



December 4, 2019

Mr. Jorge Gastelum
Community Development Director / City Engineer
City of El Mirage
10000 N El Mirage Road
El Mirage, AZ 85335

RE: District Comments on Fig / Mirage Oasis Project - Dysart and Greenway

Dear Mr. Gastelum,

We've been communicating with a representative of the developer (from BFH Group) regarding this project, a 3-story 180 unit townhouse development. It is adjacent to Surprise Elementary School. There is an agreement in place that provides an easement for said project along the district's private road via Greenway Rd. The agreement also includes a 50% payment to the district from the developer/owner for certain private access road construction costs within 30 days of beginning construction on the currently vacant site.

We're planning to add a crossing on the private drive between the school and project. It would likely be located between the westernmost bus entrance and the western main school entrance lane. We would plan to operate it similar to a yellow ladder crossing with roller signs and staffed with a crossing guard. We will need to cut a ramp in that area and also ask that the developer provide a ramp and sufficient pedestrian staging area for the crossing as will DUSD. It would be ideal if direct pedestrian access from the crossing area to the housing units was provided. All parties should be aware of the drainage across the private drive to retention area just south; this appears to be near the low point in the private road.

Any landscaping along the frontage of the private road is welcomed. Shading pedestrian staging areas with trees is also welcomed. Landscaping and design that encourage a sense of community and improve traffic calming are agreeable. Westbound traffic on the private drive will need sufficient visibility for a proposed crossing.

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Governing Board: Dawn Densmore, Jay Leonard, Christine A.K. Pritchard, Traci Sawyer-Sinkbeil, Jennifer Tanner

The easement agreement allows for access to the site from Greenway Rd. While access from Dysart is expected to be available, the district may gate the Western portion of the drive if needed. We generally wish to allow free access and work with the builder regarding any future issues. It may be appropriate to inform future owners/residents of the easement and the school traffic that will be encountered. We will also do our part to inform our families that these townhomes should not be accessed as pick-up/drop off locations; we have limitations in how we could respond if this were to occur.

Surprise Elementary and the Dysart Unified School District has room for the new student population this project will bring. Please consider this willingness and capacity to serve.

I have attached the land exchange agreement to build the new school, it includes the easement agreement on PDF page 36 for your reference.

The district appreciates the opportunity to comment on pending projects in the City of El Mirage. The developer's representative Mr. David Bohn has been helpful and supportive. DUSD has no objections to this project. Any ideas or comments from city staff on the safe flow of vehicles and pedestrians in this area, or any other thoughts, are welcomed and encouraged. We're looking forward to having new neighbors and additional housing options in the city.

Sincerely,



Kevin Shipman

Planning Administrator

Planning Department

Dysart Unified School District

a: 15802 N Parkview Place, Surprise, AZ 85374

w: www.dysart.org **e:** kevin.shipman@dysart.org

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DYSART UNIFIED SCHOOL DISTRICT #89

REVISED

TO: Governing Board X Action

FROM: Office of the Superintendent X Discussion

DATE: June 23, 2004 Information

AGENDA ITEM: Recommendation for the Approval to Exchange Land at the Surprise School Campus 1st Reading

INITIATED BY: Mr. Tom Murphy/Mr. Vern Wolfley SUBMITTED BY: Mr. Tom Murphy

GOVERNING BOARD POLICY REFERENCE OR STATUTORY CITATION: BBA

SUPPORTING DATA

The District has reached a tentative agreement with Mirage Oasis, LLC, an Arizona Corporation, to exchange 8.98 acre parcels to acquire property suitable for construction of a new Surprise Elementary School and a driveway from Dysart Road and Greenway Road to the school. By doing so, a 17+ acre commercial parcel would be created to accommodate the City of El Mirage's desire to bring a grocery store to the city. Surprise Elementary School would be rebuilt on the southeastern corner of the property.

Concurrent with the construction of the new school on the exchange parcel (see diagram), the District will lease the land on which the original school sits while Surprise Elementary School is in session for the 2004-2005 school year. In June 2005, the District will demolish the existing Surprise campus and turn the property over to Camelback Companies. The District will construct the replacement school to open August 2005.

A copy of the draft agreements is attached. All agreements are subject to final review and approval by District legal counsel.

SUMMARY AND RECOMMENDATION

It is recommended that the Governing Board move that, in reliance upon of the appraisal of the land parcels involved in the proposed Surprise Elementary exchange, the Governing Board finds that the District will receive a parcel with a value that is equal to or greater than the parcel that the District will give in exchange and, therefore, the proposed Surprise Elementary exchange is based on sound business principles and will promote the health, safety and welfare of the District's students; and further that Mr. Mark Maksimowicz, Superintendent, is authorized and directed to execute and deliver on behalf of the District the Real Estate Exchange Agreement and Escrow Instructions, together with such other deeds, declarations, leases and other documents as necessary to establish and close escrow for the Surprise Elementary exchange.

ACTION BY BOARD

Motion RR Second SB

Vote UN

Agenda Item IV.12

FIRST AMENDMENT

REAL ESTATE EXCHANGE AGREEMENT AND ESCROW INSTRUCTIONS

THIS FIRST AMENDMENT REAL ESTATE EXCHANGE AGREEMENT AND ESCROW INSTRUCTIONS (this "First Amendment") is made and entered into as of this 30th day of July, 2004, by and between **Mirage Oasis, LLC**, an Arizona Limited Liability Company ("Developer"), and **Dysart Unified School District No. 89**, a political subdivision of the State of Arizona ("Dysart").

AGREEMENT

In consideration of the covenants contained herein, Dysart and Developer, intending to be legally bound, agree to amend the Real Estate Exchange Agreement and Escrow Instructions dated June, 2004 (the "Agreement") as follows:

1. Extension of Closing Date. The Agreement, specifically Section 7, is amended to provide that the "Closing" shall occur on or before September 3, 2004 or such other date as to which the parties agree.

2. Entire Agreement. This First Amendment constitutes the entire agreement between Developer and Dysart and supersedes all other agreements between the parties on the subject matter hereof. There are no other covenants, agreements, promises, terms, provisions, conditions, undertakings, or understandings, either oral or written, between them other than those set forth in the Agreement and the First Amendment. The Agreement, subject only to this First Amendment, remains in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

DEVELOPER:

Mirage Oasis, LLC, an Arizona Limited Liability Company

By: _____

Name: Jeffrey S. Mayhall
Title: Co-Managing Officer

DYSART:

Dysart Unified School District No. 89, a political subdivision of the State of Arizona

By:  _____

Name: Dr. Mark Maksimowicz
Title: Superintendent

ESCROW AGENT:

Accepted and agreed to this ____ day of August, 2004.

FIRST FINANCIAL TITLE AGENCY OF ARIZONA

By: _____

Sam Atkins, Escrow Officer

**REAL ESTATE EXCHANGE AGREEMENT
AND
ESCROW INSTRUCTIONS**

THIS REAL ESTATE EXCHANGE AGREEMENT AND ESCROW INSTRUCTIONS (this "Agreement") is made and entered into as of this ____ day of June, 2004, by and between **Mirage Oasis, LLC**, an Arizona Limited Liability Company ("Developer"), and **Dysart Unified School District No. 89**, a political subdivision of the State of Arizona ("Dysart").

RECITALS

A. Developer is the owner of certain real property located in the City of El Mirage ("City"), Maricopa County, Arizona, that consists of (i) an approximately eight (8) acre parcel; and (ii) an approximately nine (9) acre parcel (the "Developer Property").

B. Dysart is the owner of an approximately nine (9) acre parcel of real property that is the present site of Surprise Elementary School (the "Dysart Property"). The Dysart Property is adjacent to the Developer Property.

C. Developer and Dysart desire to exchange between them portions of the Developer Property and the Dysart Property so that (i) Dysart will acquire an approximately nine (9) acre parcel of real property suitable for construction of a new Surprise Elementary School (the "School Property") and a driveway from Dysart Road and Greenway Road to the school, and (ii) Developer will acquire an approximately nine (9) acre parcel of real property (the "Commercial Property") that, when consolidated with the remaining portion of the Developer Property, will be suitable for construction of a commercial center.

D. Concurrent with the exchange, Dysart desires to obtain a short-term lease of the Commercial Property to operate its current Surprise Elementary School during the construction of the new school facility, and Developer desires to obtain perpetual driveway and drainage easements upon the School Property for the benefit of the Commercial Property.

AGREEMENT

In consideration of the covenants contained herein, Dysart and Developer, intending to be legally bound, state, confirm and agree as follows:

1. **Incorporation of Recitals.** The Recitals stated above are true and correct and are incorporated herein by this reference.

2. **School Property/Commercial Property Exchange.** So long as all of the conditions precedent to the respective obligations of Developer and Dysart are timely fulfilled prior to Closing, Developer agrees to transfer to Dysart the School Property, as legally described on the attached Exhibit A-1, and Dysart agrees to transfer to Developer that the Commercial Property, as legally described in the attached Exhibit A-2.

3. **Exchange Values.**

(a) Dysart has paid for and obtained a certified appraisal (as defined in A.R.S. §32-3601) of the School Property and the Commercial Property by an independent appraiser that concludes that the fair market value of the School Property is equal to or greater than the value of the Commercial Property.

(b) Dysart and Developer acknowledge and agree that no cash purchase price shall be paid by or disbursed to either party in connection with the exchange of the School Property and Commercial Property.

4. **Escrow.** The exchange contemplated by this Agreement shall be consummated through an escrow (the "Escrow") established at First Financial Title Agency of Arizona at 2222 E. Camelback Road., Suite 200, Phoenix, Arizona 85016, Attention: Linda Decker (Telephone No. 602-956-2220; Fax No. 602-956-7344; Email:ldecker@fftaz.com (the "Escrow Agent").

5. **Effect of Termination.** If this Agreement is terminated by either party pursuant to its terms, this Agreement and all documents deposited in Escrow shall thereupon become null and void and of no further force or effect, each party shall pay one-half of any escrow cancellation or similar fee, and neither Dysart nor Developer shall have any further obligation or liability under this Agreement.

