

RESOLUTION NO. 20-53

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MARICOPA, ARIZONA, APPROVING AND ADOPTING A PARK DONATION AND IMPACT FEE PRE-PAYMENT DEVELOPMENT AGREEMENT FOR LAKES AT RANCHO EL DORADO BETWEEN THE CITY OF MARICOPA, METRO RED-1, LLC, MERITAGE HOMES OF ARIZONA, INC. AND RANCHO EL DORADO PHASE III HOMEOWNERS ASSOCIATION, IN COMPLIANCE WITH A.R.S. §9-500.05.

WHEREAS, pursuant to A.R.S. §9-500.05, Metro Red-1, LLC, Meritage Homes of Arizona, Inc., Rancho El Dorado Phase III Homeowners Association and the City of Maricopa desire to enter into a Park Donation and Impact Fee Pre-Payment Development Agreement for Lakes at Rancho El Dorado related to the donation and construction of a City park and the development of Phase III of Rancho El Dorado in the form which is attached to this Resolution and by this reference made a part hereof; and

WHEREAS, the City of Maricopa believes that it is in the best interest of the City to enter into this Park Donation and Impact Fee Pre-Payment Development Agreement for Lakes at Rancho El Dorado in order to facilitate the donation and construction of a City park and the development of Phase III of Rancho El Dorado.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Maricopa, Arizona, as follows:

Section 1. The City of Maricopa by the requisite vote of its City Council hereby approves and adopts, and authorizes and instructs its Mayor on behalf of the City of Maricopa to enter into the Park Donation and Impact Fee Pre-Payment Development Agreement for Lakes at Rancho El Dorado with Metro Red-1, LLC, Meritage Homes of Arizona, Inc. and Rancho El Dorado Phase III Homeowners Association in the form attached to and made a part of this Resolution.

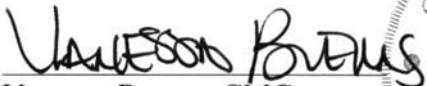
Section 2. Pursuant to A.R.S. §9-500.05(G), the provisions of this Resolution are not enacted as an emergency measure and shall not be effective for thirty (30) days.

PASSED AND ADOPTED by the Mayor and City Council of the City of Maricopa, Arizona this 15th day of December, 2020.

APPROVED:



Christian Price
Mayor

ATTEST:


Vanessa Bueras, CMC
City Clerk



APPROVED AS TO FORM:


Denis Fitzgibbon
City Attorney



OFFICIAL RECORDS OF
PINAL COUNTY RECORDER
Virginia Ross

When recorded return to:

DATE/TIME: 12/22/2020 1429
FEE: \$15.00
PAGES: 23
FEE NUMBER: 2020-134349

PARK DONATION AND IMPACT FEE PRE-PAYMENT

DEVELOPMENT AGREEMENT FOR LAKES AT RANCHO EL DORADO

**CITY OF MARICOPA,
an Arizona municipal corporation**

and

**METRO RED-1, LLC,
an Arizona limited liability company**

and

**MERITAGE HOMES OF ARIZONA, INC.,
an Arizona corporation**

and

**RANCHO EL DORADO PHASE III HOMEOWNERS ASSOCIATION,
an Arizona nonprofit corporation**

Effective Date

_____, 2020

City of Maricopa Contract No. _____

DEVELOPMENT AGREEMENT FOR LAKES AT RANCHO EL DORADO

This Park Donation and Impact Fee Pre-Payment Development Agreement for the Lakes at Rancho El Dorado (“**Agreement**”) is made by and between the CITY OF MARICOPA, an Arizona municipal corporation (“**City**”), METRO RED-1, L.L.C., an Arizona limited liability company (“**Metro**”), MERITAGE HOMES OF ARIZONA, INC., an Arizona corporation (“**Meritage**”) and RANCHO EL DORADO PHASE III HOMEOWNERS ASSOCIATION, an Arizona nonprofit corporation (“**Association**”). The City, Metro, Meritage and the Association are individually referred to herein as a “**Party**” and collectively as the “**Parties**.”

RECITALS

A. Metro owns that certain real property legally described in **Exhibit A** attached hereto (the “**Metro Property**”). The Metro Property is located within the municipal boundaries of the City.

B. Meritage owns that certain real property legally described in **Exhibit B** attached hereto (the “**Meritage Property**”). The Meritage Property is located within the municipal boundaries of the City.

C. Metro previously owned, in addition to the Metro Property, Rancho El Dorado Phase III Parcels 39/51 (Lots 677 through 686 inclusive, Lots 725 and 726, Lots 730 through 778 inclusive) (Pinal County Recorder No. 2006-083398), Rancho El Dorado Phase III Parcel 46 (Pinal County Recorder No. 2006-160058), Rancho El Dorado Phase III Parcel 59 (Pinal County Recorder No. 2006-160060), Rancho El Dorado Phase III Parcels 44/47 (Pinal County Recorder No. 2019-108490), Rancho El Dorado Phase III Parcels 43/48 (Pinal County Recorder No. 2006-083403), and currently owns Rancho El Dorado Phase III Parcels 49/50 (Pinal County Recorder No. 2006-083402) (collectively, the “**Additional Parcels**”). The Metro Property, the Meritage Property and the Additional Parcels combined are considered the “**Reimbursement Parcels**,” see attached **Exhibit C**.

