 9, which bears North 00 degrees 57 minutes 01 seconds West 2635.13 feet from a brass cap in handhole marking the Southwest corner of said Section 9;

Thence South 00 degrees 57 minutes 01 seconds East 1317.57 along the West line of said Section 9;  
Thence South 89 degrees 37 minutes 32 seconds East 55.01 feet to the Point of Beginning;

Thence continuing South 89 degrees 37 minutes 32 seconds East 2555.94 feet to a point on the West line of that certain land described in instrument recorded in [Document No. 2005-0648908](#);

Thence South 05 degrees 42 minutes 49 seconds West 355.67 feet along said west line;  
Thence South 02 degrees 37 minutes 16 seconds West 306.05 feet;  
Thence North 89 degrees 30 minutes 30 seconds West 560.00 feet;

Thence South 00 degrees 29 minutes 30 seconds West 594.04 feet, said point being 65 feet North of the South line of said Section 9;

Thence North 89 degrees 36 minutes 30 seconds West 207.72 feet;  
Thence South 00 degrees 23 minutes 30 seconds West 15.00 feet;

Thence North 89 degrees 36 minutes 27 seconds West 1767.61 feet to a point on the West line of the Southwest quarter of said Section 9, said point being parallel to an 50 feet North of said South Section line;

Thence North 00 degrees 57 minutes 01 seconds West 209.99 feet along said West Section line;  
Thence North 89 degrees 02 minutes 56 seconds East 55.00 feet;  
Thence North 00 degrees 57 minutes 01 seconds West 1056.29 feet to the Point of Beginning.

**PARCEL NO. 6 (APN 304-03-042-A)**

A portion of the Southwest quarter of Section 9, Township 1 South, Range 7 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at a brass cap flush marking the West quarter corner of said Section 9, which bears North 00 degrees 57 minutes 01 seconds West 2635.13 feet from a brass cap in handhole marking the Southwest corner of said Section 9;

Thence South 00 degrees 57 minutes 01 seconds East 1317.57 feet;

Thence South 89 degrees 37 minutes 32 seconds East, 2610.94 feet to a point on the West line of that certain land described in instrument recorded in [Document No. 2005-0648908](#);

Thence South 05 degrees 42 minutes 49 seconds West 355.67 feet along said West line;

Thence continuing along said West line, South 02 degrees 37 minutes 16 seconds West, 306.05 feet to the Point of Beginning;

Thence continuing along said West line South 02 degrees 37 minutes 16 seconds West 538.47 feet to a point being 120.01 feet North of the South line of said Section 9;

Thence South 46 degrees 41 minutes 41 seconds West 62.24 feet;

Thence South 88 degrees 56 minutes 11 seconds West 472.46 feet to a point, said point being 65 feet North of the South line of said Section 9;

Thence North 89 degrees 36 minutes 30 seconds West, 22.78 feet;

Thence North 00 degrees 29 minutes 30 seconds East, 594.04 feet;

Thence South 89 degrees 30 minutes 30 seconds East, 560.00 feet to the Point of Beginning.

**PARCEL NO. 7 (APN 304-03-012-U)**

A portion of the Southwest quarter of Section 9, Township 1 South, Range 7 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at a brass cap flush marking the West quarter corner of said Section 9, which bears North 00 degrees 57 minutes 01 seconds West 2635.13 feet from a brass cap in handhole marking the Southwest corner of said Section 9;

Thence South 00 degrees 57 minutes 01 seconds East 1317.57 feet to the Point of Beginning;

Thence South 89 degrees 37 minutes 32 seconds East 55.01 feet;

Thence South 00 degrees 57 minutes 01 seconds East 1056.29 feet;

Thence South 89 degrees 02 minutes 56 seconds West 55.00 feet to the West line of said Section 9;

Thence along said West Section line, North 00 degrees 57 minutes 01 seconds West 1057.57 feet to the Point of Beginning.