6. **Conditions Precedent to Dysart's Obligations.**

(a) **ALTA Survey; Title Report.** Dysart's obligations under this Agreement are contingent upon its acceptance and approval of an ALTA survey and extended coverage title insurance report, including any Schedule B items, for the School Property, which acceptance and approval shall not be unreasonably withheld, delayed or conditioned and, in any event, shall be exercised on or before the Closing. Failure to object to same prior to the Closing shall be deemed Dysart's approval of same. Dysart shall reasonably promptly commission, at Dysart's sole cost and expense, an ALTA Survey of the School Property and, when complete, provide copies of the same to Developer.

(b) **Environmental and Engineering Reports.** Dysart's obligations under this Agreement are contingent upon its approval of all environmental and engineering reports or tests and feasibility studies (including but not limited to physical inspection of the School Property) that Dysart elects to obtain or prepare regarding the School Property and the current Surprise Elementary School, all of which shall be paid for by Dysart. Failure to object to a report, study or test prior to the Closing shall be deemed Dysart's approval of same. Dysart shall provide copies of any report, study pertaining to the School Property to Developer. Developer authorizes Dysart and its agents, including independent contractors employed by Dysart, to enter onto the School Property for the purpose of making such tests and collecting such data desired by Dysart, provided that Dysart keeps the property free of liens, repairs all damage to the School Property, and indemnifies and holds Developer harmless from and against all liabilities and claims arising from or connected with such reports, tests and studies.

(c) **Board Approvals.** Dysart's obligations under this Agreement are contingent upon approval of this Agreement by Dysart's Governing Board and, if reasonably

determined to be necessary, by the State School Facilities Board ("SFB") on or before the Closing. If Dysart notifies Developer that Dysart's Governing Board and/or the SFB have rejected this Agreement, then this Agreement shall terminate and neither party shall have any further obligations under the terms of this Agreement.

7. **Conditions Precedent to Developer's Obligations.**

(a) **Survey; Title Report.** Developer's obligations under this Agreement are contingent upon its acceptance and approval of any survey and title insurance report for the Commercial Property, which acceptance and approval shall not be unreasonably withheld, delayed or conditioned and, in any event, shall be exercised on or before the Closing. Failure to object to same prior to the Closing shall be deemed Developer's approval of same. If Developer elects to commission a survey or title report for the Commercial Property, Developer shall do so at its own expense.

(b) **Environmental and Engineering Reports.** Developer's obligations under this Agreement are contingent upon its approval of all environmental and engineering reports or tests and feasibility studies (including but not limited to physical inspection of the School Property) that Developer elects to obtain or prepare regarding the Commercial Property, all of which shall be paid for by Developer. Failure to object to a report, study or test prior to the Closing shall be deemed Developer's approval of same. Developer shall provide copies of any report, study pertaining to the Commercial Property to Dysart. Dysart authorizes Developer and its agents, including independent contractors employed by Developer, to enter onto the Commercial Property for the purpose of making such tests and collecting such data desired by Developer, provided that Developer keeps the property free of liens, repairs all damage to the Commercial Property, and indemnifies and holds Dysart harmless from and against all liabilities and claims arising from or connected with such reports, tests and studies.

(c) **Planning and Zoning Feasibility.** Developer's obligations under this Agreement are contingent upon its approval of any feasibility study that Developer elects to conduct regarding the feasibility of rezoning the Commercial Property and any other matters pertaining to the planning and zoning for the Commercial Property. Failure to object to any such study prior to the Closing shall be deemed Developer's approval of same.

8. **Closing Date.** The "Closing" shall occur on or before August 1, 2004 or such other date as to which the parties agree. The term "Closing Date" shall mean the date on which the Closing actually occurs.

9. **Closing; Closing Documents.**

(a) **Deliveries and Actions By Developer.** At Closing, Developer shall execute and acknowledge before a notary, as appropriate, and deliver to Escrow Agent, on Dysart's account, the following:

(i) A special warranty deed with respect to the School Property (the "School Property Deed") in the form of the attached Exhibit B-1;

(ii) A declaration of restriction with respect to the Commercial Property and an adjoining parcel of real estate owned by Developer and located west of the Commercial Property in the form of the attached Exhibit C (the Declaration of Restriction);

(iii) A lease of the Commercial Property in the form of the attached Exhibit D (the "Lease");

(iv) Proof of the power and authority of Developer and the individuals executing and/or delivering any instruments, documents, assignments or certificates on behalf of Developer to act for and bind Developer, as reasonably may be required by Dysart or Escrow Agent;

(v) Affidavit(s) in compliance with Section 1445 of the Internal Revenue Code, as amended (the "Code"), if applicable; and

(vi) Any other items or documents referred to in this Agreement or affecting the conveyance of the School Property to Dysart that may be reasonably requested by Dysart or Escrow Agent or that may be necessary to carry out the purpose and intent of this Agreement.

(b) **Deliveries and Actions by Dysart.** At Closing, Dysart shall execute and acknowledge before a notary, as appropriate, and deliver to Escrow Agent, on Developer's account, the following:

(i) A special warranty deed with respect to the Commercial Property (the "Commercial Property Deed") in the form of the attached Exhibit B-2;

(ii) A driveway easement with respect to the School Property in the form of the attached Exhibit E (the "Easement Agreement");

(iii) Proof of the power and authority of Dysart and the individuals executing and/or delivering any instruments, documents, assignments or certificates on behalf of Dysart to act for and bind Dysart, as reasonably may be required by Developer or Escrow Agent, including, without limitation, the resolution of Dysart's Governing Board;

(iv) Internal Revenue Service Form 8283 and such other forms as may be reasonably required by Developer as contemplated by Paragraph 2(c) above; and

(v) Any other items or documents referred to in this Agreement or affecting the conveyance and sale of the Commercial Property to Developer that may be reasonably requested by Developer or Escrow Agent or that may be necessary to carry out the purpose and intent of this Agreement.

(c) **Order of Recordation.** Escrow Agent shall record the documents contemplated by this Agreement in the following order: (1) the School Property, (2) the Commercial Property, (3) the Declaration of Restriction and (4) the Easement Agreement. The Lease shall not be recorded.

(d) **Escrow Fees and Closing Costs.** Dysart and Developer shall each pay one-half of any escrow fees and other closing costs, including recording fees. Each party shall pay its own attorneys' fees.

(e) **Prorations.** Developer shall pay the taxes for 2004 when due. Because the tax parcel is carried on the tax rolls in the name of Developer, Developer covenants, warrants and agrees that so long as the Property remains a part of such tax parcel, Developer shall pay all taxes on the tax parcel in a timely manner and shall not allow such taxes to become delinquent. Improvement liens and other special assessments shall be paid in full by Developer on or before the Closing. The obligations of Developer under this paragraph shall survive the Closing.

10. **Title Insurance Policies.**

(a) **Dysart.** On the Closing Date, Escrow Agent shall deliver to Dysart an ALTA extended coverage owner's policy of title insurance (or a commitment therefor) issued by Escrow Agent, in the amount of the Fair Market Value of the School Property, insuring that Dysart has acquired fee simple title to the School Property subject only to the Permitted Exceptions and Escrow Agent's printed exceptions. Developer shall pay the premium attributable to the cost of a standard coverage policy, and Dysart shall pay the amount equal to the difference between the cost of a standard and extended coverage owner's policy, and for any endorsements requested by Dysart.

(b) **Developer.** On the Closing Date, Escrow Agent shall deliver to Developer a standard coverage owner's policy of title insurance (or a commitment therefor) issued by Escrow Agent, in the amount of the Fair Market Value of the Commercial Property, insuring that Developer has acquired fee simple title to the Commercial Property subject only to the Permitted Exceptions and Escrow Agent's printed exceptions. Dysart shall pay the premium attributable to the cost of a standard coverage policy, and Developer shall pay the amount for any extended coverage or endorsements requested by Developer.

11. **Developer's Representations and Covenants.**

(a) **Condition of Commercial Property; Waiver of Claims.** Prior to the Closing Date, Developer shall have made its own examination, inspection and investigation of the condition of the Commercial Property (including, without limitation, all matters pertaining to environmental hazards and compliance with all laws, the subsurface thereof, soil, engineering and all other conditions which may affect construction thereon) and all matters affecting the development thereof as it deems necessary or appropriate. Developer agrees that, except as otherwise expressly set forth in this Agreement, the Lease or any agreement or document executed by Dysart related hereto, Dysart shall not be responsible or liable to Developer for any conditions affecting the Commercial Property, as Developer is acquiring the Commercial Property, except as otherwise expressly set forth in this Agreement, **AS-IS, WHERE-IS and WITH ALL FAULTS**, and not in reliance on any representations or warranties except as expressly set forth in this Agreement. Developer further acknowledges and agrees that this release shall be given full force and effect according to each of its expressed terms and provisions, including, but not limited to, those relating to unknown and unsuspected claims, damages and causes of action. This waiver and release of claims shall survive the Closing.

12. **Dysart's Representations and Covenants.**

(a) **Condition of School Property; Waiver of Claims.** Prior to the Closing Date, Dysart shall have made its own examination, inspection and investigation of the condition of the School Property (including, without limitation, all matters pertaining to environmental hazards and compliance with all laws, the subsurface thereof, soil, engineering and all other conditions which may affect construction thereon) and all matters affecting the development thereof as it deems necessary or appropriate. Dysart agrees that, except as otherwise expressly set forth in this Agreement or any agreement or document executed by Developer related hereto, Developer shall not be responsible or liable to Dysart for any conditions affecting the School Property, as Dysart is acquiring the School Property, except as otherwise expressly set forth in this Agreement and the Lease, **AS-IS, WHERE-IS** and **WITH ALL FAULTS**, and not in reliance on any representations or warranties except as expressly set forth in this Agreement. Dysart further acknowledges and agrees that this release shall be given full force and effect according to each of its expressed terms and provisions, including, but not limited to, those relating to unknown and unsuspected claims, damages and causes of action. This waiver and release of claims shall survive the Closing.

