

EMRCFD RES 2021-141

RESOLUTION OF THE BOARD OF DIRECTORS OF THE ESTRELLA MOUNTAIN RANCH COMMUNITY FACILITIES DISTRICT (CITY OF GOODYEAR, ARIZONA) APPROVING THE FEASIBILITY REPORT RELATING TO THE ACQUISITION AND FINANCING OF CERTAIN IMPROVEMENTS BENEFITTING THE DISTRICT; DECLARING ITS INTENTION TO ACQUIRE CERTAIN IMPROVEMENTS DESCRIBED IN THE FEASIBILITY REPORT; FORMING MONTECITO ASSESSMENT DISTRICT NO. 3; DETERMINING THAT SPECIAL ASSESSMENT REVENUE BONDS WILL BE ISSUED TO FINANCE THE COSTS AND EXPENSES THEREOF AND DECLARING THE IMPROVEMENTS TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT AND THAT THE COSTS OF SAID IMPROVEMENTS WILL BE ASSESSED UPON THE ASSESSMENT DISTRICT; PROVIDING THAT THE PROPOSED IMPROVEMENTS WILL BE PERFORMED AND DISTRICT SPECIAL ASSESSMENT REVENUE BONDS ISSUED UNDER THE PROVISIONS OF TITLE 48, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, AND ALL AMENDMENTS THERETO; AND RATIFYING ALL PRIOR ACTS INCLUDING THE EXECUTION AND DELIVERY OF A WAIVER AND DEVELOPMENT AGREEMENT.

WHEREAS, pursuant to Arizona Revised Statutes (“*A.R.S.*”) Section 48-715, as amended, the Board of Directors of the Estrella Mountain Ranch Community Facilities District (City of Goodyear, Arizona) (the “*District*”) has caused a Report of the feasibility and benefits of the Project (as such terms and all other initially capitalized terms are defined hereinafter) to be prepared, relating to certain public infrastructure and public infrastructure purposes provided for in the General Plan of the District and to be financed with the proceeds of the sale of special assessment revenue bonds of the District, which Report includes, among other things, a description of certain public infrastructure and public infrastructure purposes to be acquired and all other information useful to understand the Project, an estimate of the cost to acquire, operate and maintain the Project, an estimated schedule for completion of the Project, a map or description of the area to be benefited by the Project and a plan for financing the Project, including the nature and timing of the issuance of special assessment revenue bonds, if any, a copy of which Report is on file with Clerk of the District; and

WHEREAS, pursuant to A.R.S. § 48-715, as amended, a public hearing on the Report was held on the date hereof, after provision for publication of notice thereof as provided by law; and

WHEREAS, the District, developer and certain lienholders of the property within the Assessment District have heretofore executed and delivered to the District the Waiver Agreement wherein the parties thereto have: (i) waived any and all requirements for notice and time for protests and objections relating to, among other things, the Project and the extent of the Assessment District; (ii) acknowledged that the District shall levy an Assessment pursuant to the Act; and (iii) waived certain procedural requirements; and

WHEREAS, the Board has determined it to be in order to form a special assessment district in order to acquire the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ESTRELLA MOUNTAIN RANCH COMMUNITY FACILITIES DISTRICT (CITY OF GOODYEAR, ARIZONA) that:

Section 1. Definitions. In this resolution, the following terms shall have the following meanings:

“*Act*” shall mean Title 48, Chapter 4, Article 6, Arizona Revised Statutes, as amended.

“*Assessment Diagram*” shall mean those certain assessment diagrams of the assessment area to be prepared and approved by the District Engineer and filed with the District Clerk.

“*Assessment District*” shall mean the real property contained within the boundaries described in Exhibit A attached hereto. For a more general description, reference is hereby made to the Assessment District Map attached to this resolution as Exhibit B, which map is on file with the Superintendent of Streets and the Clerk.

“*Assessment District Map*” shall mean the map showing the Assessment District and attached hereto as Exhibit B.

“*Board*” shall mean the Board of Directors of the District.

“*Bond Counsel*” shall mean Gust Rosenfeld P.L.C. and any successor thereto.

