

When recorded, return to:

City of Tempe
31 East Fifth Street
Tempe, Arizona 85281
Attention: City Clerk

DEVELOPMENT AND DISPOSITION AGREEMENT

C ____ - ____

THIS DEVELOPMENT AND DISPOSITION AGREEMENT (“Agreement”) is made as of the ____ day of _____, 2017 (the “Effective Date”), by and between THE CITY OF TEMPE, an Arizona municipal corporation (“City”) and CRESCENT ACQUISITIONS, LLC, a Delaware limited liability company (“Developer”)

RECITALS

A. Developer is proposing to acquire and develop various parcels of land along West First Street in Tempe, Arizona, which land is described in *Exhibit “A”* attached hereto (the “Project Property”).

B. The City owns certain parcels of real property adjacent to the Project Property, designated as Assessor Parcel Numbers (“APN”) 124-24-247, 124-24-247K, 124-24-246, and 124-24-244, all as more particularly identified on *Exhibit “A”* hereto (the “City Adjacent Parcels”).

C. To implement its development plan for the Project Property, Developer desires to (i) acquire title to those portions of the City Adjacent Parcels described in *Exhibit “B”* hereto (the “City Property”); and (ii) obtain an easement across that portion of the City Adjacent Parcels described on *Exhibit “C”* hereto (the “Easement Parcel”).

D. The City is authorized to enter into Development and Disposition Agreements pursuant to A.R.S. §9-500.05.

E. This Agreement is a development agreement within the meaning of A.R.S. §9-500.05 and shall be construed as such.

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

**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 “City” means the City of Tempe, an Arizona municipal corporation, and any successor public body or entity.

1.2 “Developer” means Crescent Acquisitions, LLC, a Delaware limited liability company and its successors and assigns.

**ARTICLE II
THE AGREEMENT**

2.1 Duration of Development Agreement. The term of this Agreement shall commence on the Effective Date and continue until the second anniversary of the Effective Date (the “Termination Date”), at which time this Agreement shall automatically terminate and be of no further force or effect. No notice of such termination is or shall be required.

**ARTICLE III
CONVEYANCE OF CITY PROPERTY**

3.1 Agreement to Convey City Property. The City shall continue to hold fee title to the City Property until such time as Developer requests, from time to time, the conveyance of the City Property and the grant of the easement as to the Easement Parcel pursuant to this Agreement.

3.2 Conveyance of City Property. At any time after Developer has satisfied the requirements of Section 3.3, and provided that Developer is not then in default under this Agreement, Developer may deliver a written notice to the City specifying the date by which Developer desires the City to transfer title to the City Property to Developer, which date shall be on or before the Termination Date.

3.3 Project Property. Developer shall obtain title to the Project Property prior to or concurrent with its acquisition of the City Property and Developer shall have submitted to the appropriate governmental authorities a complete application for a building permit for the Project to be constructed on the Project Property. City shall not be obligated to convey the City Property to Developer unless and until Developer has satisfied the foregoing conditions. For purposes hereof, an application for a building permit is submitted to the City of Tempe, such application shall be deemed complete only when the Administrative Completeness Review has been performed and any deficiencies noted have been corrected.

3.4 Purchase Price. Subject to all terms, covenants and conditions of this Agreement, the purchase price for the City Property shall be shall be the greater of \$53.83 per square foot or a price per square foot equal to the price actually paid by Developer for the Project Property (the “Purchase Price”). At closing, Developer shall pay the Purchase Price in full in cash, or by certified check or wire transfer or other immediately available funds.

3.5 Opening of Escrow. Upon execution of this Agreement, City and Developer shall open an escrow with Fidelity National Title Insurance Company, having an address at Fidelity National Title 60 E. Rio Salado Parkway, #1102 Tempe, AZ 85281, Attn: Christine Hughes (“Escrow Agent”). Escrow Agent shall hold all documents and perform such other acts as are normal and customary for a commercial escrow agent in similar transactions.

3.6 Escrow Fees. Developer shall pay all costs associated with the opening of escrow and the closing of the transactions contemplated hereby, including without limitation, the cost of any surveys, title insurance policies, recording fees and investigations Developer desires to conduct with regard to the City Property. City and Developer shall each bear their own costs, including attorney’s fees in connection with the negotiation, due diligence, investigation and consummation of the transactions contemplated hereby. Developer shall pay all escrow fees and recording fees.

3.7 Prorations. All real property taxes and assessments shall be prorated between City and Developer as of the date of closing of the conveyance of any portion of the City Property to Developer, based upon the latest available information.

3.8 Form of Deed. The City shall convey fee title to the City Property by Special Warranty Deed in substantially the form attached hereto as *Exhibit “D”* (the “Deed”) and incorporated herein, free of all consensual monetary liens created by City.

3.9 As-Is Purchase. Developer acknowledges and agrees that it is acquiring the City Property AS IS, WHERE IS, and that the only representations or warranties made by City with respect to the City Property are those set forth in this Agreement and the Deeds by which the City Property will be conveyed. Developer acknowledges that it is accepting the City Property in its AS IS condition, and assumes the risks associated with the condition of the City Property.

3.10 Due Diligence. Developer shall have the right, at its sole cost and expense, to survey and examine the City Property and any improvements thereon, at any time after the execution of this Agreement, with any persons whom it shall designate, including, without limitation of the foregoing, appraisers, contractors, engineers and soil testing personnel. Subject to the next sentence, City shall permit access to the City Property to Developer and any persons designated by Developer, and shall afford them the opportunity to conduct, prepare and perform any surveys, appraisals, and any environmental, feasibility and other engineering tests, studies, and reports that Developer deems necessary or appropriate. Upon completion of all such tests, studies and reports, Developer shall fill all holes produced by it and restore the City Property to their condition existing prior to any tests or inspections.

Developer shall maintain in full force and effect policies of commercial general liability and workers' compensation insurance in amounts reasonably acceptable to the City and approved by its Risk Manager prior to being granted access to the City Property. All such policies shall name the City of Tempe, its employees, agents and officers as additional insured and shall state that they may not be cancelled prior to expiration without 30 days prior written notice to City. Developer shall indemnify, protect, defend and hold City harmless from all claims, costs, fees or liability of any kind to the extent arising out of the acts of Developer or Developer's agents pursuant to this Section, except that Developer shall have no liability for discovery (but not exacerbation) of pre-existing conditions.

3.11 Easement Parcel. In consideration for the payment of the Purchase Price to City, City agrees to grant to Developer an easement over the Easement Parcel for construction, repair and maintenance of a driveway to provide access and egress and associated ingress and egress to the Project Property, parking, landscaping and irrigation, storm water drainage and retention, signage, lighting, along with public and private utilities serving the Project. Concurrently with City's execution and delivery of the Deed for the City Property, (a) City shall grant Developer a non-exclusive easement for such purposes substantially in the form of *Exhibit "E"* hereto, and (b) City and Developer shall execute a maintenance agreement in substantially the form of *Exhibit "F"* hereto. Developer shall obtain all necessary permits and approvals to construct improvements within the Easement Parcel. Developer acknowledges that other easements and utilities exist within the Easement Parcel and will obtain any necessary approval from entities holding such easements.

