WHEN RECORDED RETURN TO:

City of Mesa
Attn: Real Estate Services
P. O. Box 1466
Mesa, Arizona 85211-1466

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DEVELOPMENT AGREEMENT
DA25-00028

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CITY OF MESA, ARIZONA,
an Arizona municipal corporation

AND

OZ16 QOZB, LLC,
a Utah limited liability company

==========

_____, 2025

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DEVELOPMENT AGREEMENT

This Development Agreement DA25-00028 (this "**Agreement**") is made as of the ____ day of _____, 2025 by and between the City of Mesa, Arizona, an Arizona municipal corporation ("**City**"), and OZ16 QOZB, LLC, a Utah limited liability company ("**Developer**"). City and Developer are sometimes referred to herein collectively as the "**Parties**," or individually as a "**Party**."

RECITALS

A. This Agreement pertains to that certain real property located at the southeast corner of S. Country Club Drive and W. Main Street, in the City of Mesa in the County of Maricopa, otherwise known as APN 138-54-008A, APN 128-54-009A, APN 138-54-039, APN 138-54-038, APN 138-54-043, and APN 138-54-036 and legally described on Exhibit A and depicted on Exhibit A and Exhibit A-1, (collectively, the "**Property**").

B. Developer wishes to develop the Property into a multi-phased mixed-use project with commercial, retail/restaurant or offices, and market-rate apartments on or along W. Main Street, as further described in this Agreement (collectively, the "**Project**").

C. One phase of the Project will be located on the portion of the Property that is east of S. Morris Street (the "**East Site**") as depicted on Exhibit B. The other phase of the Project will be located on the portion of the Property that is west of S. Morris Street (the "**West Site**") as depicted on Exhibit C.

D. The Property is zoned T5 Main Street Transect (T5MS), and Developer has applied for a Zoning Clearance for the Project (Case No. ADM25-00328).

E. To develop the Project, a portion of S. Morris Street between W. Main Street and W. Mahoney Avenue will need to be abandoned, and Developer has applied to abandon this portion of S. Morris Street. This Agreement concurrently with the abandonment are intended to be on the same City Council agenda as a single item that City Council may act on in one motion. If the City Council, in its sole and absolute discretion, does not approve the abandonment, this Agreement automatically terminates and is of no force or effect.

F. If the abandonment is approved by the City Council, Developer agrees to develop on the abandoned roadway a central plaza for pedestrian access and use for the benefit of the public that will include a pedestrian pathway, open space, seating, lighting, landscaping, and related improvements, and Developer further agrees to grant to City, at no cost to City, (1) a perpetual Public Access Easement on the abandoned roadway providing to City and the public free, open, and continuous access to and use of the central plaza developed therein; and (2) perpetual Public Utilities Easements on a portion of the abandoned roadway providing for installation, repair, and maintenance of, continued use of, and access to both existing and future utilities.

G. Developer, as part of the required off-site public improvements, further agrees to construct a cul-de-sac where S. Morris Street will terminate south of the central plaza, at no cost to City.

H. City acknowledges that the development of the Project on the Property, a highly visible site that is adjacent to the Country Club light rail station and an entrance into downtown Mesa, will promote the Central Main Plan and further City's vision for its downtown.

I. City also believes that the development of the Project on the Property will benefit the City and the public, including by: (i) providing for planned and orderly development of the Property consistent with the General Plan, the Zoning and the Central Main Plan; (ii) increasing tax revenues to City arising from or relating to the improvements to be constructed on the Property; (iii) providing a new residential area in City's downtown; (iv) providing a vibrant, new commercial area that could include retail and restaurant uses in City's downtown to benefit City's residents; (v) providing a new public, open space in City's downtown to benefit City's residents; and (vi) otherwise advancing the goals of the Central Main Plan.

J. City also acknowledges its intention and ability to provide the City Undertakings described in this Agreement, subject to the terms and conditions of this Agreement.

K. As a condition of, and concurrent with, development of the Property, and subject to the other terms and conditions of this Agreement, Developer has agreed to advance or otherwise cause to be provided all funds required for, and otherwise to finance the construction and completion of, the Private Improvements, subject to and in accordance with the terms of this Agreement, and to complete all the Developer Undertakings.

L. The Parties understand and acknowledge that this Agreement is a "Development Agreement" within the meaning of, and entered into pursuant to the terms of, A.R.S. § 9-500.05, and that the terms of this Agreement will constitute covenants running with the Property as more fully described in this Agreement.

AGREEMENTS

Now, therefore, in consideration of the foregoing recitals and representations and the mutual promises contained in this Agreement, the Parties agree as follows:

1. **DEFINITIONS**.

The terms of this Agreement have the below meanings, whether or not capitalized, unless the context requires otherwise. Words in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The term "including" or "includes" means "including but not limited to" or "including without limitation." The term "shall" means a requirement or mandate. All references to laws or regulations mean such laws and regulations as amended or replaced.

(a) "**A.R.S.**" means the Arizona Revised Statutes.

(b) "**Abandonment Area**" means as defined in Section 4.9.

(c) "**Affiliate**," as applied to any person, means any person directly or indirectly controlling, controlled by, or under common control with, that person or a blood relative or spouse of such person, if such person is a natural person. For the purposes of this definition, (i) "**control**" (including with correlative meaning, the terms "controlling," "controlled by" and "under common control"), as applied to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that person, whether through the ownership of voting securities, by contract or otherwise, and (ii) "**person**" means and includes natural persons, corporations, limited partnerships, general partnerships, joint stock companies, joint ventures associations, limited liability companies, limited liability partnerships, trusts, land trusts, business trusts or other organizations, whether or not legal entities.

(d) "**Agreement**" means this Agreement, as amended and restated or supplemented in writing from time to time and includes all exhibits and schedules hereto. References to sections or exhibits are to this Agreement unless otherwise qualified. The Recitals set forth in Paragraphs (A) through (L), inclusive, are incorporated into this Agreement by reference and form a part of this Agreement.

(e) "**Applicable Laws**" means the federal, state, county, and local laws (statutory and common law), ordinances, rules, regulations, permit requirements, and other requirements and official policies of City, as they may be amended from time to time, which apply to the development of the Property as of the date of an application or submission.

(f) "**Approved Plan**" or "**Approved Plans**" means as defined in Section 3.1(a).

(g) "**City**" means the Party designated as City on the first page of this Agreement.

(h) "**City Code**" means the Code of the City of Mesa, Arizona.

(i) "**City Council**" means the City Council of City.

(j) "**City Indemnified Parties**" means as defined in Section 4.13(b).

(k) "**City Manager**" means the person designated by City as its City Manager or its designee.

(l) "**City Representative**" means as defined in Section 10.

(m) "**City Undertakings**" means as defined in Section 5.

(n) "**Claims**" means as defined in Section 6.1.

(o) "**Commencement of Construction**" or "**Commence Construction**" means both (i) the obtaining of permits by Developer that are required to begin the construction of vertical improvements on the Property; and (ii) the actual commencement of physical construction operations on the Property in a manner necessary to achieve Completion of Construction.

(p) "**Completion of Construction**" or "**Complete Construction**" means the date on which one or more certificates of occupancy (temporary, final, or otherwise) have been issued by City for the Private Improvements for that phase (i.e., Phase One Private Improvements or Phase Two Private Improvements) and the Public Improvements for that phase have been accepted by City Council or appropriate administrative staff member of City for maintenance in accordance with the policies, standards, and specifications contained in applicable City ordinances, which acceptance will not be unreasonably withheld, conditioned, or delayed.

(q) "**Compliance Date**" means as defined in Section 4.15.

(r) "**Cul-de-sac Improvements**" means as defined in Section 4.11(b).

(s) "**Customized Review Schedule**" means as defined in Section 3.1(b).

(t) "**Dedicated Property**" means as defined in Section 4.13.

(u) "**Default**" means one or more of the events described in Section 9.1 or Section 9.2; provided, however, that such events will not give rise to any remedy until effect has been given to all grace periods, cure periods and/or periods of Force Majeure provided for in this Agreement and that in any event the available remedies will be limited to those set forth in Section 9.

(v) "**Designated Lenders**" means as set forth in Section 11.20(d).

(w) "**Developer**" means the Party designated as Developer on the first page of this Agreement, and its successors and assigns that conform with the requirements of this Agreement.

(x) "**Developer Representative**" means as defined in Section 10.

(y) "**Developer Undertakings**" means as defined in Section 4.

(z) "**East Site**" means as defined in Recital C.

(aa) "**Effective Date**" means the date on which all of the following has occurred: this Agreement has been adopted and approved by the City Council, executed by duly authorized representatives of City and Developer, and recorded in the office of the Recorder of Maricopa County, Arizona.

(bb) "**Escrow Agreement**" means as defined in Section 4.12.

(cc) "**Extended Compliance Date**" means as defined in Section 4.15.

(dd) "**Force Majeure**" means as defined in Section 9.6.

(ee) "**General Plan**" means *This is My Mesa: Mesa 2050 General Plan*, as adopted by the City of Mesa, Arizona.

(ff) "**Hazardous Materials**" means any substance: (1) that now or in the future is regulated or governed by, requires investigation or remediation under, or is defined as a hazardous waste, hazardous substance, pollutant or contaminant under any governmental statute, code, ordinance, regulation, rule or order, and any amendment thereto, including (by way of illustration and not of limitation) the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601 *et seq*., as amended,; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq*., as amended,; the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq*., as amended,; the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq*., as amended; the Clean Air Act, 42 U.S.C. § 7401 *et seq*., as amended; the Arizona Hazardous Waste Management Act, A.RS. § 49-921 *et seq*., as amended; the Arizona Environmental Quality Act, A.R.S. § 49-101 *et seq*., as amended, and any other laws, rules, regulations, acts and decisions that deal with the regulation or protection of the environment, including the ambient air, ground water, surface water and land use, including sub-strata land (collectively, "**Hazardous Materials Laws**"); or (2) that is toxic, explosive, corrosive, flammable, radioactive, carcinogenic, dangerous or otherwise hazardous, including gasoline, diesel fuel, petroleum hydrocarbons, any other petroleum products or by-products, polychlorinated biphenyls, asbestos, lead, radon and urea formaldehyde form insulation; or (3) medical and biohazard wastes regulated by federal, state or local laws or authorities which includes any solid waste which is generated in the diagnosis, treatment or immunization of a human being or animal or in any research relating to that diagnosis, treatment or immunization, or in the production or testing of biologicals.

(gg) "**Improvements Amount**" means as defined in Section 4.12.

(hh) "**Lender**" or "**Lenders**" means as defined in Section 11.20(a).

(ii) "**Morris Plaza Area**" means as defined in Section 4.9(b).

(jj) "**Morris Plaza Improvements**" means as defined in Section 4.9(b).

(kk) "**Party**" or "**Parties**" means as designated on the first page of this Agreement.

(ll) "**Phase One**" means as defined in Section 4.3.

(mm) "**Phase One Private Improvements**" means either the Private Improvements for the East Site or the Private Improvements for the West Site, depending on whether the East Site or the West Site is determined to be Phase One as set forth in Section 4.3. Except, if Developer decides not to construct the Project in phases, Phase One Private Improvements means collectively the Private Improvements for both the East Site and the West Site, as set forth in Section 4.3.

(nn) "**Phase Two**" means as defined in Section 4.3.

(oo) "**Phase Two Private Improvements**" means either the Private Improvements for the East Site or the Private Improvements for the West Site, depending on whether the East Site or the West Site is determined to be Phase Two as set forth in Section 4.3. Except, if Developer decides not to construct the Project in phases, there will be no Phase Two Private Improvements because the Private Improvements for both the East Site and the West Site will be defined collectively as Phase One Private Improvements as set forth in Section 4.3.

(pp) "**Private Improvements**" means collectively both the Phase One Private Improvements and the Phase Two Private Improvements.

(qq) "**Project**" means as defined in Recital B.

(rr) "**Property**" means as defined in Recital A.

(ss) "**Public Access Easement Agreement**" means as defined in Section 4.9(c).

(tt) "**Public Improvements**" means as defined in Section 4.11.

(uu) "**Public Utilities Easement**" means as defined in Section 4.9(a).

(vv) "**Term**" means as defined in Section 2.

(ww) "**Third Party**" means any person (as defined in Section 1(c) above) other than a Party, or an Affiliate of any Party.

(xx) "**Transfer**" or "**Transfers**" means as defined in Section 11.2(a).

(yy) "**West Site**" means as defined in Recital C.

(zz) "**Zoning**" means T5 Main Street Transect as defined in the City of Mesa Zoning Ordinance.

2. **TERM**.

The term of this Agreement ("**Term**") commences on the Effective Date and terminates on the date on which the Parties have performed all obligations under this Agreement (unless terminated earlier pursuant to this Agreement); except (i) all Developer's maintenance obligations in this Agreement (including Section 4.14) run with the land and will survive the expiration or earlier termination of this Agreement; (ii) all the uses in Exhibit P that are prohibited on the Property will remain in effect for 50 years from the Effective Date, (iii) all provisions of the Encroachment Permit required by Section 5.3 run with the land and will survive the expiration or earlier termination of this Agreement; and (iv) all Developer's obligations to pay, defend, indemnify, and hold harmless run with the land and will survive the expiration or earlier termination of this Agreement.

3. **SCOPE AND REGULATION OF DEVELOPMENT**.

3.1 Development Plans.

(a) Approved Plans. Development of the Property will be in accordance with one or more plans (each, an "**Approved Plan**" or, collectively, "**Approved Plans**," as the same may be amended from time to time) that Developer prepares and submits to City for approval, and which must (i) comply with the General Plan, the Central Main Plan, the Zoning, Zoning Clearance (Case No. ADM25-00328) and this Agreement; and (ii) set forth the basic land uses, phasing of Private Improvements, and all other matters relevant to the development of the Project in accordance with this Agreement.

(b) Approval Process. The process for the submittal, review, and approval of Approved Plans, permits, plats, or other development approvals requested by Developer in connection with development of the Project will be in accordance with a customized review schedule mutually agreed to by the Parties in good faith and, once agreed to, will be attached to this Agreement as Exhibit D ("**Customized Review Schedule**"). The Customized Review Schedule will generally describe the review schedule for the Project but may not include certain tasks or deadlines. The Parties agree to work in good faith to modify the Customized Review Schedule, if necessary, to add more details or specifications. The Parties further agree that the Customized Review Schedule may need to be amended from time to time to accommodate reasonable changes necessitated by design and construction matters. The City's Manager of Urban Transformation or designee in conjunction with the City's Development Services Department is authorized to administratively approve amendments to the Customized Review Schedule that are agreed to by the Parties.

(c) Cooperation in the Implementation of the Approved Plans. Developer and City will work together using reasonable efforts throughout the pre-development and development stages to resolve any City comments regarding implementation of the Approved Plans.

