DEVELOPMENT AGREEMENT

This Development Agreement (this "**Agreement**") is entered into as of _____, 202__ ("**Effective Date**"), by and between the CITY OF SAN LUIS, an Arizona municipal corporation (hereinafter referred to as "**City**"), VON VERDE PARTNERS L.L.C., an Arizona limited liability company (hereinafter referred to as "**Developer**"), SOMERTON SCHOOL DISTRICT NO. 11, a political subdivision of the State of Arizona (the "**Somerton School District**"), and YUMA UNION HIGH SCHOOL DISTRICT NO. 70, a political subdivision of the State of Arizona (the "**High School District**") (each a "**Party**" and collectively the "**Parties**").

RECITALS

A. The property that is the subject of this Agreement is approximately 320 acres of vacant real property in the City of San Luis, Yuma County, which is legally described in **Exhibit A** attached hereto (the "**Property**"). The Property consists of the following site areas, as depicted in the Conceptual Parcel Map in **Exhibit B** (each a "Parcel" and collectively the "Parcels"):

i. Parcel 1
ii. Parcel 2
iii. Parcel A
iv. Parcel B
v. Parcel C
vi. Parcel D
vii. Parcel E
viii. Parcel F
ix. Parcel G
x. Parcel H
xi. Parcel I
xii. Parcel J

B. Developer is the owner of each Parcel that makes up the Property, except as follows: (i) the Somerton School District owns a portion of Parcel B consisting of approximately 8.68 acres, as legally described in **Exhibit C** (the "**Somerton School District Parcel**"); and (ii) the High School District owns all of Parcel D, as legally described in **Exhibit D** (the "**High School District Parcel**").

C. Developer desires to develop the Property it owns with a master-planned residential community (featuring a variety of residential product types, including single-family and multi-family) alongside supporting commercial development (the "**Project**"). The Somerton School District and High School District desire to develop and operate their respective schools and related school facilities within the Property.

D. The Parties desire to enter into this Agreement to accommodate the orderly development of the Property in multiple phases and to establish certain infrastructure obligations related to the development of each Phase (hereinafter defined) of the Project.

E. The City hereby acknowledges and agrees that significant benefits will accrue to the City from development of the Project by Developer, including, without limitation, development that results in orderly growth in the City, promotes additional economic development, and will increase housing choices and introduce new housing in the City.

F. The Parties hereto acknowledge that this Agreement constitutes a "**Development Agreement**" within the meaning of Arizona Revised Statutes ("A.R.S.") § 9-500.05, and that, in accordance therewith, it shall be recorded against the interest of City and Developer in the Property, in the Office of the Yuma County Recorder to give notice to all persons of its existence.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the Parties hereto, the Parties agree as set forth below:

AGREEMENT

ARTICLE I
DEFINITIONS

In addition to any words or terms defined elsewhere in this Agreement, the following terms shall have the meanings set forth below whenever used in this Agreement, except where the context clearly indicates otherwise:

1.1 "**Agreement**" means this Development Agreement, together with all Exhibits referred to herein, all as may be amended from time to time in accordance with the terms and conditions hereof.

1.2 "**Approvals**" is defined in Section 4.4.

1.3 "**Conceptual Parcel Map**" is defined in Recital A and attached hereto as Exhibit B.

1.4 "**Conceptual Roadway Master Plan**" is attached hereto as Exhibit G.

1.5 "**Conceptual Sewer Master Plan**" is attached hereto as Exhibit E.

1.6 "**Conceptual Water Master Plan**" is attached hereto as Exhibit F.

1.7 "**Default**" is defined in Section 12.1.

1.8 "**Developer**" means Von Verde Partners L.L.C., an Arizona limited liability company.

1.9 "**Final Plat**" is defined in Section 5.2.

1.10 "**High School District**" means YUMA UNION HIGH SCHOOL DISTRICT NO. 70, a political subdivision of the State of Arizona

1.11 "**High School District Parcel**" is defined in Recital B.

1.12 "**Initial Lot Split**" is defined in Section 5.6.

1.13 "**Master Infrastructure Plans**" is defined in Section 5.3.

1.14 "**Master Preliminary Plat**" is defined in Section 5.1.

1.15 "**Master Roadway Infrastructure Plan**" is defined in Section 5.3.3.

1.16 "**Master Wastewater Infrastructure Plans**" is defined in Section 5.3.1.

1.17 "**Master Water Infrastructure Plan**" is defined in Section 5.3.2.

1.18 "**Offsite Infrastructure Improvements**" is defined in Section 5.3.4.

1.19 "**Offsites Phasing Plan**" is defined in Section 4.2.

1.20 "**Parcel**" is defined in Recital A.

1.21 "**Parcel 1**" is identified in the Conceptual Parcel Map in Exhibit B.

1.22 "**Parcel 1 Offsite Infrastructure Improvements**" is defined in Section 6.2.

1.23 "**Parcel 1 Roadway Improvements**" is defined in Section 6.2.3.

1.24 "**Parcel 1 Sewer Main Extension**" is defined in Section 6.2.1.

1.25 "**Parcel 1 Water Main Extension**" is defined in Section 6.2.2.

1.26 "**Parcel 2**" is identified in the Conceptual Parcel Map in Exhibit B.

1.27 "**Parcel 2 Offsite Infrastructure Improvements**" is defined in Section 6.3.

1.28 "**Parcel 2 Roadway Improvements**" is defined in Section 6.3.3.

1.29 "**Parcel 2 Sewer Main Extension**" is defined in Section 6.3.1.

1.30 "**Parcel 2 Water Main Extension**" is defined in Section 6.3.2.

1.31 "**Parcel A**" is identified in the Conceptual Parcel Map in Exhibit B.

1.32 "**Parcel B**" is identified in the Conceptual Parcel Map in Exhibit B.

1.33 "**Parcel C**" is identified in the Conceptual Parcel Map in Exhibit B.

1.34 "**Parcel D**" is identified in the Conceptual Parcel Map in Exhibit B.

1.35 "**Parcel E**" is identified in the Conceptual Parcel Map in Exhibit B.

1.36 "**Parcel E Offsite Infrastructure Improvements**" is defined in Section 6.4.

1.37 "**Parcel E Roadway Improvements**" is defined in Section 6.4.3.

1.38 "**Parcel E Sewer Main Extension**" is defined in Section 6.4.1.

1.39 "**Parcel E Water Main Extension**" is defined in Section 6.4.2.

1.40 "**Parcel F**" is identified in the Conceptual Parcel Map in Exhibit B.

1.41 "**Parcel G**" is identified in the Conceptual Parcel Map in Exhibit B.

1.42 "**Parcel H**" is identified in the Conceptual Parcel Map in Exhibit B.

1.43 "**Parcel I**" is identified in the Conceptual Parcel Map in Exhibit B.

1.44 "**Parcel J**" is identified in the Conceptual Parcel Map in Exhibit B.

1.45 "**Parcel Owner**" is defined in Section 4.3.

1.46 "**Phase**" is defined in Section 4.2.

1.47 "**Project**" is defined in Recital C.

1.48 "**Property**" is defined in Recital A and attached hereto as Exhibit A.

1.49 "**Replat**" is defined in Section 5.2.

1.50 "**Rezone Application**" is defined in Section 3.1.

1.51 "**Somerton School District**" means SOMERTON SCHOOL DISTRICT NO. 11, a political subdivision of the State of Arizona.

1.52 "**School Exchange Agreement**" is defined in Section 11.2.

1.53 "**Somerton School District Parcel**" is defined in Recital B.

1.54 "**Termination Date**" is defined in Section 2.1.

1.55 "**Trunk Wastewater Infrastructure Improvements**" is defined in Section 7.1.

1.56 "**Trunk Water Infrastructure Improvements**" is defined in Section 8.1.

ARTICLE II
THE AGREEMENT

2.1 **Duration of Development Agreement.** The term of this Agreement shall commence on the Effective Date and shall terminate on the date which is fifteen (15) years after the Effective Date (the "**Termination Date**"). No notice of such termination is or shall be required.

ARTICLE III
ZONING

3.1 Existing Zoning; Zoning Amendments. The Property is currently zoned R1-6 (Single Residence Zoning District – Medium Density), R-2 (Multiple Residence Zoning District – Medium-High Density Residential), R-3 (Multiple Residence Zoning District – High Density Residential) and C-2 (Community Commercial). Developer and any Parcel Owner, at any time, may submit a request to the City to rezone any portion of the Property to accommodate the development of the Property by Developer or a Parcel Owner (each, a "**Rezone Application**"). If a Rezone Application is submitted, the Developer or Parcel Owner who submitted the Rezone Application will prepare and provide to the City all necessary application materials needed for the City to process the Rezone Application and place the Rezone Application on a City Council agenda for decision, and the City shall use good faith efforts to place such Rezone Application on a City Council agenda. Any decision regarding such application shall be subject to the sole discretion of the City Council.

ARTICLE IV
PROJECT / DEVELOPMENT OF THE PROPERTY

4.1 Project Regulation of Development. The Property shall be developed in accordance with this Agreement and all applicable regulations and development requirements of the City, including provision of adequate financial assurances, in effect at the time of development for each Phase, except for the Offsite Infrastructure Improvements (the size, location and extent of which are established by this Agreement and the Master Infrastructure Plans upon approval by the City). In developing the Offsite Infrastructure Improvements adequate financial assurances shall be posted. Permitted uses on the Property shall be in accordance with the underlying zoning for the Property, subject to any subsequent rezoning or modified entitlements approved by the City for the Property. Notwithstanding the foregoing, nothing in this Agreement shall in any way affect the applicability or inapplicability of zoning regulations to public school uses under State law. Developer and Parties agree that public and charter schools are subject to building regulations. With respect to the Offsite Infrastructure Improvements only, this Agreement governs and controls over conflicting ordinances, rules, regulations, standards, procedures, and administrative policies of the City.

