

**CITY CLERK
ORIGINAL**

**C-9151
08/12/2014**

SETTLEMENT AGREEMENT

This Agreement is made and entered into on August 12, 2014 (the “*Effective Date*”), between the Tohono O’odham Nation (“*Nation*”), the Tohono O’odham Gaming Enterprise (“*Gaming Enterprise*”), and the City of Glendale (“*City*”), and collectively as the “*Parties.*” The Gaming Enterprise’s obligations under this Agreement are limited to those obligations expressly stated to be obligations of the Gaming Enterprise and no others.

1. Recitals.

As background to this Agreement, the Parties recite, state, and acknowledge the following, each of which recitals is fully incorporated into this Settlement Agreement and expressly made a material term and condition of this Agreement. The following recitals shall constitute joint representations of the parties, except where a statement or funding is specifically attributed to one party:

- A. The Nation is a federally recognized Indian tribe, which represents that it has the authority under its Constitution and tribal laws to enter into this Agreement; and
- B. The City is an Arizona municipal corporation which provides municipal services, including the provision of public safety, water and wastewater, convention and visitor services; and
- C. The Nation owns property contiguous to the City; and
- D. The Nation intends to develop and the Gaming Enterprise intends to operate a destination gaming facility and related development on lands to be held in trust by the United States; and
- E. Upon application to the Bureau of Indian Affairs, the City has opposed the Project and undertaken steps opposing the Project including, but not limited to, instituting litigation in both state and federal courts and pursuing state and federal legislation to block the Project.
- F. The Nation and City desire to enter into an agreement under which they settle all their disputes relating to the Property, including, but not limited to, their disputes about the Nation’s construction and operation of the WVR Project on the Property.
- G. The Parties acknowledge and agree that the support of local government is important to the development of the proposed West Valley Resort and cooperative intergovernmental relationships are vital to the proposed West Valley Resort.

- H. The Nation and the Gaming Enterprise recognize that the approval of the federal trust application and the conduct of gaming will have economic and other impacts on the local community.
- I. The Parties agree that the Parties will benefit from this Agreement and any payment set forth in the Agreement is not an assessment, tax or fee, but is made in consideration of settling current litigation, legislative pursuits, to fund the operation of a local government agency, to promote the Nation's economic development and other rights and obligations set forth herein.
- J. The Parties acknowledge and agree that Glendale has reasonably relied upon the opinion letters from counsel required by Section 20 of the Agreement, as additional consideration for entering into this Agreement.

Now therefore, in consideration of the promises, covenants, agreements and obligations contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties enter into this Agreement and agree as follows.

2. Definitions and References.

“Gaming Enterprise” refers to the Tohono O’odham Gaming Enterprise, the enterprise of the Nation that will operate the Project.

“Class III Gaming” has the meaning given to the term in the Compact.

“Compact” refers to the Tohono O’odham Nation – State of Arizona Gaming Compact dated December 4, 2002, as amended (including the amendment effective on March 25, 2009).

“CPR” refers to the International Institute for Conflict Prevention & Resolution.

“Glendale” or “City” refers to the City of Glendale, a municipal subdivision of the State of Arizona.

“H.R. 1410” refers to the “Keep the Promise Act of 2013” legislation introduced in the 113th Congress on or about April 9, 2013.

“Lands Replacement Act” refers to the Gila Bend Indian Reservation Lands Replacement Act, P.L. 99-503.

“Nation” refers to the Tohono O’odham Nation, a federally recognized Indian tribe.

“Property” refers to the real property in Maricopa County owned by the Nation and located southwest of the intersection of Northern and 91st Avenues, which is depicted and legally described on **Exhibit A**.

“S. 2670” refers to the “Keep the Promise Act of 2014” legislation introduced in the 113th Congress on or about July 28, 2014.

“WVR Project” or “Project” refers to the West Valley Resort project that the Nation intends to construct and operate on the Property, which is planned to include, among other things, a casino, resort hotel, conference center, restaurants and bars, a supporting warehouse, and parking structures and lots. The Nation’s current conceptual plan for the WVR Project, which is subject to change by the Nation, is illustrated on **Exhibit B**.

3. Term

The term of this Agreement shall commence upon the Effective Date of this Agreement and shall continue until Class III Gaming ceases being conducted on the Property or such earlier date on which the Nation makes the last payment required under Section 9(B) of this Agreement.

4. Overall Intent.

Glendale and the Nation intend by this Agreement to settle all their disputes relating to the Property, including, but not limited to, their disputes about the Nation’s construction and operation of the WVR Project on the Property.

5. Settlement of Disputes.

A. Within ten (10) days after the Effective Date, Glendale will:

1. Reaffirm the Repeal of Resolution No. 4246 New Series (“Expressing the City’s Opposition to the Creation of an Indian Reservation on a Parcel within the Glendale Municipal Planning Area”).
2. Execute a stipulation with the Nation to withdraw Glendale’s appeal of, and to dismiss with prejudice Glendale’s claims in, an action captioned *Tohono O’odham Nation v City of Glendale, et al.*, which currently is pending before the United States Court of Appeals for the Ninth Circuit (Case Nos. 11-16811, 11-16823, and 11-16833) (the “*Annexation Litigation*”).
3. Adopt a new resolution:
 - a. Expressing Glendale’s support for the United States’ acquisition of the entirety of the Property in trust for the benefit of the Nation under the Lands Replacement Act;

- b. Acknowledging that the Property is not, and has never been, within the corporate limits of any city or town (as that phrase is used in the Lands Replacement Act), including Glendale;
- c. Expressing Glendale's support for the WVR Project (including the Nation's proposed casino gaming operation on the Property);
- d. Stating that Glendale wants the Nation to construct and commence operating the WVR Project as expeditiously as possible for the mutual benefit of Glendale and the Nation;
- e. Urging the State of Arizona not to challenge any decision of the Secretary of the Interior to take title to the Property in trust for the benefit of the Nation under the Lands Replacement Act;
- f. Urging the State of Arizona to withdraw its appeal in the Annexation Litigation and to dismiss its claims in that action with prejudice; and
- g. Urging the Arizona Congressional delegation to oppose H.R. 1410, S. 2670, or any similar legislation that would limit the Nation's ability to conduct Class III Gaming on the Property.

B. Within ten (10) days after the Effective Date, Glendale and the Nation will issue a joint press release, approved in substance and form by each of the Parties, stating that:

- 1. Glendale and the Nation have resolved their differences regarding the WVR Project;
- 2. Glendale supports the United States' acquisition of the entirety of the Property in trust for the benefit of the Nation under the Lands Replacement Act;
- 3. Glendale acknowledges that the Property is not, and has never been, within the corporate limits of any city or town (as that phrase is used in the Lands Replacement Act), including Glendale;
- 4. Glendale supports the Nation's WVR Project (including the Nation's proposed casino gaming operation on the Property); and

5. Glendale wants the Nation to construct and commence operating the WVR Project as expeditiously as possible for the mutual benefit of Glendale and the Nation.
- C. Glendale will not, directly or indirectly, oppose, challenge, or appeal any decision by the Secretary of the Interior to acquire the Property in trust for the benefit of the Nation under the Lands Replacement Act, including any current or future fee to trust applications concerning the Property.
- D. Glendale will transfer to the Nation ownership of the Internet domain “westvalleyresort.com” and any other similar Project-related website domains it registered.
- E. If the Nation asks the National Indian Gaming Commission or the United States Department of the Interior to issue any decisions or opinions relating to whether the Property meets the requirements of 25 U.S.C. § 2719(b)(1)(B), Glendale will not directly or indirectly, oppose the request.
- F. If the Nation requests, Glendale will transmit the resolution adopted under Section 5(A)(3) to governmental officials designated by the Nation with a cover letter stating that the resolution continues to set forth Glendale’s position on the issues in the resolution.
- G. Glendale will not, after the Effective Date, annex, or take any action to annex, any part of the Property.

6. **Infrastructure for the WVR Project.**

- A. Intent. Because the Property is not located within Glendale, the Parties have no desire to enter a development agreement as defined in A.R.S. § 9-500.05(A), and expressly disclaim any implication that this Agreement constitutes such an agreement.
- B. On-site infrastructure. The Nation will be responsible for constructing and paying for any infrastructure required on the Property to support the WVR Project. The list attached as **Exhibit C** outlines the Nation’s current forecast of the on-site infrastructure required to support the WVR Project and the potential costs for those improvements. The on-site infrastructure actually constructed likely will vary from current estimates, as will the costs for that infrastructure.

C. Off-site infrastructure. The Nation will be responsible for paying to Glendale the actual costs Glendale incurs for infrastructure improvements off the Property that are required by and directly attributable to the WVR Project. The actual costs will be determined in accordance with generally accepted accounting, engineering, and legal principles for real estate development in a non-discriminatory manner. The list attached as **Exhibit D** outlines the Nation's current forecast of the off-site infrastructure improvements attributable to the WVR Project and an estimate of potential costs attributable to the WVR Project. The off-site infrastructure improvements required likely will vary from current forecasts, as will the costs for those improvements. If Glendale and the Nation are unable to agree upon the Nation's actual cost of any off-site infrastructure improvements, the Nation's share will be determined by mediation and arbitration.

7. **Construction of WVR Project; Building Codes.**

The Nation's design and construction, and any future modification of, the WVR Project shall comply with standards governing health and safety which shall be no less stringent than the standards required by Section 13(a) of the Compact and 18 Tohono O'odham Code Chapter 3 – Building Codes, as each may be amended. The Nation and the Gaming Enterprise shall allow access to the City Fire Marshal or an appropriate designee fire inspector, during normal hours of operation on forty-eight (48) hours advance notice, to assess compliance with those standards. Glendale acknowledges its Fire Marshal will not have jurisdiction over the Project and nothing in this Agreement is intended to confer such jurisdiction.

8. **Governmental Services for the WVR Project.**

- A. Governmental Services Provided by the Nation. The Nation will be responsible for providing (directly or through agreements with other public or private providers) all necessary and customary governmental services to the WVR Project, including, but not limited to, public safety (police and traffic control), fire protection, and emergency medical services.
- B. Cooperation with Glendale. The Nation and Glendale will work cooperatively to avoid conflicts or gaps in their provision of public safety, fire protection, and emergency medical services within their respective jurisdictions, may execute mutual aid agreements, and may conduct joint public safety training exercises.
- C. Utility Services. The Gaming Enterprise will acquire potable water and wastewater services for the WVR Project from Glendale. The Gaming Enterprise will pay Glendale's standard connection fees and service charges for those services, at Glendale's usual and customary rates for commercial customers. Glendale may from

time to time change the structure of its fees and service charges for those services, but agrees not to do so in a manner that unfairly discriminates against the Nation, the Gaming Enterprise, or the WVR Project. Provided that Glendale provides reliable potable water and wastewater services at a cost competitive with other potential providers of those services (*i.e.* at a cost that does not exceed alternatives by fifteen percent (15%)), the Gaming Enterprise will acquire those services exclusively from Glendale.

D. Other Services. If the Nation solicits bids for other services for the WVR Project (such as solid waste collection services) and Glendale is a provider of such services, the Nation will provide Glendale with an opportunity to bid to provide those services.

9. **The Nation's Payment to Glendale and Other Consideration Provided Under this Agreement.**

A. Before the Nation Commences Gaming. Within ten (10) days after the Effective Date, the Nation will make a one-time payment to Glendale in the amount of \$500,000.00 to help fund the operations of Glendale.

B. After the Nation Commences Gaming. Commencing in the year in which the Nation first offers Class III Gaming to the public on the Property (the "***Base Year***") and continuing in each subsequent year for a period of twenty (20) years, the Nation will make the payments described below:

1. Annual Payment to the Glendale Convention and Visitors Bureau.

- a. Commencing in the Base Year, the Nation will pay \$100,000.00 to the Glendale Convention and Visitors Bureau for its use in promoting and branding Glendale and the West Valley as a premiere destination for business and leisure travelers. The Nation will commence making payments to the Glendale Convention and Visitors Bureau within six (6) months of the date on which the Nation first offers Class III Gaming to the public on the Property and annually thereafter within sixty (60) days of the anniversary date of the original payment made under this subsection.
- b. In each subsequent year during the term of this Agreement, the Nation will make a payment to the Glendale Convention and Visitors Bureau in an amount that is two percent (2%) greater than its payment in the previous year, for the same purposes.

