

RESOLUTION NO. 10132

A RESOLUTION OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A DEVELOPMENT AGREEMENT BETWEEN HARVARD VENTURES, INC AND THE CITY OF MESA RELATED TO THE DEVELOPMENT OF A PARCEL OF LAND LOCATED AT THE 10800 TO 11100 BLOCKS OF EAST WILLIAMS FIELD ROAD (NORTH SIDE) AND THE 5600 TO 6000 BLOCKS OF SOUTH SIGNAL BUTTE ROAD (EAST SIDE).

WHEREAS, A.R.S. § 9-500.05 authorizes the City of Mesa to enter into development agreements related to the development of property in the City; and

WHEREAS, the City desires to facilitate the development and finds that development of the real property described in the Development Agreement will benefit the City and its residents; and

WHEREAS, the property subject to the Development Agreement under consideration at this meeting is located within the City of Mesa;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, AS FOLLOWS:

Section 1: That the Development Agreement between the City of Mesa, Arizona and Harvard Ventures, Inc., a Nevada Corporation is hereby approved.

Section 2: That the City Manager, Christopher J. Brady, or his designated representative, is authorized and directed to execute the Development Agreement and other associated documents necessary to carry out the purposes of this development agreement on behalf of the City of Mesa, and the City Clerk, Linda G. Crocker or her designee, is authorized and directed to attest to the signature of the City Manager or his authorized designated representative thereon.

PASSED AND ADOPTED by the Council of the City of Mesa, Maricopa County,
Arizona, this 10th day of September, 2012.



APPROVED:

Mayor

ATTEST:

City Clerk

12-A030

When recorded mail to:
City of Mesa
Real Estate Services
P.O. Box 1466
Mesa, AZ 85211-1466

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
2012-0871137, 09/26/2012 02:09
ELECTRONIC RECORDING
3398-21-4-4--, N

3398-21-4-4--

PRE-ANNEXATION DEVELOPMENT AGREEMENT

Signal Butte 105

DO NOT REMOVE

This is part of the official document.

After recording, return to:
City Clerk
City of Mesa, Arizona
20 E. Main Street
Mesa, AZ 85211

With a copy to:
Paul E. Gilbert
Beus Gilbert, PLLC
4800 N. Scottsdale Road
Suite 6000
Scottsdale, AZ 85251

**SIGNAL BUTTE 105
PRE-ANNEXATION DEVELOPMENT AGREEMENT**

THIS PRE-ANNEXATION DEVELOPMENT AGREEMENT (this "**Agreement**") is entered into by and between City of Mesa, an Arizona municipal corporation (the "**City**"), and Harvard Ventures Inc., a Nevada corporation ("**Developer**") as of the date the last Party signs and dates this Agreement. The City and Developer are herein referred to individually as a "**Party**," and collectively as the "**Parties**."

RECITALS:

A. This Agreement pertains to certain real property consisting of approximately one hundred five (105) acres, generally located at the northeast corner of the Signal Butte Road and Williams Field Road, alignment which property is legally described on Exhibit A (the "**Property**").

B. The Parties acknowledge and agree that the development of the Property will result in significant planning and economic benefits to the City and its residents by (i) increasing tax and other revenues to the City based on improvements to be constructed within the Property; and (iii) adding additional property to the tax rolls of the City; and (iv) providing for the design, construction and financing of public infrastructure to service the Property; and (v) providing for other matters relating to the development of the Property.

C. The Parties are entering into this Agreement pursuant to the provisions of A.R.S. § 9-500.05 in order to facilitate the annexation of County Property and development of the Property by providing for, among other things: (i) conditions, terms, restrictions and requirements for the annexation of the County Property by the City; (ii) other matters related to the annexation and development of the Property.

D. Developer agrees to comply with The Mesa Gateway Strategic Development Plan.

E. To ensure high quality development of this property, Developer shall submit, subject to City of Mesa Council approval, all site plans. Developer shall submit to Council for review at a Study Session housing products and elevations.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing premises and mutual promises set forth in this Agreement, the City and Developer state, confirm and agree as follows:

1. Concurrent Annexation and Zoning. The City agrees to concurrently take action on the final ordinance annexing the Property into the corporate limits of the City and the final ordinance rezoning the Property to RSL-4.5 (35 acres) and RS-6 (70 acres) (the "**Zoning Ordinance**") as a single Council agenda item with sub-items for the annexation ordinance, the

Zoning Ordinance and this Agreement.

1.1 Development. Developer agrees to comply with The Mesa Gateway Strategic Development Plan, and to develop the property consistent with the Design Guidelines attached hereto as Exhibit B.