D. The Reimbursement Parcels are a portion of a larger 1,619 acre master-planned development called the Lakes at Rancho El Dorado (“**Lakes at RED**”). Pinal County and the City have previously granted various approvals for the development of single-family residential homes on the Reimbursement Parcels, which includes the Pinal County Board of Supervisor’s approval of the consolidated Lakes at RED Planned Area Development zoning document on June 25, 1998 (“**1998 Lakes PAD**”) and the City’s approval of the Lakes at Rancho El Dorado Planned Area Development Minor Amendment zoning document dated December 17, 2019 (the “**Minor PAD Amendment**”), and together with the 1998 Lakes PAD, referred to as the “**Lakes PAD**”). Final plats for certain Planning Areas within the Reimbursement Parcels have been approved and recorded in connection with the intended development of the property with approximately 1,709 single-family residential homes. The Reimbursement Parcels are further subject to the terms and conditions of that certain “**Development and Settlement Agreement**” recorded in the Official Records of the Pinal County Recorder at Fee Number 2013-035035.

E. The development plan approved as part of the Lakes PAD includes a private community park on an approximately 9-acre site within Lakes at RED owned by the Association

("Park Site"), depicted in **Exhibit D** attached hereto (the "**Park Site and Excluded Parcel Depiction**").

F. Because the development of the Lakes at RED and the surrounding areas will increase the need for public recreation and open space for the residents of the City, the City now desires to acquire the Park Site to be developed by the City as a public park that will be owned and maintained by the City.

G. In connection with the City's development of the Park Site, (i) the Association has agreed to dedicate the Park Site to the City; (ii) the City agrees to accept the dedication of the Park Site and to develop the Park Site as a public park for use as a City park that may include, but not be limited to playground equipment, sports fields, green space and parking, (iii) Metro and Meritage have agreed to pre-pay certain Park and Recreation Development Fees by making \$800,000 in cash contributions to the City to be used towards development of the Park Site (hereinafter defined as the Park Fee Pre-Payment), and (iv) the City has agreed to provide Metro and Meritage each with proportionate share reimbursements from Park and Recreation Development Fees due to the City in connection with the development of the Reimbursement Parcels, all on the terms and subject to the conditions of this Agreement.

H. The Parties acknowledge that this Agreement constitutes a development agreement within the meaning of Arizona Revised Statutes § 9-500.05 and the City acknowledges and agrees that this Agreement constitutes a Credit Agreement as required by Sections 15.10.020 and 15.10.120 of the Maricopa City Code.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual agreements set forth herein, it is understood and agreed by the Parties hereto as follows:

1. Dedication of Park Site.

1.1. The Parties acknowledge that their respective rights and obligations under this Agreement are contingent upon the Association dedicating the Park Site to the City free and clear of all liens and encumbrances. The Association shall convey the Park Site, exclusive of the Excluded Parcel described in Section 1.2 below, to the City by executing and delivering to the City a special warranty deed in form and substance acceptable to the Association and the City (the "**Deed**") within sixty (60) days after the date that this Agreement is recorded in the Official Records of the Pinal County Recorder, or as soon as reasonably possible thereafter if the Park Site must be subdivided prior to dedication to the City. If a re-plat or land division is required prior to dedication of the Park Site to the City, then the City agrees, at the City's cost, to initiate the required process immediately after the date that this Agreement is recorded in the Official Records of the Pinal County Recorder.

1.2. The Parties acknowledge that a portion of the Park Site contains existing lake operating equipment as depicted in **Exhibit D** attached hereto (the "**Excluded Parcel**"). The Parties further acknowledge and agree that the Excluded Parcel will not be included in the dedication of the Park Site to the City pursuant to the Deed.

2. Park Site Improvements Construction by City.

2.1. Park Site Design. The City agrees to construct and install park facilities to establish a City park which will be operated and maintained by the City pursuant to City rules and regulations. The park facilities may include, but not be limited to, sports fields and lighting, playground equipment, green space, parking, and other improvements, on the Park Site (“**Park Improvements**”). The City shall provide a copy of the design plans for the Park Site, which shall also include the Equipment Enclosure (defined below in Section 2.3) to Metro, Meritage and the Association for review and comment prior to finalizing the design plans. The City further agrees to reasonably consider comments received from Metro, Meritage and the Association as the City finalizes the design for the Park Improvements. Metro, Meritage and Association hereby acknowledge and agree that after reasonably considering comments received as required by this Section 2.1, the City shall have the sole and absolute discretion to approve the final design plans and install the Park Improvements. Notwithstanding the foregoing, the City agrees that any lighting within the Park Site shall be designed such that it illuminates only the Park Site itself and is designed to minimize impacts, such as glare and light trespass, to adjacent or nearby residential uses.

2.2. Construction Timing. The City agrees to diligently pursue Completion (hereinafter defined) of the Park Improvements, provided that the Park Improvements may be constructed in phases at the discretion of the City. As used herein, the term “**Completion**” shall mean that the Park Improvements have been constructed and installed in accordance with the plans and specifications therefor and can be used by the public for their intended purpose. The City agrees to use best efforts to cause construction of the Park Improvements to commence within five (5) years after the date that this Agreement is recorded in the Officials Records of the Pinal County Recorder. The City agrees to pay all costs incurred by or for the City to design, construct and install the Park Improvements.

2.3. Equipment Enclosure for Excluded Parcel. The City agrees to construct a permanent, perimeter enclosure for the existing lake operating equipment on the Excluded Parcel (the “**Equipment Enclosure**”), which will include the following minimum design specifications: twelve foot (12’) vehicle access gate comprise of two (2) six foot (6’) swing gates that open outward and a minimum six (6’) foot tall CMU block wall enclosure comprised of 6”x8”x16” blocks and painted or finished to match existing community walls. The City agrees to provide vehicular access to the Excluded Parcel, and the aforementioned vehicle gates, by way of an access drive through the Park Site.

