

RESOLUTION NO. 2020-2067

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, APPROVING DEVELOPMENT AGREEMENT FOR EXPANSION OF RAINBOW VALLEY WATER RECLAMATION FACILITY; PROVIDING AUTHORIZATION AND DIRECTION TO TAKE ACTIONS AND EXECUTE DOCUMENTS NECESSARY TO CARRY OUT THE INTENT OF THE RESOLUTION AND DEVELOPMENT AGREEMENT AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City and AMCOR Investments Corporation (“AMCOR”), the original developer of Estrella, entered into that certain Agreement dated August 11, 1986, (the “Master Agreement”) in connection with the development of a large master planned community formerly known as Estrella Mountain Ranch, now known as Estrella located generally south of Baseline Road, east and west of Estrella Parkway; and

WHEREAS, the Master Agreement, which is binding on all successors and assigns to the Estrella development, states in part: “Amcor shall plan, design and construct such water and sewer treatment facilities as Amcor reasonably deems necessary to service the Estrella Property.”; and

WHEREAS, the City and AMCOR and/or its successors-in-interest, entered into a series of agreements and amendments to the Master Agreement related to the provision of water and sewer service to the Estrella Property, including an agreement dated December 3, 2003 between the City and Sun MP, LLC an Arizona limited liability company, titled the Goodyear-Sun MP Rainbow Valley Water Reclamation Facility Agreement (the “RVWRF Agreement”); and

WHEREAS, NNP III – Estrella Mountain Ranch LLC, a Delaware limited liability company, NNP III – EMR 3, LLC, a Delaware limited liability company, and NNP III – EMR 4, LLC, a Delaware limited liability company (collectively “NNP”), and an affiliate, Special AZ Properties I, LLC, an Arizona limited liability company, acquired a portion of the approximately 20,000 acres of land within the master planned community known as “Estrella” and is in the process of developing the Property; and

WHEREAS, upon acquiring the Property, NNP became a party to the RVWRF Agreement pursuant to an assignment with the consent of the City; and

WHEREAS, the RVWRF Agreement provides for the construction of a wastewater treatment facility with a total capacity of up to 16 million gallons a day (mgd) to be known as the Rainbow Valley Water Reclamation Facility (the “Facility”) and that NNP, as the successor in interest to Sun MP, will fund the design and construction of the Facility subject to reimbursement from applicable development impact fees; and

WHEREAS, under applicable state regulations, certain types of development are prohibited from being located within 350 feet of a sewage treatment facility in which full noise, odor and aesthetic controls are installed; and, if full noise, odor and aesthetic controls are not installed on a sewage treatment facility, those same types of development are prohibited from being located within 1,000 feet of such sewage treatment facility; and

WHEREAS, the RVWRF Agreement does not require the installation of full noise, odor and aesthetic controls, and the Phase One Improvements do not include such controls; and.

WHEREAS, the first phase of the Facility was constructed with the capacity of .75 mgd without noise and odor controls (“Phase One Improvements”); and.

WHEREAS, because the RVWRF Agreement does not require the installation of full noise, odor and aesthetic controls, and because the Phase One Improvements do not include such controls, NNP III-Estrella Mountain Ranch, LLC, which then owned the land immediately adjacent to the site where the Facility is to be constructed, entered into that certain Land Use Agreement and Perpetual Easement Restricting Land Uses adjacent to the Rainbow Valley Water Reclamation Facility and Providing for Noise and Odor Setbacks recorded in the Official Records of Maricopa County Arizona at document 2006-0299531 (the “Noise and Odor Easement”); and.

WHEREAS, the Noise and Odor Easement prohibits certain types of development within 1,000 feet of the site where the Facility will be located at full build-out (the “Easement Area”), but allows for the modification of the boundaries of the Easement Area after full noise, odor and aesthetic controls are installed.

WHEREAS, NNP wants to develop a residential subdivision within a portion of the current Easement Area (the “Impacted Area”), and would like to modify the boundaries of the Easement Area to exclude the Impacted Area in a manner that preserves (i) a minimum of 1,000 feet within the Easement Area measured from the foot print of Phase One Improvements, and (ii) a minimum of 350 feet within the Easement Area measured from the area in which the remainder of the Facility at full build-out may be constructed, as contemplated under the RVWRF Agreement; and

WHEREAS, even though the Phase One Improvements were not completed with full noise, odor and aesthetic controls, the City is willing modify the boundaries of a portion of the Easement Area as described above, subject to NNP’s commitment to fund full noise, odor and aesthetic controls for all expansions of the Facility; and

WHEREAS, the proposed development agreement requires that full noise, odor and aesthetic controls be installed for all expansions of the Facility; and

WHEREAS, because the expansion of the Facility will include full noise, odor and aesthetic controls, the boundaries of the Easement Area can be reduced to allow residential development within the Impacted Area; and

WHEREAS, the proposed Development Agreement is in the best interests of the City because it provides the City with adequate assurances of the ability comply with regulatory requirements when the Facility is expanded while allowing for additional residential development within Estrella; and

WHEREAS, the proposed Development Agreement is intended to be a development agreement pursuant to A.R.S. § 9-500.05;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. The Mayor and Council of the City of Goodyear hereby approve Development Agreement for Expansion of Rainbow Valley Water Reclamation Facility by and between NNP III – Estrella Mountain Ranch, LLC, a Delaware limited liability company, NNP III – EMR 3, LLC, a Delaware limited liability company, NNP III – EMR4, LLC, a Delaware limited liability company and the City of Goodyear, an Arizona municipal corporation attached hereto as Exhibit A (the "Development Agreement"), which is intended to be a development agreement pursuant to A.R.S. § 9-500.05.

SECTION 2. The City Manager is hereby authorized and directed to execute the Development Agreement attached hereto as Exhibit A and the City Manager or his/her designee is hereby authorized and directed to take any and all actions and to execute any and all documents necessary to carry out the intent of this Resolution and the terms of this Development Agreement, including the execution and recordation of a Partial Termination of Odor Easement in the form attached as Exhibit 2 to the Development Agreement.

SECTION 3. This Resolution shall become effective as provided by law.

PASSED AND ADOPTED by the Mayor and Council of the city of Goodyear, Maricopa County, Arizona, this _____ day of _____, 20____.

Georgia Lord, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, the undersigned Darcie McCracken, being the duly appointed, qualified City Clerk of the city of Goodyear, Maricopa County, Arizona, certify that the foregoing Resolution No. 2020-2067 is a true, correct and accurate copy of Resolution No. 2020-2067, passed and adopted at a regular meeting of the Council of the city of Goodyear, Maricopa County, Arizona, held on the _____ day of _____, 20____, at which a quorum was present and, by a _____ vote, _____ voted in favor of said resolution.

Given under my hand and sealed this _____ day of _____, 20____.

seal

City Clerk

EXHIBIT “A”

Development Agreement for Expansion of Rainbow Valley Water Reclamation Facility

(On the following pages)

When recorded, return to:

City Clerk
City of Goodyear
190 North Litchfield Road
Goodyear, Arizona 85338

**DEVELOPMENT AGREEMENT FOR
EXPANSION OF RAINBOW VALLEY WATER RECLAMATION FACILITY**

THIS DEVELOPMENT AGREEMENT FOR EXPANSION OF RAINBOW VALLEY WATER RECLAMATION FACILITY (this “**Agreement**”) is entered into this ____ day of _____, 2020, by and between the CITY OF GOODYEAR, an Arizona municipal corporation (the “**City**”), and NNP III – ESTRELLA MOUNTAIN RANCH, LLC, a Delaware limited liability company, NNP III – EMR 3, LLC, a Delaware limited liability company, and NNP III – EMR 4, LLC, a Delaware limited liability company (collectively “**NNP**”).

RECITALS

A. The City and AMCOR Investments Corporation (“**AMCOR**”), the original developer of Estrella, entered into that certain Agreement dated August 11, 1986, (the “**Master Agreement**”) in connection with the development of a large master planned community formerly known as Estrella Mountain Ranch, now known as Estrella located generally south of Baseline Road, east and west of Estrella Parkway.

B. The Master Agreement, which is binding on all successors and assigns to the Estrella development, states in part: “Amcor shall plan, design and construct such water and sewer treatment facilities as Amcor reasonably deems necessary to service the Estrella Property.”

C. The City and AMCOR and/or its successors-in-interest, entered into a series of agreements and amendments to the Master Agreement related to the provision of water and sewer service to the Estrella Property, including an agreement dated December 3, 2003 between the City and Sun MP, LLC an Arizona limited liability company (“**Sun MP**”) titled the Goodyear-Sun MP Rainbow Valley Water Reclamation Facility Agreement (the “**RVWRF Agreement**”).

D. NNP and an affiliate, Special AZ Properties I, LLC, an Arizona limited liability company, acquired a portion of approximately 20,000 acres of land situated in Goodyear, Arizona located generally south of Baseline Road, east and west of Estrella Parkway within a mixed-use, master-planned community commonly known as “Estrella” (formerly known as Estrella Mountain Ranch) which portion is more particularly described in the definition of “Property” below. NNP is in the process of developing the Property.

E. Upon acquiring the Property, NNP became a party to the RVWRF Agreement pursuant to an assignment with the consent of the City.

F. The RVWRF Agreement provides for the construction of a wastewater treatment facility with a total capacity of up to 16 MGD to be known as the Rainbow Valley Water Reclamation Facility (the "**Facility**") and that NNP, as the successor in interest to Sun MP, will fund the design and construction of the Facility subject to reimbursement from applicable development impact fees.

G. Pursuant to the terms of the RVWRF Agreement, the first phase of the Facility was constructed with the capacity of .75 MGD ("**Phase One Improvements**").

H. Under applicable state regulations, certain types of development are prohibited from being located within 350 feet of a sewage treatment facility in which full noise, odor and aesthetic controls are installed; and, if full noise, odor and aesthetic controls are not installed on a sewage treatment facility, those same types of development are prohibited from being located within 1,000 feet of such sewage treatment facility.

I. The RVWRF Agreement does not require the installation of full noise, odor and aesthetic controls, and the Phase One Improvements do not include such controls.

J. Because the RVWRF Agreement does not require the installation of full noise, odor and aesthetic controls, and because the Phase One Improvements do not include such controls, NNP III-Estrella Mountain Ranch, LLC, which then owned the land immediately adjacent to the site where the Facility is to be constructed, entered into that certain Land Use Agreement and Perpetual Easement Restricting Land Uses adjacent to the Rainbow Valley Water Reclamation Facility and Providing for Noise and Odor Setbacks recorded in the Official Records of Maricopa County Arizona at document 2006-0299531 (the "**Noise and Odor Easement**").