(b) **Rezoning of Commercial Property.** At Developer's request, Dysart shall make reasonable efforts to support Developer's requests, including its rezoning application, for City approvals necessary for the development of the Commercial Property as a commercial center. Dysart shall not oppose Developer's municipal approvals including rezoning, site plan/design review and construction permits for any allowed use unless otherwise specified in this agreement.

13. **Remedies.**

(a) **Developer's Remedies.** If Dysart fails to perform when due any act required by this Agreement to be performed prior to the Closing, then Developer's sole and exclusive remedy shall be to cancel this Agreement, without further liability hereunder, such cancellation to be effective immediately upon Developer giving written notice of cancellation to Dysart.

(b) **Dysart's Remedies.** If Developer breaches any of the terms or provisions of this Agreement or otherwise defaults hereunder at or prior to the Closing, Dysart may either:

(i) waive such default and consummate the transaction contemplated hereby in accordance with the terms hereof; or

(ii) institute all proceedings necessary to specifically enforce the terms of this Agreement; or

(iii) terminate this Agreement;

In any event Dysart hereby waives any right to recover exemplary, special, indirect, consequential, or other damages on account of any such breach or default.

(c) **Post-Closing Remedies.** The limitations on remedies contained in Paragraphs 13(a) and (b) above shall apply only to any defaults under this Agreement arising prior to the date of Closing. The remedies of the parties hereto for the breach of any agreements, covenants or warranties which this Agreement specifically provides are to survive the Closing shall be limited to the right to recover from the breaching party the actual damages reasonably incurred by the non-breaching party resulting from the breach, and/or such equitable relief as may be appropriate under the circumstances, the parties each hereby waiving its right to recover indirect, consequential, special or other damages caused by the other's breach.

14. **Miscellaneous Provisions.**

(a) **Assignment.** Neither party may assign its rights or delegate its duties to this Agreement. Any assignment or attempted assignment which fails to comply with this paragraph shall be null and void and shall vest no rights in the purported assignee.

(b) **Notices.** Any notice, consent, approval, waiver, or election that any party shall be required or permitted to make or give under this Agreement shall be in writing and shall be either hand-delivered or sent by United States mail, postage prepaid, and shall be effective when hand-delivered, or two (2) days after deposit in the United States mail and addressed to the respective parties at the addresses below:

To Developer: Mirage Oasis, L.L.C.
 c/o The Camelback Companies LLC
 2201 E. Camelback Road, Suite 108-A
 Phoenix, Arizona 85016
 Attention: Jeffrey S. Mayhall, Esq.

To Dysart: Dysart Unified School District
 11405 North Dysart Road
 El Mirage, AZ 85338
 Attention: Superintendent

With a copy to: Miller LaSota & Peters, PLC
 5225 N. Central Ave, Suite 235
 Phoenix, Arizona 85012
 Attn: Donald M. Peters

To Escrow Agent: First Financial Title Agency of Arizona
 2222 E. Camelback Road, Suite 200
 Phoenix, Arizona 85016
 Attention: Mrs. Linda Decker

Either party may, from time to time, change the address to which notices shall be sent by like notice given to the other party, except that no party may change its address to other than a street address. Any notice given that does not conform to this paragraph shall be effective only upon receipt.

(c) **Entire Agreement.** This Agreement, together with the Exhibits A-1, A-2, B-1 and B-2, C, D and E constitutes the entire agreement between Developer and Dysart, and supersedes all other agreements between the parties on the subject matter hereof. There are no other covenants, agreements, promises, terms, provisions, conditions, undertakings, or understandings, either oral or written, between them concerning the Property other than those set forth in this Agreement. No subsequent agreement shall be binding upon Developer or Dysart unless in writing and signed by both parties.

(d) **Headings.** The headings, captions, numbering system, etc., are inserted only as a matter of convenience and may not be considered in interpreting the provisions of this Agreement.

(e) **Binding Effect.** All of the provisions of this Agreement are hereby made binding upon the personal representatives, heirs, successors, and assigns of the parties.

(f) **Time of Essence.** Time is of the essence of this Agreement.

(g) **Severability of Provisions.** Whenever 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 held to be invalid or prohibited, such provision shall be ineffective only to the extent of such prohibition or invalidation, but shall not invalidate the remainder of such provision or the remaining provisions of this Agreement.

(h) **Counterparts.** This Agreement may be executed by signing counterparts of this instrument, and this instrument and all of its counterparts so executed shall be deemed for all purposes to be a single instrument.

(i) **Governing Law.** This Agreement shall be construed under and in accordance with the laws of the State of Arizona.

(j) **Survival.** The representations, warranties and covenants contained in this Agreement shall be effective on the date of this Agreement and on the Closing Date and shall not merge in the Deed or any other document and shall survive the Closing.

(k) **Business Day.** If the final day of any period or any date of performance under this Agreement falls on a Saturday, Sunday, or legal holiday, then the final day of the period or the date of performance shall be extended to the next day that is not a Saturday, Sunday or legal holiday.

(l) **Escrow Instructions.** This Agreement shall constitute Escrow Agent's escrow instructions.

(m) **Attorneys' Fees.** In the event of litigation involving this Agreement, the unsuccessful party shall pay to the predominantly prevailing party all costs of suit, including reasonable attorneys' fees, investigative fees, and the fees of expert witnesses.

(n) **Waivers.** No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provisions, whether or not similar, nor shall any waiver be a

continuing waiver. Except as expressly provided in this Agreement, no waiver shall be binding unless executed in writing by the party making the waiver. Either party may waive any provisions of this Agreement intended for its benefit; provided, however, such waiver shall in no way excuse the other party from the performance of any of its other obligations under this Agreement.

(o) **Possession.** At the Closing, Developer shall deliver possession of the School Property to Dysart, subject to the terms and conditions of the Easement Agreement, and Dysart shall deliver possession of the Commercial Property, subject to the terms and conditions of the Lease.

(p) **Notice as to Conflict of Interest.** The parties acknowledge that this Agreement is subject to cancellation pursuant to A.R.S. § 38-511.

(q) **Construction.** The parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits hereto. When used herein, the terms "include" and "including" shall not be limiting and means "including without limitation."

(r) **IRS Real Estate Sales Reporting.** Dysart and Developer hereby appoint Escrow Agent as, and Escrow Agent agrees to act as, "the person responsible for closing" the transaction which is the subject of this Agreement pursuant to § 6045(e) of the Code only to the extent such provisions apply to developers of real property. Escrow Agent shall prepare and file IRS Form 1099-S and shall otherwise comply with the provisions of § 6045(e) of the Code only to the extent such provisions apply to developers of real property. Escrow Agent shall indemnify, protect, hold harmless and defend Developer, Dysart and their respective attorneys for, from and against any and all claims, actions, costs, loss, liability or expense arising out of or in connection with the failure of Escrow Agent to comply with the provisions of this paragraph.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

DEVELOPER:

Mirage Oasis, LLC, an Arizona Limited Liability Company

By: _____
Name: Jeffrey S. Mayhall
Title: Co-Managing Officer

DYSART:

Dysart Unified School District No. 89, a political subdivision of the State of Arizona

By: Mark Maksimowicz
Name: MARK MAKSIMOWICZ
Title: SUPERINTENDENT
Date: June 23, 2004

ESCROW AGENT:

Accepted and agreed to this ____ day of June, 2004.

FIRST FINANCIAL TITLE AGENCY OF ARIZONA

By: _____

Name: Linda Decker

Title: Advisory Escrow Officer/Commercial Division

EXHIBIT A-1

Legal Description of the School Property

[To be inserted and mutually approved prior to Closing]

EXHIBIT A-2

Legal Description of the Commercial Property

[To be inserted and mutually approved prior to Closing]

EXHIBIT B-1

When Recorded, Mail to:

**Miller LaSota & Peters, PLC
5225 N. Central Ave., Suite 235
Phoenix, Arizona 85353
Attention: Thomas W. Pickrell**

**AFFIDAVIT EXEMPT:
A.R.S. § 11-1134(A)(3)**

SPECIAL WARRANTY DEED

For the consideration of the sum of Ten Dollars (\$10.00) and other valuable considerations received, **Mirage Oasis, LLC**, an Arizona Limited Liability Company ("**Grantor**"), does hereby convey to **Dysart Unified School District No. 89**, a political subdivision of the State of Arizona ("**Grantee**"), all of Grantor's right, title and interest in and to that certain the following described real property (the "**Property**") situated in Maricopa County, Arizona and more particularly described on Exhibit A attached hereto and incorporated by this reference:

SUBJECT TO: current taxes and other current assessments, patent reservations, all covenants, conditions, restrictions, reservation, easements and declaration, encumbrances, liens, obligations, liabilities, all dedications and other matters of record or to which reference is made in the public record (specifically excluding, however, all mortgages and deeds of trust executed by Grantor), any and all facts, conditions, easements, encroachments, rights of way, or restrictions which a physical inspection or accurate ALTA survey of the Property would reveal, and the applicable zoning and use regulations of any municipality, county, state, or the United States affecting the Property.

AND GRANTOR hereby binds itself and its successors to warrant and defend title to the Property against all of the acts of Grantor and no other, subject to the matters set forth above.

IN WITNESS WHEREOF, Grantor has caused this Special Warranty Deed to be executed this ____ day of _____, 2004.

GRANTOR:

By: _____

Its: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of _____, 2004, by Jeffrey S. Mayhall, as co-managing officer of Mirage Oasis, LLC, an Arizona Limited Liability Company, for and on behalf of thereof.