1.2 Council Review. Developer shall submit, subject to Council review and approval, a comprehensive site plan. Developer shall submit to Council for review at a Study Session housing products and elevations. Design of park facilities shall be coordinated with the City of Mesa Parks Department prior to submission to Council for approval.

2. Anti-Moratorium. The Parties hereby acknowledge and agree that of this Agreement, no moratorium or future ordinance, resolution or other land use rule or regulation imposing a limitation on the rate, timing or sequencing of the development of Property shall be imposed except as permitted by A.R.S. § 9-463.06 in effect on the date this Agreement is executed.

3. Prompt Review Process. If Developer has specific deadlines or wishes to establish specific review or inspection time parameters for the development of all or any portion of the Property, the Developer may, upon mutual concurrence with the City, enter into a funding/reimbursement agreement with the City, which will include provisions addressing the following issues: (i) reimbursement for City resources over and above the scheduled work hours of the required employees, (ii) identification of additional City resources and/or outside consultants that may be necessary to review site plans, subdivision plans, construction plans and other submitted materials, or to provide land development and construction inspection services within the timeframes desired by Developer and (iii) identification of the timeframe for which the additional City resources and/or outside consultants are necessary. The City agrees to use reasonable efforts to initiate all reviews, inspections and approvals in conformance with turn-around-times published by the City.

4. Water.

4.1 Water Use Limitations. The Parties acknowledges that Arizona Revised Statutes Title 45, Chapters 1 and 2, and other federal, state, county and City water laws, water quality laws and other applicable laws, including but not limited to ordinances, rules, regulations and permit requirements from the City, Maricopa County, the Arizona Department of Water Resources and the Arizona Department of Environmental Quality (the "**Applicable Water Laws**") may limit or restrict both the City's ability to serve the Property and the Developer's ability to use water for certain uses on the Property, including uses that would be subject to Title 45, Chapter 1, Article 3. The Parties further acknowledge that use of water on the Property may be subject to conservation and reporting requirements under the Applicable Water Laws. Nothing in this Section 5.1 limits the City's obligation to deliver potable water of sufficient quality to satisfy all Applicable Water Laws

4.2 Water Service. The City agrees to serve water to the Property for domestic, municipal and commercial demands, subject to the Applicable Water Laws, the City's Terms and Conditions for the Sale of Utilities, payment of applicable Utility Rates as adopted and made effective by City from time to time via ordinance and the provisions of this Agreement. Developer agrees to properly abandon any existing groundwater wells located on the Property in a manner that is consistent with the Applicable Water Laws, prior to the commencement of any construction on the Property or within one year of the effective date of this Agreement, whichever occurs sooner. The City shall execute a written commitment to water service for the Property on any forms reasonably required by ADWR.

4.3 Water System Improvements. Developer, at its sole cost and expense, shall finance, design, construct and install the necessary water system improvements in accordance with the sizes and quantities necessary to provide water service for the development, in compliance with City standards. Water system improvements may be installed in phases, subject to the review and approval of the City, only as needed to serve the portion of the Property being developed. The water system improvements that the Developer constructs, or has the responsibility to construct, shall be subject to the terms of acceptance by the City as set forth in the City Engineering Design Standards and this Agreement.

4.4 Water System Buy-in Fees.

4.4.1 Water System Improvements Constructed by Developer. Developer shall be entitled to proportionate reimbursement for any water system improvements financed, designed and constructed by Developer that serve other projects outside of the Property as established by City development standards. Developer reserves the right to utilize the City's adopted "Utility Buy-In Program" to receive such reimbursements.

4.4.2 Water System Improvements Constructed by Others.

In the event some or all of the necessary water system improvements needed to provide water service to the Property are financed, designed and constructed by an entity other than Developer (or an entity developing the Property), then Developer acknowledges and agrees that there may be "buy-in" fees associated with such improvements, which the City shall assess and collect in a standard, customary, and non-discriminatory manner.

5. Wastewater.

5.1 Wastewater Service. The City agrees to provide sewer service to the Property, subject to the federal, state, county and City water laws, water quality laws and other applicable laws, including but not limited to ordinances, rules, regulations and permit requirements from the City, Maricopa County, the Arizona Department of Water Resources and the Arizona Department of Environmental Quality (the "**Applicable Wastewater Laws**"), the City's Terms and Conditions for the Sale of Utilities payment of applicable Utility Rates and Fees as adopted

and made effective by the City from time to time via ordinance and the provisions of this Agreement.