2. Annual Payment to Glendale.

- a. Commencing in the Base Year, the Nation will make annual payments to Glendale to help fund its operations. The Nation will commence making payments to Glendale within six (6) months of the date on which the Nation first offers Class III Gaming to the public on the Property and annually thereafter within sixty (60) days of the anniversary date of the original payment made under this subsection.
- b. The Nation's payment in the Base Year will be \$1,400,000.00. In each subsequent year of this Agreement through the year including January 2026, the Nation will make a payment to Glendale in an amount that is two percent (2%) greater than its payment in the previous year, for the same purposes.
- c. In the year commencing October 1, 2026, the Nation will pay \$900,000.00 to Glendale, for the same purposes. In each subsequent year of this Agreement, the Nation will pay to Glendale an amount that is two percent (2%) greater than its payment in the previous year, for the same purposes.
- d. For purposes of Sections 9(B)(1)(b) and 9(B)(2)(b) and (c) of this Agreement, the term "year" will mean fiscal year of the Nation, which runs October 1 through September 30.
- e. If the Nation offers Class III Gaming to the public on the Property for only part of a year, the Nation's payment for that year will be prorated based on the number of days during the year on which the Nation actually offers Class III Gaming to the public on the Property. For purposes of calculating the two percent (2%) increases required in Sections 9(B)(2)(b) and (c) of this Agreement, any prorations will be ignored and the calculations will be made as if the Nation had offered Class III Gaming to the public on the Property for the entirety of the previous year.
- f. Glendale may expend the Nation's payments as Glendale determines, provided Glendale expends the payments to fund government services that benefit the general public (and Glendale

will make an annual, written certification to the Nation that it has done so).

10. Cancellation or Amendment of Agreement.

- A. By Mutual Agreement. Glendale and the Nation may amend or terminate this Agreement at any time by mutual agreement. Any amendment or termination of this Agreement must be documented in writing and signed by the Parties. No waiver of any term, provision, or condition of this Agreement will be deemed to have occurred unless the waiver is expressed in writing and signed by the party against whom the waiver is asserted.
- B. After a Breach by Glendale. The Nation may terminate this Agreement, without penalty and without further obligation to Glendale under this Agreement including any obligation to pay a share of any infrastructure costs under Section 6(C) of this Agreement, and with the right to a refund of all sums previously paid under this Agreement, if:
1. Glendale fails to timely meet its obligations under Sections 5(A) and 5(B) of this Agreement;
 2. Glendale becomes a party to, or otherwise participates in, any administrative proceeding, legislative proceeding, arbitration, or court action in contravention of its obligations under Sections 5(C) or (E) of this Agreement;
or
 3. Glendale passes any resolution or otherwise takes a formal position relating to the WVR Project or the Nation's proposed casino gaming operation on the Property in contravention of its obligations under Section 5 of this Agreement.
- C. By the Nation. The Nation may terminate this Agreement, without penalty or further obligation to Glendale under the Agreement except to pay for its share of any infrastructure costs under Section 6(C) of this Agreement that Glendale has expended or committed to expend and to pay for any services provided under Sections 8(C) or 8(D) of this Agreement before termination, and without any right to receive a refund of any sums previously paid under this Agreement:
1. After the issuance of a final decision, not subject to judicial review, that the Property does not satisfy the requirements to be taken into trust under the Lands Replacement Act;

2. After the issuance of a final decision, not subject to judicial review, that the Property is not eligible for the operation of Class III Gaming;
3. After the passage of H.R. 1410, S. 2670, or any similar legislation that would limit the Nation's ability to conduct gaming on the Property;
4. After the effective date of any State law, final judgment, or final order described in Section 3(h) of the Compact; or
5. On or after the date on which the Nation does not have a valid and effective gaming compact with the State of Arizona.

D. Reduced Scope of Gaming; Revenue Sharing Changes; Compact Extension or Replacement.

1. In entering into this Agreement, the Parties have an expectation that (1) the Compact term will be extended to a date after the end of the payments in Section 9 of this Agreement or, alternatively, the Nation will enter into a new gaming compact with the State allowing the Nation to continue to offer Class III Gaming with a scope similar to or more favorable than that permitted under the Compact on the Effective Date and (2) the Nation's revenue sharing obligations will remain consistent with its obligations under the Compact on the Effective Date. To that end, Glendale will work with the Nation, diligently and in good faith, to support the Nation's efforts to either extend the Compact term or to replace the Compact with a new gaming compact with a longer term, on terms allowing the Nation to continue to offer Class III Gaming with a scope similar to or more favorable than those in the Compact on the Effective Date and with revenue sharing obligations no greater than under the Compact on the Effective Date.
2. If, for any reason and whether during the current Compact term or thereafter, the Nation is not able to continue to offer Class III Gaming with a scope similar to or more favorable than that permitted under the Compact on the Effective Date or the Nation's revenue sharing obligations exceed those under the Compact on the Effective Date, then the Parties agree that payments made under Section 9(B) of this Agreement shall be amended to reflect the changed economics from the reduced scope of permitted Class III Gaming or from the Nation's new revenue sharing obligations (or both) in the following manner.

- a. If the Nation is not able to continue to offer Class III Gaming with a scope similar to or more favorable than that permitted under the Compact on the Effective Date, and the Nation's "Class III Net Win," as defined in the Compact, for the Project declines by more than ten percent (10%) from the Class III Net Win for the Project in the year before the reduction in scope, then the Nation's payments under Section 9(B) of this Agreement will be reduced in proportion to the reduction in the Nation's Class III Net Win for the Project in comparison to the year before the reduction in scope. The amount of any reduction in Class III Net Win for the Project will be determined by a certification of the percentage decline by the auditor preparing the reports and audits required by Section 12(g) of the Compact.
- b. If the Nation's revenue sharing obligations under any new or amended gaming compact exceed those under the Compact on the Effective Date, then the Nation's payments under Section 9(B) of this Agreement will be reduced by the amount of the increase in the Nation's revenue sharing obligations so that the combination of the Nation's revenue sharing obligations under the new or amended compact and the Nation's payments to Glendale under Section 9 of this Agreement bear the same ratio to the Nation's Class III Net Win for the Project as they did in the year before the new or amended gaming compact. The amount of any reduction will be determined by a certification of the auditor preparing the reports and audits required by Section 12(g) of the Compact.

11. Dispute Resolution.

- A. Notice/Negotiation. In the event of any dispute between the Parties arising out of or relating to this Agreement (including, but not limited to, a dispute about the interpretation of this Agreement, the nature of any party's obligations under this Agreement, or the alleged failure of a party to comply with the terms of this Agreement), then any party may serve a written notice on the other identifying the dispute and setting forth the factual and legal bases for the dispute. Within ten (10) days following delivery of the written notice of dispute, a senior representative of the Parties to the dispute will meet in an effort to voluntarily resolve the dispute through negotiation.

B. Mediation. If the Parties are unable to resolve by negotiation any dispute arising out of or relating to this Agreement within thirty (30) days after delivery of a written notice of dispute, the Parties will, upon the request of any party, endeavor to settle the dispute in an amicable manner through non-binding mediation administered by the CPR under its then current mediation procedures (unless otherwise agreed to by the Parties), as modified by the following:

1. Selection of Mediator. If the Parties agree upon a mediator, that person will serve as the mediator. If the Parties are unable to agree on a mediator within ten (10) days of a request for mediation, then the CPR (i) will select an attorney from the CPR Panels of Distinguished Neutrals to be the mediator or (ii) if requested by the Parties, will select the mediator from a list of potential mediators approved by the Parties.
2. Costs of Mediation. The costs of mediation will be borne equally by the Parties, with one-half (½) of the expenses charged to the Nation and the Gaming Enterprise and one-half (½) of the expenses charged to Glendale.
3. Mediation as Condition Precedent to Arbitration. Claims, disputes or other matters arising out of or related to this Agreement, or breach thereof, shall be subject to mediation as a condition precedent to the institution of legal or equitable proceedings by Parties to this Agreement.

C. Arbitration. If the Parties are unable to resolve by mediation any dispute arising out of or relating to this Agreement within thirty (30) days after a request for mediation, then, unless otherwise agreed to by the Parties, any dispute arising out of or relating to this Agreement, including the breach, termination, or validity of the Agreement, will be finally resolved by arbitration in accordance with the CPR's Rules for Administered Arbitration (the "**Rules**"), as modified by the following:

1. Arbitrators. Unless the Parties agree in writing to the appointment of a single arbitrator, the arbitration will be conducted before a panel of three (3) arbitrators selected by the CPR, each of whom will be a member of the CPR Panels of Distinguished Neutrals. One of the arbitrators will be an attorney with extensive knowledge of Arizona municipal law. One of the arbitrators will be an attorney with extensive knowledge of the Indian Gaming Regulatory Act, federal Indian law, and jurisdiction within Indian country. One of the arbitrators will be an attorney with extensive knowledge about real estate development. All arbitrators will be independent and impartial.

2. Service of Process. Service of process in any arbitration may be by certified mail, return receipt requested, to a notice address under Section 14 of this Agreement, by personal service on the Nation's then current Chairperson or Attorney General for service on the Nation, on the Gaming Enterprise's Chief Executive Officer or General Counsel for service on the Gaming Enterprise, by service on Glendale's City Manager or City Attorney for service on Glendale, or as otherwise permitted under the Rules.
3. Decisions Must Comply with IGRA and Compact. The tribunal will resolve the disputes submitted for arbitration in accordance with, and every decision of the tribunal must comply with, and be consistent with, the Indian Gaming Regulatory Act and the Compact, as each may be amended and as each may be interpreted by courts of competent jurisdiction.
4. Enforcement of Award. Judgment upon any award rendered by the tribunal may be entered by any court having jurisdiction. The decision of the majority of the arbitrators will be final, binding, and non-appealable.

D. **Litigation.** Notwithstanding the provisions of Section 11(C), Glendale may commence an action in any court having jurisdiction to enforce the Nation's obligations under this Agreement if the Nation or the Gaming Enterprise refuses to arbitrate or asserts in an arbitration proceeding either that this Agreement is void or that the Nation's or the Gaming Enterprise's agreement to arbitrate is unenforceable for any reason. Notwithstanding the provisions of Section 11(C), Glendale may commence an action in any court having jurisdiction to enforce the obligations of the Nation and the Gaming Enterprise to make payments under this Agreement, but, in the event of any ancillary disputes, including disputes about whether any payment is owed or disputes about the amount of any payment, those ancillary disputes shall be resolved under Section 11(C) and not in the court action.

12. **Immunity from Suit.** In accordance with Resolution No. 14-317 of the Nation's Legislative Council, the Nation and the Gaming Enterprise waive the sovereign immunity enjoyed by the Nation and the Gaming Enterprise and consent (1) to the resolution of any disputes arising out of or relating to this Agreement that are subject to arbitration, including the breach, termination, or validity of the Agreement, through binding arbitration before the CPR in conformance with this Agreement, without the need to exhaust any tribal remedies, (2) to the enforcement of any arbitration decisions or awards rendered in conformance with this Agreement in any court having jurisdiction, and (3) to the resolution of any disputes arising out of or relating to this Agreement that are not subject to arbitration or a Party's refusal to submit to arbitration, including suits under Section 11(D), through an action in any court having

jurisdiction, without the need to exhaust any tribal remedies or any administrative remedies (and, in the case of a suit under Section 11(D), without the need to first arbitrate the dispute). Nothing in this Agreement will be deemed to waive the immunity of the Nation or the Gaming Enterprise from suit beyond that set forth in this Section 12 or in Resolution No. 14-317, which apply only to Glendale.

13. Good Faith and Fair Dealing. The Parties to this Agreement agree that they have a duty of good faith and fair dealing under this Agreement.