4.2 Phasing. The Property shall be developed in multiple phases. Each Parcel identified on the Conceptual Parcel Map in **Exhibit B** constitutes a development "**Phase.**" To accommodate the orderly construction of public infrastructure improvements (including wastewater, water, and roadway infrastructure improvements as set forth in this Agreement) needed to serve the entire Property upon full buildout, the Property shall be developed in the following sequence:

1.	Parcel 1 shall be developed prior to any other Phase.

2.	Following the construction completion of the Parcel 1 Offsite Infrastructure Improvements, the following Phases may be developed:	Parcel 2
3.	Following the construction of the Parcel 2 Offsite Infrastructure Improvements, the following Phases may be developed (in any order), except as provided in Section 4.2.1 below:	Parcel A Parcel B Parcel C Parcel E Parcel F
4.	Following the construction completion of the Parcel E Offsite Infrastructure Improvements, the following Phases may be developed (in any order), except as provided in Section 4.2.1 below:	Parcel D Parcel G Parcel H Parcel I Parcel J

In the event that Parcels are developed other than in accordance with the sequence set forth herein and Section 4.2.1 below, the City shall have the right to require such water, wastewater, roadway, or such other infrastructure improvement that it deems appropriate (in accordance with all ordinances, rules, regulations, standards, procedures, and administrative policies of the City now existing or as may be amended or adopted in the future) as a condition for any City approval for development of said Parcel. This may be a condition for approval of rezoning, conditional use permit, variance, lot split, subdivision plat, or building permit.

4.2.1 To ensure wastewater and water infrastructure is installed on adjacent Parcels as needed to facilitate a Parcel's wastewater/water branch line connections to the Trunk Wastewater Infrastructure Improvements and Trunk Water Infrastructure Improvements within 24th Avenue, the following additional phasing requirements are imposed on the development of the Property:

(a) Parcel A: Parcel A shall not be developed until water line and wastewater improvements on Parcel B (as approved by the City) are constructed and connected to the Trunk Wastewater Infrastructure Improvements and Trunk Water Infrastructure Improvements.

(b) Parcel I: Parcel I shall not be developed until the water line and wastewater improvements on Parcel F and Parcel G (as approved by the City) are constructed and connected to the Trunk Wastewater Infrastructure Improvements and Trunk Water Infrastructure Improvements.

(c) Parcel J: Parcel J shall not be developed until the water line and wastewater improvements on Parcel G and Parcel H (as approved by the City) are constructed and connected to the Trunk Wastewater Infrastructure Improvements and Trunk Water Infrastructure Improvements.

4.2.2 Alongside the Master Preliminary Plat application (see Article V), Developer shall submit to the City, for the City's approval, a plan for sequential phasing of the Offsite Infrastructure Improvements (the "**Offsites Phasing Plan**").

4.3 **Conveyance of Phases; Other Parcel Owners**. The Parties recognize and agree that Developer may convey a Parcel to one or more subsequent property owners to develop such Parcel. Developer shall disclose this Agreement to any subsequent property owner. Any record owner of all or any portion of a Parcel shall be deemed a "**Parcel Owner**" under this Agreement and shall assume all rights and obligations under this Agreement as a Parcel Owner with respect to such Parcel acquired (for avoidance of doubt, a "Parcel Owner" includes Developer, the Somerton School District and the High School District with respect to such Parcel owned by such Party). Nothing in this Agreement shall prevent Developer, Somerton School District, or High School District from conveying one or more Parcels it owns to other subsequent owners. And neither Developer, Somerton School District, nor High School District shall be required to obtain the City's prior approval for the conveyance of a Parcel. Developer, High School District, Somerton School District, and Parcel Owners shall be subject to all ordinances, rules, regulations, standards, procedures, and administrative policies of the City now existing or as may be amended or adopted in the future, except as to the Offsite Infrastructure Improvements as set forth in this Agreement (and the Master Infrastructure Plan upon approval by the City). City may refuse to allow development on any Parcel if required improvements are not made in substance, manner or timing as set forth in this Development Agreement and other applicable ordinance, rules, regulations, standards, procedures and administrative policies of the City.

4.4 **Processing of Development Plans**. The City and Developer will cooperate in the processing of any permits, site plans, subdivision plats, or other development approvals (collectively, the "**Approvals**") required of or requested by Developer in connection with the development of each Phase of the Project.

ARTICLE V
PLATTING & MASTER SITE PLANNING

5.1 **Master Subdivision Plat**. Developer shall submit a preliminary subdivision plat application to the City identifying parcel/lot boundaries for each Parcel, consistent with the Conceptual Parcel Map (the "**Master Preliminary Plat**"). The Parties recognize and agree that the Master Preliminary Plat will require preliminary plat approval by the City's Planning Commission. The Master Infrastructure Plans (defined in Section 5.3 below) shall be submitted by Developer with the Master Preliminary Plat for the City's review and approval.

5.2 **Final Plat; Amendments/Replats**. Following the City's approval of the Master Preliminary Plat, the parcel/lot boundaries for the Property shall be established via one or more final plats (each a "**Final Plat**"). Each Final Plat may include one or more Parcels or a portion of a Parcel, as identified in the Conceptual Parcel Map and Master Preliminary Plat. Each Final Plat shall be subject to approval by the City Council and this Development Agreement shall in no way be interpreted to guarantee Final Plat approval if the Final Plat submission does not meet the City's policies and requirements for Final Plat approval. While the Conceptual Parcel Map and Master Preliminary Plat identify the intended configuration of each Parcel to accommodate the development of the Property, Developer and any Parcel Owner may modify the configuration of each Parcel or divide a Parcel into new parcels, lots, and/or tracts, through a new subdivision process which would include approval of a preliminary plat and final plat, or subsequent replat

(each a "**Replat**"); provided, however, the Parties acknowledge and agree that the Conceptual Parcel Map in this Agreement shall govern the identification of Parcels for purposes of this Agreement (by way of example, if a Final Plat is approved that splits Parcel G into two parcels, both parcels shall be considered Parcel G for purposes of this Agreement as shown in the Conceptual Parcel Map). Any plat or Replat shall be subject to all ordinances, rules, regulations, standards, procedures, and administrative policies of the City now existing, or as may be amended or adopted in the future.

5.3 Master Plans. Developer shall prepare and submit to the City, for City's approval, certain master infrastructure plans alongside the Master Preliminary Plat application in accordance with this Section 5.3 (each a "**Master Infrastructure Plan**, and together, the "**Master Infrastructure Plans**"). All Master Plans submitted by Developer pursuant to the Article must be supported by an engineer's design report.

5.3.1 Master Wastewater Infrastructure Plan. Developer shall prepare and submit to the City, for City's approval, a master wastewater infrastructure plan identifying the trunk wastewater infrastructure improvements that will be needed to provide wastewater service for each Phase of the Project, which, upon approval by the City, shall constitute the "**Master Wastewater Infrastructure Plan**" under this Agreement. The Master Wastewater Infrastructure Plan shall be consistent with the Conceptual Sewer Master Plan in **Exhibit E**.

5.3.2 Master Water Infrastructure Plan. Developer shall prepare and submit to the City, for City's approval, a master water infrastructure plan identifying the trunk water infrastructure improvements that will be needed to provide water (both potable and non-potable) service for each Phase of the Project, which, upon approval by the City, shall constitute the "**Master Water Infrastructure Plan**" under this Agreement. The Master Water Infrastructure Plan shall be consistent with the Conceptual Water Master Plan in **Exhibit F**.

5.3.3 Master Roadway Infrastructure Plan. Developer shall prepare and submit to the City, for City's approval, a master roadway infrastructure plan identifying the roadway infrastructure improvements that will serve each Phase of the Project, which, upon approval by the City, shall constitute the "**Master Roadway Infrastructure Plan**" under this Agreement. The Master Roadway Infrastructure Plan must identify the provision of secondary access to each Parcel and identify how and when such access will be developed. City may refuse development on any Parcel that does not have both primary and secondary access. The Master Roadway Infrastructure Plan must not allow for "scalloped streets". The Master Roadway Infrastructure Plan shall be consistent with the Conceptual Roadway Master Plan in **Exhibit G**, provided that **Exhibit G** does not allow for "scalloped streets".

5.3.4 The wastewater infrastructure, water infrastructure, and roadway infrastructure improvements identified in the approved Master Infrastructure Plans shall constitute the "**Offsite Infrastructure Improvements**" for purposes of this Agreement. The Offsite Infrastructure Improvements identified in the approved Master Infrastructure Plans constitute the master (trunk) offsite improvements required to provide the development opportunity for the Property; however, such improvements are not reflective of all infrastructure improvements required for the development of each Parcel (including, but not limited to, future branch sewer and

water lines and streets within each Parcel). In addition to the Offsite Infrastructure Improvements (the size, location and extent of which are established by this Agreement and the Master Infrastructure Plans upon approval by the City), the City reserves the right to require additional offsite improvements and/or dedications as required for the development of each Parcel in accordance with Arizona law, the City's ordinances, rules, regulations, standards, procedures, and administrative policies of the City now existing, or as may be amended or adopted in the future. In the City's discretion, all water and wastewater infrastructure shall be designed and built in a contiguous and operationally practical fashion. The water system shall be looped to reduce dead ends. These requirements shall apply to all Master Infrastructure Plans.