2.4. Construction License. Effective immediately following the recording of the Deed, the Association hereby grants to the City and to its delegee(s) (“**Grantee**”) and to Grantee’s employees, contractors and agents, a non-exclusive temporary construction license over, under, and across the Excluded Parcel for the purpose of (i) designing, placing and constructing the Equipment Enclosure and (ii) ingress, egress, and access as may be reasonably necessary to permit the installation and construction of the Equipment Enclosure. The rights and licenses herein granted and conveyed are temporary and shall expire on the date when the Equipment Enclosure has been completed. Upon construction of the Equipment Enclosure, the Association shall be responsible to maintain such Equipment Enclosure and Exception Parcel at its sole cost and expense.

3. Pre-Payment of Parks and Recreation Development Fees from Metro and Meritage. Within fifteen (15) days after the date that the Deed is recorded in the Official Records of the Pinal County Recorder, Metro and Meritage shall each provide a \$400,000.00 cash payment, together totaling \$800,000.00, (the “**Park Fee Pre-Payment**”) as a pre-payment of Parks and Recreation Development Fees (defined in Section 4 below) to be assessed at the time of building permit issuance for lots within the Reimbursement Parcels. The Park Fee Pre-Payment will be used by the City in connection with any necessary public services and facility expansions for which the Parks and Recreation Development Fee is assessed by the City consistent with the City’s current Infrastructure Improvements Plan, as may be amended from time to time. Notwithstanding the foregoing, Metro, Meritage and the City acknowledge that the Park Fee Pre-Payment is not intended to be an estimate of the total actual costs to be incurred by or for the City to design, construct and install the Park Improvements. The Park Fee Pre-Payment is the maximum contribution by Metro and Meritage toward the Park Improvements and the Parties acknowledge and agree that upon dedication of the Park Site and payment of the Park Fee Pre-Payment, Meritage, Metro, the Association, and any successors or assigns, will have no further obligations with respect to the Park Site and will have satisfied all obligations with respect to the development of the Park Site as contemplated in the Lakes PAD; provided that each homebuilder for the Reimbursement Parcels will be responsible for the payment of the Parks and Recreation Development Fee as customarily required by the City at the time of issuance of a building permit for a residential lot, subject to the terms of Section 4 below.

4. Parks and Recreation Development Fee Reimbursement. The City agrees to provide a cash reimbursement to Metro and Meritage, to be paid from the collection of Parks and Recreation Development Fees (defined below) for the Reimbursement Parcels, in an amount equal to \$400,000 each, such that the total fee reimbursement by the City to Metro and Meritage collectively does not exceed the Park Fee Pre-Payment (“**Park Fee Reimbursement**”). Metro and Meritage agree that no Parks and Recreation Development Fee credit will be given for the dedication of the Park Site by the Association. Metro, Meritage and the City acknowledge and agree that pursuant to the Development and Settlement Agreement the “**Parks and Recreation Development Fee**” is \$1,207.00 for each residential lot within the Reimbursement Parcels (which is equal to the current assessed Parks and Recreation Development Fee for a single-family unit within North Maricopa as adopted by the City pursuant to Resolution 20-01 and effective on February 2, 2020), with payment of the Parks and Recreation Development Fee due at the time a building permit is requested for the construction of a dwelling unit on a residential lot. If the City’s Parks and Recreation Development Fee is modified in the future (increased or decreased), then Metro and Meritage will still receive the Individual Allocation provided that each homebuilder will pay the modified fee at the time of building permit issuance pursuant to standard and customary City procedures. The City agrees to allocate \$550 of each Parks and Recreation Development Fee paid to the City (each an “**Individual Allocation**”) for lots within the Reimbursement Parcels as a proportionate share repayment towards the Park Fee Reimbursement with 50% of each Individual Allocation being allocated to Metro and the remaining 50% being allocated to Meritage. The City will collect and hold the Individual Allocations and then provide a quarterly reimbursement to Metro and Meritage with such quarterly reimbursements continuing until such time as the Park Fee Reimbursement is fully repaid to Metro and Meritage. The Reimbursement Parcels are currently entitled for a maximum of 1,691 dwelling units with total expected gross revenue from the Park Impact Fee to be approximately \$2,041,037.

5. Assessment of Other Development Fees. The Parties acknowledge that nothing in this Agreement may be construed as a waiver or credit of any Development Fee assessed by the City pursuant to Maricopa City Code Chapter 15. Each homebuilder within a Benefitted Parcel will be assessed all standard and customary fees and charges associated with the development of a residential lot including, but not limited to, plan review fees, inspection fees and development fees, at the time such fees and charges are customarily due, except as may be modified within the Development and Settlement Agreement.

6. Future Maintenance of Park Site; Naming Rights. The City agrees that it is responsible for all future operations and maintenance of the Park Site following Completion of the Park Improvements and shall assume all liability for the future use of the Park Site by the public. Notwithstanding the foregoing, the Parties acknowledge and agree that the City will reasonably consider names suggested by Metro for the Park Site. Metro, Meritage and Association hereby acknowledge and agree that after reasonably considering names received by Metro, the City shall have the sole and absolute discretion to select the name for the Park Site.

7. Exhibits. The Recitals of this Agreement are incorporated herein by reference and form a part 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.

- a. Exhibit A: Legal Description of the Metro Property
- b. Exhibit B: Legal Description of the Meritage Property
- c. Exhibit C: Reimbursement Parcels Depiction
- d. Exhibit D: Depiction of Park Site and Excluded Parcel

8. General Provisions

8.1. Successors in Interest, Runs with the Land. This Agreement and the obligations and benefits hereunder run with the land, meaning the Metro Property, Meritage Property and Park Site, and shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

8.2. Authority. Metro, Meritage and the Association represent and warrant that each has the authority to enter into and perform under this Agreement according to the terms hereof and the individuals executing this Agreement on behalf of Metro, Meritage and the Association are authorized to do so.