14. Notices. Any notices regarding this Agreement will be sent by certified mail, return receipt requested, or by a nationally-recognized overnight delivery service to:

For the Nation:

Tohono O'odham Nation
Attn: Chairperson
P.O. Box 837
Sells, AZ 85634

With a required copy to:

Tohono O'odham Nation
Office of Attorney General
Attn: Attorney General
P.O. Box 830
Sells, AZ 85634

For Glendale:

City of Glendale
City Manager
5850 West Glendale Avenue
Glendale, AZ 85301

With a required copy to:

City of Glendale
City Attorney
5850 West Glendale Avenue
Glendale, AZ 85301

For the Gaming Enterprise:

Tohono O'odham Gaming Enterprise
Attn: Chief Executive Officer
P.O. Box 22230
Tucson, AZ 85734

With a required copy to:

Tohono O'odham Gaming Enterprise
Office of the General Counsel
Attn: General Counsel
P.O. Box 22230
Tucson, AZ 85734

15. **Entire Agreement.** This Agreement contains the entire agreement of Glendale and the Nation and there are no other understandings between them, written or verbal, relating to the subject matter of this Agreement.
16. **Drafting.** This Agreement was reached through the mutual negotiations of the Parties and no rule of law requiring the Agreement to be construed in favor of or against a party because of drafting will apply.
17. **Severability.** If, for any reason, the arbitration tribunal or any court on appeal determines that any provision of this Agreement is invalid, unenforceable, illegal, or inoperable, the provision will be deemed omitted from this Agreement and its omission will not affect the validity and effect of the other provisions of this Agreement.
18. **No Encumbrance of Real Property.**
 - A. Glendale expressly disclaims any right under this Agreement to attach a claim, lien, charge, right of entry, or liability to any real property held by the United States in trust for the Nation or any lands owned by the Nation subject to federal restrictions against alienation. This Agreement shall not be construed as giving Glendale any such right.
 - B. Glendale expressly disclaims any right under this Agreement to have or to exercise any proprietary control over any real property held by the United States in trust for the Nation or any lands owned by the Nation subject to federal restrictions against alienation. This Agreement shall not be construed as giving Glendale any such right.
 - C. The Nation represents to Glendale that this Agreement does not attach a claim, lien, charge, right of entry, or liability to any real property held by the United States in trust for the Nation or any lands owned by the Nation subject to federal restrictions against alienation. The Nation represents to Glendale that this Agreement does not give Glendale any right to have or to exercise any proprietary control over any real property held by the United States in trust for the Nation or any lands owned by the Nation subject to federal restrictions against alienation.
19. **Applicable Law.** This Agreement will be interpreted according to Arizona law without giving effect to its conflict of laws principles, unless superseded or preempted by applicable Federal law.
20. **Opinion Letters From Counsel.**
 - A. **For the Nation.** The Nation shall provide an opinion letter from counsel, for the benefit of Glendale, to be relied upon by Glendale, and in a form reasonably acceptable to Glendale, expressing the opinions that:

1. This Agreement has been duly authorized by all requisite action on the part of the Nation;
2. This Agreement has been duly executed and delivered by the Nation;
3. This Agreement is a valid, binding, and enforceable obligation of the Nation;
4. This Agreement is not an agreement or contract with an Indian tribe that encumbers Indian lands for a period of 7 or more years, under the terms of 25 U.S.C. § 81 and 25 C.F.R. § 84;
5. The Nation has waived its sovereign immunity with respect to its agreement in Section 11 of this Agreement to arbitrate disputes (and to litigate disputes that are not subject to arbitration), the enforcement of the Nation's agreement to arbitrate or litigate disputes, and the enforcement of any arbitration decision or award or judgment rendered in conformance with the terms of Section 11 of this Agreement; and
6. The Nation's obligations under Section 11 of this Agreement are valid, binding, and enforceable obligations of the Nation.

B. For the Gaming Enterprise. The Gaming Enterprise shall provide an opinion letter from counsel, for the benefit of Glendale, to be relied upon by Glendale, and in a form reasonably acceptable to Glendale, expressing the opinions that:

1. This Agreement has been duly authorized by all requisite action on the part of the Gaming Enterprise;
2. This Agreement has been duly executed and delivered by the Gaming Enterprise;
3. This Agreement is a valid, binding, and enforceable obligation of the Gaming Enterprise;
4. This Agreement is not an agreement or contract with an Indian tribe that encumbers Indian lands for a period of 7 or more years, under the terms of 25 U.S.C. § 81 and 25 C.F.R. § 84;
5. The Nation and the Gaming Enterprise have waived the Gaming Enterprise's sovereign immunity with respect to the Gaming Enterprise's agreement in Section 11 of this Agreement to arbitrate disputes (and to litigate disputes that are not subject to arbitration), the enforcement of the Gaming Enterprise's agreement to arbitrate or litigate disputes, and the enforcement of any arbitration decision or award or judgment rendered in conformance with the terms of Section 11 of this Agreement; and
6. The Gaming Enterprise's obligations under Section 11 of this Agreement are valid, binding, and enforceable obligations of the Gaming Enterprise.

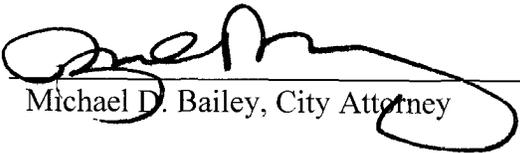
IN WITNESS WHEREOF, this Agreement has been executed and approved by the Parties and persons whose signatures appear below:

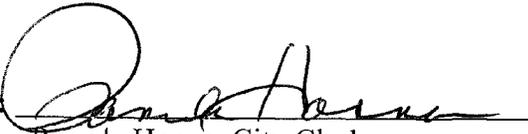
City of Glendale

By: 
Brenda S. Fischer, City Manager

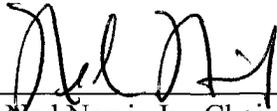
Date: 8/13/14

Approved as to Form:

By: 
Michael D. Bailey, City Attorney

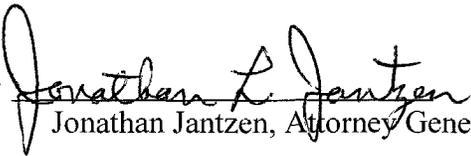
By: 
Pamela Hanna, City Clerk

Tohono O'odham Nation

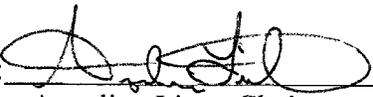
By: 
Ned Norris Jr., Chairman

Date: 08/12/2014

Approved as to Form:

By: 
Jonathan Jantzen, Attorney General

Tohono O'odham Gaming Enterprise

By: 
Angelina Listo, Chairwoman

Date: August 11, 2014

Approved as to Form:

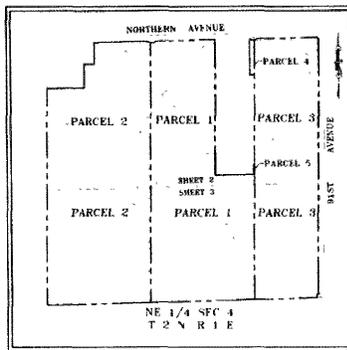
By: 
Britt E. Clapham II, Interim General Counsel

LEGAL DESCRIPTION

PARCEL NO. 1 THAT PART OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 2 NORTH RANGE 1 EAST OF THE GILA AND SALT RIVER BASIN AND MERIDIAN MARICOPA COUNTY ARIZONA... PARCEL NO. 2 THE WEST HALF OF THE WEST HALF OF THE NORTHWEST QUARTER AND THE WEST HALF OF THE EAST HALF OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 4...

ALTA/ACSM LAND TITLE SURVEY

OF A PORTION OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA & SALT RIVER BASIN & MERIDIAN, MARICOPA COUNTY, ARIZONA.



SCHEDULE "B" ITEMS

- 1. SECOND INSTALLMENT OF 2008 TAXES A LIEK PAYABLE ON OR BEFORE MARCH 1 2009 AND QUARANTAIN MAY 1 2009... 2. THE LIEN AND OBLIGATIONS IMPOSED UPON SAID LAND BY REASON OF (A) POLLUTION... (B) AGRICULTURAL IMPROVEMENT AND POWER DISTRICT... (C) THE TERMS OF ANY WATER RIGHT APPLICATION MADE UNDER THE REGULATION LAWS OF THE UNITED STATES...

LEGAL DESCRIPTION

PARCEL NO. 3 THE EAST HALF OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 2 NORTH RANGE 1 EAST OF THE GILA AND SALT RIVER BASIN AND MERIDIAN MARICOPA COUNTY ARIZONA... PARCEL NO. 4 THE EAST HALF OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 2 NORTH RANGE 1 EAST OF THE GILA AND SALT RIVER BASIN AND MERIDIAN MARICOPA COUNTY ARIZONA...

NOTES

- 1. THIS SURVEY IS BASED UPON A TITLE COMMITMENT PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY... 2. THE PLUMBING AND MECHANICAL WORK HAS BEEN DONE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MARICOPA COUNTY... 3. THIS IS AN ALTA/ACSM SURVEY... 4. UTILITY LOCATIONS PROVIDED BY ARIZONA BULL STAKE INC... 5. RESULTS FROM GATE TO GATE SURVEY... 6. PROPERTY HAS BEEN RELEASED OF ANY CONFLICTING UTILITIES BY ALL RESPONSIBLE UTILITY PROVIDERS... PER TICKET NUMBER: 2008012001

ZONING

NO-43 (FRONT AS RURAL ZONING DISTRICT) SETBACKS - FRONT AS BEAR 40' SIDE 20' REAR 10' MINIMUM BUILDING HEIGHT - 30' LOT COVERAGE - 15% WITH MARICOPA COUNTY ZONING ORDINANCE CHAPTER 9, PARAGRAPHS 12-13.

AREA CALCULATIONS table with columns: PARCEL NO., SQUARE FEET, ACRES. Rows for PARCEL 1 through PARCEL 5.

BASIS OF BEARINGS

BASIS OF BEARINGS SHOWN HEREON IS THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 4 AS NORTH 88°02' EAST.

CERTIFICATION

THIS IS TO CERTIFY THAT THIS MAP OR PLAN AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS... DATE: JANUARY 3, 2009. JAMES W. SPINER, P.S. 24388.

RAMBER RESOURCES, INC. 6151 AVENUE 8, NORTHERN AVENUE DIST. GLENDALE, ARIZONA 85308. THUNDERBIRD SURVEYING, LLC 7747 EAST GRAY ROAD, SUITE 11, SCOTTSDALE, ARIZONA 85258. PHONE: 480-508-9882. FAX: 480-508-9883. E-MAIL: TBSURV@GMAIL.COM