5.4 Right-of-Way Dedications. The Master Preliminary Plat shall identify the existing half-street right-of-way dedications and any additional right-of-way dedications to be made (and associated roadway improvements to be constructed) as part of the development of the Project for the following roadways within or adjacent to the Property: (i) Avenue D, (ii) 24th Avenue, (iii) County 24th Street, (iv) Avenue E, and (v) County 24 ½ Street. Any future development of the Property must not allow for "scalloped streets".

5.4.1 Existing Right-of-Way Dedications. The Parties recognize and agree that certain half-street right-of-way dedications for County 24th Street, Avenue E, 24th Avenue, Avenue D and County 24 ½ Street have already been made, as shown on the Conceptual Roadway Master Plan in Exhibit G. The City will require additional right-of-way dedications for certain Parcels as set forth in Article IX of this Agreement.

5.4.2 New Right-of-Way Dedications. The Parties recognize and agree that the new/additional right-of-way dedications for public roads shall be identified in the Master Preliminary Plat and shall be in accordance with Article VIV of this Agreement. For any new right-of-way dedications for County 24th Street, Avenue E, 24th Avenue, Avenue D and County 24 ½ Street that have not yet been dedicated to the City per Article IX herein, such dedications shall be made to the City within ninety (90) days from the Effective Date of this Agreement via a Final Plat, map of dedication or separate instrument to effectuate a right-of-way dedication as approved by the City.

5.5 Phasing of Improvements; Assurances. To accommodate the phased development of the Property, the construction of the subdivision improvements for the Property (including, but not limited to, the Offsite Infrastructure Improvements) will be constructed in phases, subject to the City's approval of the Offsites Phasing Plan. The Offsite Infrastructure Improvements identified in the approved Master Infrastructure Plans constitute the master (trunk) offsite improvements required to provide the development opportunity for the Property; however, such improvements are not reflective of all infrastructure improvements required for the development of each Parcel (including, but not limited to, future branch sewer and water lines and streets within each Parcel). For other offsite improvements not specifically set forth in this Agreement, the City reserves the right to require additional offsite improvements and/or dedications as required for the development of each Parcel in accordance with the City's ordinances, rules, regulations, standards, procedures, and administrative policies of the City, including provision for adequate financial assurances, now existing, or as may be amended or adopted in the future. Such additional offsite infrastructure improvements, right-of-way

dedications, or easement dedications shall be made either as a condition of rezoning, as a condition for the issuance of any building permit, as a condition for a variance, or as part of the approval of any Final Plat. Except for the Offsite Infrastructure Improvements (the size, location and extent of which are established by this Agreement and the Master Infrastructure Plans upon approval by the City), any development of the Property or any Parcel shall be subject to all ordinances, rules, regulations, standards, procedures, and administrative policies of the City now existing or as may be amended or adopted in the future as existing at the time of development. In developing the Offsite Infrastructure Improvements adequate financial assurances shall be posted.

5.6 Initial Lot Split for Parcel A, Parcel B, and Parcel C. Prior to any Final Plat for a Parcel, Developer intends to submit a lot split application to the City to establish the parcel boundaries for Parcel A, Parcel B, and Parcel C (the "**Initial Lot Split**"). Alongside the submittal of the Initial Lot Split, Developer will apply to the City Council to approve a memorandum of understanding ("**MOU**"), which, if approved by the City Council, would allow for the Initial Lot Split to be processed and approved administratively by City staff without requiring a subdivision plat approved by the City Council. Infrastructure improvements and right-of-way dedications for Parcel A, Parcel B and Parcel C shall be made in accordance with this Agreement.

5.7 Final Plat for Parcels D & E. Developer (as the current Parcel Owner of Parcel E) and High School District (as the current Parcel Owner of Parcel D) acknowledge and agree that the Final Plat for Parcel E shall include Parcel D (the "**Parcel D&E Final Plat**"), so as to create legally established lot lines for Parcel D (the existing lot lines for Parcel D were created without approval of a lot split application by the City). High School District and Developer agree that City may require the construction of infrastructure improvements. The High School District shall cooperate with Developer in obtaining the City's approval of the Parcel D&E Final Plat. In so doing, the City may require complete compliance with the subdivision regulations of City. If the High School District is not ready to develop its Parcel D at the time Developer begins to prepare the Parcel D&E Final Plat for submission to the City, Developer and High School District may choose to identify Parcel D as a "future phase" on the Parcel D&E Final Plat. If Parcel D is identified as a "future phase", the City shall not require subdivision improvement plans for Parcel D in order to obtain the City's approval of the Parcel D&E Final Plat, provided the following conditions are met: (i) Parcel Owner of Parcel D has dedicated to the City the right-of-way dedications required by this Agreement, including the 40-foot half-street right-of-way dedications for the segment of 24th Avenue adjacent to Parcel D (so as to complete the 80-foot full-street dedication, it being understood that the 40-foot half-street right-of-way for 24th Avenue along Parcel E has already been dedicated) and for the segment of County 24 ½ Street adjacent to Parcel D (as set forth in Section 9.1.6 of this Agreement so as to complete the 80-foot full street), and (ii) at the time of development of Parcel D, the subdivision improvement plans for Parcel D shall be prepared by the Parcel Owner of Parcel D and shall be subject to approval by the City and the City's approval of such subdivision improvement plans shall be a condition to the City's issuance of any permits for the development of Parcel D.

5.8 No School Zones or School Crossings Along Avenue E. The Parties acknowledge and agree that development of any portion of the Property for any school, public or private, including charter schools, shall occur in such a manner that no school zones or school crossings will result along Avenue E.

5.9 **Special Taxing Districts**. Developer, Somerton School District and High School District will agree to the formation of a street lighting improvement district to pay for the costs to operate and maintain required streetlights required as a result of the development of the Property and any enhanced municipal district needed to provide required municipal services to the Property.

ARTICLE VI
MASTER OFFSITE INFRASTRUCTURE PHASING

6.1 **Offsite Infrastructure Phasing**. In recognition of the Project phasing, the City agrees that the Offsite Infrastructure Improvements may be constructed by Developer in phases, subject to approval by City of the Offsites Phasing Plan. In addition to the Offsite Infrastructure Improvements (the size, location and extent of which are established by this Agreement and the Master Infrastructure Plans upon approval by the City), the City reserves the right to require additional offsite improvements and dedications in accordance with Arizona law, its ordinances, rules, regulations, standards, procedures, and administrative policies, now existing or as may be amended or adopted in the future, and any rezoning, plat, lot split, variance, conditional use permit, or building permit may be so conditioned. Except for the right-of-way dedications for the public roadways as set forth in Article IX (which shall be dedicated within 90 days from the Effective Date of this Agreement), required infrastructure improvements shall be made at the time of the development of a Parcel and right-of-way dedications or easement dedications for a Parcel shall be made either at the time of rezoning, as a condition for the issuance of any building permit, or as part of the approval of any Final Plat, variance, or conditional use permit.

6.2 **Parcel 1 Offsite Improvements**. The Parcel Owner of Parcel 1 shall, at its sole cost and expense (subject to reimbursement in accordance with Section 10.1 of this Agreement), construct the following Offsite Infrastructure Improvements (collectively, the "**Parcel 1 Offsite Infrastructure Improvements**"):

6.2.1 **Parcel 1 Sewer Main Extension**. The Parcel Owner of Parcel 1 shall construct the 15-inch sewer main extension within 24th Avenue from County 24th Street to the southern end of Parcel 1, as shown in the Conceptual Sewer Master Plan in **Exhibit E** (the "**Parcel 1 Sewer Main Extension**").

6.2.2 **Parcel 1 Water Main Extension**. The Parcel Owner of Parcel 1 shall construct the 10-inch water main extension within 24th Avenue from County 24th Street to the southern end of Parcel 1, as shown in the Conceptual Water Master Plan in **Exhibit F** (the "**Parcel 1 Water Main Extension**"). The Parcel Owner of Parcel 1 may, in the City's discretion, be required to construct such improvements to establish and maintain a looped system which may require a main extension within 25th Avenue.

6.2.3 **Parcel 1 Roadway Improvements**. The Parcel Owner of Parcel 1 shall construct the half-street roadway and utility improvements for the portions of County 24th Street and 24th Avenue adjacent to Parcel 1, as identified in the Conceptual Roadway Master Plan in **Exhibit G** (the "**Parcel 1 Roadway Improvements**").

6.2.4 Dedication. Upon completion, the Parcel 1 Offsite Infrastructure Improvements shall be dedicated to the City for ownership, operation, and maintenance in accordance with the ordinances, rules, regulations, standards, procedures, and administrative policies of the City.

6.3 Parcel 2 Offsite Improvements. The Parcel Owner of Parcel 2 shall, at its sole cost and expense (subject to reimbursement in accordance with Section 10.1 of this Agreement), construct the following offsite infrastructure improvements (the "**Parcel 2 Offsite Infrastructure Improvements**"):

6.3.1 Parcel 2 Sewer Main Extension. The Parcel Owner of Parcel 2 shall construct the 15-inch sewer main extension within 24th Avenue from the Parcel 1 Sewer Main Extension to the southern end of Parcel 2, as shown in the Conceptual Sewer Master Plan in **Exhibit E** (the "**Parcel 2 Sewer Main Extension**").

6.3.2 Parcel 2 Water Main Extension. The Parcel Owner of Parcel 2 shall construct the 10-inch water main extension within 24th Avenue from the Parcel 1 Water Main Extension to the southern end of Parcel 2, as shown in the Conceptual Water Master Plan in **Exhibit F** (the "**Parcel 2 Water Main Extension**"). The Parcel Owner of Parcel 2 may, in the City's discretion, be required to construct such improvements to establish and maintain a looped system which may require a main extension within 25th Avenue.