“*Bonds*” shall mean the District’s Montecito Assessment District No. 3 Special Assessment Revenue Bonds, Series 2021.

“*Clerk*” shall mean the Clerk of the District.

“*Debt Service Reserve Fund*” shall mean the debt service reserve fund funded with the proceeds from the sale of the Bonds, authorized pursuant to the Act.

“*District*” shall mean the Estrella Mountain Ranch Community Facilities District (City of Goodyear, Arizona).

“*District Engineer*” shall mean such engineer or firm of engineers as appointed by the District Manager.

“*Estimate*” shall mean the estimate of costs and expenses of the Project described in the Report and this resolution, showing the estimated costs and expenses of acquisition of the Project to be not less than \$531,102.00 together with certain of the estimated Incidental Expenses in the amount of (i) \$180,000.00 payable by NNP III – Estrella Mountain Ranch, LLC, \$965.01 payable from bond proceeds (ii) \$14,370.49 of capitalized interest on the Bonds, (iii) \$39,562.50 of a deposit to a Debt Service Reserve Fund and (iv) \$12,000.00 to the prepayment account of the bond

fund to be established for payment of the Bonds, for a total cost not to exceed \$778,000.00, all as described on Exhibit C.

“Incidental Expenses” shall mean compensation paid to the Superintendent of Streets, District Engineer, costs of printing, advertising, posting, the expenses of making, administering and collecting the assessments, any discount on the Bonds, any paying agent’s fees, all legal, any underwriter’s and financial advisor’s fees, DTC/CUSIP fees, compliance fees, all expenses and costs incurred in establishing the District, the Assessment District and incurred in connection with the drafting of the proceedings and in connection with the sale of bonds, the funding of a Debt Service Reserve Fund and all capitalized interest on the Bonds.

“Plans” shall mean the preliminary plans (including the conceptual plans), specifications and any other contract documents showing the location, type and character of the Project, filed with the Clerk prior to the adoption of this resolution or the resolution ordering the performance of the Project. The term *“Plans”* shall include all final plans, specifications and contract documents developed in connection with the design of the Project.

“Project” shall mean, collectively, the acquisition of public infrastructure and public infrastructure purposes (as such terms are defined in the Act) described in the Report including particularly, the acquisition by the District of the public infrastructure described on Exhibit D hereto.

“Report” shall mean the Estrella Mountain Ranch Community Facilities District (City of Goodyear, Arizona) Feasibility Report for the Issuance of Montecito Assessment District No. 3 Special Assessment Revenue Bonds on file with the Clerk prior to the date and time hereof, discussing the matters required by A.R.S. § 48-715, as amended, as such matters relate to the Project.

“Streets” or *“streets to be improved”* shall mean the Project listed on Exhibit D hereto and located on the streets listed therein and such other streets and public rights-of-way as are hereafter shown on the final Plans.

“Superintendent of Streets” shall mean Willdan Engineering, or such person or firm appointed as Superintendent of Streets by the District Manager.

“Waiver Agreement” shall mean the Estrella Mountain Ranch Community Facilities District (City of Goodyear, Arizona) Waiver and Development Agreement Pertaining to Montecito Assessment District No. 3, dated as of August 10, 2021, by and between the District and NNP III – Estrella Mountain Ranch, LLC, and certain lienholders, and recorded in the office of the Maricopa County Recorder at Instrument No. 20210874486 on August 12, 2021.

Section 2. Approval of the Feasibility Report. Published notice of the public hearing on the Report has been provided by the Clerk not less than ten 10 days in advance of the date of the public hearing on the Report and such publication is hereby ratified and approved. The Clerk has provided the Report and notice of public hearing on the Report to the City of Goodyear, Arizona, not less than 10 days in advance of the date of the public hearing. Based on the review

by this Board and the presentation of the Report at the public hearing on August 23, 2021, the Report is hereby adopted and approved in the form submitted to this Board.