ALTA/ACSM LAND TITLE SURVEY

SHEET 1 OF 3 08-122

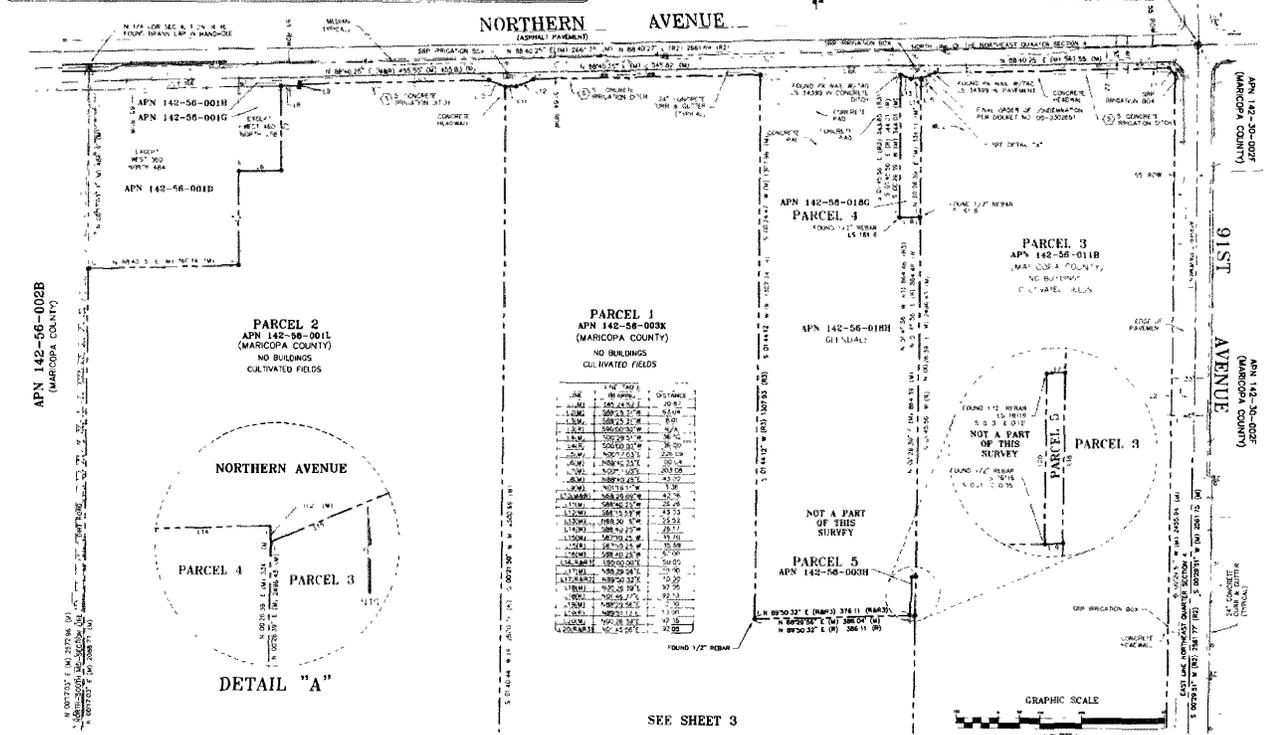
ALTA/ACSM LAND TITLE SURVEY
 OF A PORTION OF THE NORTHEAST QUARTER OF SECTION 4,
 TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE
 GILA & SALT RIVER BASE & MERIDIAN,
 MARICOPA COUNTY, ARIZONA

REFERENCE

- (S) SPECIAL WARRANTY DEED RECORDED AS DOCUMENT NO 2004-13099A, RECORDS OF MARICOPA COUNTY, ARIZONA.
- (E) FINAL PLAT OF ZONING RECORDED IN BOOK 764 OF MAPS, PAGE 42, RECORDS OF MARICOPA COUNTY, ARIZONA.
- (R) FINAL PLAT SUBDIVISION RECORDS OF SURVEY RECORDED IN BOOK 889 OF MAPS, PAGE 26, RECORDS OF MARICOPA COUNTY, ARIZONA.
- (M) DISTANCE OBTAINED FROM GROUND TO GROUND USING A SCALE FACTOR OF 1.00012831.
- (R) RESULTS OF SURVEY RECORDED IN BOOK 846 OF MAPS, PAGE 24, RECORDS OF MARICOPA COUNTY, ARIZONA.

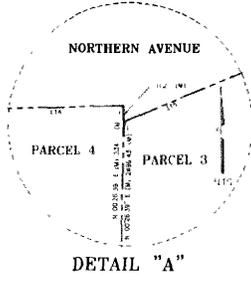
LEGEND

(1) RECORD BEARING OR DISTANCE	WATER VALVE	ELECTRIC ANCHOR BEE	CHAIN LINK FENCE
(2) MEASURED BEARING OR DISTANCE	GAS VALVE	PIPE (GRANT)	WOOD PALE
(3) BRASS CAP (AS NOTED)	WATER METER	GAS LINE	ROCK
(4) 1/2" REBAR 1/4" DIA OR AS NOTED	LIGHT POLE	WATER LINE	TRAFFIC SIGN
(5) SIGHTING CENTER MARKER	TRANS. SIGNAL	FORWARD ELECTRIC LINE	TELEPHONE ARM
(6) REFERENCE MARKER	POWER POLE	SEWER LINE	ELECTRIC TRANSFORMER
(7) SURVEYOR MARKER	WIND POLE	STORM DRAIN	LAND MARKER
(8) STAMP SURVEYOR	CONCRETE	UNDESIGNATED FULL-TIME LUMP	
	CONCRETE		



PARCEL 1
 APN 142-56-003K
 (MARICOPA COUNTY)
 NO BUILDINGS
 CULTIVATED FIELDS

LINE	BEARING	DISTANCE
1-2	N 89° 00' 00" E	20.00
2-3	S 89° 23' 37" E	52.00
3-4	S 89° 00' 00" E	5.00
4-5	S 89° 00' 00" W	N/A
5-6	S 89° 00' 00" W	5.00
6-7	S 89° 00' 00" W	36.20
7-8	S 89° 00' 00" W	52.00
8-9	S 89° 00' 00" W	220.00
9-10	S 89° 00' 00" W	22.55
10-11	S 89° 00' 00" W	28.77
11-12	S 89° 00' 00" W	13.70
12-13	S 89° 00' 00" W	39.88
13-14	S 89° 00' 00" W	57.00
14-15	S 89° 00' 00" W	50.00
15-16	S 89° 00' 00" W	10.00
16-17	S 89° 00' 00" W	10.00
17-18	S 89° 00' 00" W	37.95
18-19	S 89° 00' 00" W	10.00
19-20	S 89° 00' 00" W	10.00
20-21	S 89° 00' 00" W	10.00
21-22	S 89° 00' 00" W	10.00
22-23	S 89° 00' 00" W	10.00
23-24	S 89° 00' 00" W	10.00
24-25	S 89° 00' 00" W	10.00



MINNER RESOURCES INC
 91ST AVENUE
 GLENDALE, ARIZONA 85305

THUNDERBIRD SURVEYING LLC
 7741 EAST GARDEN ROAD SUITE 100
 SCOTTSDALE, ARIZONA 85250
 Phone: 480-438-4399 Fax: 480-404-8682 E-mail: thunders@tdsurvey.com

ALTA/ACSM LAND TITLE SURVEY

SHEET 2 OF 3
 08-122

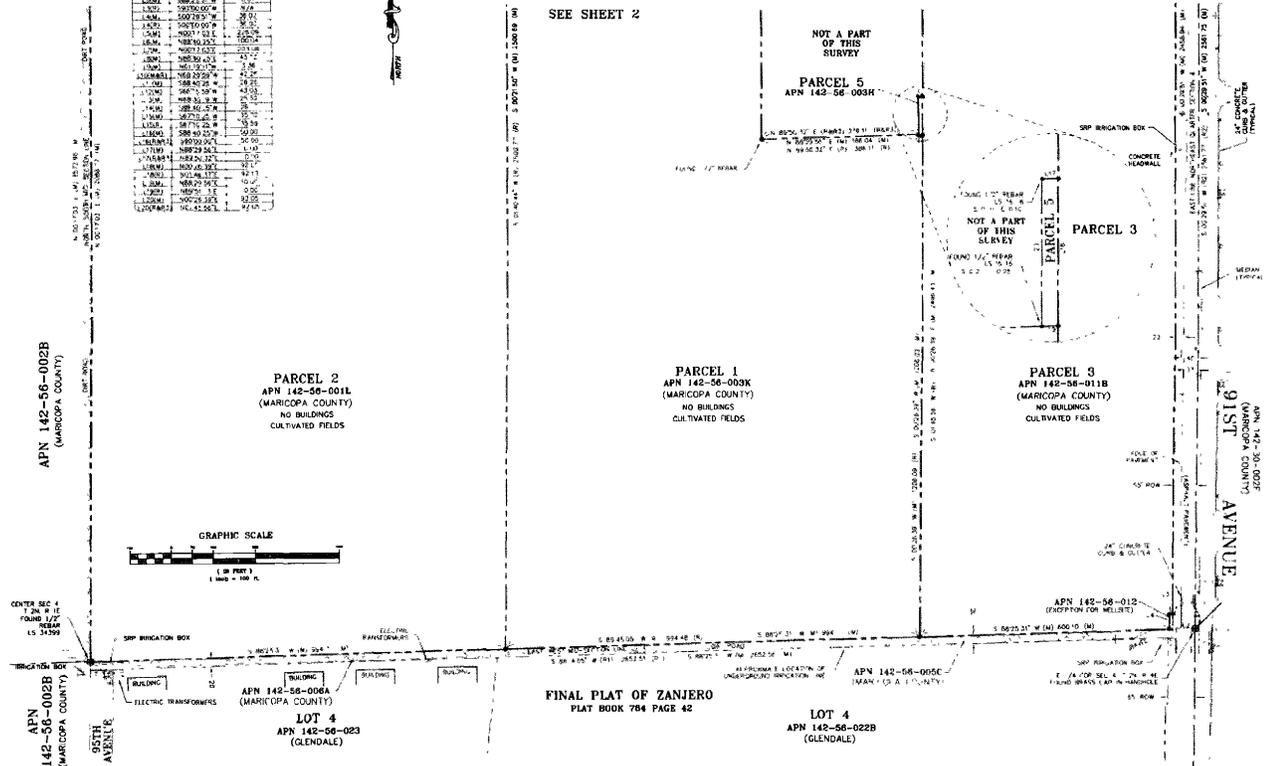
REFERENCE
 (R1) SPECIAL WARRANTY DEED, RECORDED AS DOCUMENT NO. 2004-1308194, RECORDS OF MARICOPA COUNTY, ARIZONA.
 (R2) FINAL PLAT OF ZANJERO, RECORDED IN BOOK 764 OF MAPS, PAGE 42, RECORDS OF MARICOPA COUNTY, ARIZONA.
 (R3) PLSS SUBDIVISION #1,040 OF SURVEY, RECORDED IN BOOK 688 OF MAPS, PAGE 26, RECORDS OF MARICOPA COUNTY, ARIZONA.
 (R4) DISTANCE COVERED FROM GRID TO GROUND USING A SCALE FACTOR OF 1.000281.
 (R5) RESULTS OF SURVEY, RECORDED IN BOOK 646 OF MAPS, PAGE 24, RECORDS OF MARICOPA COUNTY, ARIZONA.

ALTA/ACSM LAND TITLE SURVEY
 OF A PORTION OF THE NORTHEAST QUARTER OF SECTION 4,
 TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE
 GILA & SALT RIVER BASIS & MERIDIAN,
 MARICOPA COUNTY, ARIZONA.

LINE	BEARING	DISTANCE
1	S 89° 52' 30" W	100.00
2	S 89° 52' 30" W	100.00
3	S 89° 52' 30" W	100.00
4	S 89° 52' 30" W	100.00
5	S 89° 52' 30" W	100.00
6	S 89° 52' 30" W	100.00
7	S 89° 52' 30" W	100.00
8	S 89° 52' 30" W	100.00
9	S 89° 52' 30" W	100.00
10	S 89° 52' 30" W	100.00
11	S 89° 52' 30" W	100.00
12	S 89° 52' 30" W	100.00
13	S 89° 52' 30" W	100.00
14	S 89° 52' 30" W	100.00
15	S 89° 52' 30" W	100.00
16	S 89° 52' 30" W	100.00
17	S 89° 52' 30" W	100.00
18	S 89° 52' 30" W	100.00
19	S 89° 52' 30" W	100.00
20	S 89° 52' 30" W	100.00
21	S 89° 52' 30" W	100.00
22	S 89° 52' 30" W	100.00
23	S 89° 52' 30" W	100.00
24	S 89° 52' 30" W	100.00
25	S 89° 52' 30" W	100.00
26	S 89° 52' 30" W	100.00
27	S 89° 52' 30" W	100.00
28	S 89° 52' 30" W	100.00
29	S 89° 52' 30" W	100.00
30	S 89° 52' 30" W	100.00
31	S 89° 52' 30" W	100.00
32	S 89° 52' 30" W	100.00
33	S 89° 52' 30" W	100.00
34	S 89° 52' 30" W	100.00
35	S 89° 52' 30" W	100.00
36	S 89° 52' 30" W	100.00
37	S 89° 52' 30" W	100.00
38	S 89° 52' 30" W	100.00
39	S 89° 52' 30" W	100.00
40	S 89° 52' 30" W	100.00
41	S 89° 52' 30" W	100.00
42	S 89° 52' 30" W	100.00
43	S 89° 52' 30" W	100.00
44	S 89° 52' 30" W	100.00
45	S 89° 52' 30" W	100.00
46	S 89° 52' 30" W	100.00
47	S 89° 52' 30" W	100.00
48	S 89° 52' 30" W	100.00
49	S 89° 52' 30" W	100.00
50	S 89° 52' 30" W	100.00
51	S 89° 52' 30" W	100.00
52	S 89° 52' 30" W	100.00
53	S 89° 52' 30" W	100.00
54	S 89° 52' 30" W	100.00
55	S 89° 52' 30" W	100.00
56	S 89° 52' 30" W	100.00
57	S 89° 52' 30" W	100.00
58	S 89° 52' 30" W	100.00
59	S 89° 52' 30" W	100.00
60	S 89° 52' 30" W	100.00
61	S 89° 52' 30" W	100.00
62	S 89° 52' 30" W	100.00
63	S 89° 52' 30" W	100.00
64	S 89° 52' 30" W	100.00
65	S 89° 52' 30" W	100.00
66	S 89° 52' 30" W	100.00
67	S 89° 52' 30" W	100.00
68	S 89° 52' 30" W	100.00
69	S 89° 52' 30" W	100.00
70	S 89° 52' 30" W	100.00
71	S 89° 52' 30" W	100.00
72	S 89° 52' 30" W	100.00
73	S 89° 52' 30" W	100.00
74	S 89° 52' 30" W	100.00
75	S 89° 52' 30" W	100.00
76	S 89° 52' 30" W	100.00
77	S 89° 52' 30" W	100.00
78	S 89° 52' 30" W	100.00
79	S 89° 52' 30" W	100.00
80	S 89° 52' 30" W	100.00
81	S 89° 52' 30" W	100.00
82	S 89° 52' 30" W	100.00
83	S 89° 52' 30" W	100.00
84	S 89° 52' 30" W	100.00
85	S 89° 52' 30" W	100.00
86	S 89° 52' 30" W	100.00
87	S 89° 52' 30" W	100.00
88	S 89° 52' 30" W	100.00
89	S 89° 52' 30" W	100.00
90	S 89° 52' 30" W	100.00
91	S 89° 52' 30" W	100.00
92	S 89° 52' 30" W	100.00
93	S 89° 52' 30" W	100.00
94	S 89° 52' 30" W	100.00
95	S 89° 52' 30" W	100.00
96	S 89° 52' 30" W	100.00
97	S 89° 52' 30" W	100.00
98	S 89° 52' 30" W	100.00
99	S 89° 52' 30" W	100.00
100	S 89° 52' 30" W	100.00

SEE SHEET 2

LEGEND	
(R) RECORD BEARING OR DISTANCE	WATER VALVE
(M) MEASUREMENT BEARING OR DISTANCE	CAN VALUE
(C) CORNER CAP HAS NOTED	WATER METER
(*) CORNER 1/2" IRON NAIL OR AS NOTED	UTILITY POLE
(S) SANITARY 1/2" IRON MANHOLE	TRAFFIC SIGNAL
(T) TELEPHONE MANHOLE	POWER POLE
(SP) SPRING FOR MANHOLE	MISC. POLE
(TM) TOWN DRAIN MANHOLE	DUY WIRE
	ELECTRIC ANCHOR BOX
	FIRE HYDRANT
	CONCRETE HEADWALL
	UNDERGROUND ELECT. LINE
	UNDERGROUND WATER LINE
	UNDERGROUND GAS LINE
	UNDERGROUND TELEPHONE LINE
	CHAIN LINK FENCE
	CONCRETE POST
	WOOD POST
	WIRE FENCE
	TELEPHONE SIGNAL
	ELECTRIC TRANSFORMER
	GAS METER



THUNDERBIRD SURVEYING LLC
 7741 EAST GRAY ROAD SUITE J1, SCOTTSDALE, ARIZONA 85260
 Phone: 480-880-1888 Fax: 480-880-1888 E-mail: thundersurvey@aol.com

ALTA/ACSM LAND TITLE SURVEY

SHEET 3 OF 3

08-122

EXHIBIT A

PARCEL NO. 1

THAT PART OF THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 4;

THENCE WEST, ALONG THE NORTH LINE OF SAID SECTION 4, 1,052.24 FEET;

THENCE SOUTH 01 DEGREES 44 MINUTES 12 SECONDS WEST, 40.02 FEET TO THE POINT OF BEGINNING;

THENCE ALONG THE WESTERLY AND SOUTHERLY LINES OF THAT PARCEL DESCRIBED IN INSTRUMENT RECORDED MARCH 07, 1984 IN RECORDING NO. 84094506 OF OFFICIAL RECORDS, SOUTH 01 DEGREES 44 MINUTES 12 SECONDS WEST, 1,319.58 FEET;

THENCE NORTH 89 DEGREES 50 MINUTES 32 SECONDS EAST, 386.11 FEET TO A POINT ON THE EAST LINE OF THE WEST HALF OF THE EAST HALF OF THE SOUTH HALF OF SAID NORTHEAST QUARTER;

THENCE LEAVING THE SOUTHERLY LINE OF THE AFOREMENTIONED PARCEL, SOUTH 01 DEGREES 45 MINUTES 56 SECONDS WEST, ALONG THE EAST LINE OF THE WEST HALF OF THE EAST HALF OF THE SOUTH HALF OF SAID NORTHEAST QUARTER, 1,206.09 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHEAST QUARTER;

THENCE SOUTH 89 DEGREES 45 MINUTES 05 SECONDS WEST, ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER, 994.48 FEET TO THE SOUTHWEST CORNER OF THE EAST HALF OF THE EAST HALF OF THE WEST HALF OF SAID NORTHEAST QUARTER;

THENCE NORTH 01 DEGREES 40 MINUTES 44 SECONDS EAST, ALONG THE WEST LINE OF THE EAST HALF OF THE EAST HALF OF THE WEST HALF OF SAID NORTHEAST QUARTER, AND ALONG THE WEST LINE OF THE EAST HALF OF THE EAST HALF OF LOT 2 OF SAID SECTION 4, 2528.82 FEET TO A POINT ON A LINE THAT IS 40.00 FEET SOUTH OF, AND PARALLEL TO, THE NORTH LINE OF SAID NORTHEAST QUARTER OF SECTION 4;

THENCE EAST, ALONG A LINE THAT IS 40.00 FEET SOUTH OF, AND PARALLEL TO, THE NORTH LINE OF SAID NORTHEAST QUARTER OF SECTION 4, 611.42 FEET TO THE POINT OF BEGINNING;

EXCEPT A PARCEL OF LAND LYING WITHIN SAID NORTHEAST QUARTER OF SECTION 4, AND BEING A PORTION OF THAT CERTAIN PARCEL DESCRIBED IN RECORDING NO. 87-251242 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 4;

THENCE NORTH 88 DEGREES 40 MINUTES 25 SECONDS EAST, ALONG THE NORTH LINE

EXHIBIT A

OF SAID NORTHEAST QUARTER, 998.19 FEET;

THENCE SOUTH 00 DEGREES 09 MINUTES 14 SECONDS WEST, 40.01 FEET TO THE NORTHWEST CORNER OF SAID PARCEL ON THE SOUTH LINE OF THE NORTH 40.00 FEET OF SAID NORTHEAST QUARTER AND THE POINT OF BEGINNING;

THENCE NORTH 88 DEGREES 40 MINUTES 25 SECONDS EAST, ALONG SAID SOUTH LINE, 611.23 FEET TO THE NORTHEAST CORNER OF SAID PARCEL;

THENCE SOUTH 00 DEGREES 24 MINUTES 37 SECONDS WEST, ALONG THE EAST LINE OF SAID PARCEL, 11.65 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 51.64 FEET OF SAID NORTHEAST QUARTER;

THENCE SOUTH 88 DEGREES 40 MINUTES 25 SECONDS WEST, ALONG SAID SOUTH LINE, 545.56 FEET;

THENCE SOUTH 66 DEGREES 15 MINUTES 59 SECONDS WEST, 43.03 FEET;

THENCE SOUTH 88 DEGREES 40 MINUTES 25 SECONDS WEST, 26.26 FEET TO A POINT ON THE WEST LINE OF SAID PARCEL;

THENCE NORTH 00 DEGREES 09 MINUTES 14 SECONDS EAST, ALONG SAID WEST LINE, 28.05 FEET TO THE POINT OF BEGINNING, AS CONVEYED TO MARICOPA COUNTY IN DEED RECORDED IN RECORDING NO. 99-649780 OF OFFICIAL RECORDS; AND

EXCEPT THAT PARCEL OF LAND LYING WITHIN SAID NORTHEAST QUARTER OF SECTION 4 AND BEING A PORTION OF THAT CERTAIN PARCEL DESCRIBED IN RECORDING NO. 95-490799 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 4;

THENCE NORTH 88 DEGREES 40 MINUTES 25 SECONDS EAST, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, 998.19 FEET;

THENCE SOUTH 00 DEGREES 09 MINUTES 14 SECONDS WEST, 40.01 FEET TO THE NORTHEAST CORNER OF SAID PARCEL ON THE SOUTH LINE OF THE NORTH 40.00 FEET OF SAID NORTHEAST QUARTER AND THE POINT OF BEGINNING;

THENCE SOUTH 00 DEGREES 09 MINUTES 14 SECONDS WEST, ALONG THE EAST LINE OF PARCEL, 28.05 FEET;

THENCE NORTH 68 DEGREES 29 MINUTES 09 SECONDS WEST, 42.26 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 51.64 FEET OF SAID NORTHEAST QUARTER;

THENCE SOUTH 88 DEGREES 40 MINUTES 25 SECONDS WEST, ALONG SAID SOUTH LINE, 455.83 FEET TO A POINT ON THE EAST LINE OF THAT PARCEL CONVEYED TO ARIZONA DEPARTMENT OF TRANSPORTATION IN RECORDING NO. 86-652262 OF OFFICIAL RECORDS;

THENCE NORTH 01 DEGREES 19 MINUTES 35 SECONDS WEST, ALONG SAID EAST LINE, 11.64 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 40.00 FEET OF SAID NORTHEAST QUARTER;

EXHIBIT A

THENCE NORTH 88 DEGREES 40 MINUTES 25 SECONDS EAST, ALONG SAID SOUTH LINE, 495.50 FEET TO THE POINT OF BEGINNING, AS CONVEYED TO MARICOPA COUNTY IN DEED RECORDED IN RECORDING NO. 99-332877 OF OFFICIAL RECORDS; AND

EXCEPT THAT PORTION LYING WITHIN THE NORTH 33.00 FEET OF THE EAST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 4, AS CONVEYED TO MARICOPA COUNTY, RECORDED IN BOOK 96 OF DEEDS, PAGE 375.

PARCEL NO. 2

THE WEST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER AND THE WEST HALF OF THE EAST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE WEST 360.14 FEET (MEASURED), WEST 360.00 FEET (RECORD) OF THE NORTH 484.19 FEET (MEASURED), NORTH 484.00 FEET (RECORD); AND

EXCEPT THE NORTH 258.00 FEET OF THE WEST 460.00 FEET OF THE WEST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 4; AND

EXCEPT THE NORTH 40.00 FEET, THEREOF; AND

EXCEPT THOSE PORTIONS THEREOF WHICH LIE NORTHERLY OF THE FOLLOWING DESCRIBED LINE;

BEGINNING AT A POINT ON THE NORTH-SOUTH MIDSECTION LINE OF SAID SECTION 4, WHICH POINT BEARS SOUTH 01 DEGREES 36 MINUTES 34 SECONDS WEST (RECORD AS SOUTH 00 DEGREES 16 MINUTES 56 SECONDS WEST ACCORDING TO ADOT PARCEL 7-4241), 55.01 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 4;

THENCE EAST (RECORDED AS NORTH 88 DEGREES 40 MINUTES 28 SECONDS EAST, ACCORDING TO ADOT PARCEL 7-42410), 503.20 FEET;

THENCE NORTH (RECORDED AS NORTH 01 DEGREES 19 MINUTES 32 SECONDS WEST ACCORDING TO ADOT PARCEL 7-4241), 55.00 FEET TO THE POINT OF ENDING ON THE NORTH LINE OF SAID SECTION 4, WHICH POINT BEARS NORTH 88 DEGREES 40 MINUTES 28 SECONDS EAST, 501.66 FEET FROM SAID NORTH QUARTER CORNER OF SECTION 4, AS CONVEYED TO THE STATE OF ARIZONA IN DEED RECORDED IN RECORDING NO. 86-652262 OF OFFICIAL RECORDS; AND

EXCEPT THAT PARCEL OF LAND LYING WITHIN SAID NORTHEAST QUARTER OF SECTION 4 AND BEING A PORTION OF THAT CERTAIN PARCEL DESCRIBED IN RECORDING NO. 95-490799 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 4;

THENCE NORTH 88 DEGREES 40 MINUTES 25 SECONDS EAST, ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, 998.19 FEET;

THENCE SOUTH 00 DEGREES 09 MINUTES 14 SECONDS WEST, 40.01 FEET TO THE

EXHIBIT A

NORTHEAST CORNER OF SAID PARCEL ON THE SOUTH LINE OF THE NORTH 40.00 FEET OF SAID NORTHEAST QUARTER AND THE POINT OF BEGINNING;

THENCE SOUTH 00 DEGREES 09 MINUTES 14 SECONDS WEST, ALONG THE EAST LINE OF SAID PARCEL, 28.05 FEET;

THENCE NORTH 68 DEGREES 29 MINUTES 09 SECONDS WEST, 42.26 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 51.64 FEET OF SAID NORTHEAST QUARTER;

THENCE SOUTH 88 DEGREES 40 MINUTES 25 SECONDS WEST, ALONG SAID SOUTH LINE, 455.83 FEET TO A POINT ON THE EAST LINE OF THAT PARCEL CONVEYED TO ARIZONA DEPARTMENT OF TRANSPORTATION IN RECORDING NO. 86-652262 OF OFFICIAL RECORDS;

THENCE NORTH 01 DEGREES 19 MINUTES 35 SECONDS WEST, ALONG SAID EAST LINE, 11.64 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 40.00 FEET OF SAID NORTHEAST QUARTER;

THENCE NORTH 88 DEGREES 40 MINUTES 25 SECONDS EAST, ALONG THE SOUTH LINE, 495.50 FEET TO THE POINT OF BEGINNING, AS CONVEYED TO MARICOPA COUNTY IN DEED RECORDED IN RECORDING NO. 99-332877 OF OFFICIAL RECORDS.

PARCEL NO. 3

THE EAST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT A TRACT OF LAND FOR A WELL SITE DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT, 33.00 FEET WEST OF THE EAST QUARTER CORNER OF SAID SECTION 4;

THENCE NORTH 36.00 FEET TO THE NORTHEAST CORNER OF SAID TRACT;

THENCE WEST 30.00 FEET TO THE NORTHWEST CORNER OF SAID TRACT;

THENCE SOUTH 36.00 FEET TO THE SOUTHWEST CORNER OF SAID TRACT;

THENCE EAST 30.00 FEET TO THE POINT OF BEGINNING; AND

EXCEPT THAT PARCEL OF LAND LYING WITHIN SAID NORTHEAST QUARTER OF SECTION 4, AND BEING A PORTION OF THAT CERTAIN PARCEL DESCRIBED IN RECORDING NO. 88-089216 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 4;

THENCE SOUTH 88 DEGREES 40 MINUTES 25 SECONDS WEST, ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, 665.46 FEET;

THENCE SOUTH 00 DEGREES 01 MINUTES 25 SECONDS WEST, 55.01 FEET TO THE

EXHIBIT A

NORTHWEST CORNER OF SAID PARCEL ON THE SOUTH LINE OF THE NORTH 55.00 FEET OF SAID NORTHEAST QUARTER AND THE POINT OF BEGINNING;

THENCE NORTH 88 DEGREES 40 MINUTES 25 SECONDS EAST, ALONG SAID SOUTH LINE, 32.81 FEET;

THENCE SOUTH 67 DEGREES 10 MINUTES 25 SECONDS WEST, 35.59 FEET TO A POINT ON THE WEST LINE OF SAID PARCEL;

THENCE NORTH 00 DEGREES 01 MINUTES 25 SECONDS EAST, ALONG THE WEST LINE OF SAID PARCEL, 13.05 FEET TO THE POINT OF BEGINNING, AS CONVEYED TO MARICOPA COUNTY IN FINAL JUDGMENT IN CONDEMNATION IN CV 99-10315 RECORDED IN RECORDING NO. 2000-122430 OF OFFICIAL RECORDS, RECORDING NO. 2000-209504 OF OFFICIAL RECORDS AND IN RECORDING NO. 2000-218264 OF OFFICIAL RECORDS; AND

EXCEPT THE NORTH 33.00 FEET AS CONVEYED TO MARICOPA COUNTY IN BOOK 96 OF DEEDS, PAGE 375; AND

EXCEPT THE EAST 33.00 FEET AS CONVEYED TO MARICOPA COUNTY IN DEED RECORDED IN BOOK 105 OF DEEDS, PAGE 382; AND

EXCEPT THE WEST 22.00 FEET OF THE EAST 55.00 FEET, AND THE SOUTH 22.00 FEET OF THE NORTH 55.00 FEET, AND BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTH LINE OF THE NORTH 55.00 FEET AND THE WEST LINE OF THE EAST 55.00 FEET OF SAID EAST ONE-HALF OF THE EAST ONE-HALF OF THE NORTHEAST ONE-QUARTER OF SECTION 4;

THENCE SOUTH 15.00 FEET ALONG SAID WEST LINE OF THE EAST 55.00 FEET TO A POINT;

THENCE IN A NORTHWESTERLY DIRECTION TO A POINT ON SAID SOUTH LINE OF THE NORTH 55.00 FEET THAT IS 15.00 FEET WEST FROM SAID POINT OF INTERSECTION;

THENCE EAST TO THE POINT OF INTERSECTION AS CONVEYED TO MARICOPA COUNTY AS RECORDED IN RECORDING NO. 88-089217 OF OFFICIAL RECORDS.

PARCEL NO. 4

THE EAST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE NORTH 33.00 FEET AS CONVEYED TO MARICOPA COUNTY RECORDED IN BOOK 96 OF DEEDS, PAGE 375; AND

EXCEPT THE SOUTH 7.00 FEET OF THE NORTH 40.00 FEET THEREOF, AS DEEDED TO MARICOPA COUNTY BY QUIT CLAIM DEED RECORDED JULY 16 IN DOCKET 2539, PAGE 134; AND ALSO

EXCEPT A PART OF THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 2 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN,

EXHIBIT A

MARICOPA COUNTY, ARIZONA, MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 4;

THENCE WEST ALONG THE NORTH LINE OF SAID SECTION A DISTANCE OF 715.49 FEET;

THENCE SOUTH 01 DEGREES 46 MINUTES 37 SECONDS WEST (MEASURED) SOUTH 01 DEGREES 45 MINUTES 56 SECONDS WEST (RECORD) A DISTANCE OF 40.02 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF NORTHERN AVENUE AND THE TRUE POINT OF BEGINNING;

THENCE CONTINUING SOUTH 01 DEGREES 46 MINUTES 37 SECONDS WEST (MEASURED) SOUTH 01 DEGREES 45 MINUTES 56 SECONDS WEST (RECORD) A DISTANCE OF 362.00 FEET;

THENCE EAST A DISTANCE OF 50.00 FEET TO A POINT ON THE EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 4;

THENCE SOUTH 01 DEGREES 46 MINUTES 37 SECONDS WEST (MEASURED) SOUTH 01 DEGREES 45 MINUTES 56 SECONDS WEST (RECORD) ALONG SAID EAST LINE A DISTANCE OF 864.48 FEET TO THE SOUTHEAST CORNER OF SAID WEST HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE SOUTH 89 DEGREES 51 MINUTES 13 SECONDS WEST (MEASURED) SOUTH 89 DEGREES 50 MINUTES 32 SECONDS WEST (RECORD) A DISTANCE OF 10.00 FEET;

THENCE SOUTH 01 DEGREES 45 MINUTES 56 SECONDS WEST A DISTANCE OF 92.05 FEET;

THENCE SOUTH 89 DEGREES 51 MINUTES 13 SECONDS WEST, A DISTANCE OF 376.13 FEET (MEASURED) SOUTH 89 DEGREES 50 MINUTES 32 SECONDS WEST A DISTANCE OF 376.11 FEET (RECORD);

THENCE NORTH 01 DEGREES 44 MINUTES 53 SECONDS EAST (MEASURED) NORTH 01 DEGREES 44 MINUTES 12 SECONDS EAST (RECORD) A DISTANCE OF 1,319.58 FEET TO A POINT 40.02 FEET SOUTH OF THE NORTH SECTION LINE AND ON THE SOUTH RIGHT OF WAY LINE OF SAID NORTHERN AVENUE;

THENCE EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 336.74 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL NO. 5

BEING A PARCEL OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 2 NORTH, RANGE 1 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 4;

THENCE WEST, ALONG THE NORTH LINE OF SAID SECTION 4, A DISTANCE OF 715.49 FEET;

EXHIBIT A

THENCE SOUTH 01 DEGREES 46 MINUTES 37 SECONDS WEST (MEASURED), (SOUTH 01 DEGREES 45 MINUTES 56 SECONDS WEST RECORD) A DISTANCE OF 402.02 FEET;

THENCE EAST, A DISTANCE OF 50.02 FEET (MEASURED) (50.00 FEET RECORD) TO A POINT IN THE EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 4;

THENCE ALONG SAID EAST LINE, SOUTH 01 DEGREES 46 MINUTES 37 SECONDS WEST, (MEASURED) (SOUTH 01 DEGREES 45 MINUTES 56 SECONDS WEST RECORD) A DISTANCE OF 864.48 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 89 DEGREES 51 MINUTES 13 SECONDS WEST, (MEASURED) (SOUTH 89 DEGREES 50 MINUTES 32 SECONDS WEST RECORD) A DISTANCE OF 10.00 FEET;

THENCE SOUTH 01 DEGREES 46 MINUTES 37 SECONDS WEST (MEASURED), (SOUTH 01 DEGREES 45 MINUTES 56 SECONDS WEST RECORD) A DISTANCE OF 92.13 FEET (MEASURED) (92.05 FEET RECORD); THENCE NORTH 89 DEGREES 51 MINUTES 13 SECONDS EAST, A DISTANCE OF 10.00 FEET TO A POINT IN SAID EAST LINE OF THE WEST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 4;

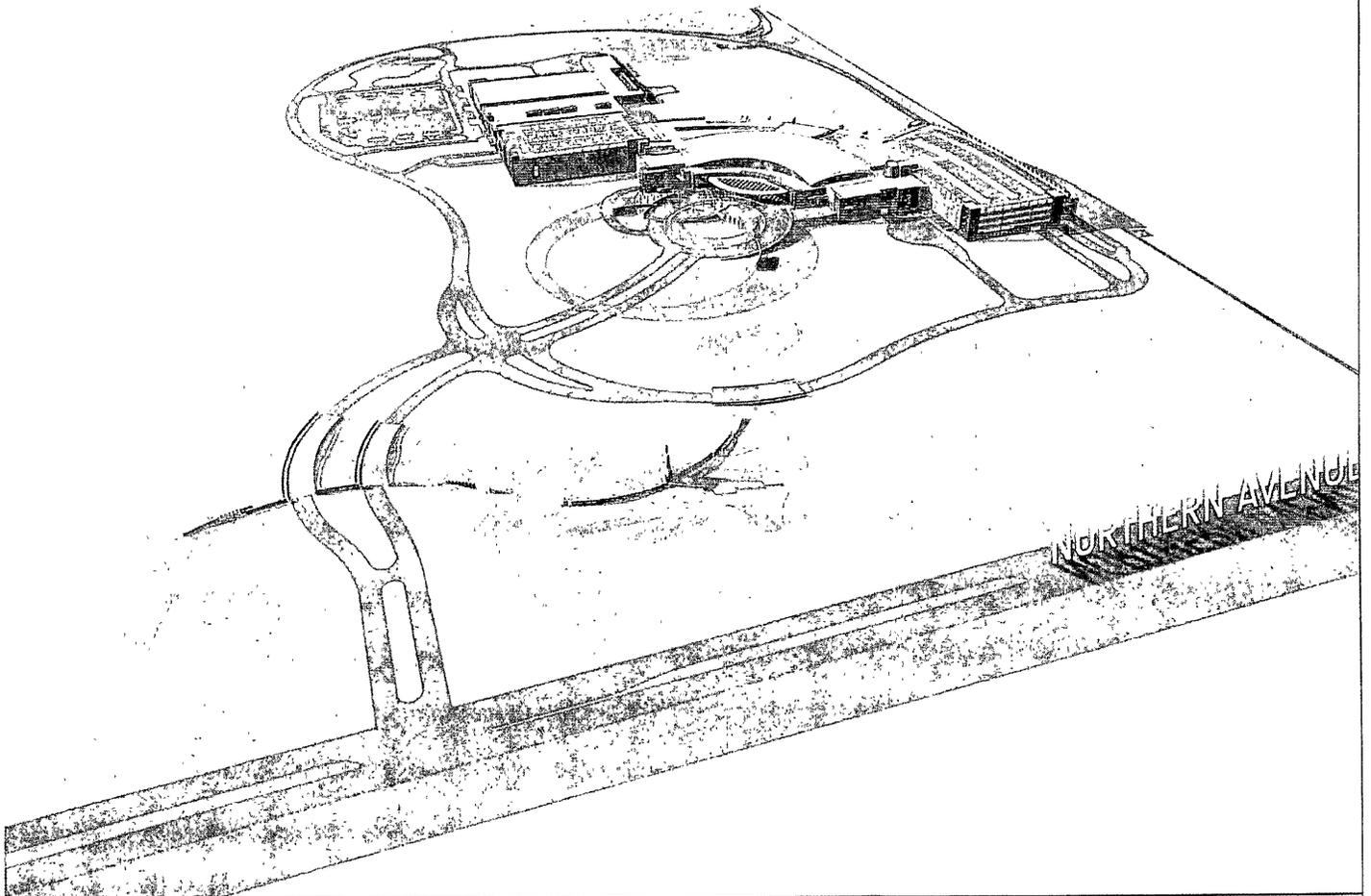
THENCE ALONG SAID EAST LINE, NORTH 01 DEGREES 46 MINUTES 37 SECONDS EAST, A DISTANCE OF 92.13 FEET TO THE POINT OF BEGINNING.

Exhibit B

This Exhibit is comprised of three renderings of TOGE West Valley Resort Phase I

1. Site Aerial
2. Exterior Main Casino Entrance
3. Schematic of Phase I

SITE AERIAL



EXTERIOR (WEST SIDE)

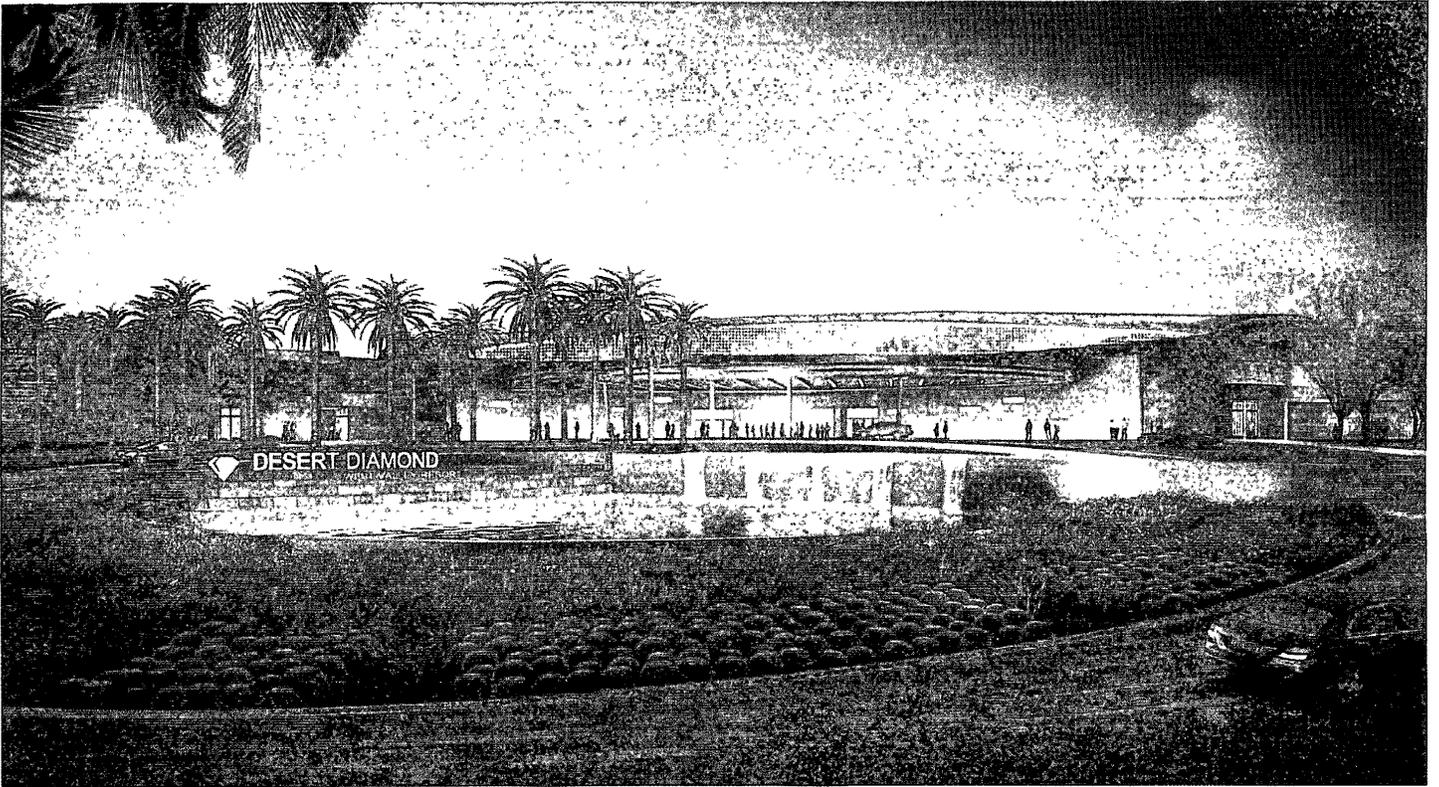


EXHIBIT C ONSITE INFRASTRUCTURE ESTIMATE

IMPROVEMENT	ESTIMATE
Onsite Grading	\$ 2,450,000
Potable Water onsite construction	\$ 1,000,000
Stormwater infrastructure	\$ 850,000
Sewer onsite construction	\$ 487,500
Electrical Power onsite infrastructure	\$ 1,150,000
Onsite circulation improvements	\$ 4,500,000
Onsite Landscaping, including irrigation	\$ 2,250,000
Onsite infrastructure Permit processing	\$ 175,000
Onsite Infrastructure construction inspection	\$ 225,000
Natural Gas onsite infrastructure	\$ 175,000
Onsite Infrastructure Civil design	\$ 325,000
Geotechnical Report	\$ 50,000
Geotechnical/Structural/ Materials Inspection & Testing	\$ 325,000
ESTIMATE	\$ 13,962,500

EXHIBIT D OFFSITE INFRASTRUCTURE ESTIMATE

IMPROVEMENT	ESTIMATE
Potable Water connection fees / offsite construction	\$ 1,500,000
Reclaimed water connection fees / offsite construction	\$ 500,000
Sewer connection fees / offsite construction	\$ 750,000
Electrical Power Fees / off-sites	\$ 1,000,000
US 101 loop, Northern Ave , 95th street improvements	\$ 7,500,000
Fire related mitigation allowance	\$ 1,000,000
Offsite infrastructure Permit processing	\$ 225,000
Offsite Infrastructure construction inspection	\$ 275,000
Natural Gas design fees / offsite connections	\$ 150,000
Offsite Infrastructure Civil design	\$ 400,000
Hydrology Report	\$ 25,000
Traffic Report	\$ 75,000
Environmental Assessment Preparation/Processing	\$ 150,000
Geotechnical Report	\$ 50,000
Geotechnical/Structural/ Materials Inspection & Testing	\$ 300,000
ESTIMATE	\$ 13,900,000

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Approving an Agreement Between the Tohono O'odham Nation, the Tohono
O'odham Gaming Enterprise, and the City of Glendale and Granting a Limited
Waiver of Sovereign Immunity)

RESOLUTION NO. 14-317

- 1 **WHEREAS,** the Tohono O'odham Nation (the "*Nation*") is a federally recognized Indian tribe
2 organized pursuant to Section 16 of the Indian Reorganization Act of June 18,
3 1934 (48 Stat. 984; 25 U.S.C. § 476), which exercises sovereignty over both its
4 members and its lands; and
- 5 **WHEREAS,** pursuant to Articles V and VI of the Constitution of the Tohono O'odham Nation,
6 all the legislative powers of the Nation are vested in the Tohono O'odham
7 Legislative Council; and
- 8 **WHEREAS,** the Tohono O'odham Gaming Enterprise (the "*Gaming Enterprise*") is a tribal
9 economic development enterprise of the Nation established pursuant to Article
10 VI, Section 1(e) of the Nation's Constitution and is responsible for planning,
11 constructing, and operating the Nation's gaming facilities and conducting
12 gaming activities (Charter of the Gaming Enterprise ("*Charter*"); 16 Tohono
13 O'odham Code Chapter 2); and
- 14 **WHEREAS,** the Gaming Enterprise possesses the same immunity from suit as the Nation
15 and, in addition to the limited waivers provided in the Charter, the Legislative
16 Council has expressly retained the power to waive the Enterprise's immunity
17 either generally or with respect to particular circumstances (Charter, Section 8;
18 16 Tohono O'odham Code Chapter 2); and
- 19 **WHEREAS,** in 1986, the United States Congress enacted the Gila Bend Indian Reservation
20 Lands Replacement Act as Pub. L. No. 99-503 (the "*Replacement Act*"), which
21 authorized the Nation to acquire new lands to replace lands damaged by the
22 Painted Rock Dam and required the United States to hold eligible replacement
23 lands in trust for the benefit of the Nation; and
- 24 **WHEREAS,** pursuant to Resolution No. 09-049, as amended by Resolution No. 09-397, the
25 Legislative Council requested that the Secretary of the Interior acquire 134.88
26 acres of real property (the "*Settlement Property*") in trust for the benefit of the
27 Nation under the terms of the Replacement Act; and
- 28 **WHEREAS,** on July 3, 2014, the Assistant Secretary of the Department of the Interior issued a
29 decision that 53.54 acres of the Settlement Property would be in trust for the

RESOLUTION NO. 14-317

(Approving an Agreement Between the Tohono O'odham Nation, the Tohono O'odham Gaming Enterprise, and the City of Glendale and Granting a Limited Waiver of Sovereign Immunity)