K. The Noise and Odor Easement prohibits certain types of development within 1,000 feet of the site where the Facility will be located at full build-out (the "**Easement Area**"), but allows for the modification of the boundaries of the Easement Area after full noise, odor and aesthetic controls are installed.

L. NNP wants to develop a residential subdivision within a portion of the current Easement Area (the "**Impacted Area**"), and would like to modify the boundaries of the Easement Area to exclude the Impacted Area in a manner that preserves (i) a minimum of 1,000 feet within the Easement Area measured from the foot print of Phase One Improvements, and (ii) a minimum of 350 feet within the Easement Area measured from the area in which the remainder of the Facility at full build-out may be constructed, as contemplated under the RVWRF Agreement.

M. Even though the Phase One Improvements were not completed with full noise, odor and aesthetic controls, the City is willing modify the boundaries of a portion of the Easement Area as described above, subject to NNP's commitment to fund full noise, odor and aesthetic controls for all expansions of the Facility.

N. This Agreement is not intended to modify the terms and conditions of the any earlier agreements governing the development of the Property, including but not limited to the RVWRF Agreement; however, if there is a conflict between the terms and conditions of this

Agreement and the terms and conditions of any earlier agreements governing the development of the Property, this Agreement shall control.

O. This Agreement touches and concerns the Property and runs with the land. The Parties intend for this Agreement to be a Development Agreement within the meaning of A.R.S. § 9-500.05

P. The Mayor and Council of the City have authorized the execution of this Agreement by resolution, and all required public hearings, if any, have been held.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual obligations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, NNP and the City agree as follows:

1. **INCORPORATION OF RECITALS.** The Recitals stated above are true and correct and are incorporated herein by this reference.

2. **DEFINITIONS.** Capitalized terms not defined in the foregoing Recitals or elsewhere in this Agreement are defined as follows:

2.1 "City Engineer" means the City of Goodyear Director of Engineering or his or her designee.

2.2 "Estrella Property" means all of the property subject to the Master Agreement.

2.3 "Full Noise, Odor and Aesthetic Controls" means the controls required by applicable state or local regulations for allowing a 350 foot set back from a sewer treatment facility capable of treating 1,000,000 gallons per day, which regulations are currently are set out in A.A.C. R-18-9-B201 and which currently means that: a. noise due to the sewage treatment facility does not exceed 50 decibels at the facility property boundary on the A network of a sound level meter or a level established in a local noise ordinance; b. all odor-producing components of the sewage treatment facility are fully enclosed; c. odor scrubbers or other odor-control devices are installed on all vents; and d. fencing aesthetically matched to the area surrounding the facility.

2.4 "MCESD" means the Maricopa County Environmental Services Department.

2.5 "Owner" means NNP and its Successors and Assigns.

2.6 "Parties" means the City and Owner.

2.7 "Party" means either the City or Owner, as the context requires.

2.8 “Phase One Upgrade Costs” means the costs of the design and construction of the Full Noise, Odor and Aesthetic Controls for the Phase One Improvements.

2.9 “Property” means all the lands at Estrella acquired by any of NNP III – Estrella Mountain Ranch, LLC, a Delaware limited liability company, NNP III – EMR 3, LLC, a Delaware limited liability company, NNP III – EMR 4, LLC, a Delaware limited liability company, or any affiliate thereof that will be served by the Facility. A legal description of the properties comprising the Property is attached hereto as Exhibit 1.

2.10 “RVWRF Expansion Facilities” means the infrastructure improvements and land needed to expand the Facility to its ultimate build-out capacity of 16 MGD

2.11 “RVWRF Expansion Facilities Costs” means the costs of the design and construction of the RVWRF Expansion Facilities, including the cost of the land.

2.12 “Successors and Assigns” means any person or entity that succeeds to or is assigned any interest in all or part of the Property except as provided in Section 12 below.

3. **EFFECTIVE DATE.** The execution of this Agreement by the Parties and the approval of this Agreement by Resolution of the Goodyear City Council are conditions precedent to this Agreement becoming effective. This Agreement shall take effect upon the date (the “**Effective Date**”) that is the later of (i) the full execution of this Agreement by the Parties, and (ii) the date the Resolution of the Goodyear City Council approving this Agreement becomes effective.

4. **RVWRF EXPANSION FACILITIES.**

4.1 The Parties agree that Owner is responsible for funding all RVWRF Expansion Facilities Costs (except as to any RVWRF Expansion Facilities that serve property outside the Estrella Property), subject to reimbursements as set forth in Section 6 below.

4.2 The Parties acknowledge that the City shall be responsible for the design and construction of the RVWRF Expansion Facilities subject to the following:

4.2.1. Owner shall provide the funding for the RVWRF Expansion Facilities Costs, including cost of the land for the RVWRF Expansion Facilities, (except as to any RVWRF Expansion Facilities that serve property outside the Estrella Property) before the City undertakes the design and construction of the RVWRF Expansion Facilities.

4.2.2. The RVWRF Expansion Facilities shall be designed and constructed with Full Noise, Odor and Aesthetic Controls.

4.2.3. The City shall design and construct the RVWRF Expansion Facilities, using best and current industry standards and technology such that the operation and maintenance of the RVWRF Expansion Facilities are reasonable as compared with other newly constructed water reclamation facilities within Maricopa County.

4.2.4. The design and construction of the RVWRF Expansion Facilities shall comply with all applicable federal, state, and local laws, regulations and requirements, including but not limited to the requirements of the MCESD.

4.2.5. The City shall comply with statutory requirements applicable to the procurement of design and construction services for public infrastructure improvements.

5. **PARTIAL TERMINATION OF ODOR EASEMENT.** Within fifteen days of the Effective Date of this Agreement, the City shall cause a Partial Termination of Odor Easement in the form attached hereto as Exhibit 2 to be executed on behalf of the City and recorded.

6. **REIMBURSEMENTS.** The portion of the wastewater impact fees attributable to the RVWRF Expansion Facilities shall be the sole source of reimbursement for the RVWRF Expansion Facilities Costs, and the portion of the wastewater impact fees attributable to the costs of installing Full Noise, Odor and Aesthetic Controls for the Phase One Improvements shall be the sole source of reimbursement for the Phase One Upgrade Costs. The terms for the reimbursement of the RVWRF Expansion Facilities Costs and the Phase One Upgrade Costs from wastewater impact fees shall be determined by separate agreement at the time any RVWRF Expansion Facilities or the Full Noise, Odor and Aesthetic Controls for the Phase One Improvements are to be constructed.

GENERAL TERMS

7. **INCORPORATION OF EXHIBITS.** All Exhibits attached hereto are incorporated herein by this reference as though fully set forth herein.

8. **RECORDATION.** Within ten (10) days after this Agreement has been approved by the City and executed by the Parties, the City shall cause this Agreement to be recorded in the official records of Maricopa County, Arizona.

9. **AMENDMENTS.** This Agreement shall only be modified, amended or restated by a writing executed by the Owner(s) and City. In order for an amendment of this Agreement to become effective, the Party seeking the amendment shall submit its proposed amendment in writing to the other Parties for review. To be effective, amendments shall be approved by the City Council, signed by the Parties and attached to this Agreement as an addendum. Amendments shall also be recorded in the Official Records of Maricopa County within ten (10) days after execution.

10. **COVENANTS RUNNING WITH THE LAND.** Except as otherwise provided in Section 12 the rights and duties under this Agreement shall be for the benefit of, and a burden upon, the Property, and they shall be covenants running with the land.

11. **SUCCESSORS AND ASSIGNS.** This Agreement shall run with and be appurtenant to the entire Property, and shall be binding upon and inure to the benefit of Owner, the City, and their respective Successor and Assigns. Owner's assignment of its rights and obligations under this Agreement shall be governed by the same terms as are set forth in Section 9.1, paragraph K of the Master Agreement.

12. **TERMINATION UPON SALE TO PUBLIC.** This Agreement is not intended to and will not create conditions or exceptions to title of covenants running with the Property as to Public Lots, which shall mean any lot upon which a home or other structure has been completed, constructed and is contained in a recorded subdivision plat or is the subject of final site plan approval. Notwithstanding anything in the Agreement to the contrary, this Agreement will terminate without the execution or recordation of any further documents or instrument as to any Public Lot that has been individually (and not in "bulk") sold to the end purchaser or user thereof and thereupon such Public Lot will be released from and no longer subject to or burdened by the provisions of this Agreement.

13. **CONFLICTS OF INTEREST.** This Agreement is subject to cancellation pursuant to the provisions of A.R.S. § 38-511, as amended. In the event that the City elects to exercise its rights under A.R.S. § 38-511, as amended, the City agrees to immediately give notice thereof to Owner.

14. **NO AGENCY OR PARTNERSHIP.** Neither the City nor Owner is acting as the agent of the other with respect to this Agreement, and this Agreement shall not be deemed to create a partnership, joint venture, or other business relationship between the City and Owner.

15. **EXISTING AGREEMENTS.** Except as expressly provided herein, this Agreement is not intended to nor does it affect the Parties' rights or obligations under any other existing agreements between the Parties governing the development of the Property, nor does it affect the application of the City's ordinances, rules, regulations, policies, and practices otherwise applicable to the development of the Property.

16. **NOTICES AND FILINGS.** Any and all notices, filings, approvals, consents or other communications required or permitted by this Agreement shall be given in writing and transmitted by facsimile transmission, personally delivered or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

The City: City of Goodyear Attn: City Manager 190 North Litchfield Road Goodyear, Arizona 85338	NNP: NNP III – Estrella Mountain Ranch, LLC 5090 N. 40 th Street, Suite 210 Phoenix, Arizona 85018 Attention: Senior Vice President
copy to: City of Goodyear Attn: Director of Engineering 190 North Litchfield Road Goodyear, Arizona 85338	NNP III – EMR 3, LLC 5090 N. 40 th Street, Suite 210 Phoenix, Arizona 85018 Attention: Senior Vice President
copy to: City of Goodyear Attn: City Attorney 190 North Litchfield Road Goodyear, Arizona 85338	NNP III – EMR 4, LLC 5090 N. 40 th Street, Suite 210 Phoenix, Arizona 85018 Attention: Senior Vice President

or to any other addresses as any of the Parties hereto may from time to time designate in writing and deliver in a like manner. Notices, filings, consents, approvals and communications shall be deemed to have been given as of the date of receipt if sent by telecopier or facsimile transmission, as of the date of delivery if hand delivered, or as of twenty-four (24) hours following deposit in the U.S. Mail, postage prepaid and addressed as set forth above.

