
Wednesday, October 18, 2023

7:00 PM

Members of the Litchfield Park City Council will attend either in person, by telephone, or video conference call.

I. Call to Order

- a. Watch on [YouTube](#)
- b. The agenda and packet are available at: www.litchfieldpark.gov

II. Pledge of Allegiance

III. Mayor and Council Members Report on Current Events

IV. City Manager's Report on Current Events

INFORMATION

This report may include information from the following departments:

- Administration
- Building Safety
- City Clerk
- Community and Recreation Services
- Engineering
- Finance
- Human Resources
- Planning
- Public Works

V. Response to Call to the Community

Mayor Schoaf may provide a response to Mr. Peter Mahoney regarding the condition of the vegetation, trees and the sidewalk in the downtown area.

VI. Call to the Community

This is the time for citizens who would like to address the City Council on any non-agenda item. Action taken as a result of public comment will be limited to asking Staff to review the matter, asking that the matter be put on a future agenda, or responding to criticism.

VII. Presentations

A. Introduction of New Employees

INFORMATION

Presenter: **Matthew Williams, City Manager**

Mr. Williams will introduce several new employees. They are as follows:

- Joel Arnold - Lifeguard I
- Eric Rodriguez - Maintenance Tech I
- Monica Amaro - Accounting Specialist
- Roberto Montoya - Maintenance Tech I
- Lorena Fabela - Preschool Aide
- Lisa Adams-Williams - Human Resources Director

B. Yard of the Quarter INFORMATION

Presenter: **Thomas L. Schoaf, Mayor**

Mayor Schoaf may present Harry & Pat Keiling, of 4904 N. Greentree Dr. W., on behalf of the Recreation and Public Grounds Commission, a certificate for being selected as the 2nd quarter winner of 2023.

C. Employee of the Quarter INFORMATION

Presenter: **Thomas L. Schoaf, Mayor**

Mayor Schoaf may present Alyse Harriet, Human Resources Specialist, a certificate as the winner of the 3rd Quarter of 2023.

VIII. Reports

A. Public Safety Services Monthly Reports

1. Goodyear Fire Report INFORMATION

Chief Luizzi may provide this report, which may include the following items:

- | | |
|--|--|
| <ul style="list-style-type: none"> • EMS Calls/False Calls • Other/Unknown/False Alarm • Hazardous Conditions • Other Incident Types | <ul style="list-style-type: none"> • Good Intent Calls • Construction Inspections • Construction Permits • Plan Review |
|--|--|

2. Avondale Police Department INFORMATION

Assistant Chief Martin may provide this report, which may include the following items:

- | | |
|--|--|
| <ul style="list-style-type: none"> • Assault • Juvenile Disturbing • Theft/Vehicle Theft • Stolen Vehicle Recovery • Drugs • Harassment/Civil Matter • Welfare Check • Traffic Violations • Traffic Citations | <ul style="list-style-type: none"> • Threat/Phone Calls • Burglary • Shoplifting • Criminal Damage • Suspicious Activity • Deceased Person • Fight/Mutual Combat • Traffic Stops |
|--|--|

B. Staff Monthly Reports

1. Finance Monthly Report INFORMATION

Ms. Peterson may provide an update on the City's budget and expenditures for FY2024 through September. Follow-up items from the previous Council meeting may also be discussed.

2. Capital Improvement Projects (CIP) Update INFORMATION

Mr. Drunasky may provide an update on the Capital Improvement Projects which may include the following items:

- | | |
|--|---|
| <ul style="list-style-type: none"> • Project Updates • Budgets | <ul style="list-style-type: none"> • Timelines |
|--|---|

3. Special Projects Update**INFORMATION**

Mr. Froke may provide an update on the status of Special Projects, including Litchfield Square development. Follow-up items from the previous Council meeting may also be discussed.

4. Magistrate Court Report**INFORMATION**

This report includes the following:

- Cases filed
- Violations filed
- Cases dismissed
- Other Court Activity

IX. Consent Agenda

At any regular or special meeting of City Council, the agenda may include a listing of matters for the Council to act on as a "consent agenda." The Council may vote upon all matters contained within the consent agenda by a unanimous single vote of all those present at the meeting entitled to vote. Any matter may be removed from the consent agenda and considered as a singular item upon the request of any member of the Council.

A. Approval of Minutes**INFORMATION/ACTION**

Presenter: **Terri Roth, City Clerk**

Discussion and possible action to approve the August 16, and September 20, 2023, regular meeting minutes and the October 9, 2023, special meeting minutes.

B. Cancellation of the December 2023 Regular Meeting**INFORMATION/ACTION**

Presenter: **Terri Roth, City Clerk**

Discussion and possible action to cancel the December 20, 2023 regular meeting.

C. Commercial Services Agreement with Cox Communications**INFORMATION/ACTION**

Presenter: **Jon Froke, City Planner / Special Projects Manager**

Discussion and possible action to approve a Commercial Services Agreement with Cox Communications to provide internet service for Litchfield Square.

D. Christmas in the Park Street Closures**INFORMATION/ACTION**

Presenter: **Tricia Kramer, Director of Community and Recreation Services**

Discussion and possible action to approve street closures for the Christmas in the Park Parade and Festival scheduled for December 9, 2023.

E. Litchfield Park Gathering Street Closures**INFORMATION/ACTION**

Presenter: **Tricia Kramer, Director of Community and Recreation Services**

Discussion and possible action to approve street closures for the Litchfield Park Gathering scheduled for January 13 & 14, 2024.

X. Business**A. Adoption of Ordinance 23-276 Right-of-Way Purchase****INFORMATION/ACTION**

Presenter: **Matthew Williams, City Manager**

Discussion and possible action to adopt Ordinance 23-276 for the purchase of the dental office Right-of-Way (ROW) at Wigwam Blvd & Old Litchfield Rd.

B. Adoption of Ordinance 23-272 Group Living Facilities**INFORMATION/ACTION**

Presenter: **Jon Froke, City Planner / Special Projects Manager**

Discussion and possible action to adopt Ordinance 23-272 related to Group Living Facilities.

XI. Executive Session

- A. A. An Executive Session may be called during the public meeting on any item on this agenda pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of receiving legal advice.**

XII. Adjournment

Thomas L. Schoaf, Mayor

Affidavit of Posting

I, Terri Roth, MMC, City Clerk, do hereby certify that I caused to be posted a true and correct copy of this agenda for the City Council meeting of Wednesday, October 18, 2023, in the following place in the City of Litchfield Park:

1. City Hall outside bulletin board
2. City Website

Terri Roth, MMC, City Clerk

Persons with special accessibility needs should contact City Hall, (623) 935--5033, at least 48 hours prior to the meeting.



**CITY COUNCIL
COMMUNICATION**

City Manager Report
Item

To: Mayor Thomas L. Schoaf and Members of the City Council
From: Matthew Williams, City Manager
Through: Matthew Williams, City Manager
Meeting Date: October 18, 2023
Presenter: Matthew Williams, City Manager

RECOMMENDED MOTION:

BACKGROUND/DISCUSSION:

STAFF RECOMMENDATION:

FINANCIAL IMPACT:

Attachments

City Manager Report

To: Mayor and Council
From: City Manager, Matthew Williams
Subject: September 2023 Manager's Report

Community and Recreation Services (Tricia Kramer)

Recreation Center Facility

- The kids' triathlon put on by Race Timers on Saturday, Sept. 2, was a success. 125 kids participated. Rec Staff and community members, including volunteers from the RPG Commission and Millennium NHS, assisted with the event.

Aquatics

- Our comparison between Red Cross and StarGuard ELITE is ongoing. We are 1 of only 8 AZ cities still affiliated with Red Cross. In recent years, more than 20 AZ cities have switched to StarGuard ELITE. Feedback about StarGuard ELITE has all been positive.
- Effective Tuesday, Sept. 5, the Rec pool is closed to the public until next summer.

Community Services

- Our thanks to Mayor Schoaf, Vice Mayor Faith, and all who came to the flag raising ceremony on Monday, September 18. It was a great show of support for the Air Force and particularly Luke's 56th Fighter Wing.

Preschool

- This week we focused on the letter C, c and we began to introduce days of the week.
- We also read *The Very Hungry Caterpillar* and talked about the importance of making healthy food choices.

Sports

- Our Fall Sports Season games begin this Saturday, September 30. The season runs through mid-November.
- WM will be our presenting sponsor for this year's Friends of the Rec Run. Kiwanis will now be our awards sponsor.

Special Events

- Our Touch-A-Truck event is scheduled for Saturday, November 18 from 9am to 12pm. There are 13 participating first responders, utility, and construction companies. 3 others are expected to confirm over the next two weeks.
- Registration for our November 18 Adult Cornhole Tournament is open. Registration is \$50 per team. Cash prizes will be awarded to the winning team and the runners up. The more teams that register, the higher the payout will be.

City Engineer (Keith Drunasky)

- Staff approved traffic control plans for Litchfield Square/Waterline work, Cox Communications and Southwest gas.
- Speed humps on Bird Lane, east and west sides of Castano Drive, have been milled down and paved level with Bird Lane because of adversely affecting regional drainage and flooding parcels as a result. New, synthetic bolt-in speed humps are anticipated to replace these soon.

- Staff approved Public Works permits for Cox Communications as well as ROW improvements for new driveway connection on Old Litchfield Road near Campbell.
- Take 5 Oil Change began construction this week with initial clearing/grubbing and construction fence installation.
- Continued coordination with on-call engineering consultants for both Camelback Park Parking Lot & Camelback Park Phase VII Perimeter Wall and Camelback Road Right Turn Lane. Survey and utility data collection tasks are occurring in the next few weeks.
- Staff attended Litchfield Square weekly construction meeting.
- Staff provided final completion lists to Contractors for Carl's Jr. and La Loma developments to outline the path to final Certificate of Occupancy.
- Staff met with Liberty Utilities to discuss the Corporation Commission complaints.
- Staff attended MAG Transportation Safety Committee meeting
- Staff attended MAG Transportation Review Committee meeting.
- Staff attended meeting with Litchfield Square Contractor Achen-Garnder to discuss their submitted proposal and scope of work for GMP 6 final improvements.

Special Projects/Planning Department (Jon Froke)

Special Projects

- Coordination with The Church at Litchfield Park continues. To make way for the extension of Village Parkway adjacent to the church, the driveway will be permanently closed, and the mailbox relocated to the north side of the church campus.
- Work progresses on the Litchfield Square Park. The sub-grade has been completed in preparation for future landscape installation.
- Achen Gardner paved Honeysuckle Street between Desert Avenue and La Loma Avenue.
- Achen Gardner has removed the stockpile of soil from Litchfield Square. The traveling public can now see into the Square from Litchfield Road.
- The sandblasted palm frond images for sidewalks at the corners of the interior intersections of Litchfield Square is being conducted this month

Planning Department

- A neighbor next to the Wigwam maintenance yard south of Bird Lane has expressed concern with the maintenance yard's general condition.
- Working on updating the application forms for new projects. The goal is that each application form will include updated information and a consistent look.
- The Arizona Planning Association held their annual state conference at The Wigwam. The conference was a success with over 420 attendees

Building Safety Department (Brian Bertucci)

- Permits submitted 6
- Permits issued 4
- Field inspections 11
- Held a preconstruction meeting for Take 5 Quick Lube project.
- Met with Wigwam Resort for permitting of a new recreational water slide.

Public Works Department (Kyle Ames)

- Staff attended the Litchfield Square landscape/irrigation meeting to go over adjustments for proposed irrigation design.
- Staff attended the Litchfield Square weekly construction meeting.
- Staff installed crosswalk ahead signs along Old Litchfield Rd. And Fairway.
- Staff have installed various parking signs inside Staggs Park parking lot. The fire lane/no parking red curbing has been applied on the west side curbing along Staggs Park.
- Staff installed the “Engine Braking Prohibited Within City Limits” signs along Camelback Rd. And Litchfield Rd.
- Public Works have started the winter rye overseeding process. Estimated time of completion is towards the end of November.

Human Resource Department (Paige Peterson/Alyse Harriet Temporarily)

Hiring:

- Our new HR director began on Monday, October 9th.

Wellness/ EAC

- The fall employee luncheon and pie eating contest was held on Thursday, October 5th at the library lawn.

HR Miscellaneous

- Staff have expressed interest in walking in this year’s Christmas parade. Employees that walk in the parade would do so on a volunteer basis.

City Clerk’s Department (Terri Roth)

- Clerk attended AMCA Scholarship Committee meeting.
- Clerk attended AMCA Executive Board Retreat
- The first Notice of Special Election for the formation of Charter and election of Board of Freeholders was published in the paper and received on 9/27. The second notice appeared on 10/4. It has also been posted on the website and out front of City Hall.

Finance/Intergov/IT Department/ACM (Paige Peterson)

Finance

- Staff attended the construction meeting with Achen Gardner to discuss GMP 6 and the overall cost of the project.
- Staff submitted the Fiscal Year 2023 Bonded Indebtedness Report to Arizona Open Books.
- The financial auditors conducted their field test work this week. The audit will be complete later this calendar year.
- The Department of Revenue conducted an audit and discovered that in 2022 we received sales tax in the amount of \$201,681 that belonged to another city. They deducted this amount plus interest of \$11,209 from our June sales tax payment.

Assistant City Manager update

- Staff attended a meeting with Luke Air Force Base to discuss the upcoming public meeting regarding the water monitoring wells for possible water contaminants.
- Staff attended a meeting with Liberty Utilities to discuss the ACC complaint and the upcoming public information meeting regarding possible water contaminants.

Intergov

- Staff met with the Intergov from the City of Avondale.

IT

- Staff met with Sentinel Technologies to obtain a quote to convert the phone system from Mitel to Microsoft Teams. Staff is currently working on an inventory of the phone system for Sentinel.

Code Enforcement (Rena Quale)

- Closed two cases due to compliance.
- Opened eight new cases.
- Removed three unpermitted signs from City right-of-way.
- Continued inspections on existing cases

Administration

- Staff met with Luke AFB staff and previewed their 10/16 presentation on PFOA/PFAs. The Mayor & myself will be introducing Luke staff, but it is a Luke meeting. Later this year the EPA is looking to lower the acceptable standard of PFOA/PFAS by roughly 90%. This meeting will be held on Monday, October 16th at 6pm at St. Peters.
- I met with Dr. Warren and Dr. Ellsworth's daughter (Sara) to discuss a new lease for the dental parking lot. The existing lease expires in December 2023. We also discussed the City purchasing the ROW currently owned by the dentists along Wigwam. Currently the sidewalk & parallel spots are owned by the dentists, not by the City.
- Staff are working on a survey for Camelback Park wall & parking lot. This survey will be sent out after the November 13th public input meeting. Staff will be surveying roughly 25 homes around Camelback Park as they will be most impacted. Staff are revising the parking lot design as the airline canal (underground) crosses thru the proposed parking lot area. Staff will send a mailer card in advance of the public input meeting. Staff will plan to bring a design for the parking lot & wall to Council in January.
- Staff met with Achen-Gardner to cut costs on the final GMP in Litchfield Square. This included items like removing the proposed playground plane at a savings of \$254k and the water feature at a savings of \$1.8m. We will leave the area where the water feature was available, should the City choose to install it in the future. Staff are looking for sponsors of features such as playground equipment. This would be an ideal opportunity for an organization such as Rotary or another organization to sponsor equipment.
- Staff met with the various hilltop partners: Sun Health, LPHS, Farm & Ranch. LPHS will be dividing the restoration of the Litchfield House into phases as the total cost for restoration has risen due to current financial factors.
- Jon Froke and I attended a meeting at the State Capital on sober living homes. We have provided other cities with our recent ordinance making illegal group homes a crime vs civil.

Coming Events:

- PFOA/PFAS Public Information Meeting St. Peters Celebration Hall 10/16 6pm
- October 18th Council
- November 13th Public Input Meeting Camelback Park Wall and Parking Lot

Respectfully submitted,

Matthew C. Williams

City Manager



**CITY COUNCIL
COMMUNICATION**

Introduction of New
Employees
Item A.

To: Mayor Thomas L. Schoaf and Members of the City Council
From: Lisa Adams Williams, Director of Human Resources
Through: Matthew Williams, City Manager
Meeting Date: October 18, 2023
Presenter: Matthew Williams, City Manager

RECOMMENDED MOTION:

N/A

BACKGROUND/DISCUSSION:

N/A

STAFF RECOMMENDATION:

N/A

FINANCIAL IMPACT:

N/A



**CITY COUNCIL
COMMUNICATION**

Yard of the Quarter
Item B.

To: Mayor Thomas L. Schoaf and Members of the City Council
From: Tricia Kramer, Community and Recreation Services Director
Through: Matthew Williams, City Manager
Meeting Date: October 18, 2023
Presenter: Thomas L. Schoaf, Mayor

RECOMMENDED MOTION:

N/A

BACKGROUND/DISCUSSION:

N/A

STAFF RECOMMENDATION:

N/A

FINANCIAL IMPACT:

N/A

Attachments

Y of Q - 3rd



CITY OF LITCHFIELD PARK

YARD OF THE QUARTER
- Second Quarter, 2023 -

THIS CERTIFICATE IS AWARDED TO

Harry and Pat Kieling
4904 N Greentree Dr. W



ANTHONY TADDEI, CHAIRPERSON

DATE

THOMAS L. SCHOAF, MAYOR

DATE



**CITY COUNCIL
COMMUNICATION**

Employee of the
Quarter
Item C.

To: Mayor Thomas L. Schoaf and Members of the City Council
From: Lisa Adams Williams, Director of Human Resources
Through: Matthew Williams, City Manager
Meeting Date: October 18, 2023
Presenter: Thomas L. Schoaf, Mayor

RECOMMENDED MOTION:

N/A

BACKGROUND/DISCUSSION:

N/A

STAFF RECOMMENDATION:

N/A

FINANCIAL IMPACT:

N/A

Attachments

Employee of the Quarter Certificate
Employee of the Quarter Council Notice



In appreciation of your service,
we hereby present to

Alyse Harriet

the Employee of the Quarter award recognizing her outstanding quality of
work and public ambassadorship for the quarter ending September 30, 2023.

City of Litchfield Park

This 6th Day of October 2023

Matthew Williams
City Manager



Thomas L. Schoaf
Mayor



Nominees for the 3rd Quarter of 2023

Employee	Department	Number of Nominations
Alyse Harriet	City Hall	1
Daniel Loftus	City Hall	1
Roy Orona	Public Works	1
Samantha Plasencia	Rec Center	1

Employee of the 3rd Quarter of 2023:

Alyse Harriet



**CITY COUNCIL
COMMUNICATION**

GYFD Report
Item A. 1.

To: Mayor Thomas L. Schoaf and Members of the City Council
From: Paul Luizzi, Fire Chief
Through: Matthew Williams, City Manager
Meeting Date: October 18, 2023
Presenter: Paul Luizzi, Chief

RECOMMENDED MOTION:

N/A

BACKGROUND/DISCUSSION:

N/A

STAFF RECOMMENDATION:

N/A

FINANCIAL IMPACT:

N/A

Attachments

GYFD September 2023 Report

Goodyear Fire Department
 Incident Report
 City of Litchfield Park
 Date Range: 09/01/2023 - 09/30/2023

Apparatus	Jurisdiction
E54	Phoenix
BC171 - E175	Avondale
BC181 - E185	Goodyear



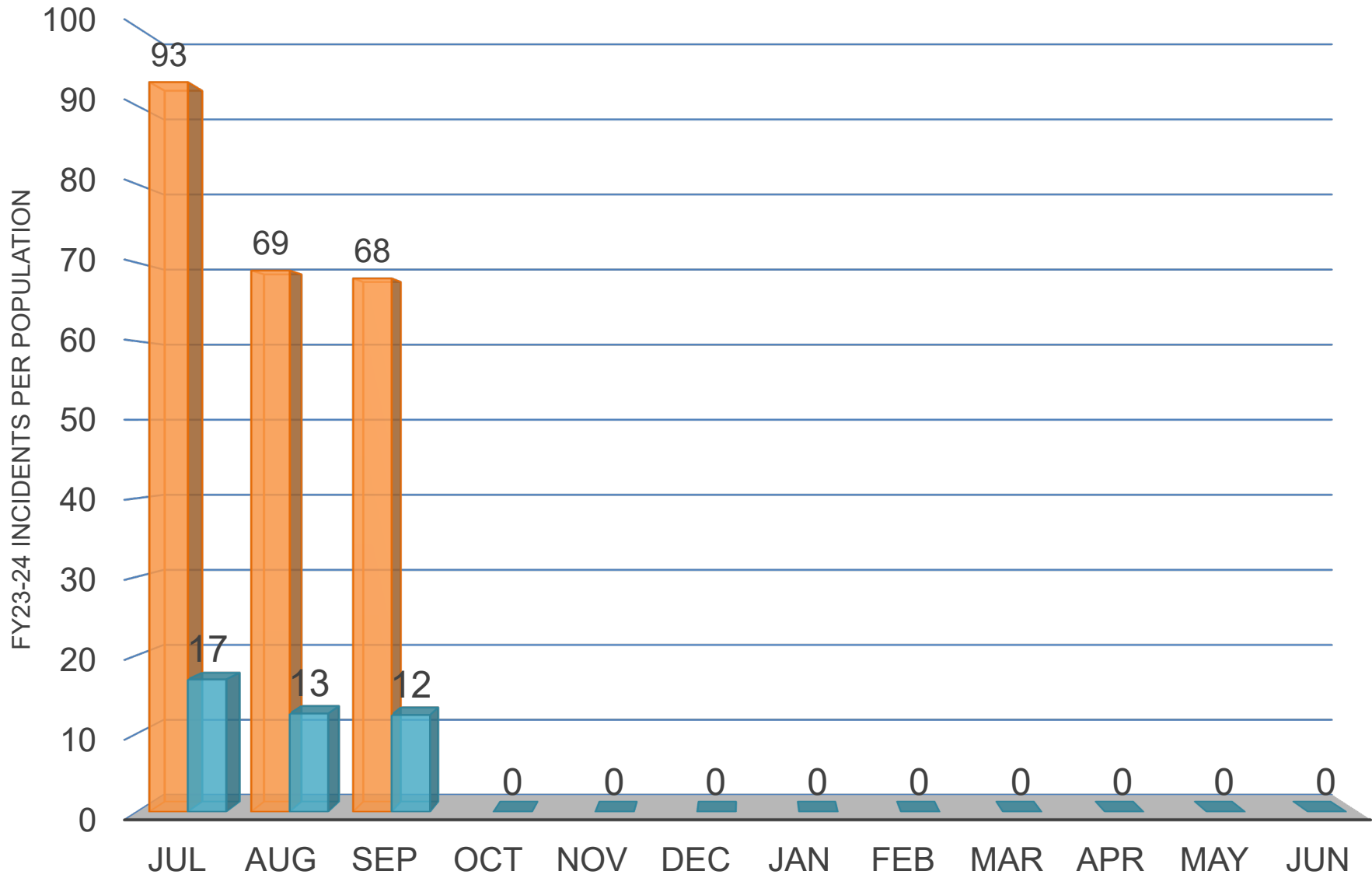
Incident Number	Apparatus ID	Incident Date	Arrival Time	Property Use	Incident Type	Street Prefix	Street Name	Street Type
23398708	E183	9/15/2023	11:08:16	131 - Church	3212 - ALS EMS Call	South	OLD LITCHFIELD	Road
23383680	E183	9/5/2023	16:43:15	311 - Nursing home	3212 - ALS EMS Call	West	DENNY	Boulevard
23397342	E183	9/14/2023	12:44:00	311 - Nursing home	3212 - ALS EMS Call	West	DENNY	Boulevard
23399356	E183	9/15/2023	18:14:26	311 - Nursing home	3212 - ALS EMS Call	West	DENNY	Boulevard
23417454	E183	9/27/2023	17:52:37	311 - Nursing home	3212 - ALS EMS Call	West	DENNY	Boulevard
23418424	E185	9/28/2023	11:06:25	311 - Nursing home	3212 - ALS EMS Call	West	DENNY	Boulevard
23413795	E183	9/25/2023	10:53:18	340 - Clinics	3212 - ALS EMS Call	West	CAMELBACK	Road
23380505	E183	9/3/2023	12:36:35	419 - Residential	3212 - ALS EMS Call	West	MESQUITE	Lane
23383236	E185	9/5/2023	11:41:23	419 - Residential	3212 - ALS EMS Call	North	ALEPPO	Court
23387786	E185	9/8/2023	9:25:26	419 - Residential	3212 - ALS EMS Call	North	VISTA VERDE	Drive
23393539	E183	9/12/2023	4:06:07	419 - Residential	3212 - ALS EMS Call	West	SONOMA	Drive
23393562	E183	9/12/2023	4:47:01	419 - Residential	3212 - ALS EMS Call	West	SONOMA	Drive
23394562	E183	9/12/2023	17:23:01	419 - Residential	3212 - ALS EMS Call	East	ESTERO	Lane
23406499	E183	9/20/2023	13:20:32	419 - Residential	3212 - ALS EMS Call	West	ORCHARD	Lane
23384823	E183	9/6/2023	11:42:29	429 - Apartment / Condo	3212 - ALS EMS Call	South	OLD LITCHFIELD	Road
23410904	E183	9/23/2023	12:29:09	429 - Apartment / Condo	3212 - ALS EMS Call	West	DENNY	Boulevard
23422325	E183	9/30/2023	21:56:51	449 - Hotel/motel	3212 - ALS EMS Call	East	WIGWAM	Boulevard
23403060	E183	9/18/2023	9:12:04	459 - Assisted Living	3212 - ALS EMS Call	South	DENNY	Boulevard
23404936	E183	9/19/2023	12:54:55	459 - Assisted Living	3212 - ALS EMS Call	South	DENNY	Boulevard
23391032	E183	9/10/2023	12:19:40	500 - Mercantile	3212 - ALS EMS Call	North	LITCHFIELD	Road
23412299	E183	9/24/2023	11:46:09	500 - Mercantile	3212 - ALS EMS Call	North	DYSART	Road
23405180	E183	9/19/2023	16:00:54	960 - Street	3212 - ALS EMS Call	North	LITCHFIELD	Road
23379320	E183	9/2/2023	15:53:28	963 - Street, Commercial	3212 - ALS EMS Call	West	INDIAN SCHOOL	Road
23380240	E174	9/3/2023	8:37:30	459 - Assisted Living	3212 - ALS EMS Call	West	LAS CRUCES	Drive
23385093	E174	9/6/2023	14:56:07	459 - Assisted Living	3212 - ALS EMS Call	West	LAS CRUCES	Drive
23389938	E174	9/9/2023	16:47:52	419 - Residential	3212 - ALS EMS Call	East	FAIRWAY	Drive
23404719	E174	9/19/2023	10:17:34	459 - Assisted Living	3212 - ALS EMS Call	West	LAS CRUCES	Drive
23415246	E174	9/26/2023	9:20:04	459 - Assisted Living	3212 - ALS EMS Call	West	LAS CRUCES	Drive
23417914	E174	9/28/2023	1:18:18	419 - Residential	3212 - ALS EMS Call	East	CASCADA	Road
23390834	E183	9/10/2023	9:06:50	131 - Church	3213 - BLS EMS Call	North	OLD LITCHFIELD	Road
23388877	E183	9/8/2023	22:23:05	419 - Residential	3213 - BLS EMS Call	North	ALEPPO	Court
23394275	E185	9/12/2023	14:01:26	419 - Residential	3213 - BLS EMS Call	West	SYCAMORE	Court
23399502	E183	9/15/2023	19:57:04	419 - Residential	3213 - BLS EMS Call	West	VERBENA	Lane
23412679	E183	9/24/2023	16:53:57	419 - Residential	3213 - BLS EMS Call	South	OLD LITCHFIELD	Road
23419221	E183	9/28/2023	19:56:08	419 - Residential	3213 - BLS EMS Call	South	HACIENDA	Circle
23384045	E183	9/5/2023	21:09:33	429 - Apartment / Condo	3213 - BLS EMS Call	South	DENNY	Boulevard
23395048	E174	9/12/2023	23:17:14	429 - Apartment / Condo	3213 - BLS EMS Call	East	ESTERO	Lane
23379909	E183	9/3/2023	0:34:00	459 - Assisted Living	3213 - BLS EMS Call	South	DENNY	Boulevard
23385113	E183	9/6/2023	15:10:42	459 - Assisted Living	3213 - BLS EMS Call	West	LAS CRUCES	Drive
23388130	E183	9/8/2023	13:34:17	459 - Assisted Living	3213 - BLS EMS Call	South	DENNY	Boulevard
23395627	E183	9/13/2023	10:55:11	459 - Assisted Living	3213 - BLS EMS Call	South	DENNY	Boulevard
23403450	E181	9/18/2023	13:25:57	459 - Assisted Living	3213 - BLS EMS Call	South	DENNY	Boulevard
23404202	E183	9/18/2023	23:34:33	459 - Assisted Living	3213 - BLS EMS Call	South	DENNY	Boulevard
23404259	E183	9/19/2023	1:05:40	459 - Assisted Living	3213 - BLS EMS Call	South	DENNY	Boulevard
23383909	E171	9/5/2023	19:27:42	419 - Residential	3213 - BLS EMS Call	South	OLD LITCHFIELD	Road
23387071	E174	9/7/2023	19:38:43	419 - Residential	3213 - BLS EMS Call	South	DENNY	Boulevard
23389784	E174	9/9/2023	14:52:03	459 - Assisted Living	3213 - BLS EMS Call	West	LAS CRUCES	Drive
23391569	E174	9/10/2023	19:35:54	459 - Assisted Living	3213 - BLS EMS Call	West	LAS CRUCES	Drive
23397739	E174	9/14/2023	17:21:56	419 - Residential	3213 - BLS EMS Call	North	ORO VISTA	Drive
23398413	E174	9/15/2023	7:28:49	459 - Assisted Living	3213 - BLS EMS Call	West	LAS CRUCES	Drive
23399158	E174	9/15/2023	16:08:22	419 - Residential	3213 - BLS EMS Call	North	ORO VISTA	Drive
23402243	E174	9/17/2023	18:21:03	459 - Assisted Living	3213 - BLS EMS Call	West	LAS CRUCES	Drive
23404782	E174	9/19/2023	11:06:02	459 - Assisted Living	3213 - BLS EMS Call	West	LAS CRUCES	Drive
23408961	E174	9/22/2023	5:52:29	459 - Assisted Living	3213 - BLS EMS Call	West	LAS CRUCES	Drive
23408390	LT184	9/21/2023	17:59:39	960 - Street, other	322 - MVA / 962	West	CAMELBACK	Road
23394406	E174	9/12/2023	15:26:38	960 - Street	3223 - ALS 962	West	CAMELBACK	Road
23383902	E174	9/5/2023	19:15:55	215 - High school	412 - Gas leak	West	INDIAN SCHOOL	Road
23396151	E183	9/13/2023	16:56:59	419 - Residential	412 - Gas leak	North	LITCHFIELD	Knoll
23386672	E174	9/7/2023	14:40:05	500 - Mercantile	412 - Gas leak	West	INDIAN SCHOOL	Road
23413233	E183	9/24/2023	23:51:58	419 - Residential	500 - Service call	West	WIGWAM	Boulevard
23398605	E174	9/15/2023	10:00:18	419 - Residential	500 - Service call	West	VILLAGE	Parkway
23388679	E183	9/8/2023	19:28:24	449 - Hotel/motel	611 - Cancelled - En Route	East	WIGWAM	Boulevard
23379240	E174	9/2/2023	14:58:31	963 - Street	611 - Cancelled - En Route	West	INDIAN SCHOOL	Road
23414353	E183	9/25/2023	16:51:42	419 - Residential	671 - HazMat investigation		LAGUNA	Drive

Goodyear Fire Department
 Incident Report
 City of Litchfield Park
 Date Range: 09/01/2023 - 09/30/2023

Apparatus	Jurisdiction
E54	Phoenix
BC171 - E175	Avondale
BC181 - E185	Goodyear

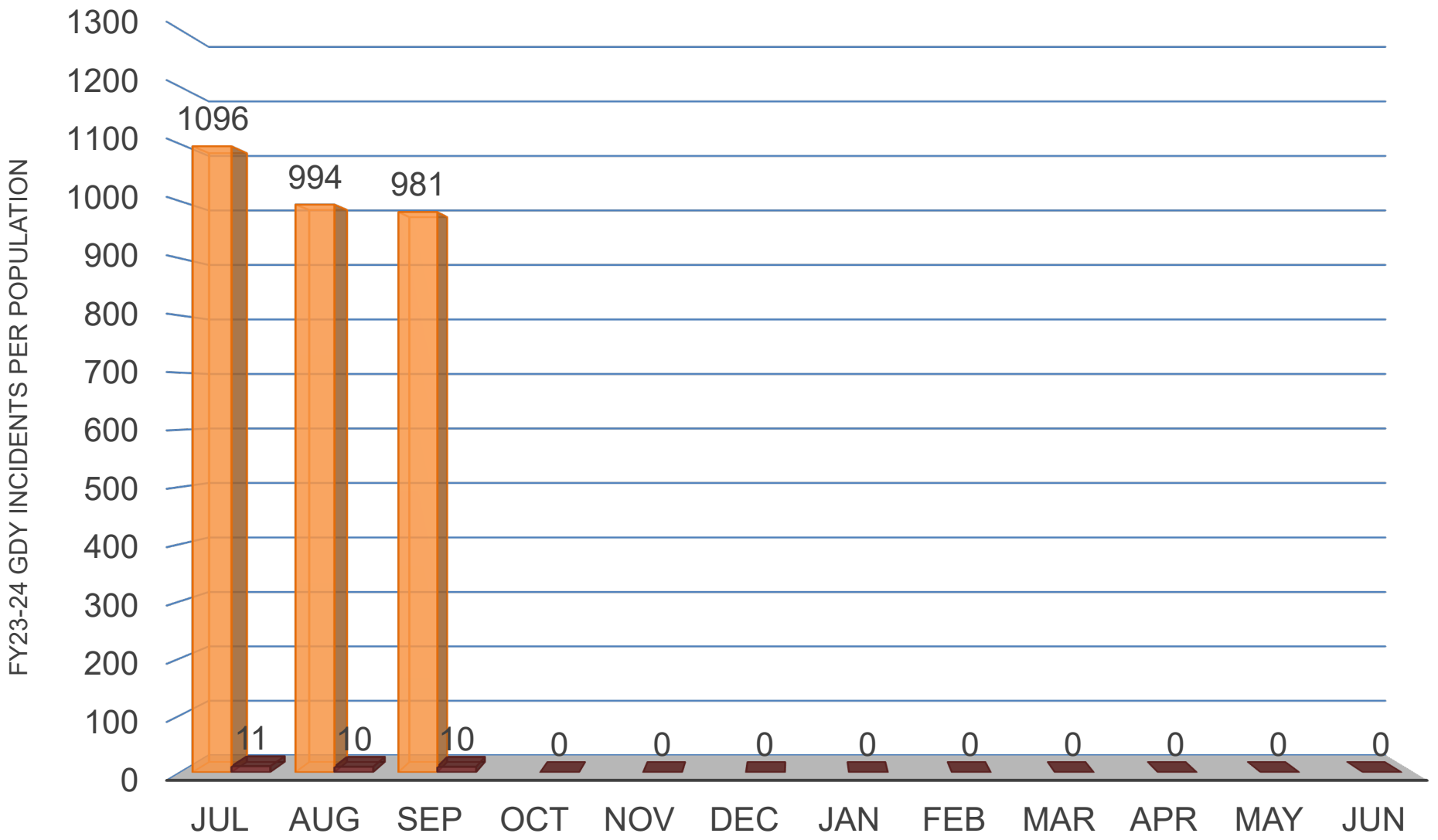


Incident Number	Apparatus ID	Incident Date	Arrival Time	Property Use	Incident Type	Street Prefix	Street Name	Street Type
23378168	E183	9/1/2023	19:30:17	419 - Residential	735 - Alarm malfunction	West	SONOMA	Drive
23392528	E174	9/11/2023		161 - Restaurant	735 - Alarm malfunction	West	CAMELBACK	Road
23394564	E174	9/12/2023	17:24:23	449 - Hotel/motel	735 - Alarm malfunction	East	WIGWAM	Boulevard
23395526	E174	9/13/2023	9:43:30	419 - Residential	812 - Flood assessment	North	LITCHFIELD	Knoll
68	Total Responses							



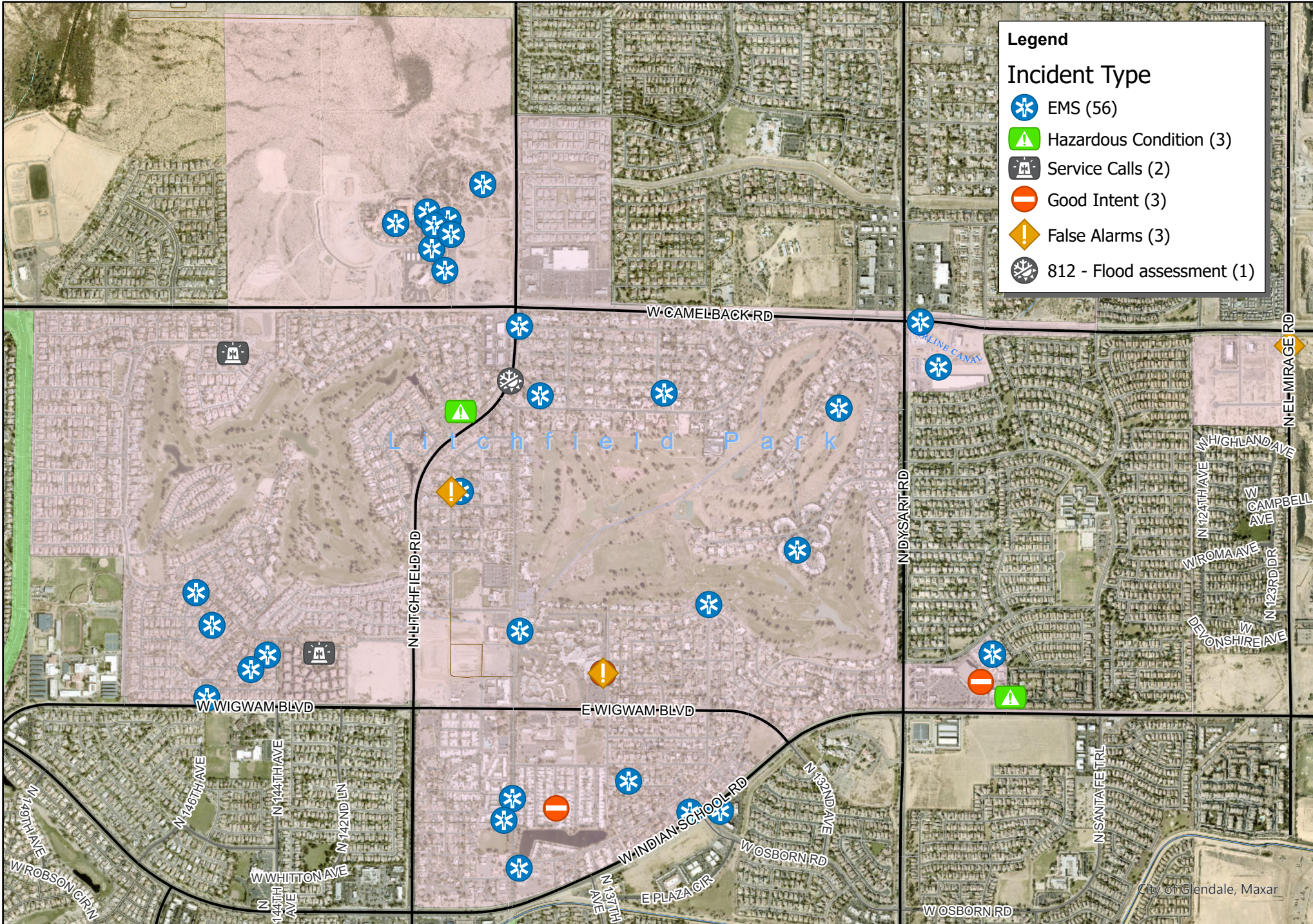
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
■ Litchfield Park	93	69	68									
■ Incidents per 1000 pop.	17	13	12	0	0	0	0	0	0	0	0	0

■ Litchfield Park ■ Incidents per 1000 pop.



	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Goodyear	1096	994	981									
Incidents per 1000 pop.	11	10	10	0	0	0	0	0	0	0	0	0

Goodyear Incidents per 1000 pop.



Legend

Incident Type

- EMS (56)
- Hazardous Condition (3)
- Service Calls (2)
- Good Intent (3)
- False Alarms (3)
- 812 - Flood assessment (1)



**CITY COUNCIL
COMMUNICATION**

Avondale Police
Report
Item A. 2.

To: Mayor Thomas L. Schoaf and Members of the City Council
From: Memo Espinoza, Chief
Through: Matthew Williams, City Manager
Meeting Date: October 18, 2023
Presenter: Asst. Chief Martin, Avondale Police

RECOMMENDED MOTION:

N/A

BACKGROUND/DISCUSSION:

N/A

STAFF RECOMMENDATION:

N/A

FINANCIAL IMPACT:

N/A

Attachments

APD Monthly Report - Sept. 2023



**LAW ENFORCEMENT REPORT
SEPTEMBER 2023
PROVIDED BY THE AVONDALE POLICE
DEPARTMENT**



This report documents the law enforcement service and activity within the City of Litchfield Park. The Avondale Police Department has a contractual agreement with Litchfield Park and provides their enforcement services. This report reflects the monthly activity along with a comparison of the previous months' activity. A call for service or law enforcement activity does not always generate a written document by the Police Department. This report provides a breakdown of the types of criminal activity within the City of Litchfield Park such as assaults, burglaries and thefts. Also included are the traffic citations issued, traffic accidents and subsequent drug and alcohol violations. The Uniform Crime Reporting procedure is being utilized which is the standard for crime reporting by the FBI. A brief synopsis is provided at the end of this which documents any significant or notable incidents which have occurred.

CRIMINAL/TRAFFIC ACTIVITY

ACTIVITY TYPE	JULY 2023	AUG 2023	SEPT 2023	OCT 2023	NOV 2023	DEC 2023
Homicide	0	0	0			
Aggravated Assault	1	0	2			
Assault	5	5	3			
Adult Abuse	0	0	0			
Child Crime	0	0	0			
Arson/Suspicious Fire	0	0	0			
Robbery	0	0	0			
Commercial Burglary	1	1	0			
Residential Burglary	0	0	1			
Vehicle Burglary	1	0	0			
Criminal Trespassing	2	4	2			
Theft	0	5	1			
Fraud	1	1	1			
Shoplifting	5	0	1			
Stolen Vehicle	3	1	2			
Disorderly Conduct	1	3	1			
Criminal Damage	11	4	3			
DUI	0	2	0			
Drug Offense	0	0	0			
Wanted Person Arrest	0	1	0			
Parking Problem	4	13	8			
Accidents	11	12	12			
Traffic Offenses (Traffic Stops)	37	36	135			
Traffic Warnings*	28	27	118			
Citations Issued*	9	9	17			
Flock Alerts*	2	2	1			
Flock Contacts*	0	1	0			

**Note: Traffic warnings are dispositions from traffic stops and can be verbal or written warnings. Citations are combined from vehicle accidents; traffic stops and parking problems. Traffic warnings, citations, traffic stops, parking problems and FLOCK information are for informational purposes and are not included in the number for "Total Calls Tracked" section.*



**LAW ENFORCEMENT REPORT
SEPTEMBER 2023
PROVIDED BY THE AVONDALE
POLICE DEPARTMENT**



POLICE & COMMUNITY ASSIST ACTIVITY

ACTIVITY TYPE	JULY 2023	AUG 2023	SEPT 2023	OCT 2023	NOV 2023	DEC 2023
Fight/Mutual Combat	0	0	0			
Citizen Dispute	2	3	2			
Family Fights	1	3	6			
Harassment/Stalking	0	0	0			
Threats/Threatening	0	2	0			
Found/Lost Property	2	5	4			
Trespassing Warnings	1	3	6			
Stolen Vehicle Recovery	0	2	0			
Stolen License Plate Recovery	0	0	0			
Recovered Stolen Property	0	0	0			
Animal Problem/Concern	2	0	1			
Juvenile Disturbance	1	2	0			
Runaway/Endangered Juvenile	0	0	0			
Missing/Endangered Person	0	0	0			
Recovered Person/Juvenile	0	0	0			
Noise Disturbance	1	1	1			
Suspicious Activity Person	8	7	8			
Suspicious Circumstance	4	6	15			
Suspicious Activity Vehicle	3	11	4			
Citizen Assist	27	24	21			
Abandoned Vehicle	0	1	1			
City Code Violation	0	0	0			
911 Hang Ups	2	3	0			
Commercial Alarms	11	10	9			
Residential Alarms	12	11	6			
School Zone Details	0	28	22			
Speed Zone Details	16	19	9			
Natural Death of Person	1	1	0			
Suicide	0	0	0			
Suicidal Person/Threats	0	0	0			
Unsecured Premises Checks	0	1	3			
Patrol Vacation Watch	4	2	0			
Welfare Checks	15	16	15			
Business Checks	53	41	47			
Fireworks	3	1	0			
Mental Issue	0	0	0			
Agency Assist	10	7	6			
TOTAL CALLS TRACKED	258	286	358			
<i>Community Contacts</i>	26	27	37			

FLOCK information:

Alerts:

During the month of September 2023, 1 valid FLOCK alert was received for the following activation types

On 9/21/2023 at about 1239 hours officers received a FLOCK alert of a vehicle associated with a Sex Offender entering at Villa Nueva Drive and Dysart Road. No action was taken.

Notable Incidents:

DUI (DR 2345838): On 9/2/2023 at about 1446 hours officers responded to a welfare check in the parking lot of 12970 W Indian School Road for an adult female slumped over the wheel of her car. Through investigation, officers found the female to be intoxicated and was subsequently transported to the hospital for evaluation. DUI charges are pending for this matter.

TRAFFIC ACCIDENT (DR 2346095): On 9/4/2023 at about 0438 hours officers responded to the area 600 N Loma Ave regarding a hit-and-run accident where a vehicle struck a stone mailbox and residential landscaping causing \$3000 in damage and fled the scene. Officers were able to locate the run vehicle a few streets away while also utilizing FLOCK to aid in the investigation. Both involved parties agreed to handle the damages civilly.

THEFT OF VEHICLE (DR 2346250): On 09/05/2023, at about 0608 hours, officers responded to 214 W Wigwam Blvd in reference to the theft of a dump truck and wood chipper belonging to a contractor. Both items were equipped with GPS Tracking and officers reviewed FLOCK cameras observing the stolen truck exiting at Bird Ln & Litchfield Rd at about 0504 hours. Both stolen items were tracked to two locations in Surprise and were recovered, with a search warrant being issued for a residence where the woodchipper was found. This investigation is ongoing.

AGGRAVATED ASSAULT (DR 2346854): On 09/08/2023 at about 0218 hours, officers responded to a townhome near 14250 W Village Pkwy in reference to a 911 Hang-up. Through investigation it was learned the victim's ex-girlfriend arrived at his residence and confronted the victim and a significant other, forcing their way into the residence and threatening both persons with a knife. The suspect took a purse and an iPhone and fled prior to police arrival, however, this investigation is ongoing.

ASSAULT (DR 2348366): On 09/16/2023 at about 1417 hours officers responded to a business near 4900 N Litchfield Rd to investigate an assault. Officers contacted employees who stated a customer became upset when the store refused to accept an item for return. The customer threw the item striking one of the employees with it, which was corroborated by video surveillance. No prosecution was desired and the suspect was trespassed from the business.

CRIMINAL DAMAGE (DR 2349231): On 09/21/2023 at about 0915 hours officers conducted a business check at the La Loma Property located at 5402 N Litchfield Rd. While checking on the area officers observed the alarm sensor had been removed and found damaged on the ground causing about \$100 in damage. Video surveillance resulted in no persons being observed.

AGGRAVATED ASSAULT (DR 2349635): On 09/23/2023 at about 1003 hours officers responded to the area of 13800 W Camelback Road for an aggravated assault where the victim reported a driver of another vehicle had pointed a firearm at them after a road rage incident. The victim was able to provide a description of the vehicle and officers utilized FLOCK to identify the suspect vehicle. Attempts to contact the suspect were met with negative results and all leads were exhausted in this matter.

CRIMINAL DAMAGE (DR 2350121): On 09/26/2023 at about 0558 hours, Officers conducted a business check on the La Loma Homestead located at 5402 N Litchfield Rd and observed a broken window. Officers cleared the building and discovered an unknown suspect(s) damaged the exterior window causing \$400 in damage and

entered the building. No items were found to be missing and no other damage was noted. No suspects, witnesses, or leads exist in this matter. Public Works was contacted who responded and re-secured the building.

CRIMINAL TRESPASSING (DR 2350923): On 09/29/2023 at about 1928 hours officers responded to 12970 W Indian School Rd in reference to a disorderly subject. Officers trespassed the subject from the property at the request of management. The subject continued to return to the property where he was ultimately arrested and booked into the Avondale City jail for trespassing.



**CITY COUNCIL
COMMUNICATION**

Finance Monthly
Report
Item B. 1.

To: Mayor Thomas L. Schoaf and Members of the City Council
From: Paige Peterson, Assistant City Manager / Director of Finance
Through: Matthew Williams, City Manager
Meeting Date: October 18, 2023
Presenter: Paige Peterson, Assistant City Manager / Director of Finance

RECOMMENDED MOTION:

N/A

BACKGROUND/DISCUSSION:

N/A

STAFF RECOMMENDATION:

N/A

FINANCIAL IMPACT:

N/A

Attachments

Memo
Sales Tax Report
Finance Report

To: Mayor Thomas L. Schoaf and Members of the City Council
From: Paige Peterson, Assistant City Manager / Finance Director
Through: Matthew Williams, City Manager
Meeting Date: 10/18/2023
Subject: Financial Report – Fiscal Year 2024 through September

Financial Report

This financial report is a summary of the first three months of Fiscal Year 2024 (July 1, 2023, through September 30, 2023). 25% of the year has elapsed so that will be used as a benchmark to compare revenues and expenses to budget estimates.

Supporting schedules are attached.

General Fund

In summary, the net operating result of the general fund was \$1,298,550. Revenue received by September totaled \$4 million, which is 26% of the budget estimate of \$15.2 million. Operating expenditures in the General Fund were 21% of the budget totaling \$2.7 million.

Taxes received (net of construction sales tax) were \$2.6 million, which is 26% of the budget estimate. Overall sales tax received (net of construction sales tax) in September 2023 is 23% higher than September 2022. Retail sales are up 8%, online sales are up 17%, restaurant/bars are down 9%, utilities are up 45%, rentals are up 312% and all other categories are down 15% from last September. We are verifying a large commercial rental payment of \$126,000 actually belongs to the City. If this was paid to us in error, the actual rental revenue would be up 4% and overall sales tax would be up 6% over last September.

State shared revenue totaled \$786,633 through September which is 24% of budget estimates. Recreation Services revenue was \$93,791 which is 18% of budget estimates. Special Events revenue collected through September is \$29,380 which is 9% of budget estimates; however, the special events season is just beginning and revenues will increase.

Investment earnings totaled \$347,761, which is 70% of the budget estimate. As of September 30, 2023, there is \$25,552,853.75 invested with the State's Local Government Investment Pool. The investment performance for the past three months is 5.3%.

Overall, general fund departments are at 21% of the total operating expense budget. Some departments are over 25%; however, there are larger one-time expenses at the beginning of the fiscal year. I'll continue to monitor spending to ensure departments are within their budgeted capacity.

The Construction Sales Tax received to date is \$295,682 which is 20% of the budget estimate of \$1,500,000. We have spent \$125,823 on capital projects so far this year excluding Litchfield Square. Litchfield Square activities will be reported separately from the general fund.

The estimated beginning fund balance is \$25.7 million; the final fund balance will be determined once the financial audit is complete. The General Fund balance increased by \$1,720,056 since July 1, bringing the total fund balance to \$27.4 million as of September 30, 2023. However, there are likely invoices that we haven't received or processed by the time this report was due that will be processed after this report has been prepared.

Recreation Services and Special Events Cost Recovery

Recreation services revenue through September totaled \$93,791 and expenditures totaled \$243,988 for a 38% cost recovery.

Special events revenue through September totaled \$29,380 and expenditures were \$63,304 for a 46% cost recovery.

Special Revenue Funds

The Highway Users Revenue (HURF) through September totaled \$125,182 which is 23% of budget estimates. By the end of September, expenditures totaled \$336. The HURF fund has \$962,139 remaining in accumulated fund balance as of September 30, 2023.

The total Litchfield Square budget in FY24 is \$10M. The Series 2023 bond proceeds will cover this year's expenditures. As of the date this report was prepared, we have paid \$995,778 towards the project this fiscal year. GMP 1 and GMP 2 are now closed.

Street Light District (SLID) assessment revenues through September were \$37,239 and expenditures totaled \$56,248. Fiscal Year 2024 assessments are collected in conjunction with the Maricopa County Treasurer's property tax bill which is due October 1 and March 1.

The Court Enhancement beginning fund balance is \$77,467. This year's budget includes the court room rent, state computer fees, and office furniture in the amount of \$27,435. The budgeted revenue is \$4,530. The fund cannot drop below \$50,000 per city code.

Fund Balance Summary and Reserve balance

The total *estimated* Citywide fund balance as of September 30, 2023, is \$39 million. Of that, \$1 million is restricted for HURF, SLIDs, and Court Enhancement and \$10.5 million is restricted for Litchfield Square. This will leave a balance of \$27.4 million in the General Fund with \$21.2 million unassigned; however, factors to consider when evaluating this amount are \$3.5 million reserved for Camelback Road expenses, potential future costs such as \$900,000 for the Sun Health restoration project, \$10 million to complete Litchfield Square and other city capital projects that exceed one-time construction sales tax revenue. The fund balance detail and reserve detail are indicated in the table below:

City of Litchfield Park
Fund Balance Summary - Unaudited Budgetary Basis
For the Month Ended September 2023 25% of the year elapsed

FY24 Year to Date	General Fund	Special Revenue	Total
Fund Balance 7/1/23	\$ 25,722,852	930,957	\$ 26,653,809
Operating Result	1,298,550	10,606,914	11,905,464
One-time Revenue Over Capital Uses	421,506	-	421,506
Ending Balance	\$ 27,442,908	\$ 11,537,871	\$ 38,980,779

The 7/1/23 fund balances are an estimate until the FY23 audit is complete

Ending Fund Balance Detail

Minimum Balance (15%)	\$ 1,870,000
Stabilization Reserve (35%)	4,360,000
Unassigned Fund Balance	21,212,908
Total Fund Balance	\$ 27,442,908

**Fund Balance includes \$3.5M from Maricopa County for Camelback Road*

Potential future expenses that will impact the fund balance:

Sun Health Restoration: \$900,000

Litchfield Square Construction: \$10,000,000

City CIP Projects in excess of one-time construction sales tax revenues

Number of Months of General Fund Operating Expenditures

Total Ending Balance	26.4
----------------------	------

Fund balance should be evaluated within the context of long-term forecasting to avoid placing too much emphasis upon the level of unrestricted fund balance in the general fund at any one time.

Attachments:

September 2023 Sales Tax

September 2023 Finance Update



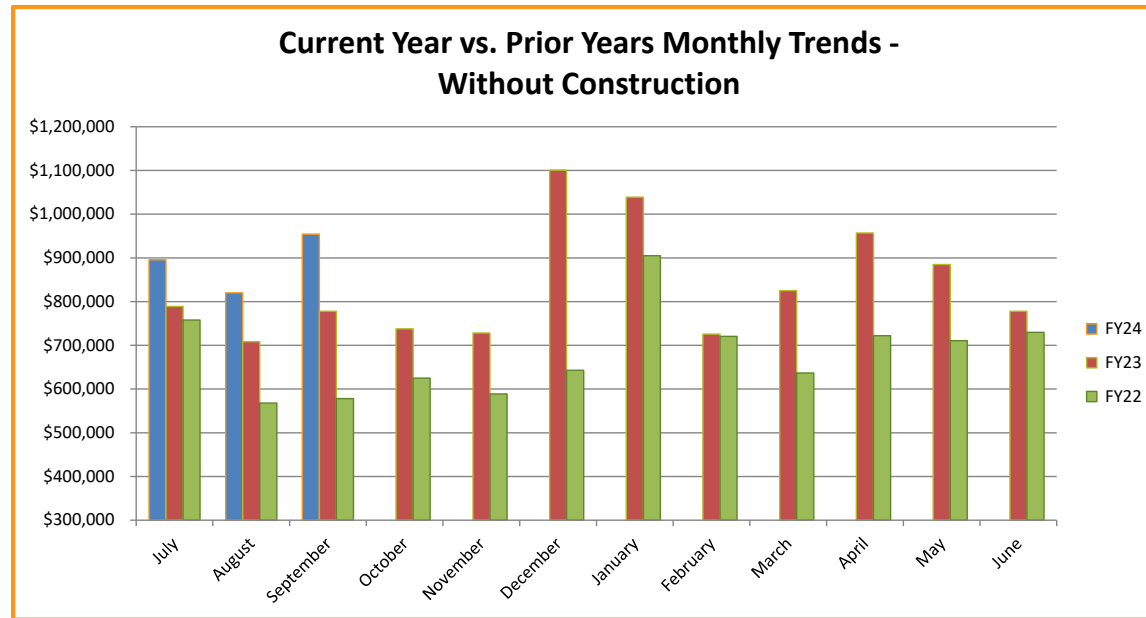
Tax Revenue Summary
Sep-23

PRIVILEGE AND USE TAX BY CATEGORY

Reporting Category	September					Fiscal Year to Date				
	2021	2022	2023	% Change 2022/2023	% of Total 2023	FY22	FY23	FY24	% Change from FY23/24	% of Total FY24
Retail Sales	\$ 274,529	\$ 399,192	\$ 430,303	8%	41%	\$ 966,031	\$ 1,152,354	\$ 1,285,708	12%	43%
Online Sales	49,062	57,286	67,066	17%	6%	142,208	159,208	278,035	75%	9%
Restaurant & Bars	85,630	98,428	89,996	-9%	9%	257,215	301,470	295,498	-2%	10%
Utilities	54,953	71,690	103,999	45%	10%	154,848	200,111	249,268	25%	8%
Rentals (Comm & Res)	32,427	40,907	168,478	312%	16%	94,498	126,409	250,222	98%	8%
Other	81,757	110,624	94,353	-15%	9%	289,492	336,291	311,707	-7%	11%
Subtotal	578,358	778,127	954,195	23%	91%	1,904,292	2,275,843	2,670,438	17%	90%
Construction	131,994	39,400	90,706	130%	9%	924,304	357,508	295,696	-17%	10%
Total	\$ 710,352	\$ 817,527	\$ 1,044,901	28%	100%	\$ 2,828,596	\$ 2,633,351	\$ 2,966,134	13%	100%

PRIVILEGE AND USE TAX TOTAL - BY MONTH AND FISCAL YEAR

	3 Yr Average					Amount			
	FY21	FY22	FY23	3 Year Average	Percent of Total	FY24	Over(Under) Prior FY	% Change from FY23	% Change from 3 Year Average
July	\$ 870,297	\$ 885,762	\$ 1,012,494	\$ 922,851	8.4%	\$ 992,766	\$ (19,728)	-2%	8%
August	734,704	1,232,482	803,330	923,505	7.5%	928,467	125,137	16%	1%
September	690,786	710,352	817,527	739,555	6.8%	1,020,474	202,947	25%	38%
October									
November									
December									
January									
February									
March									
April									
May									
June									
YTD Totals	\$ 2,295,787	\$ 2,828,596	\$ 2,633,351	\$ 2,585,911		\$ 2,941,707	\$ 308,356	12%	14%
Total	\$ 9,494,400	\$ 11,789,639	\$ 11,999,216	\$ 11,094,418					
Percent of FY Elapsed	25%	25%	25%	25%					
Actual Percent of Total	24%	24%	22%	23%					



City of Litchfield Park
General Fund - Unaudited Budgetary Basis
Summary of Revenues and Expenditures
For the Month Ended September 2023 25% of the year elapsed

Revenue	FY24 Actual	FY24 Budget	% of Budget
Local Taxes	\$ 2,646,026	\$ 10,125,000	26%
State Shared Revenue	786,633	3,262,240	24%
Licenses and Permits	35,884	301,000	12%
Recreation Charges for Services	93,791	530,962	18%
Special Events Revenue	29,380	340,230	9%
Fines	3,272	20,000	16%
Interest Income	347,761	500,000	70%
Community Services	-	10,000	0%
Miscellaneous	24,839	70,000	35%
Total Revenue	\$ 3,967,585	\$ 15,159,432	26%

Operating Expenditures by Department

City Manager	\$ 162,965	\$ 649,623	25%
Council & Commission	34,727	50,450	69%
City Clerk	79,573	326,941	24%
City Attorney	35,519	150,000	24%
Budget & Finance	112,870	426,680	26%
Information Technology	60,801	231,329	26%
Human Resources	85,072	434,624	20%
Building Safety	44,466	185,720	24%
Code Enforcement	25,853	107,007	24%
Planning Services	43,935	193,959	23%
Engineering Services	99,371	344,415	29%
Magistrate Court	49,385	206,370	24%
Public Safety	598,978	2,597,864	23%
Public Works	907,032	3,448,674	26%
Recreation Services	243,988	956,150	26%
Community Services	21,193	122,306	17%
Special Events	63,304	360,252	18%
Debt Service		321,200	0%
Debt Service - LS Series 2021 Bonds		504,494	0%
Debt Service - LS Series 2023 Bonds		850,000	0%
Total	\$ 2,669,035	\$ 12,468,058	21%

Net General Fund Operations \$ 1,298,550 \$ 2,691,374

One time sources (uses)

Construction Sales Tax	\$ 295,682	\$ 1,500,000	20%
Maricopa Cnty Flood Cntrl		\$ 1,185,668	
Parcel Sales			
Transfers In		-	
Capital Expenditures	125,823	(9,100,000)	-1%
Total One-time sources (uses)	\$ 421,506	\$ (6,414,332)	

Ending Balance

Net Change in Fund Balance	\$ 1,720,056	\$ (3,722,958)
Fund Balance - Beginning	25,722,852	23,180,375
Fund Balance - Ending	\$ 27,442,908	\$ 19,457,417

The beginning fund balance is an estimate only as FY2023 is still being audited.

Recreation Services
Cost Center Trend Analysis
For the Month Ended September 2023 25% of the year elapsed

	FY23 Thru September	FY23 Total	% Thru September FY23	FY24 Thru September	FY24 Budget	% of FY24 Budget
RECREATION SERVICES						
Recreation Center						
Revenue	\$ 6,446	\$ 66,785	10%	\$ 7,372	\$ 50,100	15%
Expenditures	75,223	304,971	25%	78,934	305,273	26%
Net Revenue Over (Under)	<u>\$ (68,777)</u>	<u>\$ (238,186)</u>		<u>\$ (71,562)</u>	<u>\$ (255,173)</u>	
<i>% Cost Recovery</i>	9%	22%		9%	16%	
Preschool						
Revenue	\$ 33,743	\$ 131,456	26%	\$ 25,148	\$ 139,112	18%
Expenditures	28,025	116,981	24%	30,368	132,108	23%
Net Revenue Over (Under)	<u>\$ 5,718</u>	<u>\$ 14,475</u>		<u>\$ (5,220)</u>	<u>\$ 7,004</u>	
<i>% Cost Recovery</i>	120%	112%		83%	105%	
Aquatics						
Revenue	\$ 47,993	\$ 129,021	37%	\$ 46,804	\$ 120,250	39%
Expenditures	83,613	217,188	38%	87,284	233,766	37%
Net Revenue Over (Under)	<u>\$ (35,620)</u>	<u>\$ (88,167)</u>		<u>\$ (40,480)</u>	<u>\$ (113,516)</u>	
<i>% Cost Recovery</i>	57%	59%		54%	51%	
Sports						
Revenue	\$ 20,474	\$ 253,151	8%	\$ 14,468	\$ 221,500	7%
Expenditures	47,250	242,289	20%	47,403	285,003	17%
Net Revenue Over (Under)	<u>\$ (26,776)</u>	<u>\$ 10,862</u>		<u>\$ (32,935)</u>	<u>\$ (63,503)</u>	
<i>% Cost Recovery</i>	43%	104%		31%	78%	
TOTAL RECREATION SERVICES						
Revenue	\$ 108,657	\$ 580,413	19%	\$ 93,792	\$ 530,962	18%
Expenditures	234,111	881,429	27%	243,989	956,150	26%
Net Revenue Over (Under)	<u>\$ (125,455)</u>	<u>\$ (301,016)</u>		<u>\$ (150,197)</u>	<u>\$ (425,188)</u>	
<i>% Cost Recovery</i>	46%	66%		38%	56%	
SPECIAL EVENTS						
Revenue	\$ 16,315	\$ 364,126	4%	\$ 29,380	\$ 340,230	9%
Expenditures	\$ 40,782	\$ 381,102	11%	\$ 63,304	\$ 360,252	18%
Net Revenue Over (Under)	<u>\$ (24,467)</u>	<u>\$ (16,976)</u>		<u>\$ (33,924)</u>	<u>\$ (20,022)</u>	
<i>% Cost Recovery</i>	40%	96%		46%	94%	

Special Events Detail	FY23			FY24		% of FY24
	Thru September	FY23 Total		Thru September	FY24 Budget	
Oktoberfest						
Revenue	\$ 390	\$ 11,600	3%	\$ 160	\$ 13,500	1%
Expenditures	2,169	4,083	53%	8,382	5,500	152%
Net Revenue Over (Under)	<u>\$ (1,779)</u>	<u>\$ 7,517</u>		<u>\$ (8,222)</u>	<u>\$ 8,000</u>	
Fall Arts in the Park						
Revenue	\$ 7,450	\$ 114,693	6%	\$ 6,795	\$ 110,340	6%
Expenditures	960	71,399	1%	7,738	61,200	13%
Net Revenue Over (Under)	<u>\$ 6,490</u>	<u>\$ 43,294</u>		<u>\$ (943)</u>	<u>\$ 49,140</u>	
Christmas in the Park						
Revenue	\$ 1,525	\$ 18,726	8%	\$ 2,750	\$ 19,000	14%
Expenditures	2,378	24,044	10%	1,747	24,000	7%
Net Revenue Over (Under)	<u>\$ (853)</u>	<u>\$ (5,318)</u>		<u>\$ 1,003</u>	<u>\$ (5,000)</u>	
Native American Arts Festival						
Revenue	\$ 700	\$ 44,578	2%	\$ 2,550	\$ 46,300	6%
Expenditures	8,405	50,040	17%	10,589	48,500	22%
Net Revenue Over (Under)	<u>\$ (7,705)</u>	<u>\$ (5,462)</u>		<u>\$ (8,039)</u>	<u>\$ (2,200)</u>	
Trout Derby						
Revenue	\$ -	\$ 12,539	0%	\$ -	\$ 11,500	0%
Expenditures	480	4,006	12%	300	3,300	9%
Net Revenue Over (Under)	<u>\$ (480)</u>	<u>\$ 8,533</u>		<u>\$ (300)</u>	<u>\$ 8,200</u>	
Spring Art Festival						
Revenue	\$ 2,500	\$ 145,394	2%	\$ 4,500	\$ 119,340	4%
Expenditures	160	92,239	0%	1,817	70,300	3%
Net Revenue Over (Under)	<u>\$ 2,340</u>	<u>\$ 53,156</u>		<u>\$ 2,683</u>	<u>\$ 49,040</u>	
Arts in the Park Concerts						
Revenue	\$ 2,750	\$ 14,750	19%	\$ 10,625	\$ 15,250	70%
Expenditures	-	12,057	0%	345	12,000	3%
Net Revenue Over (Under)	<u>\$ 2,750</u>	<u>\$ 2,693</u>		<u>\$ 10,280</u>	<u>\$ 3,250</u>	
4th of July						
Revenue	\$ 1,000	\$ 1,000	100%			#DIV/0!
Expenditures	6,500	6,500	100%			#DIV/0!
Net Revenue Over (Under)	<u>\$ (5,500)</u>	<u>\$ (5,500)</u>		<u>\$ -</u>	<u>\$ -</u>	
Movie Event						
Revenue	\$ -	\$ 650		\$ 2,000	\$ 5,000	
Expenditures	-	532		1,239	2,500	
Net Revenue Over (Under)	<u>\$ -</u>	<u>\$ 118</u>		<u>\$ 761</u>	<u>\$ 2,500</u>	

City of Litchfield Park
Special Revenue Funds - Unaudited Budgetary Basis
Highway User Revenue Fund, Street Light Districts, Court Enhancement Fee
Summary of Revenues and Expenditures
For the Month Ended September 2023 25% of the year elapsed

	FY24 Actual	FY24 Budget	% of Budget
HIGHWAY USER REVENUE			
Annual HURF Distribution	\$ 125,182	\$ 539,000	23%
Interest Income	1,350	10,000	14%
Total HURF Revenue	\$ 126,532	\$ 549,000	23%
Streets Maintenance Expenditures	\$ 336	\$ 20,000	2%
Streets Capital Projects		1,266,639	0%
Total HURF Expenditures	\$ 336	\$ 1,286,639	
Ending Balance			
Net Change in Fund Balance	\$ 126,196	\$ (737,639)	
Fund Balance - Beginning	835,943	835,943	
Fund Balance - Ending	\$ 962,139	\$ 98,304	

			% of Budget
LITCHFIELD SQUARE CAPITAL PROJECT			
Transfer from General Fund	\$ -		#DIV/0!
Bond Proceeds	11,500,000	11,500,000	100%
Land Sales	-		#DIV/0!
Total LS Capital Project Revenue	\$ 11,500,000	\$ 11,500,000	100%

LS - Design and Engineering / Other Exp	\$ 2,078	\$ 750,000	0%
LS - GMP 1	\$ 145,889	\$ -	#DIV/0!
LS - GMP 2	\$ 65,945	\$ -	#DIV/0!
LS - GMP 3	\$ 55,491	\$ -	#DIV/0!
LS - GMP 4	726,374	-	#DIV/0!
LS - GMP 5	-	9,200,000	0%
Total LS Capital Project Expenditures	\$ 995,778	\$ 9,950,000	10%

Ending Balance			
Net Change in Fund Balance	\$ 10,504,222	\$ 1,550,000	
Fund Balance - Beginning	-	-	
Fund Balance - Ending	\$ 10,504,222	\$ 1,550,000	

SLID Assessment Revenue	\$ 37,239	\$ 244,377	15%
SLID Electricity Expenditures	56,248	244,146	23%
Net Change in Fund Balance	\$ (19,009)	\$ 231	

Ending Balance			
Fund Balance - Beginning	\$ 17,547	\$ 15,628	

Fund Balance - Ending	\$	(1,462)	\$	15,859	
COURT ENHANCEMENT FEE					
Fee Revenue & Interest Earnings	\$	267	\$	4,530	6%
Transfers Out				-	
Total Court Enhancement Revenue		<u>267</u>		<u>4,530</u>	
Magistrate Court Operating Exp.		4,762		27,435	17%
Total Court Enhancement Revenue		<u>4,762</u>		<u>27,435</u>	
Net Change in Fund Balance	\$	<u>(4,495)</u>	\$	<u>(22,905)</u>	
Ending Balance					
Fund Balance - Beginning	\$	77,467	\$	78,126	
Fund Balance - Ending	\$	72,972	\$	55,221	

City of Litchfield Park
Fund Balance Summary - Unaudited Budgetary Basis
For the Month Ended September 2023 25% of the year elapsed

FY24 Year to Date	General Fund	Special Revenue	Total
Fund Balance 7/1/23	\$ 25,722,852	930,957	\$ 26,653,809
Operating Result	1,298,550	10,606,914	11,905,464
One-time Revenue Over Capital Uses	421,506	-	421,506
Ending Balance	\$ 27,442,908	\$ 11,537,871	\$ 38,980,779

The 7/1/23 fund balances are an estimate until the FY23 audit is complete

Ending Fund Balance Detail

Minimum Balance (15%)	\$ 1,870,000
Stabilization Reserve (35%)	4,360,000
Unassigned Fund Balance	21,212,908
Total Fund Balance	\$ 27,442,908

**Fund Balance includes \$3.5M from Maricopa County for Camelback Road*

Potential future expenses that will impact the fund balance:

Sun Health Restoration: \$900,000

Litchfield Square Construction: \$10,000,000

City CIP Projects in excess of one-time construction sales tax revenues

Number of Months of General Fund Operating Expenditures

Total Ending Balance	26.4
----------------------	------



**CITY COUNCIL
COMMUNICATION**

Magistrate Court
Report
Item B. 4.