Page 2 of 4

1 **benefit of the Nation under the terms of the Replacement Act and subsequently**
2 **accepted the conveyance of title to the 53.54 acres in trust; and**
3 **WHEREAS,** **the City of Glendale is engaged in active litigation against the Nation in an action**
4 **captioned *Tohono O'odham Nation v. City of Glendale, et al.*, which is currently**
5 **pending before the United States Court of Appeals for the Ninth Circuit (Case**
6 **Nos. 11-16811, 11-16823, and 11-16833); and**
7 **WHEREAS,** **the Tohono O'odham Legislative Council has appointed the Economic**
8 **Development Delegation consisting of the chairperson of the Nation and the**
9 **chairpersons of the Tohono O'odham Legislative Council Commerce Committee,**
10 **Agricultural and Natural Resources Committee, and the Budget and Finance**
11 **Committee to address issues relating to the Nation's ownership and use of the**
12 **Settlement Property, including the Gaming Enterprise's development and**
13 **operation of the West Valley Resort on the Settlement Property; and**
14 **WHEREAS,** **by Resolution No. 13-446 the Legislative Council delegated to the Economic**
15 **Development Delegation authority to negotiate with the City of Glendale the**
16 **terms of an agreement designed to build a cooperative and mutually beneficial**
17 **relationship between the Nation and the City of Glendale, subject to Legislative**
18 **Council approval of any resulting agreement; and**
19 **WHEREAS,** **the Nation's Economic Development Delegation has presented to the Legislative**
20 **Council a proposed settlement agreement between the Nation, the Tohono**
21 **O'odham Gaming Enterprise, and the City of Glendale (the "*Agreement*"); and**
22 **WHEREAS,** **the Legislative Council is vested with the power to "consult, negotiate and**
23 **conclude agreements and contracts on behalf of the Tohono O'odham Nation**
24 **with Federal, State and local governments and other Indian tribes or their**
25 **departments, agencies, or political subdivisions, or with private persons or**
26 **organizations on all matters within the authority of the Tohono O'odham**
27 **Legislative Council" (Constitution of the Tohono O'odham Nation, Article VI,**
28 **Section 1(f)); and**

RESOLUTION NO. 14-317

(Approving an Agreement Between the Tohono O'odham Nation, the Tohono O'odham Gaming Enterprise, and the City of Glendale and Granting a Limited Waiver of Sovereign Immunity)

Page 3 of 4

1 **WHEREAS, the Agreement requires a limited waiver of the sovereign immunity of the**
2 **Nation and the Gaming Enterprise in favor of the City of Glendale to allow the**
3 **Agreement to be enforced in accordance with its terms; and**

4 **WHEREAS, the Budget and Finance, Commerce, and Agricultural and Natural Resources**
5 **Committees of the Legislative Council have reviewed the Agreement, including**
6 **the proposed limited waivers of the sovereign immunity of the Nation and the**
7 **Gaming Enterprise, and highly recommend that the Nation enter into an**
8 **agreement with the City of Glendale on terms that are substantially the same as**
9 **those set forth in the Agreement; and**

10 **WHEREAS, the Nation's best interest will be served by the Nation entering into an**
11 **agreement with the City of Glendale on terms that are substantially the same as**
12 **those set forth in the Agreement.**

13 **NOW, THEREFORE, BE IT RESOLVED that the Tohono O'odham Legislative Council approves**
14 **and authorizes the following:**

- 15 **1. The Legislative Council approves the Agreement with the Gaming**
16 **Enterprise and the City of Glendale and authorizes the Nation's**
17 **Chairman to execute an agreement with the Gaming Enterprise and City**
18 **of Glendale in substantially the form presented to the Legislative Council.**
- 19 **2. The Nation hereby grants a limited waiver of the sovereign immunity**
20 **from suit of the Nation and the Gaming Enterprise in favor of the City of**
21 **Glendale in accordance with the attached Exhibit A. Capitalized terms in**
22 **Exhibit A shall have the meaning ascribed to those terms in this**
23 **resolution.**

24 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 31ST**
25 **day of JULY, 2014 at a meeting at which a quorum was present with a vote of 2,926.9 FOR; -0-**
26 **AGAINST; [01] NOT VOTING; and 19.6[05] ABSENT, pursuant to the powers vested in the Council**
27 **by Article VI, Section 1(D) of the Constitution of the Tohono O'odham Nation, adopted by the**
28 **Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant**
29 **Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of**
30 **June 18, 1934 (48 Stat.984).**

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RESOLUTION NO. 14-317

(Approving an Agreement Between the Tohono O'odham Nation, the Tohono O'odham Gaming Enterprise, and the City of Glendale and Granting a Limited Waiver of Sovereign Immunity)

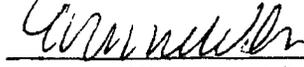
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TOHONO O'ODHAM LEGISLATIVE COUNCIL


Timothy Joaquin, Legislative Chairman
1 day of August, 2014

ATTEST:


Evonne Wilson, Legislative Secretary
01 day of August, 2014

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 1 day of August, 2014 at 4:20 o'clock, P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Timothy Joaquin, Legislative Chairman

APPROVED

DISAPPROVED

on the 05 day of August, 2014
at 2:09 o'clock, P.M.


NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 05 day of August, 2014, at 2:50 o'clock, P.M.

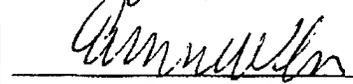

Evonne Wilson, Legislative Secretary

Exhibit A

A. The Nation irrevocably waives the sovereign immunity of the Nation and the Gaming Enterprise from suit or action in favor of the City of Glendale with respect to any dispute arising out of or relating to the Agreement, including the breach, termination, or validity of the Agreement, in accordance with the terms of the Agreement and subject to the limitations of this waiver. Without limiting the foregoing:

1. The Nation consents on behalf of itself and the Gaming Enterprise to resolving any disputes with the City of Glendale arising out of or relating to the Agreement, including the breach, termination, or validity of the Agreement, in a binding arbitration or arbitrations before the International Institute for Conflict Prevention & Resolution and any subsequent suit, action, or proceeding in any court of competent jurisdiction to confirm an arbitration award, to have judgment entered, and to execute upon any such judgment to collect any sums owed by the Nation and the Gaming Enterprise to the City of Glendale, plus any interest accrued or accruing on such sums; and

2. The Nation consents on behalf of itself and the Gaming Enterprise to resolving any disputes with the City of Glendale arising out of or relating to the Agreement through litigation in any court having jurisdiction, provided the Agreement permits those disputes to be litigated rather than arbitrated, including having judgment entered and executing upon any such judgment to collect any sums owed by the Nation and the Gaming Enterprise to the City of Glendale, plus any interest accrued or accruing on such sums.

B. The Nation waives on behalf of itself and the Gaming Enterprise any obligation the City of Glendale otherwise might have to exhaust tribal remedies before pursuing arbitration, obtaining a judgment confirming an arbitration award, and/or executing on a judgment entered in accordance with the terms of this limited waiver of sovereign immunity.

D. This limited waiver of sovereign immunity does not extend to any officer, director, agent, or attorney of or for the Nation or the Gaming Enterprise and no officer, director, agent, or attorney of or for the Nation or the Gaming Enterprise shall have any personal liability for any of the obligations of the Nation or the Gaming Enterprise under the Agreement or under any arbitration award, judgment, or order.

E. This limited waiver of sovereign immunity in favor of the City of Glendale applies only to the Agreement and to no other agreements or parties.

**RESOLUTION OF THE TOHONO O'ODHAM GAMING ENTERPRISE
MANAGEMENT BOARD**

Approving an Agreement Between the Tohono O'odham Nation, the Tohono O'odham Gaming Enterprise, and the City of Glendale and Acknowledging a Limited Waiver of Sovereign Immunity Granted by the Tohono O'odham Nation.

- WHEREAS, the Tohono O'odham Gaming Enterprise (the "*Gaming Enterprise*") is a tribal economic development enterprise of the Nation established pursuant to Article VI, Section 1(e) of the Nation's Constitution and is responsible for planning, constructing, and operating the Nation's gaming facilities and conducting gaming activities (Charter of the Gaming Enterprise ("*Charter*"); 16 Tohono O'odham Code Chapter 2); and
- WHEREAS, the Gaming Enterprise possesses the same immunity from suit as the Nation and, in addition to the limited waivers provided in the Charter, the Legislative Council has expressly retained the power to waive the Enterprise's immunity either generally or with respect to particular circumstances (Charter, Section 8; 16 Tohono O'odham Code Chapter 2); and
- WHEREAS, the Gaming Enterprise Charter provides that the Management Board of Directors shall have the authority to exercise general management authority and responsibility for the management and operation of the Enterprise [Charter, Section 5 (d) (1)]; and
- WHEREAS, in 1986, the United States Congress enacted the Gila Bend Indian Reservation Lands Replacement Act as Pub. L. No. 99-503 (the "*Replacement Act*"), which authorized the Nation to acquire new lands to replace lands damaged by the Painted Rock Dam and required the United States to hold eligible replacement lands in trust for the benefit of the Nation; and
- WHEREAS, pursuant to Resolution No. 09-049, as amended by Resolution No. 09-397, the Legislative Council requested that the Secretary of the Interior acquire 134.88 acres of real property (the "*Settlement Property*") in trust for the benefit of the Nation under the terms of the Replacement Act; and
- WHEREAS, on July 3, 2014, the Assistant Secretary of the Department of the Interior issued a decision that 53.54 acres of the Settlement Property would be in trust for the benefit of the Nation under the terms of the Replacement Act and subsequently accepted the conveyance of title to the 53.54 acres in trust; and

WHEREAS, the City of Glendale is engaged in active litigation against the Nation in an action captioned *Tohono O'odham Nation v. City of Glendale, et al*, which is currently pending before the United States Court of Appeals for the Ninth Circuit (Case Nos. 11-16811, 11-16823, and 11-16833); and

WHEREAS, the Tohono O'odham Legislative Council has appointed an Economic Development Delegation consisting of the chairperson of the Nation and the chairpersons of the Tohono O'odham Legislative Council Commerce Committee, Agricultural and Natural Resources Committee, and Budget and Finance Committee to address issues relating to the Nation's ownership and use of the Settlement Property, including for the Gaming Enterprise's development and operation of the West Valley Resort on the Settlement Property; and

WHEREAS, by Resolution No. 13-446 the Legislative Council delegated to the Economic Development Delegation authority to negotiate with the City of Glendale the terms of an agreement designed to build a cooperative and mutually beneficial relationship between the Nation and the City of Glendale, subject to Legislative Council approval of any resulting agreement; and

WHEREAS, the Nation's Economic Development Delegation has presented to the Legislative Council and to the Management Board of the Gaming Enterprise a proposed settlement agreement between the Nation, the Tohono O'odham Gaming Enterprise, and the City of Glendale (the "*Agreement*"), said Agreement is attached hereto and incorporated by reference as Exhibit A"; and

WHEREAS, the Legislative Council is vested with the power to "consult, negotiate and conclude agreements and contracts on behalf of the Tohono O'odham Nation with Federal, State and local governments and other Indian tribes or their departments, agencies, or political subdivisions, or with private persons or organizations on all matters within the authority of the Tohono O'odham Council" (Constitution of the Tohono O'odham Nation, Article VI, Section 1(f)); and

WHEREAS, the Agreement requires a limited waiver of the sovereign immunity of the Nation and the Gaming Enterprise in favor of the City of Glendale to allow the Agreement to be enforced in accordance with its terms; and

WHEREAS, the Legislative Council enacted Resolution No. 14-317 on July 31, 2014, that approved the Agreement with the Gaming Enterprise and the City of Glendale and granted a limited waiver of sovereign immunity. Said resolution is incorporated by reference and attached hereto as Exhibit B; and

WHEREAS, the Gaming Enterprise's best interests will be served by the entering into an agreement with the Nation and City of Glendale on terms that are substantially the

same as those set forth in the Agreement.

NOW, THEREFORE, BE IT RESOLVED that the Management Board of the Tohono O'odham Gaming Enterprise approves and authorizes the following:

1. The Gaming Enterprise Management Board approves the Agreement with the Nation and the City of Glendale and authorizes the Management Board's Chairperson to execute an agreement with the Nation and City of Glendale in substantially the form presented to the Management Board.

2. The Gaming Enterprise hereby acknowledges and accepts the limited waiver of the sovereign immunity from suit previously granted by the Nation on behalf of the Nation and the Gaming Enterprise in favor of the City of Glendale in accordance with the attached Exhibit C. Capitalized terms in Exhibit C shall have the meaning ascribed to those terms in this resolution.

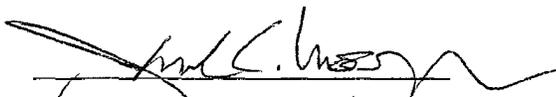
CERTIFICATION

The foregoing Resolution was duly adopted at a meeting of the Tohono O'odham Gaming Enterprise Management Board on August 11, 2014, by a vote of 6 in favor, 0 against, and 0 abstaining, a quorum being present.



Chairperson

Attest:



Title: Vice-Chairman