Section 3. Resolution of Intent. This Board hereby identifies the public infrastructure of the Project, the areas benefitted (all located within the District), the expected method of financing, including the nature and timing of the issuance of the Bonds, and the system of providing revenues to operate and maintain the Project, all as identified and provided for in the Report, for any and all purposes of the Act. This Board hereby declares its intent to proceed with the financing of the acquisition of the Project in substantially the manner presented in the Report and pursuant to the terms of the Waiver Agreement. Any portion of the costs of the Project not financed by the proceeds of the Bonds shall remain eligible to be financed through the sale of future bonds of the District.

Section 4. Declaration of Intention to Order the Project. The public interest and convenience require and it is the intention of this Board to order the Project to be acquired, constructed and performed as stated herein and contemplated by the Report and in conformance with the final Plans. All items of the Project shall be performed as prescribed by the final Plans and no assessment for any lot shall exceed its proportion of the Estimate.

Section 5. Determination of Need; Formation of Assessment District. The Assessment District is hereby formed, consisting of the property described on *Exhibit A* attached hereto, and is hereby designated as “Montecito Assessment District No. 3.” In the opinion of this Board, the Project is of more than local or ordinary public benefit, the Project principally benefits the land within the Assessment District, and this Board hereby orders that all amounts due or to become due with respect to financing the costs and expenses of the Project (including capitalized interest), together with the Debt Service Reserve Fund and all Incidental Expenses not paid from other monies (the “*Assessment*”), shall be chargeable upon the respective lots, pieces and parcels of land within the Assessment District.

Section 6. Exclusion of Certain Property. Any public or private street or alley within the boundaries of the Assessment District is hereby omitted from the Assessment District. Any lot, the legal owner of which on this date is the United States, the state, a county, city, school district or any political subdivision or institution of the state or county, which is included within the Assessment District shall be omitted from the Assessments hereafter made except as otherwise agreed between the District and such owner. Following any acquisition of an assessed parcel by the United States, the state or other political subdivision of this state or charter school after the date hereof, the Assessment on such assessed parcel shall not be extinguished and shall continue in full force and effect until payment in full.

Section 7. Approval of Assessment Diagram. The Assessment Diagram is hereby approved and the Clerk is hereby directed to (i) certify the fact of such approval on the face of each such diagram including the date hereof as the date of such approval and (ii) deliver a copy of the Assessment Diagram to the Superintendent of Streets.

Section 8. Determination and Notice of Necessity to Issue Bonds. This Board finds that the public convenience requires that special assessment lien bonds, designated Estrella

Mountain Ranch Community Facilities District (City of Goodyear, Arizona) Montecito Assessment District No. 3 Special Assessment Revenue Bonds, Series 2021, shall be issued to finance the costs and expenses of the Project (including capitalized interest), the Debt Service Reserve Fund and Incidental Expenses not paid from other monies. This Board hereby determines that the Bonds shall be issued in the name of the District payable, however, solely and only out of a special fund collectible from special assessments levied and assessed upon the lots, pieces and parcels of land within the Assessment District in not to exceed 25 annual principal installments from the assessments of \$25.00 or over remaining unpaid as of the end of the cash collection period; provided, however, if the special assessments are not collected or collection is delayed and consequently such special assessments are insufficient, then from the Debt Service Reserve Fund.

The Bonds shall be issued in fully registered form as to principal and interest in the principal amounts of \$5,000 or any integral multiples of \$1,000 in excess thereof. The Bonds shall mature on the first day of July in the years and in amounts to be set by the Board prior to their issuance; provided, however, the Bonds shall mature not later than July 1, 2046. Principal installments of each Assessment shall be due on the first day of June immediately preceding the maturity date of any Bonds and installments of interest of each Assessment shall be due on the first day of June and December.

The Bonds shall bear interest at a rate or rates of not to exceed 5.00% per annum, payable on the first day of January and July of each year, commencing on such date as set forth in the resolution authorizing the Bonds. The yield (as determined pursuant to the regulations of the Internal Revenue Code of 1986, as amended) on all of the Bonds shall not exceed 5.00%. This Board reserves the right to call the Bonds for prior redemption, in whole or in part on such terms as may hereafter be established by this Board.