5.2 Wastewater Facility. Developer shall have no obligation to expand, design, construct, pay for, operate, maintain or repair a treatment facility for wastewater generated on the Property, except for the payment of standard and customary wastewater development fees and the applicable Utility Rates and Fees.

5.3 Wastewater Collections System Improvements. Developer, at its sole cost and expense, shall finance, design, construct and install the wastewater collection system improvements needed to provide wastewater service for the development of the Property, in compliance with City standards. Wastewater collection system improvements may be installed in phases only as needed to serve the portion of the Property being developed, subject to the City's review and approval of such phasing and shall result in cohesive wastewater collection system. The wastewater collection system improvements that Developer constructs, or has the responsibility to construct, shall be subject to the terms for acceptance by the City as set forth in this Agreement.

5.4 Wastewater Collection System Buy-in Fees.

5.4.1 Wastewater Collection System Improvements Constructed by Developer. Developer shall be entitled to proportionate reimbursement for any wastewater collection system improvements financed, designed and constructed by Developer that serve other projects outside of the Property. Developer reserves the right to utilize the City's adopted "Utility Buy-In Program" to receive such reimbursements, under its terms

5.4.2 Wastewater System Improvements Constructed by Others. In the event some or all of the necessary wastewater collection system improvements, needed to provide wastewater service to the Property, are financed, designed and constructed by an entity other than Developer (or an entity developing the Property), then Developer acknowledges and agrees that there may be "buy-in" fees associated with such improvements, which the City shall assess and collect in a standard, customary, and non-discriminatory manner.

6. Parks.

6.1 Developer shall develop a minimum of 12% of the Property for common open space and park facilities throughout the site. Developer shall create a home owners association to perpetually maintain the common open space and park facilities throughout the site. Design of the park facilities will be coordinated with the City of Mesa Parks Department.

7. Transportation.

Developer shall finance, design, construct and install the roadway improvements necessary to serve the development of the Property, in compliance with City standards.

Should the City request oversizing of the roadway improvements the Developer may seek reimbursement through any available City reimbursement program.

8. Construction and Dedication.

8.1 Public Procurement. All construction contracts or professional services contracts that exceed the City Share threshold for any of the water system improvements, wastewater collection system improvements, roadway improvements or any other public improvements needed to develop the Property (the "**Improvements**") that require or anticipate a contribution of City funds or off-site development fees shall be publicly procured pursuant to Arizona Revised Statutes and the City's procurement policies. The City agrees to assist in the public procurement process, using the City's staff without cost to Developer. This public procurement requirement shall not apply to the procurement of architects, engineers, assayers and other professional services statutorily exempted from the public procurement requirements.

8.2 Assurances. The Parties acknowledge and agree that the infrastructure improvements that have a regional component shall be constructed in compliance with Title 34 of the Revised Arizona Statutes, City Code. Regarding all other improvements that primarily serve the development, the Parties acknowledge and agree that, to assure construction, installation and completion of the required infrastructure improvements, the City will require that building permits for the homes, other than model homes, to be built on any Parcel will be withheld until the substantial completion of the on-site infrastructure improvements of that Parcel. Alternatively, Developer may request upon submission of the preliminary plat for the Property to utilize certificate of occupancy holds subject to the review and approval of the Director of Development and Sustainability at her sole discretion.

8.4 Conveyance of Property. On the final plats (including maps of dedication) Developer shall dedicate to the City, and the City shall accept such parcels, rights-of-way and easements within the Property needed for the Improvements, or as required pursuant to this Agreement, free and clear of all encumbrances which could affect marketability of title.

8.5 Conveyance of Improvements. Improvements shall be conveyed to the City free and clear of all liens and encumbrances that could affect marketability of title. Improvements constructed by Developer and conveyed to the City pursuant to this Agreement shall be warranted for period of one (1) year after conditional acceptance by the City's engineering department. The City agrees to accept the conveyance of the Improvements and shall thereafter own, operate and maintain the Improvements at its sole cost and expense (subject only to one (1) year warranty obligation).

8.6 Construction Access. Developer and its agents shall have the right to enter, remain upon and cross over any City easement or right-of-way to the extent reasonably necessary to design, construct or install the Improvements, provided such use does not unreasonably impede City's use and enjoyment of the subject property; and provided Developer obtains any required permits for the use of such easement or right-of-way, as required by City,

and also provided Developer shall restore such easement or right-of-way to substantially the same condition as existed prior to Developer's use and entry.

8.7 Fees. Developer shall pay all normal and customary development/impact, infrastructure, permit, review and other fees assessed by City that are in effect at the time each plan, plat or permit application is submitted, unless otherwise excepted within this Agreement.