8.3. “As Is” Dedication. Upon dedication of the Park Site: (a) the Association is hereby released from all responsibility and liability regarding valuation, utility, operation, or condition of the Park Site; (b) the City expressly acknowledges that the City has not relied on any warranties, promises, understandings, or representations, express or implied, oral or written, of the Association or of any agent of the Association, relating to the Park Site, except as may be expressly set forth in this Agreement, and that the City is acquiring the Park Site in its present condition and state of repair, “AS IS, WHERE IS”

with all defects, faults, and liabilities; (c) the City has inspected and investigated the Park Site, its characteristics and conditions to the City's satisfaction; (d) the City waives any and all objections to, complaints about, or claims regarding the Park Site, its characteristics and conditions, and the operation and use thereof and of adjacent areas. The provisions of this paragraph shall not be deemed a disclaimer of any warranty of title contained in the Deed. This waiver and release of claims shall survive any cancellation or termination of this Agreement and the delivery of the Deed.

8.4. Default/Remedies. Subject to the limitation set forth in this Agreement, in the event of a default by a Party of the terms of this Agreement, which default is not cured after receipt of Notice thereof and a reasonable amount of time to cure such default, the non-defaulting Party may, without prejudice to any other right or remedy available, exercise any right or remedy available under this Agreement, at law, or in equity, including without limitation specific performance or injunctive relief. No remedy shall be considered exclusive of any other remedy, but the same shall be cumulative; however, each Party waives the right to seek recovery of, or recover, special, consequential, punitive, or other monetary damages of any kind, other than actual damages. No waiver by any Party as to any breach or default shall affect or impair any right or remedy arising from any other or subsequent breach or default.

8.5. Termination Upon Sale of Public Lots. The Parties hereby acknowledge and agree that this Agreement is not intended to and shall not create conditions or exceptions to title or covenants running with real property within the Metro Property or Meritage Property that is a "**Public Lot**" as such term is defined below. Therefore, to alleviate any concern as to the effect of this Agreement on the status of title to any of the property within the Metro Property or Meritage Property, this Agreement shall terminate without the execution or recordation of any further document or instrument by any Party or any owner of all or any of the Metro Property or Meritage Property as to any platted residential lot with a substantially completed residence constructed thereon which has been individually (and not in "bulk") leased (for a period of longer than one year) or sold to the end retail purchaser or user thereof (a "**Public Lot**") and thereupon such Public Lot shall be automatically released from and no longer be subject to or burdened by the provisions of this Agreement. Any title insurer can rely on this paragraph when issuing any commitment to insure or when issuing a title insurance policy in respect to a Public Lot.

8.6. Notice. Any notices or other communications required or permitted to be given pursuant to this Agreement (a "**Notice**") shall be in writing and shall be given by (i) personal delivery; (ii) by certified or registered U.S. Mail, return receipt requested; or (iii) or by any nationally recognized express or overnight delivery service (e.g., Federal Express or UPS), with all postage and other delivery charges prepaid and 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 paragraph:

To City: City Clerk
City of Maricopa
39700 W. Civic Center Plaza
Maricopa, AZ 85138

Copy To: City Attorney
City of Maricopa
39700 W. Civic Center Plaza
Maricopa, AZ 85138

To Metro: Metro RED-1, L.L.C.
c/o Harvard Investments
17700 N. Pacesetter Way
Scottsdale, Arizona 85255
Attn: Tim Brislin
Telephone: 480-515-3255
Email: tbrislin@harvardinvestments.com

Copy To: Gammage & Burnham, PLC
40 N Central Ave., 20th Floor
Phoenix, Arizona 85004
Attn: Susan E. Demmitt
Telephone: 602-256-4456
Email: sdemmitt@gblaw.com

To Meritage: Meritage Homes of Arizona, Inc.
8800 E. Raintree Dr., Suite 300
Scottsdale, Arizona 85260
Attn: Steve Hahn
Telephone: 480-515-8245
Email: Steven.Hahn@meritagehomes.com

Copy To: Meritage Homes of Arizona, Inc.
8800 E. Raintree Dr., Suite 300
Scottsdale, Arizona 85260
Attn: Tim Clements
Telephone: 480-515-8630
Email: tim.clements@meritagehomes.com

To Association: Rancho El Dorado Phase III Homeowners Association
c/o Harvard Investments
17700 N. Pacesetter Way
Scottsdale, Arizona 85255
Attn: Tim Brislin
Telephone: 480-515-3255
Email: tbrislin@harvardinvestments.com

8.7. Entire Agreement/Amendments. This Agreement and the instruments or agreements identified herein are intended to be the complete integration of all understandings and agreements of these Parties with respect to the subject matter hereof.

No prior or contemporaneous understanding, agreement, or modification shall have any force or effect unless set forth in a writing, signed by all of the Parties hereto. No subsequent amendment, addendum, novation, or other modification shall be of any force or effect unless set forth in a writing signed by all of the Parties hereto.

8.8. Cooperation; Further Acts. Each Party agrees to cooperate with the other Party in accomplishing the purposes of this Agreement, including without limitation providing any further or additional consent, approval, or document or instrument reasonably necessary or appropriate to accomplishing the purposes of this Agreement.

8.9. City Indemnification. The City agrees to indemnify, defend and hold harmless, on demand, Metro, Meritage and the Association, including their respective successors, officers, directors, shareholders, employees, agents, representatives, and attorneys, for, from and against any and all liabilities, obligations, damages, charges and expenses, penalties, suits, fines, claims, legal and investigation fees or costs, in each case for personal injury (including death) or property damage (i) to the extent caused, or alleged to have been caused, by the negligent or willful acts of the City or its contractors during construction of the Park Improvements on the Park Site, including the Equipment Enclosure, or (ii) out of or related to, or alleged to have arisen out of or be related to, the Park Improvements under this Agreement. This section shall survive the expiration or termination of the Agreement.