6.3.3 Parcel 2 Roadway Improvements. The Parcel Owner of Parcel 2 shall construct the half-street roadway improvements for the portion of 24th Avenue adjacent to Parcel 2, as identified in the Conceptual Roadway Master Plan in **Exhibit G** (the "**Parcel 2 Roadway Improvements**").

6.3.4 Dedication. Upon completion, the Parcel 2 Offsite Infrastructure Improvements shall be dedicated to the City for ownership, operation, and maintenance in accordance with the ordinances, rules, regulations, standards, procedures, and administrative policies of the City. City maintenance will only be in the public right of way.

6.3.5 Half-Streets Along Parcels A and B. The City, at its sole discretion, may require the Parcel Owner of Parcel 1 and/or 2 to construct the half-street roadway and utility improvements not yet constructed along Parcel A and Parcel B (per Sections 9.1.4 and 9.1.5 of this Agreement). If the City chooses to require Parcel 2 to construct such half-street roadway or utility improvements along Parcel A and/or Parcel B, then such improvements shall be part of the required Parcel 2 Offsite Infrastructure Improvements for purposes of this Agreement. Further, if the Parcel Owner of either Parcel 1 or Parcel 2 constructs such half-street right-of-way or utility improvements along Parcel A and/or Parcel B, then such Parcel Owner of Parcel 1 or Parcel 2 shall be entitled to, and the Parcel Owner(s) of Parcel A and B shall be required to provide, reimbursement from (i) the Owner of Parcel A an amount equal to one hundred percent (100%) of the total costs of the half-street roadway work adjacent to Parcel A, and (ii) from the Owner of Parcel B an amount equal to one hundred percent (100%) of the total costs of the half-street roadway or utility work adjacent to Parcel B. Reimbursement by the Parcel Owner(s) of Parcel A and B pursuant to this Section shall be provided to the Parcel Owner of Parcel 1 or Parcel 2, as

applicable, by the earlier of (i) the date the Parcel Owner(s) of Parcel A and Parcel B commence development of its respective Parcel, or (ii) the Termination Date. The Parties acknowledge and agree that, during the term of this Agreement, the City shall withhold issuance of a building permit for Parcel A and Parcel B until such reimbursement is provided. The reimbursement obligations in this Section shall expressly survive the termination of this Agreement and shall be a covenant and restriction that runs with, burdens and benefits Parcel A, Parcel B, Parcel 1 and Parcel 2 and shall inure to the benefit of and be binding upon the successors and assigns of the Parcel Owners; provided, however, following the termination of this Agreement, the City shall have no obligation whatsoever to enforce the reimbursement obligations in this Section (including, but not limited to, by withholding issuance of a building permit), it being understood by the Parties that, following termination of this Agreement, the reimbursement obligations in this Section shall be a private restriction enforceable by the Parcel Owners (not the City).

6.4 **Parcel E Offsite Improvements**. The Parcel Owner of Parcel E shall, at its sole cost and expense (subject to reimbursement in accordance with Section 10.1 of this Agreement), construct the following offsite infrastructure improvements (the "**Parcel E Offsite Infrastructure Improvements**"):

6.4.1 **Parcel E Sewer Main Extension**. The Parcel Owner of Parcel E shall construct the 15-inch sewer main extension within 24th Avenue from the Parcel 2 Sewer Main Extension to the southern end of Parcel E, as shown in the Conceptual Sewer Master Plan in **Exhibit E** (the "**Parcel E Sewer Main Extension**").

6.4.2 **Parcel E Water Main Extension**. The Parcel Owner of Parcel E shall construct the 10-inch water main extension within 24th Avenue from the Parcel 2 Water Main Extension to the southern end of Parcel E, as shown in the Conceptual Water Master Plan in **Exhibit F** (the "**Parcel E Water Main Extension**"). The Parcel Owner of Parcel E may, in the City's discretion, be required to construct such improvements to establish and maintain a looped system, which may include a 10-inch water main along County 24 ½ Street to Avenue E.

6.4.3 **Parcel E Roadway Improvements**. The Parcel Owner of Parcel E shall construct the half-street roadway improvements for the portions of 24th Avenue and County 24 ½ Street adjacent to Parcel E, as identified in the Conceptual Roadway Master Plan in **Exhibit G** (the "**Parcel E Roadway Improvements**") and as additionally set forth in Section 6.4.5 below.

6.4.4 **Dedication**. Upon completion, the Parcel E Offsite Infrastructure Improvements shall be dedicated to the City for ownership, operation, and maintenance in accordance with the ordinances, rules, regulations, standards, procedures, and administrative policies of the City. City maintenance will only be in the public right of way.

6.4.5 **Half-Streets Along Parcel D.** If, at the time of development of Parcel E, the half-street roadway improvements along Parcel D are not yet constructed (per Section 9.1.6 of this Agreement), the City, at its sole discretion, may require the Parcel Owner of Parcel E to construct such half-street roadway, water and wastewater utility improvements along Parcel D (within the right-of-way dedicated by the Parcel D&E Final Plat). If the City chooses to require Parcel E to construct the half-street roadway and utility improvements along Parcel D, then such

improvements shall be part of the required Parcel E Offsite Infrastructure Improvements for purposes of this Agreement. Further, if the Parcel Owner of Parcel E constructs such half-street right-of-way and utility improvements along Parcel D, then the Parcel Owner of Parcel E shall be entitled to, and the Parcel Owner of Parcel D shall be required to provide, reimbursement from the Parcel Owner of Parcel D an amount equal to one hundred percent (100%) of the total costs of such work. Reimbursement by the Parcel Owner of Parcel D pursuant to this Section shall be provided to the Parcel Owner of Parcel E by the earlier of (i) the date the Parcel Owner of Parcel D commences development of Parcel D, or (ii) the Termination Date. The Parties acknowledge and agree that the City shall withhold issuance of a building permit for Parcel D until such reimbursement is provided. The reimbursement obligation in this Section shall expressly survive the termination of this Development Agreement and shall be a covenant and restriction that runs with, burdens and benefits Parcel D and Parcel E and shall inure to the benefit of and be binding upon the successors and assigns of the Parcel Owners; provided, however, following the termination of this Agreement, the City shall have no obligation whatsoever to enforce the reimbursement obligations in this Section (including, but not limited to, by withholding issuance of a building permit), it being understood by the Parties that, following termination of this Agreement, the reimbursement obligations in this Section shall be a private restriction enforceable by the Parcel Owners (not the City).

6.5 Construction by Other Parcel Owners. Any Parcel Owner shall have the right to construct the Parcel 1 Offsite Infrastructure Improvements, Parcel 2 Offsite Infrastructure Improvements and/or the Parcel E Offsite Infrastructure Improvements by providing written notice to the Parties, provided the Parcel Owner responsible for constructing such offsite improvements has not commenced construction of the offsite improvements.

ARTICLE VII
WASTEWATER INFRASTRUCTURE

7.1 Trunk Improvements. The Parcel 1 Sewer Main Extension, Parcel 2 Sewer Main Extension, and Parcel E Sewer Main Extension constitute the trunk wastewater infrastructure improvements for the Project (the "**Trunk Wastewater Infrastructure Improvements**") and will serve the other Parcels. In addition to the Trunk Wastewater Infrastructure Improvements (the size, location and extent of which are established by this Agreement and the Master Infrastructure Plans upon approval by the City), the City expressly has the right to require additional wastewater infrastructure improvements for the development of any Parcel in accordance with Arizona law and the City's ordinances, rules, regulations, standards, procedures, and administrative policies, now existing or as may be amended or adopted in the future, and may so condition any rezoning, plat, lot split, variance, conditional use permit, or issuance of any building permit.

With respect to all wastewater infrastructure required by this Article, all wastewater collection systems shall have stub outs adequately sized to serve other parcels within the service area.

7.2 Other Wastewater Improvements. Each Parcel Owner of a Parcel within the Property (other than Parcel 1, Parcel 2, and Parcel E) will construct its own wastewater improvements (i.e., branch lines) to the Trunk Wastewater Infrastructure Improvements. Such

improvements will conform to all City requirements and any approved Master Wastewater Infrastructure Plan.

7.3 **Dedication**. Upon completion, the wastewater infrastructure improvements installed with each Parcel will be dedicated to the City for ownership, operation, and maintenance, in accordance with the ordinances, rules, regulations, standards, procedures, and administrative policies of the City. City maintenance will only be in the public right of way.

7.4 **City Services**. Subject to the construction and dedication of the wastewater infrastructure improvements as may be required for each Parcel as set forth in this Agreement, the City agrees to provide wastewater service to each Parcel, subject to the ordinances, resolutions, rules, regulations, standards, procedures, and administrative policies of the City, as may exist at the time of development of said Parcel.

ARTICLE VIII
WATER INFRASTRUCTURE

8.1 **Trunk Improvements.** The Parcel 1 Water Main Extension, Parcel 2 Water Main Extension, and Parcel E Water Main Extension constitute the trunk wastewater infrastructure improvements for the Project (the "**Trunk Water Infrastructure Improvements**") and will serve the other Parcels. In addition to the Trunk Water Infrastructure Improvements (the size, location and extent of which are established by this Agreement and the Master Infrastructure Plans upon approval by the City), the City expressly has the right to require additional water infrastructure improvements for the development of any Parcel in accordance with Arizona law and the City's ordinances, rules, regulations, standards, procedures, and administrative policies, now existing or as may be amended or adopted in the future, and may so condition any rezoning, plat, lot split, variance, conditional use permit, or issuance of any building permit. Water line improvements will be constructed such as to provide looped systems and avoid dead end lines as much as possible.