3.12 Federal Aviation Administration Approval. Developer acknowledges that the City Property is within the flight path of Phoenix Sky Harbor International Airport, and shall make any submittals to the FAA as required by law.

3.13 Noise Mitigation. Developer acknowledges that the City Property is within a noise mitigation area identified by the City of Phoenix in connection with the operation of Phoenix Sky Harbor International Airport, and that it is incumbent upon Developer to obtain the most current noise contour maps from the City of Phoenix. The City recommends that Developer adhere to the FAA Noise Mitigation measures identified in Phoenix Sky Harbor International Airport F.A.R. Part 150 Noise Compatibility Study Update dated September, 2000, for all new construction in the area within which the Project Property is located.

ARTICLE IV INDEMNIFICATION

4.1 Liability and Indemnification. Developer 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, 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

arising, directly or indirectly, in whole or in part, out of the execution and performance of this Agreement by Developer, except to the extent resulting from the negligence or willful misconduct of City or any of its employees, contractors, or agents.

**ARTICLE V
CONFLICT OF INTEREST; REPRESENTATIVES
NOT INDIVIDUALLY LIABLE**

5.1 Conflict of Interest. Pursuant to Arizona law, rules and regulations, no member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested. This Agreement is subject to cancellation pursuant to A.R.S. §38-511.

5.2 No Personal Liability. No member, official or employee of the City shall be personally liable to Developer, or any successor or assignee, (a) in the event of any default or breach by the City, (b) for any amount which may become due to Developer or its successor or assign, or (c) pursuant to any obligation of the City under the terms of this Agreement.

**ARTICLE VI
NOTICES**

6.1 All Notices which shall or may be given pursuant to this Agreement shall be in writing and transmitted by registered or certified mail, return receipt requested, addressed as follows:

To Developer: Crescent Acquisitions, LLC
c/o Crescent Communities, LLC
6200 South Fiddlers Green Circle
Suite 1600
Greenwood Village, CO 80111
Attn: Mr. Scott Makee
Fax: 720-360-3188
Email: SMakee@crescentcommunities.com

With a copy to: Womble Carlyle Sandridge & Rice, LLP
1200 19th Street, NW, Suite 500
Washington, D.C. 20036
Attn: Pamela V. Rothenberg, Esq.
Fax: 202-261-0022
Email: prothenberg@wcsr.com

To the City: City Manager
City of Tempe
31 East Fifth Street
Tempe, Arizona 85281

With a copy to: City Attorney
City of Tempe
21 East Sixth Street Suite 201
Tempe, Arizona 85280

Either party may designate any other address for this purpose by written notice to the other party in the manner described herein.

ARTICLE VII GENERAL PROVISIONS

7.1 **Remedies; Effect of Termination.**

(a) **Developer Remedies.** If City is in breach under this Agreement and fails to cure any such breach within sixty (60) days after written notice thereof from Developer, Developer shall have the right to terminate this Agreement upon written notice to City. Developer shall also have the right to pursue all other legal and equitable remedies which Developer may have at law or in equity, including, without limitation, the right to seek specific performance, the right to seek and obtain damages, and the right to self-help; provided that City shall in no event be liable for punitive, incidental or consequential damages.

(b) **City's Remedies.** If Developer is in breach under this Agreement and fails to cure any such breach within sixty (60) days after written notice thereof from City, then City shall have the right to terminate this Agreement immediately upon written notice to Developer and to pursue any other rights or remedies provided hereunder, at law or in equity; provided that Developer shall in no event be liable for punitive, incidental or consequential damages.

(c) **Effect of Termination.** Upon the termination of this Agreement as the result of the default or breach by Developer (beyond any applicable cure period), Developer shall have no further rights to acquire the City Property or the Easement Parcel, nor any right to any other City-provided development incentives pursuant to this Agreement accruing from and after the termination of this Agreement.

7.2 **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 Maricopa County, Arizona.

7.3 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 the parties hereto. Notwithstanding the foregoing, the parties intend that the City Property and the Easement Parcel are being acquired to facilitate development of the Project Property, and the rights under this Agreement to acquire or use the City Property and the Easement Parcel may not be assigned, conveyed or otherwise transferred to any person or entity that is not also acquiring the Project Property other than a conveyance as security for a loan secured by the Project Property, or the grant of an interest to an owners association formed to maintain improvements constructed on the City Property or the Easement Parcel; provided that (a) Developer may assign this Agreement and Developer's rights and obligations hereunder to an affiliate of Developer that will acquire the Project Property; and (b) after the date on which the Project Property is acquired by Developer, any affiliate of Developer or any other third party, the limitations set forth in this sentence shall terminate and be of no further force or effect.

7.4 Waiver. No waiver by either 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.

7.5 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.

7.6 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.

7.7 Schedules and Exhibits. All schedules and exhibits attached hereto are incorporated herein by this reference as though fully set forth herein.

7.8 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.

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

7.10 Assignment. This Agreement and the rights and obligations of Developer may be assigned by Developer at any time prior to the Termination Date to a party intending to develop the Project Property. In the event of such assignment, City agrees to close the transactions contemplated by this Agreement with the assignee of Developer. No transfer to such assignee shall be binding on City unless such assignee delivers to City a recordable instrument by which such assignee assumes the obligations of Developer under this Agreement.

7.11 Consents and Approvals. City and Developer shall at all times act reasonably with respects to any and all matters which require either 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.

7.12 Manager's Power to Consent. City hereby acknowledges and agrees that any unnecessary delay hereunder would adversely affect Developer and/or the development of the Project Property, and hereby authorizes and empowers the City Manager to consent to any and all requests of Developer 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.

[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 has executed the same on or as of the day and year first above written.

CITY OF TEMPE,
an Arizona municipal corporation

By _____
Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

Cynthia McCoy, City Attorney

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

On this ____ day of _____, 2017, before me, the undersigned officer, personally appeared Mark W. Mitchell, who acknowledged himself to be Mayor of THE CITY OF TEMPE, an Arizona municipal corporation, whom I know personally and he, 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:

“DEVELOPER”

Crescent Acquisitions, LLC,
A Delaware Limited Liability Company

By: _____ (SEAL)

Name: _____

Title: _____

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On this _____ day of _____, 2017, before me, the undersigned officer, personally appeared _____ who acknowledged him/herself to be the _____ of Crescent Acquisitions, LLC, a Delaware limited liability company, whom I know personally/whose identity was proven to me on the oath of _____, a credible witness by me duly sworn/whose identity was proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument/whose identity I verified on the basis of his/her _____, and s/he, in such capacity, being authorized so to do, 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"*** - Project Property
- Exhibit "B"*** - City Property
- Exhibit "C"*** - Easement Parcel
- Exhibit "D"*** - Form of Special Warranty Deed
- Exhibit "E"*** - Access, Driveway, Street, Parking, Utility and Landscape Easement
- Exhibit "F"** Maintenance Agreement

Exhibit "A"
(Project Property)

LEGAL DESCRIPTION

LOTS 13E AND 14E, STATE PLAT 12 AMENDED, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED IN BOOK 69 OF MAPS, PAGE 38.