To: Mayor Thomas L. Schoaf and Members of the City Council
From: Terri Roth, City Clerk
Through: Matthew Williams, City Manager
Meeting Date: October 18, 2023
Presenter: Craig Ring, Magistrate Judge

RECOMMENDED MOTION:

None

BACKGROUND/DISCUSSION:

None

STAFF RECOMMENDATION:

None

FINANCIAL IMPACT:

None

Attachments

Magistrate Court Monthly Report - Sept 2023

LITCHFIELD PARK MAGISTRATE COURT MONTHLY ACTIVITY REPORT

SEPTEMBER 2023

11/12 Total Cases/Violations Filed

03/04 Cases/Violations in Disposition

01 Criminal Traffic (Month) 22 Criminal Traffic (YTD)

03 Civil Traffic (Month) 81 Civil Traffic (YTD)

00 Misdemeanor (Month) 12 Misdemeanor (YTD)

00 Domestic Violence (Month) 2 Domestic Violence (YTD)

Note any cases/violations of significance:

02 Cases/Violations Dismissed

Note any cases/violations of significance:

0 Cases/Violations Appealed

Note any cases/violations of significance:

Preparer:

Judge:

Joseph J. Shantz
Craig R.



**CITY COUNCIL
COMMUNICATION**

Minutes
Item A.

To: Mayor Thomas L. Schoaf and Members of the City Council
From: Terri Roth, City Clerk
Through: Matthew Williams, City Manager
Meeting Date: October 18, 2023
Presenter: Terri Roth, City Clerk

RECOMMENDED MOTION:

MOVE TO APPROVE THE AUGUST 16, AND SEPTEMBER 20, 2023, REGULAR MEETING MINUTES AND THE OCTOBER 9, 2023, SPECIAL MEETING MINUTES.

BACKGROUND/DISCUSSION:

None

STAFF RECOMMENDATION:

Staff recommends approval.

FINANCIAL IMPACT:

None

Attachments

August 16, 2023 minutes
September 20, 2023 minutes
October 9, 2023 minutes

Wednesday, August 16, 2023Regular Meeting

I. Call to Order

The meeting was held in the Library Community Room and called to order at 7:02 PM by Mayor Thomas L. Schoaf. A recording of the meeting can be seen [here](#).

Present: Mayor Thomas L. Schoaf; Vice Mayor Paul Faith (telephonically); Council Member Lisa Brainard Watson; Council Member Ron Clair (telephonically); Council Member Ann Donahue; Council Member Justin James; Council Member John Romack

Staff: Matthew Williams, City Manager; Terri Roth, City Clerk; Joe Estes, City Attorney; Paige Peterson, Asst. City Manager / Director of Finance; Maria Ceaglske, Deputy City Clerk; Keith Drunasky, City Engineer; Jon Froke, City Planner / Special Projects Manager; Pat McCoy, Sports Coordinator; Tricia Kramer, Director of Community & Recreation Services; Dawn Morocco, IT Technician

Attendees: Lt. Martin, Avondale PD; Chief Espinoza, Avondale PD; Sgt. Emmett, Avondale PD; Officer Kendall, Avondale PD; Carter L. Wilson, III; Grant C.; Colton C.; Malcolm Claridge; Jeremy Claridge; Carolyn Oberholtzer; Brian O'Connor.

II. Pledge of Allegiance

The Pledge of Allegiance was led by Council Member James.

III. Mayor and Council Members Report on Current Events

Council Member Brainard Watson reported she attended some Southwest Valley events.

Council Member Romack reported he attended several meetings with the City Manager and he is looking forward to hearing the update on the Crane Plume.

Council Member James asked the City Manager to address the water pressure issue with Liberty Utilities and the status of the installation of reduced speed signage on Camelback Road.

Mayor Schoaf reported he attended several meetings regarding the RIRO for the Thomas project.

IV. City Manager's Report on Current Events

The City Manager highlighted the following:

- Discussions continue with City of Goodyear regarding the relocation of the Train Station. Cost for relocation will be split between cities.
- Same people moving the Train Station feel they can move Scout Lodge as well.
- Water pressure issue with Liberty Utilities are of deep concern. Some locations are testing at 11 psi.
- Court case regarding the break in and vandalism at La Loma continues. It has been referred to our Risk Management attorney.

In response to Council Member Romack, the City may lose the orange trees on Old Litchfield Road and there may not be grass overseeding due to the lack of pressure. The rosebushes in the center of town

are dying as well.

Mayor Schoaf added there are significant issues with our fire hydrants related to the water pressure issue with Liberty Utilities. A map with locations will be created, and they will be tested.

In response to Council Member James, plans have been submitted for review of the LP Heritage project in Litchfield Square.

V. Response to Call to the Community

Mayor Schoaf reported the City Manager met with Mr. Roger Williams and resolved the issue.

VI. Call to the Community

There were no requests to speak on any non-agenda item.

VII. Presentations

A. Litchfield Park Little League Proclamation

Mayor Schoaf recognized the Litchfield Park Little League for their accomplishments this year.

B. U.S. Constitution Week Proclamation

Mayor Schoaf declared September 17 - 23, 2023, as U.S. Constitution Week.

C. Employee of the Quarter

Mayor Schoaf presented Pat McCoy with a certificate for the 2nd quarter, stating he will also receive 8 hours of vacation pay.

D. GFOA Award

City Manager Williams stated due to the Finance Department's efforts, the City continues to receive this award.

VIII. Reports

A. Public Safety Services Monthly Reports

1. Goodyear Fire Report

Deputy Chief Pahl reviewed his report with nothing more to add. There were no questions from Council and the Mayor thanked him for his report and service to our community.

2. Avondale Police Department

Chief Espinoza thanked the Council for the last two years of service with the City and presented the Council with six Challenge Coins each. He stated they have enjoyed the relationship with Staff and are always open to suggestions to improve community policing.

Sgt. Emmett reviewed his report with nothing further to add.

Council Member Brainard Watson commented on the uptick of crimes with violence and asked if they are seeing more transient traffic. Sgt. Emmett stated it has not increased compared to other cities.

Council Member Romack stated in reading the report he has noticed the Flock alerts with no resolution and asked if the cameras are helping the community. Sgt. Emmett responded affirmatively. Lt. Martin stated it helps with solving other types of crimes.

B. Staff Monthly Reports

1. July 2023 Finance Report

Mr. Williams reviewed Ms. Peterson's report due to her absence and highlighted the following:

- Finance is working in two fiscal years right now as FY23 is still open and FY24 began July 1st. FY23 will be closed in August, so Finance will present a preliminary FY23 finance report in September.
- Construction sales tax is 57% lower than July 2022 and at 6% of budget estimates. However, we know of planned construction in the city that should increase the CST revenue.
- General fund revenue through the end of July totaled \$1,348,432 which is 9% of budget estimates.
- The beginning fund balance of \$23M is an estimate right now as FY23 is still open and transactions are still posting to FY23. The estimated fund balance at the end of July is \$23.3M.
- The estimated ending HURF fund balance at the end of July is \$782,895.
- We received the Series 2023 bonds for Litchfield Square in the amount of \$11.5M, and they are currently being invested by Stifel to take advantage of the higher interest earnings.
- At the time the report was prepared, we hadn't received any SLID revenue. The majority of the revenue comes in October and March when property taxes are due. Expenses through the end of July are \$19K.
- The total estimated ending fund balance as of July 31st is \$23.3M; of that \$1,870,000 is the required 15% minimum fund balance, \$4,360,000 is the required 35% stabilization reserve and \$17.11M is unassigned.

2. Contamination / Plume Update

Mr. Drunasky reported there was not much activity during the summer and the PGA North Plume is getting smaller.

He reported there is a new one he is following called the Luke AFB PFAS Remedial Investigation. He provided Council with a copy of the report and explained what is happening with it. Mayor Schoaf stated he has asked Staff to stop issuing permits for the drilling of the wells until we receive data on the wells.

3. Capital Improvement Projects (CIP) Update

Mr. Drunasky reported the following:

- Staggs Park parking lot is completed and came in under budget.
- Litchfield Rd. Mill and overlay is completed with striping.
- Southwest Valley Truck Study has not moved much. MAG is taking the data to analyze remedial efforts.

4. Special Projects Update

Mr. Froke reported the following:

- Median lighting, landscaping and decorative pavers on Village Parkway has been completed.
- Achen Gardner performed testing of the lighting of night signs.
- Honeysuckle Rd. is temporarily closed, but will reopen Labor Day weekend. Extensive contact

with business owners and Staff has been made regarding the construction.

- There has been a lot of concrete work completed, including angled parking. Parking spaces have been paved.
- Three new streetlights will be installed on Honeysuckle as well.
- There was a film crew doing a show about Litchfield Square and interviewed Staff.

5. Magistrate Court Monthly Report

No verbal report was provided.

IX. Consent Agenda

MOVE TO APPROVE ITEMS A - K

MOVER Council Member Lisa Brainard Watson, SECONDER Council Member John Romack

AYE: Mayor Thomas L. Schoaf, Vice Mayor Paul Faith (telephonically), Council Member Lisa Brainard Watson, Council Member Ron Clair (telephonically), Council Member Ann Donahue, Council Member Justin James, Council Member John Romack

Passed - Unanimously

- | | | |
|-----------|----------------------------|-----------------|
| A. | Approval of Minutes | APPROVED |
|-----------|----------------------------|-----------------|

MOVE TO APPROVE THE JUNE 21, 2023, REGULAR MEETING MINUTES AND THE JULY 7, 2023, SPECIAL MEETING MINUTES.

- | | | |
|-----------|---|-----------------|
| B. | 2023 Proposed Resolutions - League of Arizona Cities and Towns | APPROVED |
| C. | Opioid Settlement Funds | APPROVED |

MOVE TO APPROVE ASSIGNING THE CITY'S SHARE OF THE OPIOID SETTLEMENT FUNDS FROM VARIOUS OPIOID SETTLEMENTS TO THE MARICOPA COUNTY DEPARTMENT OF PUBLIC HEALTH.

- | | | |
|-----------|---|-----------------|
| D. | Addendum to City Attorney Contract | APPROVED |
|-----------|---|-----------------|

MOVE TO APPROVE ADDENDUM NO. 10 TO THE CITY ATTORNEY CONTRACT.

- | | | |
|-----------|--|-----------------|
| E. | Intergovernmental Agreement for a School Resource Officer | APPROVED |
|-----------|--|-----------------|

MOVE TO APPROVE THE INTERGOVERNMENTAL AGREEMENT (IGA) WITH LITCHFIELD ELEMENTARY SCHOOL DISTRICT FOR AN SCHOOL RESOURCE OFFICER (SRO) POSITION.

- | | | |
|-----------|-----------------------------------|-----------------|
| F. | Camelback Drainage Channel | APPROVED |
|-----------|-----------------------------------|-----------------|

MOVE TO APPROVE INTERGOVERNMENTAL AGREEMENT BETWEEN MARICOPA COUNTY AND THE CITY OF LITCHFIELD PARK FOR THE MAINTENANCE AND OPERATION RESPONSIBILITIES FOR THE DRAINAGE CHANNEL ON CAMELBACK ROAD FROM 137TH AVENUE TO 127TH AVENUE.

- | | | |
|-----------|----------------------------------|-----------------|
| G. | Race Times Kids Triathlon | APPROVED |
|-----------|----------------------------------|-----------------|

MOVE TO ALLOW LANE CLOSURES AND FACILITY USE BY RACE TIMERS FOR ITS SEPTEMBER 2, 2023, ARIZONA SWIM, BIKE, RUN KIDS TRIATHLON.

- | | | |
|-----------|--|-----------------|
| H. | Facility Use Agreement with The Odyssey Preparatory Academy | APPROVED |
|-----------|--|-----------------|

MOVE TO APPROVE THE RECREATIONAL FACILITY USE AGREEMENT BETWEEN THE CITY OF LITCHFIELD PARK AND THE ODYSSEY PREPARATORY ACADEMY FOR THE 2023 HIGH SCHOOL SWIM SEASON

- I. Millennium High School Homecoming Parade** **APPROVED**

MOVE TO APPROVE STREET CLOSURES FOR MILLENNIUM HIGH SCHOOL'S SEPTEMBER 16, 2023, HOMECOMING PARADE

- J. Arizona Blue Stake Membership** **APPROVED**

MOVE TO APPROVE THE MEMBER AGREEMENT BETWEEN ARIZONA BLUE STAKE, INC. (ARIZONA 811) AND THE CITY OF LITCHFIELD PARK TO ALLOW FOR THE CITY TO BECOME AN ASSOCIATE MEMBER OF THE ONE-CALL NOTIFICATION CENTER AS REQUIRED BY STATE STATUTE FOR ANY ENTITY THAT OWNS AND OPERATES UNDERGROUND UTILITIES AND AUTHORIZE THE CITY MANAGER TO SIGN ALL REQUIRED DOCUMENTS.

- K. Carl's Jr. Lot Split (Re-Plat)** **APPROVED**

MOVE TO APPROVE A RE-PLAT OF THE CARL'S JR. PARCEL AT THE SOUTHEAST CORNER OF DYSART ROAD & CAMELBACK ROAD TO SPLIT THE LOT INTO TWO SEPARATE PARCELS WITH THE CONDITION OF DELAYING RECORDATION OF THE RE-PLAT UNTIL CONSTRUCTION PERMITS HAVE BEEN PERMITTED AND INITIAL CONSTRUCTION STAGES ARE UNDERWAY ON THE PROPOSED BUILDING AND AUTHORIZE THE MAYOR TO SIGN THE RE-PLAT.

X. Business

- A. Waste Management Receptacle Transition** **DISCUSSED**

Mr. Williams provided an update to the issues that the residents have been experiencing during this transition. He provided a response by Mr. Landrum to the resolutions:

- IT has fixed the Wm.com website, stating it was not recognizing the zip code for some reason.
- We have given the City a dedicated email address to send any resident complaints to, so we can address quicker.
- Phone -- IT continues to work on vetting the automation system as it was not recognizing some words like "replace can", dumpster etc. and was set as a default to East Coast time instead of Arizona.
- Per Staff, WM has received 13 escalation calls from residents since June who called the City and since August, we have averaged one per week for various miscellaneous items like bulk pickup inquiry, missed in-ground service, etc.
- Since June, WM has delivered 641 new carts and has removed/replaced 330 carts.

Council was satisfied with the resolutions provided and didn't feel a need for Mr. Landrum to attend in September, unless the issues continue.

- B. Purchase of Public Works Vehicles** **APPROVED**

Mr. Ames stated Avondale's Fleet services our City vehicles and Staff has advised us to purchase new vehicles due to the amount it would cost to repair. Mayor Schoaf directed him to get one of the trucks repainted that is not included in this purchase.

MOVE TO APPROVE THE PURCHASE OF TWO (2) PUBLIC WORKS FLEET VEHICLES WITH A TOTAL NOT TO EXCEED \$129,208.

MOVER Council Member Justin James, SECONDER Council Member John Romack

AYE: Mayor Thomas L. Schoaf, Vice Mayor Paul Faith (telephonically), Council Member Lisa Brainard

Watson, Council Member Ron Clair (telephonically), Council Member Ann Donahue, Council Member Justin James, Council Member John Romack
Passed - Unanimously

C. Introduction of Ordinance 23-274 Vehicular Non-Access Easement

FAILED

Mr. Froke stated there is a recorded document on the property restricting a Vehicular Non-Access Easement. Introduction of the ordinance was made during the June 21, 2023, meeting and the recommendation for tonight is to table the item, so Staff can continue working with the applicant to resolve.

Council Member Donahue asked that Vice Mayor Faith speak and explain the condemnation process to the Council. Vice Mayor Faith stated Mr. Froke provided a memo that states there is an invisible fence that no one can cross on Indian School Road. It also prevents the City from enforcing the right in right out on the project. All the homeowners from Turtle Park to the project must sign off to remove the invisible fence. If they do not sign off, then Council would have to condemn, and he is not comfortable with it. If a property owner defaults, the City would not be able to enforce the condemnation due to the foreclosure.

Council Member Donahue stated if she knew in November what she knows today, she would not have voted for the right in right out. She suggested that this go back to Staff and developer to rectify and table the item.

Mr. Carter Wilson spoke in opposition of the condemnation and urged the Council to table the item until Staff can bring it back.

Ms. Carolyn Oberholtzer requested that this item be tabled as well.

Mayor Schoaf is not in favor of condemnation and does not believe the Ordinance authorizes the condemnation.

Council Member Donahue asked for clarification on the motion. Following discussion, Council Member Brainard Watson Called the Question.

THIS ITEM FAILED DUE TO LACK OF A MOTION.

D. Catclar Letter of Intent (LOI) for Litchfield Square

DISCUSSED

This item was discussed in Executive Session and no action was taken when the regular meeting reconvened.

XI. Executive Session

A. An Executive Session may be called during the public meeting on any item on this agenda pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of receiving legal advice.

MOVER Council Member Lisa Brainard Watson, SECONDER Council Member Ann Donahue

AYE: Mayor Thomas L. Schoaf, Vice Mayor Paul Faith (telephonically), Council Member Lisa Brainard Watson, Council Member Ron Clair (telephonically), Council Member Ann Donahue, Council Member Justin James, Council Member John Romack

Passed - Unanimously

Executive Session convened at 8:54PM.

B. An Executive Session pursuant to A.R.S. § 38-431.03(A)(7) for discussions or consultations with designated representatives of the City in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property located at Litchfield Square. HELD

MOVER Council Member John Romack, SECONDER Council Member Justin James

AYE: Mayor Thomas L. Schoaf, Vice Mayor Paul Faith (telephonically), Council Member Lisa Brainard Watson, Council Member Ron Clair (telephonically), Council Member Ann Donahue, Council Member Justin James, Council Member John Romack

Passed - Unanimously

The regular meeting reconvened at 9:32PM.

XII. Adjournment

MOVE TO ADJOURN THE REGULAR MEETING.

MOVER Council Member John Romack, SECONDER Council Member Justin James

AYE: Mayor Thomas L. Schoaf, Vice Mayor Paul Faith (telephonically), Council Member Lisa Brainard Watson, Council Member Ron Clair (telephonically), Council Member Ann Donahue, Council Member Justin James, Council Member John Romack

Passed - Unanimously

The regular meeting adjourned at 9:34 PM.

APPROVED:

CITY OF LITCHFIELD PARK

Thomas L. Schoaf, Mayor
\tr

CERTIFICATION

I, Terri Roth, hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the City Council of the City of Litchfield Park held on August 16, 2023. I further certify that the meeting was duly called and held and that a quorum was present.

Terri Roth, MMC, City Clerk

DRAFT



Wednesday, September 20, 2023

Regular Meeting

I. Call to Order

The meeting was held in the Library Community Room and called to order by Mayor Schoaf at 7:00PM. A recording of the meeting can be seen [here](#).

Present: Mayor Thomas L. Schoaf; Vice Mayor Paul Faith; Council Member Lisa Brainard Watson (Zoom); Council Member Ann Donahue; Council Member Justin James; Council Member John Romack

Absent: Council Member Ron Clair

Staff: Matthew Williams, City Manager; Terri Roth, City Clerk; Joe Estes, City Attorney; Paige Peterson, Asst. City Manager / Director of Finance; Maria Ceaglske, Deputy City Clerk; Keith Drunasky, City Engineer; Jon Froke, City Planner / Special Projects Manager; Dawn Morocco, IT Technician; Tricia Kramer, Director of Community & Recreation Services; Pat McCoy, Sports Coordinator

Attendees: Lt. Rios, APD; Det. Corona, APD; Chief Wayne, GYFD

II. Pledge of Allegiance

Vice Mayor Faith led the Pledge of Allegiance.

III. Mayor and Council Members Report on Current Events

Council Member Donahue expressed her satisfaction with the booth during the League Conference and thanked Staff for their assistance in making it a success.

Vice Mayor Faith stated he is glad to be back and thanked Staff for their patience during his absence.

Council Member Brainard Watson commented on recent storms and the quick clean up with Public Works.

Mayor Schoaf thanked Council Member Donahue for her participation during the League Conference with the Showcase of the Cities booth.

IV. City Managers Monthly Report

Mr. Williams commented on the following items from his report:

- Camelback Park Perimeter Wall and Parking Lot public input meeting is scheduled for November 13;
- New HR Director will begin employment October 9th;
- State of the City will be in a different location and format this year and is scheduled for February 15, 2024;
- Article in the paper regarding our charter formation was published;

- Water pressure issue with Liberty Utilities;
- Damage from recent storms may cost approximately \$20,000;
- Speed bumps on Bird Lane have been removed to assist with drainage issues;
- Enforcement of new speed limit on Litchfield and Camelback has begun;
- LAFB PFAS public meeting will be held on October 16, 2023;
- Lighted stop and speed signs will be installed soon at the roundabout and school.

In response to Council Member James, we will lose a lot of our trees due to the lack of water pressure and some of the rose bushes in the center of town. Due to the lack of water pressure, the parks were flood watered, which increased our usage 400%.

V. Response to Call to the Community

There were no requests to speak during the August 16, 2023, regular meeting.

VI. Call to the Community

Mr. Mahoney stated he is sad to see how the vegetation and trees are looking in the islands in the downtown area. He feels his tax dollars are going to Litchfield Square to beautify that area and not the downtown area and wants more done. He challenges the Council to visit the area on Sundays, when the parishioners from The Church at Litchfield Park leave. The traffic is backed up, and he is concerned that when Litchfield Square opens, it's going to be an issue.

VII. Presentations

A. Domestic Violence Awareness Month

Mayor Schoaf declared October 2023 as Domestic Violence Awareness month.

B. National School Lunch Week Proclamation

Mayor Schoaf read the proclamation, declaring October 9 - 13, 2023, as National School Lunch Week and presented it to Chef Beck. Chef Beck thanked the Council for their continued support for the program.

C. 2023 Arizona Cities And Towns Week

Mayor Schoaf declared October 15 - 21, 2023 as 2023 Arizona Cities and Towns Week.

VIII. Reports

A. Public Safety Services Monthly Reports

1. Goodyear Fire Report

Chief Pahl reviewed the report with nothing further to add. Mayor Schoaf thanked him for his service to our community.

2. Avondale Police Department

Lt. Rios reviewed the report with nothing further to add. Mayor Schoaf thanked him for his service to our community. Lt. Rios responded it is good to be back.

B. Staff Monthly Reports

1. Finance Monthly Report

Ms. Peterson reviewed information for both June and August 2023. The final FY23 report will be provided once the audit, that is currently underway, is completed. She highlighted the following:

- Sales tax for FY23 was 43% higher; year over year has been a 13% increase
- Construction sales tax was down 16%, but still collected what was budgeted
- Total revenue was 24% over budget
- Total expenditures were 95% of budget
- \$3.5 million was received by County for Camelback Rd.
- Ending fund balance was \$25,722,652, which includes the \$3.5 million from County for Camelback Rd.

2. PGA North Plume Update

Mr. Drunasky reported the following:

Luke AFB Remediation

Luke & Air Force staff will provide information to City staff regarding information that will be presented at the public meeting on Monday, October 16th at 6pm at St. Peters Church. This will allow Staff to review and discuss the presented data and to become familiar with the information in the event we receive questions or inquiries from residents or businesses. Additionally, Luke AFB Project Manager provided an IGA that includes access, data sharing, construction of improvements, remediation, etc.

PGA North Superfund

No updates at this time.

3. Capital Improvement Projects (CIP) Update

Mr. Drunasky reported on the following:

Southwest Valley Truck Study

Final Draft of report expected within next month from M.A.G. and their consultant. The design team has completed current and projected (year 2040) modeling of truck and passenger traffic in the scenarios of with and without a truck restriction. The report will also incorporate remedies for noise and vibration caused by truck traffic.

Staggs Park Parking Lot

Completing final sign installations this week, and will be painting the curb red along Staggs Park (west side of Old Litchfield Road) and installing the "no parking" signs as well.

Camelback Park Parking Lot

Preliminary design tasks underway. Survey field work is complete and being processed. The City's engineering consultant will start to work on preliminary layouts next. Construction anticipated to be \$450,000. (ARP Fund \$280k, remaining will be general fund).

Camelback Park Perimeter Wall + Turn Lane

Final design tasks underway. Survey field work is complete and being processed. The City's engineering consultant will work on wall options next. Design contract is \$82,802, with the wall construction estimated to be \$1.1M. (General Fund, Design \$100k, Construction \$1.1M).

Public Works Facility

Preliminary design phase with architect has begun (\$8,000 contract) to provide scaled preliminary site plans and basic building layout for Staff to evaluate. General Fund budget is \$2,250,000 to include final design and construction.

Bird Lane Speed Humps (East and West of Castano)

Contractor removed 2 existing speed humps east and west of Castano on Bird Lane and paved back level. Staff is in the process of ordering synthetic speed bumps to be put in their place in the next 2 months (products are on back order with suppliers). We have already received acceptance from Goodyear Fire given that we maintain the required wheel path spacing.

Flashing Stop & Yield Signs

Public Works received a material quote of approximately \$13,000 for 4 Solar Powered Flashing Yield signs for the roundabout at Village/Litchfield, and 4 Solar Powered Flashing Stop signs at the Wigwam/Old Litchfield Rd. intersection. Delivery was quoted at approximately 5 - 6 weeks due to shortage. Public Works staff will be installing this equipment. No longer flashing 24/7, but will use the vehicle detect radar system that activates when vehicles approach.

Radar Solar Speed Limit Signs

Public Works received two flashing speed limit signs from a State Grant. For an additional \$1,500 for poles, hardware and concrete, Staff will install these along with a speed limit sign on Camelback Road at the east and west ends near or within the residential areas. Staff is looking to procure two additional solar-powered speed radar signs to install on Litchfield Road just north of the first curve north of the roundabout, similar to those on Bullard Ave. Staff will wait until after the reduced speed limits signs are installed and enforcement has had time to patrol to see if there is still a need before they are purchased and installed.

4. Special Projects Update

Mr. Froke reported on the following:

- Complete reconstruction between Old Litchfield Rd. and Desert Avenue.
- Standing water issue in vally gutter north of Papa Paul's. Once storm drain is connected, standing water will go away.
- Timeframe for infrastructure to be completed by December 2024.
- New streetlights may be placed in the next couple of weeks on the north side of Honeysuckle St.
- Village Parkway east will open by December 2024.
- Grading and drainage work has begun for park in Litchfield Square.

Mayor Schoaf allowed Mr. Peter Mahoney to comment regarding the sidewalks in front of the businesses on Old Litchfield Rd. Mr. Mahoney requested that Staff look into replacing the sidewalk and curbing in this area.

5. Magistrate Court Monthly Report

No verbal report was provided, but questions regarding it should be directed to the City Manager.

IX. Consent Agenda**MOVE TO APPROVE CONSENT AGENDA ITEMS B - F**

MOVER Council Member Justin James, **SECONDER** Council Member Ann Donahue

AYE: Mayor Thomas L. Schoaf, Vice Mayor Paul Faith, Council Member Lisa Brainard Watson (Zoom), Council Member Ann Donahue, Council Member Justin James, Council Member John Romack

Passed - Unanimously

A. Approval of Minutes**FAILED**

Vice Mayor Faith removed this item from consent and requested that the minutes include language clarifying the motion or lack thereof. This item will be brought back for approval during the October 18, 2023, meeting.

B. Tennis Instructor Contract APPROVED

MOVE TO APPROVE THE AGREEMENT BETWEEN THE CITY OF LITCHFIELD PARK AND TENNIS PROFESSIONAL AMANDA SCHELL AS PRESENTED.

C. Litchfield Park Festival of Arts APPROVED

MOVE TO APPROVE STREET CLOSURES FOR THE NOVEMBER 4 & 5, 2023 FESTIVAL OF ARTS

D. Renewal of IGA with Maricopa County APPROVED

MOVE TO APPROVE THE RENEWAL OF THE IGA WITH MARICOPA COUNTY DEPARTMENT OF EMERGENCY MANAGEMENT

E. Cox Communications Easement APPROVED

MOVE TO ADOPT RESOLUTION 23-556 GRANTING AN EASEMENT TO COX COMMUNICATIONS FOR THE RELOCATION OF EXISTING EQUIPMENT AT LITCHFIELD SQUARE

F. FY23 Budget Adjustments APPROVED

MOVE TO APPROVE BUDGET ADJUSTMENTS TO FISCAL YEAR 23 AS PRESENTED

X. Business

A. Public Hearing - Use Permit for Monument Point Business Park HELD

Mayor Schoaf opened the public hearing at 7:55 PM.

Mr. Froke provided a brief report and photos of the location.

Mayor Schoaf invited the applicant to present further information, but the applicant declined. Public comment from Mr. Carter Wilson urged the Council to approve.

With no further comments, Mayor Schoaf closed the public hearing at 7:59 PM.

B. Use Permit for Monument Point Business Park APPROVED

MOVE TO APPROVE A USE PERMIT REQUEST FOR A 65-FOOT TALL MONO-ELM AT MONUMENT POINT BUSINESS PARK

MOVER Council Member Justin James, **SECONDER** Council Member John Romack

AYE: Mayor Thomas L. Schoaf, Vice Mayor Paul Faith, Council Member Lisa Brainard Watson (Zoom), Council Member Ann Donahue, Council Member Justin James, Council Member John Romack

Passed - Unanimously

C. Introduction of Ordinance 23-272 Group Living Facilities INTRODUCED

Mr. Froke reported this is a Zoning Code amendment adding procedures and penalties related to group living facilities. There were no questions from Council.

MOVE TO INTRODUCE ORDINANCE 23-272 RELATED TO GROUP LIVING FACILITIES

MOVER Vice Mayor Paul Faith, **SECONDER** Council Member John Romack

AYE: Mayor Thomas L. Schoaf, Vice Mayor Paul Faith, Council Member Lisa Brainard Watson (Zoom), Council Member Ann Donahue, Council Member Justin James, Council Member John Romack
 Passed - Unanimously

D. Approval of Letter of Intent for Litchfield Square Development TABLED

Staff reported the document is still under legal review with Catclar and requested this item be tabled to the October meeting for possible approval.

MOVE TO TABLE POSSIBLE APPROVAL OF THE LETTER OF INTENT WITH CATCLAR INVESTMENTS LLC FOR LITCHFIELD SQUARE PARCEL DEVELOPMENT TO THE OCTOBER 18, 2023, REGULAR MEETING.

MOVER Vice Mayor Paul Faith, **SECONDER** Council Member Ann Donahue

AYE: Mayor Thomas L. Schoaf, Vice Mayor Paul Faith, Council Member Lisa Brainard Watson (Zoom), Council Member Ann Donahue, Council Member Justin James, Council Member John Romack
 Passed - Unanimously

E. Introduction of Ordinance 23-276 Right-of-Way Purchase INTRODUCED

Mr. Williams reported this area is for the dentist office near the library. The ROW on Wigwam was never signed over to the City and is currently owned by the dentist office. The property was appraised and will cost the City \$131,625.00. Staff will request in the future to convert the parallel parking to angled parking.

Mr. Estes stated the City is not condemning the property; they are in negotiations with the property owner.

MOVER Council Member John Romack, **SECONDER** Council Member Justin James

AYE: Mayor Thomas L. Schoaf, Council Member Lisa Brainard Watson (Zoom), Council Member Ann Donahue, Council Member Justin James, Council Member John Romack
 Passed - Unanimously

Vice Mayor Faith abstained.

XI. Executive Session

Executive Session convened at 8:10 PM.

MOVER Vice Mayor Paul Faith, **SECONDER** Council Member John Romack

AYE: Mayor Thomas L. Schoaf, Vice Mayor Paul Faith, Council Member Lisa Brainard Watson (Zoom), Council Member Ann Donahue, Council Member Justin James, Council Member John Romack
 Passed - Unanimously

A. An Executive Session pursuant to A.R.S. §§ 38-431.03(A)(3) and (4) for legal advice from the City Attorney and to consider the City's position and instruct the City Attorney regarding the City's judgment lien in the case of City of Litchfield Park v. Vizer, LLC, et al. Case No. TX2009-000156. HELD

This item was held.

- B. An executive session pursuant to A.R.S. § 38-431.03(A)(3) and (7) for discussion or consultation with the City Attorney for legal advice and to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property located at Litchfield Square Lot 3. HELD**

This item was held.

The regular meeting reconvened at 8:54 PM.

XII. Adjournment

MOVE TO ADJOURN THE REGULAR MEETING

MOVER Council Member Ann Donahue, **SECONDER** Council Member John Romack

AYE: Mayor Thomas L. Schoaf, Vice Mayor Paul Faith, Council Member Lisa Brainard Watson (Zoom), Council Member Ann Donahue, Council Member Justin James, Council Member John Romack

Passed - Unanimously

The regular meeting adjourned at 8:55 PM.

APPROVED:

CITY OF LITCHFIELD PARK

Thomas L. Schoaf, Mayor

\tr

CERTIFICATION

I, Terri Roth, hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the City Council of the City of Litchfield Park held on September 20, 2023. I further certify that the meeting was duly called and held and that a quorum was present.

Terri Roth, MMC, City Clerk

DRAFT



Monday, October 9, 2023

Special Meeting

I. Call to Order

The meeting was held in the City Hall Conference Room and called to order by Mayor Schoaf at 10:01 AM. A recording of the meeting can be seen [here](#).

Present: Mayor Thomas L. Schoaf (Zoom); Council Member Lisa Brainard Watson (Zoom); Council Member Ann Donahue (Zoom); Council Member Justin James (Zoom); Council Member John Romack (Zoom)

Absent: Vice Mayor Paul Faith; Council Member Ron Clair

Staff: Matthew Williams, City Manager; Terri Roth, City Clerk; Joe Estes, City Attorney; Paige Peterson, Asst. City Manager / Director of Finance; Maria Ceaglske, Deputy City Clerk

II. Pledge of Allegiance

Mayor Schoaf led the Pledge of Allegiance.

III. Business

A. Adoption of Resolution No. 23-557 Call of Election

ADOPTED

Ms. Roth stated this resolution is pursuant to A.R.S. § 9-281.C. which is required to move forward with the formation of the charter and the election of the Board of Freeholders for the November 7, 2023, election. Mayor Schoaf also explained that with the forming of the charter and electing the Board of Freeholders, there are two sets of rules we must abide by. One of the sets of rules requires us to have a Call of Election on this date.

MOVE TO ADOPT RESOLUTION 23-557 CALL OF ELECTION PURSUANT TO A.R.S. § 9-281.C.

MOVER Council Member Ann Donahue (Zoom), **SECONDER** Council Member John Romack (Zoom)

AYE: Mayor Thomas L. Schoaf (Zoom), Council Member Lisa Brainard Watson (Zoom), Council Member Ann Donahue (Zoom), Council Member Justin James (Zoom), Council Member John Romack (Zoom)

5 - 0 Passed - Unanimously

V. Adjournment

MOVE TO ADJOURN THE SPECIAL MEETING.

MOVER Council Member John Romack (Zoom), **SECONDER** Council Member Ann Donahue (Zoom) **MOVE TO ADJOURN THE SPECIAL MEETING.**

AYE: Mayor Thomas L. Schoaf (Zoom), Council Member Lisa Brainard Watson (Zoom), Council Member Ann Donahue (Zoom), Council Member Justin James (Zoom), Council Member John Romack (Zoom)

5 - 0 Passed - Unanimously

The special meeting adjourned at 10:05 AM.

APPROVED:

CITY OF LITCHFIELD PARK

Thomas L. Schoaf, Mayor
\tr

CERTIFICATION

I, Terri Roth, hereby certify that the foregoing minutes are a true and correct copy of the minutes of the special meeting of the City Council of the City of Litchfield Park held on October 9, 2023. I further certify that the meeting was duly called and held and that a quorum was present.

Terri Roth, MMC, City Clerk



**CITY COUNCIL
COMMUNICATION**

Cancellation of
December Regular
Meeting
Item B.

To: Mayor Thomas L. Schoaf and Members of the City Council
From: Terri Roth, City Clerk
Through: Matthew Williams, City Manager
Meeting Date: October 18, 2023
Presenter: Terri Roth, City Clerk

RECOMMENDED MOTION:

MOVE TO APPROVE THE CANCELLATION OF THE DECEMBER 20, 2023, REGULAR MEETING.

BACKGROUND/DISCUSSION:

Many Council Members and Staff schedule to be out of town for the holidays. In years past, it has been difficult to ensure a quorum is present due to conflicting schedules.

STAFF RECOMMENDATION:

Staff defers to Council

FINANCIAL IMPACT:

None



**CITY COUNCIL
COMMUNICATION**

Commercial Services
Agreement with Cox
Communications
Item C.

To: Mayor Thomas L. Schoaf and Members of the City Council
From: Jon Froke, City Planner / Special Projects Manager
Through: Matthew Williams, City Manager
Meeting Date: October 18, 2023
Presenter: Jon Froke, City Planner / Special Projects Manager

RECOMMENDED MOTION:

MOVE TO APPROVE A COMMERCIAL SERVICES AGREEMENT WITH COX COMMUNICATIONS TO PROVIDE INTERNET SERVICE TO LITCHFIELD SQUARE

BACKGROUND/DISCUSSION:

As part of the ongoing development of Litchfield Square, it was determined that as an amenity for the public visiting the future Litchfield Square Park, that a Wi-Fi network would be installed to provide free Internet service to residents and guests. In order to provide the Wi-Fi network, a Commercial Services Agreement must be approved between the City and the Internet provider.

Cox Communications has agreed to provide the Wi-Fi network and a Commercial Services Agreement is needed between Cox and the City.

STAFF RECOMMENDATION:

Staff recommends approval

FINANCIAL IMPACT:

The Commercial Services Agreement requires that the City pay a Monthly Recurring Service Charge of \$1,000.00 to Cox Communications. The fee for the Monthly Recurring Service Charge will not be billed to the City until the Litchfield Square Park is completed.

Attachments

Commercial Services Agreement - Litchfield Park



Commercial Services Agreement
8/17/2023

Cox Account Rep:	Melissa Dus	Cox System Address
Phone Number:	16027157655	1550 W Deer Valley Rd Phoenix, AZ 85027
Fax Number:		

Customer Information		Authorized Customer Representative Information	
Legal Company Name:	City of Litchfield Park - Square	Full Name:	Jon Froke
Street Address:	279 N La Loma AVE	Billing Telephone:	(623) 734-0744
City/State/Zip:	Litchfield Park, AZ 85340	Fax:	
Billing Address:	279 N La Loma AVE	Contact Number:	(623) 258-2202
City/State/Zip:	Litchfield Park, AZ 85340	Email:	jfroke@litchfieldpark.gov
Cox Account #:			

Service Description	From QTY	To QTY	Unit Price	Term (Months)	Monthly Recurring Service Charges	One Time Service Charges
Cox Optical Internet - 150Mbps to 1Gbps	0	1	\$1000.00	60	\$1000.00	\$0.00
IP Address Block - /31 (2 Ips)	0	1	\$0.00	60	\$0.00	\$0.00
Install Fees						
Cox Optical Internet Installation	0	1	\$0.00	60	\$0.00	\$0.00

Totals:					\$1000.00	\$0.00
The service and equipment charges above, except as explicitly set forth in the Special Conditions section, do not include applicable taxes, fees, assessments or surcharges which are additional and may change. Visit http://www.coxbusiness.com/taxesandfees for more information						

Special Conditions:
Additional terms and conditions, attached as Exhibit "B," are incorporated into the Agreement.

This Commercial Services Agreement (the "Agreement") includes (i) this paragraph, the language above and Exhibit A (collectively, the "Service Terms"); (ii) the terms and conditions set forth at <http://www.coxbusiness.com/generalterms> (the "General Terms") and (iii) any other terms and conditions applicable to the Services set forth above, including without limitation, the Cox tariffs, Service Guides set forth at <http://www.coxbusiness.com/e911> ("SG"), State and Federal regulations, the Cox Acceptable Use Policy (the "AUP"), and Cox's Internet Service Disclosures located at www.cox.com/internetdisclosures. Exhibit A is attached to and incorporated into this Agreement by this reference. Customer acknowledges receipt and acceptance of the Service Terms (including Exhibit A), the AUP, General Terms, and all other referenced terms and conditions by signing this Agreement. By signing this Agreement, Customer accepts that any and all disputes arising out of, relating to or concerning this Agreement and/or the Services shall be resolved through mandatory and binding arbitration unless Customer opts out pursuant to the Dispute Resolution Provision in the General Terms. This Agreement is subject to credit approval and Customer authorizes Cox to check credit. The service and equipment charges above, except as explicitly set forth in the Special Conditions section, do not include applicable taxes, fees, assessments or surcharges which are additional and may change from time to time. This proposal is valid provided Customer signs and delivers this Agreement to Cox unchanged within thirty (30) days from the date above. By signing this Agreement, Customer acknowledges that if (i) the transport Service(s) (e.g. Private Line Type Services, Ethernet Services) cross state boundaries or (ii) at least 10% of traffic on said transport Service(s) is Interstate in nature or designated for Internet traffic, then the entire transport Service(s) is considered Interstate. Customer has reviewed the interstate/intrastate designation of the transport Service(s) listed in the Service Description above and attests that all such designations are correct. Each party may use electronic signature to sign this Agreement, provided the electronic signature method used by Customer is acceptable to Cox. This Agreement shall be effective upon execution by Customer and "Acceptance" by Cox. "Acceptance" of the Agreement by Cox shall occur upon the earlier of (i) Cox's countersignature of this Agreement or (ii) Cox's installation of Service at Customer's location. Customer acknowledges that it has read and understands the 911 disclosures in Section 2 of the Service Terms. By signing this Agreement, you represent that you are the authorized Customer representative.

Customer Authorized Signature	Cox Communications Arizona, LLC., Cox Arizona Telcom, LLC Signature
Signature:	Signature:
Print:	Print:
Title Position:	Title Position:
Date:	Date:



GENERAL TERMS

Last Updated: April 25, 2023

These additional terms and conditions (these "General Terms") supplement the terms and conditions set forth in the (i) Commercial Services Agreement entered into by and between Cox and Customer (the "CSA"); (ii) Master Retail Services Agreement entered into by and between Cox and Customer (the "MSA"), or (iii) any other written agreement entered into by and between Cox and Customer in which these General Terms are incorporated, whichever is applicable. References in these General Terms to "Agreement" shall mean (i) the CSA, MSA, or other written agreement in which these General Terms are incorporated between Cox and Customer, whichever is applicable, (ii) these General Terms, (iii) the Service Terms (if the CSA is applicable), (iv) the Cox tariffs, as applicable, (v) the Cox Business Acceptable Use Policy ("AUP") located at coxbusiness.com/acceptableusepolicy, (vi) the Service Guides ("SG"), as applicable, and (vii) all other policies or documents expressly referenced or linked herein. The commercial services ordered by Customer in the Agreement, including any Third- Party Provided Services, shall each be defined as a "Service" and collectively be defined as the "Services".

Table of Contents

- A. Terms and Conditions Applicable to All Services
- B. Terms and Conditions Applicable to Internet and Network Services
- C. Terms and Conditions Applicable to Voice and Tariffed Services
- D. Terms and Conditions Applicable to Video Services
- E. Terms and Conditions Applicable to Other Services
- F. Terms and Conditions Applicable to Cloud Services
- G. Terms and Conditions Applicable to Cox Business App Marketplace Services

A. Terms and Conditions Applicable to All Services

A1. Billing and Payments.

- (a) **Payment.** Customer shall pay Cox all monthly recurring charges ("MRCs"), all usage charges for Services, and all non-recurring charges ("NRCs"), if any, by the due date on the invoice which shall be at least thirty (30) days from Cox's issuance of the invoice. Any amount not received by the due date shown on the applicable invoice will be subject to interest or a late charge no greater than the maximum rate allowed by law. No interest will be paid on deposits unless required by law. If Cox permits Customer to pay any amount due via separate installment payments, Customer acknowledges that such installment payments are provided as a courtesy only and Customer remains liable for the full amount due.

If Customer provides Cox with any account information, such as its bank account and routing numbers or credit or debit card details, Cox may store that information and use it to administer Customer's account, confirm charges, detect and prevent fraud, verify identity, and process payments to Customer's account that Customer requests in the future by telephone, mobile app, internet, or otherwise. Additionally, Cox may, without prior notice to Customer, use Customer's stored account information to initiate credit or debit entries to its account as necessary to correct any mistakes or amendments in billing, payments, or collection.

- (b) **Taxes, Fees, and Surcharges.** As applicable to the Service(s), Customer shall also pay all applicable taxes, fees, and surcharges including, without limitation, sales, use, gross receipts, and/or excise taxes, access fees, universal service fund assessments, 911/E911 fees, franchise fees, bypass fees, other local, State and Federal taxes, surcharges, and any other assessments or charges (however described or designated) which are imposed on Cox's provision and/or Customer's use of the Services (collectively, "Taxes, Fees, and Surcharges"). Cox may also impose additional Taxes, Fees, and Surcharges on Customer to recover amounts that Cox is required or permitted by governmental or quasigovernmental authorities to collect, or pay to others in support of, or to comply with, statutory or regulatory programs, plus

a commercially reasonable amount to recover the administrative costs associated with such charges or programs. The amount of these Taxes, Fees, and Surcharges may vary. Taxes, Fees, and Surcharges will be separately stated on the Customer's invoice. Customer shall be responsible for all Taxes, Fees, and Surcharges (excluding taxes on Cox's income) related to the provision or use of the Services by the due date on the invoice. Any taxes imposed by a local jurisdiction (e.g., County and municipal taxes) will only be recovered from those Customers residing in the affected jurisdictions. Customer is responsible for the payment of any such Taxes, Fees, and Surcharges that subsequently become applicable retroactively. A surcharge, fee or tax is imposed on all charges for service originating at addresses in States which levy, or assert a claim of right to levy, a gross receipts tax on Cox's operations in any such State, or a tax on interstate access charges incurred by Cox for originating access to telephone exchanges in that State. This surcharge, fee or tax is based on the particular State's receipts tax and other State taxes imposed directly or indirectly upon Cox by virtue of, and measured by, the gross receipts or revenues of Cox in that State and/or payment of interstate access charges in that State. In the event that Customer believes that, with respect to the Services provided hereunder, Customer is tax-exempt under Federal or State law, Customer shall submit to Cox written verification of Customer's tax-exempt status including exemption certificates or State resale certificates acceptable to Cox and to the relevant jurisdiction. A non-exhaustive list of certain surcharges and fees which may apply to the Services ordered by Customer are posted at <https://www.cox.com/business/support/taxes-fees-and-surcharges-for-cox-services.html> and [coxbusiness.com/cbsurchargesandfees](https://www.cox.com/business/support/taxes-fees-and-surcharges-for-cox-services.html), both of which are incorporated into the Agreement by this reference. Other Taxes, Fees, and Surcharges may apply as determined solely by Cox. All Taxes, Fees, and Surcharges may be changed by Cox at any time with or without notice. If Cox is required by law or regulation to reduce or remove any Fee or Surcharge during the Term, then, notwithstanding anything to the contrary in this Agreement, upon notice to Customer and subject to applicable law, Cox may increase the charge for the affected Service to offset such reduction or removal of the applicable Fee or Surcharge. The amount of such increase in the charge for the affected Service will not exceed the amount by which the applicable Fee or Surcharge is reduced, except as otherwise permitted in this Agreement.

(c) **Billing Disputes.** Amounts reasonably disputed by Customer in good faith shall not be due and payable for a period of thirty (30) days following the invoice due date ("Due Date") for such charges, provided Customer: (i) pays all undisputed charges on or before the Due Date, (ii) presents a written statement of any billing discrepancies to Cox in reasonable detail together with appropriate supporting documentation on or before the Due Date of the invoice in question, and (iii) negotiates in good faith with Cox for the purpose of resolving such dispute within said thirty (30) day period. In the event such dispute is mutually agreed upon and resolved in favor of Cox, Customer agrees to pay Cox the disputed amounts together with any applicable late fees within ten (10) days of the resolution (the "Alternate Due Date"). If such dispute is mutually agreed upon and resolved in favor of Customer, Customer will receive a credit for the disputed charges and the applicable late fees, if any were paid by Customer, on the following month's invoice. If Cox has responded to Customer's dispute in writing and the parties fail to mutually resolve or settle the dispute within such thirty (30) day period (unless Cox has agreed in writing to extend such period), all disputed amounts together with the late fees shall become due and payable, and this provision shall not be construed to prevent Customer from pursuing any legal remedies as provided in this Agreement. Cox shall not be obligated to consider any notices of billing discrepancies from Customer which are received by Cox more than thirty (30) days following the Due Date of the invoice in question. Cox reserves the right to invoice and collect any amounts that it failed to bill or collect in previous invoices at any time.

(D) **Service Availability and Special Construction.** The Services, rates, and other charges in this Agreement are subject to availability and operational limitations of Cox's systems, facilities and equipment required to provide the Services to Customer. If Cox's systems, facilities and equipment (such as outside plant, cable, conduit, electronics, central office equipment, remote terminals, or other similar facilities and systems, including those furnished by third party providers) are not available, special construction charges may apply and/or Cox may assess a cost recovery fee to recover all costs associated with delivery of the Services ordered under the Agreement, including fees related to charges or

modifications imposed on Cox by third-party providers.

A2. **Service Start Date and Term.** The Agreement shall be effective upon execution by Customer and "Acceptance" by Cox. "Acceptance" of the Agreement by Cox shall occur upon the earlier of (i) Cox's countersignature of this Agreement or (ii) Cox's installation of Service at Customer's location. The "Initial Term" shall begin upon installation of Service and shall continue for the applicable Term commitment set forth in the Agreement. However, if Customer delays installation or is not ready to receive Services on the agreed-upon installation date, Cox may begin billing for Services on the date Services would have been installed. Cox shall use reasonable efforts to make the Services available by the requested service date. Cox may also offer to expedite the availability of Services with the payment of an expedite fee by Customer. While Cox will make good faith efforts to expedite Service availability if Customer pays the expedite fee, Cox makes no guarantee that Service availability will be expedited or that Services will become available on any specific date. Cox shall not be liable for damages for delays in meeting service dates due to install delays or reasons beyond Cox's control. If Customer delays installation for more than ninety (90) days after Customer's execution of this Agreement, Cox reserves the right to terminate this Agreement by providing written notice to Customer and Customer shall be liable for Cox's reasonable costs incurred. AFTER THE INITIAL TERM, THIS AGREEMENT SHALL AUTOMATICALLY RENEW FOR ONE (1) YEAR TERMS (EACH AN "EXTENDED TERM") UNLESS A PARTY GIVES THE OTHER PARTY WRITTEN TERMINATION NOTICE AT LEAST THIRTY (30) DAYS PRIOR TO THE EXPIRATION OF THE INITIAL TERM OR THEN CURRENT EXTENDED TERM. "Term" shall mean the Initial Term and Extended Term(s), if any. Cox reserves the right to increase rates for all Services by no more than ten percent (10%) during any Extended Term by providing Customer with at least sixty (60) days written notice of such rate increase. This limitation on rate increases shall not apply to video Services or Services for which rates, terms and conditions are governed by a Cox tariff or SG. Upon notice to Customer, Cox may change the rates for video Services periodically during the Term. Cox may change the rates for telephone Service subject to a Cox tariff or SG periodically during the Term. For the avoidance of doubt, promotional rates and promotional discounts provided to Customer will

expire at the end of the Initial Term or earlier as set forth in the promotion language. Customer's payment for Service after notice of a rate increase will be deemed to be Customer's acceptance of the new rate. Customer is subject to credit approval and Customer authorizes Cox to check credit.

A3. **Termination.**

(a) **Termination by Customer.** Customer may terminate any Service before the end of the Term as stated in the Agreement upon at least thirty (30) days written notice to Cox; provided, however, if Customer terminates any such Service before the end of the Term (except for breach by Cox), unless otherwise expressly stated in the General Terms, Customer will be obligated to pay Cox a termination fee equal to the nonrecurring charges (if unpaid) and One Hundred Percent (100%) of the monthly recurring charges for the terminated Service(s) multiplied by the number of months, including partial months, remaining in the Term. If Customer terminates or decreases any Service that is part of a bundle offering, the remaining Service(s) shall be subject to price increases for the remaining Term. This provision survives termination of the Agreement.

(b) **Disconnection Requests.** Customer agrees to provide Cox with at least thirty (30) days written notice before terminating any Service or this Agreement, including Services that are on a month-to-month term. Cox may take up to thirty (30) days after the date of Customer's disconnection request to schedule and complete the Service disconnection. In addition to all applicable early termination fees which will be calculated beginning on the date the Services are actually terminated, Cox may charge Customer, and Customer shall pay Cox, the applicable monthly recurring charge for the Service up until the date the Service is actually disconnected by Cox.

(c) **Termination by Cox.** Cox may terminate Service(s) and/or this Agreement, in whole or in part, upon notice to Customer and without liability to Cox for any of the following reasons: (i) Customer's nonpayment of a bill within the payment period prescribed; (ii) Customer's failure to make a security deposit as requested by Cox; (iii) Customer's violation of, or noncompliance with, any provision of law; (iv) Customer's or any third party's refusal to permit Cox access to the Premises, including, without limitation, for installation, repair, recovery,

maintenance, and/or inspection; (v) Customer's interconnection of a device, line, or channel to Cox's facilities or equipment contrary to Cox's or industry standards; (vi) Customer's use of Services in such manner as to interfere with service to other customers; (vii) Customer's abandonment of the Service; (viii) Customer's impersonation of another with fraudulent intent or other acts, whether real or perceived, to defraud Cox or others; (ix) Customer's use of the Services in a manner reasonably expected to frighten, abuse, torment, harm, or harass another; (x) Customer engages in threatening, harassing or vexatious behavior towards Cox or its employees; (xi) Customer or its equipment, or anyone acting on Customer's behalf, interferes with the operational integrity of Cox's network; or (xii) Customer makes an assignment for the benefit of creditors or files for bankruptcy protection under the United States bankruptcy code. Customer shall be liable for the early termination fee described in paragraph (a) above if Cox terminates Service(s) or this Agreement for any of the reasons enumerated in (i) through (xii). To protect itself and/or its other customers, Cox may suspend or disconnect a Customer's Service without prior notice for violation of the above subsections that threaten or harm Cox's network reliability or for fraudulent or malicious intent or other acts, whether real or perceived, to defraud Cox or others.

Cox may also terminate Service(s) and/or this Agreement, in whole or in part, and without liability to Cox, upon thirty (30) days written notice to Customer (unless stated otherwise below) for any of the following reasons: (i) signal interference with any Service that Cox cannot resolve with commercially reasonable efforts; (ii) there is a material increase in Cox's costs to provide the Service; (iii) Cox's franchise authority or other governmental authorization is cancelled or terminated; (iv) Cox's pole attachment/conduit use rights are terminated or become subject to such restrictions or conditions that continuation of this Agreement is impracticable or prohibited; or (v) there is a material change in any law, rule, regulation, Force Majeure event, or judgment of any court or government agency that affects (in Cox's sole determination) Cox's ability to provide the Services. Cox may also immediately terminate Service(s) and/or this Agreement without liability to Cox if Cox determines, in its sole discretion, that the cost of providing Service(s) is unreasonable, excessive, and/or unexpected or if Cox decides in its sole discretion that the location where the Customer receives or uses the Service(s), or wishes to receive or use the Service(s), is not

acceptable to Cox. Further, Cox may terminate any Service(s) and/or the Agreement for its convenience on sixty (60) days written notice to Customer without any liability to Cox.

- (d) **Discontinued or Modified Service.** Cox may, in its sole discretion, choose to suspend, modify, or discontinue a Service (or any feature of a Service) provided to Customer without liability to Cox and such action by Cox shall not be a breach of contract or Default by Cox under this Agreement. The Customer acknowledges and understands that technology and capabilities are subject to change during the Term of the Agreement. Cox makes no guarantees that any particular feature, or even any entire Service, will be available throughout the Term. Cox agrees to provide Customer with at least thirty (30) days written notice prior to discontinuing a Service (or any feature of a Service) that Customer has recently been using.

Further, Cox may, in its sole discretion, move Customer to a substantially similar or better Service at any time without increasing Customer's MRC. For example, Cox may move Customer from a standard Cox Business Internet (CBI) Service to a fiber-based connection. All Services shall continue to be subject to all restrictions, terms, and conditions in this Agreement. Customer shall cooperate with Cox to facilitate the Service change. Cox will make good faith efforts to minimize disruption, but there may be some disruption as Services are moved, including, without limitation, that IP addresses may change.

- (e) Cox may, in its commercially reasonable discretion, immediately terminate, suspend, and/or refuse to provide Services to any party engaged in the adult, gaming or gambling industries or any party engaged in offshore activities which are illegal under US law, or any party engaged in illegal activities or any party which is operating or located in embargoed countries, or wishing to use Services in any location deemed unacceptable by Cox in its sole discretion.

A4. **Default.** If either Cox or Customer (each a "Party") fails to perform any material term, provision, covenant, condition, agreement, or obligation under this Agreement, and fails to cure such breach within thirty (30) days after receiving written notice of the breach from the other Party, or within ten (10) days after receiving notice of the breach from the other Party if the breach is the

result of any late payment, such Party shall be deemed in "Default" under this Agreement. In this event, the non-Defaulting Party shall be entitled to pursue any and all remedies available at law or in equity but subject to the limitations contained in this Agreement. If any non-monetary Default cannot be cured within the applicable cure period set forth above, an event of Default does not occur if the Defaulting Party commences to cure the Default within the applicable cure period and diligently completes the cure as soon as reasonably practicable, but in any event within sixty (60) days after receiving the Default notice. Notwithstanding the foregoing, if Customer is in Default during the Term of this Agreement, then Cox may pursue one or more of the following courses of action upon notice to Customer as required by tariff or applicable law: (i) terminate Service whereupon all sums then due and payable, including any applicable termination fees, shall become immediately due and payable, or (ii) suspend all or any part of Services, in addition to pursuing any and all remedies, including reasonable attorneys' fees, available at law or in equity. If Customer is in Default for failing to pay any amount due, Customer shall also be liable for any applicable interest, costs of collection (including attorneys' fees and third party agent collection fees), late fees (subject to state law and regulations), door collection fees, bank fees and any other applicable fees, charges or payments (collectively, "Collection Fees"). Any balance amount that remains delinquent may be referred to a third party for collections. In the event arbitration or suit, as the case may be, is brought or any attorney is retained by Cox to collect any payments which are past due hereunder and/or to enforce any provision of the Agreement and Cox prevails, Cox shall be entitled to recover, in addition to any other remedy, reimbursement for Collection Fees, reasonable attorneys' fees, litigation and arbitration costs, expert witness fees, and court costs incurred in connection therewith, in addition to all other relief a court may award.

A5. **Customer Responsibilities.** Customer is responsible for all internal wiring, Customer equipment (e.g. Customer phones, handsets, keystones, etc.), installation of hardware and software on Customer equipment, and arranging all necessary rights of access for Cox including space for cables, conduits, and Cox Equipment (defined herein) as necessary for Cox-authorized personnel to install, repair, inspect, maintain, replace, or remove any and all Cox Equipment. Customer shall

provide a secured space with electrical power, climate control and protection against fire, vandalism, and other casualty for Cox Equipment. Customer shall use the Services in compliance with all applicable laws, regulations, and ordinances, as well as applicable leases and other contractual agreements between Customer and third parties. Customer is solely responsible for ensuring that Customer and any end user(s) comply with all applicable law. Customer is responsible for ensuring that Customer's equipment is compatible with the Services selected and with the Cox network. Customer shall ensure that its equipment and/or system or that of its agent is properly interfaced with Cox's Service, that the signals emitted into Cox's network are of the proper mode, bandwidth, power, data speed, and signal level for the intended use of the Customer and in compliance with the criteria set forth herein, and that the signals do not damage Cox Equipment, injure its personnel or degrade service to other Customers. The magnitude and character of the voltages and currents impressed by Customer or its equipment on Cox Equipment and wiring by the connection, operation, or maintenance of such equipment and wiring shall be such as not to cause damage to Cox Equipment and wiring or injury to Cox's employees or other persons. If the Customer or its agent fails to maintain and operate its equipment and/or system or that of its agent properly, with resulting imminent harm to Cox personnel, Cox Equipment, or the quality of service to other customers, Cox may, upon written notice, require the use of protective equipment at the Customer's expense. If this fails to produce satisfactory quality and safety, Cox may, upon written notice, terminate the Customer's service without liability. Cox shall not be liable for Customer's failure to fulfill any of its obligations and/or responsibilities, including those stated in this paragraph.

A6. Customers With Building Alarm or Security Systems. Customer shall be solely responsible for (i) all fire, security, surveillance or other alarm or automation equipment and systems, including any installation, inspection, maintenance, testing or monitoring relating thereto, (ii) ensuring the compatibility of the Service(s) with any such equipment and systems, and (iii) monitoring any battery back-up (including requesting a replacement battery upon battery exhaustion) provided by Cox in connection with the Service(s). Customer represents and warrants that its use of the Service(s) with any fire, security, surveillance or other alarm or automation

equipment or system shall comply with all Federal, State or local laws, regulations, codes or requirements, including without limitation the National Fire Alarm and Signaling Code (as published by the National Fire Protection Association) and the International Fire Code (as published by the International Code Committee), as applicable. For the avoidance of doubt, any alarm, fire, security, surveillance, or other alarm or automation systems and related services, including video and monitoring service relating thereto, provided to Customer by Cox or its Affiliates will be provided pursuant to the terms of conditions of a separate Cox Security Services Agreement, and not this Agreement.

A7. Equipment. Unless otherwise provided herein, Customer agrees that Cox shall retain all rights, title and interest to equipment provided by Cox (the "Cox Equipment"), and Customer shall not create or permit to be created any liens or encumbrances on Cox Equipment. All Cox Equipment, including, without limitation, equipment, network and transmission facilities used by Cox to provide the Services under this Agreement, is the sole and exclusive property of Cox. Internal wiring beyond the Demarcation Point shall not be considered Cox Equipment, and shall become the property of Customer upon installation of Service. At Cox's sole option, other wiring and cabling may remain on the Customer premises following the expiration or earlier termination of the Agreement. For video Services, Cox shall install Cox Equipment necessary to furnish the video Service up to the Demarcation Point (as defined herein) of Customer's, or any applicable end user's as the case may be, service location(s) (such location(s) referred to herein as the "Premises") except that Customer shall be required to rent additional equipment from Cox for an additional fee if Cox transitions its analog channels to digital. Customer may also be required to provide a Customer Internal Distribution System (as defined below), depending upon the nature of the Services purchased by Customer. Customer shall use the Cox Equipment only to receive the Services and shall not modify or relocate Cox Equipment without Cox's prior written consent. Customer shall not permit tampering, altering, or repair of the equipment by any person other than Cox's authorized personnel. Customer shall, at the expiration or termination of this Agreement, return the Cox Equipment in good condition, ordinary wear and tear excepted. Customer is responsible for ensuring that Cox has reasonable continuous access

at the Premises to the Cox Equipment (including, as the case may be, unoccupied guest rooms, etc.), the Demarcation Point and, if needed, the Customer Internal Distribution System for purposes of installation, connection/disconnection, transferring, inspecting, maintaining, repairing, upgrading, swapping, servicing and/or removing the Cox Equipment and/or the Customer Internal Distribution System, and to do all other things reasonably necessary to provide the Services as determined by Cox. Cox has the right to change, modify, rearrange, or swap the Cox Equipment at any time and Customer acknowledges that said changed, modified, rearranged, or swapped Cox Equipment may have different or fewer capabilities and features. Customer shall operate any Cox Equipment in accordance with the instructions of Cox or Cox's agent. Upon and after expiration or earlier termination of the Agreement, Cox shall have the right to enter the Premises to remove and retrieve the Cox Equipment. Such right of entry shall expressly survive the expiration or earlier termination of the Agreement. Customer is solely responsible for any damage to the Cox Equipment unless caused by the sole gross negligence or intentional misconduct of Cox. In the event the Cox Equipment is damaged, destroyed, or is not returned to Cox in good condition, Customer shall be responsible for the replacement value of the Cox Equipment. Customer may use the Services and the Cox Equipment for any lawful purpose, provided that such purpose: (i) does not interfere or impair the Cox network or Cox Equipment; (ii) complies with the AUP; and (iii) is in accordance with the terms and conditions of this Agreement. Customer shall use the Cox Equipment only for the purpose of receiving the Services. Cox may charge Customer a maintenance fee for routine maintenance of any Cox Equipment, provided however that Cox is not responsible for repairing or replacing any Cox Equipment that is damaged due to misuse, abuse, vandalism, or theft.

For certain Services, Customer, may purchase equipment from Cox ("Customer Purchased Equipment"). Customer shall use Customer Purchased Equipment in accordance with the terms of this Agreement and any related equipment purchase agreement.

If additional equipment, including but not limited to, televisions, monitors, computers, circuits, software, or other devices, are required by Customer to use the Services, Customer shall be solely responsible

for providing such equipment. Cox shall not be responsible for the installation, operation or maintenance of any Customer provided equipment. Cox shall not be responsible for the transmission of signals by Customer provided equipment or for the quality of, or defects in, such transmission; or the reception of signals by Customer provided equipment; or network control signaling where such signaling is performed by Customer-provided network control signaling equipment.

A8. Customer Internal Distribution System. In connection with certain Services, Customer may be required to provide a Customer Internal Distribution System for purposes of delivering the Service from the hand-off at the Demarcation Point to its final destination. The "Customer Internal Distribution System" shall mean all distribution plant and associated electronics, wiring and equipment necessary to distribute the Service to the designated locations on the Premises, but the Customer Internal Distribution System does not include any Cox Equipment. If the Customer Internal Distribution System exists on the Premises on the date of execution of the Agreement, Cox shall inspect such system, at Customer's expense, to determine if it meets Cox's expectations and requirements for delivery of the purchased Services. If the Customer Internal Distribution System is usable, as reasonably determined by Cox, Customer grants Cox, during the Term of this Agreement, the exclusive right to use the Customer Internal Distribution System to deliver the Service to the Premises, unless otherwise expressly agreed to by the parties in writing. Cox reserves the right to discontinue the Service immediately if it is determined that the Customer Internal Distribution System is violating FCC signal leakage specifications or other applicable laws, rules and codes. Cox shall have the right to modify the Customer Internal Distribution System to facilitate delivery of the applicable Services to the Premises, subject to receiving Customer's prior consent, which shall not be unreasonably withheld, conditioned or delayed. Ownership of the Customer Internal Distribution System shall remain with Customer at all times, subject to the use of such system by Cox pursuant to the Agreement. Customer, and not Cox, shall be responsible for the repair and maintenance of the Customer Internal Distribution System (including all cabling and wiring past the Demarcation Point) and agrees to keep the Customer Internal Distribution System in good working order at all times. Ownership and title to all Cox Equipment shall

remain with Cox at all times. Cox shall have no obligation to repair, maintain or remove the Customer Internal Distribution System.

In the event no Customer Internal Distribution System exists within the Premises, or if the existing Internal Distribution System is not usable by Cox or up to Cox's expectations: 1) Cox may terminate the subject Services by providing Customer with written notice of termination and Cox shall have no obligation to provide the Service, or 2) Customer may have a third party install or upgrade the Internal Distribution System so that it meets Cox's expectations at Customer's sole cost and expense, or 3) Cox will provide Customer with a price quote for the cost to Customer of Cox either installing or upgrading the Customer Internal Distribution System as need be. If Customer accepts such price quote, Customer shall be obligated to pay Cox the cost thereof upon completion of installation or upgrades of the Customer Internal Distribution System.

During the Term of this Agreement, the Customer will not, nor will it permit others to (i) use the Customer Internal Distribution System (or any portion thereof) in a manner that causes interference with the Services, or adversely impacts or violates Cox's rights under the Agreement; or (ii) modify or connect any other device to the Customer Internal Distribution System if such action could reasonably be expected to interfere with Cox's rights under this Agreement. If Customer contacts Cox regarding a service problem and Cox confirms that Cox has been providing a signal to the Demarcation Point and that all Cox Equipment is functioning correctly, Customer shall be responsible for paying Cox's standard service call fee.

A9. Representations and Warranties. Customer represents and warrants to Cox as follows: (i) Customer is authorized to perform its obligations under this Agreement; (ii) By entering into this Agreement with Cox, Customer shall not be in violation of any agreement it has with a third-party relating to the purchase of the Services; (iii) Customer is a duly organized entity in accordance with applicable law, and is qualified and authorized to do business in the location where Services are used and (iv) the person signing the Agreement is an authorized Customer representative. Customer further represents and warrants that upon payment of any invoice, Customer forever waives any claim(s) that the person signing the Agreement did not have the authority to bind the Customer and

Customer shall be bound by the terms of the Agreement. Cox represents and warrants to Customer as follows: (i) the applicable Cox Affiliates are duly authorized to provide the applicable Services in the applicable "Service Areas" (as defined below); (ii) By entering into this Agreement with Customer, Cox shall not be in violation of any agreement it has with a third-party relating to the provision of Services in the Service Areas; and (iii) Cox is a duly organized entity in accordance with applicable law, and is qualified to do business in the "Service Areas". For purposes of this Agreement, "Service Areas" shall mean the geographic locations within the continental United States where Cox elects to provide its Services.

A10. Force Majeure. Customer shall have no claim against Cox for any failure to perform caused by (i) acts of God or natural disasters, including, without limitation, fire, flood, hurricane, inclement weather, winds, plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including but not limited to a public health crisis which results in a quarantine, a stay-at-home order, a shelter in place order or other restriction on workers (ii) civil or military action, including, without limitation, a national emergency, riot, civil insurrection, act of terrorism, threat of terrorism, or the taking of property by condemnation or eminent domain, (iii) strikes or labor disputes; (iv) fuel shortages, energy shortages, power outages, or power reductions, including without limitation proactive power reductions or power outages by power companies for safety reason, wildfire prevention, conservation or other similar reason; (v) laws, orders, rules, regulations, directions, or actions of governmental authorities having jurisdiction over the Services; (vi) delays in obtaining permits or other approvals from governmental authorities for Services provisioning; (vii) third party cable cut(s), (viii) events which make performance inadvisable, commercially impracticable, illegal or impossible, or (viii) any other causes beyond the reasonable control of Cox (each a "Force Majeure" event).

A11. E-Rate Customers. If Customer is an educational institution, library or other entity that qualifies as an applicant seeking reimbursement under the Federal Universal Service Fund Schools and Libraries Program, this paragraph shall apply. Customer shall apply annually to the Schools and Libraries Division of the Universal Service Administrative Company, "SLD" for E-Rate funding

and Customer shall designate Cox as its provider of Services. Customer shall also provide Cox with all documentation that is in response to all queries, inquires and requests, including, without limitation, as part of the Program Integrity Assurance (PIA) process or any other requests for documentation within three (3) business days of receipt and/or delivery thereof. Customer also acknowledges that increases and decreases in funding for Services may occur from the SLD. If Customer is denied or loses SLD funding for any reason, including but not limited to having its funding rescinded for defects in its application or filing of forms, or if Customer does not request enough funding to cover full payment for Services including for applicable Taxes, Fees and Surcharges, Customer is responsible for full payment to Cox for all Services and Cox may elect to decrease or discontinue the level of Services provided to Customer if full payment is not received. Further, as clarification, Customer is always responsible for payment in full for any E-Rate ineligible Services or charges. If full E-Rate funding is not received within six (6) months of the application date, or by the opening of the application window for the following funding year, then upon written notice to Customer, Cox may terminate the Agreement without further liability to Customer and Customer shall pay Cox an early termination fee equal to the nonrecurring charges (if unpaid) and One Hundred Percent (100%) of the monthly recurring charges for the terminated Service(s) multiplied by the number of months, including partial months, remaining in the Term.