8.8 Development Impact Fee Credits. To the extent one or more of the Improvements constructed by Developer and/or any of the land dedicated by Developer to the City is included as a component of a City adopted development impact fee, then Developer shall be entitled to a credit against the applicable development impact fee in an amount equal to the costs incurred to design and construct the eligible Improvement and/or the fair market value of the eligible land dedicated to the City, provided that Developer has not already been compensated for the costs of the Improvement or the value of the land dedicated from another City source. Notwithstanding the foregoing, all development impact fee credits are subject to any State law and City Code provisions regulating development impact fees.

9. Miscellaneous Provisions.

9.1 Recordation. This Agreement shall be recorded in its entirety in the Official Records of Maricopa County, Arizona not later than ten (10) days after it is fully executed by the Parties.

9.2 Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

The City: City of Mesa
20 East Main Street, Suite 750
Mesa, Arizona 85211
Facsimile: 480-644-2175
Attn: City Manager
Email:

With copy to: Mesa City Attorney's Office
20 East Main Street, Suite 850
Mesa, Arizona 85211
Facsimile: 480-644-2498
Attn: Deborah J. Spinner, Esq.
Email:

Developer: Harvard Ventures, Inc.
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17700 N. Pacesetter Way, Ste. 100
Scottsdale, AZ 85255
Facsimile: 480-348-8976
Attn: Christopher J. Cacheris
Email: ccacheris@harvardinvestments.com

With Copy to: Beus Gilbert, PLLC
4800 N. Scottsdale Road
Suite 6000
Scottsdale, AZ 85251
Facsimile: 480-429-3100
Attn: Paul E. Gilbert
Email: pgilbert@beusgilbert.com

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this Section. Notices shall be deemed received (A) when delivered to the Party, (B) three (3) business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a Party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a Party shall mean and refer to the date on which the Party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

9.3 Choice of Law, Venue and Attorneys' Fees. The laws of the State of Arizona shall govern any dispute, controversy, claim or cause of action arising out of or related to this Agreement. The venue for any such dispute shall be Maricopa County, Arizona, and each Party waives the right to object to venue in Maricopa County for any reason. No Party shall be entitled to recover any of its attorneys' fees or other costs from the other Party incurred in any such dispute, controversy, claim, or cause of action, but each Party shall bear its own attorneys' fees and costs, whether the same is resolved through arbitration, litigation in a court, or otherwise.

9.4 Default. In the event a Party fails to perform or fails to otherwise act in accordance with any term or provision herein (the "**Defaulting Party**") then the other Party (the "**Non-Defaulting Party**") may provide written notice to perform to the Defaulting Party (the "**Notice of Default**"). The Defaulting Party shall have thirty (30) days from receipt of the Notice of Default to cure the default. In the event the failure is such that more than thirty (30) days would reasonably be required to cure the default or otherwise comply with any term or provision herein, then the Defaulting Party shall notify the Non-Defaulting Party of such and the timeframe needed to cure such default. So long as the Defaulting Party commences performance or

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compliance requires to cure the failure or gives notice of additional time needed to cure the failure within said thirty (30) day period and diligently proceeds to complete such performance or fulfill such obligation; provided further, however, that no such cure period shall exceed ninety (90) days. Any written notice shall specify the nature of the default and the manner in which the default may be satisfactorily cured, if possible. In the event such default is not cured within the Cure Period, the Non-Defaulting Party shall have all rights and remedies provided by law or equity.

9.5 Good Standing; Authority. Each Party represents and warrants that it is a duly formed and legally valid existing entity under the laws of the State of Arizona with respect to Developer, or a municipal corporation within Arizona with respect to the City and that the individuals executing this Agreement on behalf of their respective Party are authorized and empowered to bind the Party on whose behalf each such individual is signing.

9.6 Assignment. The provisions of this Agreement are binding upon and shall inure to the benefit of the Parties, and all of their successors in interest and assigns; provided; however, that Developer's rights and obligations hereunder may only be assigned to a person(s) or entity (ies) that has acquired an interest in the Property or a portion of the Property and only by a written instrument recorded in the Official Records of Maricopa County, Arizona, expressly assigning such rights and obligations. In the event of a complete assignment by Developer, all of Developer's rights and obligations hereunder shall terminate effective upon the assumption by Developer's assignee of such rights and obligations and the execution of an addendum that recognizes the assignment with respect to the interest in Developer's Property transferred or conveyed. Except as otherwise provided herein, the Parties hereby acknowledge and agree that this Agreement is not intended to, and shall not create conditions or exceptions to title or covenants running with the individual residential lots within the Property and any tracts or land intended to be dedicated or conveyed to the City, any other public or quasi-public entity, any utility provider, any homeowner association or any school district. Therefore, in order to alleviate any concern as to the effect of this Agreement on the status of title to any of the Property, so long as not prohibited by law, this Agreement shall terminate without the execution or recordation of any further document or installment as to any individual residential lot and any tracts or land dedicated or conveyed to the City, any utility provider, any homeowner association or any school district, and thereupon such individual residential lot and any tracts or land dedicated or conveyed to City, any utility provider, any homeowner association or any school district shall be released from and no longer be subject to or burdened by the provisions of this Agreement.

9.7 Third Parties. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between the Parties. No term or provision of this Agreement is intended to, or shall be for the benefit of any person, firm or entity not a party hereto, and no such other person, firm, or entity shall have any right or cause of action hereunder.

9.8 Waiver. No delay in exercising any right or remedy shall constitute a
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waiver thereof, and no waiver of any breach shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant, or condition of this Agreement. No waiver shall be effective unless it is in writing and is signed by the Party asserted to have granted such waiver

9.9 Further Documentation. The Parties agree in good faith to execute such further or additional instruments and documents and to take such further acts as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement.

9.10 Fair Interpretation. The Parties have been represented by counsel in the negotiation and drafting of this Agreement and this Agreement shall be construed according to the fair meaning of its language. The rule of construction that ambiguities shall be resolved against the Party who drafted a provision shall not be employed in interpreting this Agreement.

9.11 Computation of Time. In computing any period of time under this Agreement, the date of the act or event from which the designated period of time begins to run shall not be included. The last date of the period so completed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday. The time for performance of any obligation or taking any action under this Agreement shall be deemed to expire at 5:00 p.m. (Phoenix, Arizona time) on the last day of the applicable time period provided herein.

9.12 Conflict of Interest. Pursuant to A.R.S. § 38-503 and § 38-511, 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 the terms of A.R.S. § 38-511.

9.13 Construction. This Agreement is the result of negotiations between the parties. Accordingly the terms and provision of this Agreement shall be construed in accordance with the usual and customary meaning, and the parties hereby waive the application of any rule or law that otherwise might require the construction of this Agreement against the party who (or whose attorney) prepared the executed Agreement.

9.14 Entire Agreement. This Agreement, together with the following Exhibits attached hereto (which are incorporated herein by this reference) constitute the entire agreement between the Parties:

Exhibit A: Legal Description of the Property
Exhibit B: Design Guidelines

All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, are superseded by and merged in this Agreement.

9.15 Time of the Essence. Time is of the essence in this Agreement and with respect to the performance required by each Party hereunder.

9.16 Severability. If any provision of this Agreement is declared void or unenforceable, such provisions shall be severed from this Agreement, which shall otherwise remain in full force and effect.

9.17 Proposition 207 Waiver. Developer hereby waives and releases the City from any and all claims under A.R.S. § 12-1134 et seq., including any right to compensation for reduction to the fair market value of the Property, as a result of the City's approval of this Agreement. The terms of this waiver shall run with the land and shall be binding upon all subsequent landowners and shall survive the expiration or earlier termination of this Agreement.

9.18 Dispute Resolution. In the event that there is a dispute hereunder which the Parties cannot resolve between themselves, the disputing Parties agree that there shall be a forty-five (45) day moratorium on litigation during which time the Parties agree to attempt to settle the dispute through the representatives identified in Section 9.20 below. The representatives shall be available at all reasonable times to discuss and review the performance of the Parties to this Agreement and the development of the Property pursuant to this Agreement. To facilitate the resolution of such a dispute Developer or its representatives shall in writing request a meeting to resolve such dispute. The City Manager shall schedule a meeting with the Developer and the City Manager or a designated deputy city manager, within fifteen days (15) of the delivery of written notice requesting a meeting. At that meeting, the Parties will mutually agree on a method and time frame for resolution of the dispute. The Parties agree to continue to use reasonable good faith efforts to resolve any such dispute pending any such appeal to the City Manager.

9.19 Amendments to this Agreement. Minor amendments, which are amendments that do not change the terms or conditions of this Agreement, sought by Developer may be reviewed and approved by the Director of Development and Sustainability. All other amendments sought by Developer shall be reviewed by the Director of Development and Sustainability and approved by the Council prior to becoming effective. Amendments shall be recorded in the Official Records of Maricopa County within ten (10) days after execution. The Parties also understand that the Property may be subdivided and sold to various homebuilders and developers; therefore, for purposes of amending this Agreement, only the party seeking an amendment of this Agreement shall be required to sign such amendment, provided such amendment does not impact any other owner/assignee within the Property, and such amendment shall only apply to that party's portion of the Property.

9.20 Representatives. The Parties agree to designate and appoint a representative to act as a liaison between City and its various departments and Developer and

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Owner. The initial representative for the City shall be the City Manager or his designee, and the initial representative for Developer shall be Christopher J. Cacheris and the initial representative for Owner shall be Andrew Cohn, or such other individual as identified by City, or Developer or Owner from time to time. The representatives shall be available at all reasonable times to discuss and review the performance of the Parties and the development of the Property

9.21 Term. This Agreement shall become effective on the date the last Party executes this Agreement and shall automatically terminate on the twentieth (25th) anniversary of such date; provided, however, that City's obligation to continue providing municipal services to the portions of the Property receiving municipal services shall survive the termination of this Agreement.

9.22 Headings. The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of any provision of this Agreement.

9.23 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

9.24 Developer Representation. Nothing contained herein shall be deemed to obligate Developer to develop any portion of the Property or to complete construction of any of the Improvements.

SIGNATURES APPEAR ON THE FOLLOWING PAGES

DEVELOPER:

HARVARD VENTURES INC., a Nevada corporation

By: 

Date: 9-10-12

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 10th day of Sept., 2012, before me personally appeared Craig Krumwiede the President of HARVARD VENTURES INC., a Nevada corporation, for and on behalf thereof, whose identity was proven to me on the basis of satisfactory evidence to be the person who he or she claims to be, and acknowledged that he or she signed the above/attached document.




Notary Public

[Affix notary seal here]

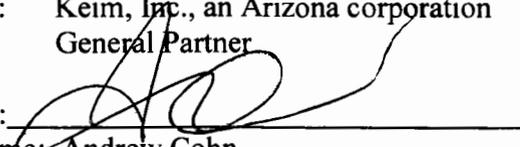
**SIGNAL BUTTE 105 PRE-ANNEXATION DEVELOPMENT AGREEMENT
ACCEPTANCE AND CONSENT TO AGREEMENT RUNNING WITH THE LAND**

PACIFIC PROVING, L.L.C., A Delaware limited liability company as owner of fee title to the Property described in the Signal Butte 105 Pre-Annexation Development Agreement, entered into by and between the **City of Mesa**, an Arizona municipal corporation and **Harvard Ventures, Inc.**, a Nevada corporation, to which this signed consent is attached, does hereby acknowledge, accept and consent to the Signal Butte 105 Pre-Annexation Development Agreement immediately attaching to and running with the Property, and that the development of the Property shall be subject to and in accordance with the Signal Butte 105 Pre-Annexation Development Agreement.

PACIFIC PROVING L.L.C., a Delaware limited liability company

By: Levine Investments Limited Partnership, an Arizona limited partnership
Its: Member

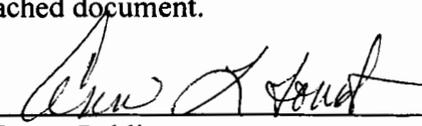
By: Keim, Inc., an Arizona corporation
Its: General Partner

By: 
Name: Andrew Cohn
Its: Agent

Date: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 10th day of Sept, 2012, before me personally appeared Andrew Cohn, the Authorized Agent of **PACIFIC PROVING L.L.C.**, a Delaware limited liability company, for and on behalf thereof, whose identity was proven to me on the basis of satisfactory evidence to be the person who he or she claims to be, and acknowledged that he or she signed the above/attached document.



Notary Public

[Affix notary seal here]

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15



EXHIBIT A

Legal Description of the Property

EXHIBIT A

LEGAL DESCRIPTION

BEING A PORTION OF
THE SOUTHWEST QUARTER OF SECTION 25,
TOWNSHIP 1 SOUTH, RANGE 7 EAST OF THE
GILA AND SALT RIVER BASE AND MERIDIAN
MARICOPA COUNTY, ARIZONA

LEGAL DESCRIPTION

TO WIT-

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 1 SOUTH, RANGE 7 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 25;

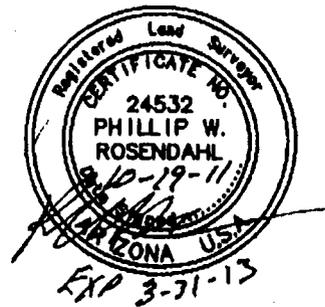
THENCE N00°24'52"W, A MEASURED DISTANCE OF 2624.75 FEET TO THE WEST QUARTER CORNER OF SAID SECTION 25, THE RECORD COURSE BEING N00°23'22"W, 2625.85 FEET;

THENCE S89°41'44"E, A MEASURED DISTANCE OF 1749.98 FEET TO THE NORTHEAST CORNER OF THE WEST TWO-THIRDS OF SAID SOUTHWEST QUARTER OF SECTION 25, THE RECORD COURSE BEING S89°39'45"E, 1749.34 FEET;

THENCE S00°32'46"E, A MEASURED DISTANCE OF 2628.34 FEET TO A POINT ON THE SOUTH BOUNDARY OF SAID SECTION 25, THE RECORD COURSE BEING S00°32'04"E, 2628.23 FEET;

THENCE N89°34'51"W ALONG THE SOUTH LINE OF SAID SECTION 25, A MEASURED DISTANCE OF 1758.07 FEET TO THE POINT OF BEGINNING, THE RECORD COURSE BEING N89°35'17"W, 1756.03 FEET.

SAID PARCEL CONTAINS 105.891 ACRES MORE OR LESS.

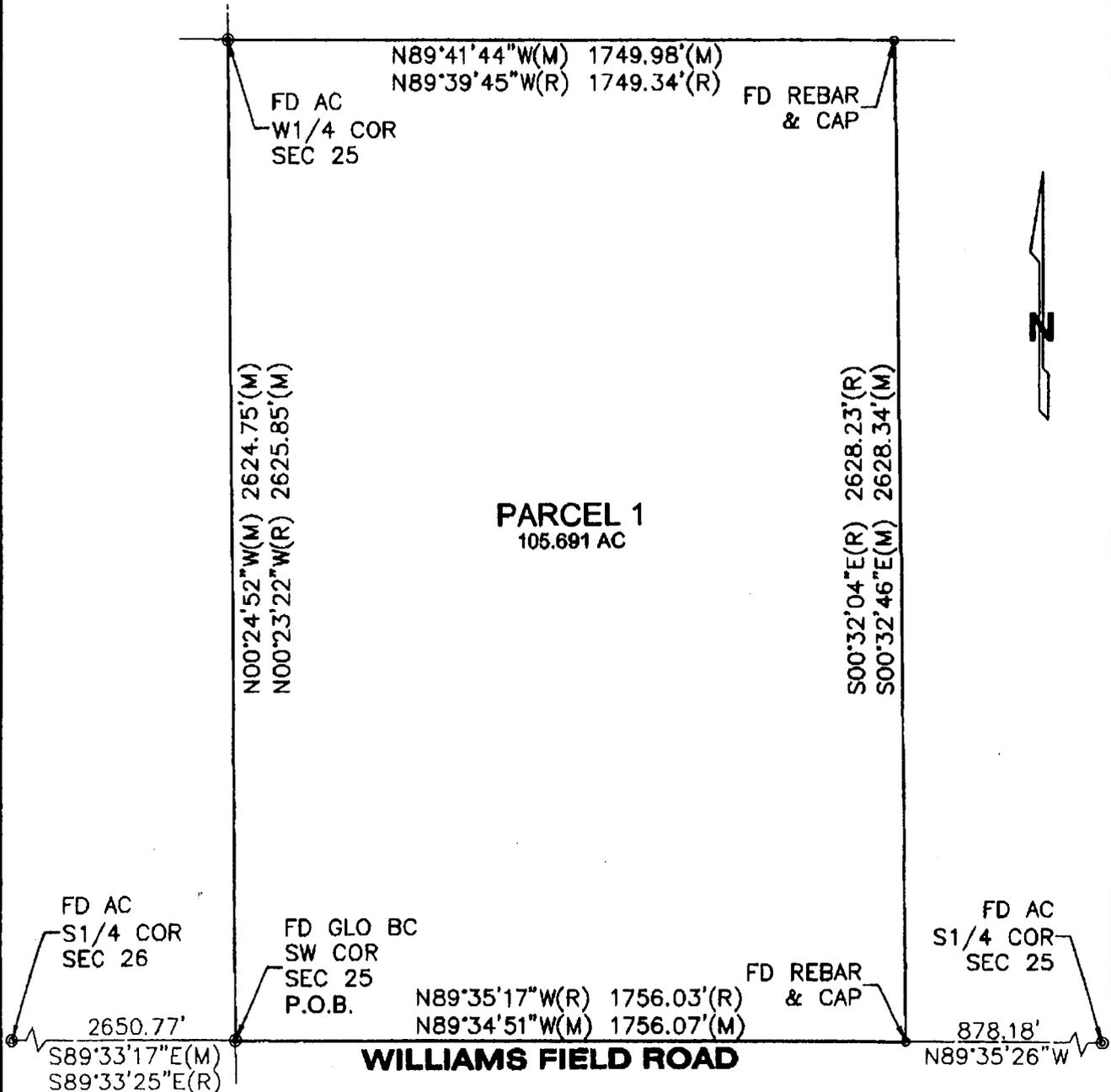


	POWER ENGINEERING & LAND SURVEYING, LLC
	252 N. STAPLEY DR. MESA, AZ 85203 (480) 427-2488 TEL (480) 989-3882 FAX

LEGAL DESCRIPTION EXHIBIT

PROJECT NO. 201117
DATE: 10/18/11
SHEET 1 OF 2

**EXHIBIT
TO ACCOMPANY
LEGAL DESCRIPTION**



SCALE: 1" = 400'



 POWER ENGINEERING & LAND SURVEYING, LLC	252 N. STAPLEY DR. MESA, AZ 85203 (480) 427-2466 TEL (480) 988-3682 FAX	EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION		PROJECT NO. 201117
		DATE: 10/18/11	SHEET 2 OF 2	

EXHIBIT B DESIGN GUIDELINES

Signal Butte Site Plan and Building Design Guidelines

1.1. Neighborhood and Building Design Concepts

1.1(a) Lot and Building Design Variation and Diversity. Each neighborhood block will contain at least two lot sizes, which can be met by larger corner lots, a variety of floor plans and building elevations to create a diverse streetscape consistent with the City of Mesa Residential Design Guidelines. A mix of single and two story buildings should be integrated within each block, and a mix of materials, colors and facade treatments should be employed. Variation of front yard setbacks is encouraged to introduce diversity within each neighborhood block.

1.1(b) Garage Design. In order to focus attention on residential entrances, outdoor spaces and building elevations, garage doors will not dominate the residential streetscape and will be setback from the primary front building façade by a minimum of three feet, or as otherwise required by the City of Mesa Zoning Ordinance. Further, garage doors are an important architectural element of the overall façade and should include design elements such as stepping back garage doors and thoughtfully articulating garage doors.