Section 9. Bond Anticipation Notes. This Board reserves the right to issue bond anticipation notes pursuant to A.R.S. § 48-618, as amended. This Board also reserves the right to retain any Bonds which may be issued and to sell the same for cash to pay the contractor the amounts due it in cash.

Section 10. Statutory Authority. The Project and all proceedings pertaining thereto shall be acquired, constructed and performed under the provisions of the Act.

Section 11. Delegation of Authority. The District Engineer and the Superintendent of Streets are hereby authorized to complete the Plans, specification and any contract documents.

Section 12. Right to Reduce Scope of Work. If, because of pending or threatened litigation concerning any one or more parcels subject to the Assessment, (i) the District receives a written opinion of Bond Counsel stating that the Bonds cannot be issued against such parcel or parcels or (ii) the Assessment District is unable to obtain any right-of-way necessary for the acquisition of the Project, the District may then cause the acquisition or construction contract to be modified to exclude from the applicable contract some or all of the Project which will benefit the parcel or parcels in question, or which was located in the right-of-way that was not obtained. The filing of a certificate and request that no Bonds be issued against any parcel pursuant to A.R.S. §§ 48-540 and 48-597, as amended, may be deemed to be threatened litigation.

Section 13. Ratification of Prior Acts. All acts of the Chairman of the Board, the District Engineer, the Superintendent of Streets, and any person acting for such official in furtherance of this resolution are hereby ratified and confirmed, including the execution, delivery and recording of the Waiver Agreement. This Board is proceeding in reliance on the Waiver Agreement.

Section 14. Establishment of Grade. The grades and elevations for the Streets are hereby officially changed to correspond with the grades and elevations shown on the Plans.

Section 15. Waiver and Assessment. The Waiver Agreement is hereby accepted and approved. The District Manager is hereby authorized to execute the Waiver Agreement on behalf of the District and the Clerk is hereby authorized to record the Waiver Agreement with the Maricopa County Recorder.

Section 16. Collection of Assessments. The District and the Treasurer of Maricopa County, Arizona (the “*Treasurer*”), may enter into an Assessment Collection Agreement whereby the Assessments are collected by the Treasurer in the manner and by the officers provided by law for the collection and enforcement of general taxes. The District Manager shall approve the form of such agreement.

[Signatures on following page.]

PASSED, ADOPTED AND APPROVED by the Board of Directors of Estrella Mountain Ranch Community Facilities District (City of Goodyear, Arizona) on August 23, 2021, with a vote of _____.

**ESTRELLA MOUNTAIN RANCH
COMMUNITY FACILITIES DISTRICT (CITY
OF GOODYEAR, ARIZONA)**

District Chair

ATTEST:

District Clerk

APPROVED AS TO FORM:

GUST ROSENFELD P.L.C.

District Bond Counsel

Attachments: EXHIBIT A – Legal Description of Montecito Assessment District No. 3
EXHIBIT B – Map of Montecito Assessment District No. 3
EXHIBIT C – Engineer’s Estimated Costs
EXHIBIT D – List of Projects

EXHIBIT A

Legal Description of Montecito Assessment District No. 3

(See Attached)

EXHIBIT A
ASSESSMENT DIAGRAM FOR
Estrella Mountain Ranch Community Facilities District, City of Goodyear, Arizona
SPECIAL ASSESSMENT REVENUE BONDS
(MONTECITO ASSESSMENT DISTRICT NO. 3), SERIES 2021

"ESTRELLA PARCEL 9.43"
Book 1554, Page 18 (MCR)

PARCEL 9.43

A PORTION OF LAND LYING WITHIN SECTIONS 27, TOWNSHIP 1 SOUTH, RANGE 2 WEST OF THE GILA & SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT A FOUND GLO BRASS CAP, BEING THE SOUTHWEST CORNER OF SECTION 27, FROM WHICH THE WEST ONE-QUARTER CORNER OF SAID SECTION 27, BEARS NORTH 00°13'25" EAST, A DISTANCE OF 2,634.80 FEET;