Notary Public

My Commission Expires:

EXHIBIT A TO SPECIAL WARRANTY DEED

Legal Description of Property

[to be inserted and mutually approved prior to Closing]

EXHIBIT B-2

When Recorded, Mail to:

**Mirage Oasis, LLC
c/o The Camelback Companies LLC
2201 E. Camelback Road, Suite 108-A
Phoenix, Arizona 85016**

**AFFIDAVIT EXEMPT:
A.R.S. § 11-1134(A)(3)**

SPECIAL WARRANTY DEED

Dysart Unified School District No. 89, a political subdivision of the State of Arizona, its successors and assigns ("Grantor"), does hereby grant and convey to Mirage Oasis, LLC, an Arizona Limited Liability Company ("Grantee"), all of Grantor's right, title and interest in and to that certain real property ("**Property**") situated in Maricopa County, Arizona and more particularly described on Exhibit "A" attached hereto and incorporated by reference herein.

SUBJECT TO: current taxes and other current assessments, patent reservations, all covenants, conditions, restrictions, reservation, easements and declaration, encumbrances, liens, obligations, liabilities, all dedications and other matters of record or to which reference is made in the public record (specifically excluding, however, all mortgages and deeds of trust executed by Grantor), any and all facts, conditions, easements, encroachments, rights of way, or restrictions which a physical inspection or accurate ALTA survey of the Property would reveal, and the applicable zoning and use regulations of any municipality, county, state, or the United States affecting the Property.

AND GRANOR hereby binds itself and its successors to warrant and defend title to the Property as against the acts of Grantor and none other, subject to the matters set forth above.

PROVIDED, HOWEVER, that as long as Grantee holds title to the Property, the Property or any part thereof shall not be used a school that provides academic instruction for children between the ages of five and thirteen.

The covenants and conditions of this Special Warranty Deed are intended to and shall run with the Property and shall inure to the benefit of and be binding upon Grantor, Grantee and their respective successors and assigns.

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed as of the _____ day of _____, 20____.

GRANTOR:

Dysart Unified School District No. 89, a political subdivision of the State of Arizona

By: _____

Its: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____,
2004 _____, the
_____, of Dysart Unified School District No. 89, for and on behalf
thereof.

Notary Public

My Commission Expires:

EXHIBIT "A" TO SPECIAL WARRANTY DEED

Legal Description of Property

[to be inserted and mutually approved prior to Closing]

EXHIBIT C

When Recorded, Return to:

Miller LaSota & Peters, PLC
5225 N. Central Avenue, Suite 235
Phoenix, Arizona 85012
Attn: Thomas W. Pickrell

DECLARATION OF RESTRICTION

This Declaration of Restriction is made as of the date set forth below, by Mirage Oasis, LLC, an Arizona Limited Liability Company ("Declarant").

RECITALS:

A. Declarant owns a certain parcel of real property located on the southwest corner of Dysart and Greenway Roads in the City of El Mirage, Maricopa County (the "Commercial Center Property"), a portion of which was acquired pursuant to a Real Estate Exchange Agreement with Dysart Unified School District No. 89. ("Dysart") The "Commercial Center Property" is described on the attached Exhibit A.

B. Dysart owns a certain parcel of real property adjacent to the Commercial Center Property (the "School Property"), which was acquired pursuant to the Exchange Agreement. Dysart will construct on the School Property a new elementary school. The School Property is described on Exhibit B.

C. As a condition of the Exchange Agreement, Dysart requires Declarant to provide assurances that a school will not be constructed or operated on the Commercial Center Property that would hinder Dysart's successful operation of a public school on the School Property and, thus, undermine financially Dysart's substantial investment of public funds for a neighborhood public school.

NOW, THEREFORE, Declarant hereby declares that all of the Commercial Center Property, or any portion thereof, shall be acquired, held, sold and conveyed subject to the provisions of this Declaration, which are for the purpose of protecting the value and desirability of the School Property.

1. Restriction. The Declarant, its successors, assigns, lessees, licensees and invitees shall not construct or operate on the Commercial Center Property a school or academy that provides instruction in an academic curriculum (typical of a public school in Arizona) for students in kindergarten or grades one through eight. As used in this Declaration, the term "academic curriculum" means the courses of study typically provided to school children at a particular grade level, such as mathematics, language arts, social studies and sciences. The restriction contained in this Declaration shall not be interpreted to prohibit operation of a daycare center, dance or martial arts studio, arts and craft facility, social club (such as a Boys and Girls Club), or other similar uses; and/or a learning center on the Commercial Center Property that provides supplemental instruction or tutoring in one or more subjects of an academic curriculum to

students who are enrolled in a school or academy not located on the Commercial Center Property.

2. Term. This Declaration shall continue and remain in full force and effect at all times with respect to Commercial Center Property to the earlier of fifty (50) years or when Dysart or its successor(s) cease to use the School Property as a public school. Notwithstanding any provision herein, this Declaration may be terminated or amended at any time by an instrument signed by all owners of the Commercial Center Property and the School Property and recorded with the official records of the Maricopa County (Arizona) Recorder's office.

3. Nature of Declaration. The restriction contained herein shall run with the land and shall be binding on all persons owning or acquiring an interest in the Commercial Center Property. The restriction burdens the Commercial Center Property and benefits the School Property.

4. Remedies. In the event that the owner, lessee, or licensee of all or any portion of the Commercial Center Property shall fail to comply with the provisions of this Declarations, the owner of the School Property shall have all rights and remedies available at law or in equity and may prosecute any action or any proceedings against such owner for enforcement of such restriction, or damages, or specific performance, or judgment for payment of money and collection thereof. The prevailing party in such action or proceedings shall be entitled to an award of all costs incurred in connection with such action or proceeding, including reasonable attorney's fees.

Dated this _____ day of _____, 2004

Mirage Oasis, LLC, an Arizona Limited Liability Company

By: Jeffrey S. Mayhall
Its: Co-Managing Officer

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of _____, 2004, by Jeffrey S. Mayhall, as co-managing partner of Mirage Oasis, LLC, an Arizona Limited Liability Company, for and on behalf of thereof.

Notary Public

() ()

My Commission Expires:

EXHIBIT A

Legal Description of the Commercial Center Property

[To be inserted and mutually approved prior to Closing]

EXHIBIT B

Legal Description of the School Property

[To be inserted and mutually approved prior to Closing]

EXHIBIT D

LEASE AGREEMENT

THIS LEASE (the "Lease") is made this _____ day of _____ 2004 by and between Mirage Oasis, LLC, an Arizona Limited Liability Company ("Landlord"), and Dysart Unified School District No. 89, an Arizona political subdivision ("Tenant").

RECITALS

A. Landlord and Tenant have entered into a Real Estate Exchange Agreement whereby Landlord has obtained from Tenant a land parcel (the "Commercial Property") suitable for construction of a commercial center and Tenant has obtained from Landlord a land parcel (the "School Property") suitable for construction of an elementary school.

B. During the construction of the elementary school on the School Property, Tenant desires to lease the Commercial Property, including the school buildings and other facilities currently located thereon, for the purpose of operating an elementary school.

C. Landlord desires to lease the Commercial Property to Tenant, provided that Landlord incurs no expense as a result of its lease of the Commercial Property to Tenant and Tenant completely removes all buildings and improvements from the Commercial Property at the end of the lease term.

AGREEMENT

In consideration of the promises set forth herein, the receipt and sufficiency of which is hereby acknowledged, Landlord leases to Tenant, and Tenant leases from Landlord, for the term and upon the conditions and agreements set forth in this Lease the Commercial Property, which consists of the real property described on Exhibit A attached hereto (the "Premises"), together with the buildings, structures and other improvements thereon (the "Improvements").

1. TERM AND POSSESSION.

A. Term. The term of this Lease (the "Term") shall begin upon the closing of the Real Estate Exchange Agreement (the "Commencement Date") and end upon the earlier of (i) the date when Tenant delivers notice to Landlord that Tenant has vacated the Commercial Property and completed its demolition and disposal obligations pursuant to Section 6 of this Lease, or (ii) August 1, 2005.

B. Surrender. Upon the termination or expiration of this Lease or upon the termination of Tenant's right of possession, whether by lapse of time or otherwise, Tenant shall at once surrender possession of the Premises to Landlord and remove all of Tenant's property.

C. Holdover. Tenant hereby acknowledges a holdover of this lease will be detrimental on Landlord due to interest carry costs for the lease term. Therefore, Tenant shall have no right to hold over after the expiration of the Term of this Lease without Landlord's

consent. If, with Landlord's consent, Tenant holds over after the expiration of the Term of this Lease, Tenant shall become a tenant from month to month only, upon all of the terms of this Lease except that the amount of the rent shall be \$3,000 per month for the first month and \$4,500 per month thereafter, unless Landlord and Tenant mutually agree upon another monthly rent amount.

2. RENT.

A. Rent. Tenant shall pay to Landlord on or before the commencement date, as rent for the Term of this Lease, the sum of ten (10) dollars. Tenant acknowledges that Landlord has entered into this Lease and reduced the rent payable under this Lease to facilitate the Real Estate Exchange Agreement and with the understanding that Tenant will remove the Improvements from the Premises pursuant to Section 6 of this Lease. If, for any reason, Landlord incurs additional costs or expenses as a result of Tenant's occupation and use of the Premises and the Improvements, Landlord will give Tenant notice of such costs or expenses with documentation of the cost or expense incurred and may charge such costs or expenses to Tenant as additional rent under this Lease. Tenant will pay such additional rent within 30 days after notice and documentation of the cost or expense has been provided to Tenant.

B. Nature of Payments. All sums required to be paid by Tenant under this Lease, whether or not so designated, are rent.

3. USE OF PREMISES.

A. Permitted Use. Tenant may use and occupy the Premises for the operation of a school and shall use the Premises for no other purpose whatsoever without Landlord's prior written consent. Tenant may request to use the Premises for storage of construction materials and equipment

B. Compliance with Laws. Tenant shall comply with all present and future federal, state and local laws, ordinances, orders, rules and regulations (collectively, "Laws") including, without limitation, the Americans with Disabilities Act, related in any way to the Premises, to Tenant's business, to Tenant's use or occupancy of the Premises, or to Tenant's activities on the Premises, and shall procure all permits, certificates, licenses and other authorizations required by applicable Laws. Tenant shall make all reports and filings required by applicable Laws. Tenant shall defend, indemnify and hold harmless Landlord and Landlord's present and future board members, employees, and agents from and against all claims, demands, liabilities, fines, penalties, losses, costs and expenses, including but not limited to costs of compliance, remedial costs, and reasonable attorneys' fees, arising out of or relating to any failure by Tenant or the Premises to comply with applicable Laws.