8.2 **Other Water Improvements**. Each Parcel Owner of a Parcel within the Property (other than Parcel 1, Parcel 2, and Parcel E) will construct its own water line improvements (i.e., branch lines) to the Trunk Waster Infrastructure Improvements. Such improvements will conform to all City requirements and any approved Master Waster Infrastructure Plan, and shall result in a looped system.

8.3 **Dedication**. Upon completion, the water infrastructure improvements installed with each Parcel will be dedicated to the City for ownership, operation, and maintenance, in accordance with the ordinances, rules, regulations, standards, procedures, and administrative policies of the City.

8.4 **City Services**. Subject to the construction and dedication of the water infrastructure improvements required for each Parcel as set forth in this Agreement, the City agrees to provide water service to each Parcel, subject to the ordinances, resolutions, rules, regulations, standards, procedures, and administrative policies of the City, as may exist at the time of development of said Parcel. City maintenance will only be in the public right of way.

ARTICLE IX

ROADWAY INFRASTRUCTURE

9.1 Right-of-Way Dedications; Roadway Improvements. The following right-of-way dedications and roadway improvements for section line and mid-section line streets shall be required to be dedicated and constructed alongside each Parcel. In addition to the right-of-way dedications and roadway improvements for section line and mid-section line streets (the size, location and extent of which are established by this Agreement and the Master Infrastructure Plans), the City expressly has the right to require additional right of way dedications and roadway improvements for other streets within each Parcel for the development of such Parcel in accordance with Arizona law and the City's ordinances, rules, regulations, standards, procedures and administrative policies, now existing or as may be amended or adopted in the future, and may so condition any rezoning, plat, lot split, variance, conditional use permit, or issuance of any building permit. In addition, with respect to the right-of-way dedications and roadway improvements for section line and mid-section line streets as set forth in this Agreement and the Master Infrastructure Plans, the City reserves the right to require additional right-of-way from a Parcel as a condition to development of such Parcel to accommodate deceleration lanes and/or right-turn pockets that are warranted by a traffic impact analysis.

9.1.1 Parcel 1. The Parcel Owner of Parcel 1 shall be required to dedicate (to the extent not already dedicated) and construct the 55-foot half-street segment of County 24th Street adjacent to Parcel 1 (and to Avenue E if requested by the City per Section 6.3.5) and the 40-foot half-street segment of 24th Avenue adjacent to Parcel 1 (defined earlier in this Agreement as the Parcel 1 Roadway Improvements), as identified in the Conceptual Roadway Master Plan in **Exhibit G**.

9.1.2 Parcel 2. The Parcel Owner of Parcel 2 shall be required to dedicate (to the extent not already dedicated) and construct the 40-foot half-street segment of 24th Avenue adjacent to Parcel 2 (defined earlier in this Agreement as the Parcel 2 Roadway Improvements), as identified in the Conceptual Roadway Master Plan in **Exhibit G**.

9.1.3 Parcel E. The Parcel Owner of Parcel E shall be required to dedicate (to the extent not already dedicated) and construct the 40-foot half-street segment of 24th Avenue and 40-foot half-street segment of County 24 ½ Street adjacent to Parcel E (defined earlier in this Agreement as the Parcel E Roadway Improvements above), as identified in the Conceptual Roadway Master Plan in **Exhibit G**.

9.1.4 Parcel A. The Parcel Owner of Parcel A shall be required to dedicate (to the extent not already dedicated) and construct the 55-foot half-street segment of County 24th Street and 75-foot half-street segment of Avenue E adjacent to Parcel A, as identified in the Conceptual Roadway Master Plan in **Exhibit G**.

9.1.5 Parcel B. The Parcel Owner of Parcel B shall be required to dedicate (to the extent not already dedicated) and construct the 55-foot half-street segment of County 24th Street and 40-foot half-street segment of 24th Avenue adjacent to Parcel B, as identified in the Conceptual Roadway Master Plan in **Exhibit G**.

9.1.6 Parcel D. The Parcel Owner of Parcel D shall be required to dedicate (to the extent not already dedicated) and construct the 40-foot half-street segment of 24th Avenue and 40-foot half-street segment of County 24 ½ Street adjacent to Parcel D, as identified in the Conceptual Roadway Master Plan in **Exhibit G** and 75-foot half street segment of Avenue E adjacent to Parcel D, as identified in the Conceptual Roadway Master Plan in Exhibit G

9.1.7 Parcel F. The Parcel Owner of Parcel F shall be required to dedicate (to the extent not already dedicated) and construct the 55-foot half-street segment of County 24th Street adjacent to Parcel F, as identified in the Conceptual Roadway Master Plan in **Exhibit G**.

9.1.8 Parcel H. The Parcel Owner of Parcel H shall be required to dedicate (to the extent not already dedicated) and construct the 40-foot half-street segment of County 24 ½ Street adjacent to Parcel H, as identified in the Conceptual Roadway Master Plan in **Exhibit G**.

9.1.9 Parcel I. The Parcel Owner of Parcel I shall be required to dedicate (to the extent not already dedicated) and construct the 55-foot half-street segment of County 24th Street and 40-foot half-street segment of Avenue D adjacent to Parcel I, as identified in the Conceptual Roadway Master Plan in **Exhibit G**.

9.1.10 Parcel J. The Parcel Owner of Parcel J shall be required to dedicate (to the extent not already dedicated) and construct the 40-foot half-street segment of Avenue D and 40-foot half-street segment of County 24 ½ Street adjacent to Parcel J, as identified in the Conceptual Roadway Master Plan in **Exhibit G**.

9.1.11 Additional Right-of-Way at Roadway Intersections. The Parties recognize and agree that additional right-of-way shall be dedicated at the following roadway intersections to provide for adequate site visibility triangles in accordance with the City's standards for site visibility triangles at roadway intersections: (i) southeast corner of intersection of Avenue E and County 24th Street (to be dedicated by Parcel A); (ii) southwest corner of intersection of 24th Avenue and County 24th Street (to be dedicated by Parcel B); (iii) southeast corner of intersection of 24th Avenue and County 24th Street (to be dedicated by Parcel 1); (iv) southwest corner of intersection of Avenue D and County 24th Street (to be dedicated by Parcel I); (v) northwest corner of intersection of Avenue D and County 24 ½ Street (to be dedicated by Parcel J); (vi) northeast corner of intersection of 24th Avenue and County 24 ½ Street (to be dedicated by Parcel E); (vii) northwest corner of intersection of 24th Avenue and County 24 ½ Street (to be dedicated by Parcel D); (viii) northeast corner of intersection of Avenue E and County 24 1/2th Street (to be dedicated by Parcel D).

9.1.12 Additional Roadways. The right-of-way dedications and roadway improvements for section line streets and mid-section line streets are established by this Agreement (and the Master Infrastructure Plans upon approval by the City). The City expressly has the right to require additional right of way dedications and roadway improvements for other streets within each Parcel for the development of such Parcel or other Parcels within the Property in accordance with Arizona law and the City's ordinances, rules, regulations, standards, procedures and administrative policies, now existing or as may be amended or adopted in the future, and may so condition any rezoning, plat, lot split, variance, conditional use permit, or

issuance of any building permit. In addition, with respect to the right-of-way dedications and roadway improvements for section line and mid-section line streets as set forth in this Agreement and the Master Infrastructure Plans, the City reserves the right to require additional right-of-way from a Parcel as a condition to development of such Parcel to accommodate deceleration lanes and/or right-turn pockets that are warranted by a traffic impact analysis.

9.1.13 Timing. All right-of-way dedications as set forth in this Article IX shall be dedicated to the City (to the extent not already dedicated) within ninety (90) days from the Effective Date of this Agreement via a Final Plat, map of dedication or separate instrument to effectuate a right-of-way dedication as approved by the City (except for additional right-of-way to be dedicated pursuant to Section 9.1.15, which shall be dedicated prior to development of a Parcel). The physical roadway improvements for each Parcel shall be part of the subdivision improvements associated with a Parcel and shall be constructed as a condition to the City's approval of a subdivision plat or issuance of a building permit to develop vertical improvements on such Parcel. In the event of development without further platting of a Parcel, infrastructure improvements including roadway, sidewalks, water, wastewater, and street lighting shall be required as a condition of the issuance of a building permit.

9.1.14 Avenue D. City has informed Developer that, as of the date of this Agreement, the City's roadway width standard for the segment of Avenue D adjacent to Parcel I and Parcel J is 110 feet for the full street and, to meet this roadway width standard, the City would ordinarily require a 55-foot half-street dedication along Parcel I and Parcel J. Nonetheless, because the City does not anticipate Avenue D will extend north to Arizona State Route 195 in the future, and because the City's full-street roadway width standard for the segment of Avenue D north of County 24th Street is only 80 feet, the City hereby agrees (subject to this Section 9.1.13) to modify its full-street roadway width standard for Avenue D to 100 feet and further agrees to accept the existing 40-foot half-street dedication along Parcel I and Parcel J (without requiring an additional 15-foot half-street dedication), on the following conditions: (i) Developer, as the owner of the approximately 320 acres located on the east side of Avenue D at the southeast corner of County 24th Street and Avenue D and addressed as 10602 S. Camino Del Sol, Yuma, Arizona 85367 (the "**Section 13 North Half Property**"), agrees that a 60-foot half-street right-of-way dedication will be required by the City for the east half of Avenue D adjacent to the Section 13 North Half Property as a condition to the development of the Section 13 North Half Property (such dedication shall be made either as a condition of rezoning, as a condition for the issuance of any building permit, the granting of a variance or conditional use permit, or as part of the approval of a final plat for the Section 13 North Half Property); and (ii) the roadway improvements for Parcel I at the intersection of Avenue D and County 24th Street (including, but not limited to, paving and striping improvements) shall be improved in accordance with a design approved by the City to provide an appropriate transition to the narrower 80-foot full-street segment of Avenue D that is anticipated north of County 24th Street. The Parties recognize and agree that the City is agreeing to modify the full-street roadway width standard for Avenue D from 110 feet to 100 feet because City engineering staff believes the roadway improvements necessary to meet the City's half-street standards for an arterial street (which includes two (2) lanes, sidewalk, street lights and related improvements) may be accomplished inside the existing 40-foot half-street dedication along Parcel I and Parcel J. As such, in the event the 60-foot dedication for the Section 13 North Half Property has not yet been made and, further, if the City determines in its sole discretion that the standards

for an arterial half-street cannot be accommodated within the existing 40-foot half-street dedication along Parcel I and Parcel J, then Parcel I and Parcel J shall be required to dedicate the additional right-of-way to accommodate such half-street improvements. The owner or owners those portions of Section 13 need for the aforedescribed 60-foot dedication shall take such actions as may be needed or necessary so that a roadway, utility, or other public improvements may be constructed including securing proper approvals from the United States of America.