THENCE ALONG THE WEST LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 27, NORTH 00°13'25" EAST, A DISTANCE OF 1,174.26 FEET, TO THE POINT OF BEGINNING;

THENCE LEAVING SAID WEST LINE, NORTH 89°35'33" EAST, A DISTANCE OF 822.05 FEET;

THENCE SOUTH 61°55'15" EAST, A DISTANCE OF 422.79 FEET;

THENCE SOUTH 37°43'06" EAST, A DISTANCE OF 45.89 FEET;

THENCE NORTH 52°16'54" EAST, A DISTANCE OF 52.48 FEET, TO THE BEGINNING OF A TANGENT CURVE WITH A RADIUS OF 150.00 FEET;

THENCE NORTHERLY, ALONG SAID CURVE TO THE LEFT, WHOSE CENTRAL ANGLE IS 39°09'47", AND LENGTH OF 102.53 FEET;

THENCE NORTH 13°07'07" EAST, A DISTANCE OF 142.81 FEET;

THENCE NORTH 09°01'59" EAST, A DISTANCE OF 70.18 FEET;

THENCE NORTH 13°07'07" EAST, A DISTANCE OF 102.46 FEET, TO THE BEGINNING OF A TANGENT CURVE WITH A RADIUS OF 300.00 FEET;

THENCE NORTHERLY, ALONG SAID CURVE TO THE LEFT, WHOSE CENTRAL ANGLE IS 19°47'54", AND LENGTH OF 103.66 FEET, TO THE BEGINNING OF A REVERSE CURVE WITH A RADIUS 225.00 FEET;

THENCE NORTHERLY, ALONG SAID CURVE TO THE RIGHT, WHOSE CENTRAL ANGLE IS 23°25'03", AND LENGTH OF 91.96 FEET, TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY AS RECORDED IN BOOK 966, PAGE 24 PER MARICOPA COUNTY RECORDS, ALSO THE BEGINNING OF A NON-TANGENT CURVE WHOSE RADIUS BEARS NORTH 28°46'06" EAST, A DISTANCE OF 1,525.00 FEET;

THENCE WESTERLY ALONG SAID RIGHT-OF-WAY ON A CURVE TO THE RIGHT, WHOSE CENTRAL ANGLE IS 05°48'23", AND LENGTH OF 154.55 FEET;

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY AS RECORDED IN BOOK 1288, PAGE 16 PER MARICOPA COUNTY RECORDS, SOUTH 80°08'03" WEST, A DISTANCE OF 28.38 FEET;

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY NORTH 54°41'00" WEST, A DISTANCE OF 70.00 FEET;

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY NORTH 09°41'00" WEST, A DISTANCE OF 28.28 FEET;

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY NORTH 54°41'00" WEST, A DISTANCE OF 622.82 FEET;

CONT..



EXHIBIT A

**ASSESSMENT DIAGRAM FOR
Estrella Mountain Ranch Community Facilities District, City of Goodyear, Arizona
SPECIAL ASSESSMENT REVENUE BONDS
(MONTECITO ASSESSMENT DISTRICT NO. 3), SERIES 2021**

**"ESTRELLA PARCEL 9.43"
Book 1554, Page 18 (MCR)**

CONT..