C. Environmental Matters. Tenant at all times shall comply with all federal, state and local laws, ordinances, orders, rules or regulations relating to the Premises pertaining to environmental matters, including, without limitation, water quality, air quality, and handling, storage, treatment or disposal of solid, special or hazardous wastes, hazardous substances, hazardous materials, and petroleum products (collectively, "Regulated Substances") and shall defend, indemnify and hold Landlord, its board members, employees and agents harmless from all claims, loss, damage or liability arising from non-compliance. Without limiting the

foregoing, Tenant shall be responsible for remediation and cleanup of any condition arising after the Commencement Date regardless of Tenant's participation in or responsibility for the creation of the condition or Tenant's present knowledge or lack of knowledge of its existence. Tenant shall not keep, store, or use within the Premises any Regulated Substances except as permitted by applicable Laws and reasonably necessary for Tenant's business at the Premises. Tenant's indemnification obligations shall survive the expiration or termination of this Lease.

4. LANDLORD'S CONSTRUCTION OF GROCERY STORE ON PREMISES.

At Landlord's request, Tenant shall seek to negotiate in good faith a mutual agreement with Landlord that will allow Landlord to commence construction of a commercial building, such as a grocery store, on the western side of the Premises that is currently used a playground facility. Landlord acknowledges that such agreement must provide Tenant with reasonable assurances that the construction will not interfere with Tenant's use of the remainder of the Premises as an elementary school and will not present, in Tenant's judgment, an unacceptable safety or liability risk to students or staff as a result of the construction.

4. TAXES.

A. Taxes Imposed on Tenant. Tenant shall pay, prior to delinquency, any and all taxes assessed against or levied upon Tenant's fixtures, furnishings, equipment and other personal property located in or upon the Premises. Tenant shall cause the fixtures, furnishings, equipment and other personal property to be assessed and billed separately from the real property of which the Premises form a part. In the event any or all of Tenant's fixtures, furnishings, equipment and other personal property shall be assessed and taxed with the real property, Tenant shall pay to Landlord Tenant's share of the taxes not later than ten days prior to delinquency, provided Landlord shall provide to Tenant a statement in writing setting forth the amount of the taxes applicable to Tenant's personal property. Tenant reserves the right to contest and appeal taxes assessed against Tenant's personal property, and Landlord shall cooperate with Tenant at no expense to Landlord.

B. Real Property Taxes and Assessments. Tenant shall pay any and all general and special real property taxes and assessments ("Real Estate Taxes") levied or imposed against the Premises during the Term of this Lease. Real Estate Taxes for the calendar years in which the Term begins and ends shall be prorated to the commencement and end of the Term of this Lease. Landlord shall provide notice setting forth the actual amount of the Real Estate Taxes owed pursuant to this paragraph, and Tenant shall within 30 days thereafter pay such amount.

C. Excise Taxes. Tenant shall reimburse Landlord for any and all sales, use, rental, transaction privilege or other excise tax imposed or levied on, or measured by, the amount paid or value received by Landlord pursuant to this Lease.

5. MAINTENANCE, REPAIR AND UTILITIES.

A. Maintenance and Repair. Tenant shall maintain the interior and exterior of the Premises and the Improvements thereon in satisfactory condition and repair. Landlord shall not be responsible to make any repairs or perform any maintenance or repair of the Premises whatsoever. There shall be no abatement of rent and no liability of Landlord by reason of any

entry to the Premises, interruption of services or facilities, or interference with Tenant's business arising from the making of any repairs or maintenance.

B. Utilities. Tenant shall be solely responsible for arranging and paying directly for all utilities provided to the Premises, which shall be separately metered at Tenant's expense.

6. CONDITION OF PREMISES; DEMOLITION

A. Condition of Premises. Tenant accepts the Premises **AS IS** in the condition they exist as of the Commencement Date. Landlord has no obligation to design or construct improvements to make alterations to the Premises.

B. Demolition and Disposal of Improvements. Prior to the expiration of the Term of this Lease, Tenant, at its expense, shall demolish and dispose of the Improvements; (including all underground improvements whether currently in use or previously abandoned.) leaving the ground free of debris and in a condition that is satisfactory for the fine grading phase of a commercial construction project. In the event said demolition can not occur prior to August 1, 2005, Landlord and Tenant shall reasonably agree upon an extension of Lease term to allow Tenant to fulfill its obligations under this Section 6.B.

C. Compliance with Law; Indemnification. Tenant at all times shall comply with all federal, state and local laws, ordinances, orders, rules or regulations relating to the demolition and disposal of the Improvements, including, without limitation, water quality, air quality, and handling, storage, treatment or disposal of solid, special or hazardous wastes, hazardous substances, hazardous materials, and petroleum products (collectively, "Regulated Substances") and shall defend, indemnify and hold Landlord, its officers, employees and agents harmless from all claims, loss, damage or liability arising from non-compliance. Without limiting the foregoing, Tenant shall be responsible for remediation and cleanup of any condition arising from the demolition or disposal regardless of Tenant's participation in or responsibility for the creation of the condition or Tenant's present knowledge or lack of knowledge of its existence. Tenant's indemnification obligations shall survive the expiration or termination of this Lease.

7. ALTERATIONS AND PERSONAL PROPERTY.

Tenant may make any alterations, additions or improvements to the Premises, including signs, with the prior written consent of Landlord. Landlord may condition its consent upon provision of a payment bond in form reasonably satisfactory to Landlord and in amount sufficient to prevent any mechanics' lien from attaching to the Premises, covering the work to be done by Tenant's contractor.

8. DAMAGE TO PROPERTY; INJURY TO PERSONS; INSURANCE.

A. Responsibility for Claims; Indemnification. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons, in, upon, or about the Premises from any cause. Tenant shall defend, indemnify and hold harmless Landlord and Landlord's present and future officers, employees and agents from and against all claims, losses, damages or liabilities arising from any alleged damage to property or injury to

persons in, upon, or about the Premises, including but not limited to loss of or damage to any property by theft or otherwise, or for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of any building or from the pipes, appliances or plumbing works therein, or from the roof, street or subsurface, or from any other place resulting from dampness or any other cause whatsoever. Tenant shall give immediate notice to Landlord of any fire, accident or defect discovered in the Premises or the building.

B. Insurance. Throughout the Term of this Lease, Tenant shall maintain comprehensive general public liability insurance against claims for personal injury, death and property damage occurring upon, in or about the Premises, with a combined single limit or equivalent of 2,000,000 dollars.

C. Requirements. Tenant shall cause Landlord to be named an additional insured on its liability policy. All proceeds of Tenant's policy or property insurance covering its inventory, equipment, trade fixtures, vehicles and other personal property shall be payable to Tenant. Tenant hereby waives any right to recovery from Landlord and Landlord hereby waives any right of recovery from Tenant for any loss or damage (including consequential loss) resulting from any of the perils insured against in the standard form fire insurance policy with extended coverage endorsement. Certificates of insurance for all policies required to be carried under this Article 8 shall be delivered to Landlord prior to the Commencement Date and thereafter at least 30 days prior to the expiration of the then current policies. Each insurer shall provide at least 30 days prior written notice of cancellation or non-renewal to Landlord.

9. FIRE AND CASUALTY.

In the event that fire or casualty causes destruction or damages to the Premises such that at least fifty (50) percent of the Premises is untenable, Tenant shall have the option of completing its demolition and disposal obligations under Section 6 of this Lease and, thereafter, terminating this Lease. If all or any portion of the Premises are wholly or partially destroyed or damaged by fire or other casualty, Landlord shall have no obligation to restore the Premises or to replace any of Tenant's fixtures, furnishings, equipment or personal property. Proceeds of insurance payable with respect to a fire or other casualty shall be received and held by Tenant. The provisions of this Section 9 of the Lease shall govern when this Lease shall be terminable as a result of a fire or casualty, and no other section of this Lease, rule or statute on the subject shall apply.

10. CONDEMNATION.

All awards or compensation for any taking of any part of the Premises, whether payable to Landlord or Tenant, and including any award for Tenant's leasehold interest, shall be the sole property of Landlord. Notwithstanding anything to the contrary contained herein, Tenant shall be entitled to receive any portion of an award of compensation relating to damage to or loss of trade fixtures or other personal property belonging to Tenant, and Landlord shall be under no obligation to restore or replace Tenant's furnishings, fixtures, equipment and personal property. For the purposes of this Article, a sale or conveyance to the condemning authority in lieu of condemnation shall be deemed an appropriation or a taking under the power of eminent domain.

11. ASSIGNMENT AND SUBLETTING; SALE BY LANDLORD.

A. Consent Required. Tenant shall not assign its interest under this Lease or sublet all or any part of the Premises.

B. Sale of Property. In the event of a sale or conveyance by Landlord of the Premises, Landlord shall be relieved of all future liability upon any of the covenants or conditions, express or implied, in favor of Tenant, arising after the date of the transfer, and Tenant shall look solely to Landlord's successor in interest; provided, however, the successor in interest shall assume Landlord's obligations under this Lease from and after the effective date of the transfer. This Lease shall not be affected by any sale, and Tenant shall attorn to the successor in interest.

12. ESTOPPEL CERTIFICATE.

A. Certifications. Tenant shall at any time and from time to time upon not less than twenty days' prior written notice from Landlord execute, acknowledge and deliver to Landlord a statement in writing:

(1) certifying that this Lease is unmodified and in full force and effect (or if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the dates to which the rental and other charges are paid in advance, if any;

(2) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or specifying such defaults if they are claimed; and

(3) certifying such other matters relating to this Lease as Landlord may reasonably request. Any such statement may be relied upon by any prospective purchaser or encumbrancer of all or any portion of the real property of which the Premises are a part.

B. Failure to Provide. Tenant's failure to deliver a statement within the time prescribed shall be conclusive upon Tenant:

(1) that this Lease is in full force and effect, without modification except as may be represented by Landlord or known by Landlord's officers,

(2) that there are no uncured defaults in Landlord's performance, and

(3) that not more than one month's rental has been paid in advance.

13. SUBORDINATION.

Landlord expressly reserves the right at any time to place liens and encumbrances on and against the Premises, superior in lien and effect to this Lease and the estate created hereby, and Tenant shall execute upon request subordination agreements to that effect; provided, however, that Tenant's obligation to subordinate this Lease shall be conditioned upon the holder of the encumbrance entering into an agreement in a form reasonably acceptable to Tenant pursuant to

which the holder agrees that Tenant shall not be disturbed in its use and occupancy of the Premises notwithstanding any foreclosure, trustee's sale or similar proceeding so long as Tenant is not in default hereunder.

14. LANDLORD'S REMEDIES.

A. Event of Default. The following shall constitute events of default:

(1) Tenant's failure to pay rent or any other amount due under this Lease within 20 days after written notice from Landlord of nonpayment.

(2) Tenant's failure to execute, acknowledge and return an estoppel certificate which complies with the requirements of Article 12 or a subordination agreement that complies with the requirements of Article 15, within 20 days after Landlord's written request.

(3) Tenant's failure to perform any other obligation under this Lease within 30 days after written notice from Landlord of nonperformance; provided, however, that if the breach is of such a nature that it cannot be cured within 30 days, Tenant shall be deemed to have cured if cure is commenced promptly (which, in no event shall be later than thirty days following notice of nonperformance) and diligently pursued to completion; and provided further, that in the event of a breach involving an imminent threat to health or safety, Landlord may in its notice of breach reduce the period for cure to such shorter period as may be reasonable under the circumstances.

B. Remedies. Upon the occurrence of an event of default by Tenant, Landlord, at any time thereafter without further notice or demand may exercise any one or more of the following remedies concurrently or in succession:

(1) Terminate Tenant's right to possession of the Premises by legal process or otherwise, with or without terminating this Lease, and retake exclusive possession of the Premises.

(2) From time to time recover accrued and unpaid rent and damages arising from Tenant's breach of the Lease, regardless of whether the Lease has been terminated, together with applicable late charges and interest at the legal rate.

(3) Enforce the statutory Landlord's lien on Tenant's property.

(4) Recover all reasonable attorneys' fees and other expenses incurred by Landlord in connection with enforcing this Lease, recovering possession and collecting amounts owed.

(5) Perform the unperformed obligation on Tenant's behalf and recover from Tenant, upon demand, the entire amount expended by Landlord plus ten percent for handling, supervision, and overhead.

(6) Pursue any other remedies available at law or in equity.

15. NOTICES.

All notices to be given by one party to the other under this Lease shall be in writing, mailed or delivered to each as follows:

To Landlord:

Mirage Oasis, LLC
c/o The Camelback Companies LLC
2201 E. Camelback Road, Suite 108-A
Phoenix, Arizona 85016
Attention: Jeffrey S. Mayhall

To Tenant:

Dysart Unified School District
11405 North Dysart Road
El Mirage, AZ 85338
Attention: Superintendent

or at a changed address if notice of the change is given to the other party in writing. Mailed notices shall be sent by United States certified or registered mail, postage prepaid. Such notices shall be deemed to have been given three days after posting in the United States mail. Actual notice shall be no substitute for written notice under any provision of this Lease.

16. GENERAL PROVISIONS.

A. Force Majeure. This Lease and the obligations of Tenant and Landlord hereunder shall not be affected or impaired because either party is unable to fulfill any of its obligations hereunder or is delayed in doing so if such inability or delay is caused by reason of any strike, lockout, civil commotion, war-like operations, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain any material or service, Act of God or other cause beyond the control of the party obligated; provided, however, that nothing in this Article shall excuse the performance of any payment obligation.

B. Captions. The article captions contained in this Lease are for convenience only and shall not be considered in the construction or interpretation of any provision.

C. Integration. This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreement or understanding pertaining to any matter shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest.

D. No Waiver. No waiver by either party of any provision of this Lease or any breach by the other party hereunder shall be deemed to be a waiver of any other provision hereof, or of any subsequent breach of the same or any other provision. Landlord's consent to or

approval of any act by Tenant requiring Landlord's consent or approval shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent act of Tenant, whether or not similar to the act so consented to or approved. No act or thing done by Landlord or Landlord's agent during the Term of this Lease shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept a surrender shall be valid unless in writing and signed by Landlord. No employee of Landlord or of Landlord's agents shall have any power to accept the keys to the Premises prior to the termination of this Lease, and the delivery of the keys to any employee shall not operate as a termination of the Lease or a surrender of the Premises.

E. Access. Landlord shall have the right to enter the Premises either personally or by designated representative at all reasonable times for the purpose of examination or inspection, and showing the Premises to prospective purchasers or lenders.

F. Deadlines. Time is of the essence of this Lease.

G. Conflict of Interest. This Lease is subject to cancellation pursuant to A.R.S. §38-511.

LANDLORD:

TENANT:

Mirage Oasis, LLC,
An Arizona limited liability company

Dysart Unified School District No. 89

By: _____
Jeffrey S. Mayhall
Its: Co-Managing Officer

By: _____
Its: _____

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

[to be inserted and mutually approved prior to Closing]

EXHIBIT E

WHEN RECORDED, RETURN TO:

MILLER LaSOTA & PETERS, PLC
5225 North Central, Suite 235
Phoenix, AZ 85012
Attention: Thomas W. Pickrell

EASEMENT AGREEMENT

BY THIS EASEMENT AGREEMENT ("Agreement"), dated as of the ___ day of _____, 2004, Mirage Oasis, LLC, an Arizona Limited Liability Company ("Developer"), and DYSART UNIFIED SCHOOL DISTRICT NO. 89, a political subdivision of the State of Arizona ("Dysart"), recite, agree and state as follows:

RECITALS

A. Developer is the owner of that real property located in Maricopa County, Arizona, and described on Exhibit "A" attached hereto (the "Commercial Property"). Dysart is the owner of that real property described on Exhibit "B" attached hereto (the "School Property").

B. Dysart desires to grant an easement to Developer, its successors and assigns, for ingress and egress to and from the Commercial Property across the School Property, subject to the terms and conditions hereinafter set forth.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as hereinafter provided.

AGREEMENT

I. INGRESS AND EGRESS EASEMENT.

1.1 EASEMENT. Dysart hereby grants to Developer, its successors and assigns and Permittees thereof, a non-exclusive easement upon and across that portion of the School Property as outlined on Exhibit "C" attached hereto and legally described on Exhibit "D" attached hereto ("Driveway Easement Property") for ingress and egress between the Commercial Property and the roadways presently known as Greenway Road and Dysart Road. Such easement shall only benefit the Commercial Property and shall not serve any other property. The easement is granted solely for the purpose of allowing pedestrian and vehicular traffic across the Driveway Easement Property and shall not limit the right of Dysart, its successors and assigns

and the Permittees thereof to use the Driveway Easement Property for any purpose not inconsistent with Developer's rights hereunder. In exercising the rights granted herein, Developer and its Permittees shall not cause or permit vehicles to park, idle, stand, form lines or otherwise become stationary on the Driveway Easement Property at any time. Dysart shall have the right from time to time to temporarily close portions of the Driveway Easement Property to perform maintenance, repair, restoration, excavation and other work in connection with the operation of the School Property. As used herein, "Permittees" shall mean and include the guests, agents, tenants, customers, employees, invitees and licensees of the parties.

1.2 CONSTRUCTION. Dysart shall construct on the Driveway Easement Property a driveway suitable for vehicular and pedestrian traffic. The driveway shall be paved with concrete curbing on each side of the driveway and with two curb cuts for ingress and egress between the Commercial Property (including the adjacent land owned by Developer and located west of the Commercial Property) and the Driveway Easement Property in locations approved by Developer, which approval shall not be unreasonably withheld or delayed. Dysart shall not be responsible for construction of a wall between the Commercial Property and the Driveway Easement Property. Construction shall be completed in a good and workmanlike manner, in compliance with all applicable laws, regulations and codes. Developer shall reimburse Dysart for one-half of the cost of constructing the portion of the driveway that benefits the Commercial Property. For example, if the length of the driveway is 1800 feet from Greenway to Dysart Roads and a curb cut is located on the first 100 feet from Greenway Road and another other curb cut is located on the first 250 feet from Dysart Road, then 350 feet, or 19.4% of the driveway, benefits the Commercial Property and Developer would be responsible for one-half of 19.4% of the cost of constructing the driveway. Dysart shall deliver to Developer a statement setting forth in reasonable detail Developer's share of the costs of construction of the driveway, and Developer shall pay its share of such costs to Dysart within thirty (30) days after commencement of any construction on the Commercial Property.

1.3 MAINTENANCE. Dysart shall maintain the driveway over the Driveway Easement Property in good condition and repair. Developer shall reimburse Dysart for one-half of the cost of maintaining, repairing and restoring the portion of the driveway that benefits the Commercial Property and the areas immediately adjacent to the portion of the driveway that benefits the Commercial Property that affect the driveway's structural integrity (the "Driveway Costs"). The portion of the driveway that benefits the Commercial Property shall be determined in the same manner as it is to be determined for the purpose of section 1.2 of this Agreement. The Driveway Costs shall include without limitation sums expended for resurfacing, striping and sweeping. Each year Dysart shall deliver to Developer a statement setting forth in reasonable detail Developer's share of the Driveway Costs for the previous calendar year. Developer's percentage share of such costs shall be payable within forty-five (45) days after delivery of such statement.

1.4 DAMAGE. If the Driveway Easement Property is damaged or the cost of cleaning the Driveway Easement Property is increased beyond normal costs for cleaning such areas as a result of the exercise of the easement rights granted herein, Developer shall reimburse Dysart within thirty (30) days after delivery of written demand for all costs incurred in repairing such damage. If the Driveway Easement Property is damaged by Dysart or its Permittees, Dysart shall promptly repair such damage at its sole expense. Developer shall indemnify and hold Dysart harmless from and against any and all claims, costs, expenses and liabilities (including

reasonable attorneys' fees) incurred in connection with all claims, including any action or proceeding brought thereon, arising from or as a result of the death of, or any accident loss, injury or damage whatsoever to, any person, or to the property of any person, occurring on or about the Driveway Easement Property and caused by Developer or its Permittees or in any other way arising from the exercise of easement rights granted herein. Any "consequential damages" shall be limited to the amount of required insurance.

1.5 INSURANCE. Developer, at its sole expense, shall procure and maintain a comprehensive general liability insurance policy against claims for bodily injury, death or property damage, occurring as a result of the exercise of the easement rights granted herein which policy shall name Dysart as additional insured. Such insurance shall be in the amount of at least \$2,000,000 combined single limit, which may be reviewed at Dysart's request every five years and increased to a commercially reasonable amount. If Dysart and Developer cannot mutually agree upon a commercially reasonable amount, each shall select an insurance advisor, who shall mutually select a third insurance advisor, and the average of the advisor's opinions shall be deemed to be the commercially reasonable amount. Such policy shall be endorsed to indicate that it will cover the indemnification obligations contained in Section 1.3 to the coverage limit of such policy. Such insurance shall be provided under a valid and enforceable policy issued by an insurance company authorized to do business in Arizona and which shall maintain at all times an A.M. Best rating of at least A Class VII. Developer shall deliver to Dysart within thirty (30) days after the execution of this Agreement, and within 30-days after each anniversary of the execution of this Agreement, certified copies of the insurance policies required herein and evidence that the premium therefore has been paid in full. Such policy shall contain a covenant obligating the insurer to notify Dysart in writing of any cancellation, alteration or non-renewal of said policy at least sixty (60) days prior thereto.

1.6 RESTRICTION OF VEHICLES. Dysart shall be entitled, but not obligated, to install at Dysart's sole expense a gate across the Driveway Easement Property in the location designated on Exhibit "C". Dysart may use the gate to limit traffic between Dysart Road and the School Property at such times and for such vehicles as it deems necessary or appropriate for its operation of an elementary school on the School Property.

II. DRAINAGE EASEMENT

2.1 GRANT OF EASEMENT. Dysart grants a restricted easement for free flow of storm water runoff across, over and through that portion of the School Property specifically cross hatched on Exhibit E hereto, which consists of a strip of land twenty-five feet (25') in width along the western edge (approximately 25 feet) of the School Property and adjacent to Dysart Road (the "Drainage Easement Area")

2.2 NO IMPEDIMENTS. Dysart shall not build or maintain any structure on or use of the Drainage Easement Area in any manner that would materially impair or impede the free flow of storm water runoff, provided that (i) these restrictions shall not prevent Dysart from using the Drainage Easement Area as a portion of its driveway between Dysart Road and Dysart's school facility on the School Property and (ii) in the event of damage to the roadway caused by storm water runoff, Developer, its sole expense, shall immediately restore the roadway to its prior condition.

2.3 **TERMINATION OF EASEMENT** If the Drainage Easement Area is not used for storm water runoff for a period of ten (10) years, then the easement shall automatically terminate and shall be of no further force or effect and shall be removed as a easement on the School Property.

III. **REMEDIES**

3.1 **CUMULATIVE REMEDIES.** The remedies permitted or available pursuant to the provisions of this Agreement, at law or in equity, shall be cumulative.

3.2 **ATTORNEYS' FEES AND COSTS.** In the event suit is brought for the enforcement of, or the declaration of rights pursuant to, this Agreement or as the result of any alleged breach of any restriction or other provision of this Agreement, the prevailing party or parties in such suit shall be entitled to recover their costs and expenses, including reasonable attorneys' fees, from the losing party or parties, and any judgment or decree rendered in such proceedings shall include an award thereof.

3.3 **INJUNCTIVE RELIEF AND DAMAGES.** In the event of any breach or threatened breach of any restriction or other provision of this Agreement, any party may prosecute any proceedings at law or in equity to enjoin such breach or threatened breach and to recover damages for any such breach.

3.4 **ENFORCEMENT BY LIEN.** In the event Developer fails to pay any "undisputed" amounts payable hereunder within thirty (30) days after the date such payment is due, such amounts shall constitute a lien until paid, effective upon recordation of a verified notice of lien in the Official Records of Maricopa County, Arizona. In the event "amounts due" are disputed, developer has the right to bond or escrow the disputed amount and no lien or barrier may be imposed on easement. Such costs and expenses shall constitute a lien against, and such notice of lien shall describe, the Commercial Property. If Developer fails to fully discharge any such lien within five days after receipt of notice thereof, in addition to all other available rights and remedies, Dysart shall be entitled, but not obligated to install barriers between the Commercial Property and the Driveway Easement Property, and Developer's right to use the Driveway Easement Property shall be suspended until such liens are fully discharged. Any such lien shall be subject and subordinate to any bona fide first mortgage or deed of trust encumbering any portion of the Commercial Property at the time such notice of lien is recorded, and any purchaser at any foreclosure or trustee's sale (as well as any grantee by deed in lieu of foreclosure or trustee's sale) under any such mortgage or deed of trust shall take title free and clear of any such lien, but otherwise subject to all of the restrictions and other provisions of this Agreement. Except as provided above, any such lien shall be prior and superior to any lien recorded subsequent to the recordation of such notice of lien. Any such lien may be enforced by suit or action in any court of competent jurisdiction or by sale under power of sale, judicial foreclosure or in any other manner allowed by law.

3.5 **INTEREST ON PAST-DUE OBLIGATIONS.** Any amount due to either party hereunder which is not paid when due shall bear interest from the date due until paid at a rate equal to the lesser of prime + 3% or eighteen percent (18%) per annum.

3.6 **MORTGAGEE PROTECTION.** Breach of any restriction or other provision

of this Agreement shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but all of the restrictions and other provisions of this Agreement shall be binding and effective against any owner whose title is acquired by foreclosure, trustee's sale or otherwise.

3.7 NO CANCELLATION. No breach of any restriction or other provision of this Agreement shall entitle any party to cancel, rescind or otherwise terminate this Agreement, but this limitation shall not affect in any manner any other rights or remedies which a party may have by reason of such breach.

IV. GENERAL.

4.1 NOTICES. All notices, demands, requests, consents and approvals which may, or are required to, be given by any party to any other party hereunder shall be given, made, delivered or serviced if in writing and delivered personally or sent by registered or certified mail, postpaid to:

Dysart at: Dysart Unified School District No. 89
11405 North Dysart Road
El Mirage, AZ 85335
Attention: Superintendent

With a copy to: Miller LaSota & Peters, PLC
5225 North Central, Suite 235
Phoenix, AZ 85012
Attention: Donald M. Peters

Developer at: Mirage Oasis, LLC
c/o The Camelback Companies, LLC
2201 East Camelback Road, Suit 108-A
Phoenix, Arizona 85016
Attention: Jeffrey S. Mayhall

Or to such other addresses as either party may from time to time designate in writing and deliver in accordance herewith to the other party. Notices and communications shall be deemed delivered and received upon receipt, if delivered in person, or seventy-two (72) hours after deposit in the mail as herein provided, if delivered by mail.

4.2 TAXES. Dysart and Developer shall pay in a timely manner all taxes, assessments and other charges for which a lien could be imposed upon the fee interest in School Property or Commercial Property which would be superior to the rights created by this Agreement.

4.3 NOT A PUBLIC DEDICATION. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of School Property or Commercial Property to the general public or for the general public or for any public purpose whatsoever, and this Agreement shall be strictly limited to and for the purposes expressed herein.

4.4 SEVERABILITY. Invalidation of any of the restrictions or other provisions of this Agreement shall in no way affect any of the other restrictions or provisions of this Agreement.

4.5 HEADINGS. The captions and headings of the various Articles and Sections of this Agreement are for convenience and identification only, and shall not be deemed to limit or define the contents of their respective Articles or Sections.

4.6 EFFECTIVE DATE. This Agreement shall take effect only upon its recordation in the Official Records of Maricopa County, Arizona.

4.7 TERM. Except as otherwise expressly provided herein, the easements granted hereby shall be perpetual.

4.8 ARIZONA LAW. This Agreement shall be governed by the laws of Arizona.

4.9 COVENANTS TO RUN WITH LAND. Notwithstanding the use of the terms "Dysart" and "Developer" herein, all provisions of this Agreement shall run with the land and shall be binding upon and inure to the benefit of the heirs, assigns, successors and personal representatives of Developer and Dysart. The Commercial Property shall be the dominant tenement and the School Property shall be the servient tenement.

4.10 INCORPORATION OF EXHIBITS. All exhibits attached hereto are by this reference incorporated herein as though set forth in full.

4.11 TIME. Time is of the essence of this Agreement.

4.12 COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which may be executed by one or more of the parties hereto, with the same force and effect as though all parties executing such counterparts had executed but one instrument. For purposes of recording, the signature and acknowledgment pages may be detached from one or more counterparts and reattached to a single copy of this Agreement.

4.13 CONFLICT OF INTEREST. This Agreement is subject to cancellation pursuant to A.R.S. §38-511.

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

DYSART UNIFIED SCHOOL DISTRICT NO. 89

By: _____

Its: _____

MIRAGE OASIS, LLC

By: _____
Jeffrey S. Mayhall

Its: Co-Managing Officer

STATE OF ARIZONA)
)
COUNTY OF MARICOPA) ss:

The foregoing instrument was acknowledged before me this _____ day of _____, 2004, by _____, in his capacity as the _____ of Dysart Unified School District No. 89, on behalf of the District.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
)
COUNTY OF MARICOPA) ss:

The foregoing instrument was acknowledged before me this _____ day of _____, 2004, by Jeffrey S. Mayhall, the co-managing partner of Mirage Oasis, LLC, an Arizona Limited Liability Company, on behalf of the limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires:

EXHIBIT A

Legal Description of the School Property

[To be inserted and mutually approved prior to Closing]

EXHIBIT B

Legal Description of the Commercial Property

[To be inserted and mutually approved prior to Closing]

Exhibit C

Description of Ingress and Egress Easement

[To be insert and mutually approved prior to Closing]

Exhibit D

Legal Description of Ingress and Egress Easement

[To be inserted and mutually approved prior to Closing]

Exhibit E

Description of Drainage Easement Area

[To be inserted and mutually approved prior to Closing]

LEGAL DESCRIPTION

ACCESS PARCEL

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 3 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 11; THENCE NORTH 89°56'48" EAST, ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 11, A DISTANCE OF 687.26 FEET TO THE NORTHWEST CORNER OF THAT CERTAIN PARCEL AS DESCRIBED IN DOCKET 11112, PAGE 259 RECORDS OF MARICOPA COUNTY, ARIZONA;
THENCE SOUTH 00°38'12" EAST ALONG THE WEST LINE OF THAT CERTAIN PARCEL DESCRIBED IN SAID DOCKET 11112, PAGE 259, A DISTANCE OF 771.62 FEET TO THE **POINT OF BEGINNING**;
THENCE CONTINUING SOUTH 00°38'12" EAST ALONG THE WEST LINE OF THAT CERTAIN PARCEL DESCRIBED IN SAID DOCKET 11112, PAGE 259, A DISTANCE OF 40.87 FEET TO THE NORTHEAST CORNER OF THAT CERTAIN PARCEL DESCRIBED IN DOCUMENT NUMBER 01-0031982, RECORDS OF MARICOPA COUNTY, ARIZONA;
THENCE SOUTH 89°19'13" WEST ALONG THE NORTH LINE OF CERTAIN PARCEL DESCRIBED IN SAID DOCUMENT NUMBER 01-0031982, A DISTANCE OF 621.69 FEET (RECORD 621.76 FEET) TO A POINT ON THE EAST LINE OF THE WEST 65.00 FEET OF THE NORTHWEST QUARTER OF SAID SECTION 11;
NORTH 00°40'27" WEST ALONG THE EAST LINE OF THE WEST 65.00 FEET OF THE NORTHWEST QUARTER OF SAID SECTION 11, A DISTANCE 86.00 FEET;
THENCE NORTH 89°19'13" EAST ALONG A LINE PARALLEL TO AND 86.00 FEET NORTH OF THE NORTH LINE OF CERTAIN PARCEL DESCRIBED IN DOCUMENT NUMBER 01-0031982, RECORDS OF MARICOPA COUNTY, ARIZONA, A DISTANCE OF 71.69 FEET;
SOUTH 81°57'44" EAST, A DISTANCE 303.51 FEET;
THENCE NORTH 89°19'13" EAST ALONG A LINE PARALLEL TO AND 40.00 FEET NORTH OF THE NORTH LINE OF CERTAIN PARCEL DESCRIBED IN DOCUMENT NUMBER 01-0031982, A DISTANCE OF 215.91 FEET TO THE BEGINNING OF CIRCULAR CURVE CONCAVED NORTHERLY, THE CENTER OF WHICH BEARS NORTH 00°40'47" WEST, A DISTANCE 667.50 FEET THEREFROM;

LEGAL DESCRIPTION

EAST PARCEL

SITUATED IN THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 3 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 11;

THENCE NORTH 89°56'48" EAST, ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 11, A DISTANCE OF 1340.79 FEET TO THE **POINT OF BEGINNING** OF THE PARCEL HEREIN DESCRIBED;

THENCE NORTH 89°56'48" EAST, CONTINUING ALONG SAID NORTH LINE OF THE NORTHWEST QUARTER, A DISTANCE OF 294.57 FEET;

THENCE SOUTH 00°36'12" EAST, A DISTANCE OF 1327.67 FEET;

THENCE SOUTH 88°55'32" WEST, A DISTANCE OF 293.79 FEET;

THENCE NORTH 00°38'12" WEST, A DISTANCE OF 1332.90 FEET TO THE **POINT OF BEGINNING**.

LEGAL DESCRIPTION

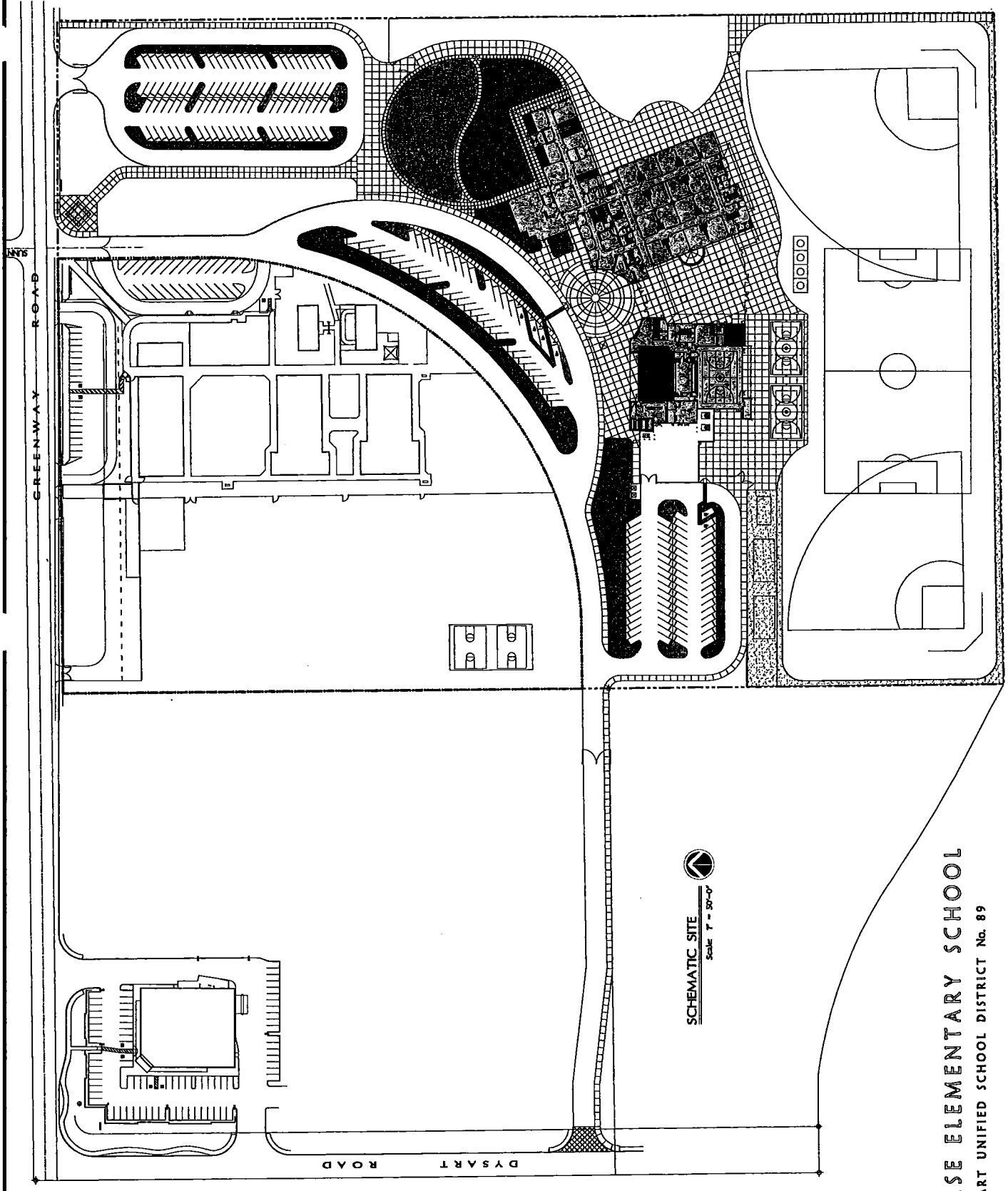
SCHOOL TRADE PARCEL

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 11,
TOWNSHIP 3 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER
MERIDIAN, MARICOPA COUNTY, ARIZONA AND BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 11;
THENCE NORTH 89°56'48" EAST, ALONG THE NORTH LINE OF THE
NORTHWEST QUARTER OF SAID SECTION 11, A DISTANCE OF 687.26
FEET TO THE **POINT OF BEGINNING**;
THENCE CONTINUING NORTH 89°56'48" EAST, ALONG THE NORTH LINE
OF THE NORTHWEST QUARTER OF SAID SECTION 11, A DISTANCE OF
633.96 FEET;
THENCE SOUTH 00°03'12" EAST, A DISTANCE OF 105.36 FEET TO THE
BEGINNING OF CIRCULAR CURVE CONCAVED NORTHWESTERLY THE
CENTER OF WHICH BEARS SOUTH 89°56'48" WEST, A DISTANCE 667.50
FEET THEREFROM;
THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL
ANGLE OF 86°26'40", A DISTANCE OF 1007.08 FEET;
THENCE NORTH 00°38'12" WEST, A DISTANCE OF 771.62 FEET TO THE
POINT OF BEGINNING.

SAID PARCEL CONTAINING 8.9836 ACRES, MORE OR LESS

June 10, 2004



SCHMATIC SITE
Scale 1" = 50'-0"

SURPRISE ELEMENTARY SCHOOL
DYSART UNIFIED SCHOOL DISTRICT No. 89