The auto-renewal provisions in the Agreement shall not apply for E-Rate reimbursed Services. For E-Rate reimbursed Services, the Agreement may be renewed on an annual or other basis upon mutual agreement of the parties. Customer's continued use of or payment of the Services after the expiration of the then-current Term shall be deemed Customer's consent to renew the Agreement for an additional year. The Services may be upgraded or modified at any time via a mutually agreeable written amendment to the Agreement at the upgrade service pricing identified in the Agreement, the service pricing in Cox's proposal to Customer's solicitation for offers (RFP, RFQ, etc.), or other mutually agreeable pricing.

A12. Compliance with AUP. Customer (including any end users of the Service(s)) shall comply with the AUP and applicable law at all times. In particular, and without limitation, Customer

(including any end users of the Service(s)) shall not use the Service or any part of the Service in any manner which infringes or violates Cox's or any third party's copyright, patent, trade secrets, trademark, moral rights, right of privacy, right of publicity, or any other proprietary rights. Customer is solely responsible for ensuring that any and all end users of the Service(s), whether authorized by Customer or not, comply with this Section, including, without limitation, Cox's AUP. Customer shall comply in all respects with the Digital Millennium Copyright Act (DMCA), including without limitation by adopting and reasonably implementing, and informing all end users of the Service(s) of, a policy that provides for the termination in appropriate circumstances of Customer's subscribers and account holders who are repeat infringers under Section 512(i) of the DMCA, and by responding expeditiously upon receipt of a notice of claimed infringement to remove or disable access to material that is claimed to be infringing, to the extent required by the DMCA. Cox may suspend and, in appropriate circumstances, terminate any Service or a portion of any Service at any location without notice, if Cox in its sole discretion reasonably believes Customer, or any end user of the Service(s), may be violating the AUP or this Section or may be using the Service(s) in violation of applicable law, including without limitation by repeated infringement of copyright or failure to comply with the DMCA. Customer is responsible for providing to Cox the contact information and email address for Customer's designated DMCA agent for any DMCA related infringement claim notice that Cox may be required to provide to Customer in accordance with applicable law. Customer must immediately inform Cox in writing if the designated DMCA agent contact information or email address is changed or modified during the term of the Agreement and provide this updated information to Cox. Failure by Customer to adhere to these DMCA notice requirements shall constitute a Default as defined in Section A4 of these General Terms. Customer shall indemnify Cox for any claims, actions, or demands relating to or arising out of Customer's failure to provide current and accurate designated DMCA agent information. Cox shall not be liable for Cox's suspension or termination of Services arising from an alleged or actual violation of the AUP, this Section, or applicable law. Cox's termination pursuant to this Section of any Service that is part of a bundle offering shall not be a basis for termination of this Agreement by Customer. Cox shall not be liable to

Customer for any failure to enforce the AUP or this Section. The failure of Cox to enforce the AUP or this Section for any reason does not constitute a waiver of its right to do so at a later time. Any breach of this Section by Customer or any end users of the Service(s) shall be deemed a Default of this Agreement by Customer.

A13. **Privacy Policy.** Use of the Service(s) is subject to Cox's privacy policy, which is posted at <https://www.cox.com/aboutus/policies/business-annual-privacy-notice.html> and is incorporated into the Agreement by this reference. In the event of a conflict between the provisions of this Section and any provision of the privacy policy, the applicable provision of the privacy policy shall prevail. Cox is not responsible for any information provided by Customer to third parties, and this information is not subject to the privacy provisions of this Agreement or the privacy policy. Customer assumes all privacy and other risks associated with providing personally identifiable information to third parties via the Services.

A14. **Wireless Delivery.** In certain situations, Cox may deliver Services to Customer through certain wireless transport devices or wireless network facilities. If Cox is delivering Services wirelessly and there is signal interference with such Service and Cox cannot resolve the interference by using commercially reasonable efforts, then Cox may terminate the applicable Service without further liability to Customer by providing Customer with at least thirty (30) days prior written notice.

A15. **Demarcation.** The "Demarcation Point" is defined as that point where Cox's responsibility for the maintenance and operation of the equipment and network facilities to deliver the Services to Customer terminates and where Customer's responsibilities begin. The Demarcation Point will be determined solely by Cox based on the applicable Service(s) ordered by Customer. For information purposes only and without representation that this is the specific Demarcation Point for Customer, the common demarcation point (1) for Cox's telephone Service is (a) the punch-down box installed by Cox at Customer's location, (b) the telephone closet within the Premises, or (c) the Cox-owned network equipment and the desktop telephones installed by Cox at Customer's location; (2) for Cox's video Service is either, as the case may be as determined solely by Cox for the applicable Service (i) the video wall jack, or (ii) the location of the final cable

connection that hands off video feeds to the Customer Internal Distribution System (as defined herein); (3) for Cox's internet Service is the Ethernet port of the internet connection provided to Customer by Cox; and (4) for Cox's Wi-Fi Services is the Wi-Fi access point. Unless otherwise agreed by the parties, Customer is solely responsible for wiring, cabling, equipment and access beyond the applicable Demarcation Point(s) (i.e. on the Customer side of said Demarcation Point(s)).

A16. **Requests to Move, Add or Change Services.** Notwithstanding anything to the contrary in this Agreement, Cox in its sole discretion may accept and process requests from Customer to move, add or change Services under this Agreement. All moves, adds and changes are subject to Cox's approval and are subject to the terms and conditions of this Agreement. Additional charges may apply to any move, add, or change request. Customer agrees that any new or additional Services ordered by Customer are automatically subject to the terms and conditions of this Agreement. Notwithstanding anything to the contrary in the Agreement, Cox may refuse any request to modify the Services, including, without limitation, requests to increase or decrease Services or add new locations.

A17. **Truck Roll.** If a Cox technician is required to visit the Premises (a "Truck Roll"), Customer must provide Cox with contact information and any other information reasonably related to the trouble, outage, or installation. If the Cox technician is dispatched and the technical issue is determined by Cox to be the fault of a party other than Cox or if Cox is unable to complete an installation or otherwise deliver Service due to the fault of the Customer, Cox shall assess a flat Truck Roll charge to Customer plus an additional fee determined on a time-and-materials basis.

A18. **Cancelled and After-Hour Appointments.** Cox reserves the right to charge Customer a cancellation fee for missed appointments if Customer fails to cancel the appointment at least twenty-four (24) hours in advance of the scheduled appointment. Cox also reserves the right to charge Customer a fee for appointments scheduled outside of Cox's normal local business hours. The cancellation and after-hours fee will be determined by Cox at the time of Customer's cancellation request or need for an after-hours appointment.

A19. **Indemnity.** Customer shall indemnify, defend and hold Cox and its parent companies, subsidiaries, Affiliates, and Cox suppliers, contractors, distributors, licensors and business partners, as well as the officers, directors, employees, agents and representatives of each of these (each a "Cox Related Party", and collectively, the "Cox Related Parties") harmless from and against any claim, actions, or demands relating to or arising out of (a) any breach or alleged breach of this Agreement by Customer or any end users of the Services, or (b) Customer's use of the Service including without limitation: (i) any content or software displayed, distributed or otherwise disseminated by Customer, its employees, or any end users of the Services, (ii) any claim that Customer's content or registration and maintenance of Customer's selected domain name(s), infringes on the patent, copyright, trademark or other intellectual property right of any third party; (iii) any act in violation of any laws committed by Customer, its employees, agents or any end users using the Services; and/or (iv) violation of the Cox AUP by Customer, its employees, agents or any end users of the Services.

A20. **LIMITATION OF LIABILITY/ DISCLAIMER OF WARRANTIES.** IN ADDITION TO ANY OTHER LIMITATIONS OF LIABILITY CONTAINED IN THE AGREEMENT, NEITHER COX NOR ANY COX RELATED PARTY SHALL BE LIABLE FOR DAMAGES FOR FAILURE TO FURNISH OR INTERRUPTION OF ANY SERVICES, OR FOR ANY LOSS OF DATA OR STORED CONTENT, IDENTITY THEFT, OR FOR ANY PROBLEM WITH THE SERVICES OR EQUIPMENT OF ANY THIRD PARTY, NOR SHALL COX NOR ANY COX RELATED PARTY BE RESPONSIBLE FOR FAILURE OR ERRORS OF ANY COX SERVICE, COX EQUIPMENT, SIGNAL TRANSMISSION, LICENSED SOFTWARE, LOST DATA, FILES OR SOFTWARE DAMAGE REGARDLESS OF THE CAUSE. NEITHER COX NOR ANY COX RELATED PARTY WILL BE LIABLE FOR DAMAGE TO PROPERTY OR FOR PHYSICAL INJURY TO ANY PERSON ARISING FROM THE INSTALLATION OR REMOVAL OF EQUIPMENT UNLESS CAUSED BY THE NEGLIGENCE OF COX. UNDER NO CIRCUMSTANCES WILL COX OR ANY COX RELATED PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, ARISING FROM THIS AGREEMENT OR PROVISION OF THE SERVICES.

COX HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES AND MAKES NO REPRESENTATIONS

OF ANY KIND THAT COX'S SERVICES OR EQUIPMENT WILL WORK WITH OR SUPPORT ANY THIRD-PARTY SERVICE, OR THAT ANY THIRD-PARTY PROVIDED SERVICES WILL WORK WITH OR SUPPORT ANY COX SERVICE. COX AND ANY COX RELATED PARTIES SHALL HAVE NO LIABILITY FOR CUSTOMER'S USE OF ANY THIRD-PARTY SERVICES OR EQUIPMENT. COX AND ANY COX RELATED PARTIES SHALL HAVE NO LIABILITY FOR ANY INFORMATION SHARED WITH CUSTOMER'S THIRD-PARTY SERVICE PROVIDER. CUSTOMER ACKNOWLEDGES THAT COX IS NOT A PARTY TO CUSTOMER'S CONTRACT WITH ANY THIRD PARTY SERVICE PROVIDER. HOWEVER, ANY SUCH AGREEMENT BETWEEN CUSTOMER AND A THIRD PARTY SERVICE PROVIDER SHALL NOT MODIFY OR SUPERSEDE CUSTOMER'S AGREEMENT WITH COX OR ANY OF CUSTOMER'S OBLIGATIONS IN THIS AGREEMENT.

COX'S TOTAL AGGREGATE LIABILITY FOR ANY AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATING TO THE AGREEMENT (INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT (INCLUDING NEGLIGENCE) AND STRICT PRODUCT LIABILITY) SHALL BE LIMITED TO THE LESSER OF (I) THE FEES PAID OR OWED BY CUSTOMER UNDER THE AGREEMENT IN THE THREE (3) MONTHS PRECEDING THE DATE THE CLAIM ARISES OR (II) ANY OTHER APPLICABLE LIMITATION ON COX'S LIABILITY.

EXCEPT AS PROVIDED IN THE AGREEMENT, THERE ARE NO OTHER AGREEMENTS, WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, RELATING TO THE SERVICES. SERVICES PROVIDED ARE A BEST EFFORTS SERVICE AND COX DOES NOT WARRANT THAT THE SERVICES, EQUIPMENT OR SOFTWARE SHALL BE ERROR-FREE OR WITHOUT INTERRUPTION. COX DOES NOT GUARANTEE THAT SERVICE CAN BE PROVISIONED TO CUSTOMER'S LOCATION, OR THAT INSTALLATION OF SERVICE WILL OCCUR IN A SPECIFIED TIMEFRAME. COX DOES NOT WARRANT THAT ANY SERVICE OR EQUIPMENT WILL MEET CUSTOMER'S NEEDS, PERFORM AT A PARTICULAR SPEED, BANDWIDTH OR THROUGHPUT RATE, OR WILL BE UNINTERRUPTED, ERROR-FREE, SECURE, OR FREE OF VIRUSES, WORMS, DISABLING CODE OR THE LIKE. INTERNET AND WIFI SPEEDS WILL VARY.

COX MAKES NO WARRANTY AS TO TRANSMISSION OR UPSTREAM OR DOWNSTREAM SPEEDS OF THE NETWORK.

ADDITIONAL LIMITATIONS ON COX'S LIABILITY FOR COX INTERNET SERVICES OR ANY OTHER SERVICE, SUCH AS CERTAIN VOICE SERVICES, THAT USE THE INTERNET: THE PUBLIC INTERNET IS USED BY NUMEROUS PERSONS AND ENTITIES INCLUDING, WITHOUT LIMITATION, OTHER COX INTERNET SUBSCRIBERS. AS IS THE CASE WITH ALL SHARED NETWORKS LIKE THE PUBLIC INTERNET, THERE IS A RISK THAT CUSTOMER COULD BE SUBJECT TO "EAVESDROPPING." THIS MEANS THAT OTHER PERSONS OR ENTITIES MAY BE ABLE TO ACCESS AND/OR MONITOR CUSTOMER'S USE ON THE INTERNET. IF CUSTOMER POSTS, STORES, TRANSMITS, OR DISSEMINATES ANY SENSITIVE OR CONFIDENTIAL INFORMATION, CUSTOMER DOES SO AT ITS SOLE RISK. NEITHER COX, NOR THE COX RELATED PARTIES SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY CLAIMS, LOSSES, ACTIONS, DAMAGES, SUITS OR PROCEEDINGS ARISING OUT OF OR OTHERWISE RELATING TO SUCH ACTIONS BY CUSTOMER. CUSTOMER ACKNOWLEDGES THAT SOFTWARE PROGRAMS ARE COMMERCIALY AVAILABLE THAT CLAIM TO BE CAPABLE OF ENCRYPTION OR ANONYMIZATION. COX MAKES NO REPRESENTATION OR WARRANTY REGARDING THE EFFECTIVENESS OF THESE PROGRAMS.

A21. **Protected Health Information.** In providing its services, Cox is not and does not intend to be a business associate as that term is defined under the Health Insurance Portability and Accountability Act of 1996 (HIPAA; Pub.L. 104-191, 110 Stat. 1936, enacted August 21, 1996) regulations ("HIPAA"). Cox has only random, infrequent and incidental access to information in the provision of its Services. It is Customer's responsibility to adequately protect any patient or protected health information. Customer shall indemnify, defend, and hold harmless Cox and all Cox Related Parties from any third party claims, including without limitation, claims from Customer's patients or end users, or the Department of Health and Human Services, or any other regulatory agency or person, that arise, in whole or in part, from Customer's use of Cox Services in violation of the HIPAA regulations.

A22. **Viruses, Content, Customer Information.** Software or content obtained from the use of

Services may contain viruses or other harmful features and Customer is solely responsible for protecting its network, equipment, and software through the use of firewalls, anti-virus, and other security devices. Customer further acknowledges and accepts that Customer is solely responsible for fraudulent activity and related charges that result from Customer's failure to protect its network, equipment and software. Through the use of the Services, Customer may obtain or discover content that is offensive or illegal and Customer assumes the risk and is solely responsible for its access to such content. Cox may disclose Customer information to law enforcement or to any Cox Affiliate. Cox may delete any Internet traffic or e-mails that contains a virus or other harmful code.

A23. **Offshore and International Services.** Cox may determine, in its sole discretion, and at any time, whether or not to provide Services and/or any indirect, ancillary or overhead service outside the continental United States.

A24. **Audit.** Except as explicitly provided in the Agreement, Customer shall have no right to review or audit any records of Cox or any Cox Related Party. If the Agreement explicitly permits the Customer to review or audit Cox's records, the following terms shall govern and take precedence: Customer's audit shall be strictly limited to reviewing documents reasonably related to billing and invoicing errors for the Services provided by Cox to Customer under the Agreement. Customer shall have no right to audit any Cox confidential information, including information on Cox's security/IT systems or pricing information for its vendors. Audits shall be at reasonable times and locations as mutually agreed by the parties, at the sole cost of the Customer, and limited to once per calendar year. Customer shall execute a Non-Disclosure Agreement in a form acceptable to Cox prior to any audit.

A25. **Service Level Agreements.** If this Agreement expressly includes a 'Service Level Agreement' or similar agreement with terms providing the payment of service credits or monies in the event of service interruptions, missed repair objectives, service degradations, or any other outages related to the Services (collectively, an "SLA"), the following terms and conditions shall apply, and the service credits provided shall be Customer's sole and exclusive remedy for any and all service interruptions, missed repair objectives,

degradations, outages or any other issue related to the Services (a "Service Interruption"):

Any amounts due from Cox to Customer under the SLA shall be in the form of service credits only. To qualify for a service credit, Customer must immediately notify Cox of any Service Interruption via the designated support telephone number. Cox will thereafter assign a trouble ticket number. Subject to any and all of the exceptions and limitations described herein, only the portion of the Service(s) experiencing a Service Interruption is eligible for a service credit and such eligibility begins only upon Cox's issuance of a trouble ticket number.

Service credits shall not be provided for any failures to meet the SLAs: (i) caused by Customer, its employees, agents or subcontractors, including without limitation any end users of the Service; (ii) due to failure of power or other equipment provided by Customer or the public utility company supplying power to Cox or Customer; (iii) during any period in which Cox is not allowed access to the Premises to access Cox Equipment; (iv) due to scheduled maintenance and repair; (v) caused by or due to violations of the Cox AUP or any other misconduct or misuse of the Services by Customer; (vi) caused by a loss of service or failure of the Customer's internal wiring or other customer equipment; (vii) due to Customer's failure to release the Service for testing and/or repair to Cox; or (viii) due to a Force Majeure event. In addition, service credits shall not apply (a) for Service Interruptions not reported by Customer to Cox promptly after Customer first discovered the Service Interruption, (b) where Customer reports a Service Interruption, but Cox does not verify any Service Interruption, (c) to any Service locations served via a third party (i.e. Type-II site), (d) if Customer is in breach of its Agreement with Cox, (e) if Customer has a past due balance with Cox under the Agreement, or (f) if Customer is otherwise not in good financial standing with Cox. To qualify for any service credit(s), Customer must request, in writing, the service credit within thirty (30) calendar days of a qualifying Service Interruption. Cox will be the only party to determine (in its sole discretion) whether Cox has not met any of the SLA terms and whether a service credit is to be issued. Customer must cooperate with Cox at all times in testing, determining and verifying the occurrence of a qualifying Service Interruption. In any calendar month, Customer's combined credits for the affected Services shall be limited to no more than one (1) full MRC for the affected Services. All

credits are exclusive of any applicable taxes or fees charged to the Customer or collected by Cox. All claims for service credits are subject to review and verification by Cox. If Cox is providing any Managed Service(s) (such as Managed Router or Managed Wi-Fi) to Customer in addition to the underlying transport or Internet service, Customer shall not be authorized to receive service credits under more than one SLA for any individual qualifying Service Interruption.

A26. Resale Prohibited. The Services covered by this Agreement are for Customer's use only. Unless expressly authorized in writing by Cox in this Agreement or formal written amendment to this Agreement, or as otherwise required by applicable law, Customer shall not resell the Service(s) (or any portion thereof) to any other person or third party. Cox may revoke its permission to allow resale at any time upon notice to Customer. Notwithstanding the foregoing, Customer shall never resell any video Services. If Cox determines that Customer is or has resold (i) any video services or (ii) any other Services without express written permission in this Agreement or formal written amendment to this Agreement, Cox may immediately terminate this Agreement (or any portion thereof) upon notice to Customer and Customer shall pay the applicable termination fee. Nothing in this Agreement shall prohibit Cox from doing business with or attempting to do business with any potential customer, even if any potential customer may have been a customer of Customer in the past or is currently purchasing services from Customer.

A27. Assignment. Customer may not assign or transfer any part of this Agreement without the prior written consent of Cox, which shall not be unreasonably withheld. Cox reserves the right to not disclose any Customer Proprietary Network Information (CPNI) to any third party that assumes this Agreement from Customer. Cox may assign, delegate or transfer this Agreement, in whole or in part, without Customer's consent (i) to any corporation or other entity that controls, is controlled by or is under common control with Cox (each an "Affiliate"); (ii) to any corporation or other entity resulting from a merger, acquisition, consolidation or reorganization of or with Cox; or (iii) in connection with the sale of all or substantially all of the assets of Cox. Cox Service may be provided by one or more Affiliates.

A28. **Notices.** Notices under this Agreement shall be in writing and delivered to the persons or offices of the parties stated herein. A written notification by Cox may include, without limitation, electronic notice and/or notice via an invoice, billing insert or other billing communication sent to Customer. The effective date of any notice hereunder shall be the date of delivery of such notice and not the date of mailing. The mailing addresses of the parties are set forth below: To Cox: at the address set forth on the Agreement, with a copy to: Cox Communications, Inc., 6205-B Peachtree Dunwoody Road, Atlanta, Georgia 30328, Attn: Assistant General Counsel, Cox Business, Legal Department; and to Customer at the address set forth in the Agreement.

A29. **Fraud or Misuse of the Services.** Customer shall not misuse the Services, Cox Equipment, or any Cox provided software. Such misuse includes but is not limited to: (i) violation of applicable law; (ii) use in a manner that adversely interferes with Cox's network or reputation; (iii) any unauthorized or fraudulent use of or access to the Services such as to avoid paying for Services; (iv) use in a manner that infringes the intellectual property or other rights of Cox or any third party including copying, modifying, reverse engineering, uploading, downloading or reselling any content or software; (v) sending content or messages or otherwise engaging in communications that are abusive, obscene, lewd, lascivious, filthy, excessively violent, harassing, illegal, fraudulent, threatening, defamatory or an invasion of privacy; (vi) modifying or tampering with Cox Equipment in any manner other than as expressly authorized by Cox; (vii) engaging in telemarketing, fax broadcasting, spam, junk or other unsolicited email; (viii) intercepting a third party's communications or accessing or attempting to access another party's account or otherwise circumvent any security measures; (ix) uploading any virus, worm or malicious code; (x) using automated connections that allow web broadcasts, automatic data feeds, automated machine-to-machine connections or peer-to-peer file sharing; (xi) using as a substitute or back-up for private lines, or full-time or dedicated data connections; (xii) network hacking and "denial of service" attacks; (xiii) using unauthorized software or devices to maintain continuous active Internet connections when the connection would otherwise have entered idle mode; (xiv) engaging in 'robocalling' or continuous or extensive call forwarding or long distance abuse; or (xv) auto

dialers, power dialers, any type of automatic outbound dialing or predictive calling/dialing system, or the functional equivalent of any of these systems. Customer is solely liable for any misuse, unauthorized use and for controlling access to the Services, Cox Equipment, Customer Equipment, and software including payment of any charges incurred as a result of any such misuse or unauthorized use by Customer or any end user of the Service(s). Cox may immediately terminate this Agreement upon notice to Customer for any violation of this provision and Customer shall be liable for the applicable early termination fee. Cox shall determine, in its sole discretion, whether any misuse is occurring or has occurred.

Cox may further disconnect Service without notice if Cox believes the Services are being used with the intent to defraud Cox or threaten the integrity or security of the Cox network or facilities. This fraudulent activity includes, but is not limited to, fraudulently placing and/or receiving calls and/or providing false credit information to Cox or its representatives. Customer is responsible for payment of all charges for Services furnished, including charges for Services originated, or charges accepted, at Customer's telephone number. Customer's responsibility also includes all charges associated with the fraudulent use of Services either by Customer, its employees, any end users of the Services, or any other users who gain access to the Premises, the Cox Equipment, or any Customer equipment, including, but not limited to, any unauthorized users, who are able to "hack" or gain unauthorized access to Customer's network or equipment.

A30. **Shortage of Equipment or Facilities.** Cox reserves the right to limit or allocate the use of existing facilities when it deems necessary to manage the lack of facilities or to manage a facility shortage due to some other cause beyond Cox's control. Cox maintains the right to apply protective controls, such as call gapping, which selectively cancels the completion of traffic carried over its network, including the traffic associated with any user's transmission to another carrier. In addition, Cox reserves the right to limit call duration when deemed necessary to prevent network degradation and to optimize network efficiency of its telephone service. Cox will incur no liability for call interruptions resulting from Cox's efforts to avoid such degradation. The furnishing of service under the Agreement is subject to the availability on a

continuing basis of all the necessary equipment and facilities and is limited to the capacity of Cox's fiber optic cable facilities as well as facilities Cox may obtain from other carriers, from time to time, to furnish service as required at the sole discretion of Cox. The furnishing of service under the Agreement is subject to the availability of adequate numbering resources and may be subject to Cox's implementation of interconnection arrangements with the incumbent local exchange carriers.

A31. **Changes.** Cox, in its sole discretion, may modify, add, supplement and/or remove any of the General Terms and/or any related policies and linked terms from time to time ("Revisions") upon written notice to Customer by any means specified in Section A28 hereof and all such Revisions will be effective thirty (30) days after notice is issued ("Opt-Out Period") unless Customer opts out as described in this paragraph. Customer may opt out of the Revisions by providing written notice to Cox via email at CBOptOut@cox.com or via a letter sent U.S. Mail or Overnight Delivery to the Cox Legal Department, Attn: Litigation Counsel, 6205B Peachtree Dunwoody Road, Atlanta, GA 30328, stating that Customer is opting out of the Revisions. Customer's written notification to Cox must include the Customer's name, address and account number, the name and position of the person submitting the notification on behalf of the Customer, as well as a clear statement of which Revisions Customer is opting out of. Customer must submit its written notice opting out of the Revisions within the thirty (30) day Opt-Out Period, or Customer shall be deemed to accept the Revisions. Further, Customer's continued use and/or payment for Services after the thirty (30) day Opt-Out Period shall also be deemed acceptance of all Revisions. If Customer opts out of any Revisions, Cox may (i) immediately terminate the Agreement without penalty or liability to Customer or (ii) Cox may provide notice to Customer that the opted-out Revisions will not apply to Customer and the Agreement will then continue under the most recent contract terms. Until Cox provides notice of its election of option (i) or (ii) in the preceding sentence, the Agreement shall continue under its most recent contract terms excluding any Revisions properly opted out by Customer. This paragraph states Customer's sole and exclusive remedy for any Revisions. Notwithstanding anything to the contrary in this Agreement, Cox may make Revisions that it deems are minor or concern products or services which are not currently under

contract with Customer, and such updates shall be deemed effective after the update is posted online, with or without actual notice to Customer.

Cox may also update its AUP and privacy policy from time to time, and such updates shall be deemed effective after the update is posted online, with or without actual notice to Customer. Accordingly, Customer should check the AUP and privacy policy web addresses (or the applicable successor URLs) on a regular basis to ensure that its activities conform to the most current version of the policies. Cox's action or inaction in enforcing the AUP shall not constitute review or approval of Customer's or any other users' use.

A32. DISPUTE RESOLUTION; MANDATORY BINDING ARBITRATION; JURY TRIAL WAIVER; CLASS ACTION WAIVER (THE "DISPUTE RESOLUTION PROVISION").

IF CUSTOMER FOLLOWS THE PROCEDURES SET FORTH IN SUBPARAGRAPH (B) BELOW, CUSTOMER HAS THE RIGHT TO OPT OUT OF THE ARBITRATION REQUIREMENT DESCRIBED IN SUBPARAGRAPH (A) WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THE PARTIES' AGREEMENT OR WRITTEN NOTICE OF THE ADDITION OF THIS DISPUTE RESOLUTION PROVISION (THE "OPT-OUT PERIOD"). OTHERWISE, CUSTOMER SHALL BE REQUIRED TO SETTLE ANY DISPUTES IT MAY HAVE WITH COX THROUGH THE FOLLOWING DISPUTE RESOLUTION PROCEDURES.

Arbitration Requirement. EXCEPT AS OTHERWISE STATED IN THE DISPUTE RESOLUTION PROVISION, THE PARTIES SHALL ARBITRATE — RATHER THAN LITIGATE IN COURT — any and all claims, disputes, or controversies between Customer and Cox, including any parents, subsidiaries, affiliates, officers, directors, employees, or agents of Cox, whether based in contract, statute, regulation, ordinance, tort (including, but not limited to, fraud, misrepresentation, fraudulent inducement, negligence, or any other intentional tort) or other legal or equitable theory ("Dispute") that arise out of or in any way relate to this Agreement, or any of the Services or products that Cox provides to Customer (including but not limited to amounts that Cox charges Customer for Services or products provided, any alleged breach related to the collection, retention or disclosure of Customer's personal information, and any alleged violation of

Cox's privacy policy or the AUP). The parties shall also arbitrate any and all Disputes that arise out of or relate in any way to any services or products provided to Customer by Cox or any of its affiliated entities under any other agreement. "Dispute" is to be given the broadest possible meaning that will be enforced.

- (B). OPT OUT. CUSTOMER MAY OPT OUT OF THE ARBITRATION REQUIREMENT DESCRIBED IN SUBPARAGRAPH (A) ABOVE BY NOTIFYING COX OF THAT INTENT DURING THE OPT-OUT PERIOD BY SENDING EITHER AN EMAIL TO COX AT CBOPTOUT@COX.COM OR A LETTER SENT VIA U.S. MAIL TO COX LEGAL DEPARTMENT, ATTN: LITIGATION COUNSEL, 6205B PEACHTREE DUNWOODY ROAD, ATLANTA, GA 30328, STATING THAT CUSTOMER IS OPTING OUT OF THE ARBITRATION REQUIREMENT DESCRIBED IN SUBPARAGRAPH (A). CUSTOMER'S WRITTEN NOTIFICATION TO COX MUST INCLUDE THE CUSTOMER'S NAME, ADDRESS AND ACCOUNT NUMBER, THE NAME AND POSITION OF THE PERSON SUBMITTING THE NOTIFICATION ON BEHALF OF THE CUSTOMER, AS WELL AS A CLEAR STATEMENT THAT CUSTOMER DOES NOT WISH TO RESOLVE DISPUTES WITH COX THROUGH ARBITRATION. CUSTOMER'S DECISION TO OPT OUT OF THE ARBITRATION REQUIREMENT DESCRIBED IN SUBPARAGRAPH (A) ABOVE, IF IT CHOOSES TO DO SO, WILL HAVE NO ADVERSE EFFECT ON CUSTOMER'S RELATIONSHIP WITH COX OR THE DELIVERY OF SERVICE(S) TO CUSTOMER BY COX. IF CUSTOMER OPTS OUT OF THE ARBITRATION REQUIREMENT DESCRIBED IN SUBPARAGRAPH (A) ABOVE FOLLOWING THE PROCEDURE OUTLINED HEREIN, THAT OPT OUT WILL REMAIN IN EFFECT IF COX MODIFIES THIS SECTION IN THE FUTURE OR CUSTOMER AGREES TO A NEW TERM OF SERVICE UNDER THIS AGREEMENT. HOWEVER, IF CUSTOMER ENTERS INTO A NEW AGREEMENT WITH COX THAT INCLUDES ITS OWN DISPUTE RESOLUTION OR ARBITRATION PROVISION AND CUSTOMER WANTS TO OPT OUT OF THAT PROVISION, CUSTOMER WILL NEED TO FOLLOW THE INSTRUCTIONS IN THAT AGREEMENT FOR OPTING OUT. Notwithstanding the agreement to arbitrate that is described in subsection (A) above, Customer and Cox may bring appropriate Disputes (as defined below) against each other in small claims court, if the Dispute falls within the small claims court's jurisdiction, or before the Federal Communications Commission, the relevant state public utilities commission, or any

other federal, state, or local government agency authorized by law to hear the Dispute.

EXCLUSIONS FROM ARBITRATION. THE PARTIES AGREE THAT THE FOLLOWING SHALL NOT BE A 'DISPUTE' SUBJECT TO ARBITRATION: (1) ANY DISPUTE OVER THE VALIDITY OF ANY PARTY'S INTELLECTUAL PROPERTY RIGHTS; (2) ANY DISPUTE THAT ARISES BETWEEN COX AND ANY STATE OR LOCAL REGULATORY AUTHORITY OR AGENCY THAT IS EMPOWERED BY FEDERAL, STATE, OR LOCAL LAW TO GRANT A FRANCHISE UNDER 47 U.S.C. § 522(9); (3) ANY DISPUTE THAT CAN ONLY BE BROUGHT BEFORE AN APPLICABLE FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCY SUCH AS THE FEDERAL COMMUNICATIONS COMMISSION (FCC); AND (4) ANY DISPUTE THAT CAN ONLY BE BROUGHT BEFORE THE LOCAL FRANCHISE AUTHORITY UNDER THE TERMS OF THE FRANCHISE.

Restrictions. CUSTOMER MUST CONTACT COX WITHIN ONE (1) YEAR OF THE DATE OF THE OCCURRENCE OF THE EVENT OR FACTS GIVING RISE TO A DISPUTE (EXCEPT FOR BILLING DISPUTES, ABOUT WHICH CUSTOMER MUST CONTACT COX WITHIN THIRTY (30) DAYS AS PROVIDED IN SECTION A1 OF THE GENERAL TERMS), OR CUSTOMER WAIVES THE RIGHT TO PURSUE ANY CLAIM BASED UPON SUCH EVENT, FACTS, OR DISPUTE.

Class Action Waiver. Customer and Cox agree that all Disputes between Customer and Cox will be arbitrated individually, and that there will be no class, representative, or consolidated actions in arbitration. An arbitrator appointed pursuant to this Agreement shall not be authorized to arbitrate any claim on a class action or consolidated basis or on any bases involving claims brought in a purported representative capacity on behalf of the general public (such as a private attorney general), other subscribers, or other persons. If Customer or Cox brings a claim in small claims court, the class action waiver will apply, and neither party can bring a claim on a class or representative basis. Furthermore, neither Customer nor Cox may participate in a class or representative action as a class member if the class action asserts Disputes that would fall within the scope of this arbitration agreement if they were directly asserted by Customer or Cox. The parties agree that this class action waiver is an essential part of this Dispute Resolution Provision and that if this class action

waiver is found to be unenforceable by any court or arbitrator then the entire Dispute Resolution Provision will not apply to any Dispute between Customer and Cox, except for the provisions of subparagraph (I) waiving the right to jury trial. This class action waiver may not be severed from the arbitration agreement.

(H).

(F). Arbitrator Authority. The arbitration between Customer and Cox will be binding. In arbitration, there is no judge and no jury. Instead, the Dispute will be resolved by an arbitrator, whose authority shall be governed by the terms of this Agreement. Customer and Cox agree that an arbitrator may only award such relief as a court of competent jurisdiction could award, limited to the same extent as a court would limit relief pursuant to the terms of this Agreement. An arbitrator may award attorneys' fees and costs if a court would be authorized to do so, and may issue injunctive or declaratory relief if that relief is required or authorized by the applicable law, but that injunctive or declaratory relief may not extend beyond Customer and Customer's dealings with Cox. An arbitrator shall not be authorized to rule or act contrary to law. Judicial review of arbitration decisions is limited.

(G). Informal Dispute Resolution. Customer and Cox agree that Customer will try to resolve disputes informally before resorting to arbitration. If Customer has a dispute, Customer shall first call Cox Customer Care at the number listed on Customer's monthly bill statement. If the Cox representative is unable to resolve Customer's dispute in a timely manner, Customer shall notify Cox of the dispute by sending a written description of Customer's claim to Cox Customer Care, ATTN: Corporate Escalation Team, 6205B Peachtree Dunwoody Road, Atlanta, GA 30328 so that Cox can attempt to resolve the dispute with Customer. If Cox does not satisfactorily resolve Customer's claim within 30 calendar days of receiving written notice of Customer's claim to Cox Customer Care, then Customer may pursue the claim in arbitration. Neither Customer nor Cox may initiate arbitration without first following the informal dispute resolution procedure provided in this paragraph and thereafter, if the dispute is still not resolved, the party who desires to initiate arbitration must provide the other written notice of the intent to file for arbitration. Customer shall send written notice of its intent to file for arbitration to Cox via U.S. mail to Cox Legal Department, Attn: Litigation Counsel,

6205B Peachtree Dunwoody Road, Atlanta, GA 30328. If Cox is sending Customer a written notice of its intent to file for arbitration, Cox will send notice to the last known address of record Cox has on file for Customer.

Arbitration Procedures. Customer and Cox agree that this Agreement and the services Cox provides to Customer affects interstate commerce and that the Federal Arbitration Act, and not state arbitration laws, applies for all Disputes. All arbitrations shall be conducted by the American Arbitration Association ("AAA"). The AAA's rules are available on its website at www.adr.org or by calling 1-800-778-7879. If the claim asserted in arbitration is for less than \$75,000, the AAA's Consumer Arbitration Rules will apply. If the claim asserted is for \$75,000 or more, the Commercial Arbitration Rules will apply. If there is a conflict between the AAA's rules and this Dispute Resolution Provision, this Dispute Resolution Provision shall control. To initiate arbitration, Customer must send a letter requesting arbitration and describing Customer's claims to Cox at CBOptOut@cox.com or via U.S. mail to Cox Legal Department, Attn: Litigation Counsel, 6205B Peachtree Dunwoody Road, Atlanta, GA 30328. Customer must also comply with the AAA's rules regarding initiation of arbitration. Cox will pay all filing fees and costs for commencement of arbitration, but Customer will be responsible for Customer own attorneys' fees and costs unless otherwise determined by the arbitrator pursuant to the terms of this Agreement or applicable law. Cox will not seek to recover its fees and costs from Customer in the arbitration, even if allowed under the law, unless Customer's claim has been determined to be frivolous. The arbitration will be held in the county of the billing address where Cox provided Customer service and either party may appear either in person or by telephone.

Jury Trial Waiver. If for any reason the arbitration requirement described in subparagraph is found to be illegal or unenforceable, or if Customer opts out of this arbitration per subparagraph (B) above, and/or a claim is brought that is excluded from arbitration as described in this Dispute Resolution Provision, the parties expressly and knowingly WAIVE THE RIGHT TO TRIAL BY JURY to the fullest extent permitted by applicable law. Customer acknowledges that a jury trial waiver means that a judge rather than a jury will decide the dispute(s) between Customer and Cox if, for any reason, the dispute is not subject to arbitration.

(J). Survival. This Dispute Resolution Provision survives the termination of the Agreement. If Customer brings a claim against Cox after termination of the Agreement that is based in whole or in part on events or omissions that occurred while Customer was a Cox customer, this Dispute Resolution Provision shall apply.

A33. **Miscellaneous.** This Agreement with Customer includes the terms and conditions set forth in the CSA, MSA or other agreement incorporating these General Terms, whichever is applicable, these General Terms, the tariffs (as applicable), the SGs (as applicable), and any other documents referenced in the Agreement or otherwise executed by the parties. The aforementioned documents constitute the entire agreement between Cox and Customer for the Services and Cox Equipment. While all of these documents are intended to be read together in a consistent manner, in the event of any conflict between or among the provisions of this Agreement, the tariffs, the SGs, and the documents referenced herein, the documents shall prevail in the following order (except where applicable law requires the tariff to take precedence): (i) the terms and conditions set forth in this Agreement; (ii) the applicable Cox tariff or SG. In the event of any conflict between these General Terms and any terms and conditions in the CSA, MSA or any other written agreement in which these General Terms are incorporated, whichever is applicable, these General Terms shall control. Capitalized Terms used in these General Terms and not defined herein will have the meanings ascribed to such terms in the Service Terms, as applicable. If any term of this Agreement is, to any extent, illegal, otherwise invalid, or incapable of being enforced, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms hereof shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term. The invalidity or unenforceability of any term or condition of this Agreement shall not affect the validity or enforceability of any other provision. This Agreement and the obligations of the parties shall be subject to modification by Cox to comply with all applicable laws, regulations, court rulings, and administrative orders, as amended. Customer agrees that State and Federal regulations may apply

to Services and that, in the event of any change to such regulations, Services may be modified to be consistent with, and Customer's use of Services must be consistent with, such regulations. Except as otherwise provided herein, this Agreement may be modified, waived, or amended only by a written instrument signed by the parties. The rights and obligations of the parties under this Agreement shall be governed by the laws of the State where Services are installed. The failure by either party to exercise one or more rights provided in this Agreement shall not be deemed a waiver of the right to exercise such right in the future. The relationship created between the parties by virtue of this Agreement shall be solely that of vendor-purchaser as independent contractors and that no agency, joint venture, or joint business relationship shall be deemed created hereunder. There are no third party beneficiaries to this Agreement, except as expressly provided in this Agreement. Customer's acceptance of this Agreement occurs upon the earlier of: (a) execution of this Agreement by Customer or Customer's representative, including without limitation, Customer's or Customer's representative's electronic signature on this Agreement; (b) Customer's use of any Service provided under this Agreement; or (c) Customer's retention of any Cox Equipment for more than thirty (30) days after Customer's receipt of such Cox Equipment. Except as expressly set forth in this Agreement, neither party shall use, publicize, or issue any press release which includes the name, trademarks, or other proprietary identifying symbol of the other party or its affiliates, without the prior written consent of such other party.

A34. **Scope of Agreement.** This Agreement is for Cox to provide Services. Unless otherwise explicitly agreed to in the Agreement, this Agreement is not for Cox to perform any construction, alteration, demolition, installation, repair or maintenance work of any kind paid for in whole or in part out of public funds. Any construction, alteration, demolition, installation, repair or maintenance work that Cox may perform in connection with or related to this Agreement will be solely to expand or maintain Cox's own facilities to provide Services to Customer and/or to other Cox customers, at Cox's option. All Cox facilities, including without limitation any such newly constructed facilities will be and shall remain the sole property of Cox. Customer shall have no ownership over, control of, or exclusive rights to use, such Cox facilities.

A35. **Regulatory Authority.** The Services may be subject to filing with the regulatory authority with jurisdiction over the Services. If the Agreement is required to be filed, Customer shall execute such additional forms as are reasonably necessary to permit Cox to make an appropriate filing. In some states, the Agreement may not be effective until approved by such regulatory authority. If this Agreement, any Services, and/or the related filing documents are not approved by the applicable regulatory authority, Cox may terminate this Agreement or Service(s), as applicable. This Agreement and the obligations of the parties shall be subject to modification to comply with all applicable laws, regulations, court rulings, administrative orders, and State public utility commission rules, as required.

A36. **Ownership.** Except as expressly set forth in the Agreement, the Agreement does not grant either party any rights, implied or otherwise, to the other party's intellectual property. As between the parties, Cox owns all rights, title and interest in and to the Services.

A37. **Feedback.** If Customer provides Cox with feedback and/or suggestions about the Services, then Customer hereby grants Cox an irrevocable, perpetual, sublicensable right and license to fully exploit and use that feedback and suggestions for any purpose whatsoever, including, but not limited to, incorporation into the Services, resale and/or the creation of derivative works.

A38. **Third-Party Provided Service.** In the event Cox utilizes a third-party provider to furnish the Services to Customer, Customer acknowledges and agrees any terms and conditions imposed on Cox by such third-party provider may take precedence over any term and conditions described within this Agreement, including, but not limited to, any technical specifications, performance specifications, service type, Service Level Agreements, or installation timeframes, as determined by Cox in its sole discretion.

For any Service provided via a third-party provider, Cox may pass through any outage credits Cox actually receives from the applicable third-party provider, not to exceed the Credit Allowance amount as defined by this Agreement. In the event Customer terminates a Service provided by a third-party provider other than for breach by Cox, Customer shall be responsible for any third-party provider fees

assessed and sent to Cox, in addition to any other early termination liability described in this Agreement.

B. Terms and Conditions Applicable to Internet and Network Services

In addition to all provisions in Section A above, the provisions of Section B shall also apply to all Internet and network Service(s):

B1. Internet Services. FOR COX INTERNET SERVICES, IN ADDITION TO THIS PROVISION AND OTHER PROVISIONS CONTAINED IN THESE GENERAL TERMS, THE "COX INTERNET SERVICE DISCLOSURES" LOCATED AT www.cox.com/internetdisclosures SHALL

APPLY. Cox Internet Services may consist of cable modem based Service and/or fiber delivered optical Internet Services. For each Internet Service, Cox shall provide Customer with Internet bandwidth connectivity, access, modem/gateway configuration (if applicable), and a static or dynamic IP address (if applicable) together with installation of the Services as provided under this Agreement. Cox reserves the right to change an IP address at any time for any reason. Customer shall be responsible for providing VPN software, firewalls, and related products and all other equipment beyond the Demarcation Point required to use the Services. For cable-modem delivered Internet Services, the bandwidth speeds identified for each Service may vary and such bandwidths shall be provided consistent with industry standards. Use of data, Internet, and web conferencing/web hosting Services shall be subject to Customer and any end users complying with the AUP which may be found at coxbusiness.com/acceptableusepolicy. Cox may change the AUP from time to time during the Term. Customer's continued use of the Services following an AUP amendment shall constitute acceptance of the revised AUP. Cox may terminate or suspend Service if Cox reasonably determines that Customer or its users are violating the AUP. For cable modem delivered Internet Services, Cox will supply a cable modem ("Cox Provided Modem") which may be subject to a one-time modem activation charge and a monthly modem rental fee, or Customer may provide its own modem (including through purchase from Cox if offered by Cox to Customer), provided that the Customer provided modem meets the requirements set forth below. The one-time modem activation fee and monthly rental fee for a Cox Provided Modem may be described at coxbusiness.com/cbsurchargesandfees. The one-time modem activation fee and monthly rental fee for a Cox Provided Modem is subject to change from

time to time. Customer shall not tamper with, or attempt to reprogram the modem, including, but not limited to, "uncapping" the modem or affecting its bandwidth settings. Cox may terminate Internet Service to any modem that has been altered following programming or installation by Cox. The Cox Provided Modem shall be deemed "Cox Equipment" as defined in these General Terms and title shall remain with Cox at all times. Cox may employ reasonable network management practices to address bandwidth usage.

B2. Equipment Requirements For Customer Provided Modem.

Customer may rent a cable modem from Cox or Customer may use their own cable modem with Cox Internet Service, provided that Customer's cable modem is 1) compatible with the applicable Cox Internet Service; 2) Compliant with DOCSIS or other applicable transport protocol; 3) reasonably clean and sanitary; and 4) in good working order. Please contact Cox Customer Care if you need more information. If Customer attempts to use a modem that is not certified for use and compatible with the applicable Cox Service(s), and/or is not in good working order, and such use results in additional cost or expense to Cox, Cox reserves the right to charge Customer an installation or repair fee.

B3. IP Address/Domain Name Registration.

Cox allocates IP addresses to Customer according to InterNIC guidelines. All IP addresses assigned by Cox must be relinquished by Customer upon the expiration or termination of this Agreement. IP addresses are subject to the IP policy in the AUP. Domain name registrations are subject to rules promulgated by the applicable domain name registrar, which may be amended from time to time. Customer shall consult its domain name registrar for complete information. Customer is responsible for payment and maintenance of domain name registration.

B4. Cox Optical Internet with Burst Option ("Burstable Service").

Charges for the Cox Optical Internet with Burst Option ("Burstable Service") consists of three (3) components: (a) a nonrecurring charge ("NRC") per connection (unless waived); (b) a fixed monthly recurring charge ("MRC") based on the Committed Information Rate (CIR) specified in the Customer's Agreement; and (c) a periodic charge based on usage, to the extent that usage exceeds the CIR specified in the Customer's Agreement. Customer's usage of Burstable Service is

calculated by measuring samples of Customer's "Send Traffic" and "Receive Traffic" every five (5) minutes for the previous five (5) minute period. At the end of each month of the Term, the "Send Traffic" and "Receive Traffic" sample sets for that month are separately arranged from highest to lowest and the top five percent (5%) of samples for "Send Traffic" and "Receive Traffic" are discarded. The highest remaining sample (either "Send Traffic" or "Receive Traffic") is the Ninety-Fifth (95th) Percentile. If the Ninety-Fifth (95th) Percentile is a fraction of a megabit, it is rounded to the next full megabit and is compared to the CIR. If the Ninety-Fifth (95th) Percentile is greater than the CIR, Customer will, in addition to being billed for the CIR as described in (b) above, be billed for the difference between the CIR and the Ninety-Fifth (95th) Percentile and such difference shall be billed at the price per megabit described in the Agreement multiplied by the number of megabits. The Burstable Service is available on a best efforts basis only. The ability to burst is subject to availability and is limited to the burstable limits set forth in the Agreement.

B5. Customer Purchased WiFi Service.

Customer is responsible for providing the equipment necessary for Customer, and its end users, to access the Wi-Fi Service purchased by Customer. If Customer makes the Wi-Fi Service available to other persons for use, unless expressly provided otherwise, Customer shall implement an end user license agreement approved by Cox for acceptance by those end users in connection with the Wi-Fi Service access. Customer acknowledges and agrees that because Wi-Fi Service is wireless Internet access, Customer's, or its end users', transmissions could be intercepted by unauthorized persons and Customer assumes all risks associated with offering access to, and/or use of, the Wi-Fi Service provided by Cox under this Agreement. Customer agrees to waive all claims against Cox and the Cox Related Parties for any damage, loss or liability Customer may suffer due to any person monitoring, intercepting, disclosing, or corrupting Customer's or its end users' communications. Without limiting the foregoing, Cox and the Cox Related Parties have no liability to Customer or any end users using the Wi-Fi Service through Customer for damage or loss to any computers or software, including losses or damages caused by viruses that may infect Customer's or any end user's network, computers, devices (e.g., tablets, wireless phones or other peripherals), or other facilities through use of the Wi-Fi Service. When Customer uses the Wi-Fi

Service, Cox, and/or any third party vendor utilized by Cox, may track and store Customer's IP address and the MAC address of the device accessing the Wi-Fi Service. Customer hereby consents to Cox and/or the Cox Related Parties' collection, use, transmission, processing and maintenance of such data in connection with provision of the Wi-Fi Service. Cox will provide this information to law enforcement personnel if requested pursuant to lawful subpoena or court order. ALTHOUGH COX HAS TAKEN COMMERCIALY REASONABLE STEPS TO PROVIDE A SECURE SYSTEM WITHIN LIMITATIONS EXISTING IN NETWORK AND COMPUTER INFRASTRUCTURE, COX MAKES NO REPRESENTATION OR WARRANTY THAT (A) COMMUNICATIONS OVER THE WI-FI SERVICE SHALL BE SECURE FROM UNAUTHORIZED ACCESS, INCLUDING WITHOUT LIMITATION, MONITORING, THEFT OF DATA OR CORRUPTION OF CONTENT, OR ANY OTHER DAMAGE AND (B) THAT CUSTOMER AND/OR ANY END USERS USING THE WI-FI SERVICES WILL NOT RECEIVE A VIRUS OR OTHER MALWARE THAT DAMAGES SUCH USERS COMPUTER(S), DEVICE(S) OR NETWORK FACILITY(IES). CUSTOMER ACKNOWLEDGES THE RISKS ASSOCIATED WITH ACCESS TO THE INTERNET AND HEREBY RELEASES AND WAIVES ALL CLAIMS AGAINST COX AND ANY COX RELATED PARTY FROM AND FOR ANY LIABILITY FOR UNAUTHORIZED ACCESS, FOR SECURITY BREACHES AND/OR ALL DAMAGES ARISING FROM SUCH UNAUTHORIZED ACCESS, LOSSES OR DAMAGES.

B6. Cox Internet Gateway, Guest Wi-Fi, and External Distribution.

If Customer has purchased Cox Internet (CBI) Service, Cox may rent to Customer, upon Customer's request, an all-in-one electronic device consisting of a cable modem and a Wi-Fi enabled LAN-side router (a "Gateway"), which shall enable Wi-Fi Service as described above ("Cox Internet Gateway Service" or "CBIG") at the Premises. If Customer requires additional Gateways from Cox, Cox will rent to Customer (i) a Gateway for the CBIG Service and (ii) a separate, dedicated Gateway to facilitate the provision of Wi-Fi Services for Customer's end users and/or to otherwise expand the Wi-Fi coverage area for Customer's premises ("Guest Wi-Fi Service"). Customer agrees to pay Cox a non-recurring charge for the installation and activation of each Gateway and a monthly recurring charge for the rental of each Gateway from Cox. Optimal Wi-Fi end user experience for CBIG and Guest Wi-Fi Services shall

not exceed fifty (50) simultaneous sessions per Gateway. Cox will not provide troubleshooting assistance directly to Customer's end users or for Customer's end users' devices. Wireless coverage area, signal strength, and speed of the CBIG, Managed Wi-Fi, and Guest Wi-Fi Services may vary and may be affected by building construction, topography, layout, and other factors. Cox does not guarantee Customer's wireless network's security against all forms of unauthorized network access. Customer is expressly prohibited from charging a fee to (including but not limited to any one-time fee, hourly, daily, monthly or other subscription or usage charges), or receiving consideration of any type from, any end user in connection with the Managed Wi-Fi, Wi-Fi Services or Guest Wi-Fi Services. Cox shall retain all ownership rights in and to all Cox Equipment including, but not limited to, the Gateway(s), modems, switches, and/or access points ("AP"), as the case may be and Customer shall return all Cox Equipment to Cox in good and working condition and in the manner described in these General Terms. All Cox Equipment provided to Customer must be returned upon service termination to avoid additional charges to Customer. Cox reserves the right to send software, firmware, code updates, downloads and/or other programs to the Gateway, and may utilize the Gateway, or any other Cox Equipment with certain Wi-Fi capabilities, and may utilize such equipment and attached wiring to distribute external Wi-Fi signals for the deployment of Cox Wi-Fi and/or Cox Cable Wi-Fi, and related similar services now or hereafter offered by Cox (such external distribution is referred to herein as, the "Cox and Cable Wi-Fi Feature"). Customer will have the right and the opportunity, at any time, to opt out of the use of its Gateway or other Cox Equipment by Cox for the Cox and Cable Wi-Fi Feature, through the customer account management tools located at www.cox.com, or by calling Cox Customer Care at the telephone number listed on Customer's bill. Customer hereby agrees not to include any descriptions or references to "Cox", "Cox Business", "Cox Communications", "Cox Enterprises", or any derivation thereof in the Service Set Identifier (SSID) naming convention for Customer's wireless network(s) at the Premises. Cox shall install the Gateway(s) and/or other Wi-Fi related Cox Equipment, as the case may be, in certain areas within the Premises to optimize network coverage; however, wireless coverage areas may change after installation due to Customer's relocation of equipment and

environmental factors (i.e., neighboring wireless networks and other relevant factors). Customer must provide Cox with electric power outlets in sufficient quantity and voltage/power for the Cox Equipment. Customer must also provide Cox with adequate space on a flat counter top or side wall at the Premises to install the Gateway(s), with minimum dimensions of 8" x 24" per Gateway, and any other space necessary to permit the placement and adequate operation of any Cox Equipment for the provision of any Wi-Fi related Service purchased by Customer. Cox will provide Customer with basic remote support of the CBIG and Guest Wi-Fi Services at no charge. Basic remote support includes the following: Remote Access Enabled/Disabled, Primary SSID and password resets, Backup and Restore Gateway configuration files in "My Account", IP configuration, Wi-Fi Enabled/Disabled, Bridge Mode or Router Mode configuration, Time Zone/Daylight Savings, and Firewall Enabled (Medium or Low).

B7. Managed Wi-Fi. In the event that Customer has purchased Managed Wi-Fi Private Package, Managed Wi-Fi Guest Package, Managed Wi-Fi Total Package, or any Managed Wi-Fi Complex or K-12 Managed Wi-Fi service or any other similar product offering (referred to individually and collectively, as "Managed Wi-Fi Service(s)") this provision shall apply. To receive Managed Wi-Fi Services, Customer must purchase, and maintain in place, Cox Internet Services at all times during the Term, it being understood that the Managed Wi-Fi Services cannot operate without Internet Services. The specific Cox Internet Service(s) required may vary depending upon the type of Managed Wi-Fi product purchased, and other determining factors. Any termination or discontinuation of such Internet Services shall cause an immediate termination or discontinuation of the Managed Wi-Fi Services, which will be subject to early termination fees under the Agreement. In connection with the Managed Wi-Fi Service, Cox (or a third party provider or an affiliate, contractor or subcontractor of same) will install certain equipment upon the Premises, which equipment shall be owned by Cox and considered Cox Equipment. Installation costs and/or nonrecurring charges may apply upon installation, and Customer may incur additional costs or charges after installation for configuration changes, addition or relocation of access points, changes to the product platform, or any other changes requested by Customer in connection with the Managed Wi-Fi Services. Unless otherwise agreed to in writing by

Cox, Customer shall implement an end user license agreement, or 'splash page' approved by Cox for acceptance by all end users of the Managed Wi-Fi Services. Cox will provide a portal to Customer as part of the Managed Wi-Fi Services (with a cloud-based 'User Guide' for the portal made available) to permit Customer to self-manage certain aspects of the Wi-Fi network and review certain reports. The portal will require a login by Customer. When Customer uses the Managed Wi-Fi Services, Cox, and/or any third party provider utilized by Cox, may track and store Customer's IP address and the MAC address of the device accessing the Managed Wi-Fi Services. Customer hereby consents to the foregoing collection, use, transmission, processing and maintenance of such data in connection with provision of the Managed Wi-Fi Services. Cox shall have no responsibility or liability with respect to any end users' computers or devices (e.g., tablets, wireless phones or other peripherals) connecting or failing to connect to Customer's network. The Managed Wi-Fi Services purchased by Customer may include Content Filtering as a product feature if purchased by Customer. "Content Filtering" is a feature that restricts network user access to websites that pose a heightened risk of harm to the network and/or end user devices or are otherwise objectionable, such as pornography sites, sites that distribute malware, and sites that distribute unlicensed content. The solution is designed to filter web traffic requests leveraging a managed set of objectionable categories and reputations derived from McAfee's Global Threat Intelligence system independently of Cox. While the intelligence system is continually updated to identify new sites for filtering, there is no guarantee that new threats or objectionable sites will not appear before they are identified and filtered. The Content Filtering feature is provided "as-is" and without warranty of any kind, express or implied, and is accepted fully at the risk of Customer. Neither Cox, nor its contractors, nor any third party provider or affiliate or contractor of same who installs or provides any portion of the Managed Wi-Fi Services, will be liable for any loss, expense or damage, of any nature whatsoever, which may arise out of the operation or lack of operation of the content filtering component of the Managed Wi-Fi Services, or the restriction or blocking, or failure to restrict or block any selected content, data or browsing, and Customer hereby unconditionally waives any and all claims against such parties related to the foregoing.

The provision of Managed Wi-Fi Services shall also be subject to all other terms and conditions in the Agreement related to the provision of Wi-Fi Services generally. The parties acknowledge and agree that Cox reserves the right to suspend, modify, or terminate the Managed Wi-Fi Services or any part thereof, either temporarily or permanently, without notice. Cox reserves the right to add or remove features and capabilities from the Managed Wi-Fi Services, and some features may only be available to Customer at an additional cost.

B8. Managed Router. If Customer purchases Managed Router Services of any type, which may include Managed Router with Advanced Security Services or any other similar product offering (referred to individually and collectively, as "Managed Router Service(s)"), this provision shall apply. To receive Managed Router Services, Customer must purchase, and maintain in place at the Premises, Cox Internet Services and/or Cox Networking Services at all times during the Term, it being understood that the Managed Router Services cannot operate without such underlying Cox Services. The specific Cox Internet Service(s) and/or Cox Networking Services that are required may vary depending upon the type of Managed Router product purchased, and other determining factors. Any termination or discontinuation of such Cox Internet Services and/or Cox Networking Services may result in an immediate termination or discontinuation of the Managed Router Services, which may be subject to early termination fees under the Agreement. In connection with the Managed Router Services, Cox (or a third party provider or an affiliate, contractor or subcontractor of same) will install certain equipment, which shall include a router (referred to herein as the "Router") upon the Premises, which equipment shall be owned by Cox and considered part of the Cox Equipment. Installation costs and/or nonrecurring charges may apply. Customer will not alter or tamper with the Managed Router Service, the Router or any other Cox Equipment unless expressly authorized in writing by Cox to do so. As part of the Managed Router Service Customer will be required to maintain passwords for Customer's end user accounts through Customer's authentication server to provide for remote access. Cox will make available a VPN End User Guide (or other guides) to Customer that outline the use of the Managed Router Service, and Customer agrees not to use the Service in violation of same. Customer agrees to provide (a) Cox with the appropriate access to the

Premises, including the Router installation location, at an agreed upon time to install and turn up the Router; (b) all LAN equipment to connect to the Router, which include, but is not limited to, switches and servers; (c) Cox with the necessary connections from the Router to the Customer LAN (switches, other equipment) to ensure that the Router can adequately support the Customer LAN deployment; (d) a secure and safe location for placement of the Router and any other Cox Equipment where damage can be prevented; and (e) Cox with an appropriate point of contact that will be available at all times to provide necessary access, to answer questions, and provide relevant Customer information about the site survey, configuration requirements, and any applications that are expected to be supported through the Router. Customer shall notify Cox of any breach of security of which it becomes aware, and which may have an impact on Cox's network or provisioning of the Managed Router Services. The parties acknowledge and agree that Cox reserves the right to suspend, modify, or terminate the Managed Router Services or any part thereof, either temporarily or permanently, without notice. Cox reserves the right to add or remove features and capabilities from the Managed Router Services, and some features may only be available to Customer at an additional cost. Customer agrees that Cox will not be liable for any damages resulting from any modification or cessation of the Managed Router Services. Use of the Managed Router Service(s) is subject to Cox's third party provider's VeloCloud End User Subscription Agreement posted at <https://www.velocloud.com/company/subscription/> and Data Processing Addendum at <https://www.vmware.com/content/dam/digitalmarketing/vmware/en/pdf/downloads/eula/vmware-data-processing-addendum.pdf> and are incorporated into the Agreement by these references (collectively, "VeloCloud Terms"). In the event of a conflict between the VeloCloud Terms and any other term or condition of the Agreement, the VeloCloud Terms shall control with respect to the purchase and/or use of the Managed Router Services.

B9. Managed SD-WAN. If Customer purchases Managed SD-WAN Services of any type or any other similar product offering (referred to individually and collectively, as "Managed SD-WAN Service(s)"), this provision shall apply. Use of the Managed SD-WAN Service(s) is subject to the VeloCloud Terms. In the event of a conflict between the VeloCloud Terms and

any other term or condition of the Agreement, the VeloCloud Terms shall control with respect to the purchase and/or use of the Managed SD-WAN Services.

B10. Wavelength Service Best Effort Restoration Feature. The Cox Wavelength network allows for automatic restoration of Wavelength services in certain instances. If a Wavelength service experiences a fiber cut or other major outage, the Wavelength service may be automatically rerouted across another non-affected path, if available. Once the Wavelength service has been restored, traffic will revert to the original path. Any Wavelength service with automatic traffic rerouting shall not be considered a protected or enhanced Wavelength service. Automatic traffic rerouting is a best-effort feature provided at no additional cost as a potential operational benefit to Customer. Cox shall be subject to no liability, and Customer shall not be entitled to any credits, in the event the automatic restoration described in this Section B10 fails to occur. If Customer purchases diverse routes to the applicable Wavelength from other service providers and wants to deactivate this automatic restoration feature, Customer must inform Cox in writing and request deactivation.

C. Terms and Conditions Applicable to Voice and Tariffed Services

In addition to all provisions in Section A above, the provisions of Section C shall also apply to all Voice Service(s):

C1. Voice Services Generally. "Voice Service(s)" or "voice service(s)" shall mean the following Cox Business Services: Telephony Basic, Centrex, VoiceManager, IP Centrex, PRI Trunks, SIP Trunks, VoIP, and any other voice telephone service or feature. Voice Services are subject to change from time-to-time by Cox in its sole discretion. Upon at least thirty (30) days prior written notice to Customer, Cox may discontinue, change, or modify certain Voice Services, and certain capabilities or features associated with Voice Services, including without limitation how certain features associated with Voice Services are accessed.

If Cox transitions Voice Services to a different network platform, or if Cox performs certain maintenance or upgrade activities, or for any other reason as determined by Cox in its sole discretion, Cox may itself, or request the Customer, add, change or modify certain equipment or software at Customer's Premises in order for Customer to continue to receive the Voice Services.

C2. Telephone Numbers. Cox will reserve the telephone number(s) for Customer's new telephone Voice Service. Reserved telephone numbers may change prior to the time of installation of service. Customers should not use, publish or advertise reserved telephone numbers until service has been activated. Customer is solely responsible for any expense or loss resulting from Customer's use, publication or dissemination of these telephone numbers. The Customer has no property right in the telephone number(s) associated with Cox telephone Voice service, however, if Customer ports telephone numbers from another carrier to Cox, subject to federal or state law, or telephony industry guidelines, Cox will use such numbers with Customer's telephone Voice Service. After activation of service, Cox reserves the right to change Cox assigned telephone numbers subject to federal or state law, or telephony industry guidelines. Additional terms and conditions related to telephone numbers are contained in Cox's local exchange tariffs or if applicable, in the SGs (defined below).

C3. Tariffs/Service Guides. If Customer is purchasing any Service that is regulated by the FCC or any State regulatory body ("Regulated Service"), then Customer's use of such Regulated Service is subject to the regulations of the FCC and the regulatory body of the State in which the Customer location receiving the Regulated Service is located (which regulations are subject to change), as well as the rates, terms, and conditions contained in tariffs on file with State and Federal regulatory authorities. For States where the Regulated Service is de-tariffed, the Regulated Service is provided pursuant to the rates, terms and conditions for the Cox Service Guides for that State (the "SG"), which may be found at <http://www.cox.com/phonetariffs> and which terms are incorporated herein by reference. Tariffs and the SG apply to both residential and business services even if designated as residential on the web addressed referenced in the preceding sentence. Cox may amend such tariffs and the SG and the Regulated Service shall be subject to such tariffs, or, if applicable, the SG, as amended. Customer must disclose to Cox if Customer intends to use the Regulated Services with payphone service. The tariffs and the SG contain cancellation or termination fees due in the event of cancellation or termination (including partial termination) of a Regulated Service prior to the Term in the Agreement. Termination fees include, but are not limited to, nonrecurring charges, charges paid to third parties on behalf of Customer, and the monthly recurring charges for the balance of the Term.

C4. 911 Access. Customer shall provide notice to Cox (i) at the time of execution of this Agreement or (ii) during the Term, at least 30 days in advance, if the Services are to be used to provide 911, E911, or NG911 capabilities to a public safety answering point, statewide default answering point, or appropriate local emergency authority (collectively "911 Access"). Cox may terminate this Agreement without liability as to any Services used to provide 911 Access at any time and for any reason by providing at least sixty (60) days' notice to Customer. Voice Services and Cox Equipment shall not be used for 911 Access prior to Cox's complete installation and activation of Services.

C5. Usage and Additional 911 Access Terms. THE TERMS AND CONDITIONS ABOUT COX'S 911 AND USAGE PRACTICES AT THE FOLLOWING LINK SHALL APPLY AND ARE INCORPORATED HEREIN: coxbusiness.com/e911.

911 Registered Address Location. All Voice Services have at least one registered physical address for 911 purposes. All Voice Services, except for those explicitly described as being non-mobile nomadic (capable of being used in multiple fixed locations), provided under this Agreement are only intended for use at the single registered physical address installed by Cox. If Customer relocates some or all of the telephones provided with the telephone Service under this Agreement, it is Customer's sole responsibility to notify Cox in order to update 911 location information and there may be a delay for the Customer's new address to be updated. In addition, customers can enter enhanced location information (for example, with floor or office in an office building) for 911 purposes through the MyAccount portal. Customers are solely responsible for inputting and/or verifying their enhanced location information via the MyAccount portal. VoiceManager IP Centrex Service customers do not have access to enhanced location information or non-mobile nomadic features in all areas, in which case, Cox will only provide E911 emergency agencies the billing telephone number and address associated with that number. If Customer is using a Private Branch Exchange (PBX) in connection with the Services, Customer must consult with Cox and ensure that the PBX provides Cox the telephone number and location information the Customer wishes to be provided to agencies receiving E911 emergency calls. The telephone number and location information choices available to Customer if using a PBX may vary, depending upon the services ordered, but will default to the billing telephone number if not otherwise specified.

For all voice services, which are expressly described as being non-mobile nomadic in nature (for example, Teleworker, National Number with Teleworker, or any IP Centrex service utilizing a third-party unified communications app, such as Cisco WebEx or Microsoft Teams), customers have the ability to enter specific location information for addresses in the United States in addition to the billing address into the ALI database and are solely responsible for inputting and/or verifying their specific location information. Customer shall ensure that the specific location information for 911 purposes remains correct and current at all times, including, without limitation, for voice calling applications, teleworker, and other remote calling features. Customers using Cox products or a third-party unified communications app relying on Cox

databases will enter their specific location information for 911 purposes via MyAccount. Integration with unified communications apps can vary and users may receive differing prompts and amounts of prompting to update their specific location information for 911 purposes. Regardless of app prompts, Cox routes all such 911 calls based on the information contained in the specific location information, accessible via My Account. Customers shall refer to the user materials provided by Cox, available at <http://www.coxbusiness.com/starthere>, to ensure that their unified communications apps settings are configured properly to work with Cox services. In these instances, Cox will store and process the location information in My Account.

Some customers may choose to rely on cloud-based unified communications apps, instead of Cox, to serve as their virtual Multi-Line Telephone System (MLTS) operator and handle certain 911 functions. For example, customers with Cloud Voice for Microsoft Teams have selected Microsoft Teams as their virtual MLTS operator, so Microsoft Teams is responsible for complying with MLTS regulatory requirements, such as, but not limited to, Kari's Law dialing and notification requirements (ensuring that users are not required to dial any digits before 911 to access emergency services and that a notification is sent to a centralized contact whenever a 911 call is placed); collecting, storing, and processing 911 location information; and routing 911 calls to a 911 operator or PSAP. Cox does not guarantee or warrant that virtual MLTS systems are compliant with FCC 911 requirements or will route 911 calls properly. In addition, Cox, at its sole discretion, may pass through to Customer and Customer agrees to pay any and all per 911 call operator charges it receives from the operator for Customer's 911 calls placed over a virtual MLTS systems that are routed to an intermediary operator before being routed to a PSAP.

NEITHER COX NOR ANY COX RELATED PARTY SHALL BE RESPONSIBLE OR LIABLE FOR ANY FAILURE TO RECEIVE VOICE SERVICE OR FOR THE FAILURE OF ANY 911 OR E911 TELEPHONE CALL INCLUDING WITHOUT LIMITATION IN CONNECTION WITH (A) CUSTOMER ATTEMPTS TO USE A NON-NOMADIC SERVICE AT AN ADDRESS WHERE EQUIPMENT WAS NOT INSTALLED BY COX, CUSTOMER'S FAILURE TO UPDATE OR INPUT ACCURATE 911 SPECIFIC LOCATION INFORMATION FOR ANY NON-MOBILE NOMADIC VOICE SERVICE OR ENHANCED LOCATION INFORMATION FOR ANY

VOICE SERVICE, (C) CUSTOMER'S ATTEMPT TO PLACE ANY 911 OR E911 TELEPHONE CALL BY USING OR ENABLING THE SHARED CALL APPEARANCE (SCA) FEATURE OR BUTTON ON ANY TELEPHONE(S) PROVIDED AS A PART OF THE COX VOICEMANAGER IP CENTREX SERVICE, (D) CUSTOMER'S ATTEMPT TO PLACE ANY 911 OR E911 TELEPHONE CALL USING ANY THIRD-PARTY SOFTWARE, APPLICATION, VIRTUAL MLTS SYSTEM, OR 911 PROVIDER (E) A NON- MOBILE NOMADIC CALL PLACED OUTSIDE OF THE CONTIGUOUS UNITED STATES; (F) A NON-MOBILE NOMADIC CALL PLACED FROM A LOCATION OTHER THAN THE ADDRESS LISTED AS THEIR SPECIFIC LOCATION INFORMATION; (G) INTERRUPTION, DISCONNECTION OR REMOVAL OF ANY EQUIPMENT OR OTHER SERVICE NECESSARY TO RECEIVE VOICE SERVICE, (H) REMOVAL, DISCONNECTION, DAMAGE TO, OR FAILURE TO CHARGE NECESSARY BACK-UP BATTERIES; (I) CUSTOMER'S FAILURE TO CONFIGURE A UNIFIED COMMUNICATIONS APPLICATION TO ALLOW PROPER INTEGRATION WITH COX'S VOICE SERVICE, OR (J) FAILURE TO PROVIDE LOCATION INFORMATION OR CORRECT LOCATION INFORMATION FOR 911 PURPOSES TO OR FROM A THIRD-PARTY UNIFIED COMMUNICATIONS APPLICATION, VIRTUAL MLTS SYSTEM OR 911 PROVIDER.