EXCEPT ONE-SIXTEENTH OF ALL GAS, OIL, METAL AND MINERAL RIGHTS RESERVED IN PATENT BY THE STATE OF ARIZONA.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 16, FROM WHICH THE EAST QUARTER CORNER OF SAID SECTION 16 BEARS NORTH 89 DEGREES 41 MINUTES 33 SECONDS EAST, A DISTANCE OF 2674.61 FEET;

THENCE NORTH 89 DEGREES 41 MINUTES 33 SECONDS EAST, ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 16, A DISTANCE OF 505.32 FEET;

THENCE NORTH 00 DEGREES 18 MINUTES 27 SECONDS WEST, DEPARTING THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 16, A DISTANCE OF 40.00 FEET TO THE NORTHERLY RIGHT OF WAY OF 1ST STREET AND THE SOUTHWEST CORNER OF LOT 15E OF STATE PLAT NO. 12 AMENDED RECORDED IN BOOK 69 OF MAPS, PAGE 34, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE NORTH 89 DEGREES 41 MINUTES 33 SECONDS EAST, ON THE NORTHERLY RIGHT OF WAY OF 1ST STREET AND THE SOUTHERLY LINE OF LOT 15E OF SAID STATE PLAT NO. 12 AMENDED, A DISTANCE OF 100.11 FEET TO THE SOUTHWEST CORNER OF LOT 14E OF SAID STATE PLAT NO. 12 AMENDED AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE NORTH 00 DEGREES 49 MINUTES 31 SECONDS WEST, DEPARTING THE NORTHERLY RIGHT OF WAY OF 1ST STREET AND ON THE WESTERLY LINE OF LOT 14E OF SAID STATE PLAT NO. 12 AMENDED, A DISTANCE OF 406.49 FEET TO THE NORTHWEST CORNER OF LOT 14E OF SAID STATE PLAT NO. 12 AMENDED;

THENCE SOUTH 82 DEGREES 47 MINUTES 31 SECONDS EAST, ON THE NORTHERLY LINES OF LOT 14E AND 13E OF SAID STATE PLAT NO. 12 AMENDED, A DISTANCE OF 303.20 FEET TO THE NORTHEAST CORNER OF LOT 13E OF SAID STATE PLAT NO. 12 AMENDED;

THENCE SOUTH 00 DEGREES 50 MINUTES 29 SECONDS EAST, ON THE EASTERLY LINE OF LOT 13E OF SAID STATE PLAT NO. 12 AMENDED, A DISTANCE OF 366.84 FEET TO THE SOUTHEAST CORNER OF LOT 13E OF SAID STATE PLAT NO. 12 AMENDED AND THE NORTHERLY RIGHT OF WAY OF 1ST STREET;

THENCE SOUTH 89 DEGREES 41 MINUTES 33 SECONDS WEST, ON THE SOUTHERLY LINE OF SAID STATE PLAT NO. 12 AMENDED AND THE NORTHERLY RIGHT OF WAY OF 1ST STREET, A DISTANCE OF 300.34 FEET TO THE SOUTHWEST CORNER OF LOT 14E OF SAID STATE PLAT NO. 12 AMENDED AND THE TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

SIG
SURVEY INNOVATION
GROUP, INC

Ph (480) 922 0780 *Land Surveying Services* Fx (480) 922 0781
7301 EAST EVANS ROAD, SCOTTSDALE, AZ 85260

EXHIBIT "A"
CRESENT TEMPE WEST WATERFRONT
TEMPE, ARIZONA

JOB#2015-083	DWG: 15-083 LEGAL LOTS	DATE 5-17-16
SCALE: NA	DRAWN: JPH	CHK: JAS
		SHEET 1 OF 3

SAID PARCEL CONTAINS 116,103 SQUARE FEET OR 2.665 ACRES, MORE OR LESS.