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY SOUTH 80°19'00 WEST, A DISTANCE OF 28.28 FEET;
THENCE CONTINUING ALONG SAID RIGHT-OF-WAY NORTH 55°05'57 WEST, A DISTANCE OF 70.00 FEET;
THENCE CONTINUING ALONG SAID RIGHT-OF-WAY NORTH 10°53'19 WEST, A DISTANCE
OF 27.71 FEET, TO THE BEGINNING OF A NON-TANGENT CURVE WHOSE RADIUS BEARS
SOUTH 32°21'07 WEST, A DISTANCE OF 995.00 FEET;
THENCE WESTERLY ALONG SAID RIGHT-OF-WAY ON A CURVE TO THE LEFT, WHOSE CENTRAL ANGLE
IS 22°15'28, AND LENGTH OF 386.53 FEET;
THENCE LEAVING SAID RIGHT OF WAY SOUTH 10°05'39 WEST, A DISTANCE OF 203.51 FEET, TO THE
BEGINNING OF A TANGENT CURVE WITH A RADIUS OF 200.00 FEET;
THENCE SOUTHERLY ON A CURVE TO THE RIGHT, WHOSE CENTRAL ANGLE IS 23°54'36, AND LENGTH
OF 83.46 FEET;
THENCE SOUTH 34°00'15 WEST, A DISTANCE OF 211.45 FEET;
THENCE SOUTH 38°00'30 WEST, A DISTANCE OF 128.79 FEET;
THENCE SOUTH 20°39'39 WEST, A DISTANCE OF 106.44 FEET;
THENCE SOUTH 00°09'37 WEST, A DISTANCE OF 266.25 FEET, TO THE BEGINNING OF A TANGENT
CURVE WITH A RADIUS OF 131.00 FEET;
THENCE SOUTHERLY ON A CURVE TO THE LEFT, WHOSE CENTRAL ANGLE IS 29°26'08, AND LENGTH
OF 67.30 FEET;
THENCE SOUTH 29°16'31 EAST, A DISTANCE OF 127.70 FEET;
THENCE NORTH 89°35'33 EAST, A DISTANCE OF 2.09 FEET, TO THE POINT OF BEGINNING:
PARCEL CONTAINS 26.96 ACRES MORE OR LESS.