C6. **PIN Access.** The Federal Communications Commission ("FCC") requires Customer to set up and use a Private Identification Number (PIN) when communicating with Cox to obtain certain information about, or to make certain changes to, their telephone account. Use of this PIN may be waived when communicating with an account representative dedicated to Customer's account.

C7. **Letter of Agency.** Where applicable, the Letter of Agency executed in connection with this Agreement shall be valid during the Term of this Agreement for all telephone lines purchased under this Agreement that are ported to Cox.

C8. **Long Distance (State-to-State and International Telephone Services).** If Customer subscribes to or uses any long distance (State-to-State and/or International) telephone Services from Cox, such Services shall be provided pursuant to the additional terms and conditions contained in the Long Distance Phone Services Agreement which may be found at <https://www.cox.com/aboutus/policies/business->

[customer-phone-agreement.html](https://www.cox.com/aboutus/policies/business-customer-phone-agreement.html) and the applicable terms and conditions at [https://www.cox.com/content/dam/cox/aboutus/documents/Surcharges and Fees.pdf?sc_id=cb_cbdm_cb_cb_cbsurchargesandfees_cbvanity_cbT317](https://www.cox.com/content/dam/cox/aboutus/documents/Surcharges_and_Fees.pdf?sc_id=cb_cbdm_cb_cb_cbsurchargesandfees_cbvanity_cbT317), all of which are incorporated into the Agreement by this reference.

C9. **Universal Service Programs.** In connection with the FCC's Universal Service Orders, Cox will pay a percentage of its retail revenues to support the Universal Service Fund (USF). Cox passes through the USF assessment to Customer by assessing a charge applicable against all retail interstate and international charges, including Customer's usage and non-usage charges. This surcharge is in addition to standard usage charges and any applicable service charges and surcharges associated with the Customer's service. Cox's Universal Service Fee factor will match the relevant quarterly Universal Service Contribution Factor approved by the FCC rounded up to the nearest tenth of a percent. Universal Service Contribution Factors are available at <http://www.fcc.gov/encyclopedia/contribution-factor-quarterly-filings-universal-service-fund-usf-management-support>. In States with individual State-sponsored Universal Service Programs, Cox will pay a percentage of its retail revenues to support the individual State funds. Cox will pass-through the funds' assessments, by State, to its customers by assessing a charge applicable against all retail intrastate charges, including usage and non-usage charges. This surcharge is in addition to standard usage charges and any applicable service charges and surcharges associated with the Customer's service. The State Universal Service Program assessment percentages are determined by each State's Fund Administrator.

C10. **Off-Network Voice Services.** Non-mobile nomadic services may be used in multiple fixed locations only in the contiguous United States and require a broadband Internet connection at all times. If used in locations outside of the boundaries of Cox's network or if used at a location that is not a Cox Business internet customer, Customer is responsible for obtaining its own non-Cox Business-provided broadband internet connection, as non-mobile nomadic services cannot operate without a broadband internet connection and is subject to Cox's rights to terminate the Service if Cox determines in its sole discretion that the location where the Service is received or used is

unacceptable to Cox. Any interruptions, degradations, outages or any other issues related to broadband Internet connections may cause interruptions, degradations, outages or other issues with non-mobile nomadic voice services provided by Cox. THEREFORE, NEITHER COX NOR ANY COX RELATED PARTY SHALL BE LIABLE FOR DAMAGES FOR FAILURE TO FURNISH OR INTERRUPTION OF ANY NON-MOBILE NOMADIC VOICE SERVICES RELYING ON NON-COX BUSINESS PROVIDED BROADBAND INTERNET CONNECTIONS, OR FOR ANY PROBLEM WITH THE SERVICES OR EQUIPMENT OF ANY THIRD PARTY, NOR SHALL COX NOR ANY COX RELATED PARTY BE RESPONSIBLE FOR FAILURE OR ERRORS OF ANY COX SERVICE, COX EQUIPMENT, SIGNAL TRANSMISSION, LICENSED SOFTWARE, LOST DATA, FILES OR SOFTWARE DAMAGE, REGARDLESS OF THE CAUSE. NO SERVICE CREDITS OR REMEDIES UNDER ANY SERVICE LEVEL AGREEMENT SHALL APPLY FOR NON-MOBILE NOMADIC VOICE SERVICES. Any installation, repair, troubleshooting, and/or Truck Rolls for non-mobile nomadic voice services outside of Cox's market area may require additional fees and expenses to be paid by Customer beyond Cox's normal charges for in-market services. The provision of non-mobile nomadic voice services shall also be subject to all other applicable terms and conditions in the Agreement related to Voice Services generally. The parties acknowledge and agree that Cox reserves the right to suspend, modify, or terminate non-mobile nomadic voice services or any part thereof, either temporarily or permanently, without notice. Cox reserves the right to add or remove features and capabilities from non-mobile nomadic voice services, and some features may only be available to Customer at an additional cost.

C11. **Certain Installations.** For certain telephone Services, Cox may install an embedded multimedia terminal adapter (eMTA), an integrated access device (IAD), an enterprise session border controller (eSBC), an analog terminal adaptor (ATA), Layer 2 Switch, and/or a SBC Edge device with Customer's Service. This Cox Equipment, and any other Cox provided Equipment referenced herein, shall at all times remain the sole and exclusive personal property of Cox notwithstanding installation or attachment to Customer's Premises.

ONLY THE EMTA WILL HAVE BATTERY BACKUP

PROVIDED BY COX. CUSTOMER IS RESPONSIBLE FOR BATTERY BACKUP FOR THE IAD, ESBC, ATA AND ALL CUSTOMER EQUIPMENT. IN THE EVENT OF A POWER OUTAGE, CUSTOMER'S TELEPHONE SERVICE USING AN EMTA WILL CONTINUE TO OPERATE AS USUAL FOR UP TO EIGHT HOURS WITH THE BACKUP BATTERY PROVIDED BY COX, EXCEPT WHERE COX IS UNABLE TO PLACE AND OPERATE NETWORK BACKUP POWER EQUIPMENT DUE TO SAFETY CONCERNS. THE DURATION OF SERVICE DURING A POWER OUTAGE USING AN IAD, ATA, AND ESBC WILL DEPEND ON CUSTOMER'S BATTERY BACKUP CHOICE. IF THE EMTA, ATA, ESBC OR IAD THAT SUPPLIES YOUR TELEPHONE SERVICE IS DISCONNECTED OR REMOVED AND/OR THE BATTERY IS NOT CHARGED OR IS DAMAGED AND/OR THERE IS A POWER OUTAGE AND COX IS UNABLE TO PLACE AND OPERATE BACKUP POWER EQUIPMENT DUE TO SAFETY CONCERNS, SUCH AS, BUT NOT LIMITED TO, NATURAL DISASTERS, WILDFIRE CONDITIONS, FORCED GOVERNMENT EVACUATIONS, AND FUEL SHORTAGES, SERVICE, INCLUDING ACCESS TO 911 OR E911, WILL NOT BE AVAILABLE. COX SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY FAILURE TO RECEIVE SERVICE OR FOR THE FAILURE OF ANY 911 OR E911 CALL IF CUSTOMER REMOVES OR DISCONNECTS THE EMTA, ATA, ESBC OR IAD OR IF CUSTOMER FAILS TO CHARGE THE BATTERY FOR SAID DEVICES AT ANY TIME DURING THE TERM OF THIS AGREEMENT. COX USES CUSTOMER'S TELEPHONE SERVICE ADDRESS TO IDENTIFY CUSTOMER'S LOCATION FOR E911 SERVICE. IF THE EMTA, ATA ESBC AND/OR IAD INSTALLED AT CUSTOMER'S BUSINESS IS MOVED, THE E911 DISPATCH MAY NOT RECEIVE CUSTOMER'S CORRECT ADDRESS. CUSTOMER SHALL NOTIFY COX IF IT WOULD LIKE TO MOVE OR RELOCATE ITSTELEPHONE SERVICE. IT CAN TAKE UP TO 2 BUSINESS DAYS FOR CUSTOMER'S NEW ADDRESS TO BE UPDATED.

C12. **Cortelco Analog Telephones Handsets.** If Customer leases or purchases Cortelco analog telephone handsets from Cox, the additional terms and conditions at coxbusiness.com/cortelcophones shall apply.

C13. **Call Recording.** Cox does not currently provide call recording as a first party feature of its Services, but may refer Customer to third party services. If Customer enables any third-party call recording service, Customer expressly authorizes Cox to share Customer's information with the third-party provider, including, without limitation, Customer's name, telephone number(s), and email

address. If Customer, or any end user of the Service, records any telephone call or conversation using Cox Equipment or Services provided by Cox (including with the use of any third-party service or equipment), Customer is solely responsible for ensuring that Customer and any end user(s) comply with all applicable law. Recording a conversation without the other party's consent may be illegal in certain States. COX HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES AND MAKES NO REPRESENTATIONS OF ANY KIND REGARDING THE QUALITY ASSOCIATED WITH ANY RECORDING MADE USING ANY COX EQUIPMENT OR SERVICES OR THE SERVICES OF ANY THIRD-PARTY. COX AND ANY COX RELATED PARTIES SHALL HAVE NO LIABILITY IF THE RECORDING MADE USING COX EQUIPMENT OR SERVICES FAILS OR IS OF POOR QUALITY. COX HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES AND MAKES NO REPRESENTATIONS OF ANY KIND THAT COX'S SERVICES OR EQUIPMENT WILL WORK WITH OR SUPPORT ANY THIRD-PARTY SERVICE. COX AND ANY COX RELATED PARTIES SHALL HAVE NO LIABILITY FOR CUSTOMER'S USE OF ANY THIRD-PARTY SERVICES OR EQUIPMENT. COX AND ANY COX RELATED PARTIES SHALL HAVE NO LIABILITY FOR ANY INFORMATION SHARED WITH CUSTOMER'S THIRD-PARTY SERVICE PROVIDER. CUSTOMER ACKNOWLEDGES THAT COX IS NEITHER A CALL RECORDING SERVICE PROVIDER NOR A PARTY TO CUSTOMER'S CONTRACT WITH ANY THIRD PARTY SERVICE PROVIDER. HOWEVER, ANY SUCH AGREEMENT BETWEEN CUSTOMER AND A THIRD PARTY SERVICE PROVIDER SHALL NOT MODIFY OR SUPERSEDE CUSTOMER'S AGREEMENT WITH COX OR ANY OF CUSTOMER'S OBLIGATIONS IN THIS AGREEMENT. Customer shall indemnify, defend and hold harmless Cox, its Affiliates, employees, directors and shareholders and the Cox Related Parties from any and all claims arising from or related to recordings made using the Services, any Cox provided Equipment or any third-party services. Customer is solely responsible for any services or additional equipment that may be necessary (e.g., such as a USB device, storage or memory devices) and Cox has no responsibility to provide or support such equipment or services.

C14. Audio On Hold. If Customer purchases or otherwise uses any audio on hold Services (including music on hold), CUSTOMER IS SOLELY RESPONSIBLE FOR OBTAINING AND PAYING FOR

ALL NECESSARY PERMISSIONS, LICENSES AND CLEARANCES FOR RECORDING, MODIFYING AND PERFORMING COPYRIGHTED AND/OR PROTECTED MUSIC OR OTHER CONTENT IN CONJUNCTION WITH OR THROUGH AUDIO ON HOLD SERVICES. Cox has not secured (and will not secure) for Customer any permissions, licenses or clearances for the use of any copyrighted and/or protected music or other content and does not monitor Customer's use of audio on hold Services. Customer represents and warrants that any content and music provided by Customer or used by Customer through the audio on hold Services does not violate or infringe any intellectual property rights of any third parties, including copyright, trademark and publicity rights. Cox may terminate the audio on hold Services and any other Services if Cox believes that Customer has violated the terms of this Agreement or the rights of any third parties.

C15. Telephone Calls with Intent to Annoy. Cox may discontinue Service to any Customer, who, with intent to annoy, telephones another and uses any obscene language or makes any threat to inflict injury to any person or property. Cox may discontinue Service of any Customer, who with intent to annoy, repeatedly telephones another without disclosing his/her true identity to the person answering the telephone, whether or not conversation ensues during the telephone call. Cox may, at its discretion and subject to applicable law, terminate Service to any Customer who establishes a pattern of behavior with respect to the Services that is intended to vex, harm, intimidate, harass or annoy Cox, its employees, agents or other Cox customers or users of the network. A pattern of behavior is intended to vex, harm, intimidate, harass or annoy if it disturbs, irritates or interrupts Cox's operations through continued and repeated acts, or disturbs, irritates, or interrupts Cox customers or users of the network through continued and repeated acts. Prior to disconnection of Service for calls described above, Cox will make reasonable efforts as determined in Cox's sole discretion to persuade the Customer placing such calls to cease all such activity. If such activity persists, Cox may, at its option, disconnect Service. Telephone calls shall include Customer's usage of facsimile, paging or any other communication devices to access the service provided by Cox. Cox may disconnect Service to any Customer who violates 47 U.S.C. §227, Restrictions on the Use of Telephone Equipment.

C16. Fraud. Customer is responsible for ensuring that Customer Premises Equipment (CPE) such as a

Private Branch Exchange (PBX), provisioned on Cox's network is protected from fraudulent or unauthorized access. Customer is responsible for payment of all charges on their monthly billing statement, including any charges resulting from fraudulent or unauthorized access to any CPE. If Cox detects patterns of calling that indicate that the Customer's equipment has been compromised and/or fraudulent use may be occurring, Cox may take emergency action to limit the amount of fraudulent calling that is occurring, including without limitation, suspending or terminating Service, without prior notice to Customer.

C17. Interconnected VoIP (iVoIP) Services.

For purposes of this Agreement, the iVoIP Services shall include the following Cox Services and features: Cox VoiceManager, Hosted IP-PBX Services (IP Centrex), SIP Trunking, PRI Personal Mobility, and any other Cox Service or feature that

(i) enables real-time, two-way voice communications; (ii) requires a broadband connection and may require IP-compatible Customer equipment; and (iii) permits Customer to receive telephone calls from and initiate calls over the Public Switched Telephone Network. These General Terms contain descriptions and charges, including but not limited to, charges for the Network Interface Fee and Services such as Directory Assistance, Directory Listing, Operator Services and other ancillary services that may be provided with the iVoIP Services. Customer acknowledges that long distance calling Services used with iVoIP Services are subject to the rates, terms and conditions of the applicable Cox tariff or SG as referenced in the Agreement. The Network Interface Fee and the rates for ancillary services referenced in these General Terms are subject to change from time to time during the Term. Additional charges may apply for optional features and Services selected by Customer. Cox reserves the right to conduct a site survey at the Premises prior to provisioning any of the iVoIP Services and may require Customer to obtain additional equipment, if necessary, for optimal installation and operation of the Service. For Cox VoiceManager IP Centrex Service only, Cox shall provide Customer with Layer 2 switches for connectivity from the IP telephones to Cox's demarcation equipment;(a) however, if Customer elects to use its own Layer 2 switches, Cox (or its designated agents or contractors) reserves the right to perform a

prequalification assessment of Customer's equipment in order to confirm that such equipment meets Cox's required network specifications. Unless otherwise provided in this Agreement, Cox shall only configure one (1) data VLAN for all non-Cox traffic if Customer agrees to use Cox-provided Layer 2 switches. Cox shall have no obligation to configure multiple VLANs or to modify switch configurations. Customer is solely responsible for DHCP, security, NAT, PAT, and other LAN services for the data VLAN. If Cox uses Customer's Layer 2 switches or any other equipment provided by Customer (i.e, routers and firewalls) in connection with the Cox VoiceManager IP Centrex Service, neither Cox nor any Cox Related Party shall be responsible or liable for any Service interruptions or outages related to Customer's equipment including, without limitation, improper configuration of such equipment or failure to properly repair or maintain such equipment. Any telephones or other equipment provided by Cox to Customer in connection with the Cox VoiceManager IP Centrex Service shall be deemed to be Cox Equipment.

C18. Early Termination of Cox Business VoiceManager IP Centrex Service Seats.

Notwithstanding anything to the contrary in this Agreement, during the Initial Term of this Agreement, Customer may terminate up to Twenty Percent (20%) of the original number of Cox Business VoiceManager IP Centrex Service Seats (as defined below) that Customer ordered from Cox under this Agreement, without incurring a termination fee for such terminated Seats. This reduction of termination fee does not apply if Customer terminates more than Twenty Percent (20%) of the original number of Cox Business VoiceManager IP Centrex Service seats that Customer ordered from Cox under this Agreement. Unless otherwise agreed to in writing by both parties, Customer agrees to limit requests to adjust the number of Cox Business VoiceManager IP Centrex Service Seats to one change per month. For purpose of this Agreement, "Seats" means the maximum number of Customer's users of Cox Business VoiceManager IP Centrex Service permitted at any one time.

C19. Additional Limitation of Liability of Cox.

With respect to 911 Access and Directory Listings:

911 Access is offered solely as an aid in handling assistance calls in connection with fire, police and other emergencies. Neither Cox nor any Cox Related Party is responsible for any losses, claims,

demands, suits or any liability whatsoever, whether suffered, made, instituted or asserted by the Customer or by any other party or person for any personal injury to or death of any person or persons, and for any loss, damage or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused by: (1) mistakes, omissions, interruptions, delays, errors or other defects in the provision of 911 Access, or (2) installation, operation, failure to operate, maintenance, removal, presence, condition, location or use of any equipment and facilities furnishing 911 Access.

- (b). Neither Cox nor any Cox Related Party is responsible for any infringement or invasion of the right of privacy of any person or persons, caused or claimed to have been caused, directly or indirectly, by the installation, operation, failure to operate, maintenance, removal, presence, condition, occasion or use of 911 Access features and the equipment associated therewith, or by any Services furnished by Cox including, but not limited to, the identification of the telephone number, address or name associated with the telephone used by the party or parties for 911 Access.
- (c). The liability of Cox and/or any Cox Related Party arising from errors or omissions in Directory Listings, other than charged listings, shall be limited to the amount of actual impairment to the Customer's Service and in no event shall exceed one-half the amount of the fixed monthly line charges applicable to Voice Service affected during the period covered by the directory in which the error or omission occurs. In cases of charged Directory Listings, the liability of Cox and/or any Cox Related Party shall be limited to an amount not exceeding the amount of charges for the charged listings involved during the period covered by the directory in which the error or omission occurs. Neither Cox nor any Cox Related Party shall be liable for the errors of third party entities involved in the Directory Listing process.
- (d). In conjunction with a non-published telephone number, neither Cox nor any Cox Related Party will be liable for failure or refusal to complete any call to such telephone when the call is not placed by (b). number. Cox will try to prevent the disclosure of the number of such telephone, but neither Cox nor any Cox Related Party will be liable should such number be divulged.

(e). When a Customer with a non-published telephone number places a call for 911 Access, Cox will release the name and address of the calling party, where such information can be determined to the appropriate local governmental authority responsible for the 911 Access upon request of such governmental authority. By subscribing to Service under these terms and conditions, Customer acknowledges and agrees with the release of information as described above.

C20. **Station Equipment.** The Customer is responsible for providing and maintaining (or causing to be provided and maintained) any terminal equipment on the Premises being served. The electric power consumed by such equipment shall be provided by, and maintained at the expense of, the Customer. All such terminal equipment must be registered with the FCC under 47 C.F.R., Part 68 and all wiring must be installed and maintained in compliance with those regulations. Cox will, where practicable, notify the Customer that temporary discontinuance of the use of a service may be required; however, where prior notice is not practicable, nothing contained herein shall be deemed to impair Cox's right to discontinue forthwith the use of a service temporarily if such action is reasonable under the circumstances. In case of such temporary discontinuance, the Customer will be promptly notified and afforded the opportunity to correct the condition which gave rise to the temporary discontinuance.

C21. **Voice Services Surcharges and Fees.** Cox may invoice Customer and Customer shall pay all Taxes, Fees, and Surcharges applicable to the Voice Services, including, without limitation the following:

The Network Interface Fee ("NIF") is an interstate fee that Cox assesses its iVoIP customers that helps defer some of the cost associated with carrier network interconnection services and the interface with the Public Switched Telephone Network ("PSTN"). The fee is a monthly, flat-rated charge assessed to iVoIP customers for each line, voice path or trunk that is active on the account. Cox may change the NIF rate from time to time by providing notice to the Customer. This charge is not a charge assessed by a government agency.

The Regulatory Cost Recovery Fee ("RCRF") is a monthly fee that Cox assesses its customers that helps recover costs associated with expenses associated with regulatory proceedings and compliance. The fee is percentage-based, applicable against all retail interstate and international

charges. Cox may change the RCRF percentage rate from time to time by providing notice to the Customer. This fee is not a tax or fee assessed by a government agency.

A non-exhaustive list of additional Taxes, Fees, and Surcharges that may apply is described at

<https://www.cox.com/business/support/taxes-fees-and-surcharges-for-cox-services.html>

and

[coxbusiness.com/cbsurchargesandfees](https://www.cox.com/business/support/taxes-fees-and-surcharges-for-cox-services.html). Cox may charge additional Taxes, Fees, and Surcharges which may not be described in this Agreement or the link in the preceding sentence. All Taxes, Fees, and Surcharges are subject to change from time to time.

C22. Toll Service. If a Customer in any single month accrues toll charges in excess of twice the average monthly toll charges of similarly situated customers or twice the actual monthly average of the individual Customer's charges, Cox may review the Customer's previous billing and payment history. If such review indicates that the probability of payment is unlikely, Cox may contact the Customer to make inquiries concerning the abnormal usage and may require a security deposit and/or payment of charges on the account to continue service. If the Customer does not comply with the conditions prescribed in this section within forty-eight (48) hours, Cox may suspend or terminate Service. If a Customer exceeds the average monthly toll charges of Cox's customers and has exhibited a previous inability to pay such charges, Cox may impose toll controls, where technically feasible, or a toll cap of \$100.00.

C23. Unlimited Services. Cox Voice Services provided on an unlimited basis shall be subject to the additional restrictions in this Section, and all other use restrictions set forth in the Agreement, including, without limitation, Sections A29, C15, and C16. Unlimited Voice Services shall apply only to direct-dialed outbound calls to the United States made from the line subject to an unlimited plan. Unlimited calling is not available for calls shorter than two minutes in length. Unlimited calling shall not apply toward operator-assisted, collect calls, toll free (inbound) calls, calls billed to a third party or credit cards, or calls to directory assistance, each of which may incur additional charges to Customer. Unlimited calling plans shall not be used in conjunction with (a) call center

applications, (b) Automatic Call Distribution (ACD) systems, (c) long distance Internet access, (d) resale of unlimited minutes, (e) PBX trunks or services, (f) non-square electronic key and hybrid telephone systems, (g) ground start line or trunks, (h) ISDN services, (i) public telephone services, (j) public access smart-pay phones, (k) multiparty conference calling, multiparty "chat" lines or engaging in activities that generate minutes that result in revenue-sharing by a Customer, or (l) the functional equivalent of any system listed above. Cox retains the right to monitor the type and volume of Customer's usage to ensure that the Customer's use of the plan is consistent with all restrictions provided for in the Agreement. If Cox determines that the Customer is in violation of any restrictions in this Agreement, Customer shall forfeit eligibility for the unlimited plan and Cox may suspend or terminate Services provided to Customer or move the Customer's service to another plan offered by Cox.

C24. Call Validation. Cox and the telecommunications industry are developing and implementing new call validation techniques to attest that calls are placed from known and identified customers. As the industry enables these call validation techniques, there may be unanticipated impacts to call origination and completion, which may be outside of Cox's control. Cox is an active participant in industry forums and will work with other participating carriers to minimize negative impacts associated with the rollout of call validation. NEITHER COX NOR ANY RELATED PARTY SHALL BE RESPONSIBLE OR LIABLE FOR ANY FAILURE OF OUTGOING OR INCOMING CALLS TO BE COMPLETED DUE TO CALL VALIDATION ATTESTATION LEVELS OR IMPLEMENTATION OF CALL VALIDATION TECHNIQUES. If a Customer disagrees with its call validation attestation level, Customer must contact Cox to discuss whether the attestation level may be changed. Cox uses call analytics and caller-id authentication to attempt to identify calls that are of high-, medium- and low-risk of being illegal or scam calls and automatically blocks calls predicted to be high-risk for any active telephone number or direct inward dialing line used with Voice Services. Customer will be able to change and manage the call treatment settings for each category of calls through MyAccount.

D. Terms and Conditions Applicable to Video Services

In addition to all provisions in Section A above, the provisions of Section D shall also apply to all video Service(s) including, without limitation, a 'Cox Business TV' package, 'Contour on Campus', and 'Bulk TV Subscriptions':

D1. Video Service. If Customer is purchasing video Service, Cox shall provide video Services to the Demarcation Point as more specifically set forth herein, and Customer shall be responsible for the Customer Internal Distribution System and distribution of the signal past the Demarcation Point. Cox will deliver to Customer its standard channel lineup, video programming channels and video signals for the applicable Service Area (except as otherwise required by applicable law), and such lineups and signals are subject to change from time-to-time by Cox in its sole discretion. In order to receive the Service, Customer must have the necessary equipment to receive the Service (e.g. TVs, monitors, circuits, etc.) and, at all times during the Term, Customer is responsible for ensuring that such equipment is compatible with the Service, including, but not limited to, video display equipment such as video monitors, televisions or other similar displays. For example, if Cox provides Customer with an encrypted signal for the Service, Customer must have equipment with decryption capabilities that are satisfactory to Cox.

The rates charged for video services is on a per outlet basis. Customer shall not add or attempt to add additional video outlets using the video signal feed provided by Cox, without Cox's prior written consent. Customer is responsible for the costs of all additional video outlets that receive the video signal feed provided by Cox. Customer must notify Cox of any additional video outlets that receive the Cox video feed during the Term of the Agreement.

Customer acknowledges and agrees that (i) the programming and information contained in the Service may not be changed or altered by Customer or its agents; (ii) because Cox makes use of certain programming owned by others in providing the Service, Cox is not guaranteeing the provision or future availability of any particular program or channel, and (iii) Customer will make no claims nor undertake any legal action against any person or entity, including Cox's programmers or vendors, if

certain programming is interrupted, discontinued or substituted. Cox may change video and music Service prices periodically during the Term of this Agreement upon thirty (30) days prior written notice. Residential video rates are not available to Customer and Customer shall be liable to Cox for the difference between the Cox Business video rates and any residential rates. Customer shall have no claim against Cox if any video or music channel is modified or deleted by any programmer supplying such content to Cox. Cox may restrict the display of certain programming or video Services to certain locations within the Premises. If Customer engages in a public performance of any copyrighted material contained in any of the video or music Services provided under this Agreement, including, without limitation, for the unauthorized showing of a Pay-Per-View event or movie, the Customer, and not Cox, shall be solely responsible for obtaining any public performing licenses and for all corresponding charges and liability. Customer is subject to additional surcharges for outlets located in bars and/or restaurants that receive said video Services. For certain channels and programming, Customer may need to negotiate directly with the programming rights holders. In addition to any fees Customer may be responsible for to a third party, Cox may also charge Customer a separate authorization fee as determined solely by Cox. Customer shall only order Pay-Per-View programming directly from Cox.

If Cox provides digital video recorder (DVR) equipment and service ("DVR Equipment and Service") to Customer, the following shall apply: With respect to DVR Equipment and Service, Customer acknowledges and agrees that (i) Customer, and not Cox, is solely responsible for obtaining any copyright licenses necessary for Customer to use the DVR Equipment and Service, including, without limitation, any necessary reproduction or public performance licenses; and (ii) Cox does not monitor or control the Customer's use of the DVR Equipment or Service and does not have access to any content Customer may record using the Equipment or Service. Notwithstanding the foregoing, Cox reserves the right, at Cox's option, to discontinue the Service(s) and/or remove the DVR Equipment immediately if Cox discovers that Customer uses or has used the DVR Equipment or Service in a manner that violates any applicable law or regulation or that actually or allegedly infringes or violates any third party's copyright, literary, privacy, patent, trademark or any other intellectual property or proprietary rights. Further, Customer's indemnity

obligations under the Agreement shall include the obligation to indemnify and defend Cox for any actual or alleged claims of contributory or vicarious infringement through the use of the Services and DVR Equipment provided by Cox to Customer.

D2. **Video Service Surcharges.** If Customer receives video service from Cox under this Agreement, then Customer is subject to a monthly "Broadcast Surcharge" fee. The current Broadcast Surcharge fee may be posted at coxbusiness.com/cbsurchargesandfees.

Beginning April 1, 2017, Cox may, in its sole discretion, charge Customer a "Regional Sports Surcharge" based on the package and channels provided by Cox to Customer. The current Regional Sports Surcharge may be posted at coxbusiness.com/cbsurchargesandfees.

The Broadcast Surcharge, Regional Sports Surcharge, and any other surcharges and fees on the video services are subject to change from time to time. Additional surcharges and fees may apply and are all subject to change from time to time.

Video services provided to bars and restaurants may be subject to additional surcharges as determined solely by Cox and which are also subject to change from time to time.

D3. **Premium Channels.** If Customer purchases any Premium Channels video package from Cox this provision shall apply. With respect to Premium Channels (e.g. HBO, Cinemax, Starz, Encore, Showtime, etc.), Customer acknowledges and agrees that: (i) the Customer shall comply with all obligations in the Agreement, including, but not limited to, paying for all charges when due, (ii) Customer, and not Cox, is solely responsible for obtaining any copyright licenses necessary for Customer to use the Premium Channels, including, without limitation, any necessary reproduction or public performance licenses; and (iii) Cox makes no representations or warranties about the availability of the Premium Channels. Notwithstanding the foregoing, Cox reserves the right, at Cox's sole option, to discontinue the Service and/or remove the Premium Channels immediately if Cox discovers that Customer uses or has used the Premium Channels or Service in a manner that violates any applicable law or regulation or actually or allegedly infringes or violates any third party's copyright, literary, privacy, patent, trademark or any other

intellectual property or proprietary rights. Customer's indemnity obligations under the Agreement shall include the obligation to indemnify and defend Cox for any actual or alleged claims of contributory or vicarious infringement through the use of the Premium Channels provided by Cox to Customer. For technical reasons, Cox may have to provide signal feeds for several Premium Channels (e.g. HBO, Cinemax, Starz, Encore, Showtime), up to the Demarcation Point. However, for the avoidance of doubt, past the Demarcation Point, Customer is only authorized to receive the signal for the channel(s) that it has specifically purchased, even if Cox provides signals for several channels up to the Demarcation Point. If Customer or any end user receives or attempts to receive a signal for a Premium Channel past the Demarcation Point and such channel is not purchased by Customer, this shall be deemed a material breach of the Agreement by Customer, and Cox reserves the right to immediately terminate the Agreement and/or require that Customer immediately pay all applicable early termination fees and/or require that Customer pay Cox the standard fee Cox would have charged Customer had Customer contracted with Cox to receive the Premium Channels as of the date Cox first provided the Service to Customer. Customer shall indemnify, defend and hold Cox, its parents and Affiliates, harmless from any claims arising from Customer's or any end users unauthorized use of any channel. Cox reserves the right to audit the Premises receiving Services, from time to time during the Term, to determine if Customer or any end user are receiving any signals for any channels that Customer is unauthorized to receive.

D4. **Analog to Digital Transition.** During the Term, Cox may, in its sole discretion, transition certain or all channels in the standard channel lineup from an analog transmission to a digital transmission. In such event, Customer shall be required to rent from Cox either a digital receiver box/set-top box for each video outlet or digital insertion equipment in order to continue receiving such channels. Customer shall be solely responsible for the payment of the rental fee for the digital boxes and said rental fee is subject to change from time to time. Cox will add said rental fee to Customer's monthly invoice. If digital insertion equipment is required, Customer may be charged an installation fee, and title to the digital receiver/set-top box and any digital insertion equipment shall remain with Cox at all times. Cox

may, in its sole discretion, require a site survey on the Premises to identify the number of digital boxes needed. Customer acknowledges that its refusal to cooperate with or provide access to Cox to administer the digital transition may result in certain or all channels becoming unavailable. Notwithstanding anything to the contrary in the Agreement, Customer's (i) failure to pay the rental fee for each digital box or (ii) Customer's refusal to cooperate or provide access to Cox to administer the transition (as solely determined by Cox), shall each be a material breach of the Agreement permitting Cox to immediately terminate the Agreement and/or the affected video Service(s) due to Customer's breach and Customer shall pay the applicable termination fee. As clarification, the digital box rental fee is a separate 'fee' the Customer is obligated to pay and shall not be considered an increase in the rate of Service. Customer shall have no right to terminate the Agreement due to the transition of channels to a digital transmission and/or the addition of the rental fee for the digital boxes or insertion equipment. Cox, at all times, shall retain ownership of the digital box and all other equipment provided to Customer by Cox, and the digital box and such equipment shall be deemed "Cox Equipment" as defined herein.

E. Terms and Conditions Applicable to Other Services

In addition to all provisions in Section A above, the provisions of Section E shall also apply as applicable:

E1. **Web Hosting Servers.** Cox reserves the right to select the server for Customer's web site for best performance. Customer understands that the Services provided by Cox may be provided on a shared server. This means that one web site cannot be permitted to overwhelm the server with heavy CPU usage, for example from the use of highly active Common Gateway Interface (CGI) scripts or chat scripts. If Customer's web site overwhelms the server and causes complaints from other users, Customer has outgrown the realm of shared Services and will be required by Cox to relocate its web site. If Customer refuses to comply with this Section, then Cox has the right to terminate Services. Cox will use reasonable efforts to maintain a full-time Internet presence for Customer. Customer hereby acknowledges that the network may, at various time intervals, be down due to, but not restricted to, utility interruption, maintenance, equipment failure, natural disaster, acts of God, or human error. Neither Cox nor any Cox Related Party shall have any liability to Customer for such outages or server downtime. Customer shall be solely responsible for any software and content displayed and distributed by Customer or Customer's web hosting customers, if any.

E2. **Cox Email Account.** Cox may, with at least thirty (30) days prior notice, terminate or suspend all or any portion of a Cox email account(s) provided to Customer. Any such termination or suspension shall be made by Cox in its sole discretion and Cox will not be responsible to Customer or any third party for any damages that may result or arise out of such termination or suspension of Customer's email account(s) and/or access to the service. Customer must log into its email account(s) using a desktop browser at least once per year.

E3. **Transport Service Outside the Continental United States.** If Customer purchases data transport Services from Cox within the United States and Customer requests that such data transport Services connect to data transport services outside the continental United States ("International Transport Services"), Customer authorizes Cox to act as its agent to purchase such

International Transport Services on behalf of Customer from an International Service Provider that is authorized to provide such services in the applicable International location. Customer agrees to abide by the applicable acceptable use policy and all other terms and conditions required by the International Service Provider for such International Transport Services. Customer hereby further authorizes Cox, as Customer's purchasing agent for such International Transport Services, to receive any billing invoices directly from the International Service Provider and to submit and/or dispute payment(s) on Customer's behalf during the term of the services agreement for said International Transport Services provided that in no event shall such actions by Cox relieve Customer's responsibility for payment for such International Service charges. Customer acknowledges and agrees that Cox, in its discretion, may combine into one (1) monthly invoice any Service charges and related fees and taxes for the International Transport Services with any Service charges and related fees and taxes for Cox Services. Customer agrees to pay such invoice in accordance with the terms and conditions of this Agreement. In exchange for Cox's service as a purchasing agent for Customer's International Service, Customer agrees to pay Cox a management fee (to be determined by Cox in its sole discretion), which fee shall be included in Customer's invoice. Any taxes and fees billed to or incurred by Cox related to the International Transport Services shall be the sole responsibility of the Customer. Cox reserves the right to terminate any Services received, provided or used outside the continental United States at any time upon written notice to Customer.

E4. **Terms and Conditions Applicable to DDoS Services.** With respect to DDoS services sold by Cox, the following provisions shall apply:

(a) **DDoS Mitigation Managed Service.** In the event that Customer purchases DDoS Mitigation Managed Services from Cox, Customer's receipt, use and purchase of such DDoS Services shall be subject to the terms and conditions of this Agreement, and the "DDoS Mitigation Managed Service Terms and Conditions" which are posted at <https://www.cox.com/content/dam/cox/aboutus/documents/DDOS-Mitigation-Terms-and-Conditions.pdf> which are incorporated into this Agreement by this reference (the "DDoS Mitigation Managed Service Terms"). In the event of a conflict

between the DDoS Mitigation Managed Service Terms and any other term or condition of the Agreement, the DDoS Mitigation Managed Service Terms shall control with respect to the purchase and/or use of the DDoS Mitigation Managed Services.

(b) **DDoS Mitigation Essential Service.** In the event that Customer purchases DDoS Mitigation Essential Service from Cox, this Section E4(b) shall apply. The DDoS Mitigation Essential Service continuously monitors Customer traffic and categorizes such traffic as legitimate or malicious (DDoS) using pre-defined digital signatures. Traffic that is categorized as DDoS traffic is intercepted and discarded or rate-shaped while traffic categorized as legitimate is allowed to pass. In order to receive the DDoS Mitigation Essential Service from Cox, Customer must, at its sole cost, maintain an acceptable Cox Internet Service and static IP address that routes exclusively to Cox at all times. Customer acknowledges that Cox is not liable for the failure of performance of the DDoS Mitigation Essential Service should Customer fail to meet the foregoing requirements, and the failure of Customer to maintain such requirements shall not release Customer from its obligations under the Agreement.

For purposes of clarity, DDoS Mitigation Essential Service (i) does not offer manually-triggered mitigation, automated reporting, or alteration of the underlying automated policy, (ii) provides Customer only with the ability to enable or disable the policy-driven auto-mitigation by contacting Cox Customer Care, as set out in more detail below, (iii) is not guaranteed to prevent all DDoS attacks, and is intended to address Layer 3/4 services, and does not provide mitigation for Layer 7 services, (iv) cannot be updated with new signatures or countermeasure settings provided by Customer research or findings, (v) only protects Internet traffic on Cox Internet circuits (i.e. there is no protection for any attack traffic on non-Cox circuits or multi-homed users), and (vi) will not mitigate attacks that do not match an existing signature and therefore such attacks may still impact Customer. Customer acknowledges that, while the DDoS Mitigation Essential Service is actively mitigating attack traffic, legitimate traffic may also be impacted (i.e., collateral damage) by the anti-DDoS countermeasures. Certain manual reports may be available upon

request, and as is reasonably acceptable to Cox.

Customer is solely responsible for contacting Cox Customer Care when Customer needs to request that the DDoS Mitigation Essential Service be 'toggled off' in connection with Customer's need (a) for (i) Customer testing/troubleshooting, (ii) equipment and/or network installation, maintenance, upgrades, configuration, or (iii) other similar activities and (b) to prevent any unintended consequences from auto-triggered DDoS mitigation during critical timeframes such as, but not limited to, Customer running business promotions or other activity that might result in a material increase in traffic on Customer's network. Cox is in no way liable for any damages resulting from Customer's failure to 'toggle off' as may be needed or advisable in connection with any Customer related activities. Customer is solely responsible for contacting Cox Customer Care to request that the DDoS Mitigation Essential Service be 'toggled on' once Customer is prepared to resume use of the DDoS Mitigation Essential Service after requesting a 'toggle off.' Customer is not entitled to receive any credit, reduction in MRC or other remedy for any period of time during which the DDoS Mitigation Essential Service is 'toggled off.'

Cox is not liable for any damages of any kind related to the failure of DDoS Mitigation Essential Service to prevent any DDoS attack or other intrusion, nor the impact of collateral damage, and neither shall constitute a default under this Agreement. As a non-managed, automated policy-driven best efforts Service, DDoS Mitigation Essential Service may be unavailable during periods of Cox network outages, maintenance and/or upgrades. Priority is given to protecting Cox infrastructure, and accordingly, Customer mitigations may be adjusted, suspended and/or terminated as necessary to prioritize resources for Cox internal network infrastructure protection. The sole and exclusive remedies for Customer in connection with any of the foregoing items set forth in this Section E4(b) shall be those set forth in the applicable Cox Service Level Agreement which is expressly incorporated in Customer's Agreement, if any.

E5. Dark Fiber Services. This Agreement is not intended for dark fiber services. Notwithstanding anything to the contrary in this Agreement, if dark fiber services are covered under this Agreement, Cox reserves the right, in its sole discretion, to terminate this Agreement (or any portion thereof) upon five (5)

days' written notice to Customer.

E6. Colocation Services. This Agreement is not intended for colocation services. Notwithstanding anything to the contrary in this Agreement, if colocation services are covered under this Agreement, Cox reserves the right, in its sole discretion, to terminate this Agreement (or any portion thereof) upon five (5) days' written notice to Customer.

E7. Cox Business Security Solutions. This Agreement is not intended for Cox Business Security Solutions or any other business security product. If said services are covered under this Agreement, Cox reserves the right, in its sole discretion, to terminate this Agreement (or any portion thereof) upon five (5) days' written notice to Customer.

E8. Resale Terms. AS DESCRIBED IN SECTION A, RESALE OF SERVICES IS STRICTLY PROHIBITED UNLESS EXPRESSLY AUTHORIZED IN WRITING BY COX IN THIS AGREEMENT OR FORMAL WRITTEN AMENDMENT TO THIS AGREEMENT, OR AS OTHERWISE REQUIRED BY APPLICABLE LAW. A FORMAL RESELLER AGREEMENT IS PREFERRED TO RESELL SERVICES AND COX RESERVES THE RIGHT TO IMMEDIATELY REVOKE ITS PERMISSION TO ALLOW RESALE AT ANY TIME UPON NOTICE TO CUSTOMER. Notwithstanding, if Cox expressly authorized the Customer to resell the Service(s) (or any portion thereof) in writing in the Agreement or formal written amendment to said Agreement and/or the right to resell is required by applicable law, the following reseller terms shall apply: The end user customer(s) that Customer resells Service(s) to is defined as the "Reseller Customer(s)". Reseller Customers shall only be business customers. Customer shall not resell Services to any residential end user. Cox may, but reserves the right not to, make commercial Services (excluding video services which are expressly prohibited) available to Customer so that Customer may offer these Services to its Reseller Customer(s) subject to the restrictions and the conditions contained in this provision and the Agreement. The Services are subject to Customer's and its Reseller Customer's compliance with the AUP which may be found at coxbusiness.com/acceptableusepolicy. Cox may terminate Services to Customer and/or any Reseller Customer if Cox reasonably determines Customer or any Reseller Customer is violating this Agreement or the AUP. Cox further reserves the

right, in its sole discretion, to reject or terminate any agreement or order for Services to Customer and/or any Reseller Customer at any time during the Term of this Agreement. Customer shall be solely responsible for determining the pricing of Services provided by Customer to its Reseller Customer. Customer agrees that: 1) Customer is responsible for providing all support to Reseller Customers using the Service and shall not have its Reseller Customer contact Cox directly in the event support is needed; 2) Customer shall not make any guarantees to its Reseller Customers regarding availability or speed of the Service(s); 3) Customer shall not (i) use any Cox trademarks or logos, (ii) market or sell the Service(s) using any Cox trademarks or logos, or (iii) represent to any third party that Customer is, or is acting on behalf of, Cox in its provision of the Services to Reseller Customers; 4) neither Customer nor any Reseller Customer(s) receiving Services from Customer hereunder may resell the Services to any existing customer or currently contracted customer of Cox or any of Cox's Affiliates that is receiving Services directly from Cox; 5) Customer shall not permit any Reseller Customer to resell the Service(s) without obtaining Cox's prior written consent, which consent may be withheld in Cox's sole discretion; 6) Customer is responsible for ensuring that all Reseller Customers using the Service agree to the terms of Cox's AUP, as amended from time to time and available on Cox's website; 7) if Customer becomes aware of a violation of the AUP by any Reseller Customer, Customer shall suspend the Service to such Reseller Customer and notify Cox; 8) Cox reserves the right to terminate or suspend Service to Customer and/or any Reseller Customer using the Service if, in Cox's sole discretion, the AUP is violated; and 9) if Customer provides the Service to more than one Reseller Customer and a violation of the AUP occurs, Cox may suspend or terminate service to all Reseller Customers and Customer, as Cox does not have the ability to determine which entity is responsible for the violation. Customer shall remain fully responsible for all charges and liability for the Service(s). Upon expiration, cancellation or termination of this Agreement, Cox reserves the right to terminate all Services provided to Customer and each of the Reseller Customers receiving Services from Customer upon providing Customer with written notice of termination. Customer will defend, indemnify, and hold harmless Cox and its Affiliates, officers, directors, employees, agents and contractors from and against any and all loss,

liability, damage and expense (including reasonable attorneys' fees) arising out of any demand, claim, suit or judgment for damages for (i) any claims by any Reseller Customer(s) arising out of, or connected to, Customer and/or its Reseller Customer(s) ability or inability to use the Services, including, without limitation, claims arising from content contained in or obtained through the Service, service interruptions, service outages, or failure of Cox to provide the Services as contemplated under this Agreement; (ii) any claims relating to any Reseller Customer's violations of the AUP; and/or (iii) willful misconduct or illegal conduct of Customer and/or their Reseller Customers in connection with the use of the Services.

Customer shall be solely responsible for the costs and expense of branding, marketing and promoting its services to Reseller Customers. Customer may brand the Services under its own brand provided that the branding is not confusing and does not use nor infringe on any Cox brands, service marks, or trademarks. Neither party shall be authorized to use the brands, service marks or trademarks of the other without the prior written consent which consent may be withheld in such party's sole discretion.

Customer is solely responsible for arranging all necessary rights of access for Cox from the public rights of way to any Reseller Customer's premises, including space for cables, conduits, and equipment as necessary for Cox-authorized personnel to install, repair, inspect, maintain, replace or remove any and all facilities and equipment provided by Cox and Customer shall be solely responsible for the costs of same. Customer shall diligently pursue execution of any access agreement in a timely manner as requested by Cox. Customer shall ensure that Reseller Customer will provide a secured space with electrical power, climate control and protection against fire, vandalism, and other casualty for any Cox Equipment. Cox will use reasonable efforts to make the Services available by the requested service date provided Customer first secures Cox access to the premises. Cox shall not be liable for damages for delays in meeting service dates due to install delays or reasons beyond Cox's reasonable control, including, without limitation, Customer's failure to arrange access. If a Reseller Customer delays installation or is not ready to receive Services on the agreed-upon installation date, Cox may begin billing for Services on the date Services would have

been installed. If a Reseller Customer delays installation for more than ninety (90) days after the execution of the applicable agreement for services, Cox reserves the right to terminate the applicable agreement by providing written notice to Customer and Customer shall be liable for Cox's reasonable costs incurred.

E9. Technical Support Services.

(a) **Cox Business Tech Solutions.** If Customer purchases Cox Business Tech Solutions, such service will be subject to this Agreement and to the terms and conditions located at www.coxbusinessstechsolutions.com (the "Cox Business Tech Solutions Website"). Cox may change the terms and conditions located at the Cox Business Tech Solutions Website at any time. In the event of a conflict between this Agreement and the terms and conditions located at the Cox Business Tech Solutions Website, the terms and conditions located at the Cox Business Tech Solutions Website shall control. Notwithstanding anything to the contrary in this Agreement, at the end of the Initial Term commitment for the Cox Business Tech Solutions Service, the term will continue on a month-to-month basis until terminated by either party on thirty (30) days' notice. During the month-to-month extension, Cox may increase the price for Cox Business Tech Solutions at any time by providing notice to Customer.

(b) **Cox Business Complete Care.** If Customer purchases Cox Business Complete Care, such service will be subject to this Agreement and to the additional terms and conditions posted in the policies section at <https://www.cox.com/aboutus/policies/business-complecare-terms.html> ("CBCC Terms"). Cox may modify the CBCC Terms at any time without notice. In the event of a conflict between this Agreement and the CBCC Terms, the CBCC Terms shall control. Notwithstanding anything to the contrary in this Agreement, at the end of the Initial Term commitment for the Cox Business Complete Care Service, the term will continue on a month-to-month basis until terminated by either party on thirty (30) days' notice. During the month-to-month extension, Cox may increase the price for Cox Business Complete Care at any time by providing notice to Customer.

E10. Cox Business Service Assurance Plan Terms

and Conditions.

If Customer elects to purchase the Cox Service Assurance Plan (the "Assurance Plan"), Customer shall be subject to the terms and conditions of this Agreement, including the following terms and conditions contained in this Section.

E10.1. Agreement. Customer hereby agrees to the terms and conditions of this Assurance Plan upon the execution of a Commercial Services Agreement containing a line item for the Assurance Plan. The term of the Assurance Plan shall be coterminous with the term of any Services purchased by Customer under this Agreement. Customer agrees and acknowledges that the Assurance Plan must remain in effect for a minimum of twelve (12) consecutive months. Customer may terminate the Assurance Plan at any time after the initial twelve (12) months. If Customer terminates the Assurance Plan before the end of the initial twelve (12) months, Cox reserves the right to charge Customer the difference between (a) the amounts paid by Customer under the Assurance Plan as of the termination date and (b) the total costs incurred by Cox for any Services or equipment provided to Customer under the Assurance Plan during the initial twelve (12) month period—i.e., truck rolls, wiring and equipment costs, and any other time & materials-based costs. Customer is not required to subscribe to the Assurance Plan to receive communications Services from Cox. Key systems or PBXs used by Customer to support their Services are not covered under the Assurance Plan.

E10.2. Customer Obligations. Customer is responsible for maintaining and repairing all inside wiring including standard telephone jacks (collectively, "Inside Wiring") located on Customer's side of the punch-down box (or 66 block), which will be installed by Cox at the Premises. For multi-tenant office locations, the Inside Wiring is the wiring located inside of the offices leased to Customer or the business Premises that serves Customer's unit or leased area. Inside Wiring may be repaired by (i) Customer, (ii) any third party vendor at Customer's sole cost and expense, or (iii) Cox, subject to the terms and conditions of this Service Assurance Plan. Customer is required to reconnect all electronic equipment to the Inside Wiring, including reprogramming of Customer's equipment that may be required due to loss of Inside Wiring connectivity. Customer is responsible for all damage to the Premises caused by the

installation, repair or replacement of Inside Wiring including without limitation, wall board holes, wood trim damage, and other defacement due to attachment of wiring, staples, hooks, and adhesives.

E10.3. Assurance Plan Coverage. The Assurance Plan only provides coverage for repairs and replacement of Inside Wiring used to provide Cox voice Services provisioned on the Cox network within the Premises. Under this Assurance Plan, provided that Customer pays the Charges (as defined below) and maintains Cox telephone Services at the applicable location, Cox will perform a diagnostic analysis of Customer's telephone line(s) if Customer calls in a trouble ticket. This feature of the Assurance Plan may require a service call to Customer's location by a Cox technician. At Cox's discretion, subject to (i) exclusions and conditions contained in this Assurance Plan and (ii) the approval of Customer and/or the owner of the Premises, Cox will either repair or replace Customer's Inside Wiring at no additional charge to Customer. Customer acknowledges that replacement of Inside Wiring may require surface mounting of wiring and exterior mounted jacks. Installation of concealed wiring and flush-mounted jacks may be subject to additional charges.

E10.4. Assurance Plan Charges. Customer shall pay Cox the monthly recurring charges ("Charges") set forth in Customer's invoice for the Assurance Plan. The Charges are assessed in accordance with the chart below. Cox reserves the right to modify the Charges by providing Customer thirty (30) days prior written notice via (i) bill insert, (ii) written notice set forth on the invoice; or (iii) a separate written notice.

E10.5. Additional Conditions and Scope of the Assurance Plan

- a) Any Customer who has purchased Cox VoiceManagerSM or Cox IP Centrex service that is not terminated into a key system is eligible for this service.
- b) For Customers who lease telephones from Cox, or subscribe to Cox IP Centrex service, the Charges for the Assurance Plan are based on the total number of telephones sets leased by Customer.
- c) The Assurance Plan does not include coverage for the installation of new Inside Wiring installed during the term of this Agreement.

E10.6. The following services are included in the Assurance Plan:

- a) Repair and replacement of wire from the Demarcation Point to a telephone jack;
- b) Replacement of fittings, splitters, amplifiers and outlets installed or existing in accordance with accepted industry standards, as determined by Cox in its sole discretion;
- c) Cox-supplied wiring that is installed at the time of installation of a Cox voice service;
- d) Provide analysis on Customer-owned equipment that may be impeding Cox Service;
- e) Identification and verification that Cox-owned equipment and Cox Services are working properly;
- f) Identification of incorrect Customer connections; and
- g) Identification of unauthorized outlets or jacks.

E10.7. The following services are excluded from coverage under the Assurance Plan:

- a) Installation of new inside wiring or outlets;
- b) Fees associated with installation, removal, or relocation of, or change to, Cox services;
- c) Wiring used for fiber optics;
- d) Any wiring that supports a competitor's service offering;
- e) Repairs required due to faulty Customer equipment;
- f) Repair of wiring which does not meet industry standards, Federal Communications Commission rules or the National Electrical Code;
- g) Repair of wiring concealed with a wall unless Customer removes and replaces all obstructions (wall board, ceilings, flooring, etc.) to allow Cox access to wiring;
- h) Repair or replacement of telephone equipment unless provided by Cox;
- i) Pre-existing condition or problem with Inside Wiring or telephone jacks causing out of service conditions. Examples include, without limitation, non-standard install practices, wiring problems (such as stapling, etc.) caused by Customer or any third party, and dangerous electrical or wiring issues;
- j) Riser cables;
- k) Installation or relocation of jacks or outlets;
- l) "Wall fishing" or "wall punching" that may be required to perform wiring repairs;

- m) Repair or replacement of Customer-owned equipment (equipment may be covered by a warranty) and wire that connects such equipment;
- n) Swapping or changing out Cox or Customer-owned equipment;
- o) Computer configuration assistance;
- p) Repair or replacement of receiver, remote units, including battery replacement;
- q) Installation of entertainment systems and related equipment; or
- r) Wiring damage caused by Force Majeure, vandalism, fire, flood, earthquake, Acts of God, remodeling, gross negligence or willful damage.

As to any question of whether services are included or excluded from the Assurance Plan, Cox will be the sole party authorized to make the determination.

E10.8. LIMITATION OF LIABILITY. IN ADDITION TO ANY OTHER LIMITATION OF LIABILITY PROVIDED UNDER THE AGREEMENT, COX AND ANY COX RELATED PARTY SHALL NOT BE LIABLE FOR ANY OTHER DAMAGES INCLUDING, BUT NOT LIMITED TO, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING FROM CUSTOMER'S USE OR INABILITY TO USE THE INSIDE WIRING WHETHER COVERED BY THE ASSURANCE PLAN OR OTHERWISE. COX'S MAXIMUM LIABILITY FOR DAMAGES CAUSED BY REPAIR OR REPLACEMENT OF INSIDE WIRING UNDER THIS ASSURANCE PLAN SHALL BE LIMITED TO THE LESSER OF: (I) ALL AMOUNTS PAID BY CUSTOMER UNDER THE ASSURANCE PLAN OR (II) \$250.00. NEITHER COX NOR ANY COX RELATED PARTY WILL BE LIABLE FOR THE REPROGRAMMING OR MALFUNCTION OF EQUIPMENT CONNECTED TO THE INSIDE WIRING SUCH AS ALARMS, METERS, SENSORS, TELEPHONE EQUIPMENT OR OTHER DEVICES.

E11. MalBlock Service Terms and Conditions.

If Customer elects to purchase the Cox MalBlock Service (as "**MalBlock Service**" is defined below), use of the MalBlock Service shall be subject to the terms and conditions of the Agreement, including the following terms and conditions contained in this Section E11.

E11.1 General. The "**MalBlock Service**" is a service designed to prevent Customer's (i) Local Area Network (LAN) connected devices or (ii) Corporate Wi-Fi connected devices from accessing known

malicious or unwanted Internet domains when Customer is utilizing Cox Internet Service. For the purpose of this Section E11, "**Corporate Wi-Fi**" shall mean the Wi-Fi network provided by Customer to its employees which uses the same configurations and settings as the applicable Customer LAN. Customer is responsible for configuring its LAN and Corporate Wi-Fi so that the MalBlock service applies to the devices connected to such LAN and Corporate Wi-Fi. Further, Customer shall be required to manually configure any Internet device using static DNS providers in order for MalBlock Service to function on such device. Customer acknowledges and understands that the MalBlock Service is not an antivirus or firewall software and will not protect against inbound attacks on Customer's network. MalBlock Service will not block an Internet domain unless (i) Cox has blacklisted such Internet Domain and determined, in its sole discretion, that such Internet domain is potentially malicious or (ii) Customer has configured its web filtering policies to prevent access to such Internet domain or category of Internet domains in which such Internet domain may be included. Customer shall be solely responsible for configuring its web filtering policies and Cox shall have no responsibility, or liability, with respect to the same.

E11.2 Underlying Cox Internet Service Requirement. To receive MalBlock Services, Customer must purchase and maintain Cox Internet Service at all times during the Term, it being understood that the MalBlock Service cannot operate without such underlying Cox Internet Service. Any termination or discontinuation of such Cox Internet Service Services may result in an immediate termination or discontinuation of the MalBlock Services, which may subject Customer to early termination fees under Section A3 of the General Terms.

E11.3 Exclusions. MalBlock Service will not prevent an Internet connected device from accessing Internet domains if such device:

- (i) is not utilizing a Cox Internet Service
- (ii) is not connected to the internet via Customer's correctly configured LAN or Corporate Wi-Fi
- (iii) is connected to the Internet via Customer's 'Guest' Wi-Fi network, or any other Wi-Fi network other than Customer's correctly configured Corporate Wi-Fi, including one

- (iv) provided by Cox, or is connected via direct IP-to-IP communication (including via virtual private network technology).
- (v) is connected to the internet through LTE backup service.

E11.4 No Warranty and Limitation of Liability. Customer acknowledges and agrees that the MalBlock Service is a best-effort service and may not be error-free. Cox shall have no liability for any failures by the MalBlock Service to prevent Customer's LAN or Corporate Wi-Fi connected devices from accessing malicious or unwanted internet domains that were intended to be blocked by (i) Cox's pre-determined blacklist or (ii) Customer's web and internet domain filtering policies. The MalBlock Service is further subject to any and all disclaimers of warranty and limitations of liability provided for within this Agreement or General Terms, including, without limitation, Section A20 of the General Terms.

E11.5 Service Level Agreement. Cox offers no Service Level Agreement for MalBlock Services.

E12. Third Party Service. If Customer elects to purchase a third-party provided service via Cox ("**Third-Party Service**"), use of the Third-Party Service shall be subject to the terms and conditions of the Agreement, including the following terms and conditions contained in this Section E12.

E12.1 Third-Party Provided Service and Customer Data. Customer acknowledges and understands that if it purchases a Third-Party Service through Cox, Customer expressly authorizes Cox to share Customer's information with the third-party provider, including, without limitation, Customer's name, telephone number(s), and email addresses.

E12.2 Access and Log-in Requirements. In order to use Third-Party Services, Customer acknowledges and understands that it may need to install, sign-in, and utilize an application or otherplatform provided by the third-party. Further, Customer may be required to agree to certain notices and disclaimers, terms of service, privacy statements, and other third-party requirements (collectively, the "**Third-Party Agreements**") with the third-party provider. Customer acknowledges that Cox is not a party to the Third-Party Agreements. However, these Third-Party

Agreements shall not modify or supersede Customer's agreement with Cox or any of Customer's obligations in this Agreement.

E12.3 Warranty Disclaimer and Indemnification for Third-Party Service.

(a) **WARRANTY DISCLAIMER.** IN ADDITION TO ANY OTHER DISCLAIMER OF WARRANTIES DESCRIBED IN THE AGREEMENT, INCLUDING, WITHOUT LIMITATION, SECTION A20 OF THE GENERAL TERMS, COX HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES AND MAKES NO REPRESENTATIONS OF ANY KIND RELATED TO THE THIRD-PARTY SERVICE. COX AND ANY COX RELATED PARTIES SHALL HAVE NO LIABILITY IF THE THIRD-PARTY SERVICE FAILS, CONTAINS ERRORS, OR IS OF POOR QUALITY. COX AND ANY COX RELATED PARTIES SHALL HAVE NO LIABILITY FOR CUSTOMER'S USE OF THE THIRD-PARTY SERVICE. COX AND ANY COX RELATED PARTIES SHALL HAVE NO LIABILITY FOR ANY CUSTOMER INFORMATION SHARED WITH THE THIRD-PARTY PROVIDER.

(b) **Indemnification for Third-Party Service.** Customer shall indemnify, defend and hold harmless Cox, its Affiliates, employees, directors and shareholders and the Cox Related Parties from all claims arising from or related to Customer's use of the Third-Party Service.

E13. Endpoint Protect Service Terms and Conditions.

If Customer elects to purchase the Cox Endpoint Protect Service ("**Endpoint Protect**"), use of Endpoint Protect shall be subject to the terms and conditions of the Agreement, including the following terms and conditions contained in this Section E13.

E13.1 **License Grant.** Subject to the terms of the Agreement, Cox grants Customer a limited, non-exclusive, revocable, and nontransferable license to download, install, access and use Endpoint Protect for Your personal, non-commercial use strictly in accordance with the terms and conditions set forth in the Agreement.

E13.2 **Use Restrictions.** Customer agrees to use Endpoint Protect only in compliance with any applicable federal, state, and local law, statutes, and regulations. Customer will not: (i) sublicense, lease, rent, loan, transfer, or distribute Endpoint Protect to any third party; (ii) modify or prepare derivative works from Endpoint Protect; (iii) decompile or

reverse engineer Endpoint Protect; (iv) publicly disseminate the results of any benchmarking studies related to Endpoint Protect; or (v) permit third parties to sell Endpoint Protect.

E13.3 **Feedback.** Customer may, at its sole discretion, provide input regarding Endpoint Protect, including, without limitation, comments or suggestions regarding the possible creation, modification, correction, improvement or enhancement of Endpoint Protect (collectively "Feedback"). Cox and/or its licensors shall be entitled to use Feedback for any purpose without notice, restriction or remuneration of any kind to Customer.

E13.4 **U.S. Government Rights.** If Endpoint Protect is being used by or licensed to the United States Government, the following shall apply: Endpoint Protect and related documentation are commercial products and services as defined in FAR 12.212 and subject to restricted rights as defined in FAR Section 52.227-19 and DFARS 227.7202, as applicable, and any successor regulations, and Endpoint Protect is developed exclusively at private expense. Use, modification, duplication, or disclosure by the U.S. Government shall be solely in accordance with the terms of the Agreement and is subject to the restrictions set forth in subparagraph (c) of the Commercial Computer Software Restricted Rights clause of FAR 52.227-19.

E13.5 **Intellectual Property.** Customer acknowledges that title and full ownership rights to Endpoint Protect will remain the exclusive property of Cox or its licensors, and Customer shall not acquire any rights to Endpoint Protect except for the limited rights as expressly set forth in the Agreement. Customer further acknowledges that the confidential components of Endpoint Protect are the confidential information of Cox or its licensors.

E13.6 **Disclosures Regarding Use of Endpoint Protect.** Customer acknowledges that (i) Endpoint Protect may lead to access restrictions, data loss, loss of privacy, or any combination of the foregoing as a result of lock or wipe commands, removal of temporary files, registry keys or browser data, file scanning, remote endpoint monitoring, interception and monitoring of Internet traffic, or as a result of any other functionality of Endpoint Protect, and (ii) neither Cox nor its licensors will have any liability to Customer or any third party for any damages related to such access restrictions, data loss, or loss of privacy.

E13.7 Disclosures Regarding Endpoint Protect Administrative Rights. Customer acknowledges that (i) users of Endpoint Protect that have administrative rights may have capabilities to use Endpoint Protect to interfere with and monitor the usage of devices protected by Endpoint Protect, and (ii) neither Cox nor its licensors have any liability to Customer or any third party in connection with the use of such administrative rights by Customer, an end user, or any other party.

E13.8 Export Controls. Customer acknowledges and agree that Endpoint Protect may be subject to export controls in the United States and other countries. Customer agrees to comply with all United States export laws and regulations and with all export or import regulations of other countries, and Customer shall not and shall not allow any third-party to remove or export from the United States or allow the export or re-export of any part of Endpoint Protect or any direct product thereof (i) into (or to a national or resident of) any embargoed or terrorist-supporting country; (ii) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals; or (iii) to any country to which such export or re-export is restricted or prohibited, or as to which the United States government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval. Customer assumes sole responsibility for any required export approval and/or licenses and all related costs and for the violation of any United States export law or regulation.

E13.9 Additional Restrictions. Customer is prohibited from using Endpoint Protect if Customer is a citizen, national, or resident of, or is under control of the government of: Cuba, Iran, Sudan, North Korea, Syria, or any other country to which the United States has prohibited export. Each time Customer uses Endpoint Protect Customer represents, warrants, and covenants that (i) Customer is not a citizen, national, or resident of, nor under the control of the government of any such country to which the United States has prohibited export; (ii) Customer will not download or otherwise export or re-export Endpoint Protect, directly or indirectly, to the above mentioned countries nor to citizens, nationals or residents of those countries; (iii) Customer is not listed on the U.S. Department of Treasury's Lists of Specially Designated Nationals,

Specially Designated Terrorists, and Specially Designated Narcotic Traffickers, the U.S. Department of State's List of Statutorily Debarred Parties, or the U.S. Department of Commerce's Denied Persons List, Entity List, or Unverified List Table of Denial Orders; (iv) Customer will not download or otherwise export or re-export Endpoint Protect, directly or indirectly, to persons on the above mentioned lists; (v) Customer will neither use nor allow Endpoint Protect to be used for any purposes prohibited by United States federal or state law, including, without limitation, for the development, design, manufacture, or production of nuclear, chemical, or biological weapons of mass destruction; (vi) Endpoint Protect will not be exported, directly, or indirectly, in violation of these laws, nor will the Endpoint Protect be used for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation; and (vii) Customer will not use or permit others to use Endpoint Protect to create, store, backup, distribute, or provide access to child pornography or any other content or data which is illegal under the relevant laws of the United States, Switzerland, Singapore or Customer's jurisdiction.

F. Terms and Conditions Applicable to Cloud Services

In addition to all provisions in Section A above, the provisions of Section F shall also apply to all Cloud Service(s):

F.1 **Cloud Services – General.** The Agreement includes the Services Agreement between Customer and Cox or its Affiliate regarding the Cloud Services, as well as all applicable service orders, service attachments, move-add change orders, change orders, addendums, attachments, purchase orders, Service Level Agreements available at <https://rapidscale.net/sla> and any other documents that are expressly incorporated herein (collectively, the "Service Document(s)"). Cox's obligations under the Agreement may be performed by its Affiliates, including, but not limited to, RapidScale, Inc. ("RapidScale").

F.2 **Professional Services.** Any requests for ancillary professional Services not described in the applicable Service Documents may be provided on an individual case basis as agreed to in writing by the parties. Such professional Services ("Professional Services") are billable at Cox's then-current standard hourly rate.

F.3 **Billing.** Upon approval of Customer's credit application (if any), Cox will begin, as soon as practicable, the provisioning, installation, connection, billing and testing necessary to provide the Cloud Services. For the avoidance of doubt, billing for some or all Cloud Services may begin before full implementation of the Cloud Services. F.6 The "Preliminary Period" begins on the effective date ("Effective Date") in the Service Document and continues until the first date that billing for all Cloud Services (i.e. completion of implementation) provided under the Agreement commences (the "Full Billing Date"). Thereafter, the term of this Agreement continues for the Initial Term period set forth in the applicable Service Document, unless earlier terminated as described in this Agreement. The "Term" begins on the Effective Date and includes the Preliminary Period, the Initial Term and any Extended Term(s). Unless provided otherwise in the Service Document, Cox will begin invoicing Customer for the Cloud Services after giving Customer notice that the Cloud Services are available for Customer use and will continue F.7 invoicing Customer on a monthly basis until the Agreement is terminated. Except as otherwise set

forth in the Service Document, (a) MRCs will be billed monthly in advance, (b) varying or usage-based charges and fees will be billed monthly in arrears and (c) installation, Professional Services, or other NRCs will be billed upon completion of the Customer kick off call to Customer unless otherwise agreed in writing.

Related Services. If a particular Cloud Service is terminated by Customer without cause or by Cox for cause, and Cox advises the Customer in writing that in Cox's good faith judgment provision of a related Cloud Services is impractical or impossible ("Related Service") as a result of such termination, then the Related Service shall be deemed terminated for cause by Cox and any applicable termination charges will apply.

F.5. **Responsibility for Account, Content and Data.** Customer is responsible for all activity that occurs via the Customer account. If Customer becomes aware of any unauthorized use of the Cloud Services, Customer account and/or passwords, Customer will notify Cox as promptly as possible. Customer is solely responsible for all data and content that Customer or any end user makes available on, uses, shares and/or processes through the Cloud Services. Customer will obtain and maintain any required consents necessary to permit the processing and use of such content and data under the Agreement by the Cloud Services. CUSTOMER IS SOLELY RESPONSIBLE FOR BACKING UP CUSTOMER DATA AND CONTENT, UNLESS EXPRESSLY AGREED OTHERWISE IN WRITING.

Third Party Products. Certain Cloud Services are provided to Customer via third parties and may be subject to separate third-party terms and conditions. To the extent such third-party terms and conditions supersede or otherwise conflict with the Agreement, such third-party terms and conditions govern Customer's use of that third-party Service. The third-party terms and conditions applicable to Customer use of certain Cloud Services are set forth on the Third-Party Terms and Conditions available at the following web address, which Third-Party Terms and Conditions are incorporated herein by reference: <https://rapidscale.net/third-party-terms-and-conditions>.

Confidentiality. Neither party shall, without the prior written consent of the other party, use or disclose the Confidential Information of the

other party during the Term of the Agreement and for two (2) years following the expiration or termination hereof. As used herein, "Confidential Information" shall mean any non-public information owned or duly licensed by a Party relating to its respective business activities, products, services, financial affairs, technology, marketing or sales plans disclosed or related to the Agreement, and received by, the other party pursuant to the Agreement, including, but is not limited to, the terms and pricing of the Agreement. Confidential Information shall not include information which: (i) is or becomes public knowledge through no breach of the Agreement by the receiving party, (ii) is received by recipient from a third party not under a duty of confidence, or (iii) is already known or is independently developed by the receiving party without use of the Confidential Information. Each Party will take all reasonable precautions to protect the other Party's Confidential Information, using at least the same standard of care as it uses to maintain the confidentiality of its own Confidential Information. Notwithstanding the foregoing, a party may disclose Confidential Information: (i) to any consultants, contractors, and counsel who have a need to know in connection with the Agreement and are contractually and/or legally subject to a duty of confidentiality, or (ii) pursuant to legal process; provided that, the disclosing party shall, unless legally prohibited, provide the non-disclosing Party with reasonable prior written notice sufficient to permit it an opportunity to contest such disclosure.

F.8

Access to Data. Cox backs up Customer systems on a periodic basis so that Cox is able to more quickly restore the systems in the event of a failure. These backups are made on a snap-shot basis and, therefore, capture only the information that exists on the system at the time of the backup. In addition, Cox may destroy all but the most recent backup. These backups may not be available to Customer or, if available, may not be useful to Customer outside of the Cox environment. All data that Customer provides to Cox in connection with the Cloud Services is encrypted in transit and at rest and all Cloud Services use self-encrypting drives where applicable. The parties agree and acknowledge that Cox does not receive access to Customer unencrypted data and that data, as it is used on Cox's systems, is not reasonably likely to identify an individual given Cox's internal procedures and controls and that such data is unintelligible to any person unless unencrypted.