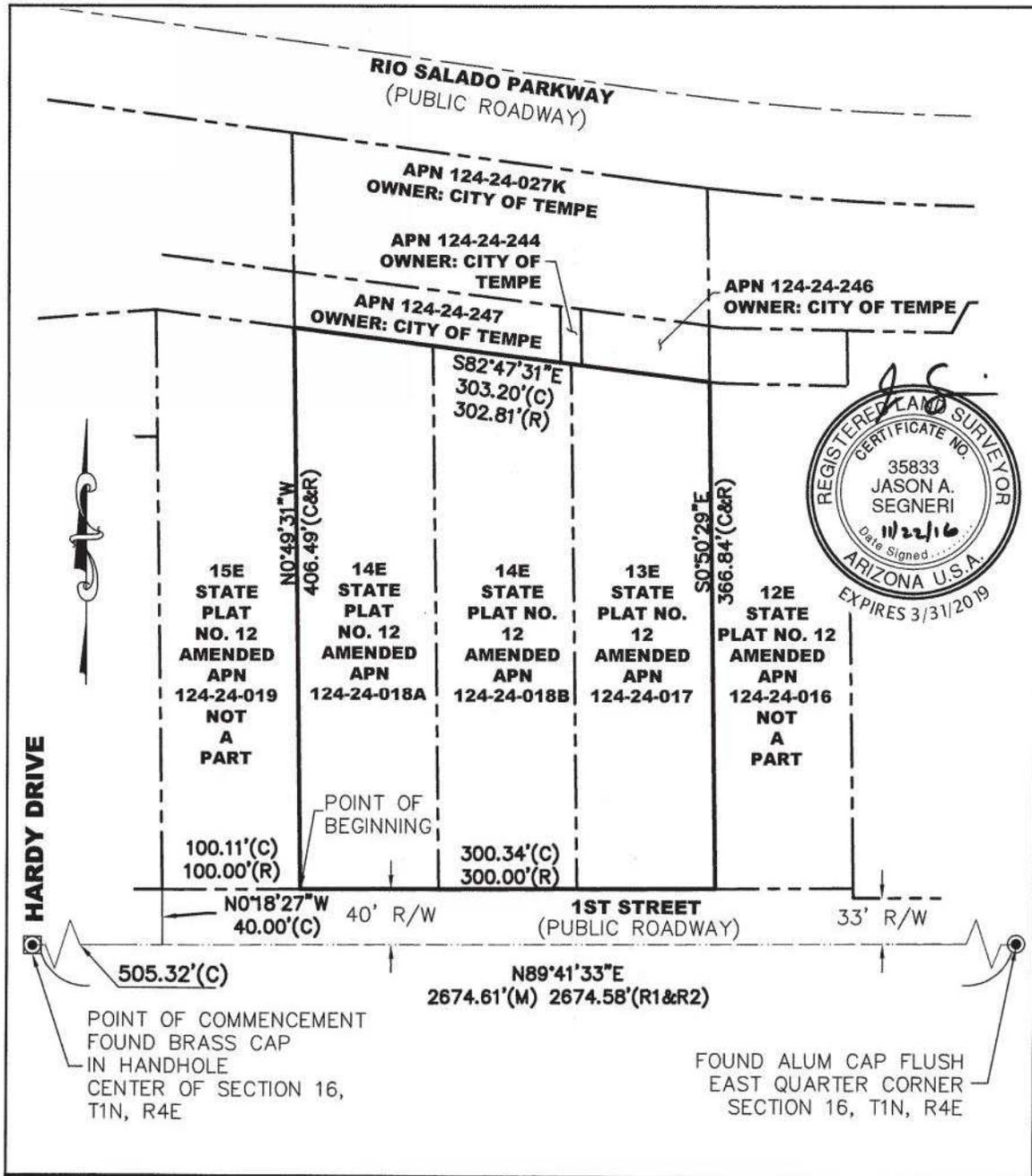


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SCALE: NA	DRAWN: JPH	CHK: JAS	SHEET 2 OF 3



SIG
SURVEY INNOVATION
GROUP, INC

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TEMPE, ARIZONA

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7301 EAST EVANS ROAD, SCOTTSDALE, AZ 85260

JOB#2015-083	DWG: 15-083	LEGAL LOTS	DATE 5-17-16
SCALE: 1"=100'	DRAWN: JPH	CHK: JAS	SHEET 3 OF 3

Exhibit "B"
(City Property)

LEGAL DESCRIPTION

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA WHICH LIES BETWEEN THE NORTHERLY PROPERTY LINES OF LOTS 13E AND 14E OF STATE PLAT NO. 12 AMENDED, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA RECORDED IN BOOK 69 OF MAPS, PAGE 38 AND SOUTHERLY OF THE EXISTING WATER LINE EASEMENT RECORDED DOCKET 10150, PAGE 963, RECORDS OF MARICOPA COUNTY, ARIZONA AND WHICH ALSO LIES BETWEEN THE NORTHERLY PROLONGATION OF THE EAST LINE OF SAID LOT 13E AND THE NORTHERLY PROLONGATION OF THE WEST LINE OF SAID LOT 14E OF SAID STATE PLAT NO. 12 AMENDED.

EXCEPT ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES, HELIUM OR OTHER SUBSTANCES OF A GASEOUS NATURE, COAL, METALS, MINERALS, FOSSILS, FERTILIZER OF EVERY NAME AND DESCRIPTION AND EXCEPT ALL MATERIALS WHICH MAY BE ESSENTIAL TO PRODUCTION OF FISSIONABLE MATERIAL AS RESERVED IN ARIZONA REVISED STATUTES.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 16, FROM WHICH THE EAST QUARTER CORNER OF SAID SECTION 16 BEARS NORTH 89 DEGREES 41 MINUTES 33 SECONDS EAST, A DISTANCE OF 2674.61 FEET;

THENCE NORTH 89 DEGREES 41 MINUTES 33 SECONDS EAST, ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 16, A DISTANCE OF 505.32 FEET;

THENCE NORTH 00 DEGREES 18 MINUTES 27 SECONDS WEST, DEPARTING THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 16, A DISTANCE OF 40.00 FEET TO THE NORTHERLY RIGHT OF WAY OF 1ST STREET AND THE SOUTHWEST CORNER OF LOT 15E OF STATE PLAT NO. 12 AMENDED RECORDED IN BOOK 69 OF MAPS, PAGE 34, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE NORTH 89 DEGREES 41 MINUTES 33 SECONDS EAST, ON THE NORTHERLY RIGHT OF WAY OF 1ST STREET AND THE SOUTHERLY LINE OF LOT 15E OF SAID STATE PLAT NO. 12 AMENDED, A DISTANCE OF 100.11 FEET TO THE SOUTHWEST CORNER OF LOT 14E OF SAID STATE PLAT NO. 12 AMENDED;

THENCE NORTH 00 DEGREES 49 MINUTES 31 SECONDS WEST, DEPARTING THE NORTHERLY RIGHT OF WAY OF 1ST STREET AND ON THE WESTERLY LINE OF LOT 14E OF SAID STATE PLAT NO. 12 AMENDED, A DISTANCE OF 406.49 FEET TO THE NORTHWEST CORNER OF LOT 14E OF SAID STATE PLAT NO. 12 AMENDED AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

THENCE CONTINUING NORTH 00 DEGREES 49 MINUTES 31 SECONDS WEST, ON THE NORTHERLY EXTENSION OF WESTERLY LINE OF LOT 14E OF SAID STATE PLAT NO. 12 AMENDED, A DISTANCE OF 58.34 FEET TO THE SOUTHERLY LINE OF THE EXISTING WATER LINE EASEMENT RECORDED DOCKET 10150, PAGE 963, RECORDS OF MARICOPA COUNTY, ARIZONA;

SIG
SURVEY INNOVATION
GROUP, INC

EXHIBIT "B"
CRESENT TEMPE WEST WATERFRONT
TEMPE, ARIZONA

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7301 EAST EVANS ROAD, SCOTTSDALE, AZ 85260

JOB#2015-083	DWG:15-083 CITY LEGAL	DATE 5-17-16
SCALE: 1"=80'	DRAWN: JPH	CHK: JAS
		SHEET 1 OF 3

THENCE SOUTH 89 DEGREES 55 MINUTES 00 SECONDS EAST, DEPARTING THE NORTHERLY EXTENSION OF THE WESTERLY LINE OF LOT 14E OF SAID STATE PLAT NO. 12 AMENDED AND ON SAID SOUTHERLY LINE OF THE EXISTING WATER LINE EASEMENT, A DISTANCE OF 300.24' FEET TO THE NORTHERLY EXTENSION OF THE EASTERLY LINE OF LOT 13E OF SAID STATE PLAT NO. 12 AMENDED;

THENCE SOUTH 00 DEGREES 50 MINUTES 29 SECONDS EAST, DEPARTING THE SAID SOUTHERLY LINE OF THE EXISTING WATER LINE EASEMENT AND ON THE NORTHERLY EXTENSION OF THE EASTERLY LINE OF LOT 13E OF SAID STATE PLAT NO. 12 AMENDED, A DISTANCE OF 95.95 FEET TO THE NORTHEAST CORNER OF LOT 13E OF SAID STATE PLAT NO. 12 AMENDED;

THENCE NORTH 82 DEGREES 47 MINUTES 31 SECONDS WEST, ON THE NORTHERLY LINES OF LOT 14E AND 13E OF SAID STATE PLAT NO. 12 AMENDED, A DISTANCE OF 303.20 FEET TO THE THE NORTHWEST CORNER OF LOT 14E OF SAID STATE PLAT NO. 12 AMENDED AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

SAID PARCEL CONTAINS 23,160 SQUARE FEET OR 0.532 ACRES, MORE OR LESS.