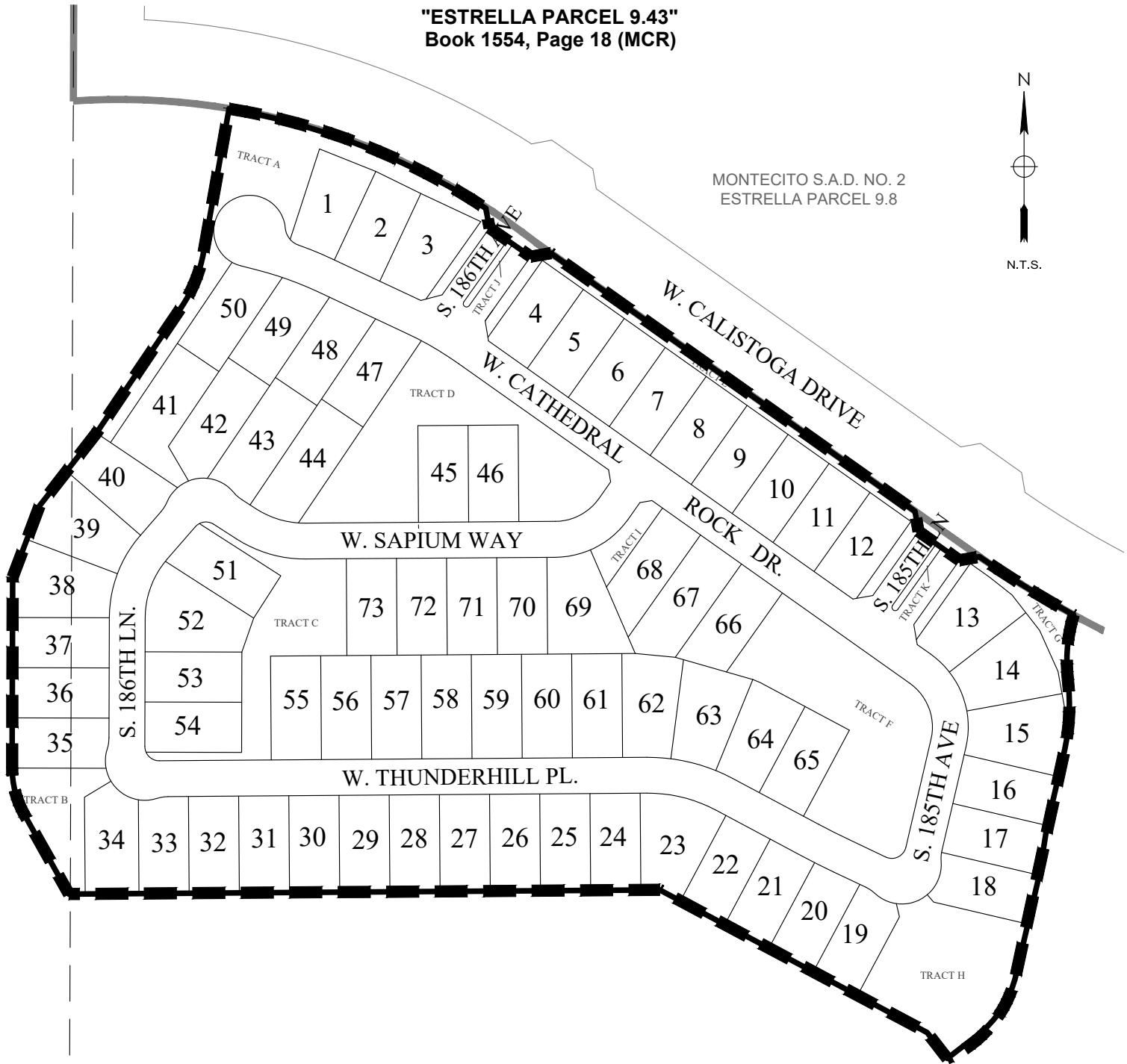
EXHIBIT B

Map of Montecito Assessment District No. 3

(See Attached)

EXHIBIT A
ASSESSMENT DIAGRAM FOR
Estrella Mountain Ranch Community Facilities District, City of Goodyear, Arizona
SPECIAL ASSESSMENT REVENUE BONDS
(MONTECITO ASSESSMENT DISTRICT NO. 3), SERIES 2021

"ESTRELLA PARCEL 9.43"
Book 1554, Page 18 (MCR)



ASSESSMENT NO.
001-01-001 through 001-01-073



EXHIBIT C

ENGINEER'S ESTIMATED COSTS

DATE: August 5, 2021

TO: Estrella Mountain Ranch Community Facilities District
(City of Goodyear, Arizona)

Improvements to the following streets located within Montecito Assessment District No. 3 in the Estrella Mountain Ranch Community Facilities District (City of Goodyear, Arizona) have been constructed. Streets improved include Calistoga Drive Phase 3-1: This project begins at the current terminus of Calistoga Drive Phase 2-1, continues westward approximately 1,401 LF and stops at the west ingress/egress street into Parcel 9.43. Costs include engineering, design, survey, review fees, construction permits, testing, grading, installation of wet utilities, dry utilities, storm drain, curb and gutter, asphalt pavement, landscaping and streetlights. Calistoga Drive Phase 3-1 construction is complete and was accepted by the City in January 2019. In compliance with the provisions of Title 48, Chapter 4, Article 6, Arizona Revised Statutes, and all amendments and supplements thereto, we hereby estimate the costs and expenses of said improvement to be as follows:

Acquisition Costs	\$531,102.00
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Incidental Expenses

Underwriter's Discount*	\$35,000.00
Costs of Issuance*	145,965.01
Debt Service Reserve Fund	39,562.50
Bond Fund (Capitalized Interest)	14,370.49
Bond Fund (Prepayment Account)	12,000.00

TOTAL COSTS	<u>\$778,000.00</u>
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*\$180,000 paid from funds contributed by the developer of the land within the Assessment District, \$965.01 paid from bond proceeds.

Respectfully submitted,

By: _____
District Engineer

ACCEPTED:

Superintendent of Streets

EXHIBIT D

The Assessment District shall finance the acquisition of public infrastructure (as such term is defined in the Act) described in the Report, including particularly the acquisition by the District of the following:

1. Calistoga Drive 3-1:

This project begins at the current terminus of Calistoga Drive Phase 2-1, continues westward approximately 1,401 LF and stops at the west ingress/egress street into Parcel 9.43. Costs include engineering, design, survey, review fees, construction permits, testing, grading, installation of wet utilities, dry utilities, storm drain, curb and gutter, asphalt pavement, landscaping and street lights. Calistoga Drive Phase 3-1 construction is complete and was accepted by the City in January 2019.