9.1.15 Deceleration Lanes; Right-Turn Pockets. Notwithstanding anything to the contrary in this Agreement, the City reserves the right to require additional right-of-way from a Parcel as a condition to the development of such Parcel to accommodate deceleration lanes and/or right-turn pockets that are warranted by a traffic impact analysis. Any additional right-of-way dedications required pursuant to this Section 9.1.15 shall be made prior to the development of such Parcel and as a condition to the development of such Parcel.

ARTICLE X
REIMBURSEMENT FOR INFRASTRUCTURE IMPROVEMENTS

10.1 Reimbursement. The Parties recognize and agree that the Trunk Wastewater Improvements and Trunk Water Improvements will be upsized to serve other Parcels within the Property and, therefore, will provide the development opportunity to the other Parcels within the Property. As such, Developer intends to apply to the City for a payback agreement with the City for the Trunk Wastewater Improvements and Trunk Water Improvements in accordance with City ordinances, which, if approved by the City, would result in the City collecting monies from Parcel Owners (and potentially other property owners outside the Property) seeking to connect to the Trunk Wastewater Improvements and Trunk Water Improvements and remitting an amount to the Parcel Owner(s) who installed such improvements in accordance with the terms of the payback agreement (the "**Payback Agreement**"). The approval of the Payback Agreement is at the discretion of the City. As such, Developer, Somerton School District and High School District also desire to establish private covenants for the reimbursement of the Trunk Wastewater Improvements and Trunk Water Improvements in the event a Payback Agreement is not entered into with the City (either because a Payback Agreement is not applied for or because the City does not approve a Payback Agreement). In the event a Payback Agreement with the City is not approved by the City (regardless whether a Payback Agreement has been applied for) at the time a Parcel Owner connects to the Trunk Wastewater Improvements or Trunk Water Improvements, the private reimbursement obligations in Section 10.1.1 shall apply.

10.1.1 Each Parcel Owner that taps into the Trunk Wastewater Improvements or Trunk Water Improvements, shall be required to provide reimbursement to the Parcel Owner(s) that installed such improvements by paying a connection fee ("**Connection Fee**") to the Parcel Owner(s) that installed such improvements. Each Parcel Owner that connects to the following trunk infrastructure improvements shall be required to provide a Connection Fee to the Parcel Owner(s) who installed such improvement in an amount equal to its pro rata share (calculated based on gross acreage of the Parcels) of the total costs of constructing the following trunk infrastructure improvements: Parcel 1 Sewer Main Extension, Parcel 1 Water Main Extension, Parcel 2 Sewer Main Extension, Parcel 2 Water Main Extension, Parcel E Sewer Main Extension, Parcel E Water Main Extension. For purposes of determining the amount of the Connection Fee,

the "total costs" of constructing the trunk infrastructure improvements shall include the construction contract price, the inspection and permit fees paid to the City, the engineering fees required for the preparation of plans and specifications, and the costs of acquiring the necessary property rights and/or easements to construct and install the trunk infrastructure improvements. A Parcel Owner who installed any portion of the trunk infrastructure improvements shall provide written request for reimbursement (a "**Reimbursement Request**") to a Parcel Owner who has connected to the trunk infrastructure improvements that the requesting Parcel Owner installed. The Reimbursement Request shall include proof of payment and copies of all invoices (including from contractors and/or subcontractors who performed the work) demonstrating the total costs; and a Parcel Owner shall provide payment to the requesting Parcel Owner within 60 days of receiving the Reimbursement Request. The reimbursement obligations set forth in this Section 10.1.1 shall be private obligations enforceable by each Parcel Owner. The Parties recognize and agree that the City shall have no responsibility whatsoever for enforcing any such obligations. The obligation of a Parcel Owner to reimburse another Parcel Owner that installed the trunk water infrastructure improvements per this Section 10.1.1 shall be a private restriction that runs with, burdens and benefits the Parcels and shall inure to the benefit of and be binding upon the successors and assigns of the Parcel Owners.

10.1.2 For any additional offsite improvements required by the City (other than the Offsite Infrastructure Improvements established by this Agreement and the Master Infrastructure Plans upon approval by the City), a Parcel Owner responsible for constructing such additional offsite improvements shall be entitled to apply for a payback agreement with the City in accordance with City ordinances.

ARTICLE XI
SOMERTON SCHOOL DISTRICT EXCHANGE

11.1 **Somerton School Parcel**. The Somerton School District is a Party to this Agreement as the current owner of the Somerton School District Parcel (which is a portion of Parcel B) so that all of Parcel B is made subject to this Agreement and all subsequent record owners of Parcel B will have the rights and obligations as a Parcel Owner with respect to Parcel B.

11.2 **Exchange**. Following the Effective Date of this Agreement, Developer intends to enter into an agreement with the Somerton School District (the "**School Exchange Agreement**") for the exchange of the Somerton School District Parcel and Parcel C (Developer will convey Parcel C to the Somerton School District and the Somerton School District will convey the Somerton School District Parcel to Developer). For avoidance of doubt, upon the exchange of Parcel C and the Somerton School District Parcel, the Somerton School District shall be a Parcel Owner as to Parcel C and shall have all rights and obligations of a Parcel Owner under this Development Agreement with respect to Parcel C.

ARTICLE XII
DEFAULT; TERMINATION

12.1 **Remedies; Effect of Termination**. It shall be a default under this Agreement (a "**Default**") if any Party fails to perform any of its obligations under this Agreement, and such failure continues for a period of thirty (30) days after written notice from the non-defaulting Party specifying in reasonable detail the nature of such failure.

12.2 **Parcel Owner's Remedies.** If City is in Default under this Agreement (beyond any applicable cure period) and the Parties are unable to resolve City's Default, Developer and other Parcel Owners shall not have the right to terminate this Agreement, but shall have the right to pursue all other legal and equitable remedies which such Developer or Parcel Owner may have at law or in equity, including, without limitation, the right to seek specific performance requiring the City to fully and timely perform its obligations under this Agreement, the right to seek and obtain damages, and the right to self-help; provided the City shall in no event be liable for punitive, incidental or consequential damages.

12.3 **City's Remedies.** If a Parcel Owner is in Default under this Agreement (beyond any applicable notice and cure period) and the Parties are unable to resolve the Parcel Owner's Default, City shall have the right to pursue any rights or remedies at law or in equity including the rights and remedies provided hereunder; provided that a Parcel Owner shall in no event be liable for punitive, incidental or consequential damages. If Developer is in Default under this Agreement (beyond any applicable notice and cure period) and the Parties are unable to resolve the Developer's Default, then in addition to the remedies in the preceding sentence, City shall have the additional right to terminate this Agreement upon written notice to the Parties.

12.4 **Effect of Event of Termination.** Upon the termination of this Agreement, this Agreement shall become null and void and no Party shall have any further rights or obligations hereunder except those obligations which expressly survive termination.

ARTICLE XIII
REPRESENTATIONS

13.1 **City Representations.** City represents, warrants and covenants to the Parties as follows:

(a) The individuals executing this Agreement on behalf of City are authorized and empowered to bind City.

(b) City has the full right, power and authorization to enter into and perform its obligations under this Agreement and each of City's obligations and undertakings hereunder, and City's execution, delivery and performance of this Agreement have been duly authorized in compliance with the requirements of Arizona law.

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

(d) Each undertaking of City contained in this Agreement constitutes a valid, binding and enforceable obligation of City, enforceable according to its terms, whether considered at law or in equity..

13.2 Developer Representations. Developer represents, warrants and covenants to the Parties as follows:

(a) Developer is duly formed and validly existing under Arizona law, is registered to do business in Arizona, and the individual(s) executing this Agreement on behalf of Developer is authorized and empowered to bind Developer.

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

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

13.3 Somerton School District's Representations. Somerton School District represents, warrants and covenants to the Parties as follows:

(a) The individual(s) executive this Agreement on behalf of the Somerton School District is authorized and empowered to bind the Somerton School District.

(b) Somerton School District has the full right, power and authorization to enter into and perform this Agreement and its respective obligations and undertakings under this Agreement, and the execution, delivery and performance of this Agreement by Somerton School District has been duly authorized and agreed to in compliance with its organizational documents and Arizona law.

(c) All consents and approvals necessary to the execution, delivery and performance of this Agreement by Somerton School District have been obtained, and no further action needs to be taken by Somerton School District in connection with such execution, delivery and performance.

13.4 High School District's Representations. High School District represents, warrants and covenants to the Parties as follows:

(a) The individual(s) executive this Agreement on behalf of the High School District is authorized and empowered to bind the High School District.

(b) High School District has the full right, power and authorization to enter into and perform this Agreement and its respective obligations and undertakings under this Agreement,

and the execution, delivery and performance of this Agreement by High School District has been duly authorized and agreed to in compliance with its organizational documents and Arizona law.

(c) All consents and approvals necessary to the execution, delivery and performance of this Agreement by High School District have been obtained, and no further action needs to be taken by High School District in connection with such execution, delivery and performance.

ARTICLE XIV
GENERAL PROVISIONS; NOTICES

14.1 No Personal Liability. No member, official or employee of City shall be personally liable to the Parties, or any successor or assignee, (a) in the event of any Default or breach by City, (b) for any amount which may become due to the Parties or its successor or assign, or (c) pursuant to any obligation of City under the terms of this Agreement. No member, shareholder, director, partner, manager, officer or employee of the Parties shall be personally liable to City, or any successor or assignee, (a) in the event of any Default or breach by the Parties, (b) for any amount which may become due to City or its successor or assign, or (c) pursuant to any obligation of the Parties under the terms of this Agreement.

14.2 Liability and Indemnification. The Parties shall indemnify, protect, defend and hold harmless City, its Council members, officers, employees, and agents from any and all third party claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind (collectively, "Claims"), and all costs and cleanup actions of any kind, all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorney's fees and costs of defense (collectively, "Costs") to the extent arising, directly or indirectly, in whole or in part, out of the execution and performance of this Agreement by a Party, except to the extent resulting from the negligence or willful misconduct of City or any of it employees, contractors, or agents.

14.3 Notices. All Notices which shall or may be given pursuant to this Agreement shall be in writing and transmitted by either (i) registered or certified U.S. mail, return receipt requested, or (ii) a nationally recognized express mail courier service, addressed as follows:

To Developer:
Von Verde Partners
10602 S. Camino Del Sol
Yuma, AZ 85367
Attn: Elizabeth Carpenter
(928) 503-0110

With copies to:
David J. Loo
570 Lexington Avenue
New York, NY 10022
(917) 951-6908

Snell & Wilmer
One E. Washington Street

	Phoenix, Arizona 85004 Attn: Michael Maerowitz (602) 382-6494
To the City:	City Manager City Hall 1090 East Union Street (Physical) P.O. Box 1170 San Luis, Arizona 85349
To Somerton School District:	Somerton School District No. 11 P.O. Box 3200 Somerton, AZ 85350 Attn: Omar Duron, Superintendent (928) 341-6000
To High School District:	Yuma Union High School 3150 South Avenue A – Suite A Yuma, AZ 85364-7998 Attn: Tim Brienza, Superintendent (928) 502-4605

A Party may designate any other address for this purpose by written notice to the other Parties in the manner described herein. The facsimile numbers and email addresses set forth in this **Section 14.3** are for convenience in providing a duplicate notice and shall not be considered effective for purposes of providing the notices required or permitted pursuant to this Agreement.

14.4 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. This Agreement has been made and entered into in Yuma County, Arizona. This Agreement is subject to the cancellation provisions of A.R.S. § 38-511.

14.5 Successors and Assigns. This Agreement shall run with the land and all of the covenants and conditions set forth herein shall inure to the benefit of and be binding upon the successors and assigns of Developer and any Parcel Owner. the Parties hereto, including, without limitation, future City Councils. For avoidance of doubt, this Agreement and all the obligations herein bind the City (including, without limitation, future City Councils) and no future City Councils of the City may revoke or repeal the ordinance approving this Agreement in whole or in part without the mutual consent of the Parties. The Parties recognize and agree that Developer, Somerton School District and High School District may convey portions of the Property to other owners who may develop a portion or all of one or more Parcels. Nothing in this Agreement shall

prevent a Party from conveying any portion of the Property, and the City's prior consent shall not be required to convey, all or a portion of the Property to one or more subsequent property owners. Each subsequent owner of any portion of the Property shall be a Parcel Owner under this Agreement and shall have all rights and obligations of a Parcel Owner as to the Parcel (or portion) acquired by such Parcel Owner. Developer's rights and obligations under this Agreement may be assigned by Developer (in whole or in part), subject to City's prior written consent, to one or more entities owned or controlled by or under common control with Developer. Except as provided in this **Section 14.5**, the rights and obligations of Developer under this Agreement (in whole or in part) may not otherwise be assigned, conveyed or otherwise transferred to any person or entity without City's prior written consent, which consent may not be unreasonably withheld. An assignment of any other Parcel Owner's (other than Developer's) rights and obligations under this Agreement shall be prohibited, unless mutually agreed in writing by the Parties.

14.6 Waiver. No waiver by a Party of any breach of any of the terms, covenants or conditions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same for any other term, covenant or condition herein contained.

14.7 Attorneys' Fees. In the event of any actual litigation between the Parties in connection with this Agreement, the Party prevailing in such action shall be entitled to recover from the other Party all of its costs and fees, including reasonable attorneys' fees, which shall be determined by the court and not by the jury.

14.8 Severability. In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in full force and effect to the fullest extent permitted by law, provided that the overall intent of the parties is not materially vitiated by such severability.

14.9 Recitals and Exhibits. The Recitals set forth in the preamble of this Agreement and all exhibits attached hereto are incorporated into this Agreement by this reference as though fully set forth herein.

14.10 Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof and all prior and contemporaneous agreements, representations, negotiations and understandings of the parties hereto, oral or written, are hereby superseded and merged herein.

14.11 Recordation of Agreement. This Agreement shall be recorded in the Official Records of Yuma County, Arizona, within ten (10) days after its execution by the Parties.

14.12 Consents and Approvals. The Parties shall at all times act reasonably with respects to any and all matters which require such Party to review, consent or approve any act or matter hereunder, and shall promptly execute any documents necessary to evidence such review, consent or approval.

14.13 Estoppel Certificate; Financing. Each Party shall at any time and from time to time upon not less than ten (10) days' prior written notice from another Party execute, acknowledge and deliver to the requesting Party or its lender, or any other third party, a statement in writing (a) certifying that this Agreement is unmodified and in full force and effect (or if modified, stating the nature of such modification and certifying that this Agreement, as so modified, is in full force and effect); and (b) acknowledging that there are not, to the Party's knowledge, any uncured Defaults on the part of the requesting Party hereunder, or specifying such Defaults if they are claimed. Any such statement may be relied upon by any existing or prospective lender, title insurer, assignee, or other third party. Each Party, further, agrees to provide such other reasonable assurances as may be necessary or required by a lender to facilitate the financing of any aspect of the Project, including the individual financing of only a portion of the Project or Property.

14.14 Manager's Power to Consent. City hereby acknowledges and agrees that any unnecessary delay hereunder would adversely affect the Parties and/or the development of the Property, and hereby authorizes and empowers the City Manager to consent to any and all requests of a Party requiring the consent of the City hereunder without further action of the City Council, except for any actions requiring City Council approval as a matter of law, including, without limitation, any amendments or modification of this Agreement other than changes expressly contemplated in this Agreement.

[Remainder of page intentionally left blank. Signature pages follow.]

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and behalf by its Mayor and its seal to be hereunto duly affixed and attested to by the City Clerk, and Developer and School District have executed the same on or as of the day and year first above written.

"CITY"

CITY OF SAN LUIS,
an Arizona municipal corporation

By_____
Nieves Riedel, Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

STATE OF ARIZONA)
) ss
COUNTY OF YUMA)

On this ____ day of _____, 20__, before me, the undersigned officer, personally appeared Nieves Ridel, who acknowledged herself to be Mayor of the CITY OF SAN LUIS, an Arizona municipal corporation, whom I know personally and she, in such capacity, being authorized to do so, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

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

NOTA RY SEAL:

_____
Notary Public

My commission expires:

_____

"DEVELOPER"

VON VERDE PARTNERS L.L.C.,
an Arizona limited liability company

By:_____
Name: _____
Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 20__, before me, the undersigned officer, personally appeared _____ who acknowledged him/herself to be the _____ of VON VERDE PARTNERS L.L.C., an Arizona limited liability company, whom I know personally and he/she, in such capacity, being authorized to do so, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

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

NOTARY SEAL:

_____
Notary Public

My commission expires:

_____

"SOMERTON SCHOOL DISTRICT"

SOMERTON SCHOOL DISTRICT NO. 11,
a political subdivision of the State of Arizona

By:_____
Name: _____
Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 20__, before me, the undersigned officer, personally appeared _____ who acknowledged him/herself to be the _____ of SOMERTON SCHOOL DISTIRCT NO. 11., a political subdivision of the State of Arizona, whom I know personally and he/she, in such capacity, being authorized to do so, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

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

NOTARY SEAL:

_____
Notary Public

My commission expires:

_____

"HIGH SCHOOL DISTRICT"

YUMA UNION HIGH SCHOOL DISTRICT NO. 70,
a political subdivision of the State of Arizona,

By:_____
Name: _____
Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 20__, before me, the undersigned officer, personally appeared _____ who acknowledged him/herself to be the _____ of YUMA UNION HIGH SCHOOL DISTRICT NO. 70, a political subdivision of the State of Arizona, whom I know personally and he/she, in such capacity, being authorized to do so, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

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

NOTARY SEAL:

_____
Notary Public

My commission expires:

_____

LIST OF EXHIBITS

Exhibit A	-	Legal Description of Property
Exhibit B	-	Conceptual Parcel Map
Exhibit C	-	Somerton School District Parcel
Exhibit D	-	High School District Parcel
Exhibit E	-	Conceptual Sewer Master Plan
Exhibit F	-	Conceptual Water Master Plan
Exhibit G	-	Conceptual Roadway Master Plan

Exhibit "A"
Legal Description of Property

The North Half (N½) of Section 14, Township 11 South, Range 24 West, Gila and Salt River Base and Meridian, Yuma County, Arizona.

Exhibit "B"
Conceptual Parcel Map

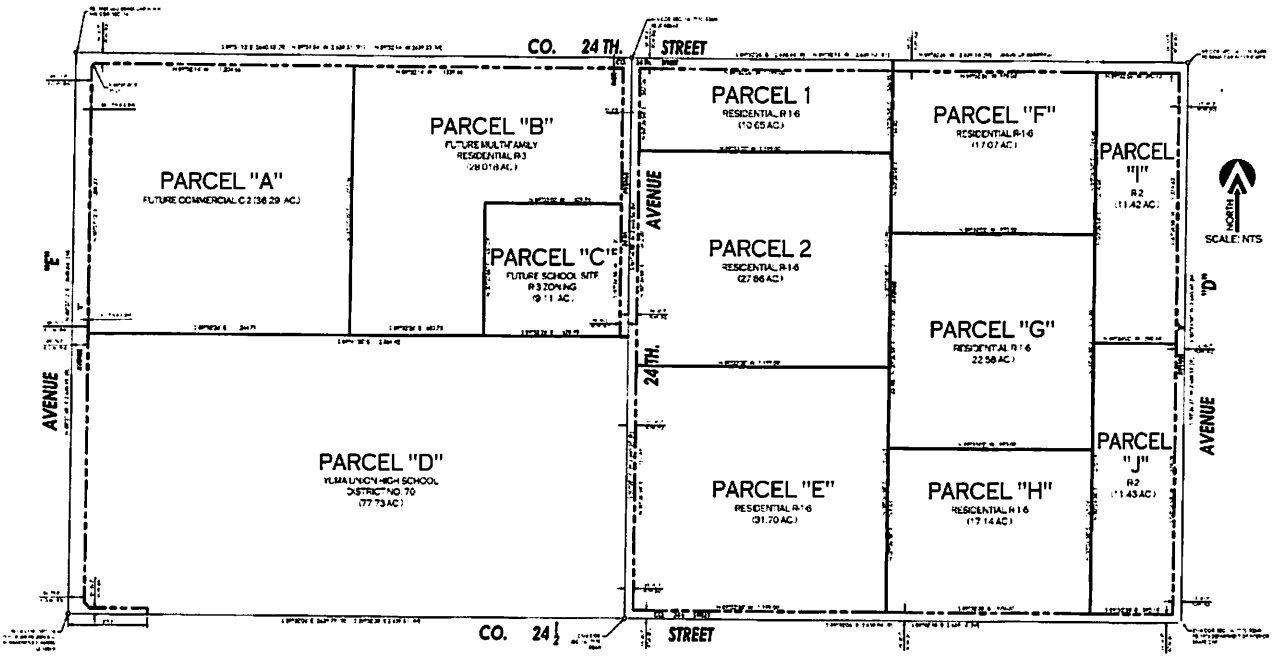


Exhibit "C"

Somerton School District Parcel

The Northeast (NE¼) of The Northeast (NE¼) of The Northwest (NW¼) of Section 14, Township 11 South, Range 24 West, Gila and Salt River Base and Meridian, Yuma County, Arizona. Subject to all Existing Right of Ways of Record.

Exhibit "D"
High School District Parcel

The South Half (S½) of The Northwest (NW¼) of Section 14, Township 11 South, Range 24 West, Gila and Salt River Base and Meridian, Yuma County, Arizona. Subject to all Existing Right of Ways of Record.

Exhibit "E"
Conceptual Sewer Master Plan

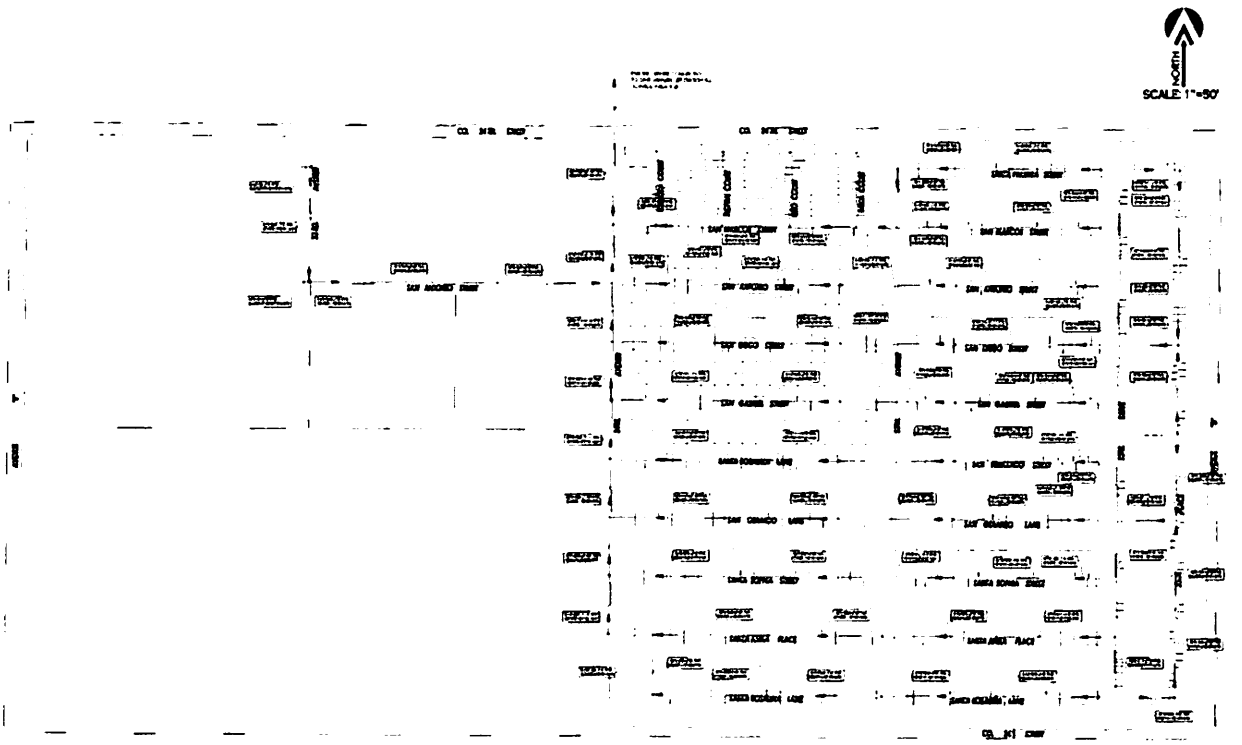


Exhibit "F"
Conceptual Water Master Plan

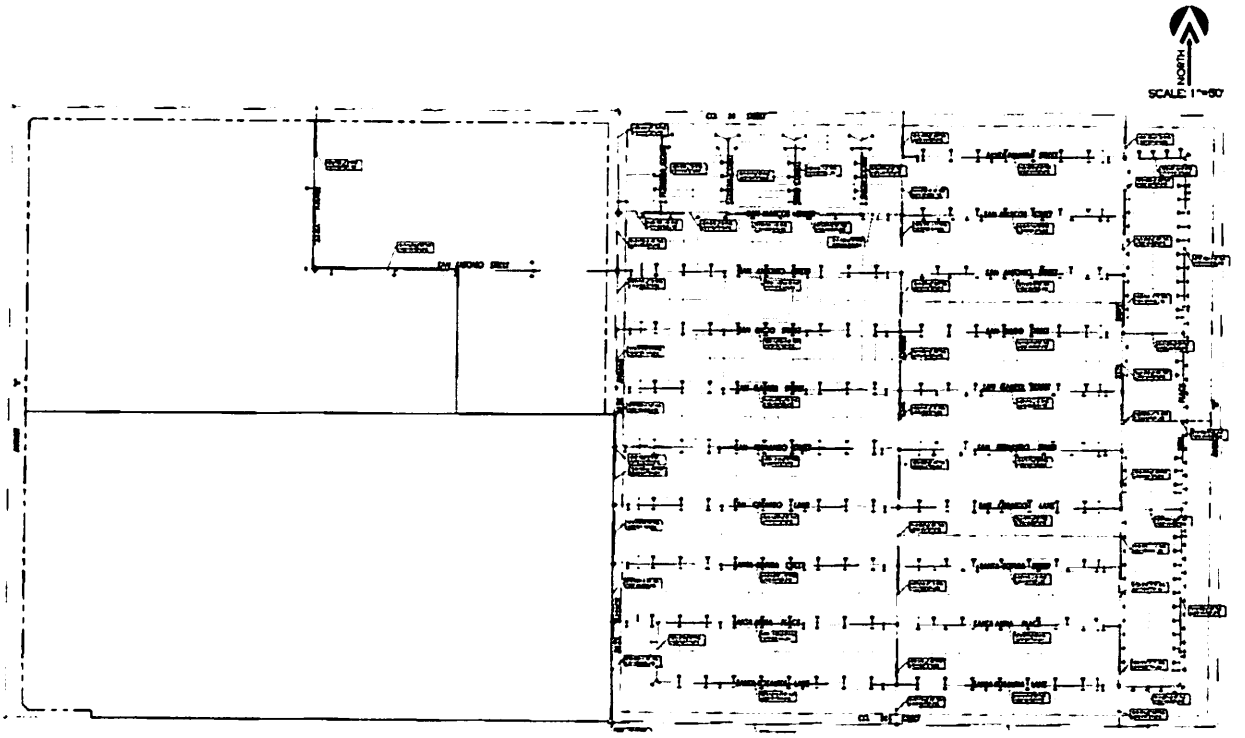


Exhibit "G"

Conceptual Roadway Master Plan