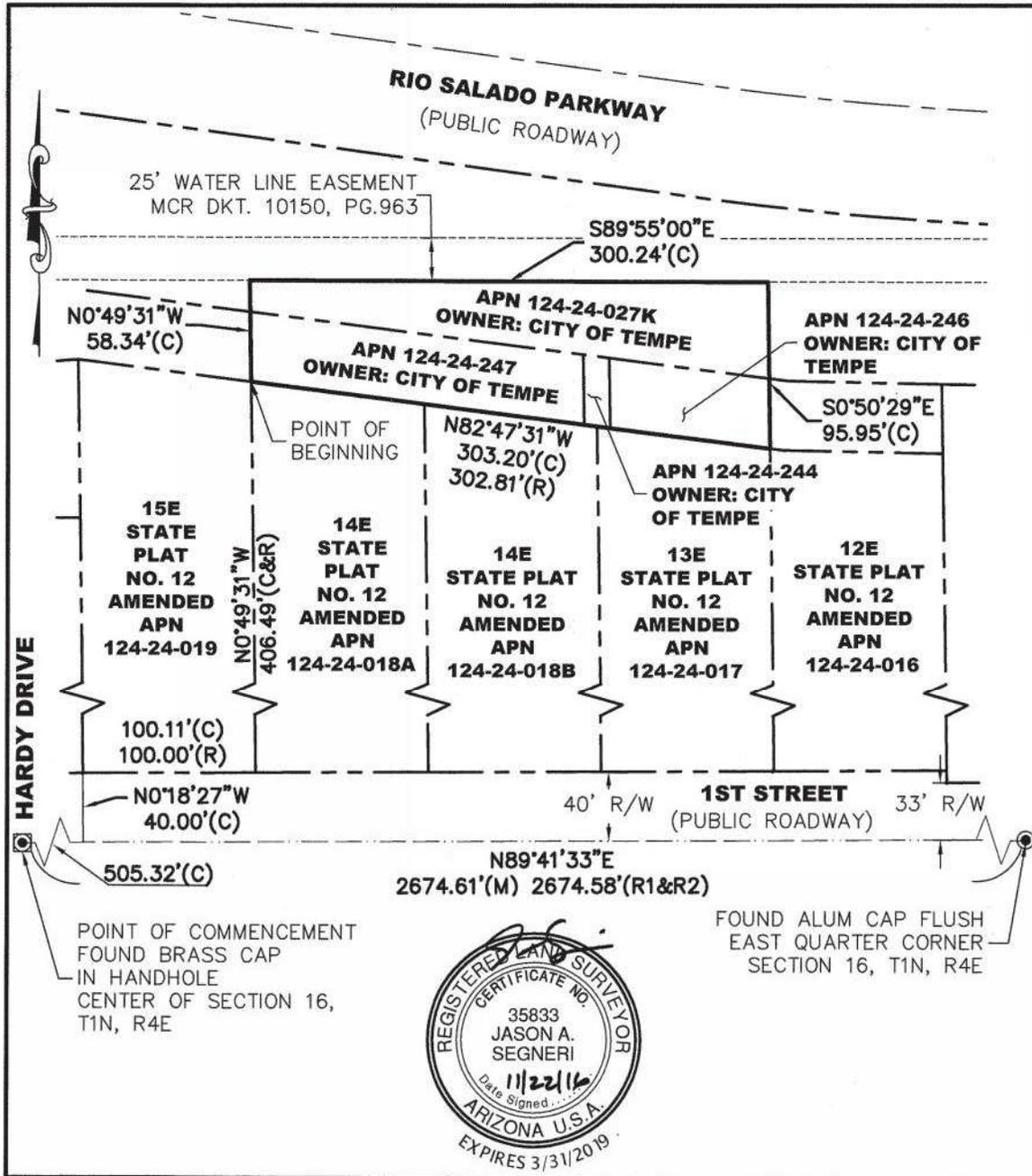


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SCALE: 1"=80'	DRAWN: JPH	CHK: JAS
		SHEET 2 OF 3



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SCALE: 1"=80'	DRAWN: JPH	CHK: JAS
		SHEET 3 OF 3

Exhibit "C"
(Easement Parcel)

LEGAL DESCRIPTION

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 1 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA WHICH LIES BETWEEN THE NORTHERLY PROLONGATION OF THE EAST LINE OF SAID LOT 13E AND THE NORTHERLY PROLONGATION OF THE WEST LINE OF SAID LOT 14E OF STATE PLAT NO. 12 AMENDED, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA RECORDED IN BOOK 69 OF MAPS, PAGE 38 AND NORTHERLY OF THE SOUTH LINE OF AN EXISTING WATER LINE EASEMENT RECORDED DOCKET 10150, PAGE 963, RECORDS OF MARICOPA COUNTY, ARIZONA.

EXCEPT ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES, HELIUM OR OTHER SUBSTANCES OF A GASEOUS NATURE, COAL, METALS, MINERALS, FOSSILS, FERTILIZER OF EVERY NAME AND DESCRIPTION AND EXCEPT ALL MATERIALS WHICH MAY BE ESSENTIAL TO PRODUCTION OF FISSIONABLE MATERIAL AS RESERVED IN ARIZONA REVISED STATUTES.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 16, FROM WHICH THE EAST QUARTER CORNER OF SAID SECTION 16 BEARS NORTH 89 DEGREES 41 MINUTES 33 SECONDS EAST, A DISTANCE OF 2674.61 FEET;

THENCE NORTH 89 DEGREES 41 MINUTES 33 SECONDS EAST, ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 16, A DISTANCE OF 505.32 FEET;

THENCE NORTH 00 DEGREES 18 MINUTES 27 SECONDS WEST, DEPARTING THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 16, A DISTANCE OF 40.00 FEET TO THE NORTHERLY RIGHT OF WAY OF 1ST STREET AND THE SOUTHWEST CORNER OF LOT 15E OF STATE PLAT NO. 12 AMENDED RECORDED IN BOOK 69 OF MAPS, PAGE 34, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE NORTH 89 DEGREES 41 MINUTES 33 SECONDS EAST, ON THE NORTHERLY RIGHT OF WAY OF 1ST STREET AND THE SOUTHERLY LINE OF LOT 15E OF SAID STATE PLAT NO. 12 AMENDED, A DISTANCE OF 100.11 FEET TO THE SOUTHWEST CORNER OF LOT 14E OF SAID STATE PLAT NO. 12 AMENDED;

THENCE NORTH 00 DEGREES 49 MINUTES 31 SECONDS WEST, DEPARTING THE NORTHERLY RIGHT OF WAY OF 1ST STREET AND ON THE WESTERLY LINE OF LOT 14E OF SAID STATE PLAT NO. 12 AMENDED, A DISTANCE OF 406.49 FEET TO THE NORTHWEST CORNER OF LOT 14E OF SAID STATE PLAT NO. 12 AMENDED;