17. **FURTHER ACTS/COOPERATION.** Each of the Parties shall promptly and expeditiously execute and deliver any and all documents and perform any and all acts as reasonably necessary, from time to time, including without limitation, cooperating reasonably with the other Party as necessary, to carry out the matters contemplated by this Agreement.

18. **REPRESENTATIONS AND WARRANTIES BY NNP.** Each NNP party is a duly organized, validly existing limited liability company authorized to do business in the State of Arizona. The transactions contemplated by this Agreement and the execution and delivery of all documents required herein, and each NNP party's performance hereunder, have been duly authorized by requisite actions of the applicable NNP party. Each NNP party has reviewed this Agreement and reached its own conclusions as to the binding and enforceable nature thereof and all of the provisions contained therein, and has not relied on any representations or warranties of City other than those expressly provided in this Agreement.

19. **REPRESENTATIONS AND WARRANTIES BY THE CITY.** The City is a duly organized, validly existing municipal corporation in the State of Arizona. The transactions contemplated by this Agreement and the execution and delivery of all documents required herein, and the City's performance hereunder, have been duly authorized by all requisite actions of the City.

20. **AUTHORITY.** Each Party signing this Agreement represents that it has full legal power, authority and right to execute, deliver and perform its obligations under this Agreement and each entity's performance hereunder and that the transaction contemplated hereby and the execution of the Agreement has been duly authorized by all requisite actions on the part of such Party and no remaining action is required to make this Agreement binding on the Parties.

21. **DEFAULTS AND REMEDIES.** Any Party shall be in default under this Agreement ("Default") if it fails to satisfy any term or condition as required under this Agreement within ninety (90) days following written notice from the other Party ("Notice"); provided, however, that the Notice shall set forth the specific reasons for the determination that the Party has failed to satisfy any term of condition hereof. A Party shall not be in Default if the Party commences to cure any deficiencies within ninety (90) business days of receipt of Notice and cures such deficiencies within a reasonable time thereafter.

22. **NO WAIVERS FOR DELAY.** Neither the failure nor delay in exercising any right or remedy or in requiring the satisfaction of any condition under this Agreement, nor any act, omission or course of dealing between the Parties shall operate as a waiver or estoppel of any right, remedy or condition under this Agreement. The Parties may waive rights, remedies, and/or conditions provided in this Agreement only by a writing executed by the Party or Parties against whom the waiver is sought to be enforced.

23. **LIMITATION ON PERSONAL LIABILITY.** No City Council member, official, representative, agent, attorney, or employee of the City (collectively "City Representatives") shall be personally liable to any Party or to any successor in interest to any Party, in the event of any non-performance or breach by the City or for any obligation of the City under the terms of this Agreement. The terms of this Section 23 limiting the personal liability of City Representatives shall survive the expiration and/or termination of this Agreement.

24. **MEDIATION.** If a dispute arises out of or is related to this Agreement or breach thereof, the Parties agree first to try to settle the dispute through mediation before resorting to arbitration, litigation, or some other form of dispute resolution. In the event the Parties cannot agree upon the selection of a mediator within seven (7) days, any Party may request a presiding judge of the Maricopa County Superior Court to assign a mediator from a list of Mediators maintained by the Arizona Municipal Risk Retention Pool. The terms of this Section 24 shall survive the expiration and/or termination of this Agreement.

25. **WAIVER OF JURY TRIAL.** UNLESS EXPRESSLY PROHIBITED BY LAW, EACH OF THE CITY AND OWNER KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY AND ALL ACTIONS OR OTHER LEGAL PROCEEDINGS AGAINST THE OTHER PARTY,

ARISING OUT OF OR RELATING TO THIS AGREEMENT AND/OR THE TRANSACTIONS IT CONTEMPLATES, AND AGREES THAT ANY AND ALL ACTIONS OR OTHER LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE TRANSACTIONS IT CONTEMPLATES, AND/OR THE WORK PERFORMED PURSUANT TO THIS AGREEMENT SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. THIS WAIVER APPLIES TO ANY ACTION OR OTHER LEGAL PROCEEDING, WHETHER SOUNDING IN CONTRACT TORT OR OTHERWISE. EACH PARTY ACKNOWLEDGES THAT IT HAS RECEIVED THE ADVICE OF COMPETENT COUNSEL. The terms of this Section 25 waiving the right to a jury trial shall survive the expiration and/or termination of this Agreement.

26. **LIMITATION ON CLAIMS.** IN NO EVENT SHALL CONSEQUENTIAL DAMAGES, EXPECTATION DAMAGES, AND/OR INCIDENTAL DAMAGES, WHICH INCLUDES, BUT IS NOT LIMITED, CLAIMS FOR LOST PROFITS, BE AWARDED AS DAMAGES FOR A BREACH OF THIS AGREEMENT, AND THE PARTIES EXPRESSLY WAIVE ANY RIGHT TO CONSEQUENTIAL DAMAGES, EXPECTATION DAMAGES, AND/OR INCIDENTAL DAMAGES IN THE EVENT OF A BREACH OF THIS AGREEMENT. The terms of this Section 26 limiting the remedies available to the Parties in the event of a breach of the Agreement shall survive the expiration or earlier termination of this Agreement.

27. **SECTION HEADINGS.** The section headings contained in this Agreement are for convenience in reference only and are not intended to define or limit the scope of any provision of this Agreement.

28. **FAIR INTERPRETATION.** The terms and provisions of this Agreement represent the result of negotiations between the Parties, each of which has had the opportunity to consult with counsel of their own choosing and/or has been represented by counsel of their own choosing, and none of whom has acted under any duress or compulsion, whether economic or otherwise. Consequently, the Parties agree the terms and provisions of this Agreement shall be construed according to their usual and customary meanings, and the Parties each hereby waive the application of any rule of law (common law or otherwise) that ambiguous or conflicting terms be resolved against the Party who prepared, or whose attorney prepared, the executed Agreement or any earlier draft of same. The terms of this Section 28 shall survive the expiration or earlier termination of this Agreement.

29. **CHOICE OF LAW, VENUE, AND ATTORNEY'S FEES.** In any dispute under this Agreement, the successful Party shall be entitled to collect from the other Party its reasonable attorneys' fees, and other costs as determined by a Court of competent jurisdiction. The Parties agree that any dispute, controversy, claim or cause of action arising out of or related to this Agreement shall be governed by the laws of the State of Arizona. The Parties further agree that the venue for any dispute, controversy, claim or cause of action arising out of or related to this Agreement shall be Maricopa County and that any action filed shall be heard in a court of competent jurisdiction located in Maricopa County. The Parties expressly waive the right to

object, for any reason, to the venue of Maricopa County. The terms of this Section 29 shall survive the expiration or earlier termination of this Agreement.

30. **SURVIVAL CLAUSE:** All provisions in this Agreement that logically ought to survive the expiration or earlier termination of this Agreement shall survive the expiration or earlier termination of this Agreement. This includes by way of example: all provisions imposing obligations that will not be triggered until the Agreement is terminated, all indemnification provisions; all limitation of remedies and damages provisions; all provisions waiving claims; and all provisions relieving any Party of liability for actions taken. The fact that certain provisions in this Agreement expressly state that such provisions shall survive the expiration or earlier termination of this Agreement shall not be construed as limiting the application of the Survival Clause set forth in this Section 30 to other provisions in the Agreement.

31. **COUNTERPARTS.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one agreement, binding on the Parties. Further this Agreement may be executed and delivered by electronic transmission. A manually signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement; provided, however, Owner shall deliver an original to the City for recordation in the Official Records of Maricopa County.

32. **PAGE NUMBERING.** The page numbering of this document is exclusive of the Exhibits attached hereto.

[Signatures on following pages.]

IN WITNESS WHEREOF, and agreeing to be bound by the terms of this Agreement the Parties have caused this Agreement to be executed by their duly appointed representatives.

NNP:

NNP III – ESTRELLA MOUNTAIN RANCH, LLC, a Delaware limited liability company

By: [Signature]
Its: SVP

NNP III – EMR 3, LLC, a Delaware limited liability company

By: [Signature]
Its: SVP

NNP III – EMR 4, LLC, a Delaware limited liability company

By: [Signature]
Its: SVP

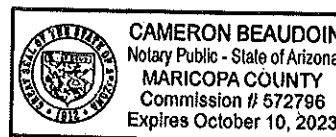
STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing document was acknowledged before me this 22 day of May, 2020, by William Olson, as the Senior VP of NNP III – Estrella Mountain Ranch, LLC, a Delaware limited liability company, and as the Senior VP of NNP III – EMR 3, LLC, a Delaware limited liability company, and as the Senior VP of NNP III – EMR 4, LLC, a Delaware limited liability company, on behalf of each such company.

Cameron Beaudoin
Notary Public

My Commission Expires:

10/10/2023



CITY:

CITY OF GOODYEAR,
an Arizona municipal corporation

By: _____

Its: _____

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing document was acknowledged before me this _____ day of _____, 2020, by _____, the _____ of the City of Goodyear, an Arizona municipal corporation, on behalf of said corporation.

Notary Public

My Commission Expires:

ATTEST:

Approved as to Form:

City Clerk

City Attorney

EXHIBIT "1"

**Legal Description for
ESTRELLA – PARCELS A & B**

(ON FOLLOWING PAGES)

EXHIBIT A
LEGAL DESCRIPTION
PARCEL "A"

A PARCEL OF LAND LOCATED IN PORTIONS OF SECTIONS 14, 23, 24, 25, 26, 35 AND 36, TOWNSHIP 1 SOUTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN ALUMINUM CAP STAMPED "RLS 36563, 2003" MARKING THE SOUTH QUARTER CORNER OF SAID SECTION 36, FROM WHICH AN ALUMINUM CAP STAMPED "RLS 36563, 2003" MARKING THE SOUTHEAST CORNER OF SAID SECTION 36 BEARS SOUTH 89°37'04" EAST, A DISTANCE OF 2,639.10 FEET;

THENCE NORTH 89°37'11" WEST, A DISTANCE OF 2,638.66 FEET, TO THE SOUTHWEST CORNER OF SAID SECTION 36;

THENCE ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 35, NORTH 89°36'17" WEST, A DISTANCE OF 1,777.09 FEET, TO THE EAST RIGHT-OF-WAY LINE OF ESTRELLA PARKWAY AS RECORDED IN BOOK 771, PAGE 9, OFFICIAL RECORDS OF MARICOPA COUNTY RECORDER, ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE, WHOSE RADIUS BEARS SOUTH 76°33'14" WEST, A DISTANCE OF 7,565.00 FEET;

THENCE NORTHERLY ALONG SAID RIGHT-OF-WAY LINE ON A CURVE TO THE LEFT, WHOSE CENTRAL ANGLE IS 01°33'19", AND LENGTH OF 205.35 FEET;

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE NORTH 29°42'52" EAST, A DISTANCE OF 28.39 FEET;

THENCE NORTH 74°30'23" EAST, A DISTANCE OF 25.13 FEET;

THENCE NORTH 15°29'37" WEST, A DISTANCE OF 90.00 FEET;

THENCE SOUTH 74°30'23" WEST, A DISTANCE OF 40.13 FEET;

THENCE NORTH 60°42'09" WEST, A DISTANCE OF 28.39 FEET, TO THE BEGINNING OF A NON-TANGENT CURVE, WHOSE RADIUS BEARS SOUTH 74°00'47" WEST, A DISTANCE OF 7,550.00 FEET;

THENCE NORTHERLY ON A CURVE TO THE LEFT, WHOSE CENTRAL ANGLE IS 06°59'26", AND LENGTH OF 921.16 FEET;

THENCE NORTH 22°58'39" WEST, A DISTANCE OF 1,867.89 FEET;

THENCE NORTH 17°15'30" WEST, A DISTANCE OF 150.52 FEET;

THENCE NORTH 22°58'39" WEST, A DISTANCE OF 256.21 FEET;

THENCE NORTH 22°01'21" EAST, A DISTANCE OF 21.21 FEET;

THENCE NORTH 67°01'21" EAST, A DISTANCE OF 15.00 FEET;

THENCE NORTH 22°58'39" WEST, A DISTANCE OF 105.00 FEET;
THENCE SOUTH 67°01'21" WEST, A DISTANCE OF 25.00 FEET;
THENCE NORTH 67°58'39" WEST, A DISTANCE OF 28.28 FEET;
THENCE NORTH 22°58'39" WEST, A DISTANCE OF 2,342.67 FEET;
THENCE NORTH 17°16'01" WEST, A DISTANCE OF 201.00 FEET;
THENCE NORTH 22°58'39" WEST, A DISTANCE OF 356.99 FEET;
THENCE NORTH 22°01'21" EAST, A DISTANCE OF 28.28 FEET;
THENCE NORTH 67°01'21" EAST, A DISTANCE OF 15.00 FEET;
THENCE NORTH 22°58'39" WEST, A DISTANCE OF 200.00 FEET;
THENCE SOUTH 67°01'21" WEST, A DISTANCE OF 35.00 FEET;
THENCE NORTH 67°58'39" WEST, A DISTANCE OF 28.28 FEET;
THENCE NORTH 22°58'39" WEST, A DISTANCE OF 327.16 FEET, TO THE BEGINNING OF A TANGENT CURVE, WHOSE RADIUS IS 2,930.00 FEET;
THENCE NORTHERLY ON A CURVE TO THE RIGHT, WHOSE CENTRAL ANGLE IS 30°45'40", AND LENGTH OF 1,573.07 FEET;
THENCE NORTH 16°08'51" EAST, A DISTANCE OF 118.42 FEET;
THENCE NORTH 09°32'49" EAST, A DISTANCE OF 233.63 FEET;
THENCE NORTH 54°32'49" EAST, A DISTANCE OF 28.28 FEET;
THENCE SOUTH 80°27'11" EAST, A DISTANCE OF 25.00 FEET;
THENCE NORTH 09°32'49" EAST, A DISTANCE OF 90.00 FEET;
THENCE NORTH 80°27'11" WEST, A DISTANCE OF 40.00 FEET;
THENCE NORTH 35°27'11" WEST, A DISTANCE OF 28.28 FEET;
THENCE NORTH 09°32'49" EAST, A DISTANCE OF 201.09 FEET, TO THE BEGINNING OF A TANGENT CURVE WHOSE RADIUS IS 2,930.00 FEET;
THENCE NORTHERLY ON A CURVE TO THE RIGHT, WHOSE CENTRAL ANGLE IS 21°15'21", AND LENGTH OF 1,086.98 FEET;
THENCE NORTH 38°05'26" EAST, A DISTANCE OF 147.02 FEET, TO THE BEGINNING OF A NON-TANGENT CURVE, WHOSE RADIUS BEARS SOUTH 56°19'46" EAST, A DISTANCE OF 2,915.00 FEET;
THENCE NORTHEASTERLY ON A CURVE TO THE RIGHT, WHOSE CENTRAL ANGLE IS 04°24'11", AND LENGTH OF 224.01 FEET;
THENCE NORTH 83°54'32" EAST, A DISTANCE OF 27.97 FEET;

THENCE SOUTH 50°27'08" EAST, A DISTANCE OF 24.48 FEET;

THENCE NORTH 39°32'52" EAST, A DISTANCE OF 120.00 FEET;

THENCE NORTH 50°27'08" WEST, A DISTANCE OF 39.28 FEET;

THENCE NORTH 04°43'08" WEST, A DISTANCE OF 27.92 FEET, TO THE BEGINNING OF A NON-TANGENT CURVE, WHOSE RADIUS BEARS SOUTH 48°47'24" EAST, A DISTANCE OF 2,930.00 FEET;

THENCE NORTHEASTERLY ON A CURVE TO THE RIGHT, WHOSE CENTRAL ANGLE IS 12°58'34", AND LENGTH OF 663.57 FEET;

THENCE NORTH 54°11'10" EAST, A DISTANCE OF 880.74 FEET, TO THE BEGINNING OF A TANGENT CURVE WHOSE RADIUS IS 1,660.00 FEET;

THENCE NORTHEASTERLY ON A CURVE TO THE LEFT, WHOSE CENTRAL ANGLE OF 19°15'32", AND LENGTH OF 557.98 FEET;

THENCE NORTH 37°58'49" EAST, A DISTANCE OF 152.09 FEET, TO THE BEGINNING OF A NON-TANGENT CURVE, WHOSE RADIUS BEARS NORTH 60°16'30" WEST, A DISTANCE OF 1,675.00 FEET;

THENCE NORTHEASTERLY ON A CURVE TO THE LEFT, WHOSE CENTRAL ANGLE IS 09°04'03", AND LENGTH OF 265.08 FEET;

THENCE NORTH 64°22'29" EAST, A DISTANCE OF 28.74 FEET;

THENCE SOUTH 71°33'58" EAST, A DISTANCE OF 25.60 FEET;

THENCE NORTH 18°26'02" EAST, A DISTANCE OF 90.00 FEET;

THENCE NORTH 71°33'58" WEST, A DISTANCE OF 40.61 FEET;

THENCE NORTH 27°30'55" WEST, A DISTANCE OF 28.75 FEET, TO THE BEGINNING OF A NON-TANGENT CURVE, WHOSE RADIUS BEARS NORTH 73°48'35" WEST, A DISTANCE OF 1,660.00 FEET;

THENCE NORTHERLY ON A CURVE TO THE LEFT, WHOSE CENTRAL ANGLE OF 15°45'01", AND LENGTH OF 456.32 FEET;

THENCE NORTH 00°26'24" EAST, A DISTANCE OF 305.12 FEET, TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF ESTRELLA PARKWAY AS RECORDED IN BOOK 545, PAGE 24 OFFICIAL RECORDS OF MARICOPA COUNTY RECORDER;

THENCE ALONG SAID EAST RIGHT-OF-WAY LINE OF ESTRELLA PARKWAY, NORTH 00°26'24" EAST, A DISTANCE OF 49.88 FEET, TO THE SOUTHWEST CORNER OF THAT CERTAIN PARCEL AS DESCRIBED IN THE DOCUMENT RECORDED AS 2000-0650461 OF OFFICIAL RECORDS OF MARICOPA COUNTY RECORDER;

THENCE ALONG THE SOUTH BOUNDARY LINE OF SAID CERTAIN PARCEL NORTH 48°11'17" EAST A DISTANCE OF 200.01 FEET;

THENCE CONTINUING ALONG SAID SOUTH BOUNDARY LINE NORTH 60°51'31" EAST, A DISTANCE OF 287.96 FEET;

THENCE NORTH 84°52'29" EAST, A DISTANCE OF 250.00 FEET;

THENCE SOUTH 83°55'52" EAST, A DISTANCE OF 400.00 FEET;

THENCE SOUTH 81°11'48" EAST, A DISTANCE OF 756.14 FEET;

THENCE NORTH 07°28'04" EAST, A DISTANCE OF 810.97 FEET;

THENCE ALONG THE EAST LINES OF THOSE CERTAIN PARCELS DESCRIBED IN RECORDED DOCUMENTS 2000-0650461 AND 2006-1476913 OF OFFICIAL RECORDS OF MARICOPA COUNTY RECORDER, NORTH 10°36'04" WEST, A DISTANCE OF 873.44 FEET, TO THE BEGINNING OF A NON TANGENT CURVE WHOSE RADIUS BEARS NORTH 13°42'15" EAST, AND LENGTH OF 1,050.00 FEET;

THENCE NORTHWESTERLY ALONG THE NORTH LINE OF THAT SAID PARCEL RECORDED IN DOCUMENT 2006-1476913, ON A CURVE TO THE RIGHT, WHOSE CENTRAL ANGLE IS 21°47'01", AND LENGTH OF 399.21 FEET;

THENCE NORTH 54°30'44" WEST, A DISTANCE OF 580.38 FEET, TO THE BEGINNING OF A TANGENT CURVE WHOSE RADIUS IS 550.00 FEET;

THENCE WESTERLY ON A CURVE TO THE LEFT, WHOSE CENTRAL ANGLE IS 45°22'38", AND LENGTH OF 435.59 FEET;

THENCE SOUTH 80°06'38" WEST, A DISTANCE OF 148.50 FEET, TO THE BEGINNING OF A TANGENT CURVE, WHOSE RADIUS IS 800.00 FEET;

THENCE WESTERLY ON A CURVE TO THE RIGHT, WHOSE CENTRAL ANGLE IS 10°19'42", AND LENGTH OF 144.21 FEET;

THENCE NORTH 89°33'40" WEST, A DISTANCE OF 184.23 FEET, TO THE EAST RIGHT-OF-WAY LINE OF ESTRELLA PARKWAY AS SHOWN ON THE MAP OF DEDICATION RECORDED IN BOOK 318 OF MAPS, PAGE 38, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE ALONG SAID EAST RIGHT-OF-WAY LINE NORTH 00°26'24" EAST, A DISTANCE OF 180.85 FEET, TO THE BEGINNING OF A TANGENT CURVE WHOSE RADIUS IS 2,935.00 FEET;

THENCE NORTHERLY ON A CURVE TO THE RIGHT, WHOSE CENTRAL ANGLE IS 10°15'34", AND LENGTH OF 525.55 FEET;

THENCE DEPARTING SAID EAST RIGHT-OF-WAY LINE, SOUTH 72°15'30" EAST, A DISTANCE OF 903.84 FEET;

THENCE SOUTH 42°34'53" EAST, A DISTANCE OF 900.00 FEET;

THENCE SOUTH 79°35'48" EAST, A DISTANCE OF 500.00 FEET, TO THE EAST LINE OF AN EASEMENT FOR RIGHT-OF-WAY FOR TUCSON GAS AND ELECTRIC POWER COMPANY, AS RECORDED IN DOCUMENT 1988-243783 OF OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE LEAVING SAID EASEMENT LINE NORTH 82°34'14" EAST, A DISTANCE OF 500.00 FEET;

THENCE NORTH 63°37'50" EAST, A DISTANCE OF 700.00 FEET;

THENCE SOUTH 76°26'45" EAST, A DISTANCE OF 800.00 FEET;

THENCE SOUTH 50°07'49" EAST, A DISTANCE OF 400.00 FEET;
THENCE SOUTH 81°33'40" EAST, A DISTANCE OF 900.00 FEET;
THENCE SOUTH 60°50'31" EAST, A DISTANCE OF 1,400.00 FEET;
THENCE SOUTH 47°59'47" EAST, A DISTANCE OF 700.00 FEET;
THENCE SOUTH 89°49'52" EAST, A DISTANCE OF 450.00 FEET;
THENCE CONTINUING SOUTH 00°13'18" WEST, A DISTANCE OF 439.94 FEET TO, A G.L.O. CAP MARKING
THE EAST QUARTER CORNER OF SAID SECTION 24;
THENCE SOUTH 00°17'38" WEST, A DISTANCE OF 2,643.63 FEET, TO A G.L.O. CAP MARKING THE
SOUTHEAST CORNER OF SAID SECTION 24;
THENCE SOUTH 00°08'14" WEST, A DISTANCE OF 2,640.90 FEET, TO A G.L.O. CAP MARKING THE
SOUTHEAST CORNER OF SAID SECTION 25;
THENCE SOUTH 0°12'10" WEST, A DISTANCE OF 2,633.31 FEET, TO A G.L.O. CAP MARKING THE
SOUTHEAST CORNER OF SAID SECTION 25;
THENCE ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 36, NORTH 89°12'52"
WEST, A DISTANCE OF 1,949.26 FEET, TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF
THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SAID SECTION 36;
THENCE SOUTH 00°34'06" WEST, A DISTANCE OF 664.86 FEET, TO THE SOUTHWEST CORNER OF THE
NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION
36;
THENCE SOUTH 89°18'51" EAST, A DISTANCE OF 650.93 FEET, TO THE SOUTHEAST CORNER OF THE
NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION
36;
THENCE SOUTH 00°27'59" WEST, A DISTANCE OF 663.73 FEET, TO THE NORTHEAST CORNER OF THE
SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 36;
THENCE NORTH 89°24'48" WEST, A DISTANCE OF 1,304.21 FEET, TO THE NORTHWEST CORNER OF THE
SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 36;
THENCE ALONG SAID EAST LINE SOUTH 00°40'09" WEST, A DISTANCE OF 3,969.06 FEET, TO THE **POINT
OF BEGINNING.**
SAID PARCEL CONTAINS 110,536,343 SQUARE FEET OR (2,537.57) ACRES

EXHIBIT A
LEGAL DESCRIPTION
PARCEL "B"

A PARCEL OF LAND LOCATED IN PORTIONS OF SECTIONS 22, 26, 27, 28, 33, AND 34, TOWNSHIP 1 SOUTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, COUNTY OF MARICOPA, STATE OF ARIZONA, ALSO BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST ONE-QUARTER CORNER OF SECTION 28, FROM WHICH THE NORTH EAST CORNER BEARS NORTH 0°28'33" EAST, A DISTANCE OF 2657.64 FEET;

THENCE NORTH 89°27'49" WEST, A DISTANCE OF 4601.09 FEET, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SOUTH RAINBOW VALLEY ROAD, AS RECORDED IN BOOK 10, PAGE 25 PER MARICOPA COUNTY RECORDS;

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE SOUTH 37°50'45" EAST, A DISTANCE OF 6709.28 FEET;

THENCE LEAVING SAID RIGHT-OF-WAY LINE SOUTH 89°50'25" EAST, A DISTANCE OF 442.81 FEET, TO THE WEST CORNER OF SECTION 34, ALSO BEING A POINT ON THE BOUNDARY OF THE "RAINBOW VALLEY UTILITY CAMPUS" AS RECORDED IN BOOK 1152, PAGE 23 PER MARICOPA COUNTY RECORDS;

THENCE SOUTHERLY ALONG THE WEST BOUNDARY LINE OF SAID RAINBOW VALLEY UTILITY CAMPUS SOUTH 0°20'18" WEST, A DISTANCE OF 564.42 FEET, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF SAID SOUTH RAINBOW ROAD;

THENCE CONTINUING ALONG SAID BOUNDARY LINE SOUTH 37°50'45" EAST, A DISTANCE OF 969.87 FEET;

THENCE NORTH 45°18'19" EAST, A DISTANCE OF 413.42 FEET;

THENCE NORTH 44°41'41" WEST, A DISTANCE OF 19.02 FEET;

THENCE NORTH 89°34'06" WEST, A DISTANCE OF 68.70 FEET;

THENCE NORTH 0°21'19" EAST, A DISTANCE OF 221.40 FEET;

THENCE SOUTH 89°38'59" EAST, A DISTANCE OF 671.18 FEET;

THENCE SOUTH 0°21'07" WEST, A DISTANCE OF 243.03 FEET;

THENCE NORTH 89°48'45" WEST, A DISTANCE OF 351.32 FEET;

THENCE SOUTH 1°17'06" WEST, A DISTANCE OF 39.69 FEET;

THENCE SOUTH 89°55'00" WEST, A DISTANCE OF 189.97 FEET;

THENCE SOUTH 9°49'42" WEST, A DISTANCE OF 34.65 FEET;

THENCE SOUTH 35°10'18" EAST, A DISTANCE OF 227.66 FEET;

THENCE SOUTH 89°38'53" EAST, A DISTANCE OF 727.75 FEET;
THENCE SOUTH 0°21'07" WEST, A DISTANCE OF 312.50 FEET;
THENCE SOUTH 45°21'15" WEST, A DISTANCE OF 53.00 FEET;
THENCE NORTH 89°38'53" WEST, A DISTANCE OF 306.50 FEET;
THENCE NORTH 0°21'07" EAST, A DISTANCE OF 280.00 FEET, TO A POINT ON A TANGENT CURVE WHOSE RADIUS IS 40.00 FEET;
THENCE NORTHERLY ON A CURVE TO THE LEFT WHOSE CENTRAL ANGLE IS 90°00'00", AND LENGTH OF 62.83 FEET;
THENCE NORTH 89°38'53" WEST, A DISTANCE OF 376.21 FEET;
THENCE NORTH 35°12'26" WEST, A DISTANCE OF 219.79 FEET;
THENCE NORTH 80°12'26" WEST, A DISTANCE OF 42.86 FEET;
THENCE SOUTH 45°18'19" WEST, A DISTANCE OF 319.69 FEET, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF SAID RAINBOW ROAD;
THENCE CONTINUING ALONG SAID BOUNDARY LINE SOUTH 37°50'45" EAST A DISTANCE OF 923.45 FEET, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF WEST WILLIS ROAD AS RECORDED IN BOOK 936, PAGE 1 PER MARICOPA COUNTY RECORDS;
THENCE CONTINUING ALONG SAID BOUNDARY LINE OF THE RANBOW UTILITY CAMPUS NORTH 52°09'14" EAST, A DISTANCE OF 719.60 FEET, TO A POINT ON A TANGENT CURVE WHOSE RADIUS IS 850.00 FEET;
THENCE CONTINUING NORTHEASTERLY ON A CURVE TO THE LEFT, WHOSE CENTRAL ANGLE IS 19°57'53", AND LENGTH OF 296.18 FEET;
THENCE NORTH 32°11'21" EAST, A DISTANCE OF 302.75 FEET;
THENCE CONTINUING ALONG SAID BOUNDARY LINE NORTH 57°48'39" WEST, A DISTANCE OF 432.50 FEET;
THENCE NORTH 32°11'21" EAST, A DISTANCE OF 408.00 FEET;
THENCE SOUTH 57°48'39" EAST, A DISTANCE OF 432.50 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID WEST WILLIS ROAD;
THENCE ALONG SAID RIGHT-OF-WAY LINE OF WEST WILLIS ROAD NORTH 32°11'21" EAST, A DISTANCE OF 2570.41 FEET;
THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE NORTH 12°48'39" WEST, A DISTANCE OF 28.28 FEET;
THENCE NORTH 32°11'21" EAST, A DISTANCE OF 110.00 FEET;
THENCE NORTH 77°11'21" EAST, A DISTANCE OF 28.28 FEET;

THENCE NORTH 32°11'21" EAST, A DISTANCE OF 844.47 FEET, TO A POINT ON A TANGENT CURVE WHOSE RADIUS BEARS 2700.00 FEET;

THENCE NORTHEASTERLY ON A CURVE TO THE RIGHT, WHOSE CENTRAL ANGLE IS 34°50'00", AND LENGTH OF 1641.48 FEET;

THENCE NORTH 67°01'21" EAST, A DISTANCE OF 599.71 FEET, TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF ESTRELLA PARKWAY PHASE 3 MAP OF DEDICATION AS RECORDED IN BOOK 771, PAGE 9 PER MARICOPA COUNTY RECORDER;

THENCE ALONG SAID RIGHT-OF-WAY OF ESTRELLA PARKWAY PHASE 3 NORTH 67°01'21" EAST, A DISTANCE OF 15.00 FEET;

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE NORTH 22°01'21" EAST, A DISTANCE OF 28.28 FEET;

THENCE NORTH 22°58'39" WEST, A DISTANCE OF 327.16 FEET, TO A POINT ON A TANGENT CURVE WHOSE RADIUS IS 3060.00 FEET;

THENCE NORTHERLY ON A CURVE TO THE RIGHT, WHOSE CENTRAL ANGLE IS 0°46'57", AND LENGTH OF 42.06 FEET;

THENCE NORTH 14°37'34" WEST, A DISTANCE OF 201.27 FEET, TO A POINT ON A NON-TANGENT CURVE WHOSE RADIUS BEARS NORTH 71°32'36" EAST, A DISTANCE OF 3060.00 FEET;

THENCE NORTHELY ON A CURVE TO THE RIGHT, WHOSE CENTRAL ANGLE IS 2°48'11", AND LENGTH OF 149.70 FEET TO THE SOUTHWEST CORNER OF "ESTRELLA PARCEL 9.1" AS RECORDED IN BOOK 1367, PAGE 1 PER MARICOPA COUNTY RECORDS;

THENCE ALONG THE SOUTHERLY BOUNDARY LINE OF SAID "ESTRELLA PARCEL 9.1" NORTH 88°49'01" WEST, A DISTANCE OF 1171.67 FEET, TO THE NORTHEASTERLY CORNER OF "MONTECITO VILLAGE AT ESTRELLA MOUNTAIN RANCH PARCEL 9.26" RECORDED IN BOOK 1053, PAGE 49 PER MARICOPA COUNTY RECORDS;

THENCE ALONG THE EAST BOUNDARY LINE OF SAID **PARCEL 9.26 SOUTH** 1°11'09" WEST, A DISTANCE OF 514.97 FEET;

THENCE CONTINUING ALONG SAID BOUNDARY LINE SOUTH 4°38'18" WEST, A DISTANCE OF 469.43 FEET;

THENCE NORTH 85°21'42" WEST, A DISTANCE OF 581.65 FEET;

THENCE NORTH 71°48'28" WEST, A DISTANCE OF 452.63 FEET;

THENCE NORTH 32°49'54" WEST, A DISTANCE OF 157.09 FEET, TO THE BEGINNING OF A NON-TANGENT CURVE, WHOSE RADIUS BEARS NORTH 67°10'59" WEST, A DISTANCE OF 820.00, ALSO BEING A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SOUTH 182ND DRIVE AS RECORDED IN BOOK 1059, PAGE 15 PER MARICOPA COUNTY RECORDS;

THENCE ALONG SAID RIGHT-OF-WAY OF SOUTH 182ND STREET SOUTHEASTERLY ON A CURVE TO THE RIGHT, WHOSE CENTRAL ANGLE IS 13°42'59", AND LENGTH OF 196.30 FEET;

THENCE SOUTH 36°32'00" WEST, A DISTANCE OF 475.22 FEET, TO THE BEGINNING OF A TANGENT CURVE WHOSE RADIUS BEARS SOUTH 53°27'59" EAST, A DISTANCE OF 1970.00 FEET;

THENCE CONTINUING SOUTHEASTERLY ON A CURVE TO THE LEFT, WHOSE CENTRAL ANGLE IS 11°26'11", AND LENGTH OF 393.22 FEET, TO THE BEGINNING OF A TANGENT CURVE WHOSE RADIUS IS 20.00 FEET;

THENCE SOUTHERLY ON A CURVE TO THE LEFT WHOSE CENTRAL ANGLE IS 91°31'41", AND LENGTH OF 31.95 FEET;

THENCE SOUTH 23°34'08" WEST, A DISTANCE OF 64.00 FEET, TO THE BEGINNING OF A NON-TANGENT CURVE WHOSE RADIUS BEARS SOUTH 23°33'36" WEST, A DISTANCE OF 20.00 FEET;

THENCE WESTERLY ON A CURVE TO THE LEFT WHOSE CENTRAL ANGLE IS 91°31'41", AND LENGTH OF 31.95 FEET, TO THE BEGINNING OF A TANGENT CURVE WHOSE RADIUS IS 1970.00 FEET;

THENCE SOUTHERLY ON A CURVE TO THE LEFT WHOSE CENTRAL ANGLE IS 13°23'38", AND LENGTH OF 460.52 FEET;

THENCE SOUTH 8°38'49" WEST, A DISTANCE OF 110.71 FEET;

THENCE LEAVING SAID RIGHT-OF-WAY LINE SOUTH 8°38'49" WEST, A DISTANCE OF 135.03 FEET, TO THE BEGINNING OF A NON-TANGENT CURVE WHOSE RADIUS BEARS SOUTH 9°50'11" WEST, A DISTANCE OF 1445.00 FEET, ALSO BEING A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF WEST MOUNTAIN VISTA DRIVE AS RECORDED IN BOOK 1059, PAGE 15 PER MARICOPA COUNTY RECORDS;

THENCE WESTERLY ON A CURVE TO THE LEFT, WHOSE CENTRAL ANGLE IS 22°48'23", AND LENGTH OF 575.18 FEET;

THENCE SOUTH 77°03'00" EAST, A DISTANCE OF 127.24 FEET;

THENCE SOUTH 32°03'00" WEST, A DISTANCE OF 16.97 FEET;

THENCE SOUTH 77°03'00" WEST, A DISTANCE OF 80.00 FEET;

THENCE NORTH 57°57'00" WEST, A DISTANCE OF 16.97 FEET;

THENCE SOUTH 77°03'00" WEST, A DISTANCE OF 785.52 FEET, TO A POINT ON A 50' EASEMENT FOR GAS AS RECORDED IN DOCUMENT NUMBER 2001-0753945 PER MARICOPA COUNTY RECORDS;

THENCE ALONG THE EASTERLY LINE OF SAID EASEMENT NORTH 10°45'59" EAST, A DISTANCE OF 2645.19 FEET, TO THE BEGINNING OF A NON-TANGENT CURVE WHOSE RADIUS BEARS NORTH 21°47'56" EAST, A DISTANCE OF 1415.00 FEET, ALSO BEING THE NORTHERLY RIGHT-OF-WAY LINE OF WEST CALISTOGA DRIVE AS RECORDED IN BOOK 966, PAGE 24 PER MARICOPA COUNTY RECORDS;

THENCE WESTERLY ALONG SAID RIGHT-OF-WAY, ON A CURVE TO THE RIGHT, WHOSE CENTRAL ANGLE IS 12°43'05", AND LENGTH OF 314.09 FEET;

THENCE NORTH 9°52'53" WEST, A DISTANCE OF 28.19 FEET;

THENE NORTH 54°41'00" WEST, A DISTANCE OF 70.00 FEET;

THENCE SOUTH 80°19'00" WEST, A DISTANCE OF 28.28 FEET;

THENCE NORTH 54°41'00" WEST, A DISTANCE OF 622.82 FEET;

THENCE NORTH 9°41'00" WEST, A DISTANCE OF 28.28;

THENCE NORTH 55°03'01" WEST, A DISTANCE OF 70.00 FEET;

THENCE SOUTH 79°14'29" WEST, A DISTANCE OF 28.81 FEET, TO THE BEGINNING OF A NON-TANGENT CURVE WHOSE RADIUS BEARS SOUTH 32°38'51" WEST, A DISTANCE OF 1105.00 FEET;

THENCE WESTERLY ON A CURVE TO THE LEFT, WHOSE CENTRAL ANGLE IS 29°44'23", AND LENGTH 573.56 FEET TO A POINT ON THE EASTERLY BOUNDARY OF "ESTRELLA PARCEL 9.8" AS RECORDED IN BOOK 1313, PAGE 21 PER MARICOPA COUNTY RECORDS;

THENCE ALONG SAID BOUNDARY LINE NORTH 0°55'22" EAST, A DISTANCE OF 162.45 FEET;

THENCE NORTH 67°22'57" EAST, A DISTANCE OF 326.59 FEET;

THENCE NORTH 60°21'18" EAST, A DISTANCE OF 1752.36 FEET;

THENCE LEAVING SAID BOUNDARY LINE NORTH 61°25'14" EAST, A DISTANCE OF 64.66 FEET;

THENCE NORTH 60°28'40" EAST, A DISTANCE OF 615.22 FEET;

THENCE NORTH 30°44'10" EAST, A DISTANCE OF 3545.13 FEET, TO A POINT ON THE BOUNDARY LINE OF "CORONADO VILLAGE AT ESTRELLA MOUNTAIN RANCH PARCEL 7.3" AS RECORDED IN BOOK 853, PAGE 47 PER MARICOPA COUNTY RECORDS;

THENCE NORTH 47°35'49" WEST, A DISTANCE OF 23.94 FEET, TO THE BEGINNING OF A TANGENT CURVE WHOSE RADIUS IS 50.00 FEET;

THENCE NORTHWESTERLY ON A CURVE TO THE LEFT, WHOSE CENTRAL ANGLE IS 20°44'30", AND LENGTH OF 18.10 FEET, TO THE BEGINNING OF A REVERSE CURVE WHOSE RADIUS IS 58.00 FEET;

THENCE WESTERLY ON A CURVE TO THE RIGHT, WHOSE CENTRAL ANGLE IS 18°11'41", AND LENGTH OF 18.42 FEET;

THENCE LEAVING SAID BOUNDARY LINE SOUTH 51°57'01" WEST, A DISTANCE OF 104.48 FEET;

THENCE SOUTH 47°37'35" WEST, A DISTANCE OF 204.38 FEET;

THENCE SOUTH 52°53'31" WEST, A DISTANCE OF 288.11 FEET;

THENCE SOUTH 73°15'52" WEST, A DISTANCE OF 477.93 FEET;

THENCE SOUTH 79°56'13" WEST, A DISTANCE OF 315.56 FEET;

THENCE SOUTH 79°56'21" WEST, A DISTANCE OF 591.02 FEET, TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF "ESTRELLA MOUNTAIN RANCH PARCEL 100B" AS RECORDED IN BOOK 725, PAGE 1 PER MARICOPA COUNTY RECORDS;

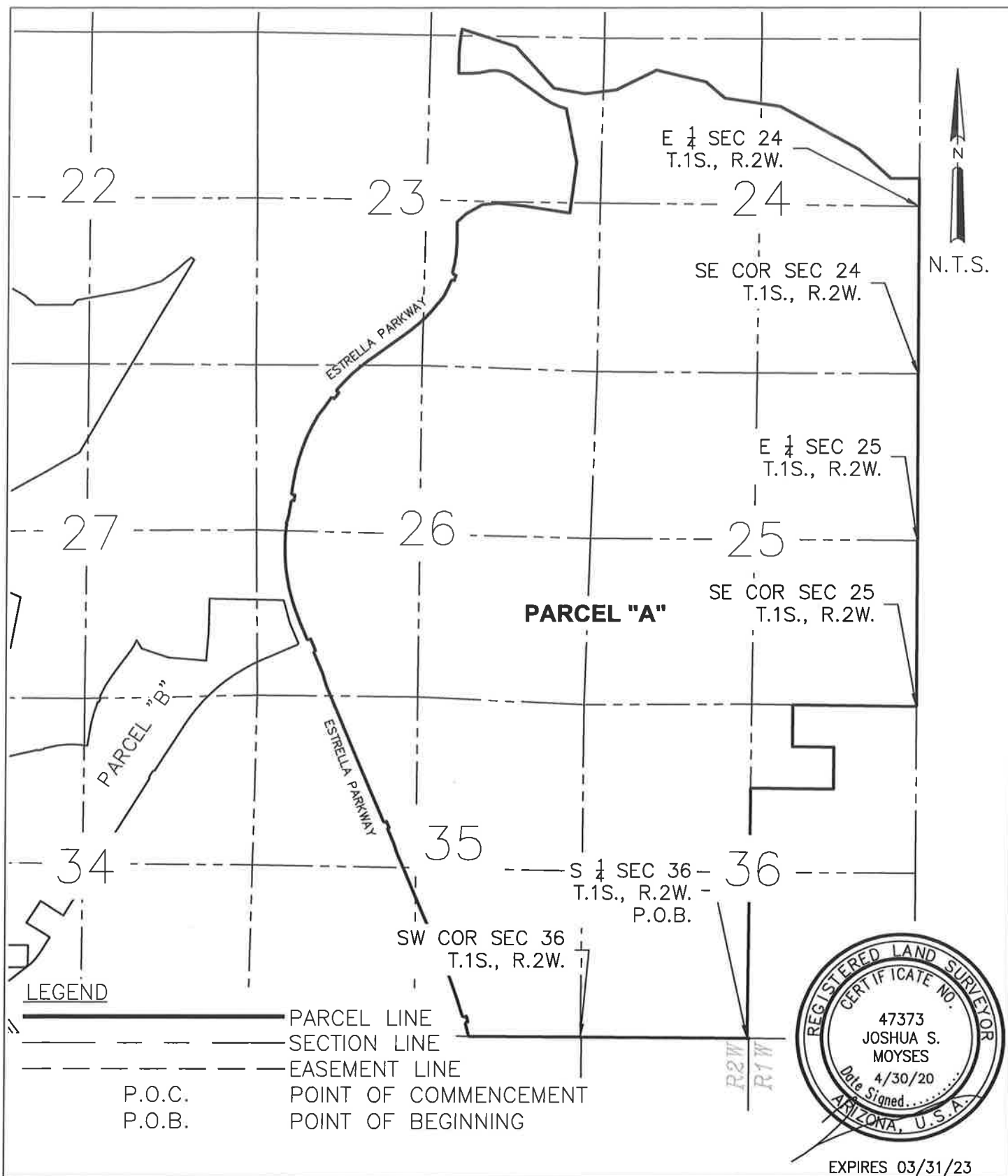
THENCE SOUTH 42°44'40" WEST, A DISTANCE OF 100.49 FEET;

THENCE SOUTH 90°00'00" WEST, A DISTANCE OF 195.80 FEET;

THENCE SOUTH 89°38'18" WEST, A DISTANCE OF 350.59 FEET;
THENCE NORTH 86°39'55" WEST, A DISTANCE OF 50.00 FEET;
THENCE NORTH 47°36'19" WEST, A DISTANCE OF 199.69 FEET;
THENCE NORTH 60°37'04" WEST, A DISTANCE OF 354.91 FEET;
THENCE NORTH 87°44'48" WEST, A DISTANCE OF 923.08 FEET;
THENCE SOUTH 89°59'56" WEST, A DISTANCE OF 395.28 FEET;
THENCE SOUTH 0°14'19" WEST, A DISTANCE OF 1272.56 FEET;
THENCE SOUTH 0°28'33" WEST, A DISTANCE OF 2657.64 FEET, TO THE **POINT OF BEGINNING**.



EXP. 3-31-23

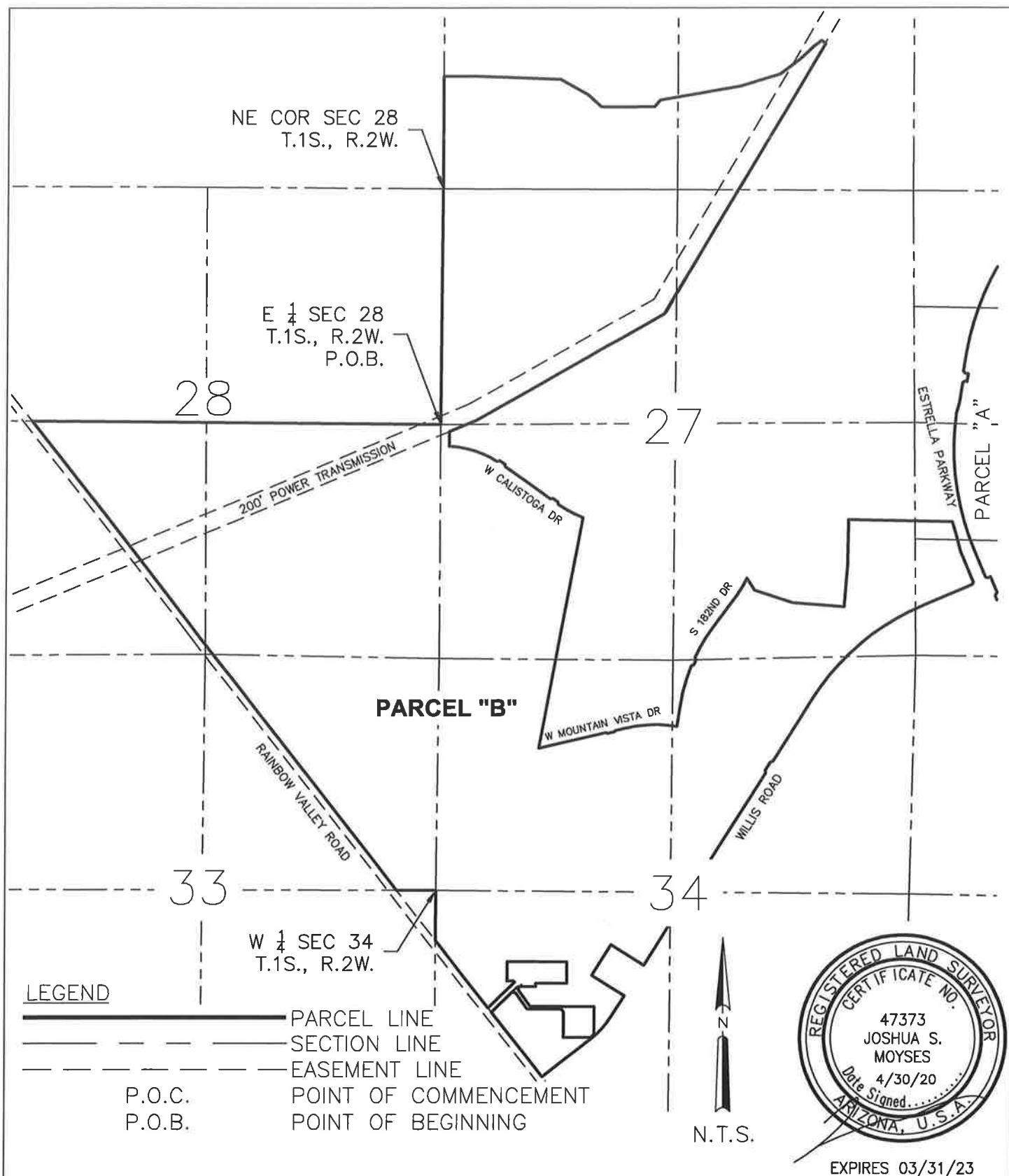


PARCEL "A"
LEGAL
EXHIBIT B



STRATEGIC
SURVEYING, LLC
1102 W. SOUTHERN AVE.
TEMPE, AZ 85282
PHONE: (480) 272-7634

DRAWN	JD
CHECKED	JSM
SCALE	N.T.S.
DATE	4/30/20
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PARCEL "B"
LEGAL
EXHIBIT B



STRATEGIC
SURVEYING, LLC
1102 W. SOUTHERN AVE.
TEMPE, AZ 85282
PHONE: (480) 272-7634

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DATE	4/30/20
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EXHIBIT "2"

PARTIAL RELEASE AND TERMINATION OF EASEMENT

When recorded Mail to:

City of Goodyear
City Clerk/lrb
190 N. Litchfield Road
P.O. Box 5100
Goodyear, Arizona 85338

EXEMPT UNDER A.R.S. § 11-1134(A)(2)

PARTIAL RELEASE AND TERMINATION OF EASEMENT

THIS PARTIAL TERMINATION AND RELEASE of EASEMENT (the “Release”) is executed this ____ day of _____, 2020 by the City of Goodyear, an Arizona municipal corporation (the “City”).

RECITALS

- A. WHEREAS, on or about March 1, 2006 the City entered into a Land Use Agreement and Perpetual Easement Restricting Land Uses Adjacent to the Rainbow Valley Water Reclamation Facility and Providing for Noise and Odor Setbacks with NNP III-Estrella Mountain Ranch, LLC, a Delaware limited partnership (“Newland”), which was recorded in the official records of Maricopa County on March 6, 2006 as Instrument Number 2006-0299531 (“Noise and Odor Easement”); and,
- B. WHEREAS, the City and NNP III-Estrella Mountain Ranch, LLC, a Delaware limited partnership, NNP III – EMR 3, LLC, a Delaware limited liability company, and NNP III – EMR 4, LLC, a Delaware limited liability company (collectively “NNP”) have entered into a Development Agreement for Expansion of Rainbow Valley Water Reclamation Facility dated _____, 2020, which was recorded in the official records of Maricopa County on _____, 2020 as Instrument Number _____ providing NNP’s commitment to fund full noise, odor and aesthetic controls for all expansions of the Rainbow Valley Water Reclamation Facility and which agreement requires the partial termination of the Noise and Odor Easement from the property legally described and depicted on Exhibit A attached hereto and by reference made a part hereof.
- C. Pursuant to A.R.S. § 9-402, the City Council of the City of Goodyear is vested with the power to dispose of easements owned by the City that are no longer needed.
- D. The City has determined the portion of the Noise and Odor Easement legally described and depicted in the attached Exhibit A is no longer needed.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City hereby terminates and releases the portion of property legally described and depicted in the attached Exhibit A from the Noise and Odor Easement including all restrictions contained therein which were granted to the City in that document recorded in the official records of Maricopa County on March 6, 2006 as Instrument Number 2006-0299531 ("Property").

This Release is not intended to, nor does it, release any interest that the City may have in any portion of the Property arising by virtue of any other instrument recorded with the Maricopa County Recorder, including without limitation, any deed or easement other than the aforementioned Noise and Odor Easement.

Signatures, Acknowledgements and Exhibits on Following Pages

Dated this ____ day of _____ 2020.

CITY OF GOODYEAR, ARIZONA

By: _____

Its: _____

State of Arizona)
)ss.
County of Maricopa)

On this day, personally appeared before me _____, as
_____ of the CITY OF GOODYEAR, ARIZONA, an Arizona municipal
corporation, on behalf of said corporation.

Notary Public

Attest:

Darcie McCracken, City Clerk

Approved as to Form:

Roric Massey, City Attorney

Exhibits on Following Pages

EXHIBIT "A"

**LEGAL DESCRIPTION
ODOR EASEMENT RELEASE**

A PORTION OF LAND AS RECORDED IN DOCKET 2006-0299531 PER MARICOPA COUNTY RECORDS, MARICOPA COUNTY ARIZONA, BEING DESCRIBED AS FOLLOWS;

COMMENCING AT THE WEST ONE QUARTER CORNER OF SECTION 34, FROM WHICH THE SOUTHWEST CORNER OF SAID SECTION 34 BEARS SOUTH 0°20'18" WEST, A DISTANCE OF 2685.87 FEET;

THENCE LEAVING SAID CORNER ALONG THE WEST SECTION LINE OF SAID SECTION 34 NORTH 0°41'09" EAST, A DISTANCE OF 200.86;

THENCE LEAVING SAID SECTION LINE SOUTH 89°38'59" EAST, A DISTANCE OF 48.66 FEET, TO A POINT ON THE WESTERLY BOUNDARY OF A 1000' EASEMENT AS RECORDED IN DOCKET 2006-0299531, ALSO BEING THE **POINT OF BEGINNING**;

THENCE CONTINUING ALONG SAID EASEMENT BOUNDARY NORTH 45°21'08" EAST, A DISTANCE OF 1102.59 FEET;

THENCE CONTINUING ALONG SAID EASEMENT BOUNDARY SOUTH 89°38'53" EAST, A DISTANCE OF 1791.97 FEET;

THENCE CONTINUING ALONG SAID EASEMENT BOUNDARY SOUTH 0°21'07" WEST, A DISTANCE OF 779.57 FEET;

THENCE LEAVING SAID EASEMENT BOUNDARY NORTH 89°38'59" WEST, A DISTANCE OF 650.00 FEET;

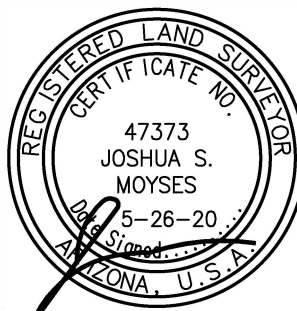
THENCE NORTH 0°21'07" EAST, A DISTANCE OF 129.60 FEET;

THENCE NORTH 89°38'53" WEST, A DISTANCE OF 872.74 FEET;

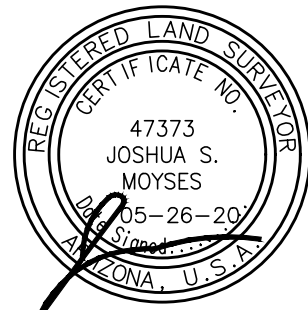
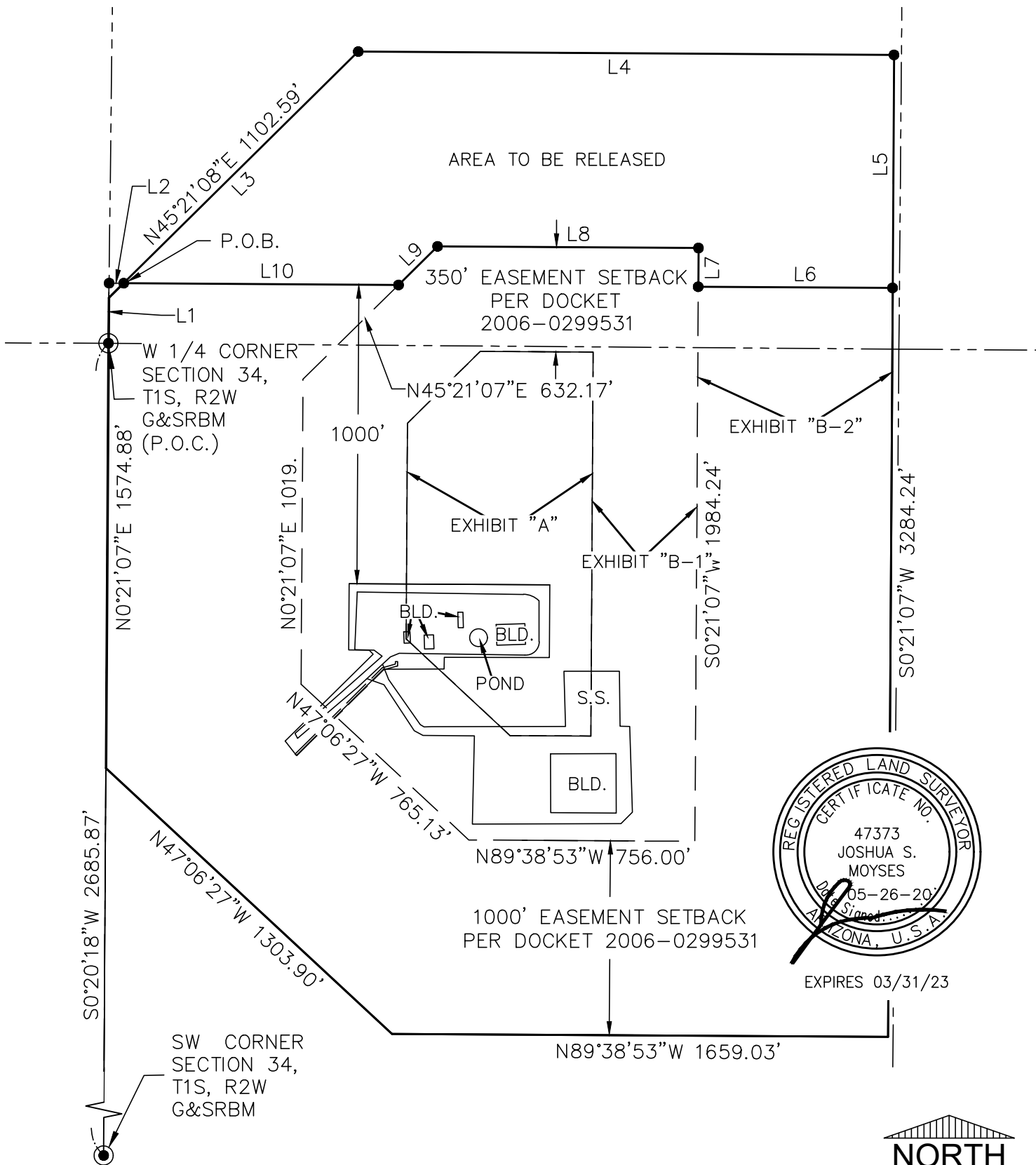
THENCE SOUTH 45°21'07" WEST, A DISTANCE OF 183.32 FEET;

THENCE NORTH 89°38'59" WEST, A DISTANCE OF 919.26 FEET, TO A POINT ON SAID EASEMENT BOUNDARY, ALSO BEING THE POINT OF BEGINNING.

SAID STRIP CONTAINS 1,579,414 SQUARE FEET OR (36.26) ACRES, MORE OR LESS.



EXPIRES 03/31/23



EXPIRES 03/31/23

ODOR EASEMENT
RELEASE



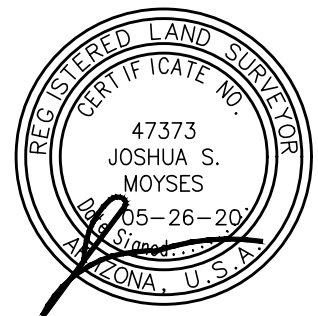
STRATEGIC
SURVEYING, LLC
1102 W. SOUTHERN AVE.
SUITE 4
TEMPE, AZ 85282
PHONE: (480) 272-7634

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CHECKED	JSM
SCALE	N.T.S.
DATE	5/26/20
PAGE	2 OF 3

LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	200.86	N0°41'09"E
L2	48.66	S89°38'59"E
L3	1102.59	N45°21'08"E
L4	1791.97	S89°38'53"E
L5	779.57	S0°21'07"W
L6	650.00	N89°38'59"W
L7	129.60	N0°21'07"E
L8	872.74	N89°38'53"W
L9	183.32	S45°21'07"W
L10	919.26	N89°38'59"W

LEGEND

●	FOUND BRASS CAP
————	BOUNDARY LINE
-----	SECTION LINE
-----	EASEMENT LINE
G.&S.R.B.&M.	GILA AND SALT RIVER BASE & MERIDIAN
M.C.R.	MARICOPA COUNTY RECORDER
P.O.C	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING



EXPIRES 03/31/23



ODOR EASEMENT
RELEASE



STRATEGIC
SURVEYING, LLC
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