Security. Cox shall use reasonable data center security practices consistent with industry standards. Under the Agreement, Cox is a data processor and not a data controller (i.e. Customer is the data controller).

Maintenance. Customer acknowledges that the Cloud Services may be subject to maintenance or repair and agrees to cooperate in a timely manner and provide reasonable access and assistance as necessary to allow such maintenance or repair.

Internet Data Center. This subsection shall apply, if Customer and/or its authorized representatives have access to Cox's Internet Data Center(s) ("IDC") as a part of Cloud Services. The provisions in this subsection are in addition to, and to the extent not in conflict with, the rules of the individual IDC or Cox security or related policies. Only those individuals properly authorized by Cox's Network Operations Center in accordance with Cox's security policies shall be permitted access to the IDCs. Customer shall deliver prior written notice to Cox of any personnel for which Customer desires to provide IDC access ("Authorized Personnel") in accordance with Cox security policies. Customer and its Authorized Personnel shall not allow any unauthorized persons to have access to or enter any IDC, such as by "tailgating" or any other means. Customer and its Authorized Personnel may only access that portion of an IDC made available by Cox to Customer for the placement of Customer's equipment and use of the IDC Cloud Services (the "Customer Area"), and common areas of the IDC (e.g., entryways and bathrooms), unless otherwise approved and accompanied by an authorized Cox representative. Customer and its Authorized Personnel shall adhere to and abide by all security and safety measures established by Cox from time to time and set forth in the Customer Guide provided by Cox to Customer or posted at the IDC. Customer and its Authorized Personnel shall not: (a) touch, inspect, interface, or interfere with, use, misuse, or abuse any Cox or third party's property or equipment; (b) harass or interfere with the normal activities of any individual, including Cox or other customers' employees or authorized representatives; or (c) engage in or assist another in engaging in any activity that is in violation of the law or this Agreement. Customer and its Authorized Personnel shall keep each Customer Area clean, free, and clear of debris and refuse. Customer shall not, except as otherwise agreed to in writing by

Cox: (a) place any computer hardware or other equipment in the Customer Area that is not required for the use or implementation of Cloud Services or which contains any combustible or hazardous material; (b) store any paper products or other combustible materials of any kind in the Customer Area (other than equipment manuals); or (c) bring any Prohibited Materials (as defined below) into any IDC. "Prohibited Materials" include, without limitation, the following and any other similar items: food and drink; tobacco products; explosives and weapons; hazardous materials of chemicals; alcohol, illegal drugs, and other intoxicants; magnets or electro-magnetic devices; radioactive materials; or photographic or recording equipment of any kind (other than tape or digital backup equipment used exclusively for the Customer's own equipment). Each piece of equipment installed in a Customer Area (the "Customer Equipment") must be clearly labeled with Customer's name (or code name provided in writing to Cox) and individual component identification. All Customer Equipment shall be identified in writing by Customer and each connection to and from a piece of Customer Equipment shall be clearly labeled with Customer's name (or code name provided in writing to Cox) and the starting and ending point of the connection. Customer Equipment must be configured and run at all times in compliance with the manufacturer's specifications, including power outlet, power consumption, and clearance requirements. Customer must provide Cox with at least 48 hours prior notice any time Customer intends to connect or disconnect any Customer Equipment or other equipment.

G. Terms and Conditions Applicable to Cox Business App Marketplace Services

In addition to all provisions in Section A above, the provisions of Section G shall also apply to access to and use of the Cox Business App Marketplace (the "Platform") and all related products and services (the "Platform Services").

G.1 Definitions.

"Cox Offerings" means those Offerings expressly identified in the Platform marketplace as being provided by Cox or an Affiliate. (a)

"Offering Subscription Period" means, for an Offering, the period that begins when Customer has completed all steps required to access the Offering and access to the Offering through the Platform has been provisioned and ends when terminated in accordance with the Agreement or any applicable Third Party Terms.

"Offerings" means the optional Cox and third party software, products, services, content, and/or accompanying documentation that are offered through the Platform marketplace from time to time.

"Third Party Offerings" means all Offerings other than Cox Offerings.

"Third Party Terms" means the terms and conditions applicable to Customer's and the Authorized Users' access to and use of Third Party Offerings. (b)

G.2 Access to the Platform.

- (i) Access and Use. During the Term, Customer will have the right to permit Customer's employees designated by Customer (the "Authorized Users") to access and use the Platform solely for the purposes of selecting Offerings, using Offerings and managing Customer's Offerings, subject to the restrictions, terms and conditions contained in the Agreement. Nothing contained in the Agreement shall be construed to grant any administrator access to Customer with respect to the Platform, the Offerings or any portion thereof. Where applicable, Customer may allow the Authorized Users to access and use the applicable Offerings using unique login credentials (*i.e.*, a unique login ID and password for each Authorized User); provided, that Customer (i)

ensures that such access and use are in accordance with the terms and conditions of the Agreement and any Third Party Terms and (ii) is liable to Cox for (y) the acts and omissions of the Authorized Users and (z) any and all activity on the Platform arising from use of a Authorized User's login credentials. Customer and the Authorized Users are entirely responsible for maintaining the confidentiality of the login credentials of the Authorized Users. Customer shall not allow multiple individuals to share one common login credentials.

- (ii) Restrictions on Platform Use.

Neither Customer nor the Authorized Users shall: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, reproduce, timeshare, provide on a service bureau basis or otherwise commercially exploit or make available or allow any third party to access any part of the Platform in any way; (ii) modify or make derivative works based on any part of the Platform; (iii) create Internet links to any part of the Platform or "frame" or "mirror" any part of the Platform; (iv) decipher, decompile or reverse engineer any other part of the Platform or otherwise access or attempt to access any part of the Platform in any manner not expressly permitted herein, including accessing any part of the Platform in order to (1) build a competitive product or service, (2) build a product using ideas, features, functions or graphics similar to those of the Platform, or (3) view any code or algorithm or copy any ideas, features, functions or graphics of any other part of the Platform.

Neither Customer nor the Authorized Users shall: (i) use the Platform to send spam or otherwise duplicative or unsolicited messages in violation of laws; (ii) use the Platform to send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material that is harmful to children or violates third party privacy rights; (iii) send or store viruses, worms, time bombs, Trojan horses or other harmful or malicious code, files, scripts, agents or programs within the Platform; (iv) interfere with or disrupt the integrity or performance of any part of the Platform or the data contained therein; or (v) attempt to gain unauthorized access to any part of the Platform or its related systems or networks.

Cox reserves the right to suspend Customer's or any Authorized User's access to or use of the Platform, or any portion thereof, with or

without prior notice, in response to any violation or suspected violation of the terms and conditions contained in the Agreement, including Section 3.2(a) and Section 3.2(b), by Customer or any of the Authorized Users. Cox will have no liability to Customer, any Authorized User, or any provider of Third Party Offerings arising from any suspension under this Section 3.2(c), including relating to any inability of Customer or any Authorized User to access, use or manage Offerings during the suspension period.

G.3 **Access to the Offerings.**

(i) **Cox Offerings.** Customer may only access and use, or allow Authorized Users to access and use, a Cox Offering by selecting the Cox Offering through the Platform marketplace and completing the activation procedure presented by the Platform. During the Offering Subscription Period, the software, products, services, content and accompanying documentation that make up the Cox Offering will be deemed to be part of the Platform for purposes of the Agreement. The terms and conditions to which Customer agrees as part of the activation procedure (the "Offering-Specific Terms"), if any, will supplement the terms of the Agreement as they apply to the Cox Offering during the Offering Subscription Period, and will continue to supplement the terms of the Agreement as set forth in Section 2 (Term and Survival). In the event of a conflict between the Offering-Specific Terms, if any, and any other terms of this Agreement as they relate to a Cox Offering, the Offering-Specific Terms will prevail in all matters relating to such Cox Offering. Offering-Specific Terms will not apply to any part of the Platform other than the Cox Offering to which the Offering-Specific Terms relate.

(ii) Third Party Offerings.

(a) Third Party Offerings are provided subject to the provider of such Third Party Offering's terms of use, copies of which are available to Customer on the Platform and/or in this Agreement. Customer may only access and use, or allow Authorized Users to access and use, certain Third Party Offerings by selecting the Third Party Offering through the Platform marketplace and completing the activation procedure presented by the Platform. As part of the activation procedure for such Third Party Offerings, Customer will be presented with the Third Party Terms applicable to the Third Party Offering. The activation procedure will not be completed unless

Customer verifies that it has received and reviewed the applicable Third Party Terms and affirms that Customer agrees to be bound by and to comply with the Third Party Terms. The Third Party Terms applicable to Third Party Offerings may also be provided to Customer when Customer enters into this Agreement.

The Third Party Terms for an Offering constitute an agreement between Customer and the third party or parties identified in the Third Party Terms as the provider of the Third Party Offering. COX IS NOT THE LICENSOR OR PROVIDER OF ANY OF THE THIRD PARTY OFFERINGS AND OFFERS NO REPRESENTATIONS, WARRANTIES, OR SUPPORT FOR ANY THIRD PARTY OFFERINGS. IN AGREEING TO THE THIRD PARTY TERMS, CUSTOMER IS RELYING SOLELY ON THE WARRANTIES, RIGHTS, AND REMEDIES, IF ANY, AFFORDED TO CUSTOMER UNDER THE THIRD PARTY TERMS. IN ADDITION TO THE DISCLAIMERS SET FORTH IN SECTION G.6, COX DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES, OR COVENANTS REGARDING THE THIRD PARTY OFFERINGS, INCLUDING REGARDING THEIR CONTINUED AVAILABILITY, FUNCTIONALITY, NON-INFRINGEMENT, SUITABILITY FOR THE NEEDS OF CUSTOMER OR ANY AUTHORIZED USER, OR FITNESS FOR ANY PURPOSE.

(c) The Third Party Terms for certain specific Third Party Offerings are available at the following locations:

Google Workspace

https://workspace.google.com/terms/premier_terms.html

DocuSign

<https://www.docusign.com/company/terms-and-conditions/web>

eComFax

<https://www.ecomfax.com/en/terms-and-conditions/>

Fees & Payments. The fees for the Platform Services and the Offerings selected by Customer (the "Fees") are as set forth in the Platform, and are subject to adjustment by Cox without notice from time to time. Unless otherwise set forth in the Platform or any Offering-Specific Terms, all Fees are due monthly in advance.

G.5 **Proprietary Rights.** As among Cox, Customer, and the Authorized Users, all right, title and interest in and to the Platform, the Offerings and any portion thereof, including modifications, enhancements, and derivations thereof, and all intellectual property rights, including patents, copyrights, trademarks, trade secrets, and other intellectual property and proprietary rights ("Intellectual Property") in and to the foregoing belong to and are retained solely by Cox or the providers of Third Party Offerings, as applicable. Cox's third party Platform service provider retains all right, title, and interest in and to the Platform, and reserves all rights not expressly granted. Except as permitted by and subject to Section 12.12, Customer may not reference Cox or its Affiliates, the Platform (or any component thereof) or any of Cox's Intellectual Property on its marketing materials, social media, or web sites (i) without Cox's prior written approval. Except for the express rights granted in this Agreement and in the Third Party Terms, there are no other rights or licenses granted to Customer or the Authorized Users, express, implied, or by way of estoppel in or to the Platform or the Offerings. All rights not granted in the Agreement or the Third Party Terms are reserved by Cox or the providers of Third Party Offerings, as applicable.

G.6 **Disclaimers.**

(i) Disclaimer by Cox. COX HEREBY SPECIFICALLY DISCLAIMS, FOR ITSELF AND FOR COX'S THIRD PARTY PLATFORM SERVICE PROVIDER, ANY REPRESENTATIONS OR WARRANTIES (I) AS TO THE ACCURACY, TIMELINESS, QUALITY, TRUTH, AVAILABILITY OR SUITABILITY OF ANY CONTENT PROVIDED TO CUSTOMER OR THE AUTHORIZED USERS VIA THE PLATFORM OR THE OFFERINGS, (II) THAT ANY CONTENT PROVIDED BY COX OR ITS AFFILIATES VIA THE PLATFORM OR THE OFFERINGS WILL MEET THE REQUIREMENTS OR EXPECTATIONS OF CUSTOMER OR THE AUTHORIZED USERS, OR (III) THAT THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY CUSTOMER OR THE AUTHORIZED USERS VIA THE PLATFORM OR THE OFFERINGS WILL MEET THEIR EXPECTATIONS OR REQUIREMENTS. The Platform Service is further subject to any and all disclaimers of warranty and limitations of liability provided for within this Agreement or General Terms, including, without limitation, Section A20 of the General Terms.

Disclaimer by Platform Provider. The Offerings offered on the Platform are made available by Cox and by third party providers that are not affiliated with the third party Platform service provider. Customer agrees that the third party Platform service provider is not responsible for the Offerings. Third party products and services are provided on AppMarket subject to that third party's terms of use. Customer will have the opportunity to review and accept such terms of use before proceeding with access to and use of such products and services. Customer shall agree to abide by the applicable third party's terms of use and end user license agreement.

G.7 **Data.**

All data or information submitted through the Platform by Customer or its Authorized Users in connection with the Agreement ("Customer Data") is and shall remain the property of Customer. During the Term, Customer hereby grants Cox, its Affiliates and the providers of Third Party Offerings the right and license to use, copy, store, and modify ("Use") the Customer Data to provide the Platform and the Offerings. Customer shall ensure that (i) its privacy policy (and any other applicable policies) governing its information usage practices with respect to its users information and data permits Cox, its Affiliates, and the providers of Third Party Offerings to access and use the Customer Data as necessary to provide the Platform and the Offerings and (ii) it has obtained consent from its users to the extent required by law.

Notwithstanding anything to the contrary contained in Section G.7(i), Cox, its Affiliates and their third party suppliers and providers shall have a perpetual, irrevocable right to Use in any manner or disclose any aggregated data or information derived from the access to or use of the Platform (or any Offerings) by Customer or the Authorized Users; provided, however, that any disclosure to a third party by Cox of such data or information will be in compliance with the Cox Business Online Privacy Policy (including applicable de-identification terms set forth in the Cox Business Online Privacy Policy).

G.8 **Termination.**

If Cox becomes aware of or reasonably suspects any breach of any Third Party Terms by

Customer or any of the Authorized Users which has a material likelihood (to be determined in Cox's sole discretion) of causing Cox's right to make the Third Party Offerings available on the Platform to be terminated, suspended, or materially limited or altered, Cox may terminate the Agreement immediately upon written notice to Customer.

- (ii) Cox may elect in its sole direction to cease providing any Offering at any time. If Cox ceases to provide an Offering to Customer in connection with provision of the Platform or the Platform Services, Cox will have the right to, in its sole discretion: (i) procure a license for Customer to use replacement Offerings; (ii) procure a new license to use the original Offerings as necessary to provide the Offerings, or (iii) terminate the availability of the Offering upon ten (10) days' written notice to Customer. Further, Cox may terminate the Agreement immediately upon notice to Customer at any time when no Offerings are being provided under the Agreement.

G.9 **Liability.**

(i) WITH RESPECT TO ANY THIRD PARTY OFFERINGS, IN ADDITION TO ANY OTHER LIMITATION OF LIABILITY PROVIDED UNDER THE AGREEMENT, CUSTOMER AGREES THAT: (I) THE PROVISION OF THE THIRD PARTY OFFERINGS IS SUBJECT TO AVAILABILITY FROM PROVIDERS OF THIRD PARTY OFFERINGS AND COX SHALL HAVE NO LIABILITY SHOULD SUCH OFFERING BECOME UNAVAILABLE FOR ANY REASON OR IS NO LONGER AVAILABLE UNDER REASONABLE COMMERCIAL TERMS; (II) COX MAKES NO WARRANTY WITH RESPECT TO ANY THIRD PARTY OFFERINGS; AND (III) CUSTOMER'S SOLE REMEDY, IF ANY, WITH RESPECT TO SUCH THIRD PARTY OFFERINGS SHALL BE PURSUANT TO THE APPLICABLE THIRD PARTY TERMS.

(ii) IN ADDITION TO ANY OTHER LIMITATION OF LIABILITY PROVIDED UNDER THE AGREEMENT, IN NO EVENT IS COX'S THIRD PARTY SERVICE PROVIDER LIABLE TO COMPANY OR ANY AUTHORIZED USER FOR ANY DAMAGES (INCLUDING CONSEQUENTIAL DAMAGES OR LOST PROFITS) UNDER THE AGREEMENT.

Exhibit B

1. **Effect of Exhibit B.** Except as expressly modified by the provisions of this Exhibit B, the Agreement shall continue in full force and effect. The capitalized terms not otherwise defined in this Exhibit B have the same respective meanings as contained in the Agreement. The sections of the Agreement that are not expressly modified or replaced by this Exhibit B shall remain in effect pursuant to their terms. If any inconsistencies exist between the terms of this Exhibit B and the Agreement, this Exhibit B shall control.
2. **The following provisions are hereby agreed upon by the Parties:**

Counterparts. This Agreement may be executed in any number of counterparts; all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed original hereof.

Agreement Subject to Appropriation. Any provisions of this Agreement which require the City to expend funds shall be effective when funds are appropriated for this Agreement and are actually available for payment. The City shall be the sole judge and authority in determining the availability of funds under this Agreement, and shall keep Cox fully informed as to the availability of funds for this Agreement. Any obligation of the City under this Agreement is a current expense and payable exclusively from annual appropriations and not a general obligation or indebtedness of the City. If the City Council fails to appropriate money sufficient to fund City obligations set forth in this Agreement, this Agreement shall terminate at the end of the then-current fiscal year, and the City and Cox shall be relieved of any subsequent obligation under this Agreement.

E-Verify Requirements. To the extent applicable under A.R.S. § 41-4401, Cox warrants compliance with all federal immigration laws and regulations relating to employees and compliance with the E-verify requirements under A.R.S. § 23-214(A).

No Boycott of Israel. To the extent applicable under A.R.S. § 35-393 through § 35-393.03, Cox hereby certifies that it is not currently engaged in, and agrees for the duration of this Agreement to not engage in, a “boycott” of goods or services from Israel, as that term is defined in A.R.S. § 35-393.12.

Conflict of Interest. This Agreement is subject to the provisions of A.R.S. § 38-511. The City may cancel this Agreement without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of the City or any of its departments or agencies is, at any time while this Agreement or any extension of this Agreement is in effect, an employee of Cox in any capacity or a contractor to Cox with respect to the subject matter of this Agreement.

Gratuities. The City may, by written notice to Cox, cancel this Agreement if the City finds that gratuities, in the form of economic opportunity, future employment, entertainment, gifts, or otherwise, were offered or given by Cox or any agent or representative of Cox to any officer, agent, or employee of Cox for the purpose of securing this Agreement. In the event the City cancels this Agreement pursuant to this provision, the City shall be entitled to any other rights and remedies.

Provisions Required by Law. Each and every provision of law and any clause required by law to be in this Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either Party, this Agreement will promptly be physically amended to make such insertion or correction.

Vendor Licensing and Registration. Cox warrants that it is registered with the Arizona Corporation Commission to do business in Arizona and, upon request, will provide proof thereof to the City.

Forced Labor of Ethnic Uyghurs. To the extent applicable under ARIZ. REV. STAT. § 35-394, Cox warrants and certifies that it does not currently, and agrees for the duration of this Agreement that it will not use the forced labor, any goods or services produced by the forced labor, or any Contractors, subcontractors, or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China. If Cox becomes aware that it is not in compliance with this paragraph, Cox shall notify the City of the noncompliance within five business days of becoming aware of it. If the Vendor fails to provide a written certification that Cox has remedied the noncompliance within 180 days after that, this Agreement shall terminate unless the termination date of this Agreement occurs before the end of the remedy, in which case this Agreement terminates on the Agreement termination date.

- 3. This Agreement shall be governed by the laws of the State of Arizona, and suit pertaining to either may be brought only in courts in Maricopa County, Arizona.**
- 4. This Agreement is subject to the provisions of A.R.S. § 38-511.**



**CITY COUNCIL
COMMUNICATION**

Christmas in the Park
Item D.

To: Mayor Thomas L. Schoaf and Members of the City Council
From: Tricia Kramer, Community and Recreation Services Director
Through: Matthew Williams, City Manager
Meeting Date: October 18, 2023
Presenter: Tricia Kramer, Community & Recreation Services Director

RECOMMENDED MOTION:

MOVE TO APPROVE STREET CLOSURES FOR THE CHRISTMAS IN THE PARK PARADE AND FESTIVAL ON DECEMBER 9, 2023.

BACKGROUND/DISCUSSION:

On Saturday, December 9, 2023, from 9am to 5pm, Litchfield Park's Special Events Department will host the City's annual Christmas in the Park festival. This is a popular family event that is expected to attract approximately 8,000 people to downtown Litchfield Park. This one-day event will follow the same format and layout as the Christmas in the Park events held in prior years. Arts & crafts vendors and food vendors will open to the public at 9am. The parade will begin at 10am. All other activities will open immediately following the parade. The event will conclude at 5pm and the streets will be reopened by 8pm.

Avondale Police Department and the City's Public Works Department will be assisting during the parade and the festival. We are working with Achen-Gardner to monitor construction related to Litchfield Square that may impact the festival, so that we can safely work around it. Downtown merchants will be notified by written flier delivered in advance by Staff. Detour routes to The Wigwam's main resort entrance and their golf club will be clearly marked with signage, as well.

Requested Street Closures:

1. The flagpole area at the center of town (Wigwam Blvd. & Old Litchfield Rd. intersection) will be closed from 6am to 8pm to accommodate the festival.
2. Eastbound and westbound lanes of Wigwam Blvd. between the Wigwam Resort entrance and Desert Ave. will be closed from 6am to 8pm to accommodate the festival.
3. Northbound and southbound lanes of Old Litchfield Road between Honeysuckle St. and the south parking lot of the Litchfield Park Recreation Center will be closed from 6am to 8pm to accommodate the festival.
4. Northbound and southbound lanes of Old Litchfield Rd. between Villa Nueva Dr. and Sagebrush St. will be closed from 8am to approximately 11am to accommodate the parade.
5. Villa Nueva Dr. will be closed to eastbound traffic between Old Litchfield Rd. and Wigwam Blvd. from 8am to approximately 11am to accommodate the parade.

STAFF RECOMMENDATION:

Staff recommends approval.

FINANCIAL IMPACT:

Staff does not anticipate any negative financial impact because of this festival. Downtown merchants typically report a significant increase in business during the festival, and we expect the same this year.

Attachments

Christmas Festival and Parade Map

Christmas in the Park Parade Reference Map

← **PARADE ROUTE**

★ **FESTIVAL**

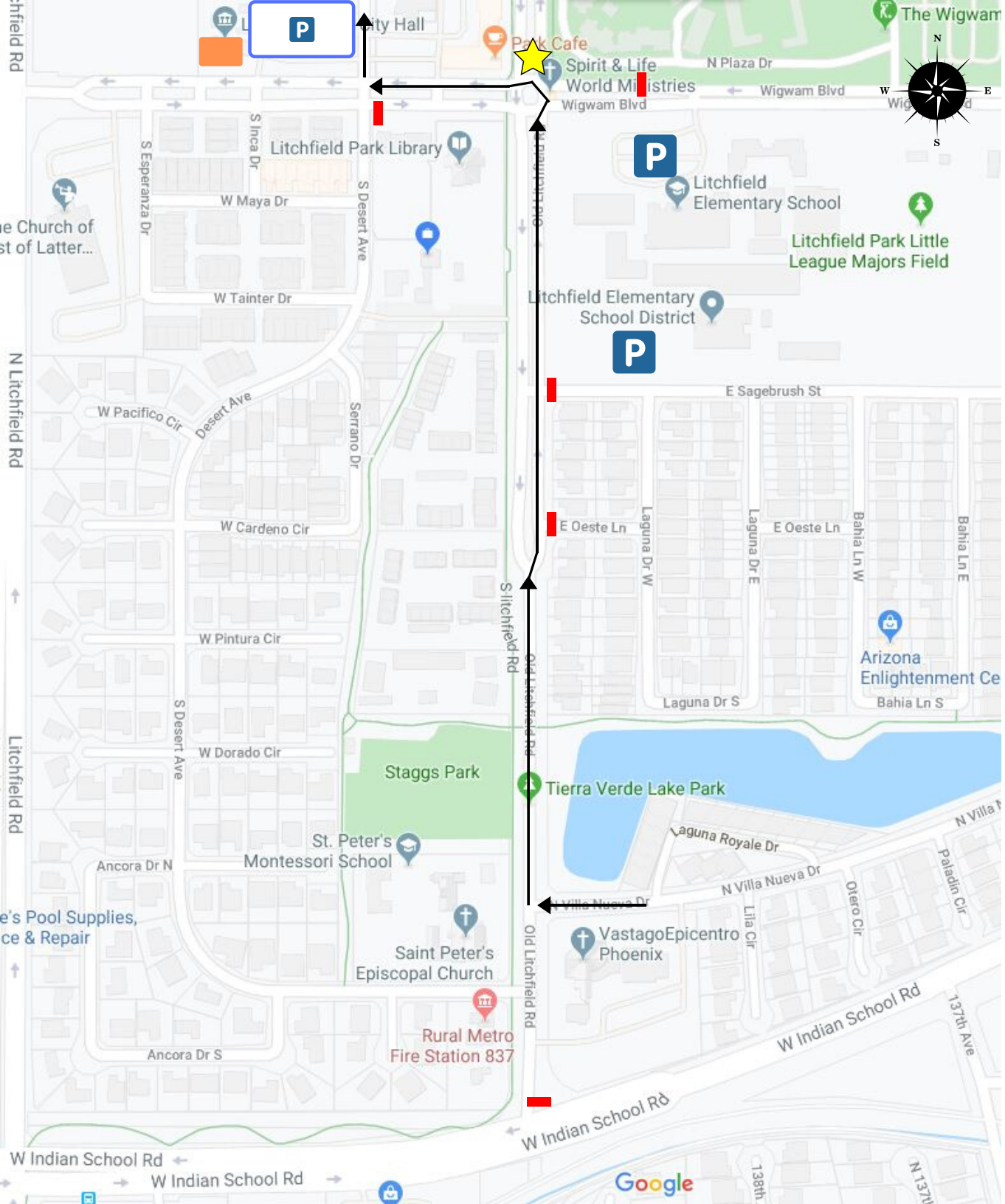
■ **CITY HALL**

□ **GRAVEL LOT**

P **PUBLIC PARKING**

■ **ROAD CLOSURE**

- 1) Flagpole area at the center of town (Wigwam Blvd & Old Litchfield Rd) will be closed 6am to 8pm.
- 2) Eastbound and westbound lanes of Wigwam Blvd between the Wigwam resort entrance and Desert Ave. will be closed from 6am - 8pm.
- 3) Northbound and southbound lanes of Old Litchfield Rd. between Honeysuckle St. and the south parking lot of the Litchfield Park Recreation Center will be closed 6am - 8pm.
- 4) Northbound and southbound lanes of Old Litchfield Rd. between Villa Nueva Dr. and Sagebrush St. will be closed from 8am to approx. 11am to accommodate the parade.
- 5) Villa Nueva Dr. is closed to eastbound traffic between Old Litchfield Rd. and Wigwam Blvd from 8am to approx. 11am to accommodate the parade.
- 6) No northbound traffic on Old Litchfield Rd from Indian School Rd. from 8am to approx. 11am to accommodate the parade.





**CITY COUNCIL
COMMUNICATION**

Litchfield Park
Gathering
Item E.

To: Mayor Thomas L. Schoaf and Members of the City Council
From: Tricia Kramer, Community and Recreation Services Director
Through: Matthew Williams, City Manager
Meeting Date: October 18, 2023
Presenter: Tricia Kramer, Community & Recreation Services Director

RECOMMENDED MOTION:

MOVE TO APPROVE STREET CLOSURES FOR THE LITCHFIELD PARK GATHERING ON JANUARY 13 & 14, 2024.

BACKGROUND/DISCUSSION:

The Litchfield Park Gathering, our annual Native American fine arts festival, has been held in our city for 31 years. This event was started in 1992 by the West Valley Fine Arts Council, but it was turned over to the City in 2002. From that point forward, our Special Events Dept. has coordinated the festival with the help of a committee of volunteers.

The Litchfield Park Gathering takes place in the center of town and is free and open to the public. The event will span the Library lawn, Memorial Park lawn, and northbound and southbound Old Litchfield Road south of Wigwam Blvd. to Sagebrush. It includes approximately 100 Native American artists, food vendors, music and hoop dancing performances, and a children's area. This year's festival will be held on January 13 and 14, 2024. Festival hours are 10am-5pm. We expect the event to attract approximately 5,000 attendees throughout the weekend.

Avondale Police Department and the City's Public Works Department will be assisting during the parade and the festival. We will work closely with Achen-Gardner to monitor construction related to Litchfield Square that may impact the festival, so that we can safely work around it. Downtown merchants will be notified by written flier delivered in advance by Staff. Detour routes to The Wigwam's main resort entrance and their golf club will be clearly marked with signage, as well.

Staff is requesting to close the northbound and southbound lanes of Old Litchfield Rd. from Wigwam Blvd. to Sagebrush St. beginning at 12pm on Friday, January 12, 2024 for festival setup. The streets will reopen on Sunday, January 14, 2024 at 8pm after completion of festival teardown.

STAFF RECOMMENDATION:

Staff recommends approval.

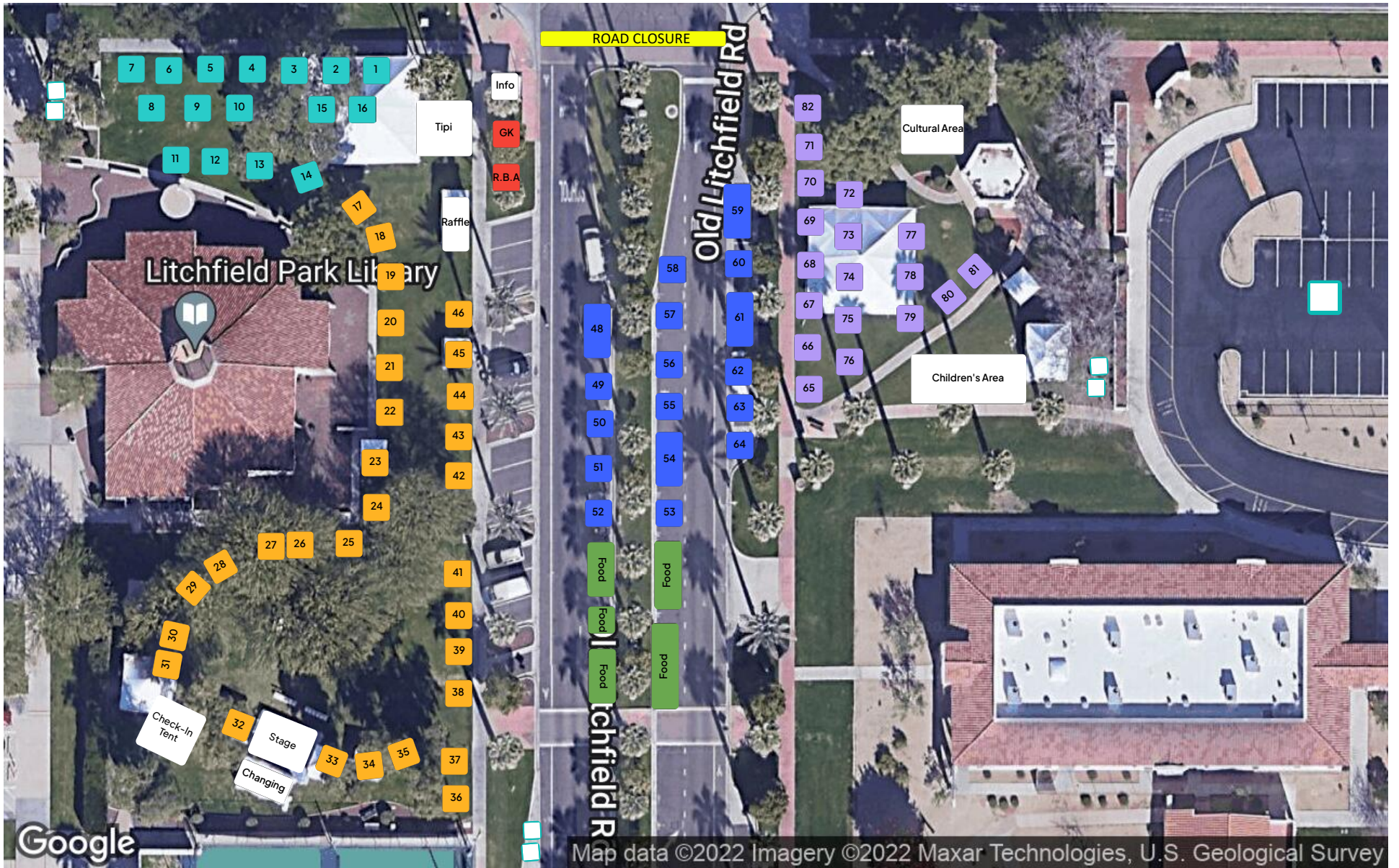
FINANCIAL IMPACT:

The festival is expected to bring increased business and sales for downtown merchants. These increased sales mean additional tax revenues for the City.

Attachments

Litchfield Park Gathering Festival Map

2024 Litchfield Park Gathering Reference Map





**CITY COUNCIL
COMMUNICATION**

Business
Item A.

To: Mayor Thomas L. Schoaf and Members of the City Council
From: Matthew Williams, City Manager
Meeting Date: October 18, 2023
Presenter: Matthew Williams, City Manager

RECOMMENDED MOTION:

MOVE TO ADOPT ORDINANCE 23-276 TO AUTHORIZE THE PURCHASE OF THE DENTAL OFFICE RIGHT OF WAY (ROW) AT WIGWAM BLVD & OLD LITCHFIELD RD

BACKGROUND/DISCUSSION:

This item was introduced during the September 20, 2023, regular meeting. The legal description and additional square footage has been added.

STAFF RECOMMENDATION:

Staff recommends adoption.

FINANCIAL IMPACT:

10,889 sq ft x \$8.50 per sq ft = \$92,556 + \$42,120 cost of improvements = \$134,676.50.

Attachments

Ordinance 23-276 w Exhibit A
Dental ROW Map
Dental ROW appraisal

**CITY OF LITCHFIELD PARK
ORDINANCE NO. 23-276**

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF LITCHFIELD PARK, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE ACQUISITION OF REAL PROPERTY FOR PUBLIC USE BY PURCHASE, CONDEMNATION, OR DEDICATION, AS NECESSARY FOR IMPROVEMENTS TO WIGWAM BOULEVARD AND ASSOCIATED RIGHT OF WAY; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY FOR THE CONSUMMATION OF THE TRANSACTION CONTEMPLATED BY THIS ORDINANCE; AND PROVIDING FOR SEVERABILITY.

BE IT ORDAINED by the Council of the City of Litchfield Park, Arizona, as follows:

Section 1. The acquisition, by purchase, condemnation, or dedication, of a parcel of real property consisting of approximately .250 acres or 10,889 square feet, generally located at the southwest corner of the intersection of Wigwam Boulevard and Old Litchfield Road and legally described and depicted on **Exhibit A**, attached hereto and incorporated herein by reference, is necessary for a public purpose authorized by law, namely for the control and improvement of Wigwam Boulevard and its associated right-of-way, including the control and improvement of sidewalks and parking spaces, and such acquisition is hereby approved.

Section 2. The Mayor, the City Manager, the City Clerk, and the City Attorney are hereby authorized and directed to take all steps and to execute all documents necessary to carry out the purpose and intent of this Ordinance.

Section 3. All actions of the officers and agents of the City which conform to the purpose and intent of this Ordinance and which further the acquisition of the property as contemplated by this Ordinance, whether heretofore or hereafter taken, are ratified, confirmed, and approved.

Section 4. If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision shall be deemed separate, distinct, and independent of all other provisions of this Ordinance and such holding shall not affect the validity of such other provisions.

PASSED AND ADOPTED by the Mayor and Common Council of City of Litchfield Park, Arizona, this 18th day of October, 2023 by the following vote:

AYES _____ NAYS _____ ABSENT _____ EXCUSED _____ ABSTAINED _____

Thomas L. Schoaf, Mayor

ATTEST:

Terri Roth, MMC, City Clerk

APPROVED AS TO FORM:

Gust Rosenfeld, PLC, City Attorneys
By: John A. Gaylord

I, TERRI ROTH, CITY CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 23-276 ADOPTED BY THE COMMON COUNCIL OF THE CITY OF LITCHFIELD PARK ON THE 18TH DAY OF OCTOBER, 2023, WAS POSTED IN THREE PLACES ON THE 19TH DAY OF OCTOBER, 2023.

Terri Roth, MMC, City Clerk

EXHIBIT A

[Legal Description]



EXHIBIT "A"
CITY OF LITCHFIELD PARK
RIGHT OF WAY
LEGAL DESCRIPTION

Job No. 14-0264.01

OCTOBER 3, 2023

A PORTION OF THAT PARCEL OF LAND AS DESCRIBED IN DOCUMENT NO. 2004-0212111, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA, AND LYING WITHIN THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 2 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 28, MONUMENTED BY A FLAGPOLE, FROM WHICH THE NORTH QUARTER CORNER OF SAID SECTION 28, MONUMENTED BY A FOUND MARICOPA COUNTY HIGHWAY DEPARTMENT BRASS CAP FLUSH, BEARS, AS A **BASIS OF BEARINGS**, NORTH 89 DEGREES 40 MINUTES 38 SECONDS WEST, 2618.79 FEET;

THENCE, ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, NORTH 89 DEGREES 40 MINUTES 38 SECONDS WEST, 403.13 FEET TO THE EAST RIGHT OF WAY LINE OF DESERT AVENUE AS DEPICTED ON LITCHFIELD PARK SUBDIVISION NO. 16, ACCORDING TO BOOK 153 OF MAPS, PAGE 15, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE, DEPARTING SAID NORTH LINE, ALONG SAID EAST RIGHT OF WAY LINE, SOUTH 0 DEGREES 03 MINUTES 20 SECONDS EAST, 33.00 FEET, TO A POINT ON A LINE BEING 33.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST QUARTER, AND THE **POINT OF BEGINNING**;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 89 DEGREES 40 MINUTES 38 SECONDS EAST, 339.10 FEET, TO THE WEST LINE OF THE EAST 64.00 FEET OF SAID NORTHEAST QUARTER;

THENCE, ALONG SAID WEST LINE, SOUTH 00 DEGREES 00 MINUTES 19 SECONDS EAST, 30.98 FEET TO THE NORTH LINE OF THAT PARCEL OF LAND AS DESCRIBED IN DOCUMENT NO. 1989-0329159, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE, ALONG THE NORTH LINE OF SAID PARCEL, NORTH 89 DEGREES 39 MINUTES 43 SECONDS WEST, 173.73 FEET;



THENCE, ALONG THE WEST LINE OF SAID PARCEL, SOUTH 00 DEGREES 14 MINUTES 41 SECONDS WEST, 20.00 FEET;

THENCE, DEPARTING SAID WEST LINE, NORTH 44 DEGREES 42 MINUTES 31 SECONDS WEST, 28.31 FEET;

THENCE, NORTH 89 DEGREES 39 MINUTES 43 SECONDS WEST, 125.34 FEET;

THENCE, SOUTH 45 DEGREES 08 MINUTES 28 SECONDS WEST, 28.19 FEET, TO THE EAST RIGHT OF WAY LINE OF DESERT AVENUE AS DEPICTED ON SAID LITCHFIELD PARK SUBDIVISION NO. 16;

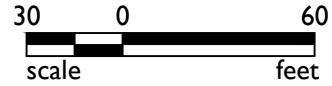
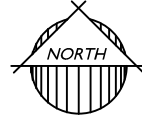
THENCE, ALONG SAID EAST RIGHT OF WAY LINE, NORTH 00 DEGREES 03 MINUTES 20 SECONDS WEST, 50.89 FEET, TO THE **POINT OF BEGINNING**.

SAID PORTION OF LAND CONTAINING 10,889 SQUARE FEET, OR 0.2500 ACRES, MORE OR LESS, AND BEING SUBJECT TO ANY EASEMENTS, RESTRICTIONS, AND/OR RIGHTS-OF-WAYS OF RECORD OR OTHERWISE.

THIS DESCRIPTION SHOWN HEREON IS NOT TO BE USED TO VIOLATE SUBDIVISION REGULATIONS OF THE STATE, COUNTY AND/OR MUNICIPALITY, OR ANY OTHER LAND DIVISION RESTRICTIONS.

FLC 9/27/23

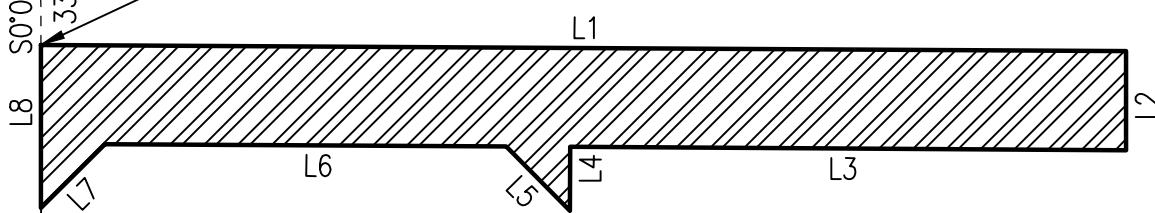




NORTH QUARTER CORNER OF
 SEC 28, T 2N, R 1 W
 FOUND MCHD BRASS CAP,
 FLUSH W/RLS 36563
 (BASIS OF BEARINGS)

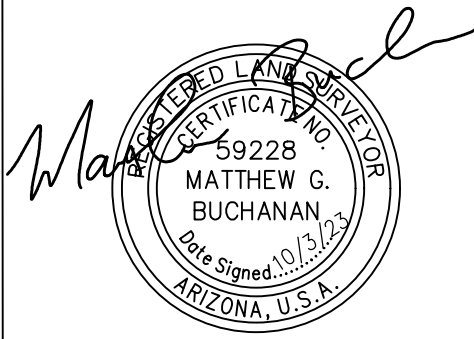
POINT OF COMMENCEMENT
 NORTHEAST CORNER OF
 SEC 28, T 2N, R 1 W
 FOUND FLAGPOLE,
 POSITION CALCULATED

N89°40'38"W 2618.79' WIGWAM BOULEVARD
 403.13'
 POINT OF BEGINNING



APN: 501-70-011Z
 ELLSWORTH & WARREN
 PROPERTIES, L.L.C.
 DOC #2004-0212111, M.C.R.

DESERT AVENUE



LINE TABLE		
LINE	BEARING	LENGTH
L1	S89°40'38"E	339.10'
L2	S00°00'19"E	30.98'
L3	N89°39'43"W	173.73'
L4	S00°14'41"W	20.00'
L5	N44°42'31"W	28.31'
L6	N89°39'43"W	125.34'
L7	S45°08'28"W	28.19'
L8	N00°03'20"W	50.89'

APN: 501-70-011Y
 CITY OF LITCHFIELD PARK
 DOC #1989-0329159, M.C.R.

SHEET 1 OF 1

Oct 04, 2023 8:41am S:\Projects\2014\14-264\14-264.01\Land Survey\Legals\14-264.01 LITCHFIELD RW\14-264.01 LITCHFIELD LEGAL.dwg mbuchanan

14-264.01

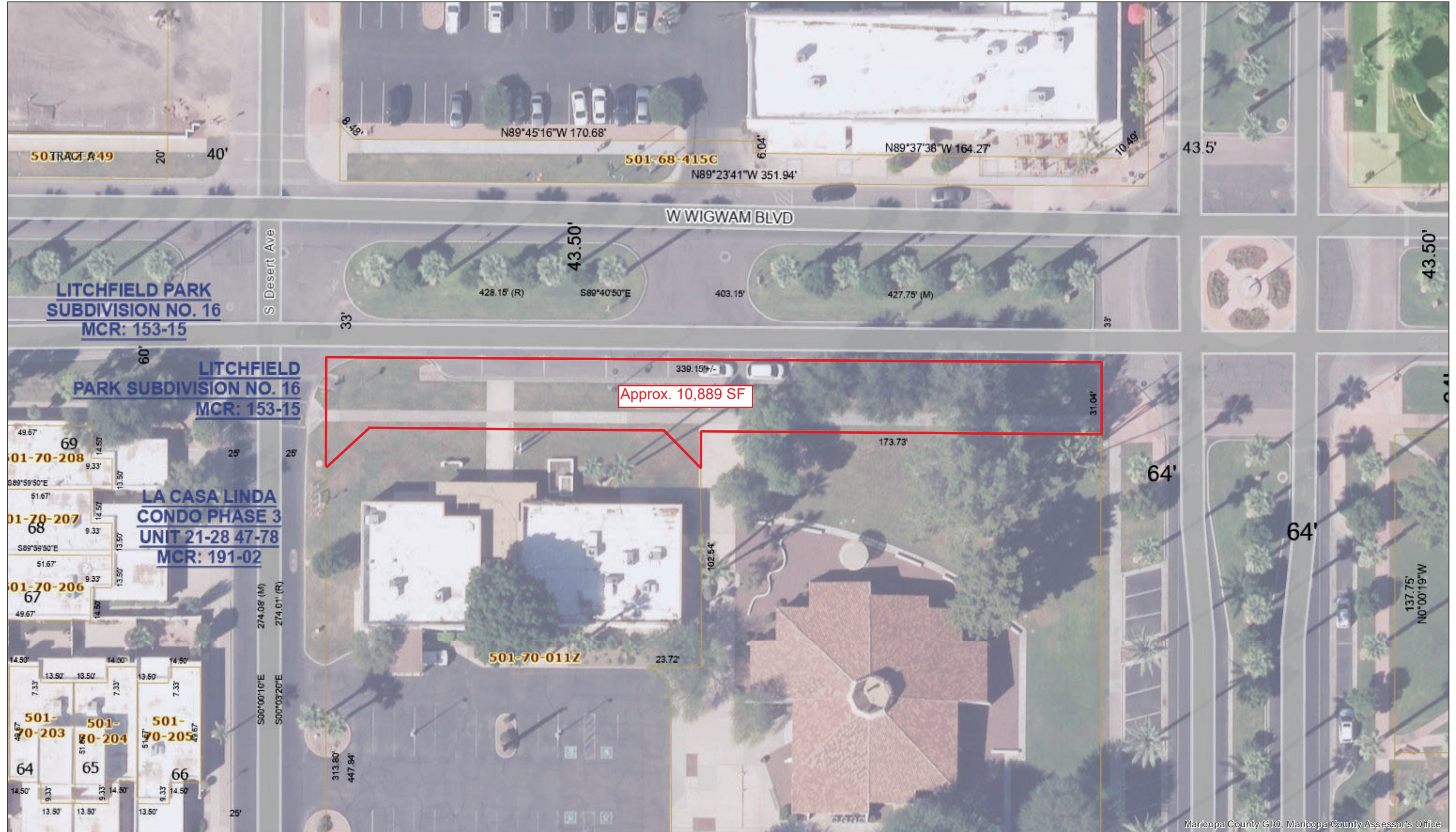
CITY OF LITCHFIELD PARK
 RIGHT OF WAY

EXHIBIT "B"



1130 N. Alma School Rd.
 Ste. 120 Mesa, AZ 85201
 T:480.503.2250 | F:480.503.2258
 www.epsgroupinc.com

Right-of-Way Acquisition



APPRAISAL REPORT



ASSIGNMENT: Estimate Market Value of a Partial Acquisition and its Effects on the Remainder

PROJECT: Public-use Area Acquisition

OWNER: Ellsworth & Warren Properties, LLC

ASSESSOR'S PARCEL NO.: 501-70-011Z

ADDRESS: 111 West Wigwam Boulevard, Litchfield Park, Arizona

TYPE: Commercially-oriented Land

CLIENT: Mr. Woodrow Scoutten, PE
Special Projects Manager
City of Litchfield Park
214 West Wigwam Boulevard
Litchfield Park, Arizona 85340

EFFECTIVE DATE OF THE APPRAISAL: June 5, 2023

APPRAISER: Craig D. Anderson, SRA
Anderson-Meadows Real Estate Appraisal, LLC

OUR FILE NO.: C23-535

Anderson-Meadows Real Estate Appraisal, LLC

Rea Estate Appraisers and Consultants

2939 South Power Road,
Mesa, Arizona 85212
(480) 926-7200
E-Mail: craig@azcommercialappraisal.com

June 15, 2023

Mr. Woodrow Scoutten, PE
Special Projects Manager
City of Litchfield Park
214 West Wigwam Boulevard
Litchfield Park, Arizona 85340

Re: Assignment: Estimate Market Value of a Partial Acquisition and its Effects on the
Remainder
Project: Public-use Area Acquisition
Property Type: Commercially-oriented land
Owner: Ellsworth & Warren Properties, LLC
Assessor Nos: 501-70-011Z
Address: 111 West Wigwam Boulevard, Litchfield Park, Arizona
Our File No.: C23-535

Dear Mr. Scoutten:

Per to your request, I have inspected the above-referenced property for the purpose of estimating the market value of the fee simple interest, as vacant, as of the effective date of the appraisal (date of valuation), June 5, 2023, in order to estimate the value of the partial acquisition and its effects on the remainder. The intended use of the appraisal will be for acquisition negotiations. I expect that the intended user of this report will be you (the client) and others involved with the negotiation.

Because the partial acquisition does not include any major improvements, or have any adverse effect upon them, after the partial acquisition and completion of the project, only the land was appraised. Then any contributory market value of minor improvements in the partial acquisition and any relocation cost, if any, were added to the value of the land in the partial acquisition for my final opinion of value.

Mr. Woodrow Scoutten, PE
June 15, 2023
Page 2

My opinion of market value assumed a cash transaction or one involving financing at market terms after a reasonable exposure period prior to the effective date of the appraisal. The opinion expressed was subject to the underlying assumptions and limiting conditions, definitions and certification set forth in the body of the accompanying appraisal report. The appraisal and report were prepared in conformity with the appraisal guidelines of the City of Litchfield Park, Uniform Standards of Professional Appraisal, 2022-2023 (USPAP) and the Uniform Relocation Assistance & Real Property Acquisition Policies Act ("Uniform Act") (49 CFR Part 24) and amendments, and the Arizona Department of Transportation Infrastructure Delivery and Operations Division's Right-of-way procedures Manual, Federal Highway Administration (FHWA)-certified, July 16, 2018. Please note that the ADOT manual is a complete set of appraisal requirements that was certified by FHWA for Uniform Act compliance. The ADOT appraisal requirements have long represented the most complete compilation and documentation of requirements for compliance.

During the course of the appraisal and analysis, I became thoroughly familiar with the subject property and its location. Documented market data from the applicable market segment to which the subject belongs was analyzed and I spoke with well-informed persons familiar with current real estate values, all for the purpose of estimating the market value of this property.

Based on the information found in my investigation and by my professional analysis as presented in the accompanying appraisal report, my opinion of the market value of the partial acquisition and its effects on the remainder as of the effective date of the appraisal (date of valuation), June 5, 2023, was:

**ONE HUNDRED THIRTY-ONE THOUSAND SIX HUNDRED TWENTY-FIVE
DOLLARS**

(\$131,625)

Mr. Woodrow Scoutten, PE
 June 15, 2023
 Page 3

Eminent Domain Valuation Summary

Market Value of the Larger Parcel	\$583,160 (\$8.50/s.f.)			
Partial Acquisition As a Part of the Larger Parcel Fee Simple	<u>(\$ 89,505)</u>			\$ 89,505
Remainder As a Part of the Larger Parcel	\$493,655	\$493,655		
Remainder After the Acquisition Before Special Benefits	<u>(\$522,693)</u>	(\$9.00/s.f.)		
Preliminary Severance Damages	(\$ 28,038)	(\$ 28,028)		
Remainder After the Acquisition After Special Benefits	\$522,693			
Remainder As a Part of the Larger Parcel	<u>(\$493,655)</u>			
Special Benefits	\$ 28,038	<u>\$ 28,038</u>		
Preliminary Severance Damages		\$ 0	\$ 0	
Cost-to-cure			(\$ 0)	\$ 0
Additional Diminishment of Preliminary Severance Damages			<u>(\$ 0)</u>	
Net Severance Damages			\$ 0	\$ 0
Minor Improvements and Minor Cost-to-cure				<u>\$ 42,120</u>
Estimated Value of the Partial Acquisition and its Effects on the Remainder				\$131,625

My opinion of market value was subject to a special limiting condition stated on page 15 of the report.

The opportunity to assist you has been appreciated.

Respectfully submitted,

Anderson-Meadows Real Estate Appraisal, LLC
 Craig D. Anderson, SRA
Certified General Real Estate Appraiser – State of Arizona
 Certificate No. 30383

TABLE OF CONTENTS

PART I - INTRODUCTION

Underlying Assumptions and Limiting Conditions	1
Summary of Important Facts and Opinions	7
Subject Photographs	10
Scope of Work	13
Special Limiting Conditions	15
Description of the Project	16
Property Identification	16
Legal Description	16
Ostensible Owner	16
Ownership and Marketing History	16
Owner Contact and Property Inspection	17
Leasehold Interest	17
Purpose of the Appraisal	17
Intended Use and Intended Users of the Appraisal	18
Definitions	17
Date of Inspection	18
Effective Date of the Appraisal	18
Date of the Report	18

PART II - FACTUAL DATA

Regional Analysis	19
Neighborhood Analysis	39
Site Analysis	44
Improvement Analysis	52
Zoning and Legal Restrictions Analysis	53
Real Estate Tax and Assessment Analysis	58

PART III - ANALYSIS AND CONCLUSIONS

Highest and Best Use Analysis	59
Valuation Process	67
The Sales Comparison Approach	69
Vacant Land Comparables.....	70
Factors Affecting Marketability and Discussion of Adjustments	86
Opinion of Market Value	94
Exposure Time	94
Reconciliation and Final Opinion of Market Value, Before	95

The Project and Partial Acquisition	96
Description of the Project	96
Description of the Partial Acquisition	96
Effects of the Partial Acquisition on the Remainder	99
Partial Acquisition Valuation	100
Value of the Whole Before the Partial Acquisition	100
Value of the Partial Acquisition As a Part of the Whole	100
Value of the Remainder As a Part of the Whole	100
Site Analysis & Highest and Best Use of the Remainder	100
Market Value of the Remainder After	103
Severance Damages	105
Special Benefits	105
Cost-to-cure	105
Net Severance Damages	106
Minor Improvements, Minor Cost-to-cure	106
Partial Acquisition Valuation Summary	107
Certification	108

Appendix

Title Report
Engagement Letter
Qualifications of the Appraiser

UNDERLYING ASSUMPTIONS AND LIMITING CONDITIONS

1. This report is the confidential and private property of the client and the appraiser. Neither all nor any part of the contents of this report shall be conveyed to any person or entity, other than the appraiser's or firm's client, through advertising, solicitation materials, public relations, news, sales, or other media without the written consent and approval of the authors, particularly as to valuation conclusions, the identity of the appraiser or firm with which the appraiser is connected, or any reference to the Appraisal Institute or the MAI and SRA designations. Further, the appraiser or firm assumes no obligation, liability, or accountability to any third party. If this report is placed in the hands of anyone but the client, client shall make such party aware of all the assumptions and limiting conditions of the assignment.
2. Neither this report, nor any of its contents, may be used for the sale of shares or similar units of ownership in the nature of securities, without specific prior approval of the appraiser. No part of this appraisal may be reproduced in any promotional materials without the permission of the appraiser.
3. The information furnished by the property owner, agent, management or the client is assumed to be correct as received.
4. The appraiser is not responsible for the accuracy of the opinions furnished by others and contained in this report, nor is he responsible for the reliability of government data utilized in the report.
5. The title to the property is assumed to be marketable and free and clear of all liens.
6. The property is appraised as if owned in fee simple title without encumbrances, unless otherwise mentioned in this report.
7. The fee simple estate in the property contains the sum of all fractional interests which may exist.
8. The legal description obtained by the appraiser was assumed correct and descriptive of the subject property. No responsibility is assumed for the legal description provided or for matters including legal or title considerations. A survey and title report should be obtained to verify its accuracy.
9. No site survey was provided to the appraiser unless otherwise noted. It is assumed that the sources for dimensions and size relied upon are correct.
10. The utilization of the land by the improvements is assumed to be within the boundaries or property lines described and that no encroachments exist unless otherwise noted in the report.

11. No hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable were assumed to exist. No responsibility is assumed for such conditions or arranging engineering studies that may be required for their discovery.
12. Subsurface rights (mineral, oil, etc.) and their potential impact upon value were not considered in this appraisal, unless stated otherwise.
13. This appraisal assumes the subject property, as vacant or as improved, has no historical or archeological significance. The value estimate is predicated on the assumption that no such condition exists. Should the client have a concern over the subject's status, he or she is urged to retain the services of a qualified independent specialist to determine the extent of either significance, if any, and the cost to study the condition or the benefit or detriment such a condition brings to the property. The cost of inspection and study must be borne by the client or owner of the property. Should the development of the property be restricted or enhanced in any way, the appraiser reserves the right to modify the opinions of value indicated by the market.
14. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless nonconformity has been stated, defined and considered in the appraisal report.
15. This appraisal assumes the subject property complies with the requirements under the *ADA, Americans With Disabilities Act*. The appraisers are not qualified to detect each and every item of compliance or lack thereof. The value estimate is predicated on the assumption that there is no lack of compliance that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them.

Should the client have a concern over the subject's state of compliance, he or she is urged to retain the services of a qualified independent ADA specialist to determine the extent of compliance and the cost to bring the property into compliance if needed. The cost of inspection, study and compliance must be borne by the client or owner of the property. The cost could be deducted from the estimate of market value of the subject property if indicated by the market.

16. The subject property is assumed not to be in violation of any government regulations or laws pertaining to the environment.
17. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances as asbestos, PCB transformers, urea-formaldehyde foam insulation, or other toxic, hazardous, or contaminated substances and/or underground storage tanks (containing hazardous

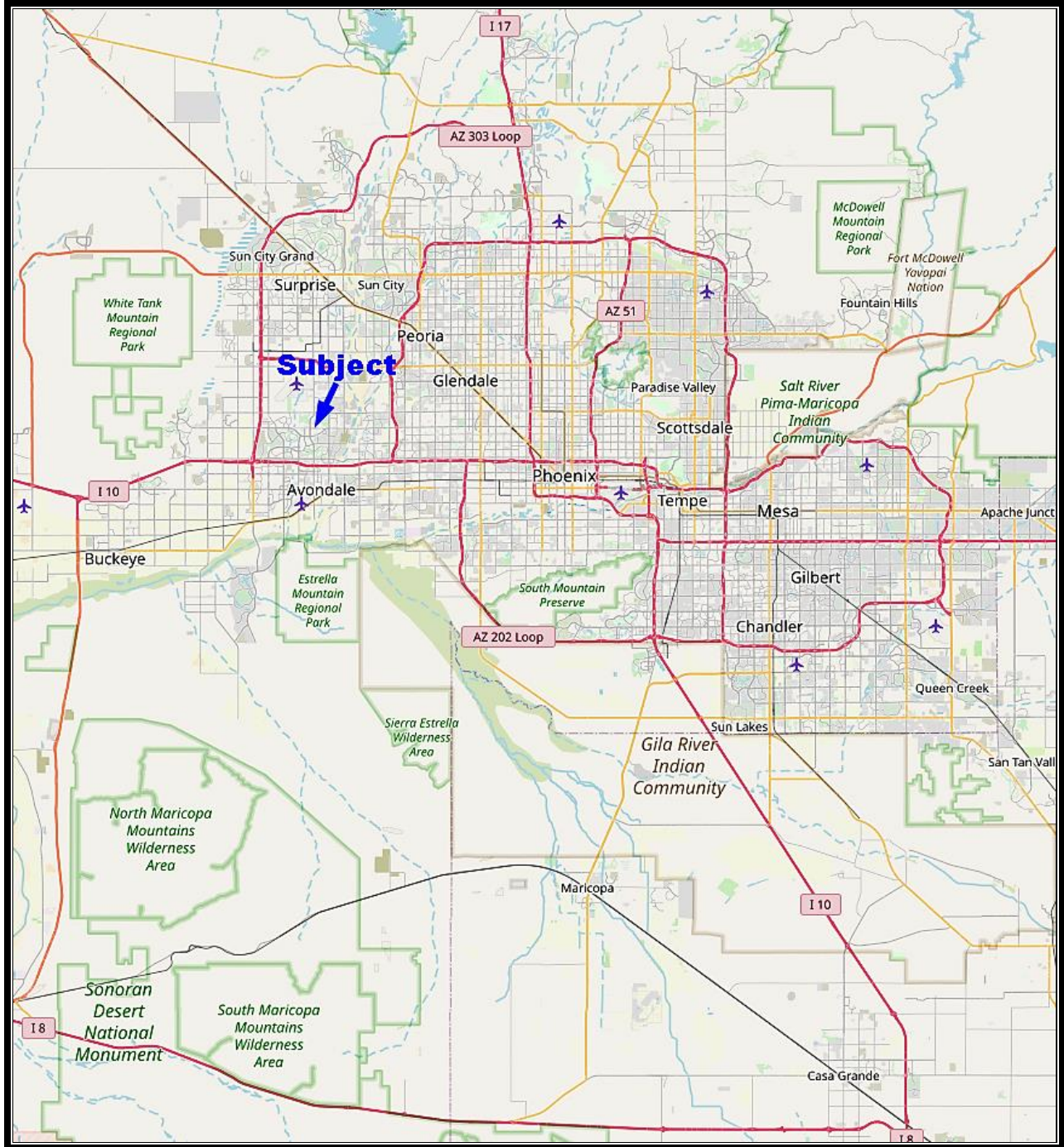
materials). Mold may be present in areas the appraiser cannot see. The value estimate is predicated on the assumption that there is no such material or growth on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them.

Should the client have a concern over the existence of such substances, he or she is urged to retain the services of a qualified independent environmental specialist to determine the extent of the contamination, if any, and the cost of treatment or removal. The cost of detection, treatment or removal and permanent storage must be borne by the client or owner of the property. This cost can be deducted from the estimate of market value of the subject property if requested by the client.

18. Responsible ownership and competent management is assumed to exist for the subject property.
19. The values assigned to the improvements, if shown in this report, are in proportion to the contribution they make to the value of the property as a whole. The separate estimates of value for the land and building must not be used in conjunction with any other appraisal and are invalid if so used, or if used separately.
20. All furnishings and equipment (or other personal property), except those specifically indicated and/or typically considered as a part of real property (under common accepted definitions) have been disregarded in this valuation. Only the real estate, as permanently affixed to the subject site, has been valued herein.
21. This report is not considered a legal document and the appraiser assumes no responsibility for matters of a legal nature except for his obligations under the contract to provide the appraisal and report.
22. The appraiser is not required to testify regarding this report in deposition or in court unless arrangements were previously made.
23. The appraiser cannot predict or evaluate the possible effects of future wage or price control actions of the government upon rental income or financing of the subject property; hence, it is assumed that no controls will apply which would nullify contractual agreements, thereby changing property values.
24. The appraiser did not base a conclusion or opinion of value on the following:
 - a. Racial, ethnic, or religious homogeneity of the inhabitants of an area or of a property
 - b. Racial, religious, and ethnic factors as predictors of value trends or price variance

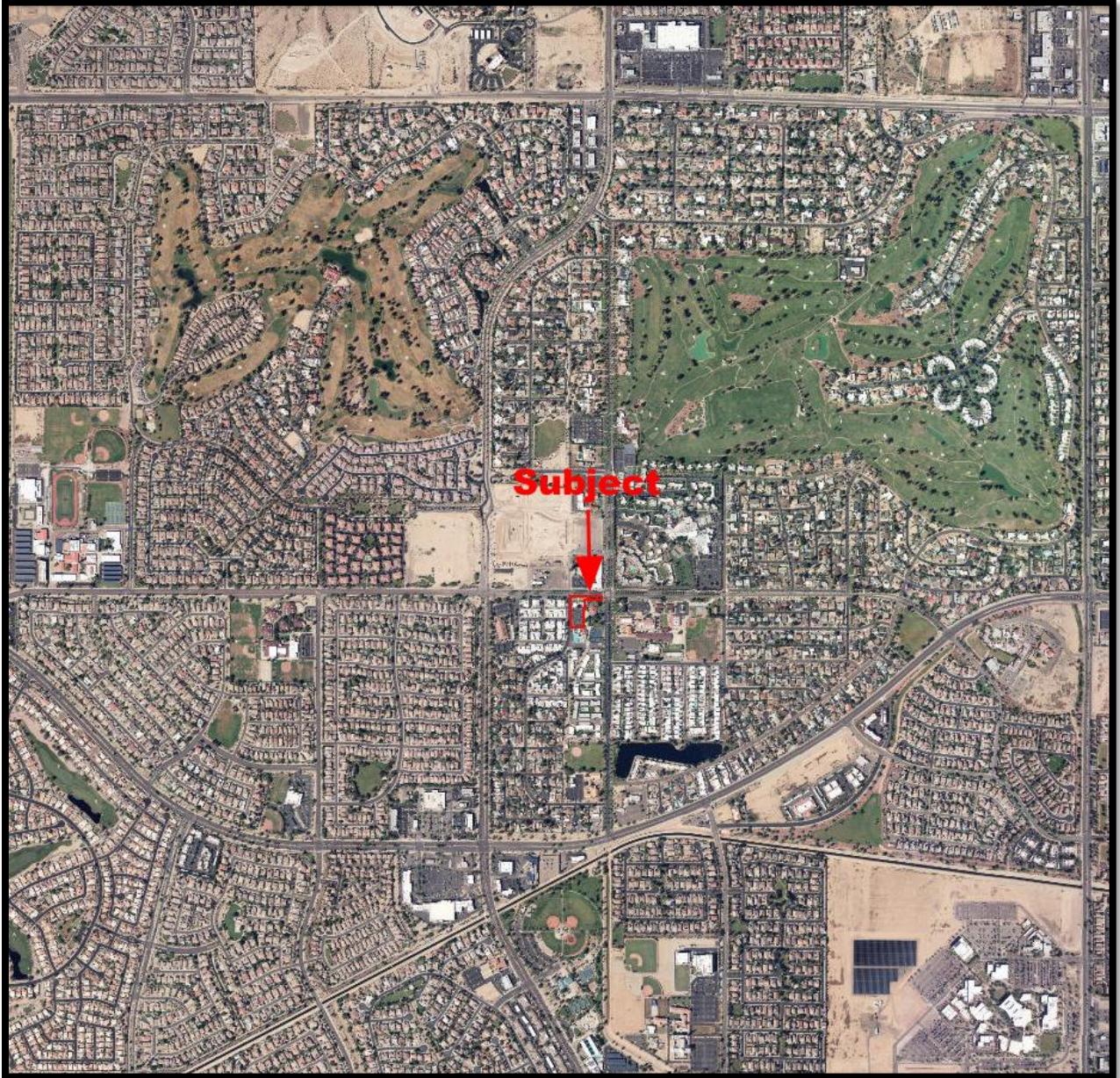
- c. Neighborhood trends analyzed upon stereotyped or biased presumptions relating to race, color, religion, sex, or national origin, or upon unsupported presumptions relating to the effective age or remaining life of the property being appraised or the life expectancy of the neighborhood in which it is located.

REGIONAL MAP



AERIAL PHOTOGRAPH

↑
North



SUMMARY OF IMPORTANT FACTS AND OPINIONS

PROJECT: Public-use Area Acquisition

TYPE: Commercially-oriented land

ADDRESS: 111 West Wigwam Boulevard, Litchfield Park, Arizona

ASSESSOR'S PARCEL NOS.: 501-70-011Z

OWNER CONTACT &
PROPERTY INSPECTION: A letter of notification was sent to the property owner on June 1, 2023. The property was inspected unaccompanied on June 5, 2023. At that time, a copy of the letter of notification was left at Dr. Warren's office. The property manager, Sara Griffins, telephoned on June 8, 2023. We discussed the subject property and the proposed acquisition. Based upon our conversation, there was no need to meet at the property.

PURPOSE, INTENDED USE
AND INTENDED USERS: The purpose of this appraisal was to estimate the market value of the fee simple interest in the subject property, as vacant, as of the effective date of the appraisal, June 5, 2023, in order to estimate the value of the partial acquisition and its effects on the remainder. The intended use of the appraisal will be for acquisition negotiations. I expect that the intended user of this report will be you (the client) and others involved with the negotiation.

SITE AREA: 68,607 square feet or 1.575 acres (per Assessor)

ZONING: PF, Public Facilities

IMPROVEMENTS: Two office buildings totaling 6,397 and related site improvements constructed in 1966

HIGHEST AND BEST USE:

As Vacant
As Improved

Commercial/office development
Existing use

INDICATIONS OF MARKET VALUE
BEFORE:

Cost Approach
Sales Comparison Approach
Income Approach

Not applicable
\$617,463 or \$9.00 per square foot
Not applicable

FINAL OPINION OF
MARKET VALUE, BEFORE:

\$617,463 or **\$9.00** per square foot

My opinion of market value was subject to a special limiting condition stated on page 15.

PARTIAL ACQUISITION VALUATION SUMMARY:

Market Value of the Larger Parcel	\$583,160 (\$8.50/s.f.)		
Partial Acquisition As a Part of the Larger Parcel Fee Simple	<u>(\$ 89,505)</u>		\$ 89,505
Remainder As a Part of the Larger Parcel	\$493,655	\$493,655	
Remainder After the Acquisition Before Special Benefits		<u>(\$522,693)</u> (\$9.00/s.f.)	
Preliminary Severance Damages		(\$ 28,038)	(\$ 28,028)
Remainder After the Acquisition After Special Benefits		\$522,693	
Remainder As a Part of the Larger Parcel		<u>(\$493,655)</u>	
Special Benefits	\$ 28,038		<u>\$ 28,038</u>
Preliminary Severance Damages		\$ 0	\$ 0
Cost-to-cure			(\$ 0)
Additional Diminishment of Preliminary Severance Damages			<u>(\$ 0)</u>
Net Severance Damages			\$ 0
Minor Improvements and Minor Cost-to-cure			<u>\$ 42,120</u>
Estimated Value of the Partial Acquisition and its Effects on the Remainder			\$131,625

EXPOSURE TIME: 6 months

TYPE OF REPORT: Appraisal Report (per USPAP 2022–2023)

DATE OF INSPECTION: June 5, 2023

EFFECTIVE DATE
OF THE APPRAISAL: June 5, 2023 (date of valuation)

DATE OF THE REPORT: June 15, 2023 (date of transmittal)

APPRAISER: Craig D. Anderson, SRA
Anderson-Meadows Real Estate Appraisal, LLC
2939 South Power Road
Mesa, Arizona 85212
480-712-7108

SUBJECT PROPERTY PHOTOGRAPHS

(June 5, 2023)



Subject Property Looking Southeast and South from Wigwam Boulevard



Subject Property Looking West from Old Litchfield Road



Subject Property Looking South and Southwest from Wigwam Boulevard



Subject Property Looking Northeast and East from Desert Avenue



Subject Property Looking Northwest and North from the Southeast Property Corner



Wigwam Boulevard Looking East and West– Subject on Right and Left



Desert Avenue Looking North and South – Subject on Right and Left

INTRODUCTION

Scope of Work

Scope of work is defined by USPAP as follows:

The type and extent of research and analyses in an appraisal or appraisal review assignment.

This appraisal report leads the reader through the appraisal of a parcel of real property in Litchfield Park, Arizona. I provided an “Appraisal Report” which provides all the introduction, description, data, analysis, and conclusions that the reader requires to understand the opinion of market value. The appraisal and report adhere to requirements of the City of Litchfield Park, Uniform Standards of Professional Appraisal Practice, 2022-2023 (USPAP) and the Uniform Relocation Assistance & Real Property Acquisition Policies Act (“Uniform Act”) (49 CFR Part 24) and amendments, and the Arizona Department of Transportation Infrastructure Delivery and Operations Division’s (ADOT) Right-of-way Procedures Manual, Federal Highway Administration (FHWA)-certified, July 16, 2018. Please note that the ADOT manual is a complete set of appraisal requirements that was certified by FHWA for Uniform Act compliance. The ADOT appraisal requirements have long represented the most complete compilation and documentation of requirements for compliance. This appraisal report has an accompanying workfile. A workfile is defined by USPAP as:

This appraisal report has an accompanying workfile. A workfile is defined by USPAP as:

Documentation necessary to support an appraiser’s analyses, opinions and conclusions

Thus, where my description, data, analysis, and conclusions are summarized in the report, my workfile contains supporting documentation.