THENCE CONTINUING NORTH 00 DEGREES 49 MINUTES 31 SECONDS WEST, ON THE NORTHERLY EXTENSION OF WESTERLY LINE OF LOT 14E OF SAID STATE PLAT NO. 12 AMENDED, A DISTANCE OF 58.34 FEET TO THE SOUTHERLY LINE OF THE EXISTING WATER LINE EASEMENT RECORDED DOCKET 10150, PAGE 963, RECORDS OF MARICOPA COUNTY, ARIZONA AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

SIG
SURVEY INNOVATION
GROUP, INC

Ph (480) 922 0780 *Land Surveying Services* x (480) 922 0781
7301 EAST EVANS ROAD, SCOTTSDALE, AZ 85260

EXHIBIT "C"
CRESENT TEMPE WEST WATERFRONT
TEMPE, ARIZONA

JOB#2015-083	DWG: 15-083 EX C	DATE 5-17-16
SCALE: 1"=80'	DRAWN: JPH	CHK: JAS
		SHEET 1 OF 3

THENCE NORTH 00 DEGREES 49 MINUTES 31 SECONDS WEST, DEPARTING THE SOUTHERLY LINE LINE OF SAID EXISTING WATER LINE EASEMENT, A DISTANCE OF 83.53 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF RIO SALADO PARKWAY;

THENCE SOUTH 82 DEGREES 20 MINUTES 16 SECONDS EAST, DEPARTING THE NORTHERLY EXTENSION OF THE WESTERLY LINE OF LOT 14E OF SAID STATE PLAT NO. 12 AMENDED, AND ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 265.62 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 1,974.86 FEET;

THENCE EASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 01 DEGREES 05 MINUTES 52 SECONDS, A DISTANCE OF 37.84 FEET TO A POINT ON NORTHERLY EXTENSION OF THE EASTERLY LINE OF LOT 13E OF SAID STATE PLAT NO. 12 AMENDED;

THENCE SOUTH 00 DEGREES 50 MINUTES 29 SECONDS EAST, DEPARTING SAID SOUTH RIGHT OF WAY LINE ALONG SAID EXTENTION LINE, A DISTANCE OF 43.86 FEET TO A POINT ON SAID SOUTHERLY LINE OF WATER LINE EASEMENT;

THENCE NORTH 89 DEGREES 55 MINUTES 00 SECONDS WEST, DEPARTING SAID NORTHERLY EXTENSION OF THE EASTERLY LINE OF LOT 13E OF SAID STATE PLAT NO. 12 AMENDED, AND ALONG SAID SOUTHERLY WATER LINE EASEMENT LINE, A DISTANCE OF 300.24 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

SAID PARCEL CONTAINS 19,071 SQUARE FEET OR 0.438 ACRES, MORE OR LESS.

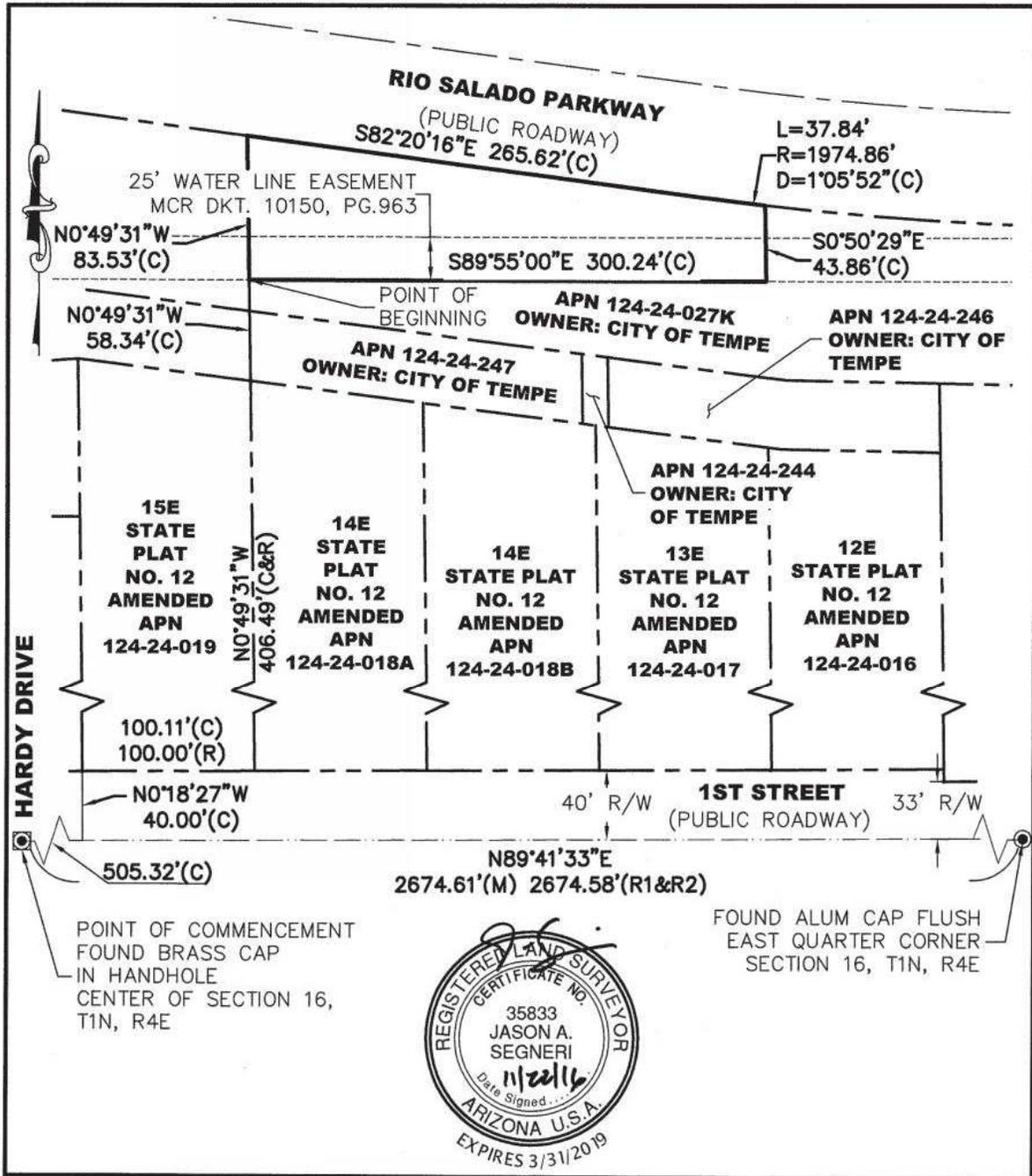


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EXHIBIT "C"
CRESENT TEMPE WEST WATERFRONT
TEMPE, ARIZONA

JOB#2015-083	DWG: 15-083 EX C	DATE 5-17-16
SCALE: 1"=80'	DRAWN: JPH	CHK: JAS
		SHEET 2 OF 3



SIG
SURVEY INNOVATION
GROUP, INC

EXHIBIT "C"
CRESENT TEMPE WEST WATERFRONT
TEMPE, ARIZONA

Ph (480) 922 0780 Land Surveying Services Fax (480) 922 0781
7301 EAST EVANS ROAD, SCOTTSDALE, AZ 85260

JOB#2015-083	DWG:15-083 EX C	DATE 5-17-16
SCALE: 1"=80'	DRAWN: JPH	CHK: JAS
		SHEET 3 OF 3

Exhibit “D”
(Form of Special Warranty Deed)

WHEN RECORDED, RETURN TO:

City of Tempe
21 East Fifth Street
Tempe, Arizona 85281
Attention: City Clerk

EXEMPT from the
requirement for an
Affidavit per
11-1134A3

SPECIAL WARRANTY DEED

For the consideration of Ten Dollars (\$10.00) and other valuable considerations, The City of Tempe, a municipal corporation (“**Grantor**”), hereby conveys to Crescent Acquisitions, LLC, a Delaware limited liability company (“**Grantee**”), the following real property situated in Maricopa County, Arizona, together with all rights and privileges appurtenant thereto:

See Exhibit A attached hereto and incorporated herein by
this reference (the “**Property**”).