(d) Vesting. At all times that Developer is not in Default of this Agreement, Developer is permitted to develop the Property subject to all the following: this Agreement, the Zoning, Approved Plans, and Applicable Laws.

3.2 Permit and Other Fees. The fees for building permit, inspection, development, and other similar reviews, permits, and approvals required for the Property will be those in effect at the time of the subject application or submission.

4. **DEVELOPER UNDERTAKINGS**. Developer will meet and perform all the obligations contained in this Section 4 (collectively, the "**Developer Undertakings**") as follows. Additionally, Developer shall advance or otherwise cause to be provided all funds required for, and otherwise to finance the construction and completion of the Public Improvements, Private Improvements, and Developer Undertakings.

4.1 Demolition of Existing Improvements. Developer, at Developer's sole cost and expense, and in compliance with all Applicable Laws, will demolish and remove all existing improvements and other materials on the Property, including the abatement of any asbestos, lead, or Hazardous Materials on the Property.

4.2 Environmental Remediation. Prior to Commencement of Construction, Developer, at Developer's sole cost and expense, and in compliance with all Applicable Laws, will undertake and complete all required removal and remediation of Hazardous Materials from the Property. Developer's removal and remediation of Hazardous Materials and construction of the Project will at all times comply with all Hazardous Materials Laws. City will reasonably cooperate, at no cost or expense to City, with Developer's applications for Arizona Department of Environmental Quality (ADEQ) grant money.

4.3 Phasing. The development of the Property may be constructed in phases. The general order of the phasing of the Project is shown on Exhibit E, with the first phase being the West Site and identified as the West Phase and the second phase being the East Site and identified as the East Phase. Nevertheless, the Parties acknowledge that the most efficient and economic development of the Project depends on numerous factors, such as market conditions and demand, infrastructure planning, and other similar factors. To account for this, with prior written approval of City, which approval will not be unreasonably withheld, Developer may switch the order of the West Phase and East Phase by informing City of the order. Whichever phase (West Phase or East Phase) the Parties agree to be the first phase will be referred to in this Agreement as "**Phase One**" and the other phase will be referred to in this Agreement as "**Phase Two**." If Developer decides not to construct the Project in phases, both the West Phase and East Phase will be referred to in this Agreement collectively as "**Phase One**."

4.4 Private Improvements. Developer, at Developer's sole cost and expense and in compliance with Applicable Laws, will construct on or above the Property the Private Improvements as shown on Developer's Approved Plans approved with the Zoning Clearance (Case No. ADM25-00328) for the Project.

4.5 Program Compliance. Developer, at Developer's sole cost and expense, during the Term, and in compliance with all Applicable Laws, will comply in all material respects with those programs and policies set forth and described on Exhibit F. The City Manager has the authority (without further act or approval required by the City Council) to make minor adjustments to Exhibit F that are agreed upon by the Parties and are consistent with the intent of the Parties and this Agreement.

4.6 On-Site Amenities. Developer, at Developer's sole cost and expense, during the Term, and in compliance with all Applicable Laws, will cause the residential portions of the Project to include and offer to all tenants the on-site amenities set forth and described on Exhibit G. The City Manager has the authority (without further act or approval required by the City Council) to make minor adjustments to Exhibit G that are agreed upon by the Parties and that are consistent with the intent of the Parties and this Agreement.

4.7 Unit Amenities. Developer, at Developer's sole cost and expense, during the Term, and in compliance with all Applicable Laws, will cause all individual rental units within the residential portions of the Project to include and contain the unit amenities set forth and described on Exhibit H. The City Manager has the authority (without further act or approval required by the City Council) to make minor adjustments to Exhibit H that are agreed upon by the Parties and that are consistent with the intent of the Parties and this Agreement.

4.8 Exterior Quality Standards. Developer, at Developer's sole cost and expense, during the Term, and in compliance with all Applicable Laws, will comply in all material respects with those exterior quality standards described on Exhibit I. The City Manager has the authority (without further act or approval required by the City Council) to make minor adjustments to Exhibit I that are agreed by the Parties and that are consistent with the intent of the Parties and this Agreement.

4.9 Abandonment Required. The Parties acknowledge that development of the Project on the Property requires the abandonment of a portion of S. Morris Street between W. Main Street and W. Mahoney Avenue, as legally described on Exhibit J and depicted on Exhibit J-1 (the "**Abandonment Area**"). Developer has applied to abandon the Abandonment Area. If the City Council does not approve the abandonment of the Abandonment Area, this Agreement automatically terminates and is of no force or effect. If the City Council approves the abandonment of the Abandonment Area, Developer must comply with all the following:

(a) Public Utilities Easements. Developer, at no cost to City, shall grant to City a perpetual non-exclusive Public Utilities Easement in, on, over, under, and across a portion of the Abandonment Area on the East Site, as legally described in Exhibit K and depicted in Exhibit K-1, to provide for access to, repair and maintenance of, and continued use of utilities improvements in the form attached as Exhibit L (the "**Public Utilities Easement**"). The Public Utilities Easement must be (i) executed by Developer prior to City recording the abandonment of the Abandonment Area; and (ii) recorded in the Official Records of Maricopa County, Arizona immediately after the recording of the abandonment of the Abandonment Area, and prior to any lien, claim, encumbrance, or any other recording against the Abandonment Area. Additionally, at such future time determined by City, Developer, at no cost to City, shall grant to City additional perpetual non-exclusive public utilities easement(s) in, on, over, under, and across a portion of the Abandonment Area determined by City to provide for the installation, use, repair, and maintenance of, and access to, future utilities improvements, on City's standard form, and through City's standard process, for such easements.

(b) Morris Plaza Improvements. Prior to City issuing any certificate of occupancy (temporary, final, or otherwise) for the Phase Two Private Improvements or three years from the Effective Date, whichever occurs first, Developer, at its sole cost and expense, shall Complete Construction of, and thereafter maintain, in the portion of the Abandonment Area identified on Exhibit M (the "**Morris Plaza Area**"), all the improvements and landscaping described and depicted on Exhibit M (collectively, the "**Morris Plaza Improvements**"). If Developer fails to Complete Construction of the Morris Plaza Improvements by the time required by this Section, it is a Default by Developer and if the Default is not cured (or cure undertaken) by Developer in accordance with Section 9.3, in addition to all other remedies in this Agreement, City may (i) use the Improvements Amount required by Section 4.12 to purchase and install the Morris Plaza Improvements, or a portion of the Morris Plaza Improvements, as determined by City in its sole discretion; (ii) require Developer to transfer the Morris Plaza Area, or a portion of the Morris Plaza Area, as determined by City in its sole discretion, to City by special warranty deed free and clear of all encumbrances including financial encumbrances and at no cost to City; or (iii) any combination of the acts described in the preceding provisions (i) and (ii).

(c) Public Access Easement. Developer, at no cost to City, shall grant to City a perpetual non-exclusive easement in, on, over, under, and across the Morris Plaza Area to provide Grantee and the public free, open, and continuous access to and use of the Morris Plaza Area, including the Morris Plaza Improvements, for pedestrian ingress, egress, access, and use in the form attached as Exhibit N (the "**Public Access Easement Agreement**"). The Public Access Easement Agreement must be recorded in the Official Records of Maricopa County, Arizona prior to City issuing any certificate of occupancy (temporary, final, or otherwise) for the Phase Two Private Improvements or three years from the Effective Date, whichever occurs first.

4.10 City Services. During the Term, Developer will use all City of Mesa services that are available, including City's water, sewer, electric, solid waste, and natural gas. Developer is responsible, at its sole cost and expense, for all utility costs for the Project including installing, extending, or upgrading the infrastructure to connect the Project to City's utility systems, as necessary, for the provision of utility services which may require Developer to enter into a separate utility agreement with City. All utility services to the Property are subject to both (i) City's Terms and Conditions for the Sale of Utilities, the City Code, and all other Applicable Laws; and (ii) payment of the then applicable rates, fees, and charges.

4.11 Public Improvements. Developer, at Developer's sole cost and expense, shall construct, in compliance with Applicable Laws and in a manner acceptable to City, all the off-site public improvements described in this Section (collectively, the "**Public Improvements**").

(a) City Code Requirements. All the off-site public improvements required by the City Code.

(b) Cul-de-sac Improvements. A cul-de-sac on S. Morris Street, north of W. Mahoney Avenue and south of the Abandonment Area, causing S. Morris Street to terminate in the cul-de-sac just south of the Abandonment Area, as generally depicted on Exhibit O (the "**Cul-de-sac Improvements**"). Developer shall Complete Construction of the Cul-de-sac Improvements prior to City issuing any certificate of occupancy (temporary, final, or otherwise) for the Phase Two Private Improvements. If Developer fails to Complete Construction of the Cul-De-Sac Improvements in compliance with this Section, it is an Event of Default by Developer and if the Event of Default by Developer is not cured (or cure undertaken) by Developer in accordance with Section 9.3, in addition to all other remedies in this Agreement, City may use the Improvements Amount required by Section 4.12 to construct and install the Cul-de-sac Improvements, or a portion of the Cul-de-sac Improvements, as determined by City in its sole discretion.

(c) City Review and Approval Required. Prior to performing any work on the Public Improvements, Developer must submit the design of such Public Improvements to City for review and approval through City's ordinary submittal, review, and approval processes then in effect.

4.12 Improvements Amount; Escrow Agreement. Prior to City issuing any certificate of occupancy (temporary, final, or otherwise) for the Phase One Private Improvements, Developer will either give money directly to City for the estimated amount needed to construct and install both the Morris Plaza Improvements and the Cul-de-sac Improvements (the "**Improvements Amount**") or provide an escrow agreement (the "**Escrow Agreement**") entered

into between the Parties for the benefit of City with Security Title Company (or another title company selected by City in City's sole discretion), requiring, in part, Developer to deposit the Improvements Amount into an escrow account. The Improvements Amount will be determined as follows: (i) Developer will provide to City an estimation of the amount needed to construct and install both the Morris Plaza Improvements and the Cul-de-sac Improvements and all documents supporting the estimation; (ii) City will independently verify the estimation; and (iii) the Improvements Amount will be subject to confirmation by City (which confirmation shall not be unreasonably withheld). The Amount confirmed by City may be adjusted by City, from time-to-time but not more than once every 12 months, based on the estimated amount needed construct and install both the Morris Plaza Improvements and the Cul-de-sac Improvements. The additional adjusted Improvements Amount must be transferred to City or the escrow account, as applicable, within 30 days' notice from City to Developer. The Escrow Agreement may not be assigned, pledged, or encumbered by City or Developer. The Escrow Agreement must be held for the benefit of City and the amount which is the subject of the Escrow Agreement (i.e., the Improvements Amount) will only be disbursed solely upon the instructions of City. The Escrow Agreement will remain in place and not be released until Developer has Completed Construction of both the Morris Plaza Improvements and the Cul-de-sac Improvements.

4.13 Dedication of Public Improvements. Upon not fewer than 90 days advance request by City, or upon completion of any portion, segment, or phase of the Public Improvements offered for dedication by Developer and accepted by City, Developer will dedicate and grant to City the Public Improvements and any real property or real property interests owned or retained by Developer which (i) constitute a part of the Property; and (ii) are reasonably necessary for right-of-way purposes or otherwise required for the construction, maintenance, or operation of the Public Improvements on or within the Property (the "**Dedicated Property**"). Developer will make such dedications without payment of any additional consideration by City. For the avoidance of doubt, the Morris Plaza Improvements are not Public Improvements and such improvements will remain property of Developer.

(a) With respect to such dedicated Public Improvements, Developer shall demonstrate to City's reasonable satisfaction that all contractors and suppliers of materials have been paid for their work and will provide a two-year warranty (which may be by assignment of a contractor's warranty) of materials and workmanship.

(b) Before City is obligated to issue any certificate of occupancy (temporary, final, or otherwise) for the Phase One Private Improvements, Developer shall dedicate to City the Public Improvements and Dedicated Property for Phase One, and before City is obligated to issue any certificate of occupancy (temporary, final, or otherwise) for the Phase Two Private Improvements, Developer shall dedicate to City the Public Improvements and Dedicated Property for Phase Two. Upon acceptance by City (which acceptance shall not be unreasonably conditioned, but may include, among other reasonable conditions, a warranty as set forth in Section 4.13(a)), the Public Improvements will become public facilities and property of City, and, except for Developer's maintenance obligations in Section 4.14, City will be solely responsible for all subsequent maintenance, replacement, and repairs of the Public Improvements. Any Claims (as that term is defined in Section 6.1) arising prior to City's acceptance of the Public Improvements, Developer shall bear all risk of, and will pay, defend, indemnify, and hold harmless City and its officers, employees, elected and appointed officials, agents, and representatives

(collectively, the "**City Indemnified Parties**"), against any Claims arising prior to City's acceptance of the Public Improvements from any injury (personal, economic or other) or property damage to any person, party, or utility, arising from the condition, loss, damage to, or failure of, any of the Public Improvements, except to the extent caused solely by the gross negligence or willful acts or omissions of City Indemnified Parties.

4.14 Enhanced Public Improvements and Maintenance Obligations for Enhanced (Non-Standard) Improvements. Developer, at Developer's sole cost and expense may construct the Public Improvements with designs and features that exceed the standard specifications required under the City of Mesa Engineering & Design Standards. If Developer constructs any Public Improvement with designs and features that exceed the standard specification required under the City of Mesa Engineering & Design Standards, as determined by City (i.e., enhanced or non-standard improvements) then Developer, at its sole cost and expense, shall maintain, repair, and replace (as reasonably necessary) such enhanced (non-standard) improvements. If Developer fails to maintain, repair, or replace such enhanced (non-standard) improvements (or any component of such improvements), City may (but is not obligated to) maintain, repair, and replace such improvements (or any component of such improvements) at Developer's expense, in which event Developer, upon receipt of an invoice from City for City's costs and expenses, will promptly pay and reimburse City for all such cost of maintenance, repair, and replacement of such enhanced (non-standard) improvements incurred by City. Developer's obligations of maintenance, repair, replacement, and reimbursement set forth in this Section run with the land and will survive the expiration or earlier termination of this Agreement.

4.15 Compliance Dates. Developer will perform or complete each of the following on or before the date set forth below for the applicable act (each, a "**Compliance Date**"):

(a) On or before 90 days after the Effective Date, Developer shall submit an application to City for a building permit for the Phase One Private Improvements.

(b) On or before 180 days after the date City issues the first building permit for the Phase One Private Improvements, Developer shall Commence Construction of both the Phase One Private Improvements and the Public Improvements for Phase One.

(c) On or before 720 days after Commencement of Construction of the Phase One Private Improvements and Public Improvements for Phase One, Developer shall Complete Construction of both the Phase One Private Improvements and Public Improvements for Phase One.

(d) On or before one year after the date City issues the first building permit for the Phase One Private Improvements, Developer shall obtain from City a building permit for the Second Phase Private Improvements.

(e) On or before two years after the date City issues the first building permit for the Phase One Private Improvements, Developer shall Commence Construction of both the Second Phase Private Improvements and Public Improvements for Phase Two.

(f) On or before three years after the date City issues the first building permit for the Phase One Private Improvements, Developer shall Complete Construction of both the Second Phase Private Improvements and Public Improvements for Phase Two.

(g) In addition to the Compliance Dates for the Public Improvements for Phase Two set forth above, prior to City issuing any certificate of occupancy (temporary, final, or otherwise) for the Phase Two Private Improvements, Developer shall Complete Construction of the Cul-de-sac Improvements.

If requested by Developer, the City Manager, in the City Manager's sole discretion, may extend any of the foregoing dates for a period not to exceed 45 days per extension, with a maximum of three extensions per event (each, an "**Extended Compliance Date**"). In the event of any extension by the City Manager, each subsequent Compliance Date will automatically be adjusted in conformity.

4.16 Prohibited Uses. Notwithstanding anything in Applicable Laws (including the Zoning), the uses described on Exhibit P will at all times be prohibited on the Property.

5. **CITY UNDERTAKINGS**. In consideration of the timely performance by Developer of the Developer Undertakings, City will meet and perform all the obligations contained in this Section 5 (collectively, the "**City Undertakings**") as follows:

5.1 Abandonment. City will review and process Developer's application to abandon the Abandonment Area and will place the abandonment on a City Council agenda for City Council consideration, which decision is in City Council's sole and absolute discretion. If the abandonment of the Abandonment Area or any portion thereof is not approved, this Agreement automatically terminates and is of no force or effect.

5.2 Acceptance and Maintenance of Public Improvements. Acceptance of the Public Improvements (or a portion of such Public Improvements) and the maintenance of the Public Improvements, as required in Section 4.13.

5.3 Encroachment into Right-of-Way. Developer, as part of the Project, is allowed to construct and maintain only those certain encroachments in City's right-of-way as described and depicted on, and subject to compliance with, the Encroachment Permit attached as Exhibit Q.

6. **INDEMNITY; RISK OF LOSS**.

6.1 Indemnity of City by Developer. Developer will pay, defend, indemnify, and hold harmless City Indemnified Parties for, from, and against all claims, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities, and suits (including attorneys' fees, experts' fees and court costs associated with such matters (all of the foregoing, collectively, "**Claims**") which arise from or relate in any way, whether in whole or in part, to any act or omission by Developer, or its employees, contractors, subcontractors, agents, or representatives, undertaken in fulfillment of Developer's obligations under this Agreement. The obligations of Developer under this Section, expressly include all Claims relating to or arising from,

whether in whole or in part, (i) any act or omission by Developer, or its employees, contractors, subcontractors, agents or representatives, undertaken in fulfillment of Developer's obligations under this Agreement, including the development and construction of the Project; (ii) the design, construction, and structural engineering acts or omissions in connection with any improvements constructed on the Property; and (iii) all subsequent design, construction, engineering, and other work and improvements by or on behalf of Developer in connection with the Project or the improvements. The obligations of Developer under this Section will survive the expiration or earlier termination of this Agreement.

6.2 Risk of Loss. Developer assumes the risk of any and all loss, damage, or claims to all Private Improvements. Developer also assumes the risk of any and all loss, damage, or claims to all Public Improvements, unless and until title to such improvement is transferred to City. At the time title to the Public Improvements is transferred to City by dedication deed, plat recordation, or otherwise, Developer will, to the extent allowed by law, assign to City any unexpired warranties relating to the design, construction and/or composition of such improvement. Acceptance of the Public Improvements will be conditioned on City's receipt of a two-year warranty of workmanship, materials, and equipment set forth in Section 4.13, in form and content reasonably acceptable to City, provided however that such warranty or warranties may be provided by Developer's contractor(s) directly to City and are not required from Developer, and that any such warranties will extend from the date of completion of any Public Improvement, any component thereof, or the work of any specific trade or contractor, as applicable.

6.3 Insurance. During the period of any construction involving the Public Improvements, and with respect to any construction activities relating to the Public Improvements, Developer will obtain and provide City with proof of payment of premiums and certificates of insurance showing that Developer is carrying, or causing its contractor(s) to carry, builder's risk insurance, comprehensive general liability and worker's compensation insurance policies in amounts and coverages set forth on Exhibit R. Such policies of insurance will be placed with financially sound and reputable insurers, require the insurer to give at least 30 days' advance written notice of cancellation to City, and will name City as an additional insured on such policies.

7. **CITY REPRESENTATIONS**. City represents and warrants to Developer that:

7.1 City's execution, delivery, and performance of this Agreement have been duly authorized and agreed to in compliance with the requirements of the City Code.

7.2 All consents and approvals necessary to the execution, delivery, and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery, and performance.

7.3 City will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence, and enforce this Agreement.

7.4 As of the date of this Agreement, City has no actual knowledge of any litigation, proceeding, initiative, referendum, investigation, or threat of any of the same contesting the powers of City or its officials with respect to this Agreement that has not been disclosed in writing to Developer.

7.5 The execution, delivery, and performance of this Agreement by City is not prohibited by, and does not conflict with, any other agreements, instruments, or judgments or decrees to which City is a party or is otherwise subject.

7.6 City has been assisted by counsel of its own choosing in connection with the preparation and execution of this Agreement.

8. **DEVELOPER REPRESENTATIONS**. Developer represents and warrants to City that:

8.1 Developer has the full right, power and authorization to enter into and perform this Agreement and the obligations and undertakings of Developer under this Agreement, and the execution, delivery, and performance of this Agreement by Developer has been duly authorized and agreed to in compliance with the organizational documents of Developer.

8.2 All consents and approvals necessary to the execution, delivery, and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery, and performance.

8.3 Developer will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence, and enforce this Agreement.

8.4 As of the date of this Agreement, Developer knows of no litigation, proceeding, or investigation pending or threatened against or affecting Developer, which could have a material adverse effect on Developer's performance under this Agreement that has not been disclosed in writing to City.

8.5 This Agreement (and each undertaking of Developer contained herein) constitutes a valid, binding and enforceable obligation of Developer, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency, or other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity. Developer at its sole cost and expense will defend the validity and enforceability of this Agreement in the event of any proceeding or litigation arising from its terms that names Developer as a party or which challenges the authority of Developer to enter into or perform any of its obligations hereunder and will cooperate with City in connection with any other action by a Third Party in which City is a party and the benefits of this Agreement to City are challenged. The severability and reformation provisions of Section 11.3 will apply in the event of any successful challenge to this Agreement.

8.6 The execution, delivery, and performance of this Agreement by Developer is not prohibited by, and does not conflict with, any other agreements, instruments, judgments or decrees to which Developer is a party or to which Developer is otherwise subject.

8.7 Developer has not paid or given, and will not pay or give, any Third Party any money or other consideration for obtaining this Agreement other than normal costs of

conducting business and costs of professional services such as the services of architects, consultants, engineers and attorneys.

8.8 Developer has been assisted by counsel of its own choosing in connection with the preparation and execution of this Agreement.

9. **DEFAULT; REMEDIES**.

9.1 Default by Developer. A "**Default**" by Developer under this Agreement will mean one or more of the following:

(a) Any representation or warranty made in this Agreement by Developer was materially inaccurate when made or is proved to be materially inaccurate during the Term.

(b) Developer fails to comply with a Compliance Date, including Extended Compliance Dates, if any, established in this Agreement including Commencement of Construction and Completion of Construction, for any reason other than Force Majeure.

(c) Foreclosure (or deed in lieu of foreclosure) upon any mechanic's, materialmen's or other lien on the Property prior to Completion of Construction or upon any improvements on such Property, but such lien will not constitute a Default if Developer deposits in escrow sufficient funds to discharge the lien or otherwise bonds over such liens in a customary fashion.

(d) Developer transfers or attempts to transfer or assign this Agreement in violation of Section 11.2.

(e) Developer fails to observe or perform any other covenant, obligation, or agreement required of it under this Agreement.

9.2 Default by City. A "**Default**" by City under this Agreement will mean one or more of the following:

(a) Any representation or warranty made in this Agreement by City was materially inaccurate when made or is proved to be materially inaccurate during the Term.

(b) City fails to observe or perform any other covenant, obligation, or agreement required of it under this Agreement.

9.3 Grace Periods; Notice and Cure. In the event of a Default, the non-defaulting Party may provide written notice to perform to the defaulting Party. The defaulting Party will have 30 days from receipt of the written notice to cure the Default. In the event the Default is such that more than 30 days would reasonably be required to cure the Default or otherwise comply with any term or provision in this Agreement, then the defaulting Party must notify the non-defaulting Party of such and the timeframe needed to cure the Default, and, so long as the defaulting Party commences performance or compliance within the required 30 day period

and diligently proceeds to complete such performance or fulfill such obligation, then the time to cure the Default will be extended; however, no time to cure a Default may exceed 90 days total. A written notice of Default must specify the nature of the Default and the manner in which the Default may be satisfactorily cured, if possible.

9.4 Remedies for Default. Whenever any Default occurs and is not cured (or cure undertaken) by the defaulting Party in accordance with Section 9.3, the other Party may take any of one or more of the following actions:

(a) Remedies of City. City's exclusive remedies for a Default by Developer will consist of, and will be limited to the following:

(i) City may suspend any of its obligations under this Agreement and may terminate this Agreement by written notice thereof to Developer.

(ii) City may immediately seek enforcement of this Agreement by means of specific performance, injunction, or other equitable relief, without any requirement to post bond or other security. Developer agrees not to oppose or otherwise challenge the appropriateness of equitable relief or the entry by a court of competent jurisdiction of an order granting equitable relief, in either case, consistent with the terms of this Agreement.

(iii) City may seek any remedies available at law or in equity except City specifically waives the right to seek special, incidental, indirect, consequential, or punitive damages from Developer.

(iv) Notwithstanding the foregoing, the limitations on City's remedies will not extend to actions against Developer with respect to Developer's obligations of indemnification (including actions for damages).

(b) Remedies of Developer. Developer's exclusive remedies for a Default by City will consist of and will be limited to a special action or other similar relief (whether characterized as mandamus, injunction or otherwise), requiring City to undertake and to fully and timely perform its obligations under this Agreement. Developer hereby waives any and all rights to recover actual, punitive, consequential, special, and any other type of damages whatsoever.

9.5 Delays; Waivers. Except as otherwise expressly provided in this Agreement, any delay by any Party in asserting any right or remedy under this Agreement will not operate as a waiver of any such rights or limit such rights in any way; and any waiver in fact made by such Party with respect to any Default by the other Party will not be considered as a waiver of rights with respect to any other Default by the performing Party or with respect to the particular Default except to the extent specifically waived in writing. It is the intent of the Parties that this provision will enable each Party to avoid the risk of being limited in the exercise of any right or remedy provided in this Agreement by waiver, laches or otherwise at a time when it may still hope to resolve the problems created by the Default involved.

9.6 Force Majeure in Performance for Causes Beyond Control of Party. Neither City nor Developer, as the case may be, will be considered not to have performed its obligations

under this Agreement in the event of force majeure due to causes beyond its control and without its fault, negligence or failure to comply with Applicable Laws, including acts of God, acts of public enemy, litigation concerning the validity and enforceability of this Agreement or relating to transactions contemplated hereby (including the effect of petitions for initiative or referendum), fires, floods, epidemics, pandemics, quarantine, restrictions, strikes, embargoes, labor disputes, and unusually severe weather or the delays of subcontractors or materialmen due to such causes, act of a public enemy, war, terrorism or act of terror (including bio-terrorism or eco-terrorism), nuclear radiation, declaration of national emergency or national alert, blockade, insurrection, riot, labor strike or interruption, extortion, sabotage, or similar occurrence or any exercise of the power of eminent domain, condemnation, or other taking by the action of any governmental body on behalf of any public, quasi-public, or private entity, or declaration of moratorium or similar hiatus directly affecting the Property (whether permanent or temporary) by any public, quasi-public or private entity ("**Force Majeure**"). In no event will Force Majeure include any delay resulting from general economic or market conditions, unavailability for any reason of particular tenants of the Project, nor from the unavailability for any reason of particular contractors, subcontractors, vendors, investors, or lenders desired by Developer in connection with the acquisition of the Property or the design and construction of the Project, it being agreed that Developer will bear all risks of delay which are not Force Majeure. In the event of the occurrence of any such Force Majeure, the time or times for performance of the obligations of the Party claiming delay will be extended for a period of the Force Majeure; provided that the Party seeking the benefit of the provisions of this Section, within 30 days after such event, must notify the other Party of the specific delay in writing and claim the right to an extension for the period of the Force Majeure.

9.7 Rights and Remedies Cumulative. The rights and remedies of the Parties are cumulative, and the exercise by either Party of any one or more of such rights will not preclude the exercise by it, at the same or different times, of any other right or remedy for any other Default by the other Party.

9.8 Mediation.

(a) If there is a dispute hereunder which is not a Default and which the Parties cannot resolve between themselves in the time frame set forth in Section 9.3, the Parties agree that there shall be a 90-day moratorium on litigation during which time the Parties agree to attempt to settle the dispute by non-binding mediation before commencement of litigation. The mediation shall not be subject to the Commercial Mediation Rules of the American Arbitration Association. The matter in dispute shall be submitted to a mediator mutually selected by Developer and City. If the Parties cannot agree upon the selection of a mediator within 10 days, then within five days thereafter, City and Developer shall request that the Presiding Judge of the Superior Court in and for the County of Maricopa, State of Arizona, appoint the mediator. The mediator selected shall have at least 10 years' experience in mediating or arbitrating disputes relating to commercial property. The cost of any such mediation shall be divided equally between City and Developer. The results of the mediation shall be nonbinding with any Party free to initiate litigation upon the conclusion of the latter of the mediation or of the 90-day moratorium on litigation. The mediation shall be completed in one day (or less) and shall be confidential, private, and otherwise governed by the provisions of A.R.S. § 12-2238.

(b) Nothing in this Section alters the obligation of Developer to observe the requirements (including times for filing) regarding notices of claims against City; and further nothing in this Section suspends or tolls any applicable statute of limitation.

10. **DESIGNATED REPRESENTATIVES**.

To further the cooperation of the Parties in implementing this Agreement, City and Developer will each designate and appoint a representative to act as a liaison between City and its various departments and Developer. The initial representative for City will be City's Manager of Urban Transformation (the "**City Representative**"), and the initial representative for Developer will be its Project Manager, as identified by Developer from time to time (the "**Developer Representative**"). The City Representative and the Developer Representative will be available at all reasonable times to discuss and review the performance of the Parties to this Agreement and the development of the Property.

11. **MISCELLANEOUS PROVISIONS**.

11.1 Governing Law; Choice of Forum. This Agreement will be deemed to be made under, will be construed in accordance with, and will be governed by the internal, substantive laws of the State of Arizona (without reference to conflict of law principles). Any action brought to interpret, enforce or construe any provision of this Agreement must be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Maricopa (or, as may be appropriate, in the Justice Courts of Maricopa County, Arizona, or in the United States District Court for the District of Arizona, if, but only if, the Superior Court lacks or declines jurisdiction over such action). The Parties irrevocably consent to jurisdiction and venue in such courts for such purposes and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Section.

11.2 Restrictions on Assignment and Transfer.

(a) Restriction on Transfers. Prior to Completion of Construction of the Project (both Phase One and Phase Two), no assignment or similar transfer of Developer's interest in the Property or this Agreement, or in the current management, ownership, or control of Developer (each, a "**Transfer**" and collectively, "**Transfers**") may occur without the prior written consent of City, which consent may not be unreasonably withheld; provided, however, that the foregoing restriction will not apply up to a maximum of two Transfers to an Affiliate of Developer upon City's reasonable determination that the management and control of the Affiliate transferee is materially the same as the management and control of Developer as of the Effective Date. The restrictions on Transfers set forth in this Section shall terminate automatically, and without further notice or action, upon Completion of Construction of the Project (both Phase One and Phase Two).

(b) Release of Developer. In the event of a Transfer of any portion of the Property, Developer shall obtain an assumption by the transferee of Developer's obligations under this Agreement, and, in such an event, the transferee shall be fully and automatically substituted as Developer under this Agreement and shall assume all obligations of Developer arising in or under this Agreement, including all Developer's obligations to pay, defend, indemnify, and hold harmless in this Agreement, and Developer executing this Agreement shall

be released from any further obligations with respect to this Agreement. No voluntary or involuntary successor in interest to Developer shall acquire any rights or powers under this Agreement, except as expressly set forth herein, and any Transfer in violation of this Agreement shall be void, and not voidable.

11.3 Limited Severability. City and Developer each believes that the execution, delivery and performance of this Agreement are in compliance with all Applicable Laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring City to do any act in violation of any Applicable Laws, constitutional provision, law, regulation, City Code, or City charter), such provision will be deemed severed from this Agreement and this Agreement will otherwise remain in full force and effect; provided that this Agreement will retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. The Parties further agree, in such circumstances, to do all acts and to execute all amendments, instruments, and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

11.4 Construction. The terms and provisions of this Agreement represent the results of negotiations between the Parties, each of which has been or has had the opportunity to be represented by counsel of its own choosing, and none of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Agreement will be interpreted and construed in accordance with their usual and customary meanings, and the Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement will be interpreted or construed against the Party who prepared or whose attorney prepared the executed Agreement or any earlier draft of the same.

11.5 Notices.

(a) Addresses. Except as otherwise required by law, any notice required or permitted under this Agreement will be in writing and will be given by (i) personal delivery; (ii) deposited in the United States mail, certified or registered, return receipt requested, postage prepaid, addressed to the Parties at their respective addresses set forth below, or at such other address as a Party may designate in writing pursuant to the terms of this Section; or (iii) any nationally recognized express or overnight delivery service (e.g., Federal Express or UPS), delivery charges prepaid:

If to City: City of Mesa
Attn: City Manager
20 E. Main Street, Suite 750
Mesa, Arizona 85201

and

City of Mesa
Attn: Manager of Urban Transformation
26 N. MacDonald, Suite 200
Mesa, Arizona 85201

With a required copy to: City of Mesa
Attn: City Attorney
20 E. Main Street, Suite 850
Mesa, Arizona 85201

If to Developer: OZ16 QOZB, LLC
Attn: Steve Ruf
195 North State, # 100
Lindon, Utah 84042

(b) Effective Date of Notices. Any notice sent by the United States Postal Service certified or registered mail will be deemed to be effective the earlier of the actual delivery, or three days after deposit in a post office operated by the United States Postal Service. Any notice sent by a recognized national overnight delivery service will be deemed effective one day after deposit with such service. Any notice personally delivered or delivered through a same-day delivery/courier service will be deemed effective upon its receipt (or refusal to accept receipt) by the addressee. Any Party may designate a different person or entity or change the place to which any notice will be given as herein provided.

11.6 Time of Essence. Time is of the essence of this Agreement and each provision hereof.

11.7 Section Headings. The section headings contained in this Agreement are for convenience in reference only and are not intended to define or limit the scope of any provision of this Agreement.

11.8 Attorneys' Fees and Costs. In the event of a breach by any Party and commencement of subsequent legal action in an appropriate forum, the prevailing Party in any such dispute will be entitled to reimbursement of its reasonable attorneys' fees and court costs.

11.9 Waiver. Without limiting the provisions of Section 9.5, the Parties agree that neither the failure nor the delay of any Party to exercise any right, remedy, power, or privilege under this Agreement will operate as a waiver of such right, remedy, power or privilege, nor will any single or partial exercise of any right, remedy, power, or privilege preclude any other or further exercise of the same or of any other right, remedy, power, or privilege, nor will any waiver of any right, remedy, power, or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power, or privilege with respect to any other occurrence. No waiver will be effective unless it is in writing and is signed by the Party asserted to have granted such waiver.

11.10 Third Party Beneficiaries. No person or entity will be a Third Party beneficiary to this Agreement, except for: (i) permitted transferees, assignees, or lenders under

Section 11.20 to the extent that they assume or succeed to the rights and/or obligations of Developer under this Agreement; and (ii) City Indemnified Parties in the indemnification provisions of Section 6.1 (or elsewhere in this Agreement) will be a Third Party beneficiary of such indemnification provisions.

11.11 Exhibits. Without limiting the provisions of Section 1 of this Agreement, the Parties agree that all references to this Agreement include all exhibits designated in and attached to this Agreement, such exhibits being incorporated into and made an integral part of this Agreement for all purposes. Exhibits to this Agreement are as follows:

Exhibit A:	Legal Descriptions and Depictions of Property
Exhibit A-1:	Overall Depiction of Property
Exhibit B:	Depiction of East Site
Exhibit C:	Depiction of West Site
Exhibit D:	Customized Review Schedule
Exhibit E:	Phasing Plan
Exhibit F:	Program Compliance
Exhibit G:	On-Site Amenities
Exhibit H:	Unit Amenities
Exhibit I:	Exterior Quality Standards
Exhibit J:	Legal Description of Abandonment Area
Exhibit J-1:	Depiction of Abandonment Area
Exhibit K:	Legal Description of Public Utilities Easement Area
Exhibit K-1:	Depiction of Public Utilities Easement Area
Exhibit L:	Form of Public Utilities Easement
Exhibit M:	Description and Depiction of Morris Plaza Area and Improvements
Exhibit N:	Form of Public Access Easement Agreement
Exhibit O:	Depiction of Cul-De-Sac Improvements
Exhibit P:	Prohibited Uses
Exhibit Q:	Encroachment Permit
Exhibit R:	Insurance Requirements

11.12 Integration. Except as expressly provided herein, this Agreement constitutes the entire agreement between the Parties with respect to the subject matters hereof and supersedes any prior agreement, understanding, negotiation, or representation regarding the subject matters covered by this Agreement.

11.13 Further Assurances. Each Party agrees to perform such other and further acts and to execute and deliver such additional agreements, documents, affidavits, certifications, acknowledgments and instruments as any other Party may reasonably require to consummate, evidence, confirm or carry out the matters contemplated by this Agreement or confirm the status of (a) this Agreement as in full force and effect; and (b) the performance of the obligations hereunder at any time during its Term.

11.14 Computation of Time. If the last day of any time period stated in this Agreement or the date on which any obligation to be performed under this Agreement falls on a

Friday, Saturday, Sunday, a legal holiday, or a day on which national banking associations are not open for general banking business, then the duration of such time period or the date of performance, as applicable, will be extended so that it will end on the next succeeding day which is not a Friday, Saturday, Sunday, a legal holiday, or a day on which national banking associations are not open for general banking business.

11.15 Consents and Approvals. Wherever this Agreement requires or permits the consent or approval of a Party to any act, document, use, or other matter, such consent or approval will be given or denied by such Party in its reasonable discretion, unless this Agreement expressly provides otherwise. Any consent or approval required by this Agreement may be provided by the City Manager, unless otherwise specified or required by Applicable Laws. In addition, the City Manager is expressly authorized to, without further act or approval by the City Council, execute and deliver all amendments to this Agreement and other transaction documents required by, contemplated under, or authorized in this Agreement provided that such amendments and documents do not materially alter the terms or structure of this Agreement.

11.16 Covenants Running with the Land; Inurement. The covenants, conditions, terms, and provisions of this Agreement relating to use of the Property will run with the Property and will be binding upon and will inure to the benefit of the Parties and their respective permitted successors and assigns with respect to such Property. Wherever the term "Party" or the name of any particular Party is used in this Agreement such term will include any such Party's permitted successors and assigns.

11.17 Recordation. Within ten days after this Agreement has been approved by City and executed by the Parties), City will cause this Agreement to be recorded in the Official Records of Maricopa County, Arizona.

11.18 Amendment. No change or addition is to be made to this Agreement except by written amendment executed by City and Developer. The City Manager is expressly authorized to, without further act or approval by the City Council, execute and deliver all amendments to this Agreement that do not materially alter the terms or structure of this Agreement. Within ten days after any amendment to this Agreement, such amendment will be recorded in the Official Records of Maricopa County, Arizona. Upon amendment of this Agreement as established herein, references to "Agreement" or "Development Agreement" will mean this Agreement as amended. If, after the effective date of any amendment(s), the parties find it necessary to refer to this Agreement in its original, unamended form, they will refer to it as the "Original Development Agreement." When the Parties refer to any specific amendment to the Agreement which amendment is unmodified by any subsequent amendments, the Parties will refer to it by the number of the amendment as well as its effective date.

11.19 Good Faith of Parties. Except where any matter is expressly stated to be in the sole discretion of a Party, in performance of this Agreement or in considering any requested extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily or capriciously and will not unreasonably withhold, delay or condition any requested approval, acknowledgment or consent.

11.20 Rights of Lenders.

(a) City is aware that Developer may obtain financing or refinancing for acquisition, development and/or construction of the real property and the Private Improvements (and appurtenant Public Improvements) to be constructed on the Property, in whole or in part, from time to time, by one or more Third Parties (individually a "**Lender,**" and collectively, the "**Lenders**").

(b) Developer shall have the right at any time, and as often as it desires, to finance the Private Improvements and to secure such financing with a lien or liens against the Property.

(c) Notwithstanding any other provision of this Agreement, Developer may collaterally assign all or part of its rights and duties under this Agreement as security to any financial institution from which Developer has borrowed funds for use in constructing the Private Improvements (or any portion thereof) or otherwise developing the Property without such financial institution assuming the obligations of Developer under this Agreement, but without releasing Developer from their obligations under this Agreement.

(d) In the event of a Default by Developer, City will provide notice of such Default, at the same time notice is provided to Developer, to not more than two Lenders whose names and addresses were previously provided by Developer to City in accordance with Section 11.5 and designated by Developer to receive such notice (the "**Designated Lenders**"). City will give Developer copies of any such notice provided to such Designated Lenders and, unless Developer notifies City that the Designated Lenders names or addresses are incorrect (and provides City with the correct information) within three days after Developer receives its copies of such notice from City, City will be deemed to have given such notice to the Designated Lenders even if their names or addresses are incorrect. Developer may provide notices to other Lenders. City will, at any time upon reasonable request by Developer, provide to any Lender an estoppel certificate or other document evidencing that (i) this Agreement is in full force and effect; and (ii) no Default by Developer exists hereunder (or, if appropriate, specifying the nature and duration of any existing Default.

(e) Nonliability of City Officials, Etc., and of Employees, Members and Partners, Etc. of Developer. No City Council member, official, representative, agent, attorney, or employee of City will be personally liable to any of the other Parties hereto, or to any successor in interest to any of the other Parties, in the event of any Default or breach by City or for any amount which may become due to any of the other Parties or their successors, or with respect to any obligation of City under the terms of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, the liability of Developer under this Agreement will be limited solely to the assets of Developer and will not extend to or be enforceable against: (i) the individual assets of any of the individuals or entities who are shareholders, members, managers, constituent partners, officers, or directors of the general partners or members of Developer; (ii) the shareholders, members, managers, or constituent partners of Developer; or (iii) officers of Developer.

11.21 Conflict of Interest Statute. This Agreement is subject to, and may be terminated by City in accordance with, the provisions of A.R.S. § 38-511.

11.22 No Boycott of Israel. Developer certifies pursuant to A.R.S. § 35-393.01 that it is not currently engaged in, and for the duration of this Agreement will not engage in, a boycott of Israel.

11.23 Proposition 207 Waiver. Developer hereby waives and releases City from any and all claims under A.R.S. § 12-1134, et seq., including any right to compensation for reduction to the fair market value of all or any part of the Property as a result of City's approval of this Agreement, including any and all restrictions and requirements imposed on Developer under the Public Access Easement Agreement and Public Utilities Easement or imposed on the Project or the Property by this Agreement, the Approved Plans, City's approval of Developer's plans and specifications for the Project, and the issuance of any permits for the Project. This waiver constitutes a complete release of any and all claims and causes of action that may arise or may be asserted under A.R.S. § 12-1134, et seq. as it exists or may be enacted in the future or that may be amended from time to time with regard to the Property respecting any City actions permitted to be taken by City pursuant to this Agreement. In connection therewith, upon the request of City, Developer will promptly execute and deliver to City, any and all such reasonable waivers of rights under A.R.S. § 12-1134, et seq. which may be reasonably requested by City consistent with this Agreement to more fully evidence the waiver set forth in this Section. Developer agrees to pay, defend, indemnify, and hold harmless City Indemnified Parties for, from, and against any and all claims, causes of actions, demands, losses, and expenses, including reasonable attorneys' fees and litigation costs, that may be asserted by or may result from Developer seeking potential compensation, damages, attorneys' fees, or costs under A.R.S. §12-1134, et seq. that Developer may have, solely as a result of this Agreement, now or in the future.

11.24 Preservation of State Shared Revenue. Notwithstanding any other provision of, or limitation in, this Agreement to the contrary, if pursuant to A.R.S. § 41-194.01 the Arizona Attorney General determines that this Agreement violates any provision of state law or the Constitution of Arizona (including A.R.S. § 42-6201 *et seq.*), City and Developer shall use all and best faith efforts to modify the Agreement so as to fulfill each Parties rights and obligations in the Agreement while resolving the violation with the Attorney General. If within 30 days of notice from the Attorney General pursuant to and under the provisions of A.R.S. § 41-194.01(B)(1), City and Developer cannot agree to modify this Agreement so as to resolve the violation with the Attorney General, this Agreement shall automatically terminate at midnight on the 30th day after receiving such notice from the Attorney General, and upon such termination the Parties shall have no further obligations under this Agreement. Additionally, if the Attorney General determines that this Agreement may violate a provision of state law or the Constitution of Arizona under A.R.S. § 41-194.01(B)(2), and the Arizona Supreme Court requires the posting of a bond under A.R.S. § 41-194.01(B)(2), City shall be entitled to terminate this Agreement, except if Developer posts such bond, if required; and provided further, that if the Arizona Supreme Court, determines that this Agreement violates any provision of state law or the Constitution of Arizona, City or Developer may terminate this Agreement and the Parties shall have no further rights, interests, or obligations in this Agreement or claim against the other Party for a breach or Default under this Agreement. The computation of time set forth in Section 11.14 will be superseded by the computation of time utilized by the Arizona Attorney General's Office for alleged violations of A.R.S. § 41-194.01.

Signatures are on the following two (2) pages.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

CITY:

CITY OF MESA, ARIZONA, an Arizona municipal corporation

By: _____

Its: _____

Date: _____

ATTEST:

By: _____
City Clerk

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this _____ day of _____, 2025, by _____ the _____ of the City of Mesa, Arizona, an Arizona municipal corporation, who acknowledged that he/she signed the foregoing instrument on behalf of City.

_____
Notary Public

My commission expires:

_____

DEVELOPER:

OZ16 QOZB, LLC, a Utah limited liability company

By: _____

Its: _____

Date: _____

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this _____ day of _____, 2025, by _____, the _____ of OZ16 QOZB, LLC, a Utah limited liability company, the Developer named in the foregoing Development Agreement, who acknowledged that he signed the foregoing Development Agreement on behalf of Developer.

_____
Notary Public

My commission expires:

_____

EXHIBIT A TO DEVELOPMENT AGREEMENT

LEGAL DESCRIPTIONS AND DEPICTIONS OF PROPERTY

Bowman

May 30, 2025
PROJECT # 051417-02-001

LEGAL DESCRIPTION
EAST PARCEL WITH ABANDONMENT

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 1 NORTH, RANGE 5 EAST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 22, FROM WHICH POINT THE CENTER QUARTER CORNER OF SAID SECTION 22 BEARS SOUTH 89°47'53" EAST (BASIS OF BEARINGS), A DISTANCE OF 2608.43 FEET;

THENCE SOUTH 89°47'53" EAST, ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22, A DISTANCE OF 239.84 FEET TO THE CENTERLINE OF MORRIS STREET;

THENCE ALONG SAID CENTERLINE, SOUTH 00°13'45" WEST, A DISTANCE OF 66.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF MAIN STREET, AND THE **POINT OF BEGINNING**;

THENCE DEPARTING SAID CENTERLINE, SOUTH 89°47'53" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 109.50 FEET;

THENCE DEPATING SAID SOUTH RIGHT-OF-WAY LINE, SOUTH 00°13'45" WEST, A DISTANCE OF 204.27 FEET;

THENCE SOUTH 89°47'53" EAST, A DISTANCE OF 118.56 FEET;

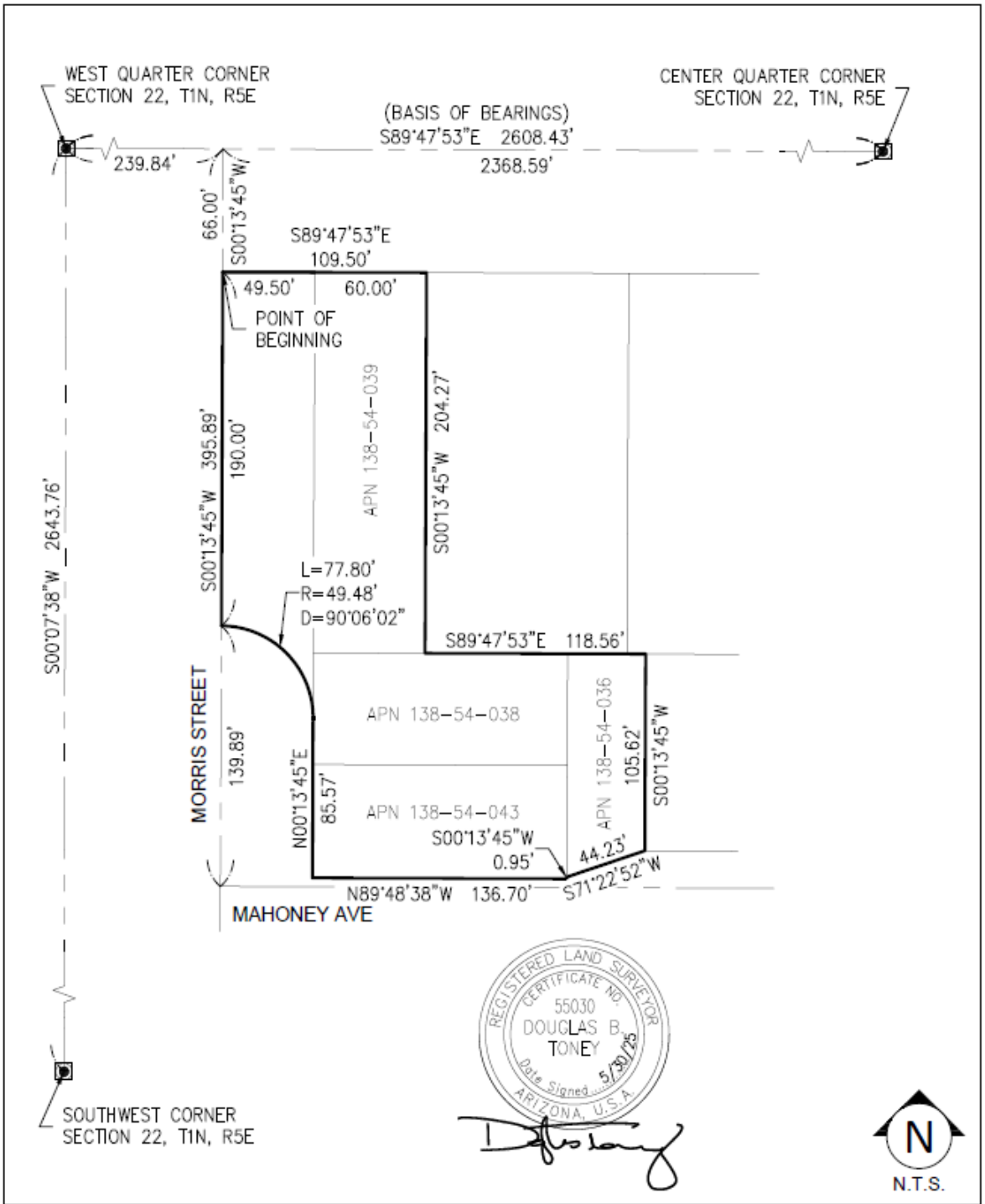
THENCE SOUTH 00°13'45" WEST, A DISTANCE OF 105.62 FEET TO THE NORTH RIGHT-OF-WAY LINE OF MAHONEY AVENUE;

THENCE SOUTH 71°22'52" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 44.23 FEET;

THENCE SOUTH 00°13'45" WEST, A DISTANCE OF 0.95 FEET;

THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, NORTH 89°48'38" WEST, A DISTANCE OF 136.70 FEET TO THE EAST RIGHT-OF-WAY LINE OF MORRIS STREET;

THENCE NORTH 00°13'45" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 88.57 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 49.48 FEET, AND A RADIUS POINT WHICH BEARS NORTH 89°41'51" WEST;



SHEET 1 OF 1	DATE: 5/30/25	EXHIBIT EAST PARCEL WITH ABANDONMENT	
		BY: TL CHK: DT QC:	
		BCG PROJECT NO: 051417-02 TASK: 001 CLIENT REF NO:	

Bowman
1600 N Desert Drive, #210
Tempe, AZ 85281
Phone: (480) 629-8830
Fax: (480) 629-8841
www.bowman.com

Bowman

May 30, 2025
PROJECT # 051417-02-001

LEGAL DESCRIPTION
WEST PARCEL WITH ABANDONMENT

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 1 NORTH, RANGE 5 EAST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 22, FROM WHICH POINT THE CENTER QUARTER CORNER OF SAID SECTION 22 BEARS SOUTH 89°47'53" EAST (BASIS OF BEARINGS), A DISTANCE OF 2608.43 FEET;

THENCE SOUTH 89°47'53" EAST, ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22, A DISTANCE OF 95.77 FEET;

THENCE DEPARTING SAID NORTH LINE, SOUTH 00°12'07" WEST, A DISTANCE OF 66.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF MAIN STREET, AND THE **POINT OF BEGINNING**;

THENCE SOUTH 89°47'53" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 144.04 FEET TO THE CENTERLINE OF MORRIS STREET;

THENCE ALONG SAID CENTERLINE, SOUTH 00°13'45" WEST, A DISTANCE OF 190.00 FEET;

THENCE DEPARTING SAID CENTERLINE, NORTH 89°47'53" WEST, A DISTANCE OF 151.01 FEET TO THE EAST RIGHT-OF-WAY LINE OF COUNTRY CLUB DRIVE;

THENCE ALONG SAID EAST RIGHT-OF-WAY LINE, NORTH 00°01'48" WEST, A DISTANCE OF 89.70 FEET;

THENCE NORTH 89°47'53" WEST, A DISTANCE OF 0.33 FEET;

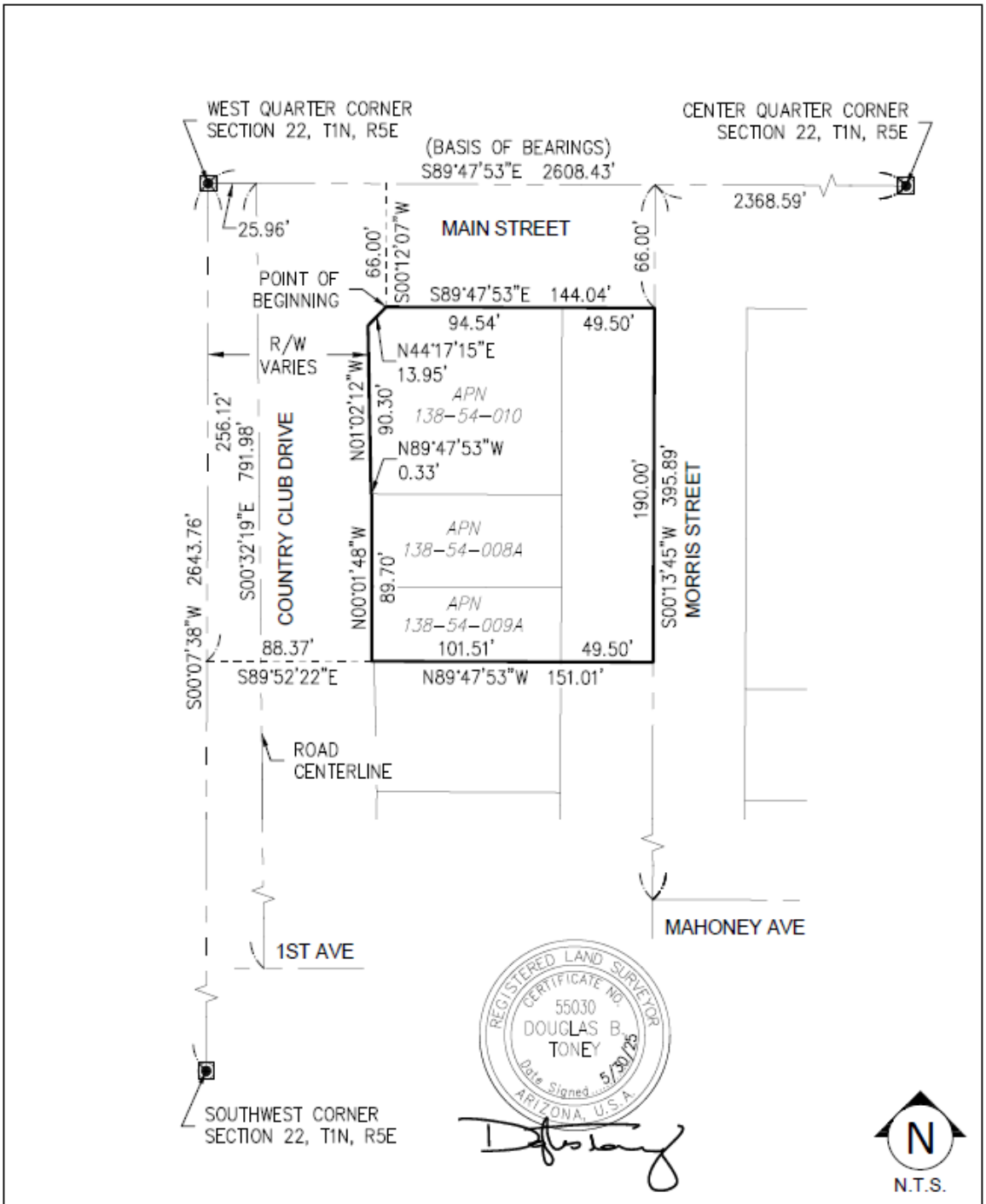
THENCE CONTINUING ALONG SAID EAST RIGHT-OF-WAY LINE, NORTH 01°02'12" WEST, A DISTANCE OF 90.30 FEET;

THENCE NORTH 44°17'15" EAST, A DISTANCE OF 13.95 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 28,846 SQ.FT. OR 0.6622 ACRES, MORE OR LESS.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
55030
DOUGLAS B.
TONEY
Date Signed 5/30/25
ARIZONA, U.S.A.