My opinion of market value was supported with market data which were obtained from typical published sources and from market participants. The scope of work included an analysis of the physical and legal characteristics of the property, the influences of the surrounding region and neighborhood on the properties, and supply and demand in the market segment to which it belongs which led to my opinion of highest and best use.

Once my opinion of highest and best use was established, I studied recent sales and current listings of comparable parcels of land and I spoke with knowledgeable market participants who are familiar with properties like the subject property (see discussion below). How the market viewed the larger parcel was critical to my supported opinion of market value and reasonable exposure time. Their comments also helped provide further support for quantitative and qualitative sales adjustments.

Because the partial acquisition does not include any major improvements or have any adverse effect upon them after the partial acquisition and completion of the project, only the land was appraised. Then any contributory market value of minor improvements in the partial acquisition and any cost to restore, if any, were added to the value of the land in the partial acquisition for my final opinion of value.

The appraisal documented in this report supported a final opinion of value by the Sales Comparison Approach. Sufficient data were contained within this report for an adequate understanding of the data considered, as well as the methodology and reasoning utilized to reach my opinion of market value.

Eminent domain-like valuation followed in order to estimate the market value of the partial acquisition and its effects on the remainder. The steps of eminent domain valuation are as follows:

- 1) Estimate the value of the larger parcel before the partial acquisition and project
- 2) Estimate the value of the partial acquisition – land only.
- 3) Estimate the value of the remainder as a part of the whole (before the estimation of severance damages and special benefits) by subtracting the value of the partial acquisition from the value of the larger parcel.
- 4) Estimate the value of the remainder, before special benefits. The result is *preliminary* severance damages. *Preliminary* severance damages is before consideration of the offset of special benefits and cost-to-cure.
- 5) Estimate the value of the remainder, after special benefits. The result is special benefits which will offset all or part of preliminary severance damages.
- 6) Consider and estimate cost-to-cure to offset some or all of preliminary severance damages. Cost-to-cure can be equal to or less than preliminary severance damages lessened by special benefits.
- 7) Deduct special benefits and cost-to-cure from preliminary severance damages to arrive at permanent severance damages.
- 8) Estimate value of minor improvements
- 9) Estimate minor cost-to-cure
- 10) The sum indicates the value of the partial acquisition and its effects on the remainder:
 - Value of the land and improvements within the partial acquisition
 - Cost-to-cure
 - Permanent severance damages

Assumptions and limiting conditions plus my certification set forth the boundaries in which my opinion of market value was contained. Larry C. Meadows provided significant assistance with the appraisal by researching and confirming market data, assembling the report, and assisting in the estimation of market value.

Special Limiting Conditions

Extraordinary Assumptions

According to USPAP 2022-2023, an extraordinary assumption is defined as follows:

An assumption, directly related to a specific assignment, as of the effective date of the assignment results, which, if found to be false, could alter the appraiser's opinions or conclusions.

Extraordinary assumptions presume as fact *otherwise uncertain information* about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis. My opinion of market value was not subject to any extraordinary assumptions.

Hypothetical Conditions

According to USPAP 2022-2023, a hypothetical condition is defined as follows:

A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.

Hypothetical conditions assume conditions *contrary to known facts* about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis. My opinion of market value was subject to the following hypothetical conditions:

Project Influence - *In acquiring property for transportation purposes pursuant to this article, when determining the market value of the property to be taken and the market value of the remainder, if any, in the before condition, a decrease or increase in the market value of the real property prior to the date of valuation caused by the public project for which the property is to be acquired or by the likelihood that the property would be acquired for the project shall be disregarded.*¹

Although this partial acquisition is not for transportation purposes, the same principle applies. In the case of a partial acquisition, using the before and after method of valuation, my opinion of the value of the remaining not-to-be-acquired portion of the property shall reflect any increase or decrease in value attributable to the project.

The use of this special limiting condition was required to develop a reasonable and credible analysis. Its use may have affected the assignment results.

¹ Arizona Revised Statutes 28-7097

Description of the Project

The City of Litchfield Park desires to acquire a portion of the subject property for public use. Land rights will be acquired from the subject property for the project.

Property Identification

The property appraised was first studied for ownership and common use characteristics which defines the "larger" parcel for study purposes. For eminent domain valuation purposes, the larger parcel is defined by the following:

In governmental land acquisitions and in valuation of charitable donations of partial interests in property such as easements, the tract or tracts of land that are under the beneficial control of a single individual or entity and have the same, or an integrated, highest and best use. Elements for consideration by the appraiser in making a determination in this regard are contiguity, or proximity, as it bears on the highest and best use of the property, unity of ownership, and unity of highest and best use. In most states, unity of ownership, contiguity, and unity of use are the three conditions that establish the larger parcel for the consideration of severance damages. In federal and some state cases, however, contiguity is sometimes subordinated to unitary use.²

The larger parcel was defined to be an irregularly shaped, 68,607 square foot, or 1.575-acre, parcel of commercial land located at 111 West Wigwam Boulevard in Litchfield Park, Arizona, as it met the three tests.

Although the land was improved with two office buildings totaling 6,397 square feet and related site improvements constructed in 1966, the partial acquisition and project will not include any major improvements or have any adverse effect on them. Thus, only the land and minor improvements within the area of the partial acquisition were appraised. The property was referred to as the "subject" in the body of the report.

Legal Description

The legal description for the subject property can be found in the title report in the Appendix.

Ostensible Owner

According to the information provided by the client and Assessor's records, the property was owned by Ellsworth & Warren Properties, LLC.

Ownership and Marketing History

The Ellsworth & Warren Properties, LLC has held ownership in the subject property for more than ten years. The property manager indicated the property has not been offered for sale in the past five years.

² Appraisal Institute, The Dictionary of Real Estate Appraisal, Sixth Edition, (Chicago, Illinois: Appraisal Institute, 2015), page 127.

Owner Contact and Property Inspection

A letter of notification was sent to the property owner on June 1, 2023. The property was inspected unaccompanied on June 5, 2023. At that time, a copy of the letter of notification was left at Dr. Warren's office. The property manager, Sara Griffins, telephoned on June 8, 2023. We discussed the subject property and the proposed acquisition. Based upon our conversation, there was no need to meet at the property.

Leasehold Interest

Portions of the property may have been leased. But as this appraisal is for eminent domain purposes, only the undivided fee simple interest was appraised.

Purpose of the Appraisal

The purpose of this appraisal was to estimate the market value of the fee simple interest in the subject property, as vacant, as of the effective date of the appraisal in order to estimate the value of the partial acquisition and its effects on the remainder.

Intended Use and User of the Appraisal

The written report is the vehicle which transmits the data and reasoning to the reader in support of my opinion of market value. The intended use of the appraisal will be for acquisition negotiations. I expect that the intended user of this report will be you (the client) and others involved with the negotiation.

Definitions

Market Value

"Market Value" means the most probable price estimated in terms of cash in United States dollars or comparable market financial arrangements that the property would bring if exposed for sale in the open market, with reasonable time allowed in which to find a purchaser, buying with knowledge of all of the uses and purposes to which it was adapted and for which it was capable.³

Fee Simple Interest

Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.⁴

³ Arizona Revised Statutes 12-1122(C)

⁴ Appraisal Institute, The Dictionary of Real Estate Appraisal, Sixth Edition, (Chicago, Illinois: Appraisal Institute, 2015), page 127.

Exposure Time

The estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal (Comment: a retrospective estimate based on an analysis of past events assuming a competitive and open market.)⁵

Date of Inspection

June 5, 2023

Effective Date of the Appraisal

June 5, 2023 (date of valuation)

Date of the Report

June 15, 2023 (date of transmittal)

⁵ Uniform Standards of Appraisal Practice 2020-2022, Appraisal Standards Board, Definitions, page 4.

REGIONAL ANALYSIS

As real estate is fixed in location, it is important to analyze the external forces, which affect its value. This section introduces the four interrelated forces that have both a direct and indirect effect upon the marketability of real estate in metropolitan Phoenix:

- *Environmental Forces*: This category of market forces includes an analysis of topography, climate, land-use patterns, water availability, transportation and street patterns as well as constraints on future growth and development potential.
- *Economic Forces*: This category includes an analysis of population and employment trends, wage levels, local market trends (including supply/demand characteristics of major market segments), availability of financing, and the availability of goods and services.
- *Governmental Forces*: This category includes an analysis of local/regional governmental attitudes and policies regarding growth, development, provision of services, taxation, city planning and incentives to commerce, industry and real estate development.
- *Social Forces*: This category includes an analysis and discussion of the demographic composition of the population and its demand for real estate. Consideration is also given to attitudes of the population regarding education, growth, development and lifestyle options.

Environmental Forces

Physical factors including land area, topography, climate, availability of water, and surrounding land uses have a direct impact on the general desirability of a city or town.

The subject is in Litchfield Park, Arizona, one of 23 incorporated cities in the Phoenix metropolitan area. Phoenix is in a river valley within the desert that covers the southwest portion of the state. The metropolitan area covers an area of approximately 2,500 square miles. The incorporated area of Phoenix covers about 517 square miles and Litchfield Park is about three-square miles in size. Maricopa County is 9,222 square miles in size with 29% privately-held.

Topography

The metropolitan area is in a river valley and on highlands within the desert that covers the southwest portion of the state. Development comes easily to Phoenix and other cities in the area as the mostly-level topography allows for construction without costly site preparation. With the relatively unobstructed terrain, street patterns have taken on a north/south, east/west grid orientation. Along nearly every section line is a major arterial criss-crossing the valley. These major arterials carry the bulk of everyday traffic.

Climate

Climate alone attracts thousands of people to the state annually as residents or as visitors. This in turn creates great increases in demand for goods, services, and housing, thereby bolstering the local economy and contributing to the growth cycle. Located at an elevation of 1,117 feet, Phoenix enjoys a dry subtropical climate with an average yearly precipitation of 6.74 inches, an average maximum temperature of 84.9 degrees and an average minimum temperature of 55.3 degrees. The sun shines on approximately 86 percent of the days of the year.

Land Use

Phoenix and its incorporated satellite cities were once separated by open land, however explosive growth over the past 80 years has caused their borders to become blurred. Although largely surrounded, Phoenix itself has sufficient room to grow, especially to the north with additional incorporation. Incorporated portions of the region are estimated to be only 70 percent developed. Given the large supply of undeveloped infill and outlying land, Phoenix does not appear overly restricted in terms of increasing its tax base and funding existing and new growth.

Water Availability

As metropolitan Phoenix is within the Sonoran desert, water and its continued availability are a concern to the continued growth of the area and quality of life. The sources of the area's water supply are estimated to be groundwater (50%) and surface water (50%).

Groundwater is pumped from basins located beneath the surface of Maricopa County. The metropolitan area had been consuming nearly 500,000 acre-feet more than was being replenished. In response to this overdraft, the Arizona State Legislature enacted the 1980 Groundwater Management Code to safeguard groundwater supplies. According to the code, the goal is to reach "safe yield" by the year 2025, which assumes that there will be no more groundwater withdrawn than is recharged. State and local municipal governments coordinate efforts to ensure an adequate water supply will meet forecasted demand/growth in this century.

Local surface water supplies come from reservoirs located on the Salt, Verde, and Agua Fria Rivers and are delivered by canal systems. The area also receives allocations of Colorado River water through the Central Arizona Project (CAP).

Although the present water supply appears adequate for the needs of the region, the rapid population growth and increased development of golf courses and the use of decorative water features has raised concern among planners as to the future capacity of the area to absorb population. Also, a prolonged drought has brought additional concerns regarding future water supply and management. For these reasons, water conservation and apportionment of water rights have become two major issues facing residents of the region and impacting the potential for growth.

Transportation

Highways and Freeways - The metropolitan area is served by Interstates-10 and -17, U.S. Highways 60 and 93, together with State Routes 51, 74, 85, 87, 101, 143, 202, and 303. Personal vehicles and trucks have been, and will continue to be, the primary means of transportation in the metropolitan area.

Major Streets - Major section-line arterials still carry the bulk of everyday traffic given the development sprawl. Most are improved with four or six lanes and carry traffic at speeds from 35 to 45 m.p.h.

Airports - The largest airport in the Phoenix metropolitan area is Sky Harbor International Airport. It is one of the ten busiest in the country for passenger traffic. FAA records show the airport had 44,397,854 commercial passenger boardings (enplanements and deplanements) in 2022. In 2021, the number was 38,847,118 commercial passenger boardings (enplanements and deplanements). The effect of the COVID-19 pandemic on air travel was evident. In 2022, the airport managed 420,247 tons of cargo. In 2021, the airport managed 446,295 tons of cargo. There are 20 domestic and international airlines operating at the airport serving 100 cities in the U.S. and 20 cities internationally. In addition to Sky Harbor, there are eight smaller satellite airports in the metropolitan area.

Railroads - The area is served by two railroad companies--*Union Pacific Railroad* and *BNSF Railway Company*. Commerce and industry depend little on rail transportation although large areas of industrial development are served by the rail system. None of the rail lines are used for mass transit.

Mass Transit - The Phoenix metropolitan area lacks a mass transit system serving all the metropolitan area. However, the *Valley Metro* bus lines serve a large portion of the metropolitan area. The cities of Phoenix, Tempe and Mesa have built *Metro*, a 23-mile mass transit light rail line serving central Phoenix and linking the downtown areas of Phoenix and Tempe and Mesa. It became operational in late 2008 and has met with good acceptance by the public.

Economic Forces

Population and Growth Statistics

Strong gains in population are due to an upturn in net in-migration. Net in-migration currently accounts for two thirds of the change in the population. Strong net in-migration is expected to continue as Arizona is an attractive destination due to climate, lifestyle, affordable housing, and job availability. The following table summarizes actual and projected population growth of municipal planning areas in Maricopa County:

Maricopa Association of Governments
Table 1: Total Population by Municipal Planning Area
July 1, 2015 and Projections July 1, 2020 to July 1, 2050

Municipal Planning Area	Total Population				
	2015	2020	2030	2040	2050
Apache Junction	55,100	58,100	68,500	95,900	125,400
Avondale	80,500	86,800	95,600	112,400	126,300
Buckeye	72,900	87,700	147,600	310,800	488,000
Carefree	3,500	4,100	5,000	5,300	5,500
Cave Creek	5,600	6,400	7,400	8,800	9,800
Chandler	263,100	286,000	312,300	327,700	338,700
El Mirage	33,300	35,300	35,700	38,200	41,800
Florence	71,200	82,300	106,000	134,300	164,500
Fort McDowell	1,000	1,000	1,000	1,100	1,100
Fountain Hills	23,300	26,000	28,300	30,400	32,600
Gila Bend	2,400	2,900	3,500	4,900	6,600
Gila River	11,900	12,100	12,200	12,200	12,200
Gilbert	246,300	260,800	286,200	299,800	304,100
Glendale	262,600	282,800	305,600	323,900	343,800
Goodyear	80,200	98,600	154,200	207,400	293,100
Guadalupe	6,100	6,500	6,700	6,800	6,800
Litchfield Park	12,600	14,000	14,200	15,000	15,600
Maricopa	56,500	74,800	102,600	127,600	161,100
Maricopa County Areas	96,200	105,100	115,000	141,800	208,900
Mesa	505,200	555,000	620,100	661,200	684,300
Paradise Valley	13,700	14,200	14,900	15,100	15,500
Peoria	177,400	200,900	271,200	309,700	342,600
Phoenix	1,579,700	1,731,300	1,988,800	2,160,200	2,277,700
Pinal County Areas	96,000	101,900	119,600	149,600	181,800
Queen Creek	45,500	57,500	83,000	92,700	98,200
Salt River-Pima	6,600	6,800	7,100	7,600	8,000
Scottsdale	231,300	255,000	290,800	308,700	312,000
Surprise	136,400	148,000	239,000	362,200	452,300
Tempe	172,100	188,100	222,800	255,500	264,500
Tolleson	6,800	7,600	10,800	14,000	14,800
Wickenburg	8,000	9,700	14,100	14,600	14,800
Youngtown	6,500	6,800	7,500	8,100	8,400

The 2000 resident population in Arizona was 5,130,632 which indicated a 40% gain over the number in 1990. By July 1, 2022, the number was estimated to be 7,365,197 according to the US Census Bureau. As of July 1, 2021, Maricopa County had an estimated population of 4,496,588 or 61.1% of the state's population.

Demographics

The following July 1, 2022 (most recent) statistics for Maricopa County are from the US Bureau of the Census:

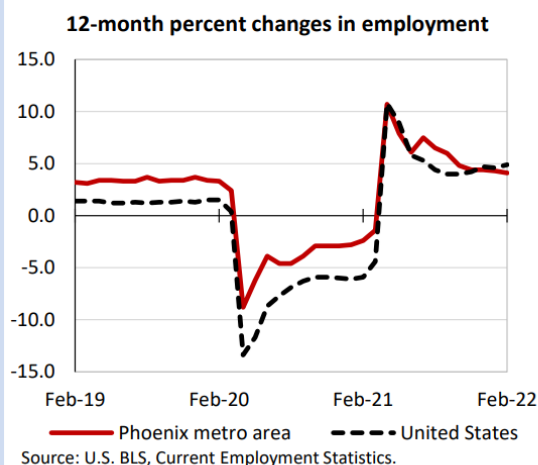
Population Estimates, July 1 2021, (V2021)	4,496,588
PEOPLE	
Population	
Population Estimates, July 1 2022, (V2022)	NA
Population Estimates, July 1 2021, (V2021)	4,496,588
Population estimates base, April 1, 2020, (V2022)	NA
Population estimates base, April 1, 2020, (V2021)	4,420,568
Population, percent change - April 1, 2020 (estimates base) to July 1, 2022, (V2022)	NA
Population, percent change - April 1, 2020 (estimates base) to July 1, 2021, (V2021)	1.7%
Population, Census, April 1, 2020	4,420,568
Population, Census, April 1, 2010	3,817,117
Age and Sex	
Persons under 5 years, percent	5.7%
Persons under 18 years, percent	23.0%
Persons 65 years and over, percent	15.8%
Female persons, percent	50.3%
Race and Hispanic Origin	
White alone, percent	82.0%
Black or African American alone, percent (a)	6.7%
American Indian and Alaska Native alone, percent (a)	2.9%
Asian alone, percent (a)	4.8%
Native Hawaiian and Other Pacific Islander alone, percent (a)	0.3%
Two or More Races, percent	3.3%
Hispanic or Latino, percent (b)	32.0%
White alone, not Hispanic or Latino, percent	53.4%
Population Characteristics	
Veterans, 2017-2021	245,171
Foreign born persons, percent, 2017-2021	14.5%
Housing	
Housing units, July 1, 2021, (V2021)	1,849,269
Owner-occupied housing unit rate, 2017-2021	63.8%
Median value of owner-occupied housing units, 2017-2021	\$304,700
Median selected monthly owner costs -with a mortgage, 2017-2021	\$1,663
Median selected monthly owner costs -without a mortgage, 2017-2021	\$491
Median gross rent, 2017-2021	\$1,275
Building permits, 2021	42,123
Families & Living Arrangements	
Households, 2017-2021	1,632,151
Persons per household, 2017-2021	2.64
Living in same house 1 year ago, percent of persons age 1 year+, 2017-2021	84.1%
Language other than English spoken at home, percent of persons age 5 years+, 2017-2021	26.5%

Education	
High school graduate or higher, percent of persons age 25 years+, 2017-2021	88.8%
Bachelor's degree or higher, percent of persons age 25 years+, 2017-2021	34.4%
Health	
With a disability, under age 65 years, percent, 2017-2021	7.9%
Persons without health insurance, under age 65 years, percent	▲ 13.3%
Economy	
In civilian labor force, total, percent of population age 16 years+, 2017-2021	64.8%
In civilian labor force, female, percent of population age 16 years+, 2017-2021	59.1%
Total accommodation and food services sales, 2017 (\$1,000) (c)	13,229,406
Total health care and social assistance receipts/revenue, 2017 (\$1,000) (c)	32,793,704
Total transportation and warehousing receipts/revenue, 2017 (\$1,000) (c)	12,017,809
Total retail sales, 2017 (\$1,000) (c)	74,333,135
Total retail sales per capita, 2017 (c)	\$17,170
Transportation	
Mean travel time to work (minutes), workers age 16 years+, 2017-2021	26.4
Income & Poverty	
Median household income (in 2021 dollars), 2017-2021	\$72,944
Per capita income in past 12 months (in 2021 dollars), 2017-2021	\$37,570
Persons in poverty, percent	▲ 11.3%

Employment

Arizona, as well as the Phoenix metropolitan area, has enjoyed strong economic job growth and job gains in the long term. The metropolitan area possesses a diversified economic base. The following information is from the US Bureau of Labor Statistics.

Over-the-year changes in employment on nonfarm payrolls and employment by major industry sector



Phoenix metro area employment (number in thousands)	Feb. 2022	Change from Feb. 2021 to Feb. 2022	
		Number	Percent
Total nonfarm	2,269.3	89.6	4.1
Mining and logging	2.9	0.4	16.0
Construction	140.7	4.1	3.0
Manufacturing	141.2	5.4	4.0
Trade, transportation, and utilities	457.9	24.6	5.7
Information	40.6	1.8	4.6
Financial activities	215.1	0.1	0.0
Professional and business services	379.0	11.6	3.2
Education and health services	351.5	9.6	2.8
Leisure and hospitality	226.1	26.2	13.1
Other services	71.4	6.0	9.2
Government	242.9	-0.2	-0.1

Source: U.S. BLS, Current Employment Statistics.

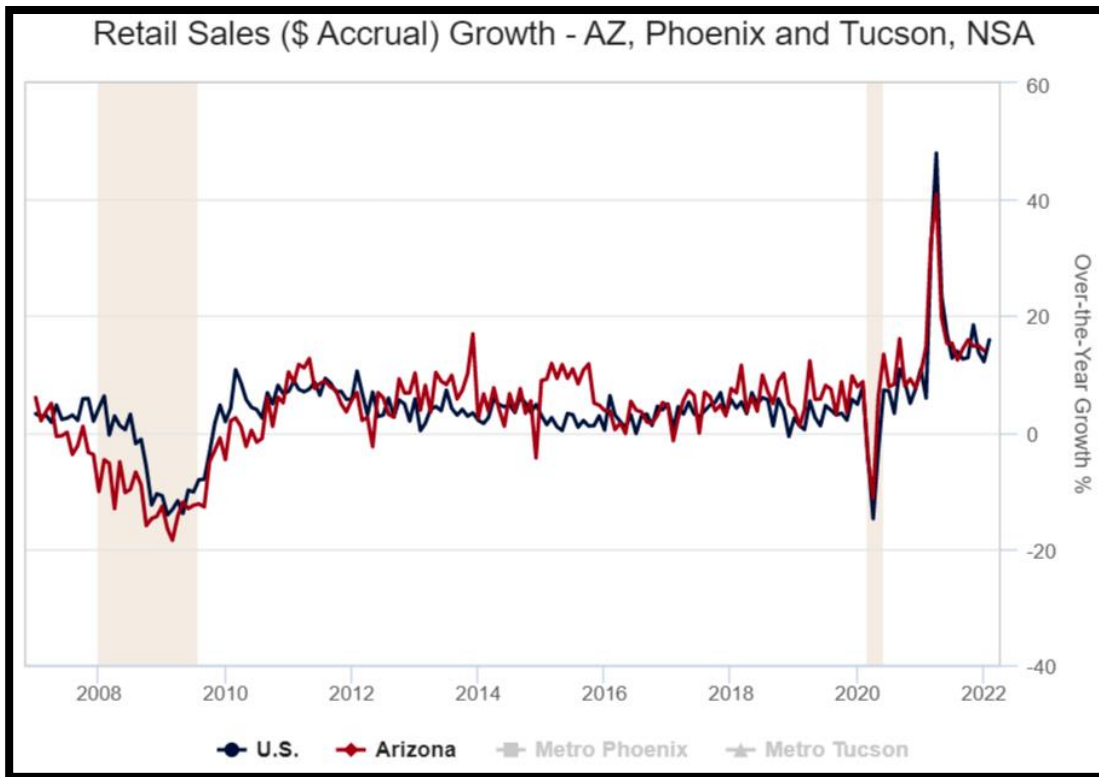
Phoenix-Mesa-Scottsdale, AZ Economy at a Glance:

Data Series	Back Data	July 2022	Aug 2022	Sept 2022	Oct 2022	Nov 2022	Dec 2022
Labor Force Data							
Civilian Labor Force(1)		2,560.1	2,572.8	2,587.9	2,589.0	2,584.9	2,590.4
Employment(1)		2,475.1	2,484.2	2,496.4	2,499.4	2,508.5	2,520.3
Unemployment(1)		85.0	88.6	91.6	89.5	76.4	70.1
Unemployment Rate(2)		3.3	3.4	3.5	3.5	3.0	2.7

Economy

Arizona has ranked among the leading states in three important economic indices of growth for more than a decade--growth in personal income; growth in population; and growth in non-farm wage and salary employment. Among all Arizona counties, Maricopa County has the largest and most diverse economic base. Construction, manufacturing, service and trade, government, and agriculture are all key factors contributing to a diverse economy.

The following is from the Arizona Department of Revenue and University of Arizona which shows improvement in retail sales in the United States and Arizona from 2008 to 2022. Shown is the decline during the depths of the recession from 2008 through 2010 and a sharp spike downward due to the COVID-19 pandemic:



Construction

The construction industry was one of the primary strengths of the Phoenix economy. However, the construction activity in the single-family market segment took a significant downturn from 2008 until 2012. With a severe decline in demand for new homes, single-family residential construction activity came to a near standstill. However, improvement over the last ten years has been noted in nearly all Phoenix metropolitan areas.

Manufacturing

Manufacturing in Arizona is represented by the categories of electronics, transportation equipment, industrial machinery, scientific instruments, fabricated metals, rubber and plastics, primary metals, chemicals, paper food, “green” products, solar energy and miscellaneous.

Education

The retail trade, service sector and housing markets are greatly impacted by college students, tourists, and winter visitors. Over 70,000 ± college students attend Arizona State University on three campuses, and 200,000 students attend Maricopa County Community Colleges at 10 campuses for credit courses. A significant number of these students are from outside the Phoenix metropolitan area. During their stay in the metropolitan area, they inject millions of dollars into the local economy.

Tourism

Tourism is one of the leading industries in the state and in the metropolitan area. Arizona's warm weather and natural beauty made tourism the number one export industry in Arizona.

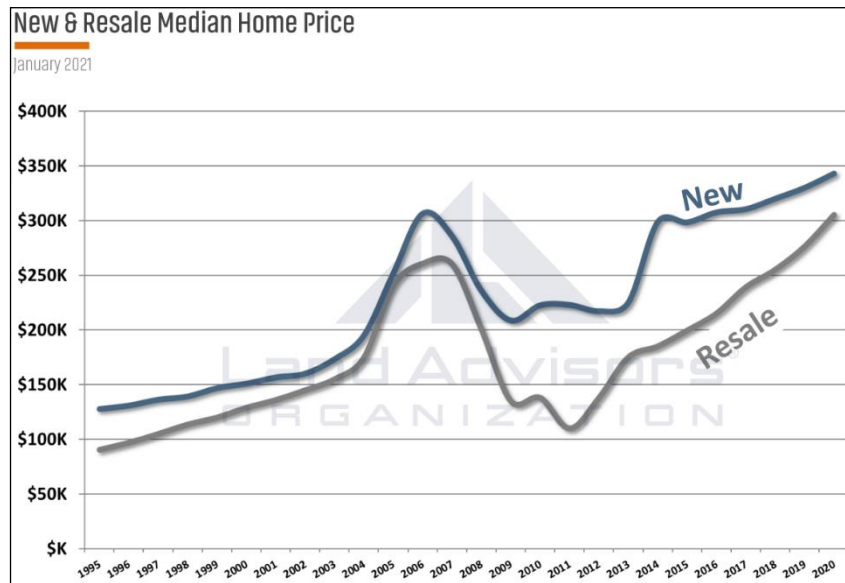
Government agencies fulfill an enormous economic role in Arizona and the Phoenix metropolitan economy. According to the Bureau of Labor Statistics, governmental agencies employed 408,299 people in the state in 2022 (most recent statistics). In the Phoenix metropolitan area, 242,000 people worked directly for government as of December, 2022. Governments not only employ thousands of people, but they also are users of many professional services.

Agriculture

Maricopa County is the largest agricultural county in the State of Arizona, about 25 to 30 percent of all the crop acreage in Arizona. Major commodities produced in Maricopa County include hay, cotton, grains, vegetables, and fruits. The supply is shrinking, though, given the unprecedented growth the county continues to experience. In Arizona in 2018, the industry generated \$23.3 billion in revenues and supported 138,000 full time and seasonal workers and 162,000 workers in related businesses. From 2007 to 2012, the number of farms rose from 1,793 to 2,479 but farmland fell from 485,469 to 475,898 acres.

Real Estate Development, Supply, and Demand

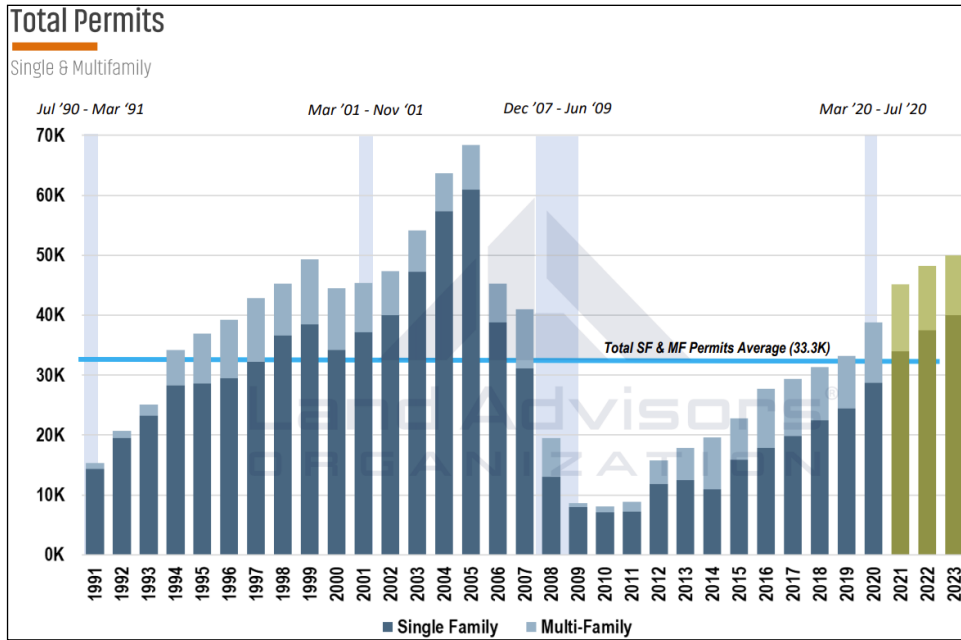
Single-family Residential Detached Housing – The metropolitan area’s single-family and multi-family residential housing market is beginning to slow. There have been increases in new development over the past several years, but demand for new housing is beginning to decrease as higher interest rates along with inflationary and supply chain concerns are putting upward pressure on home values.



Source: RL Brown, ASU Center for Real Estate, Land Advisors Organization. Data does not include attached, trustee, REO or HUD sales

Single-family residential permitting for the full year 2016 rose 10 percent from 2015 to 18,577 units. Due primarily to increasing prices the number of permits only increased by 4 percent to 19,282 in 2017. With 22,434 permits issued, 2018 experienced a 16 percent increase and the strongest growth in this decade. Through the September, 2019, approximately 22,734 permits had been issued. This increased new home permits for the last 12 months to 23,439 or 5.9 percent more than previous 12 months of 22,130 permits. New home permits increased by 10.6 percent to 24,476 in 2019. 2020 experienced the largest increase in new home permits in over ten years, increasing 17.6 percent to 27,891 permits. In 2021 there were 31,382 residential permits issued. As of June, 2022, new home permits have seen a decrease of 9.7% during a one-year period from June, 2021.

Median new home prices have risen by 23.4% over a one-year period as of June, 2022. The median new home price increased 4.0 percent from \$331,734 in December, 2018, to \$345,000 in December, 2019. In 2020, the median new home price increased an additional 2.0 percent to \$351,867. In the fall of 2021, the median home price (all homes) had reached \$405,000. The median new home price as of June, 2022, was \$470,500.



Source: RL Brown, ASU Center for Real Estate, Land Advisors Organization. Data does not include attached, trustee, REO or HUD sales

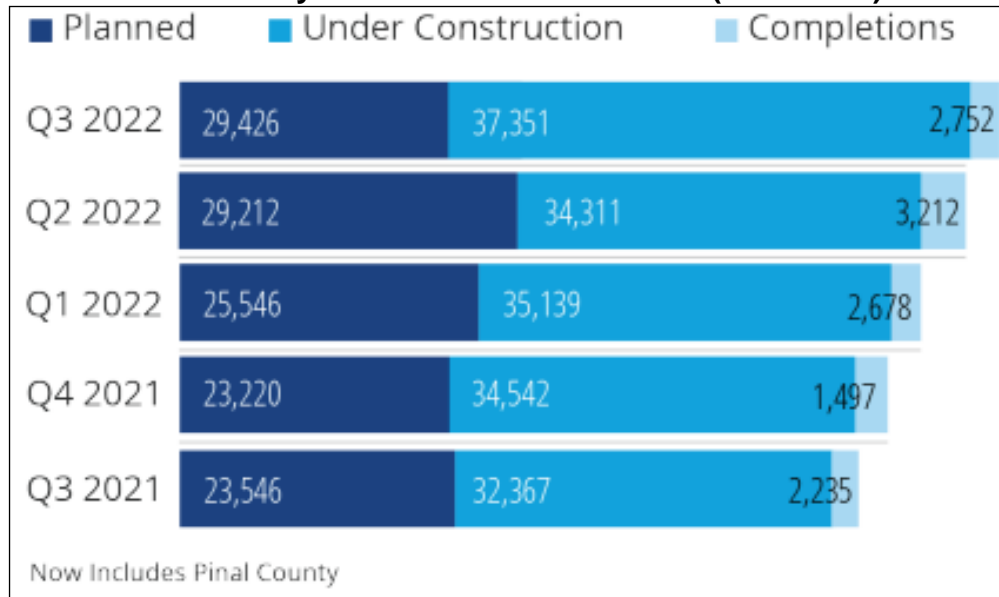
As illustrated by the previously presented data, the home market remained strong through the 1st Quarter of 2022. Prices continued to escalate and marking times were low.

However, beginning in late March the effects of inflated pricing and the rapid rise in mortgage interest rates coupled with high inflation and general economic uncertainty, have made many buyers pause in their home-buyer decision or choose not to move forward with their home purchases. Nationwide, the Phoenix metro area has the fifth-highest percentage of house listings with a price cut (39.61%), which is 25 percentage points higher than a year ago. Additionally, the number of houses sold in a month has declined by more than 41% between August 2021 and August 2022.

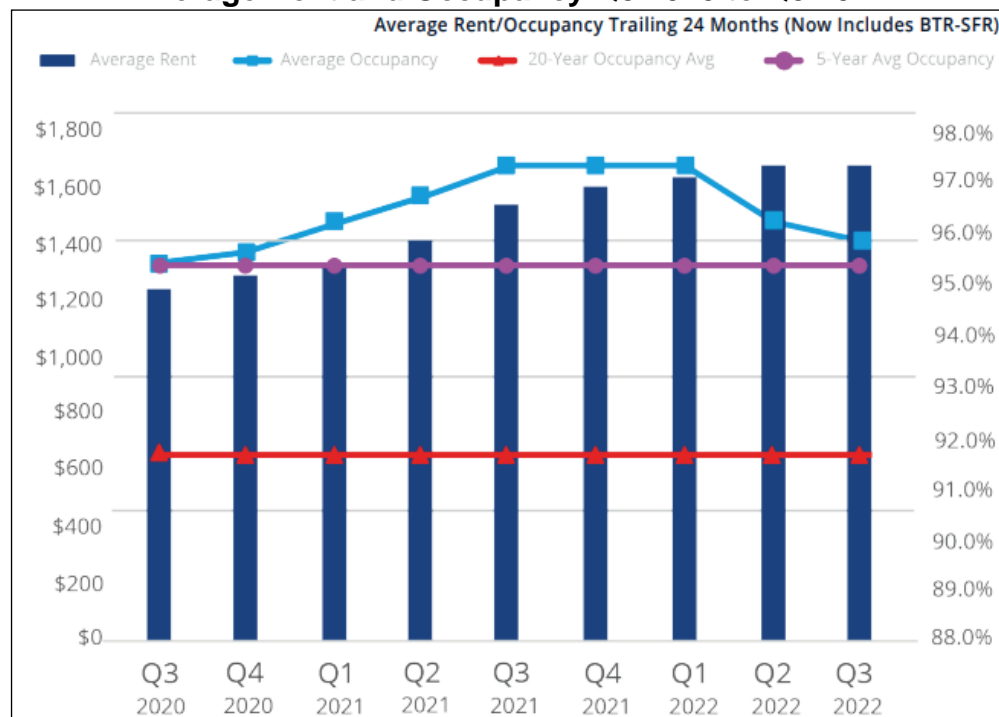
Home builders in the Phoenix metropolitan area are now discounting their prices five to ten percent and/or buying down interest rates to entice buyers to close on existing contracts and sell spec homes. Builders have little confidence that things will change in the near term and are walking away from pending land purchases and are writing off millions of dollars in deposits and expenses tied to these transactions. Local land expert, Ryan Duncan with Nathan and Associates, reported that they anticipate building permit activity to drop to approximately 23.5 percent to 24,000 permits by year end of 2022. He reported that at current anticipated absorption rates, builders have sufficient lot inventory to take them through late 2023.

Multi-family Residential - Multi-family residential development generally follows new single-family residential, commercial and employment development and the extension of freeways. Class A and B apartment development typically occurs on parcels of land ranging from 5 to 15 acres in size. New projects typically contain between 150 and 400 units with densities of 17 to 23 units per gross acre to allow for a balance between income and expense. Colliers International provided the following statistics for this market segment:

Multi-family Residential Construction (50 Units +)

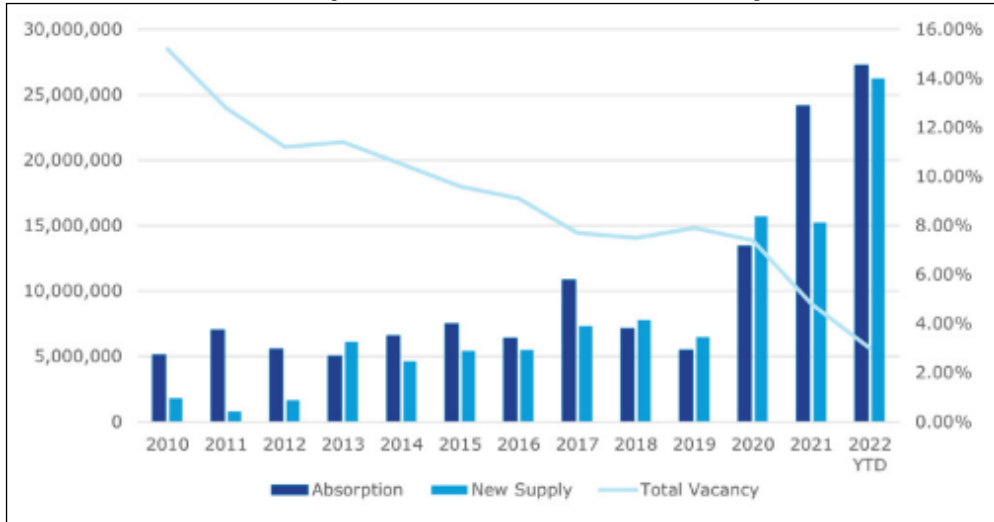


Average Rent and Occupancy Q3 2020 to Q3 2022

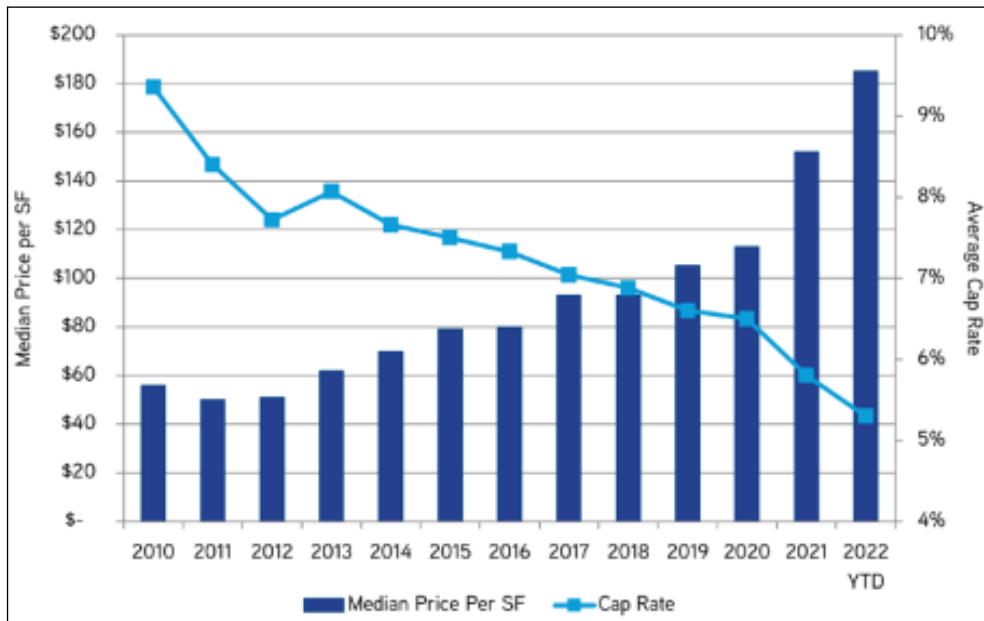


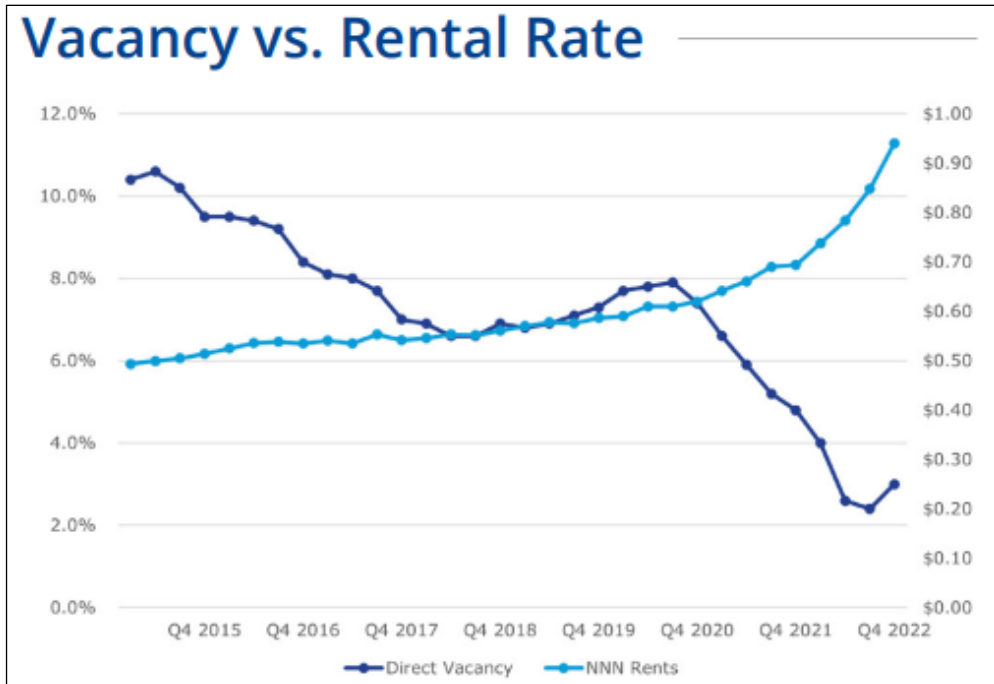
Industrial – Colliers International provided the following statistics for this market segment for 4Q 2022:

Historical Absorption, Deliveries, and Absorption Rates

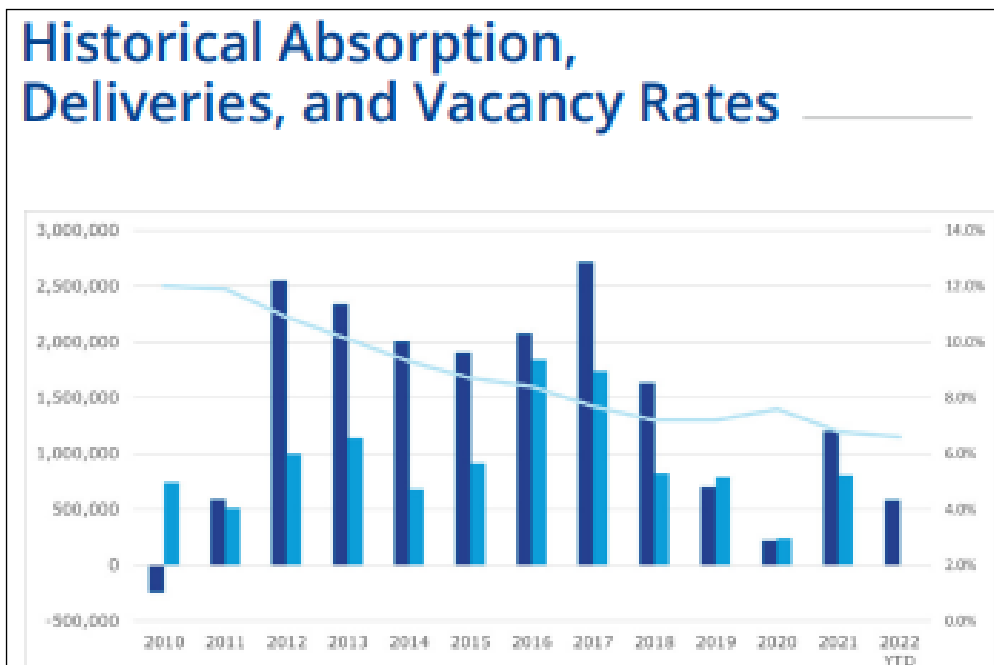


Investment Trends

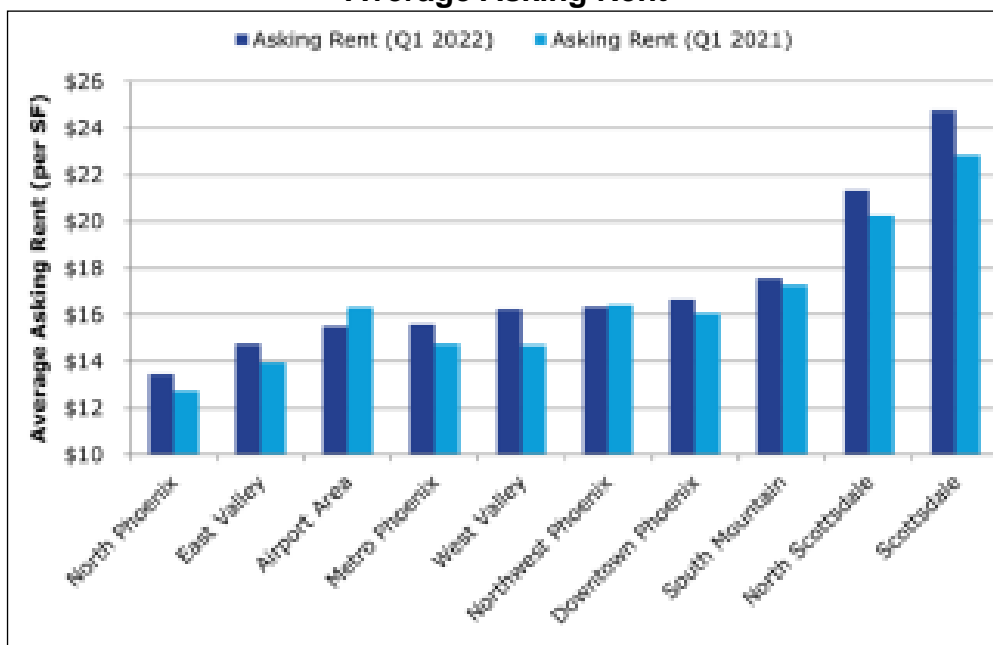




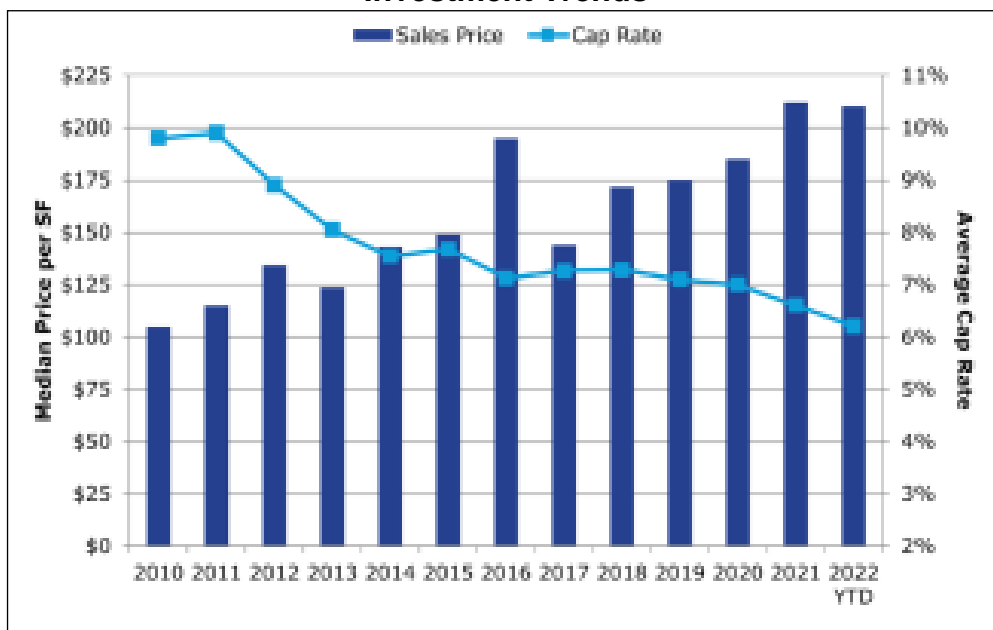
Commercial/Retail – Colliers International provided the following statistics for this market segment for year-end 2022:



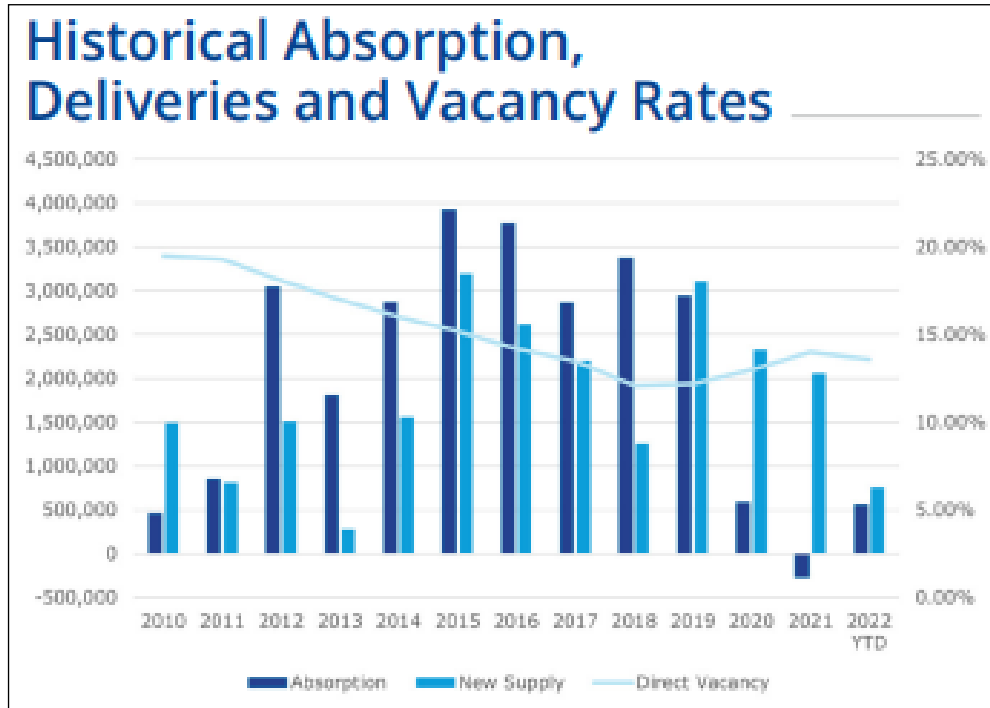
Average Asking Rent



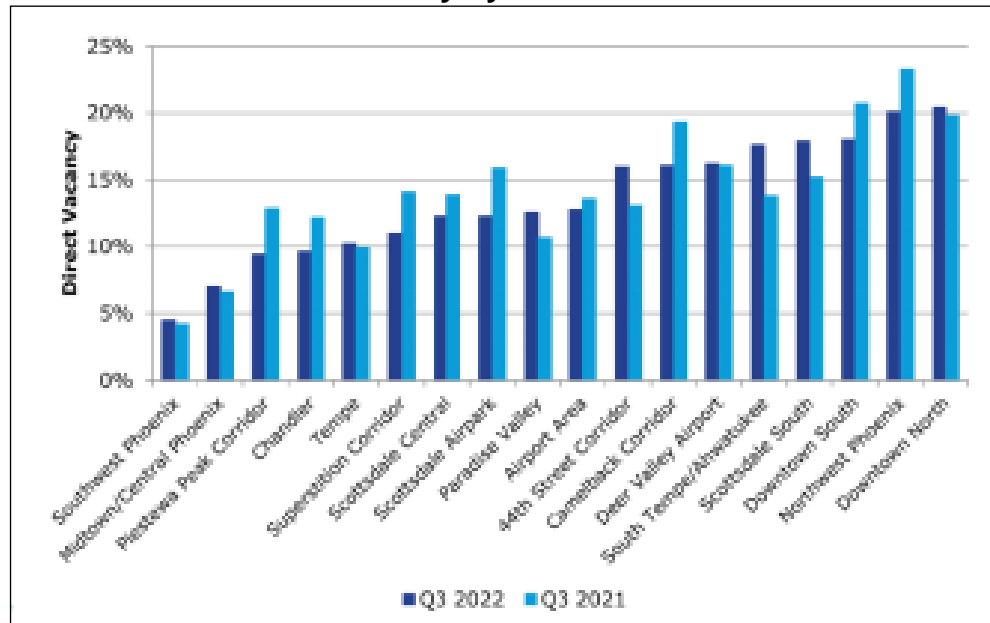
Investment Trends



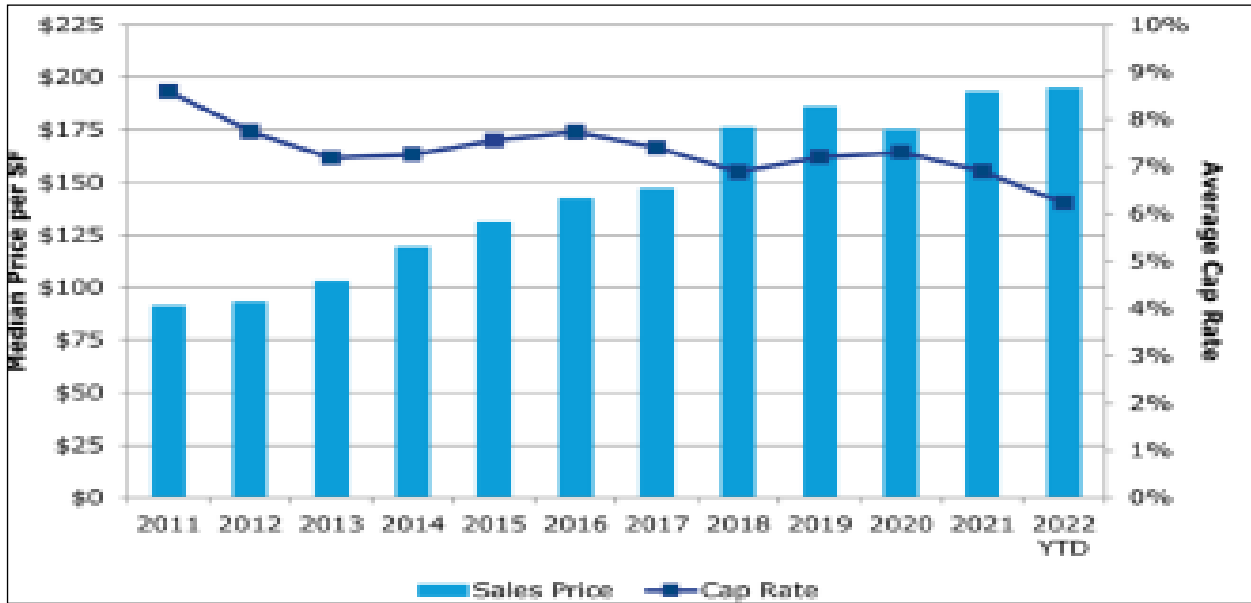
Office Market - Colliers International provided the following statistics for this market segment for Q3 2022:



Vacancy by Submarket



Investment Trends



Lodging

The Arizona Department of Tourism provides statistics for the lodging industry nationwide, regionally, statewide, and locally in the major markets in Arizona tabulated by Smith Travel Research. The following charts indicate a lodging industry damaged by the effects of COVID-19 pandemic given a significant decrease in tourism and business travel in Arizona.

Statewide Lodging Performance					
Fourth Quarter 2022 (October, November, December)					
Market Year	Occupancy	ADR	RevPAR	Demand	Supply
United States					
2021	57.9%	\$133.34	\$77.14	293,647,688	507,559,086
2022	60.1%	\$149.36	\$89.72	306,665,563	510,535,843
% change Q4	3.8%	12.0%	16.3%	4.4%	0.6%
Mountain Region					
2021	59.7%	\$133.87	\$79.85	35,147,702	58,923,084
2022	60.9%	\$147.26	\$89.75	35,883,407	58,877,425
% change Q4	2.2%	10.0%	12.4%	2.1%	-0.1%
State of Arizona					
2021	66.4%	\$140.55	\$93.29	7,456,935	11,234,630
2022	66.6%	\$153.61	\$102.35	7,472,347	11,214,793
% change Q4	0.4%	9.3%	9.7%	0.2%	-0.2%
Metro Phoenix					
2021	68.2%	\$146.74	\$100.08	4,366,042	6,401,406
2022	70.4%	\$164.59	\$115.83	4,492,129	6,383,194
% change Q4	3.2%	12.2%	15.7%	2.9%	-0.3%
Metro Tucson					
2021	63.5%	\$128.84	\$81.84	948,278	1,492,857
2022	62.6%	\$141.23	\$88.45	922,509	1,472,956
% change Q4	-1.4%	9.6%	8.1%	-2.7%	-1.3%
Flagstaff AZ					
2021	72.8%	\$126.42	\$92.02	349,230	479,780
2022	72.1%	\$126.43	\$91.21	350,918	486,404
% change Q4	-0.9%	0.0%	-0.9%	0.5%	1.4%
AZ Northeast & Holbrook					
2021	57.9%	\$85.80	\$49.70	231,189	399,151
2022	54.2%	\$95.97	\$51.98	216,058	398,876
% change Q4	-6.5%	11.8%	4.6%	-6.5%	-0.1%
AZ Southeast & Sierra Vista					
2021	56.9%	\$92.12	\$52.38	261,276	459,521
2022	57.0%	\$102.82	\$58.61	254,888	447,120
% change Q4	0.3%	11.6%	11.9%	-2.4%	-2.7%
Non-metro AZ					
2021	65.1%	\$134.61	\$87.66	2,091,402	3,211,511
2022	62.5%	\$137.37	\$85.80	2,005,995	3,211,811
% change Q4	-4.1%	2.1%	-2.1%	-4.1%	0.0%

Financial and Lending Industry

Interest rates are low resulting in an active real estate market with a large number of willing lenders and investors seeking returns from mortgages and deeds of trusts.

Governmental Forces

There are basically three levels of government servicing metropolitan Phoenix: state, county and municipal (city) levels. Additionally, other special districts, such as school systems and irrigation districts, levy taxes and provide services. Primary revenue sources utilized by state government include a personal state income tax and a sales tax on retail items purchased in the state. Property taxes and a retail sales tax are the primary funding for the lower levels of government.

It appears that the factors of government and regulation do not unfairly burden real estate development. Local governments are generally well-staffed, organized and funded to support most community services and facilities. They are fairly liberal regarding change in land use. The cities and counties restrict commercial and industrial development more than before with strong requirements for attractive design, open space, sign size and type, parking, and compatibility with surrounding residential areas. Although their requirements may drive up developers' costs, the end product has proven to be more appealing and marketable.

Education/Schools

The Phoenix metropolitan area is served by 55 school districts with 353 ± elementary schools and 60 ± high schools. Additionally, there are roughly 200 parochial and private schools in the area. Arizona State University, based in Tempe, is the state's largest university with enrollment of over 70,000 students on three campuses (main, ASU West campus and ASU East) and hopes to have 90,000 by 2020. Eleven community colleges also serve the area. University of Arizona Colleges of Medicine and Pharmacy and Northern Arizona University College of Health and Human Services also have branch campuses in downtown Phoenix.

The Phoenix Biomedical Campus, located in downtown Phoenix, is a collaboration of efforts with the Translational Genomics Research Institute (TGen), International Genomics Consortium (IGC), National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), University of Arizona College of Medicine - Phoenix, University of Arizona College of Pharmacy, VisionGate and Barrow Neurological Institute. Though the Phoenix Biomedical Campus is already 30-acres of various bioscience and education projects, there are plans in place for more than six million square feet of biomedical-related research, academic and clinical facilities, including the relatively new Biomedical Sciences Partnership Building.

Grand Canyon University is located on the west side of Phoenix at 3300 West Camelback Road and has an enrollment of over 48,000 students on seven campuses including Albuquerque and Tucson.

Utilities

Water, electricity, and gas availability has not generally been a problem in the Phoenix area, but utility companies can affect the demand for real estate. The Phoenix area has had the least problems with water supply as it is well protected by acquired water rights and deep untainted wells. The metropolitan area is primarily served by Salt River Project and Arizona Public Service, the two principal suppliers of electricity in the metropolitan area. Sewer service is provided by each city and gas is primarily distributed by Southwest Gas and the City of Mesa. Overall, utility costs in the neighborhood are average when compared with similar large metropolitan areas. Lumen Technologies, Inc. (CenturyLink) and Cox provide telephone, cable, and internet services.

Real Estate Taxes

Taxes are another operating expense incurred in the operation of real estate. Commercial and industrial properties top the scale with a 25 percent assessment of current value. Residential properties are assessed at 10 percent of current value; 10 percent for residential rentals; and 16 percent for vacant land. Developers and investors indicate that the tax burden is not generally repressive to the operation of real property and an effective tax appeal system allows for adjustment.

Social Factors

Recreation

A full range of recreational amenities are available in the Phoenix metropolitan area including more than 100 golf courses, two water parks, and several major and minor league sports teams. Spring training is a major attraction and significant contributor to the economy.

America West Arena (now Footprint Center), an 18,400-seat arena, was built in June, 1992, in downtown Phoenix. It is host to the Phoenix Suns, Mercury, and Rattlers. The Phoenix Coyotes occupies the Gila River Arena in Glendale.

In 1994, Arizona was awarded a baseball expansion franchise. To accommodate the *Diamondbacks*, a new 48,500-seat stadium, Bank One Ballpark (now Chase Field) was built on a 24.84-acre site at the southwest corner of Jefferson and 7th Street in March, 1998. The facility hosted the World Series in 2001.

In January, 1996, the nation's largest sporting event, Superbowl XXX, was hosted in Tempe at Sun Devil Stadium, an open-air facility. Superbowl XLII was held in February, 2008, at the University of Phoenix Stadium (now State Farm Stadium), a domed stadium completed in 2006 for the Arizona Cardinals in Glendale, Arizona, next door to Gila River Arena. The championship game returned in 2015 and 2023.

Conclusion and Outlook

The real estate market, economic and real estate growth will be stronger than the country's average in the long run given the appealing location, climate, available buildable land, educated and young work force and history of in-migration of commerce, industry, and people.

NEIGHBORHOOD ANALYSIS

Neighborhood Boundaries

The subject property is located at 111 West Wigwam Boulevard, Litchfield Park, Arizona. The neighborhood spreads across three municipalities, Avondale, Glendale, Goodyear, and Litchfield Park. The neighborhood boundaries are as follows:

North -	Bethany Home Road
South -	Interstate-10
East -	Agua Fria River
West -	Loop 303

On the north, Bethany Home Road forms a boundary between the incorporated areas of Glendale and Litchfield Park and unincorporated county areas. Interstate-10 separates the newer suburban residential development to the north from the established older and less attractive original town centers of Avondale and Goodyear and the more industrially-oriented land south of the freeway.

Although political boundaries extend further east, the Agua Fria River is generally perceived as a physical boundary separating the Litchfield Park and Avondale areas from Phoenix. Loop 303 separates medium-density suburban neighborhoods from lightly developed and undeveloped acreages.

Transportation

Major Arterials

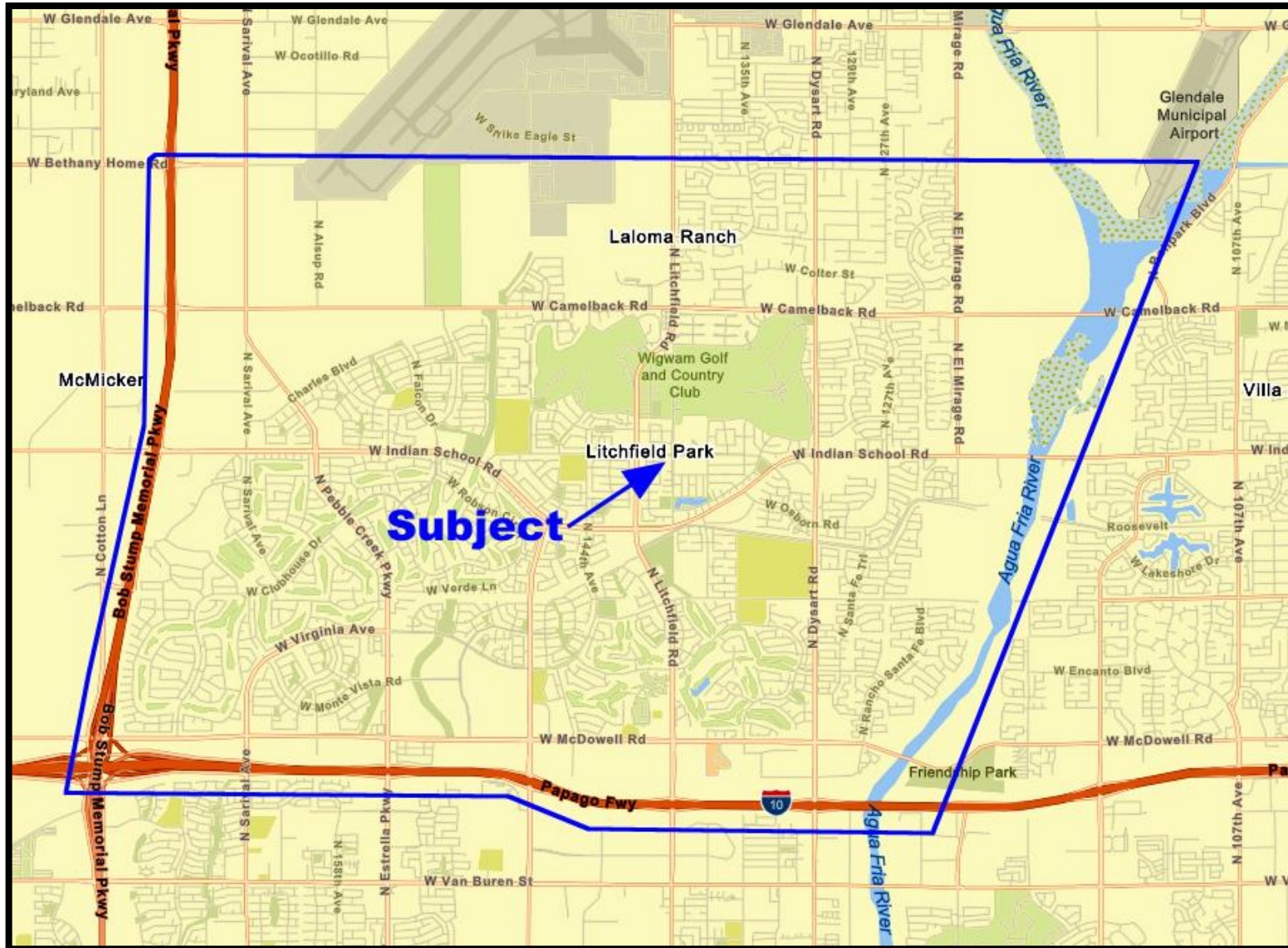
Section-line arterials make up the main transportation corridors within this neighborhood. Litchfield Road and Dysart Road are the only two north/south roadways which cross the neighborhood. Pebblecreek Parkway travels south from Indian School Road, becomes Estrella Parkway south of Interstate-10 and continues south through Goodyear. El Mirage Road extends north from Indian School Road through unincorporated county areas into Peoria several miles north.

Bethany Home Road, Camelback Road, Indian School Road, and McDowell Road are east/west arterials crossing the neighborhood. Thomas Road enters the neighborhood from the east but ends about one-half mile east of Litchfield Road.

Although they are section line arterials, traffic counts are light ranging from 1,000 to 15,000 vehicles per average weekday.

NEIGHBORHOOD MAP

↑
North



Freeways

Interstate-10 is the primary east/west transportation corridor and provides quick access from west Phoenix to the more populated areas central of Phoenix. Between 150,2150 and 222,327 vehicles per day travel the freeway on an average weekday in 2021 (most recent count). The freeway has pulled much of the traffic from the east/west arterials which has lessened their importance for commercial/retail development with decreased traffic flows.

Loop 303 is at the western edge of the neighborhood. Although relatively lightly traveled (46,731 to 58,347 v.p.d.), it provides a convenient high-speed north/south corridor. Loop 101 (Agua Fria Freeway) is located about three miles east of the neighborhood and is the primary north/south corridor for the western Phoenix metropolitan area. Loop 101 encircles a large portion of metropolitan Phoenix.

Rail

A rail spur 0.25 ± mile west of Litchfield Road extends north to McDowell Road from the main Union Pacific rail line approximately three miles south. Few properties take advantage of rail service.

Public Transportation

Valley Metro buses serve a limited portion of the neighborhood along Van Buren Street in Avondale. Most people rely on the automobile and most children are bused to schools.

Land Uses and Neighborhood Characteristics

The neighborhood is dominated by three masterplanned communities dominated by residential uses: Litchfield Park, a small, incorporated community established in 1916 surrounding the Wigwam Golf Resort; Pebblecreek, a retirement community built around two golf courses; and Palm Valley, typical suburban development built around two golf courses.

Residential Development

Litchfield Park, the oldest of the masterplans, has as its focus the Wigwam Golf Resort. Residential development consists primarily of custom and tract homes built between the 1960s and 1990s and priced from \$350,000 to over \$1,500,000.

Pebblecreek was built in the early 1990s. It includes good quality tract homes priced between \$350,000 and \$750,000.

In the late 1980s, Suncor acquired approximately 6,500 acres of land west of the Agua Fria River and north of McDowell Road. The bulk of this acquisition has been included in the Palm Valley masterplan. Residential construction consisting primarily of average-to-good quality tract homes began in the 1990s and continues in isolated areas today. Homes range in price from \$350,000 to \$1,000,000.

The appeal of these three masterplanned communities has generated additional tract residential development at their periphery. Few large tracts of residentially oriented land remain.

Multiple-family Residential

The expansion of the single-family residential market has generated demand for multiple-family residential development. Prior to 1986, there were fewer than 800 apartment units in the subject neighborhood. Between 1986 and 1996, there was no new apartment development. However, in the last seven years over 2,000 units have been added to the supply. An additional 200 units have final plan approvals. These new units generally fall into the luxury apartment category with units that have larger floor plans, patios, or balconies, covered parking and extra amenities.

Retail/Commercial Development

Until about eighteen years ago, commercial development within the neighborhood consisted of neighborhood grocery-anchored shopping centers and many small older retail properties located in the town center of Goodyear/Avondale. However, the influx of new residential subdivisions generated demand for much more commercial/retail development. Most of the new development is along Litchfield and Dysart Roads and within a mile of Interstate-10. Newer development includes neighborhood centers anchored by *Fry's*, *Safeway* and *Albertsons*, and big box users such as *Home Depot*, *Costco*, *Walmart*, *Lowes*, *Sam's Club*, and a mile-long auto mall.

Office

In the past, office development was scarce. But office development is becoming more common with the growth of the residential and commercial/retail market segments. A variety of professional and medical users fill new office projects near and around the commercial/retail development described above and along infill sites along the major arterials crossing the neighborhood. Office condominiums have become common.

Industrial

Industrial includes several sand and gravel operations along the Agua Fria River on the east edge of the neighborhood and new big box development along the 303 Freeway at the west edge of the neighborhood. A few small industrially oriented uses are found along the freeway frontage at the south end of the neighborhood.

Employment Centers

Employment centers are generally located outside of the neighborhood but within a reasonable driving distance. A typical resident travels between 20 and 45 minutes to reach employment centers. Downtown Phoenix and its Central Avenue business district are located 15 miles east.

and southeast of the subject. Major employers are found about 17 miles northeast along Interstate-17. The industrial and manufacturing districts in the Interstate-10 and Buckeye Road corridors also provide a variety of employment opportunities.

Schools, Hospitals, Parks, etc.

The neighborhood included most supportive community services and facilities. Various miscellaneous categories were analyzed below:

Schools - The subject property was within the Litchfield Elementary School District and in the Agua Fria Union High School District, both large districts. Estrella Mountain Community College is in the eastern portion of the neighborhood at the northwest corner of Thomas Road and Dysart Road.

Medical - The neighborhood is well-served by the Dignity Health Arizona Emergency Center located at the southwest corner of Van Buren Street and Estrella Parkway, the Abrazo West Campus, southeast of McDowell Road and Litchfield Road and Banner Estrella Hospital located four miles east of the neighborhood at the southwest corner of Thomas Road and 91st Avenue. Associated medical facilities and aged-care housing have been developed in the northern portion of the neighborhood.

Parks and Recreation - Public parks or recreation areas are located throughout the neighborhood. Palm Valley Golf Course, a private course open to the public, is in the southeast corner of the neighborhood at the southeast corner of McDowell Road and Litchfield Road. Just northeast of the neighborhood is the Gila River Arena (Phoenix Coyotes) Arena and the State Farm Stadium (Arizona Cardinals) Stadium.

Vacant Land

Various tracts of vacant land were located throughout the neighborhood. There was a sufficient supply of all types of land to allow continued growth for twenty years or more.

Conclusions and Outlook

Single-family development will dominate in the area given the preferences of the market. This area is appealing given the affordable land prices, the freeway access, and municipalities willing to spur growth. The subject's marketability in the future is expected to be good.

SITE ANALYSIS

ADDRESS: 111 West Wigwam Boulevard, Litchfield Park, Arizona

ASSESSOR'S PARCEL No.: 501-70-011Z

SHAPE/DIMENSIONS: Panhandle; see exhibits

The northeast portion of the subject is a 31.04' x 173.72' foot panhandle. Although the panhandle can be used to support open space, density or parking requirements, its overall utility is limited.

SITE AREA: 68,607 square feet or 1.575 acres

TOPOGRAPHY: Level

SOIL: No soil study was provided for my review. I assumed no adverse soil conditions.

DRAINAGE: No drainage study was provided for my review. I assumed no adverse drainage conditions.

FLOOD ZONE: According to FEMA flood map number 04013C2155M. effective September 18, 2020, the subject property is in Zone X where flooding is not expected, insurance is not required for improved properties and the land requires no special grading to elevate building pads out of flooding danger.

CONTAMINATION: No study was provided for my review. I observed none. I assumed no contamination.

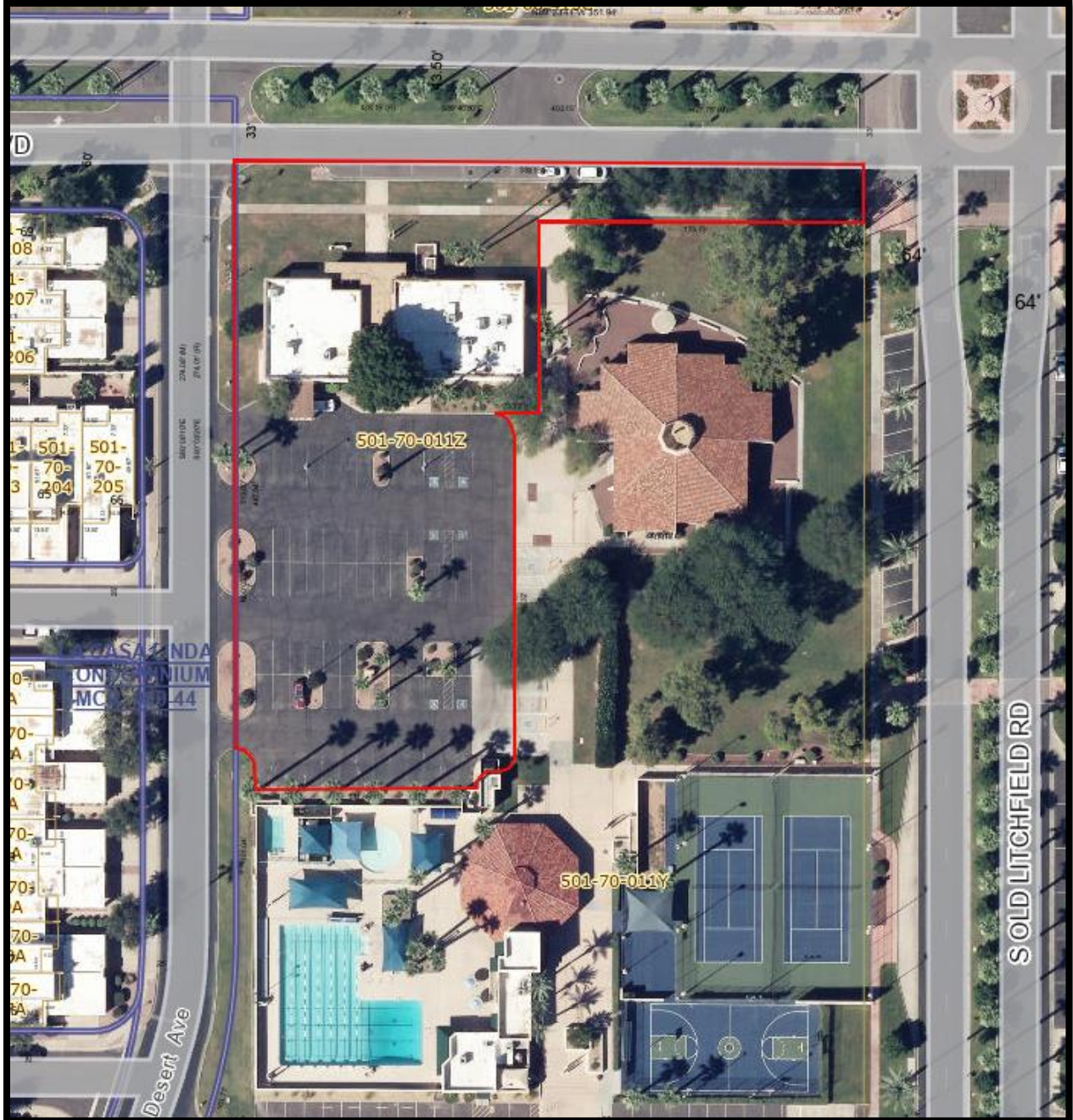
ARCHEOLOGICAL: No study was provided for my review. I assumed no archeological significance.

GEOLOGICAL/MINERAL: No study was provided for my review. I observed none. I assumed no known geological or mineral significance.

AERIAL PHOTOGRAPH

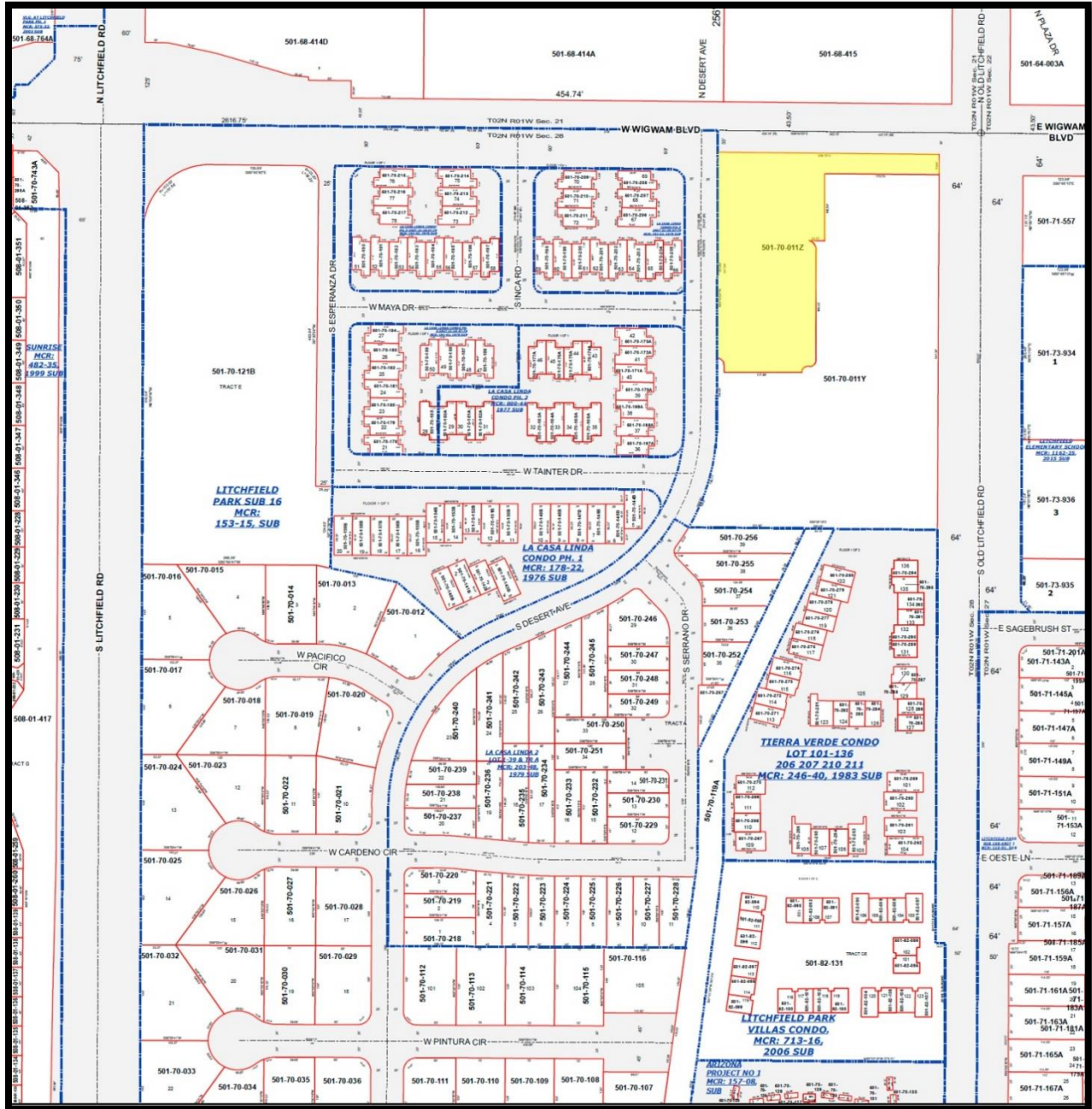


North



ASSESSOR'S MAP

↑
North



FEMA FLOOD ZONE MAP



National Flood Hazard Layer FIRMette



112°21'52"W 33°29'50"N



FRONTAGE/ACCESS: 339 ± on the south side Wigwam Boulevard, an east/west neighborhood collector street; 31 ± feet on the west side of Old Litchfield Road a north/south neighborhood collector street; 313 ± feet on the east side of Desert Avenue, a minor north/south street; crossover easements with the adjoining public library were assumed.

STREET IMPROVEMENTS:	<u>Wigwam Boulevard</u>	<u>Old Litchfield Road</u>
Right-of-Way	43 feet to centerline	64 feet to centerline
Traffic Lanes	1 east/1west	1 north/1 south
Median	Landscaped	Landscaped
Surface	Asphalt	Asphalt
Curb/gutter	Yes	Yes
Sidewalk	Yes	Yes
Streetlights	Yes	Yes
Storm Sewer	None	None
Speed Limit	25 m.p.h.	25 m.p.h.
Curbside Parking	Yes	Yes

	<u>Desert Avenue</u>
Right-of-Way	25 feet to centerline
Traffic Lanes	1 north/1 south
Median	None
Surface	Asphalt
Curb/gutter	Yes
Sidewalk	None
Streetlights	None
Storm Sewer	None
Speed Limit	25 m.p.h.
Curbside Parking	No

TRAFFIC COUNT: All Streets, Light, unmeasured

FUTURE ROW REQUIREMENTS: The City of Litchfield Park requires land rights from the subject property for public use. However, because this appraisal is for purposes of eminent domain related to this project, the effects of the partial acquisition and project were ignored in the estimation of market value, before.

Physical features which limited marketability:

- Irregular pan-handle shape

IMPROVEMENT ANALYSIS

The subject property was improved with two office buildings totaling 6,397 square feet and related site improvements. According to the records of the Maricopa County Assessor the improvements were constructed in 1966. The improvements appeared to be in average condition with a long-remaining economic life. The subject has a 10.72:1 land-to-building ratio. This could allow an additional 8,000 ± square feet of building area to be developed without affecting the existing improvements.

Further analysis and discussion of the improvements was presented in the Highest and Best Use section of the report.

ZONING AND LEGAL RESTRICTIONS ANALYSIS

General Plan

The subject was within Litchfield Park. The Litchfield Park *General Plan* designated it for "Commercial" use.

Zoning Classification

The subject was zoned PF, Public Facilities. This land use category applies to areas for churches, schools, hospitals, continuum of care developments, government buildings, and utility facilities which, together with convention services, childcare, and information centers are permitted.

A continuum of care development provides a variety of health-related services, including independent living facilities, with only the minimum of health care related services provided, to skilled nursing facilities with a wide range of health care related services provided. A continuum of care development is neither strictly residential nor strictly commercial but is a blend of land uses within a single coordinated campus setting of not less than twenty acres.

Permitted Uses Subject to Use Permit

Accessory uses, temporary uses, arcades and game centers, cemeteries/mausoleums, health and medical clinics, commercial recreation, convalescent homes, fraternal or civic clubs, health clubs, manufactured structures, professional/business offices, plant nurseries and commercial greenhouses, solid waste stations, stables, veterinary services, and manufactured structures require use permit approval.

Property Development Standards

Development Area - Each development shall have a minimum area of two acres and a minimum lot area of 4,000 square feet.

Lot Width - The minimum lot width shall be forty feet.

Coverage - The maximum coverage shall be sixty percent of the development area.

Distance Between Buildings - The minimum distance between buildings on the same lot shall be ten feet.

Buffers - Buffer yards, consisting at a minimum of landscaping for the required setback distance, including pathways as appropriate, as approved by the design review board, shall be provided between dissimilar uses or other districts.

Height Regulations

The height of buildings shall not exceed forty-five feet above grade nor three stories, except that the height of any church tower or steeple may not exceed sixty feet.

Setback Regulations

Front Yard

A minimum front yard of twenty feet is required

Side Yard

None required, except that:

1. Where a lot is adjacent to a rural or residential zoning district there shall be a side yard on the side of the lot adjacent to such rural or residential zoning district having a width of not less than thirty feet.
2. Where a corner lot abuts two streets there shall be a side yard on the street side of such corner lot having a width of not less than twenty feet.
3. If a side yard is otherwise provided it shall have a width of not less than twenty feet.

Rear Yard

None required, except that:

1. Where a lot abuts a rural or residential zoning district whether or not separated by an alley, there shall be a rear yard having a depth of not less than thirty feet.
2. If a rear yard is otherwise provided it shall have a depth of not less than twenty feet.

Additional Regulations

- a. All activity (except required on-site parking, loading or unloading) excluding incidental or accessory storage and display area shall be within a completely enclosed building, unless specifically noted herein.
- b. Any exterior lighting shall be directed downward and away from adjacent property in accordance with the city code and this zoning code. See Section 31.15.
- c. Provisions for on-site stormwater retention/drainage and off-site stormwater drainage both entering and leaving the property shall be as required by the city and the Maricopa County Flood Control District; the procedures for which shall be approved by the council.

Entitlements

The subject property had approval for its existing use, but the entitlement had no contributory market value as its current use would not be replicated.

Rezoning Potential

The subject's PF, Public Facilities, zoning significantly limits its commercial use potential. Given the general plan designation for commercial use and surrounding land uses, rezoning for a more intense commercial use is possible.

Private Restrictions

The title report revealed no deed or private restrictions which would negatively impact the use or development of the subject property.

Off-Title Information

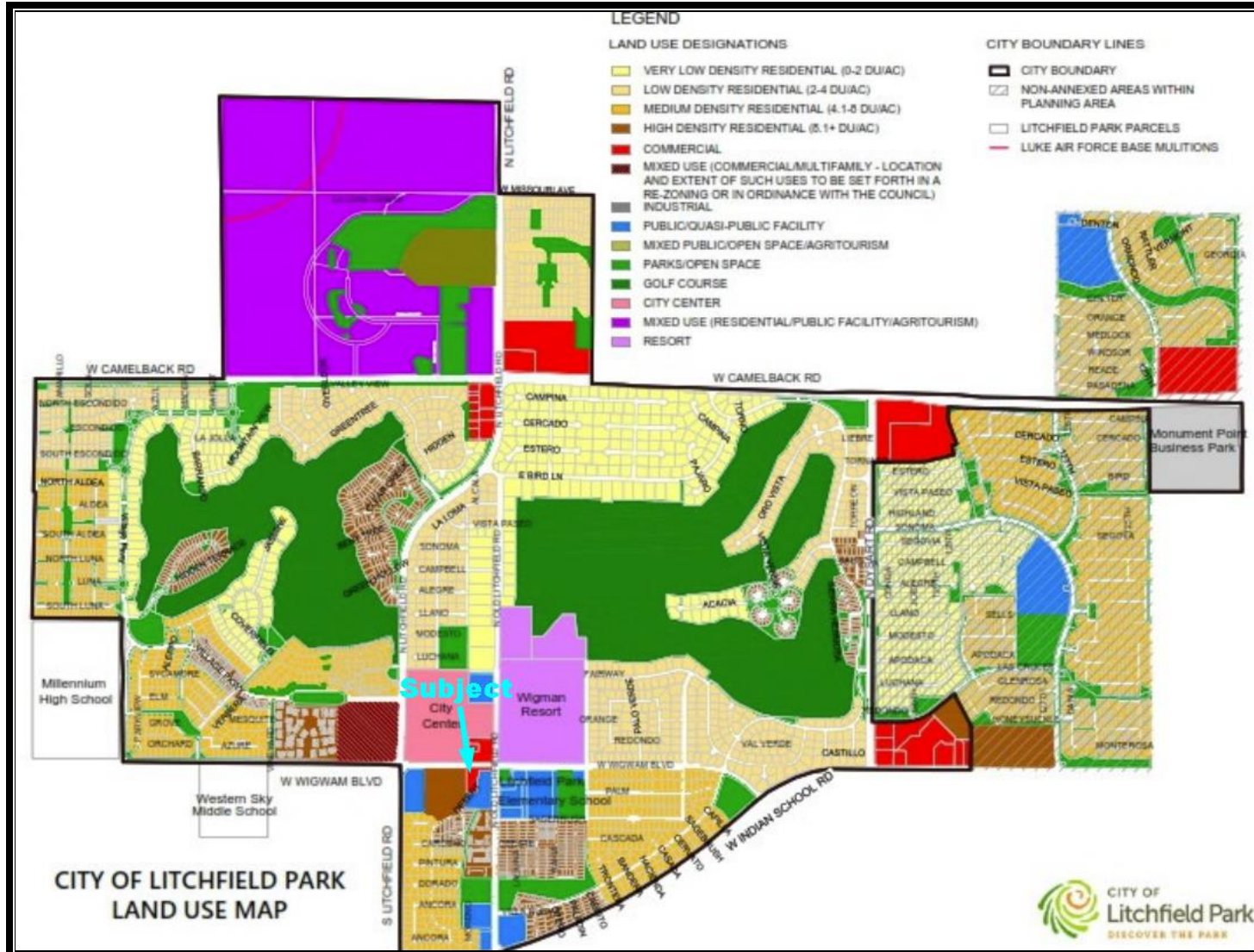
At times, a property can be restricted by agreements with adjoining property owners, by customary use or by adverse possession. The adjoining city library uses portions of the subject for crossover access and parking. The property manager, Sara Griffins, reported that the city and the property owner have an agreement allowing the city access and use in exchange for maintenance and other concessions. The current agreement expires in December, 2023. The agreement does not appear to be adverse or beneficial to the subject's marketability.

Existing Use

The improvements constitute a legal use in the current zoning code. Because building codes have changed since the improvements were constructed, individual construction details, setbacks, retention, and landscaping requirements may not adhere to current codes making the improvements a legal non-conforming use. However, such status, if true, does not adversely affect its market value. The improvements can continue to be used, as is, without the need to meet current standards, as long as the basic use is not changed.

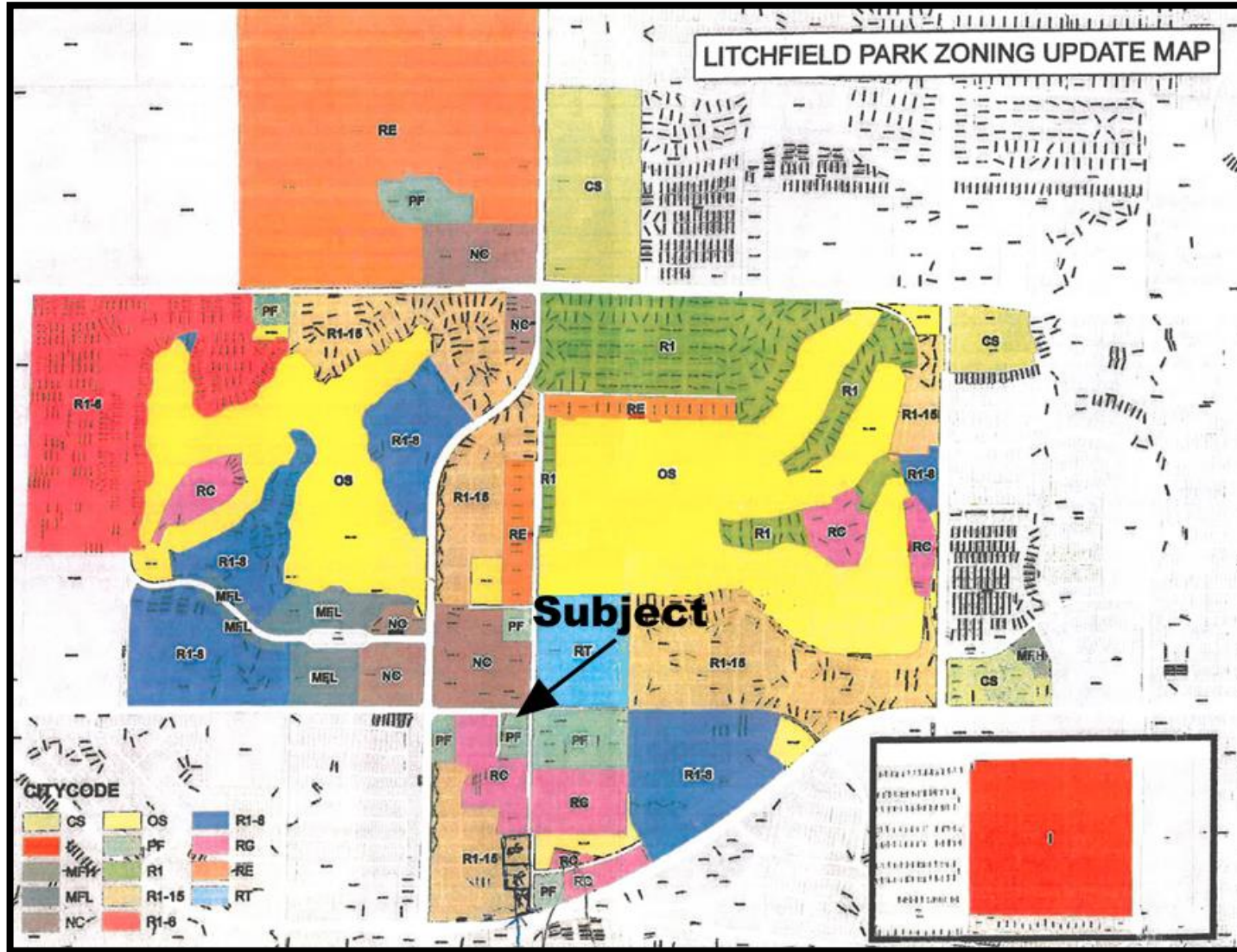
GENERAL PLAN MAP

↑
North



ZONING MAP

↑
North



REAL ESTATE TAX AND ASSESSMENT ANALYSIS

Introduction

Most real property in the county is assessed by the Assessor and the tax liability is collected by the Treasurer. Assessed values are typically established in November or December of each year, with tax rates in the following September. Taxes are paid in equal bi-annual installments, due October 1 of the current tax year and March 1 of the following year.

Assessment and Full Cash Value

The Assessor identified the subject with parcel number 501-70-011Z. The property was classified as "Commercial/ Real and Improvements". The Assessor's 2023 opinion of full cash value for the property was \$1,297,000, with \$731,000 or \$114.27 per square foot allocated to the improvements and \$566,000 or \$8.25 per square foot allocated to the land. The Assessor's opinion is similar to my opinion.

Real Estate Tax Liability

The subject's 2022 tax liability was \$11,642.70. The subject's tax liability appears reasonable when compared to other improved properties in its classification.

Delinquent Tax Liability

None

Special Assessment

No unusual special assessment was reported.

HIGHEST AND BEST USE ANALYSIS

Highest and best use reflects a basic assumption about real estate market behavior--that the price a buyer will pay for a property is based on his or her conclusions about the most profitable use of the land or property. The determination of a property's highest and best use may or may not conform to the existing use. The determination of highest and best use must be based upon careful consideration of prevailing market conditions, trends affecting market participation and change, and the existing use of the subject property.

Highest and best use may be defined as:

The reasonably probable use of property that results in the highest value. The four criteria that the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.⁶

Because the use of land can be limited by the presence of improvements, highest and best use is determined separately for the land as though vacant and available to be put to its highest and best use, and then for the property as it is currently improved.

The first determination reflects the fact that land value is derived from potential land use. Land has limited value or no value unless there is a present or anticipated use for it. The amount of value depends on the nature of the land's anticipated use according to the concept of surplus productivity. Among all reasonable alternative uses, the use that yields the highest present value, after payments are made for labor, capital, and coordination, is generally regarded as the highest and best use of the land as though vacant.

The highest and best use of a property as improved refers to the optimal uses that could be made of the property including all existing structures. The implication is that the existing improvements should be retained "as is" so long as they continue to contribute to the total market value of the property, or until the return from a new improvement would more than offset the cost of demolishing them and the construction of the new improvement.

The highest and best use of both land as though vacant and property as improved must meet four criteria. The highest and best use must be:

1. Physically possible,
2. Legally permissible,
3. Financially feasible, and
4. Maximally productive.

⁶ Appraisal Institute, The Dictionary of Real Estate Appraisal, Sixth Edition, (Chicago, Illinois: Appraisal Institute, 2015), page 109.

These four criteria are considered in reference to the subject property in the following analysis.

Highest and Best Use, As Vacant

Physically Possible

The subject property consists of a 68,607 square foot, or 1.575 net acres, parcel of land located at 111 West Wigwam Boulevard in Litchfield Park, Arizona. Physical features which enhanced marketability:

- Appealing Litchfield Park location
- Publicly-dedicated and -maintained access
- No soil or sub-soil problems known
- All necessary utilities
- Sufficient size for development
- Level topography

Physical features that limited marketability included:

- Irregular pan-handle shape

The subject property's location, physical characteristics, and trends of development in the area indicated that the subject property was most suitable for a variety of commercial and residential uses.

Legally Permissible

Public Restrictions – The subject was in Litchfield Park. The Litchfield Park *General Plan* designated it for "commercial" use.

The subject was zoned PF, Public Facilities. This land use category applies to areas for churches, schools, hospitals, continuum of care developments, government buildings, and utility facilities which, together with convention services, childcare, and information centers are permitted.

A continuum of care development provides a variety of health-related services, including independent living facilities, with only the minimum of health care related services provided, to skilled nursing facilities with a wide range of health care related services provided. A continuum of care development is neither strictly residential nor strictly commercial but is a blend of land uses within a single coordinated campus setting of not less than twenty acres.

Entitlements - The subject property had approval for its existing use, but the entitlement had no contributory market value as its current use would not be replicated.

Rezoning Potential - The subject's PF, Public Facilities, zoning significantly limits its commercial use potential. Given the general plan designation for commercial use and surrounding land uses, rezoning for a more intense commercial use is possible.

Private Restrictions - The title report revealed no deed or private restrictions which would negatively impact the use or development of the subject property.

Off-Title Information – At times, a property can be restricted by agreements with adjoining property owners, by customary use or by adverse possession. The adjoining city library uses portions of the subject for crossover access and parking. The property manager, Sara Griffins, reported that the city and the property owner have an agreement allowing the city access and use in exchange for maintenance and other concessions. The current agreement expires in December, 2023. The agreement does not appear to be adverse or beneficial to the subject's marketability.

Financially Feasible

Given the subject's smaller size, zoning and light traffic count limit its potential uses. Nevertheless, its location in adjacent to the city pool and library in downtown Litchfield Park with retail and office uses across the street and proximity to the Wigwam Resort suggest the most likely use of the subject property would be office or retail use.

Office Market - The CoStar, 1st Quarter 2023 office report provides a useful overview of office market conditions for the *West Phoenix* market and *West I-10* submarket.

The *West Phoenix* office market has 14,080,716 square feet of office space in 747 buildings. Five buildings totaling 236,000 square feet of office space were added to the market in the last year. With the absorption of 234,163 square feet, occupancy increased only slightly from 93.2 percent at the 1st Quarter 2022 to 93.3 percent at the 1st Quarter 2023. The equilibrium of new construction and absorption resulted in a rental rate increase of \$1.35 from \$28.93 per square foot to \$30.28 per square foot. An additional 6 buildings with 298,322 square feet of office space are currently under construction.

CoStar places the subject within the *West I-10* office submarket. With 2,749,705 square feet of space in 165 buildings, the *West I-10* office market accounts for 19.53 percent of the overall *West Phoenix* office market. All the office space added to the West Phoenix submarket over the last year (5 building, 236,000 square feet), was in the *West I-10* submarket. However, only 194,006 square feet were absorbed in the *West I-10* submarket and occupancy decreased from 93.7 percent to 92.7 percent. This is below occupancy in *West Phoenix* market. Rental rates increased by \$1.45 per square foot to \$33.44 per square foot, \$0.10 per square foot above overall *West Phoenix* rental rates.

Three buildings with a proposed total of 184,403 square feet of office space are currently under construction in the *West I-10* submarket.

West Phoenix Office Market

Period	Inventory Bldgs.	Inventory SF	Occupancy Rate	Vacancy Rate	Net SF Delivered	Net SF Absorption	Bldgs. Under Construction	SF Under Construction	Market Rent/SF
2023 Q1	757	14,080,716	93.3%	6.7%		38,074	6	298,322	\$30.28
2022 Q4	757	14,080,716	93.0%	7.0%		47,338	5	288,338	\$30.09
2022 Q3	757	14,080,716	92.7%	7.3%	236,000	133,416	3	137,773	\$29.83
2022 Q2	752	13,844,716	93.3%	6.7%		15,355	8	373,773	\$29.33
2022 Q1	752	13,844,716	93.2%	6.8%		13,880	8	373,773	\$28.93
2021 Q4	752	13,844,716	93.1%	6.9%		98,525	7	305,773	\$28.42
2021 Q3	752	13,844,716	92.4%	7.6%	1,900	44,190	3	277,000	\$27.81
2021 Q2	751	13,842,816	92.1%	7.9%		51,194	3	234,900	\$26.91
2021 Q1	751	13,842,816	91.7%	8.3%	9,317	-12,952	1	1,900	\$26.32
2020 Q4	750	13,833,499	91.8%	8.2%	11,257	80,079	2	11,217	\$25.90
2020 Q3	748	13,822,242	91.3%	8.7%	92,083	45,709	4	39,416	\$25.54
2020 Q2	744	13,730,159	91.6%	8.4%	208,934	176,162	8	131,499	\$25.51
2020 Q1	737	13,521,225	91.7%	8.3%	50,056	-21,237	14	331,116	\$25.41
2019 Q4	735	13,471,169	92.2%	7.8%		7,352	14	355,544	\$25.10
2019 Q3	735	13,471,169	92.2%	7.8%	6,116	59,115	7	296,354	\$24.68
2019 Q2	734	13,465,053	91.8%	8.2%	20,759	62,368	6	281,435	\$24.54
2019 Q1	733	13,444,294	91.4%	8.6%	109,152	86,130	3	216,259	\$24.15
2018 Q4	731	13,335,142	91.5%	8.5%	4,200	4,410	4	256,911	\$23.90
2018 Q3	730	13,330,942	91.5%	8.5%	39,200	121,471	5	261,111	\$23.38
2018 Q2	727	13,291,742	90.9%	9.1%	4,747	197,935	8	300,311	\$23.15
2018 Q1	726	13,286,995	89.4%	10.6%	5,527	82,041	7	250,058	\$23.37

West I-10 Office Submarket

Period	Inventory Bldgs.	Inventory SF	Occupancy Rate	Vacancy Rate	Net SF Delivered	Net SF Absorption	Bldgs. Under Construction	SF Under Construction	Market Rent/SF
2023 Q1	165	2,749,705	92.7%	7.3%		14,558	3	184,403	\$33.44
2022 Q4	165	2,749,705	92.2%	7.8%		-2,011	3	184,403	\$33.22
2022 Q3	165	2,749,705	92.2%	7.8%	236,000	122,255	2	69,773	\$32.94
2022 Q2	160	2,513,705	96.0%	4.0%		59,204	7	305,773	\$32.41
2022 Q1	160	2,513,705	93.7%	6.3%		-24,702	7	305,773	\$31.99
2021 Q4	160	2,513,705	94.7%	5.3%		21,117	7	305,773	\$31.48
2021 Q3	160	2,513,705	93.8%	6.2%	1,900	56,472	3	277,000	\$30.77
2021 Q2	159	2,511,805	91.6%	8.4%		11,055	3	234,900	\$29.74
2021 Q1	159	2,511,805	91.1%	8.9%		-5,267	1	1,900	\$29.03
2020 Q4	159	2,511,805	91.3%	8.7%	15,445	43,068	1	1,900	\$28.58
2020 Q3	157	2,496,360	90.2%	9.8%	17,056	2,589	2	15,445	\$28.14
2020 Q2	155	2,479,304	90.7%	9.3%	11,035	14,497	4	32,501	\$28.11
2020 Q1	154	2,468,269	90.5%	9.5%	40,000	12,565	5	43,536	\$27.96
2019 Q4	153	2,428,269	91.5%	8.5%		-22,439	4	68,091	\$27.64
2019 Q3	153	2,428,269	92.4%	7.6%		56,980	3	61,035	\$27.10
2019 Q2	153	2,428,269	90.1%	9.9%		8,066	1	40,000	\$26.98
2019 Q1	153	2,428,269	89.6%	10.4%	45,000	49,048	0		\$26.57
2018 Q4	152	2,383,269	89.3%	10.7%	4,200	-6,139	1	45,000	\$26.33
2018 Q3	151	2,379,069	89.7%	10.3%	26,200	40,862	2	49,200	\$25.90
2018 Q2	149	2,352,869	88.9%	11.1%		-14,568	4	75,400	\$25.67
2018 Q1	149	2,352,869	89.6%	10.4%		8,900	2	20,400	\$25.95

The subject's larger market has historically had stable occupancy levels above 90 percent, modest amounts of new development with good absorption and increasing rental rates. Given these market factors, the subject's smaller size and location in a popular Litchfield Park, neighborhood development with an office use appears feasible.

Retail Market - The CoStar, 1st Quarter 2023 retail report provides a useful overview of retail market conditions for the *West Phoenix* market and *Goodyear* submarket.

The *West Phoenix* retail market has 27,306,337 square feet of space in 1,772 buildings. Forty-five buildings totaling 1,008,508 square feet of retail space were added to the market in the last year. Much of this space was developed west of the City of Phoenix in the expanding residential areas of Avondale, Goodyear, Peoria, Surprise and Buckeye.

The absorption of 1,389,788 square feet pushed occupancy increased from 96.2 percent at the 1st Quarter 2022 to 97.7 percent at the 1st Quarter 2023. At the same time rental rates increased \$1.85 from \$20.77 per square foot to \$22.62 per square foot.

An additional 31 buildings with 744,770 square feet of retail space are currently under construction.

West Phoenix Retail Market

Period	Inventory Buildings	Inventory SF	Occupancy Rate	Vacancy Rate	Net SF Delivered	Net SF Absorption	Bldgs. Under Construction	SF Under Construction	Market Rent/SF
2023 Q1	1,772	27,306,337	97.7%	2.3%	793,329	1,052,610	31	744,956	\$22.62
2022 Q4	1,758	26,513,008	96.7%	3.3%	105,866	149,941	38	1,297,535	\$22.10
2022 Q3	1,746	26,407,142	96.5%	3.5%	51,260	65,996	35	1,330,674	\$21.65
2022 Q2	1,734	26,355,882	96.4%	3.6%	58,053	121,241	34	1,262,656	\$21.11
2022 Q1	1,727	26,297,829	96.2%	3.8%	67,533	285,921	39	1,295,767	\$20.77
2021 Q4	1,721	26,230,296	95.3%	4.7%	29,704	-38,077	29	245,570	\$20.31
2021 Q3	1,718	26,200,592	95.6%	4.4%	21,511	16,393	24	198,635	\$20.02
2021 Q2	1,714	26,179,081	95.6%	4.4%	143,954	111,916	13	119,142	\$19.75
2021 Q1	1,708	26,035,127	95.7%	4.3%	40,121	55,752	13	201,096	\$19.41
2020 Q4	1,704	25,995,006	95.6%	4.4%	47,069	77,557	11	191,555	\$19.14
2020 Q3	1,698	25,947,937	95.5%	4.5%	163,069	236,594	13	218,268	\$18.96
2020 Q2	1,695	25,784,868	95.2%	4.8%	33,730	79,927	10	212,346	\$18.80
2020 Q1	1,691	25,751,138	95.0%	5.0%	680,094	602,960	11	233,199	\$18.68
2019 Q4	1,678	25,071,044	95.2%	4.8%	145,127	173,655	20	883,706	\$18.50
2019 Q3	1,668	24,925,917	95.0%	5.0%	41,333	92,658	22	823,516	\$18.36
2019 Q2	1,662	24,884,584	94.8%	5.2%	7,752	40,467	18	768,747	\$18.10
2019 Q1	1,662	24,876,832	94.7%	5.3%	46,786	-121,640	10	717,881	\$17.95
2018 Q4	1,655	24,830,046	95.3%	4.7%	56,116	123,464	8	55,812	\$17.83
2018 Q3	1,649	24,773,930	95.1%	4.9%	45,324	82,583	12	95,965	\$17.71
2018 Q2	1,646	24,728,606	94.9%	5.1%	33,274	65,167	10	105,940	\$17.61
2018 Q1	1,642	24,695,332	94.8%	5.2%	-78,481	9,926	9	85,789	\$17.50

CoStar places the subject within the *Goodyear* retail submarket. With 4,012,553 square feet of space in 278 buildings, the *West I-10* retail market accounts for 14.69 percent of the overall *West Phoenix* retail market.

Three buildings containing only 7,000 square feet of space were added to the *Goodyear* retail submarket in the last year. However, 28,137 square feet of retail space was absorbed. As a result of absorption outpacing new construction, occupancy increased from 97.2 percent at the 1st Quarter 2022 to 98.5 percent at the 1st Quarter 2023. With limited new development and high occupancy, rental rates increased by \$1.97 per square foot from \$21.37 per square foot at the 1st Quarter 2022 to \$23.34 per square foot at the 1st Quarter 2023. The *Goodyear* retail submarket exceeds the *West Phoenix* market in both occupancy and rental rate.

Five buildings with a proposed total of 212,295 square feet of retail space are currently under construction in the *Goodyear* submarket.

Goodyear Retail Submarket

Period	Inventory Buildings	Inventory SF	Occupancy Rate	Vacancy Rate	Net SF Delivered	Net SF Absorption	Bldgs. Under Construction	SF Under Construction	Market Rent/SF
2023 Q1	278	4,012,553	98.5%	1.5%	800	21,695	5	212,295	\$23.34
2022 Q4	277	4,011,753	98.0%	2.0%	2,400	6,157	4	18,095	\$22.78
2022 Q3	276	4,009,353	97.9%	2.1%	3,800	285	3	13,090	\$22.30
2022 Q2	275	4,005,553	98.0%	2.0%		32,176	3	16,090	\$21.74
2022 Q1	275	4,005,553	97.2%	2.8%	4,650	16,881	3	16,090	\$21.37
2021 Q4	273	4,000,903	96.8%	3.2%		18,606	2	4,650	\$20.89
2021 Q3	273	4,000,903	96.4%	3.6%	2,409	36,918	2	4,650	\$20.62
2021 Q2	272	3,998,494	95.5%	4.5%	5,786	39,941	1	2,409	\$20.35
2021 Q1	270	3,992,708	94.7%	5.3%		29,151	3	8,195	\$19.99
2020 Q4	270	3,992,708	93.9%	6.1%	26,000	10,085	2	5,786	\$19.71
2020 Q3	268	3,966,708	94.3%	5.7%	1,587	30,255	3	28,208	\$19.55
2020 Q2	267	3,965,121	93.6%	6.4%		-8,430	4	29,795	\$19.37
2020 Q1	267	3,965,121	93.8%	6.2%		-10,268	3	27,587	\$19.28
2019 Q4	267	3,965,121	94.0%	6.0%	5,143	17,442	0		\$19.11
2019 Q3	266	3,959,978	93.7%	6.3%		20,880	1	5,143	\$18.97
2019 Q2	266	3,959,978	93.2%	6.8%		-8,665	1	5,143	\$18.67
2019 Q1	266	3,959,978	93.4%	6.6%		-15,421	0		\$18.49
2018 Q4	266	3,959,978	93.8%	6.2%	25,921	51,836	0		\$18.37
2018 Q3	264	3,934,057	93.1%	6.9%	2,973	27,602	2	25,921	\$18.24
2018 Q2	263	3,931,084	92.5%	7.5%	21,000	41,644	3	28,894	\$18.10
2018 Q1	262	3,910,084	91.9%	8.1%	-43,042	26,230	2	23,973	\$17.99

As illustrated by the table above, new development in the *Goodyear* submarket has been limited. As a result, occupancy levels and rental rates have remained strong. Despite the 212,295 square feet of retail space under construction, occupancy levels and rental rates are expected to remain strong. Given the subject's location in a desirable Litchfield Park location, retail development appears feasible.

Maximally Productive

Given the physical and legal characteristics of the subject property and noting the strength of the *West I-10 office* submarket and *Goodyear* retail submarket, office and retail development appear to be financially feasible uses for the subject property.

Conclusion, As Vacant

Therefore, after considering the physical, legal, and financially feasible characteristics of the subject site, it was my opinion that the highest and best use of the subject, as vacant, would be for office, retail, or mixed-use development.

Highest and Best Use, As Improved

Improvements

The subject property was improved with two office buildings totaling 6,397 square feet and related site improvements. According to the records of the Maricopa County Assessor, the improvements were constructed in 1966. The improvements appeared to be in average condition with a long-remaining economic life.

The subject has a 10.72:1 land-to-building ratio. This is a high land-to-building ratio for office or retail uses. Several thousand square feet of office or retail space could be developed on the subject site without affecting the use of the existing improvements.

The improvements appeared to be in average condition with a long-remaining economic life.

Legally Permissible

The existing improvements constitute a legal use in the current zoning code. Because building codes have changed since the improvements were constructed, individual construction details, setbacks, retention, and landscaping requirements may not adhere to current codes making the improvements a legal non-conforming use. However, such status, if true, does not adversely affect its market value. The improvements can continue to be used, as is, without the need to meet current standards, as long as the basic use is not changed.

Financially Feasible

The theory of highest and best use says that if the market value of the fee simple interest in the land, less the cost of demolition, is greater than the property as improved, then the improvements no longer represent the highest and best use of the land. My preliminary study of land value, demolition costs, and my appraisal of the property as improved indicated that the improvements were a financially feasible use of the land.

Maximally Productive

The site could support additional improvements. Thus, while it would not be financially feasible to demolish the existing improvement, the maximally productive use of the subject, as improved, would be the expansion of the existing improvements or the development of additional office or retail uses on the surplus site area.

Conclusion, As Improved

The existing improvements with additional development represented the highest and best use of the land, as improved.

VALUATION PROCESS

The use of the Cost, Sales Comparison, and Income Approaches to Value depend on the type of property, the use of the appraisal, and the quality and quantity of data available for analysis. They are defined as follows:

Cost Approach: *A set of procedures through which a value indication is derived for the fee simple interest in a property by estimating the current cost to construct a reproduction of (or replacement for) the existing structure, including an entrepreneurial incentive, deducting depreciation from the total cost; and adding the estimated land value. Adjustments may then be made to the indicated fee simple value of the subject property to reflect the value of the property interest being appraised.*⁷

Sales Comparison Approach: *The process of deriving a value indication for the subject property by comparing sales of similar properties to the property being appraised, identifying appropriate units of comparison, and making adjustments to the sale prices (or unit prices, as appropriate) of the comparable properties based on relevant, market-derived elements of comparison. The sales comparison approach may be used to value improved properties, vacant land, or land being considered as though vacant when an adequate supply of comparable sales is available.*⁸

Income Approach: *Specific appraisal techniques applied to develop a value indication for a property based on its earning capability and calculated by the capitalization of property income.*⁹

Reconciliation: *The last phase in the development of a value opinion in which two or more value indications derived from market data are resolved into a final value opinion, which may be either a range of value, in relation to a benchmark, or a single point estimate.*¹⁰

All three approaches to value are based upon the Principle of Substitution. This is a valuation principle that states a prudent purchaser would pay no more for real property than the cost of acquiring an equally desirable substitute on the open market. The principle presumes that the purchaser will consider the alternatives available to him or her, that the buyer will act rationally and prudently on the basis of the information available about these alternatives, and that time is not a significant factor. Substitution may assume the form of the purchase of an existing property with the same utility and income potential or the acquisition of vacant land and the construction of a structure upon the land having the same general utility as the subject property.

7 Appraisal Institute, The Dictionary of Real Estate Appraisal, Sixth Edition, (Chicago, Illinois: Appraisal Institute, 2015), page 54.

8 Ibid., page 207.

9 Ibid., page 115.

10 Ibid., page 91

Applied Method

Because the subject property was assumed to have been vacant land, the Cost Approach was not considered applicable. The Income Approach could not be reliably applied as the land was incapable of attracting sufficient net income, that when capitalized, would provide a reliable indication of market value for the subject property. Therefore, in the following analysis, only the Sales Comparison Approach was applied in the estimation of the subject property's market value.

SALES COMPARISON APPROACH

Theory

This approach calls for the typical buyer or appraiser to compare the subject property with similar properties which have either recently sold or are currently listed for sale. The comparables are compared to the subject property on the basis of locational, physical, legal, and economic differences that affect value. After recognizing differences, their adjusted prices then set a value range from which the market value of the subject property can be estimated. Typically, the most important unit of measure in estimating the value of land in this market segment is price per square foot.

This approach gives an excellent indication of current market prices when sales data is plentiful and easily confirmed. Recent sales and listings show where the market has been and where it may be going. The data reveals the trends not only in price, but in the trends of investment and development as well as current seller and buyer behavior.

Data

My search of the market was conducted by reviewing sales compiled by the county recorder's office and listings from real estate agents, brokers, and other market participants. Of numerous sales and listings discovered, the following comparables were documented and discussed which represented the most current and comparable data for the estimation of market value. Other comparable sales and listings, in addition to those documented and analyzed here, were also considered, and influenced my opinion of value as part of my workfile.

My data was arranged from newest to oldest to emphasize those sales which best reflect current market conditions. If listings were used, they were presented last. Please note that "Date of Sale" as shown in the documentation of the comparables on the following pages, reflects the date the price was agreed upon by buyer and seller, the contract signed and placed in escrow. Even though the sales closed later, sometimes months or even years afterward, the date of sale is important to understand market conditions and for judging and adjusting for appreciation and depreciation.

LAND COMPARABLE NO. 1

Type: Vacant Commercial Land
Location: Northeast corner of Dysart Road and Riley Drive,
Avondale, Arizona

Sale Data

Grantor: Jireh Investment Properties, LLC
Grantee: War Chest Execs, LLC
Date of Sale: May, 2023
Recorded Date: May 25, 2023
Instrument: Warranty Deed
Instrument No.: 23-0268726
Sales Price: \$415,000
Terms: Cash
Unit Price: **\$8.11** per square foot

Site Data

Assessor's Parcel No.: 500-22-002F
Legal Description: Part of the NW4 SW4 Section 11, T-1N, R-1W,
G&SRB&M, Maricopa County, Arizona.
Site Area: 51,191 square feet or 1.175 acres
Shape/Dimensions: Rectangular; see exhibit
Zoning: C-2, Community Commercial
Frontage/Access: 143 ± feet on the west side of south side of Dysart Road,
a north/south arterial; 311 ± feet on the north side of
Riley Drive, a minor neighborhood street

Offsites: Dysart Road - Asphalt-paved for two lanes in each direction, painted median, curb, gutter, sidewalk and streetlights
Riley Drive - Asphalt-paved for one lane in each direction, curb, gutter and streetlights; no median or sidewalk

Traffic Count: Dysart Road – 39,988 v.p.d. (2022)
Riley Drive – Light, unmeasured

Topography/Soil: Level; typical

Utilities: Water, sewer, electricity

Flood Zone: Zone X

Improvements/Other: None

History: The property was listed for 175 days with a list price of \$469,900 reduced to \$462,000 or \$9.03 per square foot. In September, 2022, the property was sold in a double escrow transaction with the initial price being \$250,000 and the closing price being \$345,000 or \$6.74 per square foot. No other sales or listings were noted in the past five years.

Intended Use: Office/trade school facility

Confirmation: Public records; Jaime Morales, listing agent, Home Smart, 602-230-7600, June 6, 2023

Comments: There is a retail building to the north, vacant land to the south, an automotive body shop to the east and a school to the west.

LAND COMPARABLE NO. 1



LAND COMPARABLE NO. 2

Type: Vacant Commercial Land
Location: 925 ± feet west of the northwest corner of Van Buren Street and Litchfield Road, Goodyear, Arizona

Sale Data

Grantor: Goodyear Capital Partners, LLC
Grantee: PB Goodyear Development, LLC
Date of Sale: June, 2022
Recorded Date: April 10, 2023
Instrument: Special Warranty Deed
Instrument No.: 23-0237068
Sales Price: \$899,000
Terms: Cash
Unit Price: **\$11.74** per square foot

Site Data

Assessor's Parcel No.: 500-10-871A
Legal Description: Lots 1 and 3, PALM GATE
Site Area: 76,607 square feet or 1.759 acres
Shape/Dimensions: Rectangular; see exhibit
Zoning: PAD, Planned Area Development
Frontage/Access: 188 ± feet on the north side of Van Buren Street, an east/west arterial
Offsites: Asphalt-paved for two lanes in each direction, painted median, curb, gutter, sidewalk and streetlights

Traffic Count: 20,262 v.p.d. (2022)

Topography/Soil: Level; typical

Utilities: Water, sewer, electricity

Flood Zone: Zone X

Improvements/Other: Palm trees, asphalt paved driveways and access to an off-site common area retention basin located to the north of the property.

History: The property was listed for 710 days starting at \$799,900 and increasing to \$899,000. No other sales or listings were noted in the past five years.

Intended Use: Investment

Confirmation: Public records; Alexander David Shea, listing agent, RE/MAX, 480-495-7729, June 6, 2023

Comments: There is a self-storage facility to the north and vacant land to the east and west. An industrial building is under construction to the south.

LAND COMPARABLE NO. 2



LAND COMPARABLE NO. 3

Type: Vacant Commercial Land
Location: Southwest corner of Peoria Avenue and 98th Avenue,
Peoria, Arizona

Sale Data

Grantor: Zhuer W. Merza
Grantee: Duarte Realty Sales, LLC
Date of Sale: January, 2022
Recorded Date: February 15, 2022
Instrument: Special Warranty Deed
Instrument No.: 22-0141524
Sales Price: \$455,000
Terms: Cash
Unit Price: **\$7.62** per square foot

Site Data

Assessor's Parcel Nos.: 142-54-013, 016, 017
Legal Description: Lots 3, 6 and 7, S.C. COMMERCIAL TRACT
Site Area: 59,677 square feet or 1.370 acres
Shape/Dimensions: Irregular; non-contiguous; see exhibit
Zoning: C-2, Intermediate Commercial
Frontage/Access: 148 ± feet on the south side of Peoria Avenue, a major east/west arterial; 271 ± feet on the west side of 98th Avenue, a minor north/south street; 276 ± feet on the north side of Washington Street, a minor east/west street; 133 ± feet on the east side of 98th Drive, a minor north/south street

Offsites: Peoria Avenue - Asphalt-paved for two east bound lanes and one west bound lane, painted median, curb, gutter, sidewalk and streetlights.

98th Avenue - Asphalt-paved for two lanes in each direction, painted median, curb, gutter, partial sidewalk; no median

Washington Street – Asphalt-paved for one lane in each direction, curb, gutter; no median, sidewalk or streetlights

98th Drive – Asphalt-paved for one lane in each direction, curb, gutter; no median, sidewalk or streetlights

Traffic Count: Peoria Avenue – 13,701 v.p.d. (2022)
 98th Avenue – Light, unmeasured
 Washington Street – Light, unmeasured
 98th Drive – Light, unmeasured

Topography/Soil: Level; typical

Utilities: Water, sewer, electricity

Flood Zone: Zone X

Improvements/Other: Concrete foundations from previous improvements with no contributory market value and no discount given for demolition.

History: The property was listed for 307 days with a list price of 459,900 or \$7.71 per square foot. APN 142-54-016 sold in July, 2018 for \$70,000 or \$3.74 per square foot. No other sales or listings were noted in the past five years.

Intended Use: Office/retail development

Confirmation: Public records; James Nardi, listing agent, Home Smart, 480-225-1817, June 6, 2023

Comments: There are retail buildings to the north and west, vacant land to the south and a church to the east.

LAND COMPARABLE NO. 3



LAND COMPARABLE NO. 4

Type: Vacant Commercial Land
Location: 600 ± feet east of the southeast corner of Glendale Avenue and Dysart Road, Glendale, Arizona

Sale Data

Grantor: Post Development Group, LLC
Grantee: Guillermo Vega Gomez and Maria L. Covarubias Amezcu
Date of Sale: December, 2021
Recorded Date: December 30, 2021
Instrument: Special Warranty Deed
Instrument No.: 21-1381962
Sales Price: \$435,000
Terms: Cash
Unit Price: **\$8.24** per square foot

Site Data

Assessor's Parcel No.: 501-56-962
Legal Description: Parcel 3, of RE-PLAT FOR SOLARE RANCH PARCELS 2 & 3
Site Area: 52,788 square feet or 1.212 acres
Shape/Dimensions: Rectangular; 222.99' x 235.69'(averaged)
Zoning: C-1, Neighborhood Commercial
Frontage/Access: 234 ± feet on the south side of Glendale Avenue, a major east/west arterial; access is across adjoining parcel.

Offsites: Asphalt-paved for two lanes in each direction, painted median, curb, gutter, sidewalk and streetlights.

Traffic Count: 16,140 v.p.d. (2022)

Topography/Soil: Level; typical

Utilities: Water, sewer, electricity

Flood Zone: Zone X

Improvements/Other: On-site retention area at front of the property does not adversely affect marketability.

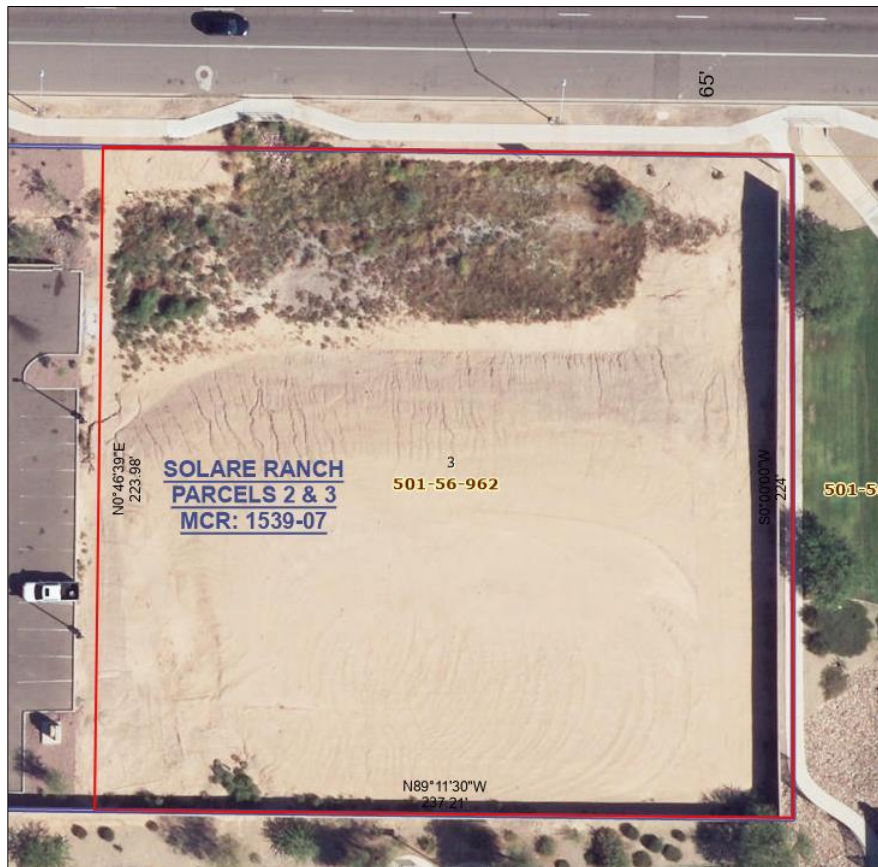
History: The property was listed for 373 days with a list price of 499,995 or \$9.47 per square foot. In September, 2021, the property sold for an undisclosed price. No other sales or listings were noted in the past five years.

Intended Use: Investment

Confirmation: Public records; numerous calls to David Long, listing agent, The Long Corporation, 602-574-0731, went unreturned.

Comments: There is an industrial property to the north, single-family residences to the south and east and a retail building to the west.

LAND COMPARABLE NO. 4



LAND COMPARABLE NO. 5

Type: Vacant Commercial Land
Location: Southeast corner of Indian School Road and Santa Fe Trail, Avondale, Arizona

Sale Data

Grantor: ECC Holdings Inc.
Grantee: Donut Hideaway, Inc.
Date of Sale: February, 2020
Recorded Date: April 30, 2020
Instrument: Special Warranty Deed
Instrument No.: 20-0372919
Sales Price: \$434,365
Terms: Cash
Unit Price: **\$8.73** per square foot

Site Data

Assessor's Parcel No.: 501-72-009L
Legal Description: Part of Section 26, T-2N, R-1W, G&SRB&M, Maricopa County, Arizona.
Site Area: 49,774 square feet or 1.143 acres
Shape/Dimensions: Rectangular; 210.01' x 237.01'
Zoning: PAD, Planned Area Development
Frontage/Access: 237 ± feet on the south side of Indian School Road, a major east/west arterial; 210 ± feet on the east side of Santa Fe Trail, a minor north/south street.

Offsites: Indian School Road - Asphalt-paved for two lanes in each direction, painted median, curb, gutter, sidewalk and streetlights.
Santa Fe Trail - Asphalt-paved for one lane in each direction, painted median, curb, gutter, sidewalk and streetlights.

Traffic Count: Indian School Road – 23,420 v.p.d. (2022)
Santa Fe Trail – 5,701 v.p.d. (2022)

Topography/Soil: Level; typical

Utilities: Water, sewer, electricity

Flood Zone: Zone X

Improvements/Other: None

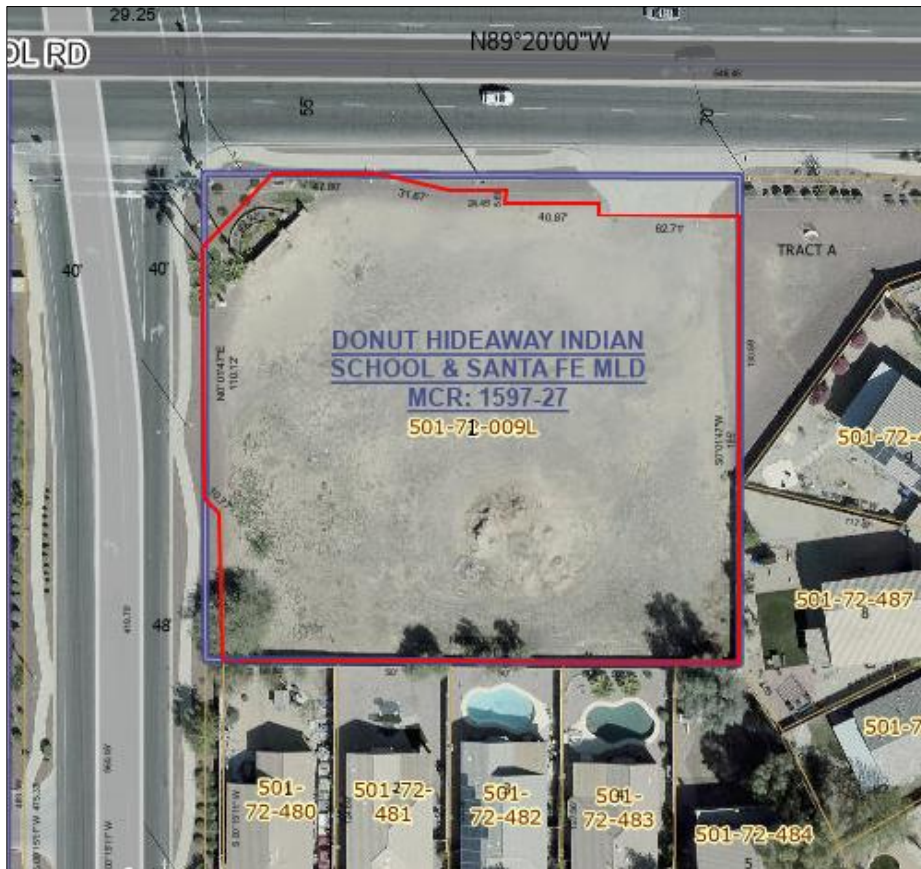
History: The property was listed for 162 days with a list price of 499,000 or \$9.04 per square foot. No other sales or listings were noted in the past five years.

Intended Use: Office/retail development

Confirmation: Public records; Geoffrey Adams, listing agent, Realty One Group, 480-478-0139, June 6, 2023

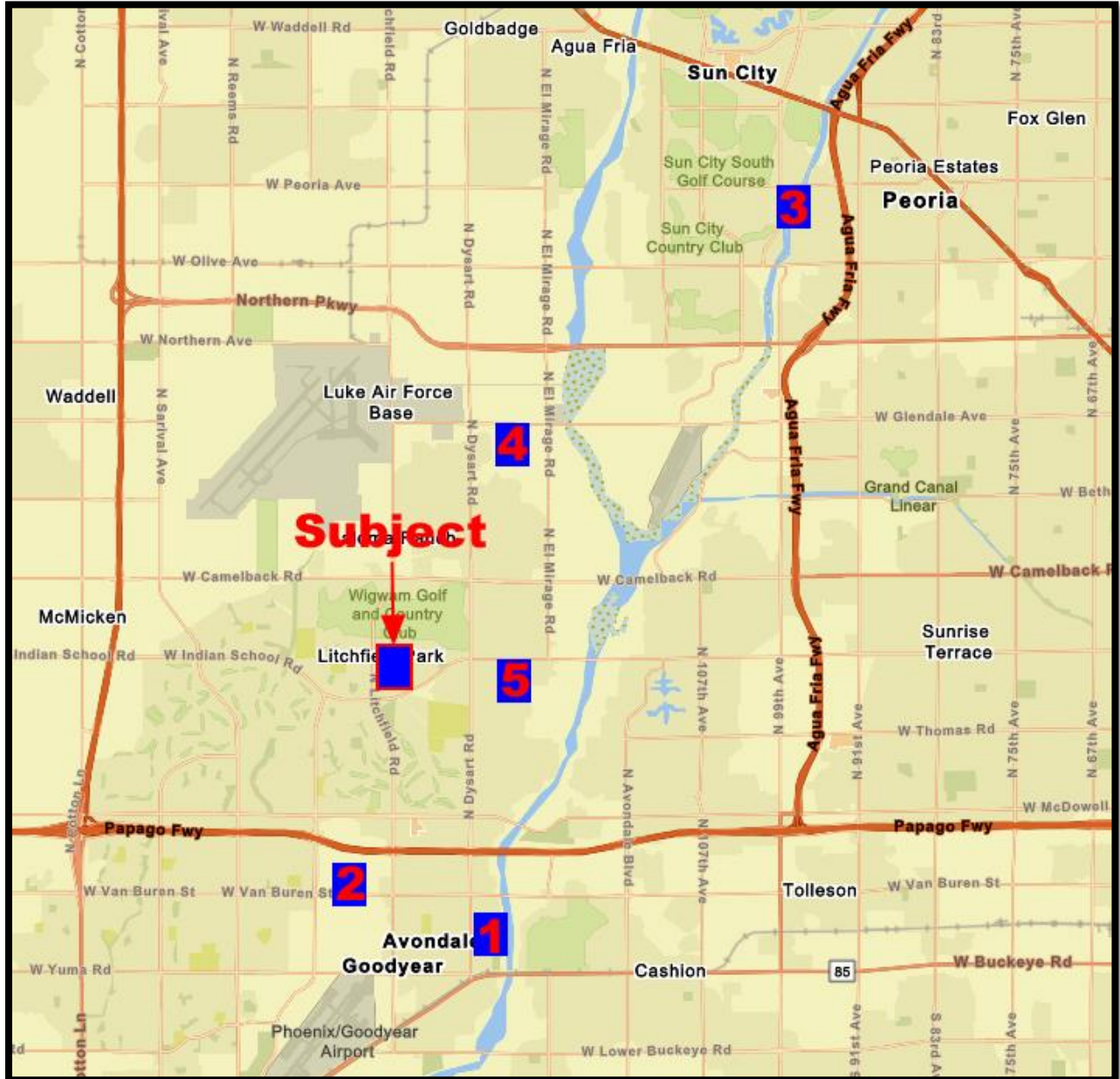
Comments: There are single-family residences to the north, south and east and office buildings to the west.

LAND COMPARABLE NO. 5



VACANT LAND COMPARABLES LOCATION MAP

↑
North



Summary of Vacant Land Comparables

Sale No.	Location	Date	Cash Equiv. Price	Size S.F.	Unit Price	Traffic Count	Zoning
1	NEC Dysart Rd. & Riley Dr., Avondale	5-23	\$415,000	51,191 s.f.	\$ 8.11/s.f.	39,988 v.p.d.	C-2
2	W of NWC Van Buren St. & Litchfield Rd., Goodyear	6-22	\$899,000	76,607 s.f.	\$11.74/s.f.	20,262 v.p.d.	PAD
3	SWC Peoria Ave. & 98 th Ave., Peoria	1-22	\$455,000	59,677 s.f.	\$ 7.62/s.f.	13,701 v.p.d.	C-2
4	E of SEC Glendale Ave. & Dysart Rd., Glendale	12-21	\$435,000	52,788 s.f.	\$ 8.24/s.f.	16,140 v.p.d.	C-1
5	SEC Indian School Rd. & Santa Fe Trail, Avondale	2-20	\$434,365	49,774 s.f.	\$ 8.73/s.f.	29,121 v.p.d.	PAD
Subj.	111 W. Wigwam Blvd., Litchfield Park	6-23	----	68,607 s.f.	----	Light	PF

Factors Affecting Marketability and Discussion of Adjustments

Property Rights Conveyed

The market value of the fee simple interest was estimated for the subject property. As the fee simple rights were conveyed for Comparable Nos. 1, 2, 3, 4 and 5, no adjustments were indicated.

Terms of Sale

The subject property was appraised assuming a cash sale or one with cash equivalent terms. Seller-carried terms generally influence the price paid as they are more generous than terms available for first or second mortgage lenders. The seller receives a premium over market value in order to counter the risk of a carryback. Since market value is estimated for the real estate only, any premium paid for generous terms must be deducted.

Comparable Nos. 1, 2, 3, 4 and 5 were cash sales, no adjustments were indicated.

Conditions of Sale

The subject property was appraised assuming normal conditions of sale in which a sale is arm's length, the price was not unduly influenced by distress situations or inter-related party transfers and the property had adequate exposure to the market.

As Comparable Nos. 1, 2, 3, 4 and 5 were arm's length transactions selling under normal conditions of sale. No adjustments were indicated.

Market Conditions

The subject property was appraised as of the effective date of the appraisal, June 5, 2023. Given the passage of time, market prices generally change given fluctuations in supply and demand. Prices tend to move up or down in stair-step fashion, quickly changing and then stabilizing for a period of time. Thus, adjustments to older sales, whether up or down, must be considered.

Comparable Nos. 1 and 2 sold in May, 2023 and June, 2022 under similar market conditions as of the effective date of the appraisal. Thus, no adjustment was needed given the temporary stability in this market segment.

Comparable Nos. 3, 4 and 5 sold between February, 2020, and January, 2022. Given my study and analysis of appreciation in this market segment, varying upward adjustments were needed.

Buyer Motivation

A number of factors may affect buyer motivation. The most important in the market segment are user v. speculator, assemblage, and special factors. For the subject property, I assumed that the buyer was typically motivated--whether a user or speculator.

User v. Speculator - In many real estate markets, users are often willing to pay a premium over the prices that investors or speculators pay. In general, users are examining the immediate potential or value of a site for a specified use and do not anticipate the holding or marketing costs that are incurred by an investor. As noted in the Highest and Best Use Analysis, the subject property has primary appeal to a user at this time.

Comparable Nos. 1, 2, 3 and 5 were purchased by users. Comparable No. 4 was purchased by an investor. But by my study and analysis, I did not find a two-tiered market. If investors buy land, they must pay the same prices users pay. Whether the comparables were purchased by a user or speculator, no adjustments were necessary.

Assemblage - When buyers have a need to expand an existing location or if they are assembling land for new development, they usually are forced to pay a premium over market value for their lack of substitution.

Comparable Nos. 1, 2, 3, 4 and 5 were not purchased for assemblage. Thus, no adjustments were necessary.

Special Need – Buyers may have a special need that prevents them from choosing a substitute property available on the open market. As such, they may pay a premium over market value for their lack of substitution.

As the prices paid for Comparable Nos. 1, 2, 3, 4 and 5 were not affected by special needs, no adjustments were needed.

Location

Locational factors which affect land values include general locational attributes and district or specific locational attributes such as the appeal or quality of surrounding development.

General Location – General locational factors include the market's perception of a particular neighborhood or area of the community, support facilities, growth, and development potential. The subject's location in a typical suburban growth area in Litchfield Park gives it an "average" general location.

Comparable Nos. 2, 4 and 5 were located in similar growth areas with similar access to community and support facilities. Given their similar locations, no adjustments were necessary.

Comparable Nos. 1 and 3 were in neighborhoods with similar access to community and support facilities. However, they were in older neighborhoods with properties of generally lower values than those surrounding the subject. After comparables with the subject, upward adjustments were needed.

Specific Location – Specific locational features relate to setting. If a parcel of land is in a masterplanned residential community with amenities that carry an appealing theme, it may bring a premium in the marketplace. On the other hand, land that is surrounded by unattractive locational features may sell at a reduced price.

The subject property had an appealing downtown Litchfield Park location. It is surrounded by public amenities and in close proximity to the Wigwam Resort. New residential development is to the north. As such, it had a "good" specific location.

Comparable Nos. 1, 2, 3, 4 and 5 did not have any specific locational features which enhanced marketability. For their inferiority, upward adjustments were needed.

Frontage/Access

Frontage is important to the marketability of land as it generally provides publicly-dedicated and -maintained access. Access can be judged from streets immediate to the subject property or from adjacent or nearby boulevards, expressways, or freeways. This grouping includes categories that are closely related but the distinction is important.

Frontage - The subject property had publicly-dedicated and -maintained frontage.

As Comparable Nos. 1 through 5 had similar frontages, no adjustments were necessary.

Access - Typically, access from a single street is adequate for residential development. The subject property had "average" access from its frontage.

As Comparable Nos. 1, 2, 3, 4 and 5 had similar access. No adjustments were needed.

Traffic Count/Visibility

For land in the subject's market segment, the visibility and a strong traffic count allows a development to be noticed by clients and tenants which can enhance the value of the improved property.

Traffic Count – The subject had a light, unmeasured traffic count.

Comparable Nos. 1, 2, 3, 4 and 5 had traffic counts ranging from 13,701 to 39,988 vehicles per day. For the superiority, varying downward adjustments were made.

Visibility – At times, the visibility of a parcel can be blocked by adjoining buildings, terrain or the frontage can be too narrow to take advantage of the traffic count. In the subject property's case, its frontages were broad enough and sufficiently unblocked to allow it "average" visibility.

Comparable Nos. 1, 2, 3, 4 and 5 had similar visibility from their frontages. Given their similarity, no adjustments were necessary.

Size

Size usually influences the price paid for vacant land. Generally, larger parcels of land sell at a lower unit price than smaller lots as fewer buyers compete for them, and their exposure times are longer. Typically, buyers do not adjust for every square foot or acre difference so in general, size can differ within a range and the unit price is not affected. But for substantial differences between ranges, unit prices will usually vary given the general rule. The subject was 68,607 square feet in size which made it a medium-sized parcel for this market segment.

The market data in this comparison ranged from 49,774 to 76,607 acres in size which bracketed the size of the subject well.

Comparable Nos. 1, 2, 3, 4 and 5 were within the same size category as the subject property. Given their similarity, no adjustments were necessary.

Shape/Contiguity

Shape - The typical buyer prefers a square or rectangularly shaped parcel as planning and development is made easier. The subject property was irregularly shaped with a 5,492 square foot panhandle running east of the main parcel along its Wigwam Boulevard frontage. With limited utility and developability, this area had a negative impact on marketability.

Comparable Nos. 1, 2, 3, 4 and 5 had shapes with superior utility when compared to the subject. Thus, downward adjustments were warranted.

Contiguity - Buyers generally prefer contiguous parcels of land as the parcel can be developed without interruption in ownership or use. Contiguity makes development planning easier and the finished product cohesive. But many projects are developed in phases or may be mixed-use. Thus, in many cases, non-contiguous holdings lend themselves well to phased or mixed-use. Given the advantage, the negative effects of non-contiguity can be offset. The subject property was a single contiguous parcel of land.

Comparable Nos. 1, 2, 4 and 5 were contiguous parcels. For the similarity, no adjustments were necessary.

Comparable No. 3 consisted of three separate parcels with one parcel divided by a 25-foot alleyway. Even though non-contiguous, the individual parcels are large enough to be developed independently. There is the possibility of getting the alleyway abandoned. Thus, no adjustment was required.

Topography/Soil

Topography - If topography is varied and rough to develop, marketability is generally adversely affected. But in every case, land needs site work to one extent or another as part of its development. The subject property had level topography.

Comparable Nos. 1 through 5 all had similar topography. For their similarity, no adjustments were necessary.

Soil - If soil is difficult to grade and excavate ("hard dig"), then construction costs are greater which lessens the amount that can be paid for the land. Developers in this area appear to find the soil easily developable given the numerous examples of successful development. As such, the subject property was assumed to have typical and buildable soil.

Comparable Nos. 1 through 5 appeared to have had typical soil. Thus, no adjustments were indicated.

Offsite Improvements

If the frontage is not widened or improved to modern standards, the county or the city usually requires dedication of street rights-off-way and improvement of the frontage with curb, gutter, sidewalk, and streetlights as part of granting development approval. Because of the added costs of development, the buyer expects and receives a discount in the price paid.

The subject's frontages were fully improved. Additional widening and offsite improvements will not be required as part of development approval.

Comparable Nos. 1, 2, 3, 4 and 5 also had similarly-improved frontages. Given their similarity, no adjustments were warranted.

Utilities

Without utilities extended to a property, development is made more costly given extension costs. The subject property had electricity, water, and sewer service immediately available.

Comparable Nos. 1, 2, 3, 4 and 5 all had electricity, water, and sewer available. For their similarity, no adjustments were necessary.

Zoning

The necessary zoning that will allow the buyer's intended use is an entitlement that has value. The entitlement can be obtained by either the buyer or seller. If the land is already entitled or if the land is entitled during the escrow period, the buyer will pay more for the land. Even if the buyer pays all the costs of entitlement, the seller has to wait for an extended period before the sale closes. Thus, the seller will receive a premium for the time value of money and the risk in the event that the buyer fails, and the property has been unavailable to the market. The subject was zoned PF, Public Facilities. The subject's zoning significantly limits its commercial use potential. An alternative use other than one allowed under this zoning designation will require a zoning change.

Comparable Nos. 1, 2, 3, 4 and 5 had various established zoning designations allowing for development to their highest and best use without rezoning. For their superiority, downward adjustments were necessary.

Flood Zone

Inclusion within a designated flood hazard zone can detract from the marketability of a property. Inclusion within a designated floodplain and/or floodway can severely limit the developmental potential of a property. If an owner chooses to build within a floodplain, he will generally be required to raise the level of the improvements above the designated flood elevation. Given the potential for flooding, site improvement costs are atypical and flood insurance is usually required by lenders. The subject property was located within FEMA Flood Zone X, an area in which no flooding is anticipated.

Comparable Nos. 1, 2, 3, 4 and 5 were all located in FEMA Flood Zone X. For their similarity, no adjustments were needed.

Improvements/Other

Improvements - If a property is improved at the time of sale, the improvements have the potential to either enhance or detract from the price paid. If a parcel of land is relatively small and has improvements such as a restorable residence, outbuildings, fencing, corrals, paving, landscaping, or some other usable improvement, they may contribute to the marketability of the property.

But with improvements that require demolition, the cost may factor into the price paid depending on the amount and the motivation of the seller and buyer. The subject property was assumed to have been vacant land.

Comparable Nos. 1, 2, 3, 4 and 5 did not have improvements which enhanced or detracted from their market value. For their similarity to the subject property, no adjustments were required.

Other – Surface and sub-surface easements, powerlines, substations, wellsites, billboard and telecommunication site leases, etc. may have an influence on land value. In this case, the subject property had no "other" factors that had a measurable influence on market value.

Comparable Nos. 1, 3 and 5 had no apparent positive or negative "other" influences affecting their marketability. For their similarity, no adjustments were necessary.

Comparable No. 2 had access to an off-site common area retention basin located to the north of the property. This enhances its utility and marketability. For the superiority, a downward adjustment was warranted.

Comparable No. 4 had an on-site retention basin. The actual size of the basin will be much smaller than depicted in the exhibits and will be determined by the development plan. The retention basin had no impact on marketability and no adjustment was needed.

Summary of Adjustments

The adjustment grid on the next page charted the subject and the sales and the relevant information about each one. Differences between the subject and the sales were identified. The sales prices for each were adjusted in accordance with the discussion related above. The adjusted prices indicated a range of estimated market value for the subject. Following the presentation of the grid is my conclusion and opinion of market value.

SALES COMPARISON APPROACH - AS VACANT, BEFORE
 APN 501-70-011Z (Ellsworth & Warren Properties, LLC)
 Effective Date of the Appraisal - June 5, 2023

File No. C23-535

ADJUSTMENT GRID						
Comparable No.	Subject	1	2	3	4	5
Location	111 W. Wigwam Blvd., Litchfield Park	NEC Dysart Rd. & Riley Dr., Avondale	W of NWC Van Buren St. & Litchfield Rd., Goodyear	SWC Peoria Ave. & 98th Ave., Peoria	E of SEC Glendale Ave. & Dysart Rd., Glendale	SEC Indian School Rd. & Santa Fe Trail, Avondale
Sales Price	NA	\$415,000	\$899,000	\$455,000	\$435,000	\$434,365
Unit Price (Price/S.F.)	NA	\$8.11	\$11.74	\$7.62	\$8.24	\$8.73
Property Rights Conveyed <i>Adjustment</i>	Fee Simple	Fee Simple 0%	Fee Simple 0%	Fee Simple 0%	Fee Simple 0%	Fee Simple 0%
Terms of Sale <i>Adjustment</i>	Cash	Cash 0%	Cash 0%	Cash 0%	Cash 0%	Cash 0%
Conditions of Sale <i>Adjustment</i>	Normal	Normal 0%	Normal 0%	Normal 0%	Normal 0%	Normal 0%
Market Conditions (Time) <i>Adjustment</i>	Jun-23	May-23 0%	Jun-22 0%	Jan-22 10%	Dec-21 15%	Feb-20 20%
Buyer Motivation <i>Adjustment</i>	User	User 0%	User 0%	User 0%	Investor 0%	User 0%
Assemblage/Special Need <i>Adjustment</i>	None/None	None/None 0%	None/None 0%	None/None 0%	None/None 0%	None/None 0%
Adjusted Price/S.F.	NA	\$8.11	\$11.74	\$8.39	\$9.48	\$10.47
Location - General/Specific <i>Adjustment</i>	Average/Good	Inferior/Inferior 15%	Similar/Inferior 5%	Inferior/Inferior 15%	Similar/Inferior 5%	Similar/Inferior 5%
Frontage/Access <i>Adjustment</i>	Public/Average	Similar/Similar 0%	Similar/Similar 0%	Similar/Similar 0%	Similar/Similar 0%	Similar/Similar 0%
Traffic Count/Visibility <i>Adjustment</i>	Light/Average	39,988 v.p.d. -15%	20,262 v.p.d./Similar -10%	13,701 v.p.d./Similar -10%	16,140 v.p.d./Similar -10%	29,121 v.p.d./Similar -15%
Size (S.F.) <i>Adjustment</i>	68,607	51,191 0%	76,607 0%	59,677 0%	52,788 0%	49,774 0%
Shape/Contiguity <i>Adjustment</i>	Irregular/Contiguous	Superior/Similar -5%	Superior/Similar -5%	Superior/Non-contiguous -5%	Superior/Similar -5%	Superior/Similar -5%
Topography/Soil <i>Adjustment</i>	Level/Typical	Similar/Similar 0%	Similar/Similar 0%	Similar/Similar 0%	Similar/Similar 0%	Similar/Similar 0%
Offsite Improvements <i>Adjustment</i>	Complete	Inferior 5%	Similar 0%	Similar 0%	Similar 0%	Similar 0%
Utilities <i>Adjustment</i>	Electricity, Water, Sewer	Similar 0%	Similar 0%	Similar 0%	Similar 0%	Similar 0%
Flood Zone <i>Adjustment</i>	Zone X	Zone X 0%	Zone X 0%	Zone X 0%	Zone X 0%	Zone X 0%
Zoning/Entitlements <i>Adjustment</i>	PF/None	C-2/Similar -5%	PAD/Similar -5%	C-2/Similar -5%	C-1/Similar -5%	PAD/Similar -5%
Improvements/Other <i>Adjustment</i>	None/None	None/None 0%	Driveways/Retention Basin -10%	Similar/Similar 0%	Similar/On-site Retention 0%	Similar/Similar 0%
Overall Adjustment		-5%	-25%	-5%	-15%	-20%
Estimated Value Range (Price/S.F.)		\$7.70	\$8.80	\$7.97	\$8.06	\$8.38

Conclusion to the Analysis

The sales data represented a comparable and current sample of relevant sales in the subject's market segment. Unadjusted, the sales indicated a range from \$7.62 per square foot to \$11.74 per square foot. After adjusting each in relation to the subject, the data indicated a range from \$7.70 to \$8.80 per square foot, applied to the subject's size as follows:

$$\text{\$7.70/s.f.} \times 68,607 \text{ s.f.} = \text{\$528,274}$$

– to –

$$\text{\$8.80/s.f.} \times 68,607 \text{ s.f.} = \text{\$603,742}$$

Opinion of Market Value - Before

Considering the predominant range of adjusted prices, a value above the middle of the range was indicated. Acknowledging that buyers and sellers negotiate to round numbers, my opinion of a range of market value of the fee simple interest in the subject property, as of the effective date of the appraisal, June 5, 2023 was **\\$8.50** per square foot or \$583,160 ($\text{\$8.50} \times 68,607$ square feet). My opinion of market value was subject to a special limiting condition stated on page 15 of the report.

Exposure Time

The exposure time for the subject depends on many factors including past and current market conditions, the factors of supply and demand, pricing, and professional marketing. From my study of the exposure times in the subject's market segment, my opinion of market value assumed that the subject property had been exposed to the market for sale for nine months, priced at no more than 10 percent above the appraised value.

RECONCILIATION AND OPINION OF MARKET VALUE, BEFORE

As described in the Valuation Process, there are three approaches of estimating the value of real property: the Cost Approach, the Sales Comparison Approach, and the Income Approach. Only the Sales Comparison Approach was applicable for this property as the subject property was assumed to be vacant land.

The Sales Comparison Approach required me to make a comparison between recent vacant comparable sales and the subject property. A typical buyer would have considered them to be good substitution for the subject property given their many similarities. Even so, as each parcel of real estate is unique, some differences between the sales and the subject property will exist. Trends in the market were studied as well as reliance placed on the opinions and comments of knowledgeable buyers, sellers, and brokers. After comparison and analysis, a market value was estimated based upon cash terms and after a reasonable exposure time.

Based on the information found in my investigation and coupled with my professional analysis, my opinion of the market value of the fee simple interest in the subject property, before, as of the effective date of the appraisal, June 5, 2023 was:

\$8.50 per square foot

My opinion of market value was subject to a special limiting condition stated on page 15 of the report.

THE PROJECT AND PARTIAL ACQUISITION

Description of the Project

The City of Litchfield Park desires to acquire a portion of the subject property for public use. Land rights will be acquired from the subject property for the project.

Description of the Partial Acquisition

Fee Simple Right-of-Way

The partial acquisition in fee simple for public right-of-way will be 10,530 square feet, or 0.242 acre, located along Wigwam Boulevard frontage. It can be described as the north 31.04 feet of the subject property.

Exhibits

Please see the exhibits on the following pages which illustrate and describe the partial acquisition.

PHOTOGRAPHS OF THE PARTIAL ACQUISITION

(June 5, 2023)



Area of the Partial Acquisition Looking East from Desert Avenue



Area of the Partial Acquisition Looking West from Old Litchfield Road

Effects of the Partial Acquisition and the Project on the Remainder, As Vacant

Site and improvement analysis involves the consideration of many factors. Only those most important were discussed below:

Size/Shape

The partial acquisition in fee simple will reduce the size of the larger parcel by 10,530 square feet, or 0.242 acre, from 68,607 to 58,077 acres. The reduction in site area will not adversely affect the marketability of the remainder as a result of the partial acquisition.

The partial acquisition includes the 31.04' x 173.72' foot panhandle at the east end of the subject's Wigwam Boulevard frontage. The shape of the remainder will continue to have irregular dimensions but a more rectangular shape. Because the panhandle had limited utility and developability, the more rectangular shape of the remainder has greater utility and enhanced marketability.

Frontage/Access

The partial acquisition and project will not adversely affect or enhance the remainder's frontage or access.

Topography

The topography of the remainder will not change as a result of the partial acquisition or the project.

Developability

As the remainder is sufficiently large, with greater utility, the partial acquisition enhances its developability after.

Highest and Best Use

The highest and best use of the remainder will not change as a result of the partial acquisition and project.

Conclusion, As Vacant

From the preceding discussion, I have drawn the following conclusions as to the effects of the proposed partial acquisition and project on the marketability of the remainder:

Severance Damages

As the marketability of the remainder is not adversely affected by the partial acquisition or the project, no severance damages were indicated.

Special Benefits

As the marketability of the remainder is enhanced by the partial acquisition or the project, special benefits were indicated.

General Benefits

The marketability of all real property in the neighborhood will benefit from the proposed project. It secures permanent public access and expands public infrastructure.

Effects of the Partial Acquisition and the Project on the Remainder, As Improved

Major Improvements

No major improvements will be included or affected by the partial acquisition and project.

Minor Improvements

Minor improvements within the area to be acquired, or that require relocation, include the following:

- 10,530 square feet of site improvements including grass with irrigation, trees, concrete sidewalk, concrete curbing, and asphalt paving including portions of 8 asphalt-paved and striped parking spaces

Conclusion, As Improved

From the preceding discussion, I have drawn the following conclusions as to the effects of the proposed partial acquisition and project on the remainder as improved:

Severance Damages

As the marketability of the remainder, as improved, will not be adversely affected by the partial acquisition, no severance damages were indicated.

Special Benefits

As the marketability of the remainder is not enhanced by the partial acquisition or project, no special benefits were indicated.

General Benefits

The marketability of all real property in the neighborhood will benefit from the proposed project. It secures permanent public access and expands public infrastructure.

PARTIAL ACQUISITION VALUATION

Value of the Larger Parcel Before the Partial Acquisition, As Vacant

In the Reconciliation and Opinion of Market Value, Before, section of this report, as vacant and available for its highest and best use, the market value of the fee simple interest in the subject property was estimated to be **\$8.50** per square foot or \$583,160.

Value of the Partial Acquisition As a Part of the Larger Parcel, As Vacant

Fee Simple

The value of the part to be acquired in fee simple was estimated as a pro rata share of the whole. The unit value, \$8.50 per square foot, was multiplied times the area of the partial acquisition as follows:

$$\text{\$8.50 per square foot} \times 10,530 \text{ square feet} = \text{\$89,505}$$

Value of the Remainder As a Part of the Larger Parcel, As Vacant

The value of the remainder as a part of the larger parcel is simply the value of the larger parcel less the value of the acquisition as estimated in the previous step.

Value of the larger parcel	\$583,160
Value of the Partial Acquisition	
Fee Simple	(\$ 89,505)
Value of the Remainder As a Part of the larger parcel	\$493,655

Site Analysis & Highest and Best Use of the Remainder, As Vacant

In order to estimate the value of the remainder as affected by the proposed partial acquisition and project, the remainder was considered a "new" parcel different from before.

Site Analysis

The larger parcel was thoroughly described in a previous section of this report. The remainder remains much the same except it is more rectangularly shaped.

Highest and Best Use

The highest and best use of the remainder does not change after the proposed partial acquisition and project.

Market Value of the Remainder, After, As Vacant

Severance Damages (Value of the Remainder After the Partial Acquisition, Before Special Benefits)

Severance damages (before diminishment by special benefits and cost-to-cure) are indicated when the value of the remainder after the partial acquisition, before special benefits is less than the value of the remainder as a part of the larger parcel. A difference would indicate that the partial acquisition had a detrimental effect upon the property and had lessened its marketability for any one of a number of reasons. As illustrated in the following discussion, no preliminary severance damages to the marketability of the remainder were indicated.

Thus, my appraisal of the remainder in this step relies on the same data and analysis as before and comes to the same conclusion of market value on a unit price basis.

Valuation Analysis

As discussed in Effects of the Partial Acquisition and the Project on the Remainder, As Vacant section of this report, the remainder or “new” parcel is a 58,077 square foot, rectangularly shaped site. In all other factors it remains much the same as the Larger Parcel.

The adjustment grid on the following presents the sales data and adjustments for the remainder parcels. Unadjusted, the sales indicated a range from \$7.62 per square foot to \$11.74 per square foot. After adjusting each in relation to the remainder, the data indicated a range from \$8.11 to \$9.39 per square foot, applied to the subject’s size as follows:

$$\$8.11/\text{s.f.} \times 58,077 \text{ s.f.} = \$471,004$$

– to –

$$\$9.39/\text{s.f.} \times 58,077 \text{ s.f.} = \$545,343$$

Opinion of Market Value - After

Considering the predominant range of adjusted prices, a value above the middle of the range was indicated. Acknowledging that buyers and sellers negotiate to round numbers, my opinion of a range of market value of the fee simple interest in the subject property, as of the effective date of the appraisal, June 5, 2023 was **\$9.00** per square foot or \$522,693 (\$9.00 x 58,077 square feet).

SALES COMPARISON APPROACH - AS VACANT, AFTER
APN 501-70-011Z (Ellsworth & Warren Properties, LLC)
Effective Date of the Appraisal - June 5, 2023

File No. C23-535

ADJUSTMENT GRID						
Comparable No.	Subject	1	2	3	4	5
Location	111 W. Wigwam Blvd., Litchfield Park	NEC Dysart Rd. & Riley Dr., Avondale	W of NWC Van Buren St. & Litchfield Rd., Goodyear	SWC Peoria Ave. & 98th Ave., Peoria	E of SEC Glendale Ave. & Dysart Rd., Glendale	SEC Indian School Rd. & Santa Fe Trail, Avondale
Sales Price	NA	\$415,000	\$899,000	\$455,000	\$435,000	\$434,365
Unit Price (Price/S.F.)	NA	\$8.11	\$11.74	\$7.62	\$8.24	\$8.73
Property Rights Conveyed <i>Adjustment</i>	Fee Simple	Fee Simple 0%	Fee Simple 0%	Fee Simple 0%	Fee Simple 0%	Fee Simple 0%
Terms of Sale <i>Adjustment</i>	Cash	Cash 0%	Cash 0%	Cash 0%	Cash 0%	Cash 0%
Conditions of Sale <i>Adjustment</i>	Normal	Normal 0%	Normal 0%	Normal 0%	Normal 0%	Normal 0%
Market Conditions (Time) <i>Adjustment</i>	Jun-23	May-23 0%	Jun-22 0%	Jan-22 10%	Dec-21 15%	Feb-20 20%
Buyer Motivation <i>Adjustment</i>	User	User 0%	User 0%	User 0%	Investor 0%	User 0%
Assemblage/Special Need <i>Adjustment</i>	None/None	None/None 0%	None/None 0%	None/None 0%	None/None 0%	None/None 0%
Adjusted Price/S.F.	NA	\$8.11	\$11.74	\$8.39	\$9.48	\$10.47
Location - General/Specific <i>Adjustment</i>	Average/Good	Inferior/Inferior 15%	Similar/Inferior 5%	Inferior/Inferior 15%	Similar/Inferior 5%	Similar/Inferior 5%
Frontage/Access <i>Adjustment</i>	Public/Average	Similar/Similar 0%	Similar/Similar 0%	Similar/Similar 0%	Similar/Similar 0%	Similar/Similar 0%
Traffic Count/Visibility <i>Adjustment</i>	Light/Average	39,988 v.p.d./Similar -15%	20,262 v.p.d./Similar -10%	13,701 v.p.d./Similar -10%	16,140 v.p.d./Similar -10%	29,121 v.p.d./Similar -15%
Size (S.F.) <i>Adjustment</i>	59,077	51,191 0%	76,607 0%	59,677 0%	52,788 0%	49,774 0%
Shape/Contiguity <i>Adjustment</i>	Irregular/Contiguous	Similar/Similar 0%	Similar/Similar 0%	Similar/Similar 0%	Similar/Similar 0%	Similar/Similar 0%
Topography/Soil <i>Adjustment</i>	Level/Typical	Similar/Similar 0%	Similar/Similar 0%	Similar/Similar 0%	Similar/Similar 0%	Similar/Similar 0%
Offsite Improvements <i>Adjustment</i>	Complete	Inferior 5%	Similar 0%	Similar 0%	Similar 0%	Similar 0%
Utilities <i>Adjustment</i>	Electricity, Water, Sewer	Similar 0%	Similar 0%	Similar 0%	Similar 0%	Similar 0%
Flood Zone <i>Adjustment</i>	Zone X	Zone X 0%	Zone X 0%	Zone X 0%	Zone X 0%	Zone X 0%
Zoning/Entitlements <i>Adjustment</i>	PF/None	C-2/Similar -5%	PAD/Similar -5%	C-2/Similar -5%	C-1/Similar -5%	PAD/Similar -5%
Improvements/Other <i>Adjustment</i>	None/None	None/None 0%	Driveways/Retention Basin -10%	Similar/Similar 0%	Similar/On-site Retention 0%	Similar/Similar 0%
Overall Adjustment		0%	-20%	0%	-10%	-15%
Estimated Value Range (Price/S.F.)		\$8.11	\$9.39	\$8.39	\$8.53	\$8.90

Value of Remainder As a Part of the larger parcel	\$493,655
Value of Remainder After, Before Special Benefits	(\$522,693)
Severance Damages (preliminary)	(\$ 29,038)

In this case, it was apparent that the partial acquisition and project had no detrimental influence on the remainder. In my opinion, the partial acquisition increases the market value of the remainder by the amount estimated by the analysis shown above.

As the value of the remainder after the acquisition, before special benefits, does not decrease from the value of the remainder as a part of the large parcel, preliminary severance damages to the marketability of the remainder were not indicated.

Special Benefits (Value of the Remainder After the Partial Acquisition, After Special Benefits)

Special benefits are indicated when the value of the remainder after the partial acquisition, after special benefits, is more than the value of the remainder as a part of the whole. A difference would indicate that the partial acquisition had a beneficial effect upon the property and had enhanced its marketability for any one or more reasons.

In this case, it was obvious that the partial acquisition and project had a beneficial influence on the remainder. My appraisal of the remainder in this step once again relies on the same data and analysis as presented on the previous pages and comes to the same conclusion of market value.

Value of Remainder After, After Special Benefits	\$522,693
Value of Remainder As a Part of the Larger Parcel	(\$493,655)
Special Benefits	\$ 29,038

As the value of the remainder after the acquisition, after special benefits, increases from the value of the remainder as a part of the larger parcel, special benefits to the marketability of the remainder of **\$29,038** were indicated.

Cost-to-Cure, As Vacant

Cost-to-cure is applicable in situations where a property has suffered a preliminary severance damage that is not eliminated by special benefits. It is applicable only when the cost-to-cure is less than the diminution in value arising from the partial acquisition or project and only when such action can take place within the remainder. Since there are no preliminary severance damages, no cost-to-cure need be devised, and a cost-to-cure need not be considered.

Net Severance Damages, As Vacant

As no preliminary severance damages to the remainder was indicated, net severance damages did not result.

Minor Improvements and Minor Cost-to-cure

Marshall Valuation Service, a respected cost source, provides estimated costs for new minor site improvements in section 66 of their handbook. Also, based upon local contractors' cost estimates, cost new was estimated. Deducting depreciation, the result was my opinion of the contributory market value (depreciated cost) of the minor site improvements within the partial acquisition that do not need to be replaced or relocated.

➤ Site improvements – 10,530 s.f. x \$4.00/s.f. (lump sum) = **\$42,120**

The partial acquisition includes a portion of eight parking spaces. The contributory market value of the parking spaces (asphalt and striping) was included in site improvements. The loss of eight parking spaces is not adverse to the marketability of the remainder, as improved, as ample parking according to code remains.

Minor Cost-to-cure

The irrigation system will be capped and/or reconfigured by the contractor.

Summary

Minor Improvements	\$42,120
Minor Cost-to-cure	\$ <u>0</u>
Total	\$42,120

Summary - Estimated Value of the Partial Acquisition

Land Rights	\$ 89,505
Net Severance Damages	\$ 0
Minor Improvements and Minor Cost-to-cure	\$ <u>42,120</u>
Value of the Partial Acquisition and its Effects	\$131,625

PARTIAL ACQUISITION VALUATION SUMMARY

The previous analysis estimated the value of the partial acquisition, preliminary severance damages, special benefits, cost-to-cure, net severance damages, minor improvements, and minor cost-to-cure. These estimates are detailed below along with a final indication of value for the partial acquisition and its effects on the remainder.

Market Value of the Larger Parcel	\$583,160 (\$8.50/s.f.)			
Partial Acquisition As a Part of the Larger Parcel Fee Simple	<u>(\$ 89,505)</u>			\$ 89,505
Remainder As a Part of the Larger Parcel	\$493,655	\$493,655		
Remainder After the Acquisition Before Special Benefits		<u>(\$522,693)</u>	(\$9.00/s.f.)	
Preliminary Severance Damages		(\$ 28,038)	(\$ 28,028)	
Remainder After the Acquisition After Special Benefits		\$522,693		
Remainder As a Part of the Larger Parcel		<u>(\$493,655)</u>		
Special Benefits	\$ 28,038		<u>\$ 28,038</u>	
Preliminary Severance Damages		\$ 0	\$ 0	
Cost-to-cure			(\$ 0)	\$ 0
Additional Diminishment of Preliminary Severance Damages			<u>(\$ 0)</u>	
Net Severance Damages			\$ 0	\$ 0
Minor Improvements and Minor Cost-to-cure				<u>\$ 42,120</u>
Estimated Value of the Partial Acquisition and its Effects on the Remainder				\$131,625

My opinion of market value was subject to a special limiting condition stated on page 15 of the report.

CERTIFICATION

I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
4. I have performed no service, as an appraiser or in any other capacity, regarding the property that is the subject property of this report within the three-year period immediately preceding acceptance of this assignment.
5. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
6. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
7. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
8. My analyses, opinions, and conclusions were developed, and this report have been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice, and the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.
9. I have made a personal inspection of the property that is the subject property of this report.
10. Larry C. Meadows provided significant real property appraisal assistance to the person signing this certification.
11. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
12. As of the date of this report, I have completed the continuing education program of the Appraisal Institute.

My opinion of the market value of the partial acquisition and its effects on the remainder, as of the effective date of the appraisal, June 5, 2023, was **\$131,625**. My opinion of market value was subject to a special limiting condition stated on page 15.



Anderson-Meadows Real Estate Appraisal, LLC
Craig D. Anderson, SRA
Certified General Real Estate Appraiser – State of Arizona
Certificate No. 30383

APPENDIX

Title Report



COMMITMENT FOR TITLE INSURANCE
Issued by
FIRST NATIONAL TITLE INSURANCE COMPANY

NOTICE

IMPORTANT - READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACTIONAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I—Requirements; Schedule B, Part II—Exceptions; and the Commitment Conditions, FIRST NATIONAL TITLE INSURANCE COMPANY, a Corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I - Requirements have not been met within 180 days after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

COMMITMENT CONDITIONS

1. DEFINITIONS

- (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
- (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
- (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
- (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
- (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by First National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

Copyright 2006-2016 American Land Title Association. All rights reserved.

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



- (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
 - (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
 - (h) "Title": The estate or interest described in Schedule A.
2. If all of the Schedule B, Part I—Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.
3. The Company's liability and obligation is limited by and this Commitment is not valid without:
- (a) the Notice;
 - (b) the Commitment to Issue Policy;
 - (c) the Commitment Conditions;
 - (d) Schedule A;
 - (e) Schedule B, Part I—Requirements;
 - (f) Schedule B, Part II—Exceptions; and
 - (g) a counter-signature by the Company or its issuing agent that may be in electronic form.

4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

5. LIMITATIONS OF LIABILITY

- (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
 - (i) comply with the Schedule B, Part I—Requirements;
 - (ii) eliminate, with the Company's written consent, any Schedule B, Part II—Exceptions; or
 - (iii) acquire the Title or create the Mortgage covered by this Commitment.
- (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- (d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
- (e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
- (f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I—Requirements have been met to the satisfaction of the Company.
- (g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT

- (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- (b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by First National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

Copyright 2006-2016 American Land Title Association. All rights reserved.

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



- (c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- (d) The deletion or modification of any Schedule B, Part II—Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- (e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

8. PRO-FORMA POLICY

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

9. ARBITRATION

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Policy Amount is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by First National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

Copyright 2006-2016 American Land Title Association. All rights reserved.

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.





COMMITMENT FOR TITLE INSURANCE
Issued by
FIRST NATIONAL TITLE INSURANCE COMPANY
SCHEDULE A

Transaction Identification Data for reference only:

Issuing Agent: Pinnacle Title and Escrow Agency LLC
Issuing Office: 180 S Arizona Ave Suite 200, Chandler, AZ 85225
Issuing Office's ALTA® Universal ID:
Loan ID No.:
Commitment No.: 23-05-02685TR-1
Issuing Office File No.: 23-05-02685TR
Property Address: 111 West Wigwam Blvd., Litchfield Park, AZ 85340

1. Commitment Date: May 25, 2023 at 12:00 AM
2. Policy to be issued:
 - (a) Proposed Insured: Ellsworth & Warren Properties, L.L.C.
Proposed Policy Amount \$0.00
 - (b) Proposed Insured:
Proposed Policy Amount \$0.00
3. The estate or interest in the Land described or referred to in this Commitment is Fee Simple.
4. Title to the Fee Simple estate or interest in the Land is at the Commitment Date vested in:
Ellsworth & Warren Properties, L.L.C., an Arizona Limited Liability Company
5. The Land is described as follows:

That portion of the Northeast quarter of Section 28, Township 2 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County Arizona described as follows:

Commencing at the Northeast corner of said Section 28, from which the North quarter corner thereof bears North 89 degrees 40'38" West a distance of 2618.79 feet;

thence North 89 degrees 40'38" West along the North line of said Northeast quarter, a distance of 403.13 feet to the East right of way line of Desert Avenue as depicted on LITCHFIELD PARK SUBDIVISION NO. 16, according to Book 153 of Maps, page 15, records of Maricopa County Arizona;

thence South 00 degrees 03'20" East along said East line, a distance of 33.00 feet to the South line of the North 33.00 feet of said Northeast quarter and the point of beginning;

thence South 89 degrees 40'38" East along said South line, a distance of 339.10 feet to the West line of the East 64.00 feet of said Northeast quarter;

thence South 00 degrees 00'19" East along said West line, a distance of 30.98 feet to the North line of that certain property deeded to the City of Litchfield Park on July 12, 1989 under Limited Warranty Deed recorded in Recording No. 89-329159, records of Maricopa County Arizona;

thence along the North and West line of said Deed the following twelve courses:

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by First National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

Copyright 2006-2016 American Land Title Association. All rights reserved.

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



SCHEDULE A
(Continued)

thence North 89 degrees 39'43" West a distance of 173.73 feet;
thence South 00 degrees 14'41" West a distance of 102.54 feet;
thence North 89 degrees 43'19" West a distance of 23.72 feet to the beginning of a non-tangent curve concave to the Southwest having a radius of 9.80 feet, the center of which bears South 03 degrees 47'13" East;

thence Southeasterly along said curve through a central angle of 96 degrees 51'40" an arc length of 16.57 feet to a point of non-tangency;

thence South 00 degrees 00'13" East a distance of 163.32 feet to the beginning of a non-tangent curve concave to the Northwest having a radius of 9.49 feet, the center of which bears North 89 degrees 52'47" West;

thence Southwesterly along said curve through a central angle of 90 degrees 25'46" , an arc length of 14.98 feet to a point of non-tangency;

thence North 87 degrees 44'48" West a distance of 3.94 feet to the beginning of a non-tangent curve concave to the Southeast having a radius of 9.12 feet, the center of which bears South 03 degrees 33'06" East;

thence Southwesterly along said curve through a central angle of 82 degrees 52'30" an arc length of 13.19 feet to a point of non-tangency;

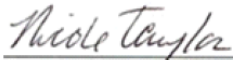
thence South 00 degrees 00'32" West a distance of 9.42 feet;
thence North 89 degrees 42'09" West a distance of 117.86 feet;
thence North 00 degrees 09'56" East a distance of 10.82 feet to the beginning of a non-tangent curve concave to the Southwest having a radius of 9.73 feet, the center of which bears North 87 degrees 35'05" West;

thence Northwesterly along said curve through a central angle of 102 degrees 45'28" an arc length of 17.45 feet to the East right of way line of Desert Avenue as depicted on said LITCHFIELD PARK SUBDIVISION NO. 16;

thence North 00 degrees 03'20" West along said East right of way line, a distance of 313.77 feet to the point of beginning.

APN: 501-70-011Z

Pinnacle Title and Escrow Agency LLC



Authorized Signature or Signatory



FIRST NATIONAL TITLE INSURANCE COMPANY

By 
J. Christopher Phillips, President/CEO


Patrick McMillan, Treasurer

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by First National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

Copyright 2006-2016 American Land Title Association. All rights reserved.

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



FNTI Form No.: AZCom16 ALTA Commitment for Title Insurance Adopted 8/1/2016 Technical Correction 4/2/2018

23-05-02685TR



COMMITMENT FOR TITLE INSURANCE
Issued by
FIRST NATIONAL TITLE INSURANCE COMPANY

SCHEDULE B, PART I
Requirements

Escrow No.: 23-05-02685TR

Maricopa County Treasurer
301 West Jefferson Street, Suite 100
Phoenix, AZ 85003

TAX INFORMATION:

Parcel No.: 501-70-011Z
Year: 2022
Full year amount: \$11,642.70

All of the following Requirements must be met:

****NOTE:** The property herein described is a commercial property.

***NOTE:** The following Deed(s) have been recorded within the past 24 months. If the deeds shown are older than 24 months, no other current deeds have been found at the time of the search: Special Warranty Deed, recorded March 2, 2004 in Recording No. 2004-0212111 of Official Records from Suncor Development Company, an Arizona Corporation to Ellsworth & Warren Properties, L.L.C., an Arizona Limited Liability Company .

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by First National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

Copyright 2006-2016 American Land Title Association. All rights reserved.

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



FNTI Form No.: AZCom16 ALTA Commitment for Title Insurance Adopted 8/1/2016 Technical Correction 4/2/2018

23-05-02685TR



COMMITMENT FOR TITLE INSURANCE
Issued by
FIRST NATIONAL TITLE INSURANCE COMPANY

SCHEDULE B, PART II
Exceptions

Escrow No.: 23-05-02685TR

**** NOTE:** The policy of title insurance will include an arbitration provision. The Company or the insured may demand arbitration. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. Please ask your escrow or title officer for a sample copy of the policy to be issued if you wish to review the arbitration provisions and any other provisions pertaining to your Title Insurance coverage.

1. Reservations, rights, easements or other matters as may be set forth in the Patent to said land recorded in the office of the County Recorder, or in acts authorizing the issuance thereof.
2. Water rights, claims or title to water, whether or not the matters excepted are shown by public records.
3. Full year taxes for the year 2023, a lien not due and payable. First half taxes due and payable on or before October 1 of that year and delinquent on November 1 of that year. Second half taxes due and payable on or before March 1 of the following year and delinquent on May 1 of that same year.
4. Easements, restrictions, and set-back lines as shown on the recorded plat of said subdivision
5. Road Declaration recorded in Docket 11961, page 415 of Official Records.
6. Easements, restrictions and set-back lines as shown on plat recorded in Book Road Abandonment as shown in Docket 15772, page 725 of Official Records. page 153.
7. 15
8. Roadways as shown in Road Map recorded in Book 10 of Road Maps, page 38 of Official Records.
9. Resolution Number #04-210 as recorded in Recording No. 2005-0228211 of Official Records.
10. Resolution Number #05-212 as recorded in Recording No. 2005-0204920 of Official Records.
11. Terms and conditions contained in that certain Intergovernmental agreement, recorded in Recording No. 98-430929 of Official Records.
12. Notice of proximity to a military airport as shown in Recording No. 2001-0743413 of Official Records.
13. Easement and rights incident thereto as set forth in instrument:
Recorded: in Book 63 of Miscellaneous, page 502 and re-recorded in Recording No. 85-515478, of Official

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by First National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

Copyright 2006-2016 American Land Title Association. All rights reserved.

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



SCHEDULE B, PART II
(Continued)

Records

purpose: telephone and telegraph lines

14. Easement and rights incident thereto as set forth in instrument:
Recorded: in Book 360 of Deeds, page 358, of Official Records
purpose: electric distribution
15. Easement and rights incident thereto as set forth in instrument:
Recorded: in Docket 6854, page 553 and re-recorded in Docket 7055, page 555, of Official Records
purpose: underground gas and electric lines
16. Easement and rights incident thereto as set forth in instrument:
Recorded: in Docket 6055, page 586, of Official Records
purpose: underground right of way
17. Easement and rights incident thereto as set forth in instrument:
Recorded: in Docket 6854, page 581, of Official Records
purpose: utility
18. Easement and rights incident thereto as set forth in instrument:
Recorded: in Docket 9065, page 857, of Official Records
purpose: utility
19. Easement and rights incident thereto as set forth in instrument:
Recorded: in Docket 10270, page 1248, of Official Records
purpose: water lines
20. Easement and rights incident thereto as set forth in instrument:
Recorded: in Docket 13163, page 532, of Official Records
purpose: water lines
21. Easement and rights incident thereto as set forth in instrument:
Recorded: in Recording No. 93-466880, of Official Records
purpose: utility
22. Easement and rights incident thereto as set forth in instrument:
Recorded: in Recording No. 2007-0675721, of Official Records
purpose: utility
23. All matters contained in instruments setting forth covenants, conditions, restrictions, and easements:
recorded in Docket 7218, page 719, Docket 7469, page 513 and Docket 8846, page 414 (but omitting any
covenants, conditions, or restrictions indicated a preference, limitation or discrimination based upon race,
color, religion, sex, handicap, familial status or national origin to the extent such covenants, (a) is exempt
under Chapter 42 USC 3607 of the United States code or (b) relates to handicap but does not discriminate
against handicapped persons))
24. Liabilities and obligations imposed upon said land by reason of inclusion within Litchfield Park Association

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by First National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

Copyright 2006-2016 American Land Title Association. All rights reserved.

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.





**COMMITMENT FOR TITLE INSURANCE
SCHEDULE C
Issued by
FIRST NATIONAL TITLE INSURANCE COMPANY**

The Land is described as follows:

That portion of the Northeast quarter of Section 28, Township 2 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County Arizona described as follows:

Commencing at the Northeast corner of said Section 28, from which the North quarter corner thereof bears North 89 degrees 40'38" West a distance of 2618.79 feet;

thence North 89 degrees 40'38" West along the North line of said Northeast quarter, a distance of 403.13 feet to the East right of way line of Desert Avenue as depicted on LITCHFIELD PARK SUBDIVISION NO. 16, according to Book 153 of Maps, page 15, records of Maricopa County Arizona;

thence South 00 degrees 03'20" East along said East line, a distance of 33.00 feet to the South line of the North 33.00 feet of said Northeast quarter and the point of beginning;

thence South 89 degrees 40'38" East along said South line, a distance of 339.10 feet to the West line of the East 64.00 feet of said Northeast quarter;

thence South 00 degrees 00'19" East along said West line, a distance of 30.98 feet to the North line of that certain property deeded to the City of Litchfield Park on July 12, 1989 under Limited Warranty Deed recorded in Recording No. 89-329159, records of Maricopa County Arizona;

thence along the North and West line of said Deed the following twelve courses:

thence North 89 degrees 39'43" West a distance of 173.73 feet;

thence South 00 degrees 14'41" West a distance of 102.54 feet;

thence North 89 degrees 43'19" West a distance of 23.72 feet to the beginning of a non-tangent curve concave to the Southwest having a radius of 9.80 feet, the center of which bears South 03 degrees 47'13" East;

thence Southeasterly along said curve through a central angle of 96 degrees 51'40" an arc length of 16.57 feet to a point of non-tangency;

thence South 00 degrees 00'13" East a distance of 163.32 feet to the beginning of a non-tangent curve concave to the Northwest having a radius of 9.49 feet, the center of which bears North 89 degrees 52'47" West;

thence Southwesterly along said curve through a central angle of 90 degrees 25'46" , an arc length of 14.98 feet to a point of non-tangency;

thence North 87 degrees 44'48" West a distance of 3.94 feet to the beginning of a non-tangent curve concave to the Southeast having a radius of 9.12 feet, the center of which bears South 03 degrees 33'06" East;

thence Southwesterly along said curve through a central angle of 82 degrees 52'30" an arc length of 13.19 feet to a point of non-tangency;

thence South 00 degrees 00'32" West a distance of 9.42 feet;

thence North 89 degrees 42'09" West a distance of 117.86 feet;

thence North 00 degrees 09'56" East a distance of 10.82 feet to the beginning of a non-tangent curve concave to the Southwest having a radius of 9.73 feet, the center of which bears North 87 degrees 35'05" West;

thence Northwesterly along said curve through a central angle of 102 degrees 45'28" an arc length of 17.45 feet to the East right of way line of Desert Avenue as depicted on said LITCHFIELD PARK SUBDIVISION NO. 16;

SCHEDULE C
(Continued)

thence North 00 degrees 03'20" West along said East right of way line, a distance of 313.77 feet to the point of beginning.

APN: 501-70-011Z

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
20040212111 03/02/2004 11:17
ELECTRONIC RECORDING

SECURITY TITLE AGENCY

When recorded, return to:
Ellsworth & Warren Properties, L.L.C.
111 W. Wigwam Blvd., Suite A
Litchfield Park, AZ 85340-4644

720402767-3-3-1--
leonardil

1/2 7204 02767

SPECIAL WARRANTY DEED

For the consideration of Ten Dollars (\$10.00), and other valuable consideration, SUNCOR DEVELOPMENT COMPANY, an Arizona corporation ("Grantor"), does hereby convey to Ellsworth & Warren Properties, L.L.C., an Arizona limited liability company ("Grantee"), the following real property situated in Maricopa County, Arizona:

See Exhibit A attached hereto and incorporated herein by this reference.

Subject to current taxes, and other assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restriction, obligations and liabilities as may appear of record and all other matters that a survey or visual inspection would disclose, the Grantor warrants the title against all acts of the Grantor herein and no other.

Dated this 1 day of March, 2004.

SUNCOR DEVELOPMENT COMPANY,
an Arizona corporation

By *Margaret E. Kirch*
Name Margaret E. Kirch
Title Vice President

STATE OF ARIZONA)
)ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 1 day of March, 2004, by Margaret E. Kirch, the Vice President of SUNCOR DEVELOPMENT COMPANY, an Arizona corporation, for and on behalf of the corporation.

My Commission expires:
Sept 15, 2007

Susan M. Yanez
Notary



EXHIBIT "A"

That portion of the Northeast quarter of Section 28, Township 2 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at the Northeast corner of said Section 28, from which the North quarter corner thereof bears North 89 degrees 40 minutes 38 seconds West a distance of 2,618.79 feet;

Thence North 89 degrees 40 minutes 38 seconds West, along the North line of said Northeast quarter, a distance of 403.13 feet to the East right of way line of Desert Avenue as depicted on LITCHFIELD PARK SUBDIVISION NO. 16, according to Book 153 of Maps, page 15, records of Maricopa County, Arizona;

Thence South 00 degrees 03 minutes 20 seconds East, along said East line, a distance of 33.00 feet to the South line of the North 33.00 feet of said Northeast quarter and the POINT OF BEGINNING;

Thence South 89 degrees 40 minutes 38 seconds East, along said South line, a distance of 339.10 feet to the West line of the East 64.00 feet of said Northeast quarter;

Thence South 00 degrees 00 minutes 19 seconds East, along said West line, a distance of 30.98 feet to the North line of that certain property deeded to the City of Litchfield Park on July 12, 1989, under Limited Warranty Deed recorded in Document No. 890329159, records of Maricopa County, Arizona;

Thence along the North and West line of said Deed the following twelve courses:

Thence North 89 degrees 39 minutes 43 seconds West a distance of 173.73 feet;

Thence South 00 degrees 14 minutes 41 seconds West a distance of 102.54 feet;

Thence North 89 degrees 43 minutes 19 seconds West a distance of 23.72 feet to the beginning of a non-tangent curve concave to the Southwest having a radius of 9.80 feet, the center of which bears South 03 degrees 47 minutes 13 seconds East;

Thence Southeasterly along said curve through a central angle of 96 degrees 51 minutes 40 seconds an arc length of 16.57 feet to a point of non-tangency;

Thence South 00 degrees 00 minutes 13 seconds East a distance of 163.32 feet to the beginning of a non-tangent curve concave to the Northwest having a radius of 9.49 feet, the center of which bears North 89 degrees 52 minutes 47 seconds West;

Continued.....

Thence Southwesterly along said curve through a central angle of 90 degrees 25 minutes 46 seconds an arc length of 14.98 feet to a point of non-tangency;

Thence North 87 degrees 44 minutes 48 seconds West a distance of 3.94 feet to the beginning of a non-tangent curve concave to the Southeast having a radius of 9.12 feet, the center of which bears South 03 degrees 33 minutes 06 seconds East;

Thence Southwesterly along said curve through a central angle of 82 degrees 52 minutes 30 seconds an arc length of 13.19 feet to a point of non-tangency;

Thence South 00 degrees 00 minutes 32 seconds West a distance of 9.42 feet;

Thence North 89 degrees 42 minutes 09 seconds West a distance of 117.86 feet;

Thence North 00 degrees 09 minutes 56 seconds East a distance of 10.82 feet to the beginning of a non-tangent curve concave to the Southwest having a radius of 9.73 feet, the center of which bears North 87 degrees 35 minutes 05 seconds West;

Thence Northwesterly along said curve through a central angle of 102 degrees 45 minutes 28 seconds an arc length of 17.45 feet to the East right of way line of Desert Avenue as depicted on said LITCHFIELD PARK SUBDIVISION NO. 16;

Thence North 00 degrees 03 minutes 20 seconds West, along said East right of way line, a distance of 313.77 feet to the POINT OF BEGINNING.

Engagement Letter

Anderson-Meadows Real Estate Appraisal, LLC
Real Estate Appraisers and Consultants

2939 South Power Road,
Mesa, Arizona 85212
(480) 616-7108
E-Mail: craig@azcommercialappraisal.com

May 25, 2023

Mr. Woody Scoutten, PE
Special Projects Manager
City of Litchfield Park
214 West Wigwam Boulevard
Litchfield Park, Arizona 85340

Re: Assignment: Estimate of Market Value of a Partial Acquisition and Its Effect on the Remainder
Project: Public-use Area Acquisition
Address: 111 W. Wigwam Blvd., Litchfield Park, Arizona
Parcel No: 501-70-011Z
Owner: Ellsworth & Warren Properties, LLC

Dear Mr. Scoutten:

This letter will serve as authorization for Anderson-Meadows Real Estate Appraisal, LLC, to appraise the market value of the fee simple interest in the above referenced parcel as of a current effective date of the appraisal (date of inspection) in order to estimate the value of the partial acquisition and its effect on the remainder. The intended users will be you (the client) and others involved in the project.

The appraisal will rely on the Sales Comparison Approach to value and include a before and after valuation analysis. From my preliminary investigation, it appears the partial acquisition will not include or adversely affect any major improvements. Therefore, we will appraise the property as if vacant in order to estimate the market value of the land required. The contributory market value of the minor improvements in the partial acquisition will then be added, based on depreciated cost new. Any effect on the remainder will be considered before concluding to a final opinion of value.

Assuming the title report does not reveal anything unexpected, our fee for the appraisal is [REDACTED]. This includes the cost of us obtaining a title report. The report can be delivered to you approximately three weeks after the return of this letter and the information specified below is provided. An electronic- PDF copy of the appraisal will be provided. Upon your request, one paper copy can be provided.

In order to begin preparation of the assignment, we need the following:

1. Signed contract (please sign the acknowledgment at on page two of this letter and initial each page of this five-page contract.)
2. Partial acquisition exhibits and legal description

Craig D. Anderson, SRA, and Larry C. Meadows are both Certified General Real Estate Appraisers in the State of Arizona. The appraisals and reports will be completed to the standards prescribed by the current requirements of Professional Appraisal Practice 2022-2023, State of Arizona Board of Appraisal, and the appraisal standards of the professional organization to which Mr. Anderson belongs, the Appraisal Institute.


Initials

Mr. Woody Scoutten, PE
Special Projects Manager
Page 2

Attached to this letter you will find our Underlying Assumptions and Contingent Conditions and Certification.

Anderson-Meadows Real Estate Appraisal will provide only the appraisals and reports. The appraiser, Craig D. Anderson, SRA, shall not be required to provide additional opinions, give testimony or to participate in or attend any public or private meeting or hearing, in court or otherwise, with reference to the appraisal assignment without further compensation at a rate of \$250 per hour. If Mr. Anderson is deposed by opposing legal counsel, his fee for preparation, travel, attendance, testimony and deposition review, correction and signing, will be paid for by you, not by the attorney requesting his time.

Please initial each page of this five-page contract and sign the acknowledgment at the end of this letter and return one copy to us as soon as possible.

It is understood that:

- The appraisal reports will be used by you in their entirety and no portion shall be used out of context.
- The reports will be subject to the attached Underlying Assumptions and Contingent Conditions and Certification.
- The function and intended use of the report are to assist in the on-going litigation. This report may not be used for any other reason than the intended use, nor may it be used by any other party without our prior written consent.

The opportunity to assist you has been appreciated.


Respectfully submitted,



Anderson-Meadows Real Estate Appraisal, LLC
Craig D. Anderson, SRA
Certified General Real Estate Appraiser – State of Arizona
Certificate No. 30383

ACKNOWLEDGMENT:

I hereby authorize Anderson-Meadows Real Estate Appraisal, LLC., to prepare the above-described assignment and I agree to all the terms and conditions outlined herein. Furthermore, I have read and understood the attached Assumptions and Contingent Conditions.



Name and Title
WOODY SCOUTTEN
SPECIAL PROJECTS MANAGER

5-25-23
Date



Initials

ASSUMPTIONS AND CONTINGENT CONDITIONS

The appraisal report will be prepared and will be subject to the following assumptions and contingent conditions:

1. This report is the confidential and private property of the client and the appraiser. Neither all nor any part of the contents of this report shall be conveyed to any person or entity, other than the appraiser's or firm's client, through advertising, solicitation materials, public relations, news, sales, or other media without the written consent and approval of the authors, particularly as to valuation conclusions, the identity of the appraiser or firm with which the appraiser is connected, or any reference to the Appraisal Institute or the MAI and SRA designations. Further, the appraiser or firm assumes no obligation, liability, or accountability to any third party. If this report is placed in the hands of anyone but the client, client shall make such party aware of all the assumptions and limiting conditions of the assignment.
2. Neither this report, nor any of its contents, may be used for the sale of shares or similar units of ownership in the nature of securities, without specific prior approval of the appraiser. No part of this appraisal may be reproduced in any promotional materials without the permission of the appraiser.
3. The information furnished by the property owner, agent, management or the client is assumed to be correct as received. No responsibility will be assumed for the legal description provided or for matters including legal or title considerations.
4. The appraiser is not responsible for the accuracy of the opinions furnished by others and contained in this report, nor is he responsible for the reliability of government data utilized in the report.
5. The title to the property is assumed to be marketable and free and clear of all liens.
6. The property is appraised as if owned in fee simple title without encumbrances, unless otherwise mentioned in this report.
7. The fee simple estate in the property contains the sum of all fractional interests which may exist.
8. The legal description obtained by the appraiser was assumed correct and descriptive of the subject property. No responsibility is assumed for the legal description provided or for matters including legal or title considerations. A survey and title report should be obtained to verify its accuracy.
9. No site survey was provided to the appraiser unless otherwise noted. It is assumed that the sources for dimensions and size relied upon are correct.
10. The utilization of the land by the improvements is assumed to be within the boundaries or property lines described and that no encroachments exist unless otherwise noted in the report.


Initials

11. No hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable were assumed to exist. No responsibility is assumed for such conditions or arranging engineering studies that may be required for their discovery.
12. Subsurface rights (mineral, oil, etc.) and their potential impact upon value were not considered in this appraisal, unless stated otherwise.
13. This appraisal assumes the subject property, as vacant or as improved, has no historical or archeological significance. The value estimate is predicated on the assumption that no such condition exists. Should the client have a concern over the subject's status, he or she is urged to retain the services of a qualified independent specialist to determine the extent of either significance, if any, and the cost to study the condition or the benefit or detriment such a condition brings to the property. The cost of inspection and study must be borne by the client or owner of the property. Should the development of the property be restricted or enhanced in any way, the appraiser reserves the right to modify the opinion of value indicated by the market.
14. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless nonconformity has been stated, defined and considered in the appraisal report.
15. This appraisal assumes the subject property complies with the requirements under the *ADA, Americans With Disabilities Act*. The appraisers are not qualified to detect each and every item of compliance or lack thereof. The value estimate is predicated on the assumption that there is no lack of compliance that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them.

Should the client have a concern over the subject's state of compliance, he or she is urged to retain the services of a qualified independent ADA specialist to determine the extent of compliance and the cost to bring the property into compliance if needed. The cost of inspection, study and compliance must be borne by the client or owner of the property. The cost could be deducted from the estimate of market value of the subject property if indicated by the market.
16. The subject property is assumed not to be in violation of any government regulations or laws pertaining to the environment.
17. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances as asbestos, PCB transformers, urea-formaldehyde foam insulation, or other toxic, hazardous, or contaminated substances and/or underground storage tanks (containing hazardous materials). Mold may be present in areas the appraiser cannot see. The value estimate is predicated on the assumption that there is no such material or growth on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them.


Initials

Should the client have a concern over the existence of such substances, he or she is urged to retain the services of a qualified independent environmental specialist to determine the extent of the contamination, if any, and the cost of treatment or removal. The cost of detection, treatment or removal and permanent storage must be borne by the client or owner of the property. This cost can be deducted from the estimate of market value of the subject property if requested by the client.

18. Responsible ownership and competent management is assumed to exist for the subject property.
19. The values assigned to the improvements, if shown in this report, are in proportion to the contribution they make to the value of the property as a whole. The separate estimates of value for the land and building must not be used in conjunction with any other appraisal and are invalid if so used, or if used separately.
20. All furnishings and equipment (or other personal property), except those specifically indicated and/or typically considered as a part of real property (under common accepted definitions) have been disregarded in this valuation. Only the real estate, as permanently affixed to the subject site, has been valued herein.
21. This report is not considered a legal document and the appraiser assumes no responsibility for matters of a legal nature except for his obligations under the contract to provide the appraisal and report.
22. The appraiser is not required to testify regarding this report in deposition or in court unless arrangements were previously made.
23. The appraiser cannot predict or evaluate the possible effects of future wage or price control actions of the government upon rental income or financing of the subject property; hence, it is assumed that no controls will apply which would nullify contractual agreements, thereby changing property values.
24. The appraiser did not base a conclusion or opinion of value on the following:
 - a. Racial, ethnic, or religious homogeneity of the inhabitants of an area or of a property
 - b. Racial, religious, and ethnic factors as predictors of value trends or price variance
 - c. Neighborhood trends analyzed upon stereotyped or biased presumptions relating to race, color, religion, sex, or national origin, or upon unsupported presumptions relating to the effective age or remaining life of the property being appraised or the life expectancy of the neighborhood in which it is located.


Initials

Qualifications of the Appraiser

QUALIFICATIONS OF CRAIG D. ANDERSON, SRA

Education

Bachelor of Science Degree, Business Administration, Arizona State University, May, 1981
Real Estate Principles, Arizona State University, 1980
Residential Property Appraising, Arizona State University, 1980
Real Estate Finance, Arizona State University, 1981
Income Property Analysis, Arizona State University, 1981
Real Estate Problems, Arizona State University, 1981
SREA Course 101: "An Introduction to Appraising Real Property," Arizona State University, 1981
SREA Course 102: "Applied Residential Property Valuation," Phoenix, Arizona, 1983
AIREA Course 1A-1: "Real Estate Appraisal Principles," Tempe, Arizona, 1986
AIREA Course 1A-2: "Basic Valuation Procedures," Tempe, Arizona, 1986
AIREA Course 1B-A: "Capitalization Theory and Techniques, Part A, University of San Diego, 1986
AIREA Course 1B-B: "Capitalization Theory and Techniques, Part B," University of San Diego, 1986
AIREA Course 2-3: "Standards of Professional Practice," Arizona State University, 1986
AIREA Course 2-2: "Valuation Analysis and Report Writing," University of San Diego, 1987
AIREA Course 2-1: "Case Studies in Real Estate Valuation," Arizona State University, 1988
SREA "Federal Home Loan Bank Board Regulation R41b" Seminar, Tempe, Arizona, March,- 1985
AIREA "Federal Home Loan Bank Board Regulation R41b" Seminar, Tempe, Arizona, January,- 1986
AIREA "Hydrology" Seminar, Tempe, Arizona, February, 1986
SREA "Depreciation Analysis" Seminar, Scottsdale, Arizona, November, 1987
AIREA "Rates, Ratios and Reasonableness", Tempe, Arizona, August, 1989
AI "Market Analysis", Scottsdale, Arizona, June, 1994
AI "Fair Lending and the Appraiser", Scottsdale, Arizona, June, 1994
AI "Understanding Limited Appraisals & Appraisal Reporting Options", Scottsdale, AZ, September, 1994
AI Course 520 "Highest & Best Use and Market Analysis", Tempe, Arizona, February, 1995
AI Course 410: "Standards of Professional Practice, Part A", Tempe, Arizona, September, 1995
AI Course 420: "Standards of Professional Practice, Part B", Tempe, Arizona, October, 1995
IRWA Course 600: "Environmental Awareness", Tempe, Arizona, October, 1995
AI "Special-Purpose Properties", Scottsdale, Arizona, November, 1995
AI "New Industrial Valuation", Phoenix, Arizona, May 15, 1998
Ted Whitmer, "Attacking & Defending an Appraisal in Litigation", Tempe, Arizona, January, 2000
AI, "Appraisal of Non-Conforming Uses", Tempe, Arizona, February, 2000
AI, "710 Condemnation Appraising – Basic Principles and Applications", Tempe, Arizona, May, 2000
AI, "720 Condemnation Appraising – Advanced Topics and Applications", Tempe, Arizona, May, 2000
AI "Uniform Standards of Professional Appraisal Practice, Part C" Las Vegas, Nevada, October, 2000
AI "Litigation Appraisal: Specialized Topics and Applications, Course 705", Tempe, Arizona, March, 2002
AI "Analyzing Commercial Lease Clauses", Tempe, Arizona, March, 2003
AI "Analyzing Operating Expenses", Tempe, Arizona, March, 2003
AI "National USPAP Course – 15 Hour" Course 410, Tempe, Arizona, May, 2004
AI "Real Estate Fraud: The Appraiser's Responsibilities and Liabilities", Flagstaff, Arizona, July, 2004
AI "National USPAP Course – 7 Hour", Tucson, Arizona, July, 2005
AI "Business Practices and Ethics", Tucson, Arizona, July, 2005
AI "Real Estate Finance, Value and Investment Performance" Tucson, Arizona, March, 2005
AI "Analyzing Distressed Real Estate", On-Line, January, 2006
AI "National USPAP Course – 7 Hour", Tucson, Arizona, May, 2008
AI "Business Practices and Ethics", Tucson, Arizona, May, 2008
AI "Supervising Appraisers in Arizona", Mesa, Arizona, July, 2008
AI "Eminent Domain and Condemnation", On-Line, July, 2008
AI "National USPAP Course – 7 Hour", Tucson, Arizona, February, 2010
AI "Appraising Convenience Stores", On-Line, July, 2010
AI "Advance Sales Comparison and Cost Approaches", Phoenix, Arizona, December, 2010
AI "National USPAP Course – 7 Hour", Phoenix, Arizona, February, 2012

AI "Forecasting Revenue", On-Line, July, 2014
AASC "National USPAP Course – 7 Hour", Phoenix, Arizona, July, 2014
AASC "National USPAP Course – 7 Hour", Phoenix, Arizona, April, 2016
AI "Business Practices and Ethics", On-Line, July, 2016
AI "Basic Appraisal Procedures", On-Line, November, 2016
AI "Eminent Domain and Condemnation", On-Line, June, 2018
AI "Appraising Automobile Dealerships", On-Line, July, 2018
AI "Business Practices and Ethics", Virtual Classroom, November, 2020
AI "Excel Applications for Valuation", On-Line, August, 2021
AI "2022-2023 National USPAP Update Course – 7 Hour", Phoenix, January, 2022
AI "Reviewing Residential Appraisals and Using Fannie Mae Form 2000" On-Line, July, 2022

Professional Designations, Memberships, Licenses and Certifications

SRA--Senior Residential Appraiser, Appraisal Institute (Society of Real Estate Appraisers), 1985
Certified General Real Estate Appraiser, State of Arizona, Certificate No. 30383

Professional & Civic Activities

Chairman Professional Practice Committee, Society of Real Estate Appraisers, Phoenix Chapter 68, 1987-1988
College of Business Administration, Arizona State University, Guest Lecturer

Achievements

Selected as the "Outstanding Real Estate Appraisal Student" by the Phoenix Chapter of the SREA in conjunction with the College of Business Administration, Arizona State University, 1982

Certificate of Completion – Appraisal Institute – Litigation Certificate Program – May, 2020

Experience

Commercial Appraiser, Eminent domain specialist, managing partner of Anderson-Meadows Real Estate Appraisal, LLC, 2939 South Power Road, Mesa, Arizona, independent fee appraiser and consultant in Arizona since July, 1981, with varied experience in appraising and analyzing vacant land, single-family residential, multi-family residential, commercial, and industrial properties
Commercial Appraiser, Eminent domain specialist employed by *Dennis L. Lopez & Associates, LLC*, Real Estate Appraisers and Consultants, 209 East Baseline Road, Suite 205, Tempe, Arizona, from April, 1992, to June, 2022
Commercial Appraiser employed by *Bankers Real Estate Counseling Group*, 2425 East Camelback Road, Suite 950, Phoenix, Arizona, from February 1990, to February, 1992
Commercial Appraiser, Residential Appraiser and Owner of *Craig D. Anderson and Associates, LLC*, Real Estate Appraisers and Consultants, 4705 South Lakeshore Drive, Suite 1, Tempe, Arizona, from July, 1988, to February, 1990
Residential Department Manager, Commercial Appraiser, Residential Appraiser employed by *Sell, Huish and Associates, Inc.*, Real Estate Appraisers and Consultants, at 4625 South Lakeshore Drive, Tempe, Arizona, from June, 1983 to July, 1988
Residential Appraiser employed by *W.F. Blackerby and Associates*, 635 West Indian School Road, Suite 208, Phoenix, Arizona, from August, 1981 to May, 1983

Qualified as expert appraisal witness Maricopa County and Coconino County Superior Courts

Geographic Areas

State of Arizona

Department of Insurance and Financial Institutions
State of Arizona

CGA - 30383

This document is evidence that **CRAIG D ANDERSON** has complied with the provisions of
Arizona Revised Statutes, relating to the establishment and operation of a:

Certified General Real Estate Appraiser

and that the Deputy Director of Financial Institutions of the State of Arizona has granted this license to transact the business of a:

Certified General Real Estate Appraiser

CRAIG D ANDERSON

This license is subject to the laws of Arizona and will remain in full force and effect until expired, surrendered, revoked or
suspended as provided by law.

Expiration Date : **August 31, 2024**



**CITY COUNCIL
COMMUNICATION**

Group Living Facilities
- Zoning Code
Amendment
Item B.

To: Mayor Thomas L. Schoaf and Members of the City Council
From: Jon Froke, City Planner / Special Projects Manager
Through: Matthew Williams, City Manager
Meeting Date: October 18, 2023
Presenter: Jon Froke, City Planner / Special Projects Manager

**RECOMMENDED MOTION:
MOVE TO ADOPT ORDINANCE 23-272 RELATED TO GROUP LIVING FACILITIES**

BACKGROUND/DISCUSSION:

This item was introduced during the September 20, 2023, regular meeting and no changes have been made.

STAFF RECOMMENDATION:

Staff recommends adoption.

FINANCIAL IMPACT:

None.

Attachments

Ordinance 23-272 Group Living Facilities

**CITY OF LITCHFIELD PARK
ORDINANCE NO. 23-272**

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF LITCHFIELD PARK, MARICOPA COUNTY, ARIZONA, AMENDING THE ZONING CODE OF THE CITY OF LITCHFIELD PARK, ARIZONA, SECTION 31 – GENERAL PROVISIONS, SUBSECTION 31.17 – GROUP LIVING FACILITIES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.

BE IT ORDAINED by the Council of the City of Litchfield Park, Arizona, as follows:

Section I. In General.

The Zoning Code of the City of Litchfield Park, Arizona, Section 31 – General Provisions, Subsection 31.17 – Group Living Facilities, is hereby amended by adding a new Subparagraph 31-17(f) as follows:

* * *

31.17 Group Living Facilities.

f. Enforcement; Penalties

1. A violation of any provision of this section is punishable as a class 1 misdemeanor, and upon conviction thereof shall be punished by a base fine not to exceed Two Thousand Five Hundred Dollars (\$2,500), plus statutory assessments, or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment in accordance with state law. Each day any violation of any provision of this Ordinance exists shall constitute a separate violation punishable as herein above described.

2. Violations of this section are in addition to any other violation enumerated within the city code and in no way limit the penalties, actions, or abatement procedures which may be taken by the city for any violation of this section, which is also a violation of any other ordinance or code provision of the city or federal or state law. Conviction and punishment or judgment against any person under this section shall not relieve such person from the responsibility of correcting prohibited conditions and shall not prevent the enforced correction thereof.

* * *

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section IV. Providing for Penalties.

A violation of this Ordinance is a class 1 misdemeanor, and upon conviction thereof shall be punished by a base fine not to exceed Two Thousand Five Hundred Dollars (\$2,500), plus statutory assessments, or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment in accordance with state law. Each day any violation of any provision of this Ordinance exists shall constitute a separate violation punishable as herein above described.

Violations of this Ordinance are in addition to any other violation enumerated within the City Code and in no way limit the penalties, actions, or abatement procedures which may be taken by the City for any violation of this Ordinance, which is also a violation of any other ordinance or code provision of the City or federal or state law. Conviction and punishment or judgment against any person under this Ordinance shall not relieve such person from the responsibility of correcting prohibited conditions and shall not prevent the enforced correction thereof.

PASSED AND ADOPTED by the Mayor and Common Council of City of Litchfield Park, Arizona, this 18th day of October, 2023 by the following vote:

AYES _____ NAYS _____ ABSENT _____ EXCUSED _____ ABSTAINED _____

Thomas L. Schoaf, Mayor

ATTEST:

Terri Roth, MMC, City Clerk

APPROVED AS TO FORM:

Gust Rosenfeld, PLC, City Attorneys
By: Joseph D. Estes

I, TERRI ROTH, CITY CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 23-272 ADOPTED BY THE COMMON COUNCIL OF THE CITY OF LITCHFIELD PARK ON THE 18TH DAY OF OCTOBER, 2023, WAS POSTED IN THREE PLACES ON THE 19TH DAY OF OCTOBER, 2023.

Terri Roth, MMC, City Clerk