SUBJECT TO current real property taxes and other assessments; patent reservations; and all easements, rights of way, covenants, conditions, restrictions and other matters as may appear of record or which an accurate survey or inspection would reveal.

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

Exhibit "E"

(Form of Access, Driveway, Street, Parking, Utility and Landscape Easement)

When Recorded, Return to:

City of Tempe
31 East Fifth Street
Tempe, Arizona 85281
Attention: City Clerk

**ACCESS, DRIVEWAY, STREET, PARKING, UTILITY AND LANDSCAPE
EASEMENT**

For valuable Consideration, The City of Tempe, a municipal Corporation ("City"), hereby grants to _____, a _____ and its successors and assigns (hereinafter called the "Developer"), a perpetual, non-exclusive easement over, under, and across the following described property (the "Burdened Parcel"), situated in the County of Maricopa, State of Arizona, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND
BY REFERENCE INCORPORATED HEREIN

Such easement shall be for the benefit of the real property described on Exhibit "B" attached hereto and by reference incorporated herein (the "Benefited Parcel"), and shall run with the land and shall be binding upon the successors and assigns of all persons and entities owning the Burdened Parcel, and shall benefit the successors and assigns of all persons and entities owning the Benefited Parcel.

1. Use of the easement shall be limited to the following purposes:
 - a. Construction, operation and maintenance of a driveway to provide ingress and egress to the Benefited Parcel, together with associated rights of ingress and egress over the Burdened Parcel for purposes of access to and from the Benefited Parcel to the adjacent public roadways;
 - b. Construction, installation, operation and maintenance of parking (expressly including the right to park all types of motor vehicles in the designated parking areas), sidewalks, lighting, public or private utilities installed solely for providing service to the Benefited Parcel, storm water drainage and retention, signs, landscaping and irrigation; and
2. Plans for proposed improvements within the Burdened Parcel require the approval and signature of the City Engineer prior to installation, which approval will be obtained as party of the permitting process for the Project. Any unauthorized improvements

constructed on the Burdened Parcel by the Developer shall be removed within 30 days of written notice from City. If the unauthorized improvements are not removed within the 30-day notice period, City has the option to remove the unauthorized improvements and bill the associated costs to the Developer. Any amounts not paid within thirty (30) days after such request shall bear interest until paid in full at the rate of 1.5% per month, compounded monthly.

4. The improvements to be constructed on the Burdened Parcel shall be maintained by the Developer in accordance with the approved Planned Area Development for the Project Property, subject to such adjustments as may be reasonably appropriate. Failure to so maintain the improvements may result in City action against Developer pursuant to the remedies available to the City under applicable City Ordinances and Codes. The remedies may include, but are not limited to notifying the Developer in writing of the failure to maintain the improvements to City standards and providing for a 30-day period to attain compliance. In the event the Developer is in non-compliance at the end of the 30-day period, the City has the option to correct the non-compliance and bill the associated costs to the Developer.

5. During the effective term of this easement and as a condition precedent to the effectiveness of this easement, the Developer and its successors and assigns, at its own expense shall maintain in full force a policy or policies of comprehensive liability insurance, including property damage, written by one or more responsible insurance companies licensed to do business in Arizona, which shall insure the Developer, the City, including its employees and agents, against liability for injury to persons and property and for the death of any person occurring in, on or about the easement. During construction of the project on the Burdened Parcel and until the final Certificate of Occupancy is issued, the limits of such insurance shall not be less than \$5,000,000 for each occurrence to include property damage, personal injury, bodily injury, products, and completed operations, with a \$5,000,000 general aggregate.. After a final Certificate of Occupancy has been issued by the City the limits of such insurance shall not be less than \$2,000,000 for each occurrence to include property damage, personal injury, and bodily injury with a \$2,000,000 general aggregate. Said insurance limits shall be periodically reviewed to ensure coverage based on market and risk requirements throughout the effective term of this easement. Said insurance shall be primary to the City's self-insurance or any other insurance policy coverage applicable to the City. The certificate of insurance shall be issued and shall name the City, its employees, officers, agents and volunteers as an additional insured and shall provide coverage for claims made after the effective term of the easement for occurrences during the effective term of this easement.

6. Notwithstanding the provisions of this Easement to the contrary, this Easement shall automatically terminate if construction of the improvements has not been substantially completed within three (3) years from the date hereof.

Dated this _____ day of _____, 201__.

Exhibit F
Form of Maintenance Agreement

WHEN RECORDED RETURN TO:

City of Tempe

CITY OF TEMPE

MAINTENANCE AGREEMENT

This Maintenance Agreement (“Agreement”) is made to be effective as of the ____ day of _____, 2014, by and among THE CITY OF TEMPE, a municipal corporation organized under the laws of the State of Arizona (“Tempe” or “City”), and _____, LLC, an Arizona limited liability company (“Developer”).

RECITALS:

A. City and Developer are parties to that certain Development and Disposition Agreement dated as of _____ (the “DDA”), pursuant to which (i) City granted Developer an easement over the real property legally described on Exhibit A hereto for use as a _____ (“Easement”), and (ii) Developer agreed to construct and maintain the improvements constructed on the Easement Area (the “Improvements”).

B. Developer has completed construction of the Improvements, and such construction has been approved and accepted by City, and the parties now desire to set forth herein their agreements and understandings with respect to maintenance of the Improvements.

AGREEMENT:

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer hereby agree as follows:

1. Improvements Construction. Developer has constructed the Improvements in a good and workmanlike manner substantially in accordance with the construction drawings for the Project, as submitted to and approved by City on _____ (“Approved Plans”).

2. Maintenance. On completion of the Improvements, City issued a Letter of Acceptance evidencing that the installation of thereof has been completed as of the date set forth therein (“Completion Date”). Developer shall and hereby does assume full responsibility for repairing, replacing and maintaining the Improvements in good condition and repair in a condition adequate for the normal operation and use thereof, and consistent with (i) applicable

City of Tempe standards as in effect at the Completion Date, and (ii) the Approved Plans; provided that, Developer's obligations under this Section 2 and the other provisions of this Agreement shall expressly exclude repair, replacement and maintenance obligations resulting from or in connection with any actions or omissions of the City or its employees, agents or contractors.