Bowman • 1600 N Desert Drive, #210 • Tempe, Arizona 85288 • P: 480.629.8830



SHEET 1 OF 1	EXHIBIT WEST PARCEL WITH ABANDONMENT	Bowman
DATE: 5/30/25	BY: TL CHK: DT QC:	1600 N Desert Drive, #210 Tempe, AZ 85281 Phone: (480) 629-8830 Fax: (480) 629-8841 www.bowman.com
	BCG PROJECT NO: 051417-02 TASK: 001 CLIENT REF NO:	

EXHIBIT A-1 TO DEVELOPMENT AGREEMENT

OVERALL DEPICTION OF PROPERTY

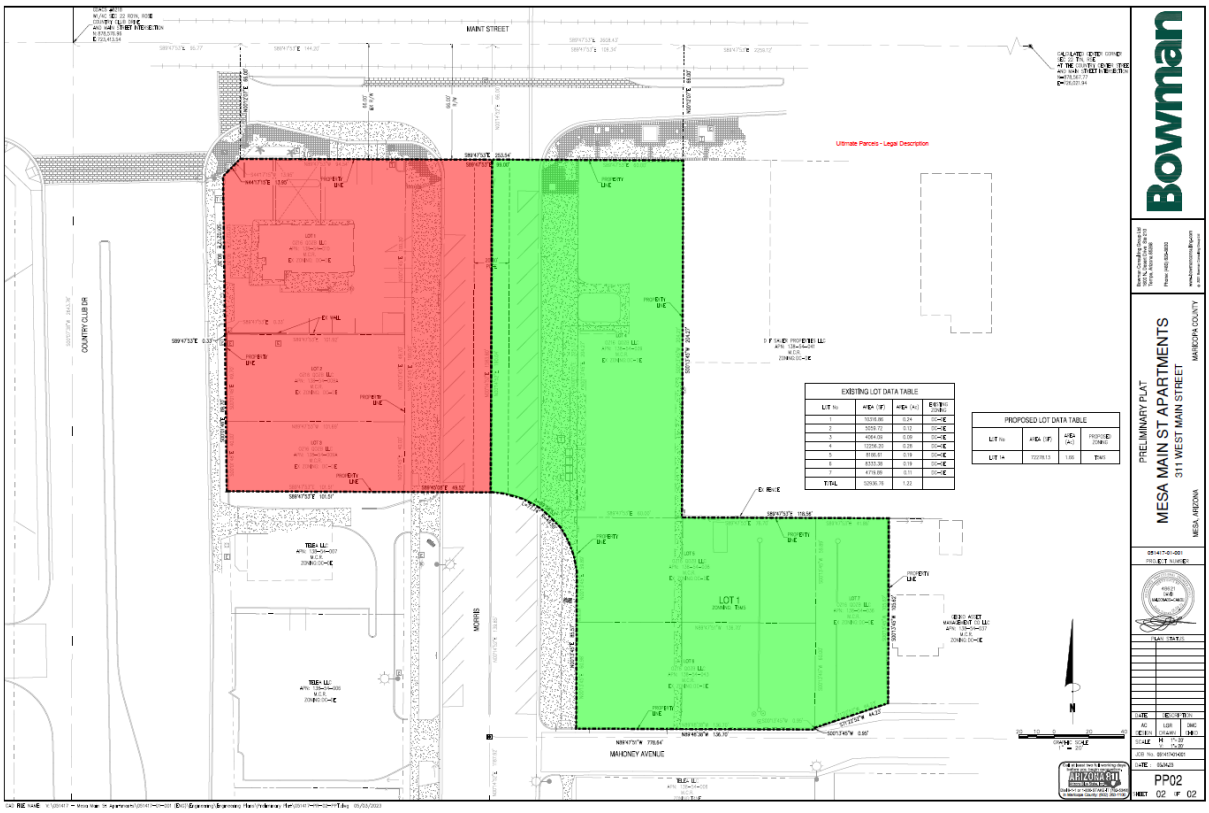


EXHIBIT B TO DEVELOPMENT AGREEMENT

DEPICTION OF EAST SITE

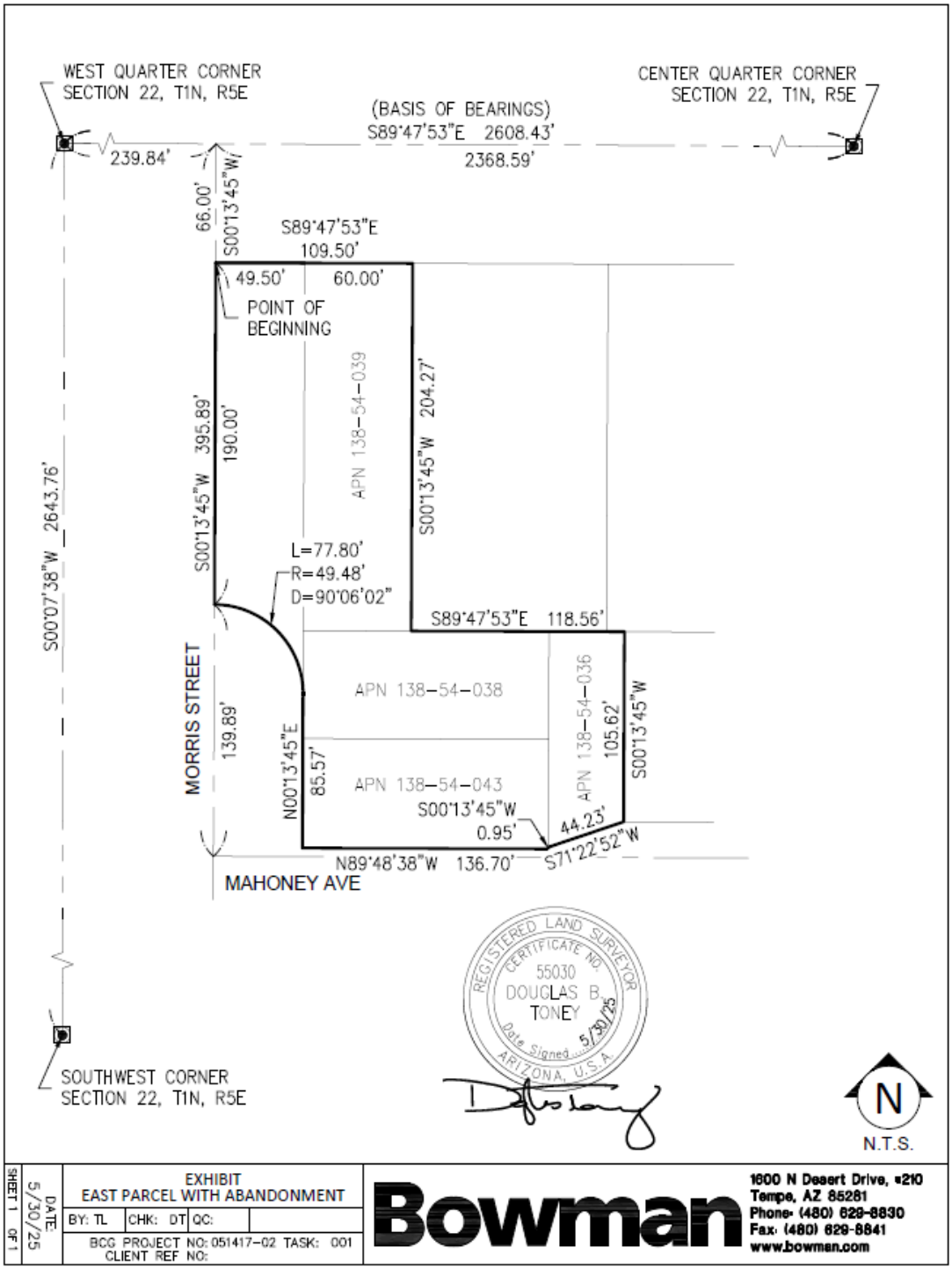


EXHIBIT C TO DEVELOPMENT AGREEMENT

DEPICTION OF WEST SITE

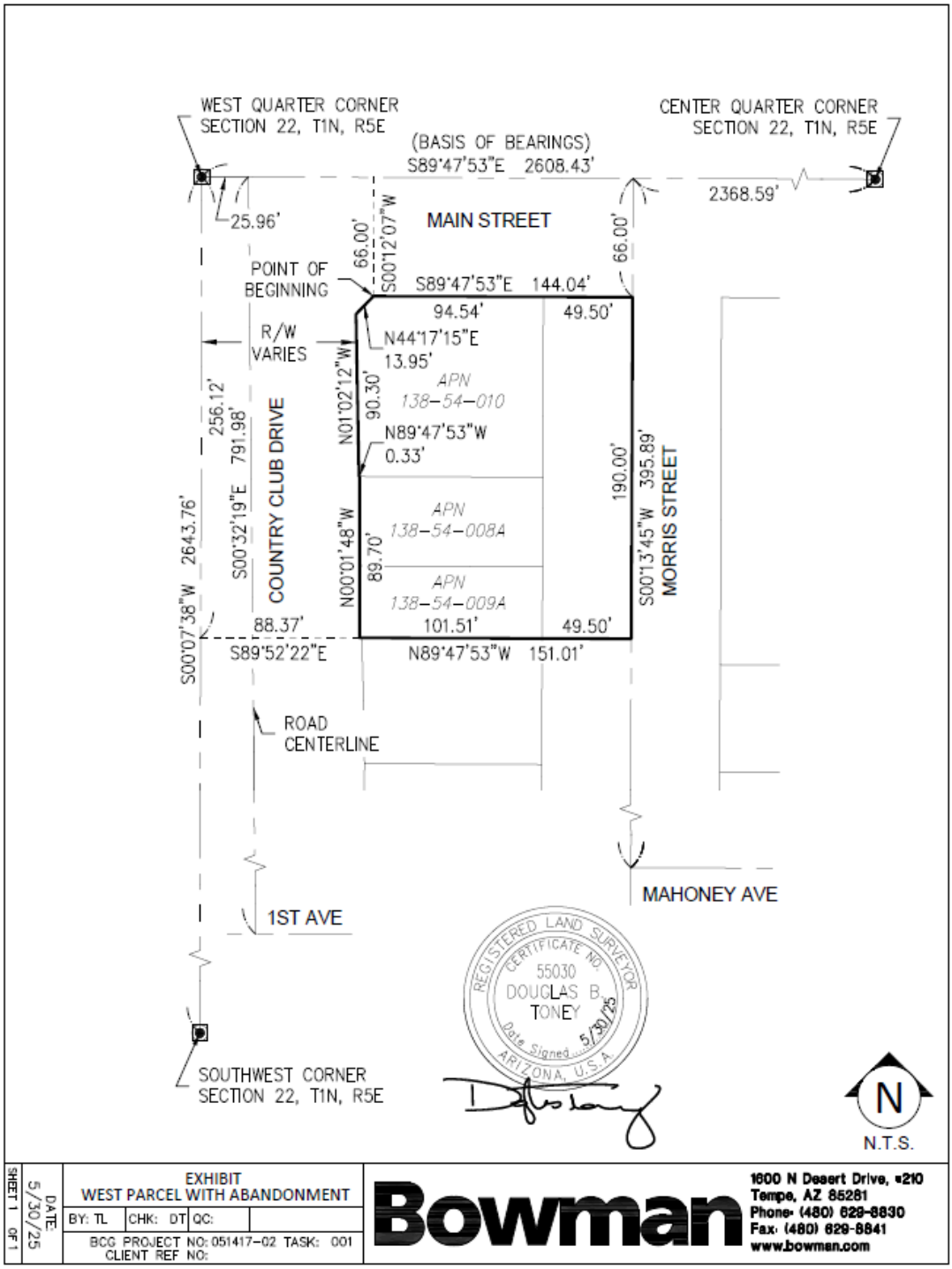


EXHIBIT D TO DEVELOPMENT AGREEMENT

CUSTOMIZED REVIEW SCHEDULE

[To be attached pursuant to Section 3.1(b) of the Development Agreement]

EXHIBIT E TO DEVELOPMENT AGREEMENT

PHASING PLAN

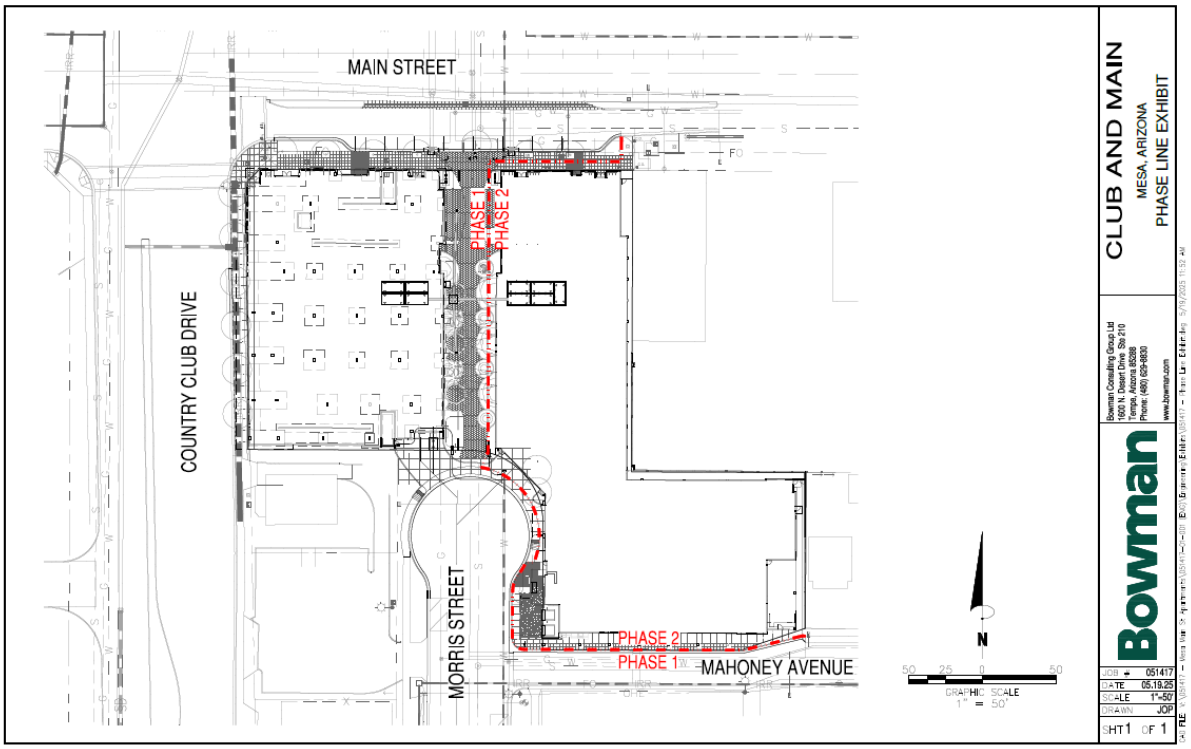


EXHIBIT F TO DEVELOPMENT AGREEMENT

PROGRAM COMPLIANCE

1. All construction will be designed and constructed to LEED Silver Standard or equivalent other green/sustainable building rating method, such as WELL Building (https://www.wellcertified.com/) or NGBS Green (ICC/ASHRAE 700-2015 National Green Building Standard) as agreed upon with City. Developer may, at its election and sole cost, have the building certified by the chosen rating agency. In the event Developer chooses to self-certify compliance with the chosen rating method, Developer will promptly provide City, through the building permitting and inspection process, certification of compliance with the rating standards, but in no event later than Completion of Construction.
2. Developer will implement a waste recycling program during construction, with a goal of recycling not less than 50% of construction waste, which program will include, without limitation, diverting construction and land-clearing debris from disposal in landfills and incinerators, redirecting recyclable recovered resources back to the manufacturing process, and redirecting reusable materials to appropriate sites.
3. Developer is to obtain from City and provide to residential units trash disposal and recyclable bins for their use for solid refuse. Developer and the residential property management company will participate in the City of Mesa Multi-Unit Recycling Program. Developer and its residential property management company will work in good faith with the Mesa Solid Waste Management Department to promote and educate residents on residential recycling upon occupancy of units. Developer also agrees to contract for and use the City of Mesa solid waste and recycling services.
4. Developer will design to Crime Prevention Through Environmental Design (CPTED) principles and will participate in the Tri-Star Program of the Mesa Police Department as a Level Three Property.

EXHIBIT G TO DEVELOPMENT AGREEMENT

ON-SITE AMENITIES

1. Public art will be incorporated into the design of the project. Element can be a central focal point for the project. Design and installation not to exceed fifteen thousand dollars ($15,000.00).
2. Refuse enclosure gates will be architecturally designed to be complementary to the building architecture.
3. CAT6 high-speed internet, or equivalent will be provided within the project for residents if available along the projects' frontage. A minimum of five (5) electric car charging stations will be provided in the parking areas which will serve ten (10) vehicles at project opening and allows expansion to twenty (20) electric car charging stations to serve twenty (20) vehicles in the future, all sufficient to charge electric vehicle (220 amps or similar).
4. The project will incorporate water conservation features such as low flow faucets and shower heads, drip irrigation, and drought tolerant plant material.
5. Secure building entries and controlled access to On-Site Amenities.
6. Secure indoor bicycle storage and bicycle repair with air pumps in a room the size of ___.
7. Fitness center.
8. Outdoor Fire Pit, Grill Area, and Lounge space.
9. Outdoor game area with yard games such as corn hole, ladder golf, etc.
10. Centralized resident package delivery and receiving, including storage for oversized packages.
11. Morris Plaza Improvements within Public Access Easement will consist of upgraded materials (stamped colored asphalt, pavers, or a similar upgraded materials.
12. The project design will incorporate features of the City of Mesa Low Impact Development standards including various Green Street techniques, rainwater catchment system for landscape irrigation, stabilized aggregate, and vegetated swales.
13. Minimum twenty-four-inch (24") box size trees planted thirty feet (30') on center along S. Country Club Drive and W. Main Street. All trees will have integrated grates and will be planted in accordance with City of Mesa Detail M-103.03

EXHIBIT H TO DEVELOPMENT AGREEMENT

UNIT AMENITIES

1. If available, CAT6 or fiberoptic cabling will be run to the communications panel in each residential unit to supply high speed internet, data, and communications capabilities.
2. If available, CAT6 or fiberoptic cabling will be run to the amenity areas and leasing offices and building Wi-Fi will be available for resident subscription.
3. Full size washer and dryer within each residential unit.
4. High quality appliances with energy star rating (refrigerator, dishwasher).
5. Energy star rated plumbing fixtures with sensitivity for sustainable water usage.
6. High efficiency heating and air-conditioning with a minimum SEER rating of 16 (or equivalent) for each residential unit.
7. Programmable thermostat for each residential unit.
8. Hard kitchen and bathroom countertop materials for each residential unit (e.g. stone, engineered stone, polished concrete, ceramic tile).
9. Tile, hardwood, luxury vinyl plank or similar flooring in, at a minimum, all living areas, bathrooms, and kitchens (no linoleum). Carpet can be used in bedrooms only.
10. At least one (1) port for direct internet access in each unit.
11. Wireless internet access available in residential common amenity areas
12. LED lighting throughout each residential unit.
13. Mid-grade or higher cabinetry.
14. A Sound Transmission Class (STC), as defined by the Uniform Building Code, designed to a minimum of 50 on demising walls between residential units, and designed to a minimum of 50 on exterior and party walls, floors, and ceilings. Enhanced sound transmission measures will be provided on units adjacent to amenity rooms to further mitigate sound.
15. An Impact Isolation Class (IIC) of 50 or greater on party walls, floors, and ceilings, as defined by the Uniform Building Code.

EXHIBIT I TO DEVELOPMENT AGREEMENT

EXTERIOR QUALITY STANDARDS

1. All exterior elevations will incorporate quality design, i.e., four-sided architecture
2. Minimum three high quality, durable and natural exterior building materials
3. All building mounted equipment screened from public view, solar array excluded
4. All exterior building vents, such as furnace and dryer, are integrated into the building architecture
5. Energy star rated exterior windows
6. All exterior south-facing windows will include a high-performance, energy-efficient Low-E glazing unit
7. Shade elements integrated into building façade of West building for exterior windows of south and west facing residential units as shown in the approved Zoning Clearance (ADM25-00328),
8. High Albedo roof or another solution that results in a cool roof
9. Pedestrian shade elements integrated into building façade
10. Minimum seventy-five percent (75%) ground floor transparency along W. Main Street.
11. Incorporation of one (1) attached LED neon or neon-like LED project sign
12. Incorporation of pedestrian scale signage, e.g., blade or projecting, for ground floor commercial tenant space(s)
13. Incorporation of a consistent sign area for one attached sign per ground floor commercial tenant space
14. All on-site landscape will be native or desert adapted species as included in *Landscape Plants for the Arizona Desert* http://www.amwua.org/plants/

EXHIBIT J TO DEVELOPMENT AGREEMENT

LEGAL DESCRIPTION OF ABANDONMENT AREA

Bowman

May 30, 2025
PROJECT # 051417-02-001

LEGAL DESCRIPTION
RIGHT-OF-WAY ABANDONMENT

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 1 NORTH, RANGE 5 EAST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 22, FROM WHICH POINT THE CENTER QUARTER CORNER OF SAID SECTION 22 BEARS SOUTH 89°47'53" EAST (BASIS OF BEARINGS), A DISTANCE OF 2608.43 FEET;

THENCE SOUTH 89°47'53" EAST, ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22, A DISTANCE OF 190.31 FEET;

THENCE DEPARTING SAID NORTH LINE, SOUTH 00°12'07" WEST, A DISTANCE OF 66.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF MAIN STREET, AND THE **POINT OF BEGINNING**;

THENCE SOUTH 89°47'53" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 99.00 FEET;

THENCE DEPARTING SAID SOUTH RIGHT-OF-WAY LINE, SOUTH 00°13'45" WEST, A DISTANCE OF 239.56 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 49.48 FEET, AND A RADIUS POINT WHICH BEARS NORTH 89°41'51" WEST;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 90°06'02", AN ARC DISTANCE OF 77.80 FEET TO A POINT OF TANGENCY;

THENCE NORTH 89°47'53" WEST, A DISTANCE OF 49.50 FEET;

THENCE NORTH 00°13'45" EAST, A DISTANCE OF 190.00 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 19,336 SQ.FT. OR 0.4439 ACRES, MORE OR LESS.

Bowman • 1600 N Desert Drive, #210 • Tempe, Arizona 85288 • P: 480.629.8830

EXHIBIT J-1 TO DEVELOPMENT AGREEMENT

DEPICTION OF ABANDONMENT AREA

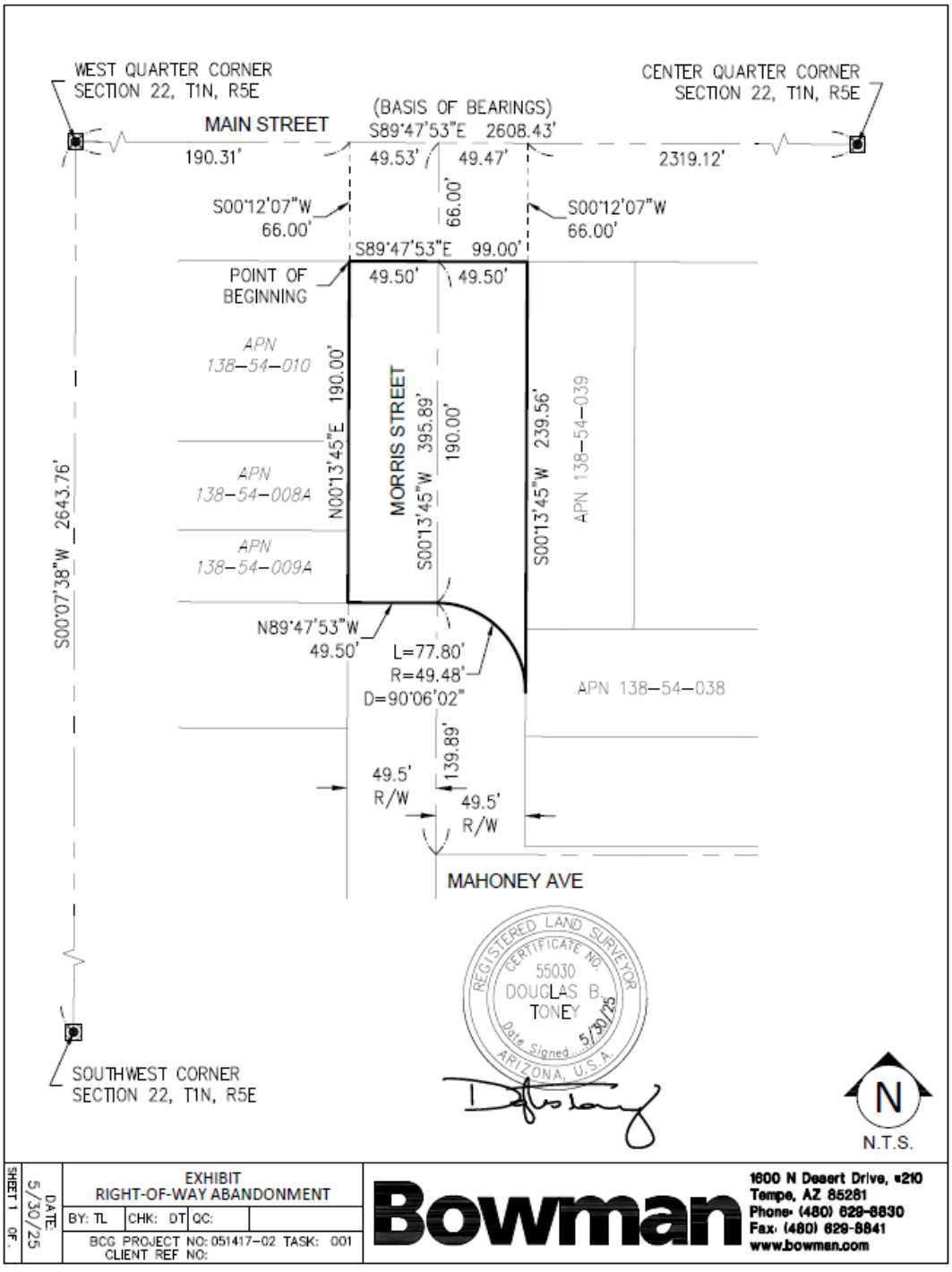


EXHIBIT K TO DEVELOPMENT AGREEMENT

LEGAL DESCRIPTION OF PUBLIC UTILITIES EASEMENT AREA

Bowman

June 30, 2025
PROJECT # 051417-02-001

LEGAL DESCRIPTION
19' PUFE

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 1 NORTH, RANGE 5 EAST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 22, FROM WHICH POINT THE CENTER QUARTER CORNER OF SAID SECTION 22 BEARS SOUTH 89°47'53" EAST (BASIS OF BEARINGS), A DISTANCE OF 2608.43 FEET;

THENCE SOUTH 89°47'53" EAST, ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22, A DISTANCE OF 231.73 FEET;

THENCE DEPARTING SAID NORTH LINE, SOUTH 00°12'07" WEST, A DISTANCE OF 66.00 FEET TO THE **POINT OF BEGINNING**;

THENCE SOUTH 89°47'53" EAST, A DISTANCE OF 19.00 FEET;

THENCE SOUTH 00°13'45" WEST, A DISTANCE OF 191.22 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, CONCAVE SOUTHERLY, HAVING A RADIUS OF 49.48 FEET, AND A RADIUS POINT WHICH BEARS SOUTH 12°57'26" WEST;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 12°45'19", AN ARC DISTANCE OF 11.01 FEET TO A POINT OF TANGENCY;

THENCE NORTH 89°47'53" WEST, A DISTANCE OF 8.08 FEET;

THENCE NORTH 00°13'45" EAST, A DISTANCE OF 190.00 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 3,614 SQ.FT. OR 0.0830 ACRES, MORE OR LESS.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
55030
DOUGLAS B.
TONEY
Date Signed 6/30/25
ARIZONA, U.S.A.

Bowman • 1600 N Desert Drive, #210 • Tempe, Arizona 85288 • P: 480.629.8830

EXHIBIT K-1 TO DEVELOPMENT AGREEMENT

DEPICTION OF PUBLIC UTILITIES EASEMENT AREA

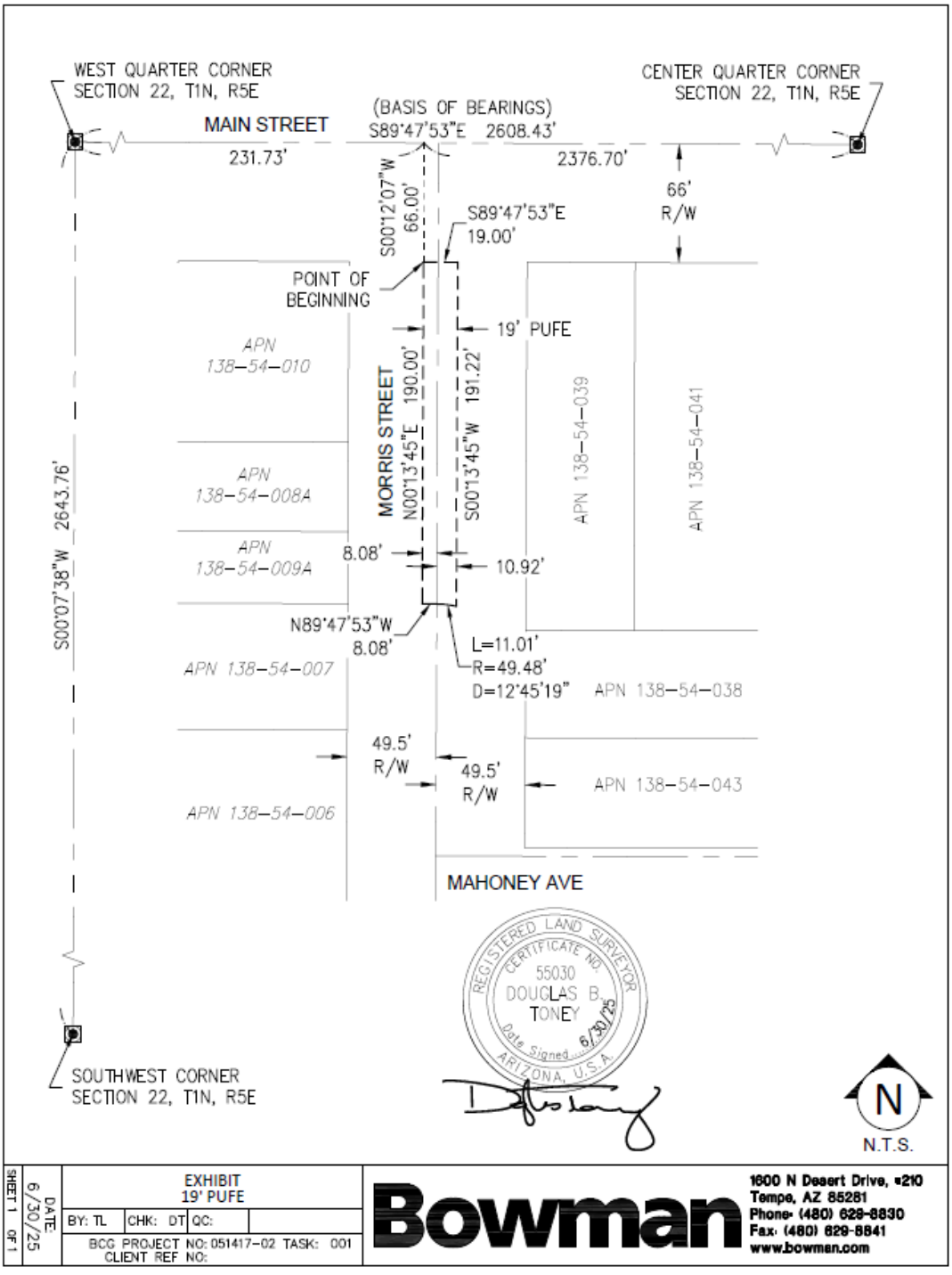


EXHIBIT L TO DEVELOPMENT AGREEMENT

FORM OF PUBLIC UTILITIES EASEMENT

[See attached]

EXHIBIT M TO DEVELOPMENT AGREEMENT

DESCRIPTION AND DEPICTION OF MORRIS PLAZA AREA AND IMPROVEMENTS

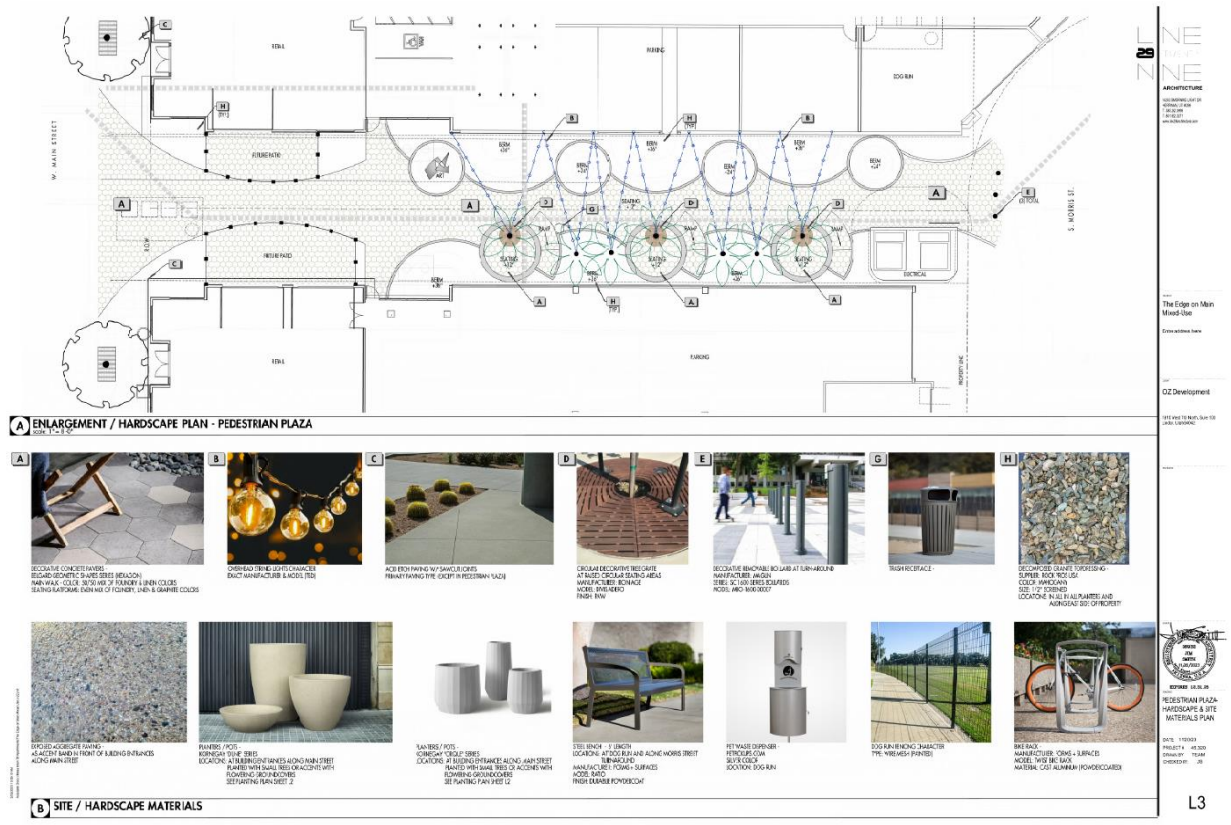


EXHIBIT N TO DEVELOPMENT AGREEMENT

FORM OF PUBLIC ACCESS EASEMENT AGREEMENT

[See attached]

EXHIBIT O TO DEVELOPMENT AGREEMENT

DEPICTION OF CUL-DE-SAC IMPROVEMENTS

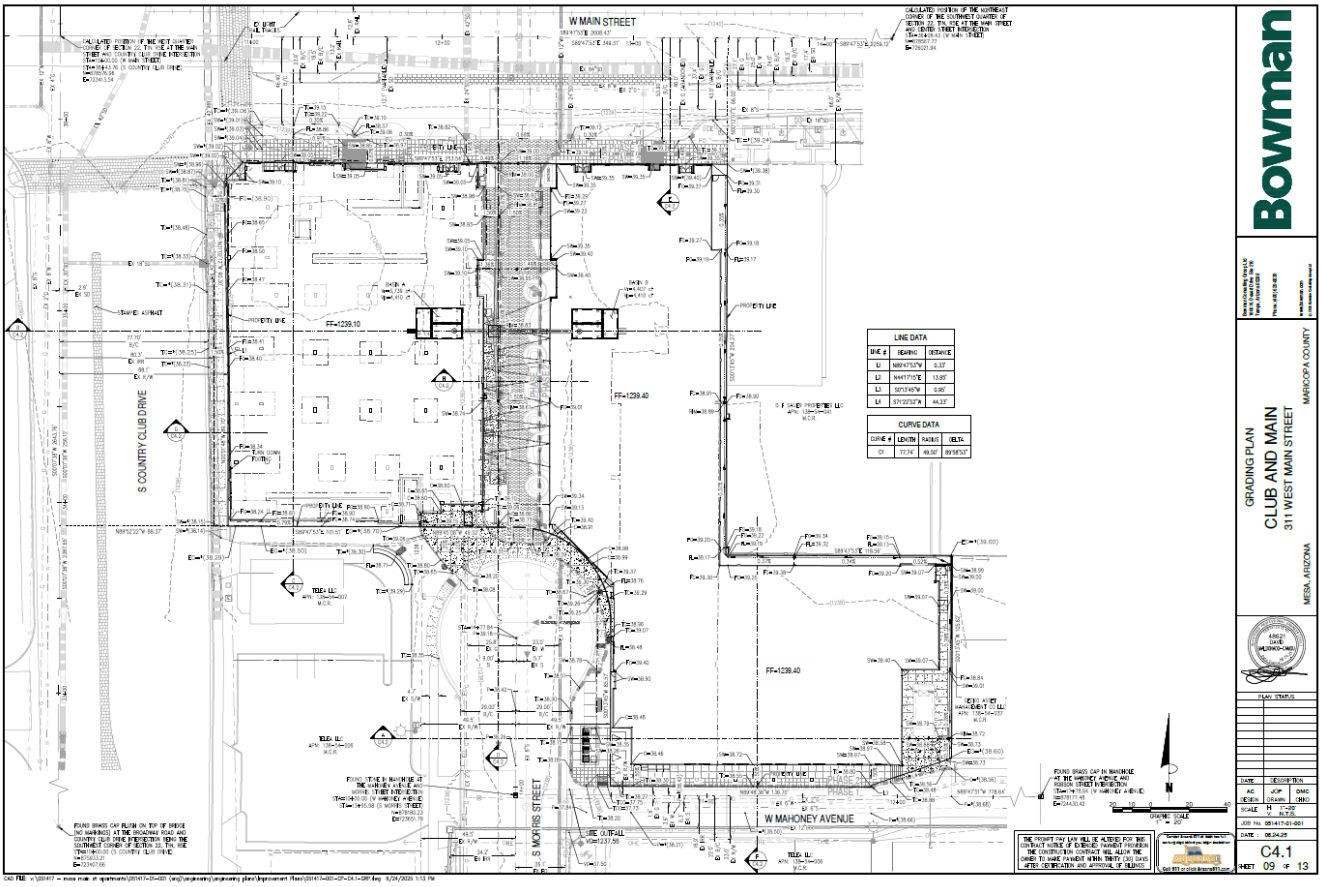


EXHIBIT P TO DEVELOPMENT AGREEMENT

PROHIBITED USES

Project will develop with land uses consistent with Chapter 64 of the Mesa Zoning Ordinance. In addition, the below uses are expressly prohibited from the Project:

- Group Residential, as defined by Chapter 64 of the Mesa Zoning Ordinance
- Non-chartered Financial Institution, as defined by Chapter 64 of the Mesa Zoning Ordinance
- Pawn Shops, as defined by Chapter 64 of the Mesa Zoning Ordinance
- Social Service Facilities, as defined by Chapter 64 of the Mesa Zoning Ordinance
- Tattoo and Body Piercing Parlors, as defined by Chapter 64 of the Mesa Zoning Ordinance
- Off-Track Betting Establishment, as defined by Chapter 86 of the Mesa Zoning Ordinance
- Medical Marijuana Dispensary, as defined by Chapter 86 of the Mesa Zoning Ordinance
- Package liquor stores
- Kennels

EXHIBIT Q TO DEVELOPMENT AGREEMENT

ENCROACHMENT PERMIT

[See attached]

EXHIBIT R TO DEVELOPMENT AGREEMENT

INSURANCE REQUIREMENTS

Developer, at its sole cost and expense, will maintain insurance coverage as follows:

A. Property. During the period of any construction involving the Public Improvements, builder's risk insurance on an all-risk, replacement cost basis for the Public Improvements.

B. Liability. During the period of any construction involving the Public Improvements, insurance covering Developer and (endorsing as an additional insured) City against liability imposed by law or assumed in any written contract, and/or arising from personal injury, bodily injury or property damage, with a limit of liability of $5,000,000.00 per occurrence with a $5,000,000.00 products/completed operations limit and a $10,000,000.00 general aggregate limit. Such policy must be primary and written to provide blanket contractual liability, broad form property damage, premises liability and products and completed operations.

C. Contractor. During the period of any construction involving the Public Improvements, each of the general or other contractors with which Developer contracts for any such construction will be required to carry liability insurance of the type and providing the minimum limits set forth below:

(1) Workman's Compensation insurance and Employer's Liability with limits of $1,000,000.00 per accident, $1,000,000.00 per disease and $1,000,000.00 policy limit disease.

(2) Commercial general liability insurance on a $5,000,000.00 per occurrence basis providing coverage for (and endorsing City as additional insured for):

Products and Completed Operations
Blanket Contractual Liability
Personal Injury Liability
Broad Form Property Damage
X.C.U.

(3) Business automobile liability including all owned, non-owned and hired autos with a limit of liability of not less than $1,000,000.00 combined single limit for personal injury, including bodily injury or death, and property damage.

D. Architect. In connection with any construction involving the Public Improvements, Developer's architect will be required to provide architect's or engineer's professional liability insurance with a limit of $1,000,000.00 per claim. This policy, or other policies, will cover claims for a period of not less than three years after the Completion of Construction of the Project (both Phase One Private Improvements and Phase Two Private Improvements) and all the Public Improvements.

E. Engineer. In connection with any construction involving the Public Improvements,

Developer's soils engineer or environmental contractor will be required to provide engineer's professional liability insurance with a limit of $1,000,000.00 per claim. This policy, or other policies, will cover claims for a period of not less than three years after the completion of the construction involving the Property and the Public Improvements.

F. CPI Adjustments. The minimum coverage limits set forth above will be adjusted every five years by rounding each limit up to the million dollar amount which is nearest the percentage of change in the Consumer Price Index (the "**CPI**") determined in accordance with this paragraph. In determining the percentage of change in the CPI for the adjustment of the insurance limits for any year, the CPI for the month October in the preceding year, as shown in the column for "All Items" in the table entitled "All Urban Consumers" under the "United States City Averages" as published by the Bureau of Labor Statistics of the United States Department of Labor, will be compared with the corresponding index number for the month of October one year earlier.

G. Primary Coverage. Developer's insurance coverage will be primary insurance with respect to City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by City, its officers, officials, agents, and employees will be in excess of the coverage provided by Developer and will not contribute to it.

H. Indemnities. Coverage provided by Developer will not be limited to the liability assumed under the indemnification provisions of the Agreement.

I. Waiver of Subrogation. All policies will contain a waiver of subrogation against City, its officers, officials, agents, and employees.

J. Notice of Cancellation. Each insurance policy will include provisions to the effect that it may not be suspended, voided, cancelled, or reduced in coverage except after 30 days' prior written notice has been given to City. Such notice must be provided directly to City in accordance with the provisions of Section 11.5 of the Agreement.

K. Acceptability of Insurers. Insurance is to be placed with insurers duly licensed of approved unlicensed companies in the State of Arizona and with an "A.M. Best" rating of not less than A- VII. City in no way warrants that the above-required minimum insurer rating is sufficient to protect Developer from potential insurer insolvency.

L. Endorsements and Verification of Coverage. Developer will furnish City with endorsements naming City, its officers, officials, agents, and employees as additional insureds. The endorsements will be original certificates of insurance on ACCORD forms approved by City. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage will be clearly noted on the certificate of insurance.

(1) All certificates are to be received and approved by City before the Commencement of Construction. Each insurance policy must be in effect at or prior to the Commencement of Construction and must remain in effect for the duration of the Agreement.

Failure to maintain the insurance policies as required by this Agreement or to provide timely evidence of renewal will be considered a material breach of the Agreement.

(2) All certificates required by this Agreement will be sent directly to City of Mesa, Attn: Lisa Lorts, Risk Manager, 20 E. Main Street, P.O. Box 1466, Mesa, Arizona 85211-1466. City reserves the right to require complete, certified copies of all insurance policies and endorsements required by this Exhibit R at any time.

M. Approval. Any modification or variation from the insurance requirements in this Exhibit R must have prior approval from the City Manager, whose decision will be final. Such action will not require formal contract amendment but may be made by administrative action.

N. Miscellaneous. References to "Developer" in this Exhibit R will mean Developer and include its general contractor(s). References to "the Agreement" will mean the Development Agreement of which this Exhibit R is a part. Capitalized terms not otherwise defined in this Exhibit R will have the meanings set forth in the Agreement. City in no way warrants that the minimum limits contained herein are sufficient to protect Developer from liabilities that might arise, and Developer may purchase such additional insurance as Developer determines necessary.