8.10. Association Indemnification. The Association agrees to indemnify, defend and hold harmless the City, its officers, agents and employees for, from and against any and all liabilities, obligations, damages, charges and expenses, penalties, suits, fines, claims, legal and investigation fees or costs, in each case for personal injury (including death) or property damage (i) to the extent caused, or alleged to have been caused, by the negligent or willful acts the Association, including their respective successors, officers, directors, shareholders, employees, agents, representatives, and attorneys, period of ownership of the Park Site. This section shall survive the expiration or termination of the Agreement.

8.11. Non-liability of Officials, Partners or Employees. No member, official or employee of the City will be personally liable to Metro, Meritage or the Association, or any successor in interest, in the event of any default or breach by the City or for any amount which may be come due to Metro, Meritage or the Association, or any successor in interest, or on any obligation under the terms of this Agreement.

8.12. Disclaimer of Warranties. Except as provided in this Agreement, neither Metro, Meritage nor the Association shall have any liability or obligation to the City or anyone else for or related to the design, construction and installation of the Park Improvements.

8.13. Recording, Full Release of Property. The City will cause this Agreement to be recorded in its entirety in the Official Records of Pinal County, Arizona, not later than ten (10) days after execution of the Agreement by the Parties, and shall thereafter promptly provide a recorded copy of this Agreement to Metro, Meritage and the Association.

Following (i) Completion of the Park Improvements and Equipment Enclosure, (ii) Metro's and Meritage's payment of the Park Fee Pre-Payment to the City and (iii) the City's payment of the Park Fee Reimbursement to Metro and Meritage, the Parties shall execute, have acknowledged and cause to be recorded an instrument acknowledging that the Agreement has terminated and all benefits and burdens contained in the Agreement are released.

8.14. Disputes. In the event of any dispute by or between any of the Parties which dispute is related to this Agreement, then each of the Parties agrees: (a) that the laws of the State of Arizona shall govern; (b) that venue and personal jurisdiction of any litigation shall be solely in the federal or state courts sitting in Pinal County, Arizona; and (c) that the successful Party in any litigation shall be entitled to an award for taxable costs and reasonable attorney's fees against the Party not prevailing.

8.15. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be valid under applicable law, but if any provision of this Agreement shall be conclusively determined to be invalid or unenforceable to any extent, such provision shall be ineffective to the extent of such invalidation or unenforceability, but such determination shall not invalidate the remainder of such provision or the remaining provisions of this Agreement.

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

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

8.18. Conflict of Interest. This Agreement is subject to the conflict of interest provisions set forth in A.R.S. §38-511.

[balance of page intentionally left blank; signatures follow]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed on or as of the day and year first above written.

"METRO"
METRO RED-1, L.L.C.,
an Arizona limited liability company

By: Metro Phoenix Residential Fund, LLLP,
an Arizona limited liability limited partnership, its
Manager

By: Holdings Investments, LLLP,
an Arizona limited liability limited
partnership, its General Partner

By: Harvard Ventures, Inc.,
a Nevada corporation, its General
Partner

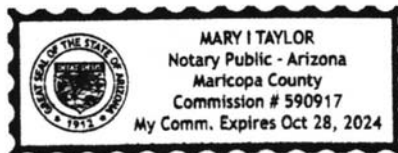
By: *T. P. Brislin*
Its: Timothy P. Brislin
Title: Vice President

By: *K. L. Astrom*
Its: Katherine L. Astrom
Title: Treasurer

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 16th day of December 2020 by Timothy P. Brislin, the Vice President and Katherine L. Astrom, the Treasurer of Harvard Ventures, Inc., the General Partner of Holdings Investments, LLLP, the General Partner of Metro Phoenix Residential Fund, LLLP, the Manager of Metro-RED, LLC.

Mary I Taylor
Notary Public



IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed on or as of the day and year first above written.

"MERITAGE"

MERITAGE HOMES OF ARIZONA, INC., an Arizona corporation

By: [Signature]

Its: VP UANIS

STATE OF ARIZONA)
) ss.
County of Maricopa)

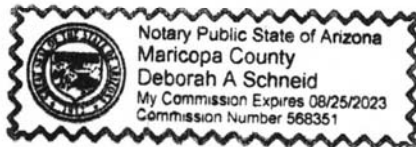
The foregoing instrument was acknowledged before me this 16th day of December, 2020 by Steven Hahn, as Vice President of Land of MERITAGE HOMES OF ARIZONA, INC., an Arizona corporation.

[Signature]

Notary Public

My Commission Expires:

August 25, 2023



IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed on or as of the day and year first above written.

"ASSOCIATION"

RANCHO EL DORADO PHASE III
HOMEOWNERS ASSOCIATION, an Arizona
nonprofit corporation.

By: *TP Bristol*
Timothy P. Bristol
Its: *President*

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 16th day of December,
2020 by Timothy P. Bristol, as President of RANCHO EL DORADO
PHASE III HOMEOWNERS ASSOCIATION, an Arizona nonprofit corporation.

Maryel Taylor
Notary Public

My Commission Expires:



Exhibit A

Legal Description of Metro Property

PARCEL NO. 1: Parcel 52

LOTS 582 THROUGH 676, INCLUSIVE, OF RANCHO EL DORADO PHASE III, PARCEL 52, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF PINAL COUNTY, ARIZONA, RECORDED AS CABINET G, SLIDE 48.

PARCEL NO. 2: Parcel 54

LOTS 1572 THROUGH 1667 INCLUSIVE, TRACTS O3 THROUGH Q3 INCLUSIVE AND TRACT U3, OF RANCHO EL DORADO PHASE III, PARCEL 54, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF PINAL COUNTY, ARIZONA, RECORDED AS CABINET G, SLIDE 118.

PARCEL NO. 3: Parcel 55

A PARCEL OF LAND SITUATE IN A PORTION OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 4 SOUTH, RANGE 3 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, PINAL COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 13, MONUMENTED BY A 1/2 INCH IRON BAR, FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 13, MONUMENTED BY 1/2 INCH IRON BAR, BEARS AS A BASIS OF BEARINGS SOUTH 89 DEGREES 52 MINUTES 59 SECONDS EAST, A DISTANCE OF 2637.30 FEET;

THENCE SOUTH 89 DEGREES 52 MINUTES 59 SECONDS EAST ALONG THE SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 13, A DISTANCE OF 1659.39 FEET;

THENCE NORTH 00 DEGREES 07 MINUTES 01 SECONDS EAST, A DISTANCE OF 50.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 00 DEGREES 07 MINUTES 01 SECONDS EAST, A DISTANCE OF 392.37 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY, WHOSE RADIUS POINT BEARS NORTH 89 DEGREES 52 MINUTES 59 SECONDS WEST, A DISTANCE OF 445.00 FEET;

THENCE NORTHERLY AND NORTHWESTERLY ALONG SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 40 DEGREES 47 MINUTES 01 SECONDS, AN ARC DISTANCE OF 316.75 FEET TO A POINT OF TANGENCY;

THENCE NORTH 40 DEGREES 40 MINUTES 00 SECONDS WEST, A DISTANCE OF 341.14 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, WHOSE RADIUS POINT BEARS NORTH 49 DEGREES 31 MINUTES 34 SECONDS WEST, A DISTANCE OF 941.50 FEET;

THENCE NORTHEASTERLY ALONG SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 04 DEGREES 08 MINUTES 46 SECONDS, AN ARC DISTANCE OF 68.13 FEET TO A POINT OF NONTANGENCY;

THENCE SOUTH 53 DEGREES 40 MINUTES 20 SECONDS EAST, A DISTANCE OF 29.50 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, WHOSE RADIUS POINT BEARS NORTH 53 DEGREES 40 MINUTES 20 SECONDS WEST, A DISTANCE OF 971.00 FEET;

THENCE NORTHEASTERLY ALONG SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 05 DEGREES 45 MINUTES 18 SECONDS, AN ARC DISTANCE OF 97.53 FEET TO A POINT OF NONTANGENCY;

THENCE NORTH 59 DEGREES 25 MINUTES 38 SECONDS WEST, A DISTANCE OF 29.50 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, WHOSE RADIUS POINT BEARS NORTH 59 DEGREES 25 MINUTES 38 SECONDS WEST, A DISTANCE OF 941.50 FEET;

THENCE NORTHEASTERLY ALONG SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 14 DEGREES 31 MINUTES 49 SECONDS, AN ARC DISTANCE OF 238.77 FEET TO A POINT OF NONTANGENCY; THENCE SOUTH 76 DEGREES 23 MINUTES 33 SECONDS EAST, A DISTANCE OF 148.41 FEET;

THENCE NORTH 57 DEGREES 12 MINUTES 41 SECONDS EAST, A DISTANCE OF 13.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, WHOSE RADIUS POINT BEARS NORTH 57 DEGREES 12 MINUTES 41 SECONDS EAST, A DISTANCE OF 55.00 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 27 DEGREES 33 MINUTES 27 SECONDS, AN ARC DISTANCE OF 26.45 FEET TO A POINT OF NONTANGENCY;

THENCE SOUTH 29 DEGREES 39 MINUTES 14 SECONDS WEST, A DISTANCE OF 32.46 FEET;

THENCE SOUTH 00 DEGREES 07 MINUTES 01 SECONDS WEST, A DISTANCE OF 88.91 FEET;

THENCE SOUTH 89 DEGREES 52 MINUTES 59 SECONDS EAST, A DISTANCE OF 916.10 FEET TO A POINT ON A LINE PARALLEL WITH AND 50.00 FEET WESTERLY OF THE EASTERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 13;

THENCE SOUTH 00 DEGREES 17 MINUTES 14 SECONDS WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 1090.34 FEET;

THENCE NORTH 89 DEGREES 42 MINUTES 46 SECONDS WEST, A DISTANCE OF 163.18 FEET;

THENCE SOUTH 00 DEGREES 07 MINUTES 01 SECONDS WEST, A DISTANCE OF 40.15 FEET TO A POINT ON A LINE PARALLEL WITH AND 50.00 FEET NORTHERLY OF THE SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 13;

THENCE NORTH 89 DEGREES 52 MINUTES 59 SECONDS WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 765.00 FEET TO THE TRUE POINT OF BEGINNING.

Exhibit B

Legal Description of Meritage Property

Parcel 46

LOTS 1225 THROUGH 1403 INCLUSIVE, OF RANCHO EL DORADO PHASE III, PARCEL 46, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF PINAL COUNTY, ARIZONA, RECORDED AS CABINET G, SLIDE 117.

Parcel 56

That part of the Southeast Quarter of Section 13, Township 4 South, Range 3 East of the Gila and Salt River Meridian, Pinal County, Arizona, more particularly described as follows:

Commencing at the Brass Cap flush marking the Southeast Corner of said Section 13, from which the 1" Iron Pipe marking the East Quarter Corner of said Section 13 bears North 00°17'14" East, a distance of 2,678.97 feet;

Thence North 00°17'14" East, along the East line of the Southeast Quarter of said Section 13, a distance of 1179.86 feet;

Thence North 89°42'46" West, departing said East line, a distance of 50.00 feet to the True Point of Beginning;

Thence North 89°52'59" West, a distance of 916.10 feet;

Thence North 00°07'01" East, a distance of 88.91 feet;

Thence North 29°39'14" East, a distance of 32.46 feet to a point on a 55.00 foot radius non-tangent curve, whose center bears North 29°39'24" East;

Thence Northwesterly, along said curve, through a central angle of 27°33'24", a distance of 26.45 feet;

Thence South 57°12'41" West, a distance of 13.00 feet;

Thence North 76°23'33" West, a distance of 148.41 feet to a point on the Easterly right-of-way line of Powers Parkway as depicted in the "Map of Dedication of Rancho El Dorado Phase III," as recorded in Cabinet F, Slide 167, Records of Pinal County, Arizona, said point being on a 941.50 foot radius non-tangent curve, whose center bears North 73°57'29" West;

Thence along said Easterly right-of-way line the following courses:

Thence Northerly, along said curve, through a central angle of $05^{\circ}55'02''$, a distance of 97.23 feet;

Thence South $79^{\circ}52'29''$ East, a distance of 29.50 feet to a point on a 971.29 foot radius non-tangent curve, whose center bears North $79^{\circ}52'32''$ West;

Thence Northerly, along said curve, through a central angle of $05^{\circ}45'09''$, a distance of 97.52 feet;

Thence North $85^{\circ}36'24''$ West, a distance of 29.50 feet to a point on a 941.50 foot radius non-tangent curve, whose center bears North $85^{\circ}37'49''$ West;

Thence Northerly, along said curve, through a central angle of $04^{\circ}04'58''$, a distance of 67.09 feet;

Thence North $00^{\circ}17'14''$ East, a distance of 517.06 feet;

Thence South $89^{\circ}42'46''$ East, departing said Easterly right-of-way line, a distance of 143.07 feet to a point on a 55.00 foot radius non-tangent curve, whose center bears South $77^{\circ}10'34''$ West;

Thence Northerly, along said curve, through a central angle of $04^{\circ}13'50''$, a distance of 4.06 feet to the beginning of a tangent reverse curve of 55.00 foot radius, concave Southeasterly;

Thence Northeasterly, along said curve, through a central angle of $124^{\circ}30'46''$, a distance of 119.52 feet to the beginning of a tangent reverse curve of 55.00 foot radius, concave Northerly;

Thence Easterly, along said curve, through a central angle of $17^{\circ}20'29''$, a distance of 16.65 feet;

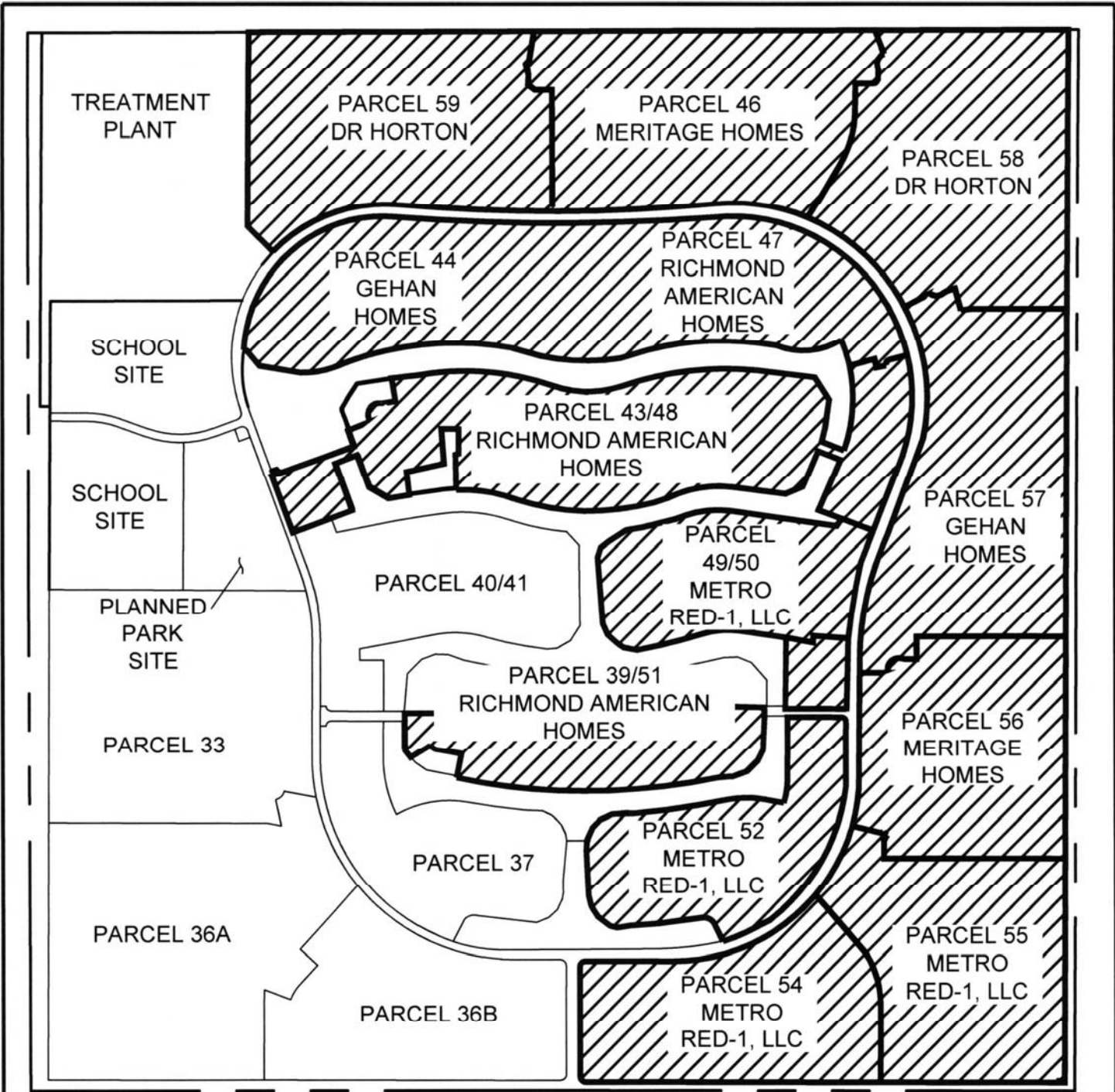
Thence South $89^{\circ}52'59''$ East, a distance of 57.99 feet;

Thence North $00^{\circ}07'01''$ East, a distance of 115.00 feet;

Thence South $89^{\circ}52'59''$ East, a distance of 754.72 feet to a point on a line which is parallel with and 50.00 feet Westerly, as measured at right angles, from the East line of the Southeast Quarter of said Section 13;

Thence South $00^{\circ}17'14''$ West, along said parallel line, a distance of 1,120.00 feet to the True Point of Beginning.

Containing 1,104,130 Square Feet or 25.347 Acres, more or less.



REIMBURSEMENT PARCELS

NOTES:

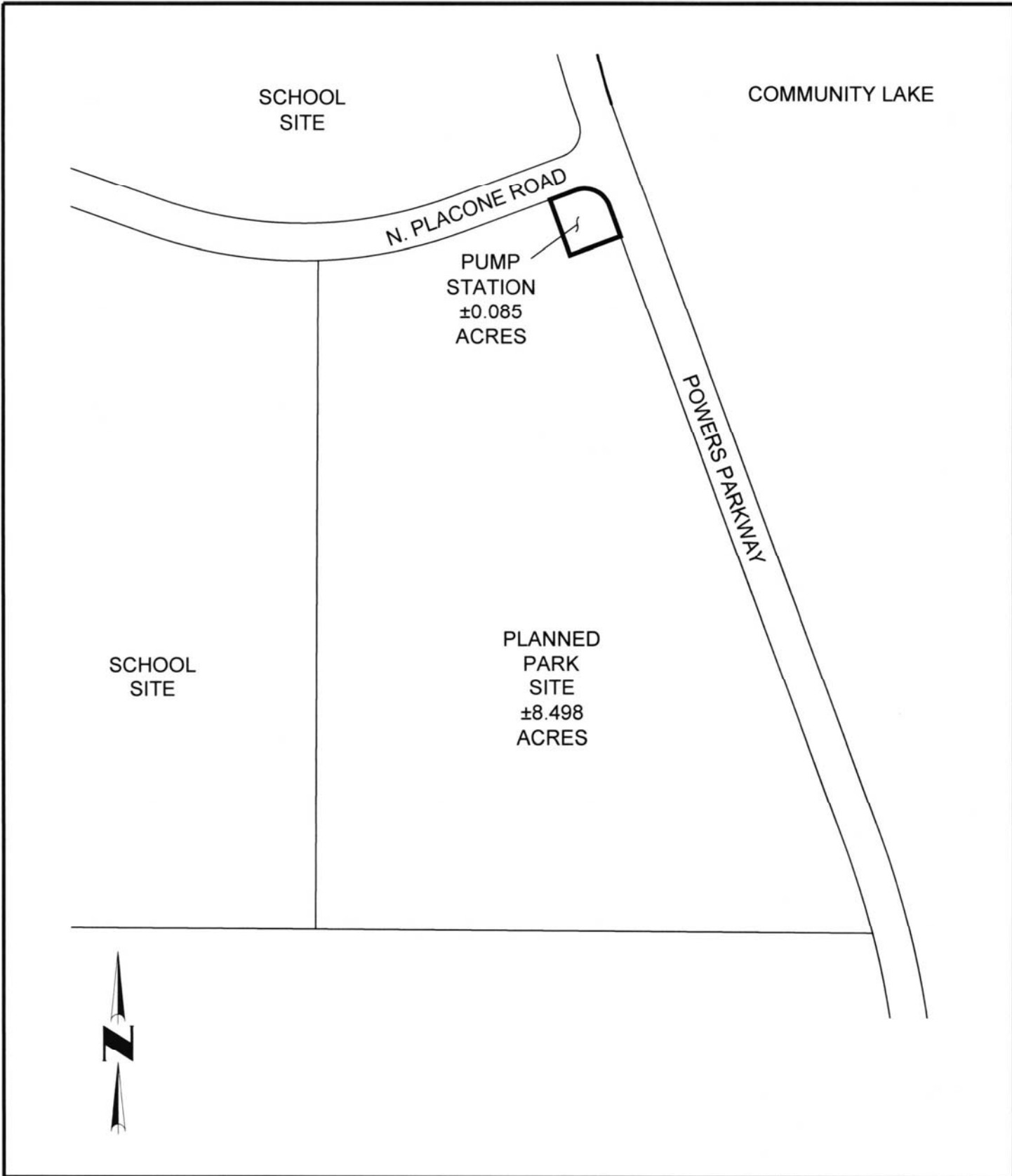
1. PARCEL 49/50 PER CABINET G, SLIDE 50, P.C.R.
2. PARCEL 57 PER PINAL APN 510-12-001S
3. PARCEL 58 PER PINAL APN 510-12-001R

SCALE 1" = 750'

EXHIBIT

LAKES AT RANCHO EL DORADO

EXHIBIT C REIMBURSEMENT PARCELS



SCALE 1" = 150'	LAKES AT RANCHO EL DORADO	
EXHIBIT		EXHIBIT D PARK SITE AND EXCLUDED
	PARCEL DESCRIPTION	1 OF 1