1.1(c) Neighborhood Design. The Property shall include a central neighborhood park or civic space amenity as focal community elements. Individual lots shall be designed to front on the park or civic space. Neighborhoods will be designed utilizing compact block lengths (suggested maximum block perimeter is 2400') and uncomplicated neighborhood layouts to promote efficient use of the land and foster a more integrated and walkable neighborhood. The scale of neighborhoods should be designed so that individual homes are in close proximity to integrated neighborhood open space, recreational facilities, and pedestrian pathway connections. Neighborhoods will be interconnected and the use of cul-de-sacs will be limited to locations where a through street connection cannot be provided or where the cul-de-sac provides connectivity to an on-site open space, park or pedestrian connectivity amenity.

1.1(d) Neighborhood Transitions. A common landscape buffer area will be developed along the eastern site boundary as a transition to the existing larger lot single-residence dwellings located to the east, within Maricopa County. The use of larger lots sizes along the eastern site boundary is encouraged to compliment existing large lot homes.

1.2. Open Space and Pedestrian Connectivity

In order to promote pedestrian activity and create a sense of unique place throughout the Property, the project will include integrated and well-designed open space and pedestrian systems. Pedestrian systems and open space will primarily be focused toward the interior of the project where the majority of pedestrian activity will occur. Pedestrian systems will also be developed along the arterial street perimeters, but will be focused more towards moving people between destinations.

1.2(a) Open Space. A minimum of 12% of the gross Property area (approximately 12.5 acres) will be set aside as open space. This includes active park areas, passive open spaces areas and landscape buffers, except landscape buffers along Williams Field, Signal Butte and/or Galveston.

1.2(b) Parks. Within the community, a single, central neighborhood park shall be provided as a central gathering place that organizes the pedestrian shed and brings the entire community together. In addition, multiple appropriately sized neighborhood parks may be used within the smaller neighborhood areas. The central neighborhood park will include both passive and active recreational amenities, and will be designed in coordination with the City of Mesa Parks Department. The Property will also include smaller pocket parks and/or passive open space areas within each distinct residential neighborhood. Pocket parks and the neighborhood park(s) will be designed as a community spaces that are integrated into the overall design of the neighborhoods with single loaded streets adjacent to the park spaces and homes fronting onto the parks. Larger park spaces shall be centrally located with smaller park and open spaces areas distributed throughout the Property.