3. Failure to Maintain. While this Agreement is in effect, subject to the terms of this Agreement, if Developer fails to perform its obligations hereunder, and City has actual notice of such conditions, City may, at its sole discretion, without being under any obligation to do so, perform or have performed any and all such work as City, in its reasonable discretion, deems necessary to maintain or restore the Improvements to good condition. City may take immediate action if it deems that the condition presents a risk to the public safety or welfare; otherwise, City shall notice a default under Section 5 and allow Developer the opportunity to cure. If Tempe performs any such work, these actions do not alter, diminish or constitute a waiver with respect to the obligations of Developer pursuant to this Agreement. Tempe shall present to Developer any bills for reasonable and documented costs actually incurred in connection with such maintenance and repair, and Developer shall pay the amount of such bills within thirty (30) days of presentation. Any amounts not paid when due shall bear interest at the rate of 10% per annum from the date of presentation until paid in full, compounded daily.

4. Indemnification. Developer shall indemnify, defend and hold harmless Tempe, its agents, officers, officials, and employees ("City Parties"), from and against all claims, damages, losses, and expenses (included but not limited to attorney's fees, court costs, and the costs of appellate proceedings) (collectively, "Claims"), arising out of, or alleged to have resulted from the negligent acts, errors, mistakes, omissions, work, services, or professional services of Developer, its agents, employees, or any other person (not the City) for whose acts, errors, mistakes, omissions, work, services, or professional services Developer may be legally liable in the performance of this Agreement, expressly excluding any Claims resulting solely from any actions or omissions of the City or its employees, agents or contractors. Subject to the foregoing, Developer's duty to hold harmless and indemnify the City Parties shall arise in connection with any claim for damage, loss or expenses that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of any person or property, including loss of use resulting therefrom, caused by any negligent acts, errors, mistakes, omissions, work, services, or professional services in the performance of this Agreement by Developer or any employee of Developer, or any other person (not the City) for whose negligent acts, errors, mistakes, omissions, work, or services Developer may be legally liable in the performance of this Agreement. The amount and type of insurance coverage requirement set forth herein will in no way be construed as limiting the scope of indemnity in this paragraph.

5. Term; Termination; Default.

a. This Agreement shall remain in effect for so long as the Easement remains in effect, or unless otherwise agreed in writing by the parties hereto, or unless sooner terminated as provided herein.

b. It shall constitute a default hereunder if Developer fails to perform any obligation required to be performed by it hereunder, and such failure continues for a period of thirty (30) calendar days after written notice thereof from the City, specifying in reasonable detail the nature of such non-performance; provided that, if Developer has commenced the cure of such default and is diligently pursuing the same as reasonably determined by the City after its review of the Developer's efforts, Developer shall be afforded such additional reasonable period of time as may be necessary for Developer to complete the cure of such default. No default will be deemed to exist if the cure is commenced within the cure period and diligently pursued to completion within thirty (30) calendar days after the written notice is issued or such longer period as is provided for in this Section 5(b) or that City and Developer may otherwise agree is reasonable in the circumstances.

6. Insurance.

a. After the Completion Date and for the duration of the effective term of this Agreement, Developer, at its own expense shall maintain in full force a policy or policies of commercial general liability insurance against claims for bodily injury, personal injury, death, and property damage (including contractual liability) occurring on or about the Easement Area. The insurance must be maintained by an insurer licensed to do business in Arizona, name City as an additional insured, and remain at all times in effect without cancellation unless 30 days' notice of cancellation is provided to the insured and all additional insureds. Developer will be solely responsible for paying all real estate taxes on the Easement Area. Said insurance shall be primary to the City's self-insurance or any other insurance policy coverage applicable to the City.

b. Developer shall provide Tempe with certificates of insurance or other evidence of insurance policies maintained by it pursuant to this Agreement and certificates of insurance relating thereto issued by the insurers.

c. Insurance limits shall be periodically reviewed by City's Risk Manager to ensure coverage based on market and risk requirements throughout the effective term of this Agreement. All insurance required hereunder shall be primary to the City's self-insurance or any other insurance policy coverage applicable to the City. The certificate of insurance shall be issued and shall name the City, its employees, officers, agents and volunteers as an additional insured and shall provide coverage for claims made after the effective term of the Agreement for occurrences during the effective term of this Agreement. All such policies shall name the City of Tempe, its employees, agents, officers and volunteers, as additional insureds and shall state that they may not be cancelled prior to expiration without thirty (30) days prior written notice to the City.

7. Conflict of Interest. Pursuant to Arizona law, rules and regulations, no member, official, or employee of Tempe shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested. This Agreement is subject to A.R.S. § 38-511.

8. Governing Law. This Agreement shall be governed by, construed and enforced under the laws of the State of Arizona.

9. Notices. Notices will be in writing and will be given by personal delivery, or certified mail, return receipt requested. Notices will be delivered or addressed to the applicable party at the addresses set forth below or at such other address or number as a party may designate in writing:

To Developer: _____, LLC
c/o Crescent Communities, LLC
6200 South Fiddlers Green Circle
Suite 1600
Greenwood Village, CO 80111
Attn: Mr. Scott Makee
Fax: 720-360-3188
Email: SMakee@crescentcommunities.com

With a copy to: Womble Carlyle Sandridge & Rice, LLP
1200 19th Street, NW, Suite 500
Washington, D.C. 20036
Attn: Pamela V. Rothenberg, Esq.
Fax: 202-261-0022
Email: prothenberg@wcsr.com

To Tempe: City of Tempe
31 East 5th Street
Tempe, Arizona 85281
Attention: City Manager's Office

With a copy to: City of Tempe
31 East 5th Street
Tempe, Arizona 85281
Attention: City Attorney's Office

The date notice is deemed to have been given, received and become effective will be (i) the date on which the notice is delivered or refused, if notice is given by personal delivery or certified mail; or (ii) the date of actual receipt.

10. Amendments; Entire Agreement. This Agreement may only be revoked or amended only by an instrument in writing reciting such amendment, bearing the signatures of the parties to this Agreement in effect at that time, or their successors in interest. This Agreement and the attached Exhibit is the entire agreement between the parties pertaining to the subject

matter hereof. All prior and contemporaneous agreements, representations and undertakings of the parties, oral or written, are hereby superseded and merged herein.

11. Counterparts. This Agreement may be executed in counterparts. Each such counterpart hereof shall be deemed an original, but all counterparts shall constitute but one agreement.

12. Benefit and Binding Effect. This Agreement and all provisions hereunder shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns. The benefits and burdens of this Agreement shall be binding upon the parties hereto, their successors and assigns, and constitute covenants running with the land.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in the manner and by the individuals herein indicated.

TEMPE:

City of Tempe, Arizona, a municipal corporation

By: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2016.

NOTARY SEAL:

Notary Public

My Commission Expires:
