WHEN RECORDED RETURN TO:

City of Prescott
Attn: City Clerk
201 South Cortez Street
Prescott, Arizona 86303

DEVELOPMENT AGREEMENT

(DEEP WELL RANCH)

between

CITY OF PRESCOTT, ARIZONA,
an Arizona municipal corporation

AND

JAMES DEEP WELL RANCHES #1,LLC,
an Arizona limited liability company,

JAMES DEEP WELL RANCHES #2, LLC,
an Arizona limited liability company,

CHAMBERLAIN DEVELOPMENT, LLC,
an Arizona limited liability company,

and

DW 1 INVESTMENTS, LLC,
an Arizona limited liability company

_____, 2017

City Contract No. 2017-___

THIS DEVELOPMENT AGREEMENT (DEEP WELL RANCH) (the "**Agreement**") is entered into by and between the CITY OF PRESCOTT, ARIZONA, an Arizona municipal corporation (the "**City**"), JAMES DEEP WELL RANCHES#1, LLC, anArizona limited liability company, and JAMES DEEP WELL RANCHES #2, LLC, an Arizona limited liability company (collectively, the "**Ranch**"), Chamberlain Development, LLC, an Arizona limited liability company ("**Chamberlain**"), and DW 1 Investments, LLC, an Arizona limited liability company ("**DW 1**").Collectively, the Ranch, Chamberlain, and DW 1 are referred to herein as the "**Owners**."

RECITALS

A. This Agreement applies to that certain real property located in the City of Prescott consisting of approximately 1,800 acres, as depicted on Exhibit Aattached hereto (the "**Property**").Ranch owns approximately 1749 acres of the Property, which is legally described on Exhibit B-1 attached hereto (the "**Ranch Property**"). Chamberlain owns approximately 16 acres of the Property, which is legally described on Exhibit B-2 attached hereto (the "**Chamberlain Property**"). DW 1 owns approximately 31 acres of the Property, which is legally described on Exhibit B-3 attached hereto (the "**DW 1 Property**").

B. The Property is the subject of the Procedural Pre-Annexation Agreement (James Deep Well Ranches #1 and #2) dated November 24, 2009 and recorded in the records of the Yavapai County Recorder's Office as Document Number 4364720, as amended by the Procedural Pre-Annexation Agreement (James Deep Well Ranches #1 and #2) First Amendment to City Contract No. 2010-086 dated May 22, 2013 and recorded in the records of the Yavapai County Recorder's Office as Document Number 2013-0030590, and as further amended by the Procedural Pre-Annexation Agreement (James Deep Well Ranches #1 and #2) Second Amendment to City Contract No. 2010-086 dated October 8, 2013 and recorded in the records of the Yavapai County Recorder's Office as Document Number 2013-0060133 (collectively, the "**Pre-Annexation Agreement**"). The Pre-Annexation Agreement described the annexation process for the Property (which has been completed) and also addresses certain other issues, including an agreement to provide certain City water resources to the Property.

C. The Ranch Property is part of larger land holdings that are distributable to The Harold James Family Trust, an Arizona nonprofit corporation recognized as a private foundation by the Internal Revenue Service ("**HJFT**"); the HJFT intends to hold the larger land holdings for only charitable purposes and to potentially liquidate the Ranch Property. The Ranch intends to contract with a developer, and assign some or all of its rights hereunder to such developer, for any and all prospective liquidation of the Ranch Property.

D. The Ranchdid not acquire the Ranch Property for development, and the Ranch does not intend to (1) be a developer with respect to the Ranch Property; (2) be responsible for the development of the Ranch Property; (3) manage any prospective development of the Ranch Property; (4) actively market the Ranch Property; (5) solicit buyers, advertise, improve, or subdivide the Ranch Property; or (6) otherwise regularly carry on any business with respect to the Ranch Property. Nothing in this Agreement shall be construed to the contrary.

E. The Ranch is entering into this Agreement to be a good, responsible, and charitable steward of its overall land holdings, including the Ranch Property, to protect its larger land holdings not including the Ranch Property, and without undertaking any actual development of the Ranch Property, to address concerns that absent this Agreement there may be no market for the Ranch Property.

F. The future development of the Property pursuant to this Agreement and the Master Plan dated _____, 2017 and on file with the City Clerk (the "**Master Plan**") has been determined by the City to be consistent with and conform to the Prescott General Plan (the "**General Plan**"), which, in the context of a master-planned community, is determined by the City on a project-wide basis, as opposed to a parcel-by-parcel analysis of consistency and conformity. This Agreement and the Master Plan also are acknowledged by the Parties to be consistent with the Airport Specific Area Plandated _____,and to operate to the benefit of the City, the Owners and the general public.

G. It is envisioned that development of the Property as a vibrant urban and dynamic mixed-use regional hub will both serve as an economic engine for Prescott and protect and enhance the long-term viability of the Prescott Airport.

H. The Owners and the City are entering into this Agreement pursuant to the provisions of A.R.S.§ 9-500.05 in order to facilitate the proper municipal zoning designation and development of the Property by providing for, among other things: (i) conditions, terms, restrictions and requirements for the annexation of the Property by the City; (ii) conditions, terms, restrictions and requirements for the construction,installation, and funding/financing of public services/infrastructure improvements; (iii) the permitted uses for the Property; and (iv) other matters related to the development of the Property.

I. The City agrees that the Specially Planned Communitydistrict ("**SPC**) zoning designation, together with an Airport Noise Overlay district ("**ANO**"), is an acceptable zoning designation for the Property pursuant to the General Plan. The Owners have filed a request for approval of anSPCdistrict zoning designation that includes an ANO. The Owners also have submitted the Master Plan required for an SPC district zoning designation. Owners' requests have been assigned Case No. MP17-005, which, if approved, shall be approved by ordinance (collectively, the SPC, Master Plan, and ANO are referred to herein as the "**Zoning**"). The Zoning, once approved, and this Agreement enable the Owners to implement the Master Plan, which is designed, among other things, to establish proper and beneficial land use designations and regulations, densities, provisions for public facilities, design regulations, procedures for administration and implementation and other matters related to the development of the Property. Prior to its execution of this Agreement, the City has held public hearings and received public comment and has otherwise duly considered the Zoning.

J. The Owners and the City acknowledge that the ultimate development of the Property within the City is a project of such size, scope, and quality that Owners require assurances from the City that the Owners have the right to complete the development of the Property pursuant to the Governing Requirements before it will expend substantial efforts and

costs in the development of the Property, and the City requires assurances from the Owners that development of the Property will be in accordance with the Governing Requirements.

K. Among other things, development of the Property in accordance with the Governing Requirements will result in the planning, design, engineering, construction, acquisition, installation, and/or provision of public services/infrastructure improvements that will support development of the Property. The public services/infrastructure improvements to be provided by the Owners, while necessary to serve development within the Property, also are needed in certain instances to facilitate and support the ultimate development of a larger land area that includes the Property. Given the regional significance of such public services/infrastructure improvements and development of the Property, the City is willing to use good faith efforts to facilitate the utilization of various public and/or quasi-public financing methods as may be provided in future amendments to this Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements set forth herein, the Parties state, confirm, and agree as follows:

AGREEMENT

I. DEFINITIONS. In this Agreement, unless a different meaning clearly appears from the context:

1.1 "**ADEQ**" means the Arizona Department of Environmental Quality.

1.2 "**ADWR**" means the Arizona Department of Water Resources.

1.3 "**Agreement**" means this Agreement, as amended and restated or supplemented in writing from time to time, and includes all exhibits and recitals hereto. References to Sections or Exhibits are to this Agreement unless otherwise qualified

1.4 "**Additional Property**" means as defined in Section 2.4.

1.5 "**Airport Plant**" means as defined in Section 3.8, paragraph (a).

1.6 "**ANO**" means as defined in Recital I.

1.7 "**Applicable Wastewater Laws**" means federal, state, county, city and local water laws, water quality laws, and other applicable laws (statutory and common law), ordinances, rules, regulations, standards, codes, permit requirements, including but not limited to requirements and regulations from Yavapai County, ADWR, ADEQ, and the and the City.

1.8 "**Applicable Water Laws**" means federal, state, county, city and local water laws, water quality laws, and other applicable laws (statutory and common law), ordinances, rules, regulations, standards, codes, permit requirements, including but not limited to requirements and regulations from Yavapai County, ADWR and ADEQ, and A.R.S. Title 45, Chapter 1, Article 3 (pertaining to regulation of bodies of water) and Chapter 2 (Groundwater Code).

1.9 "**A.R.S.**" means Arizona Revised Statutes.

1.10 "**Association**" means any property owners' associations created by an Owner and/or any successor of an Owner for the Property.

1.11 "**CFD**" means a community facilities district formed pursuant to A.R.S. §48-701 et seq.

1.12 "**City**" means the City of Prescott, an Arizona municipal corporation (and any successor public body or officer hereafter designated by or pursuant to law).

1.13 "**City Code**" means the Prescott City Code current through Ordinance 5046, passed September 12, 2017.

1.14 "**City Party [Parties]**" means as defined in Section 7.2, paragraph (a).

1.15 "**City Representative**" means as defined in Section 5.1.

1.16 "**Component**" means a discrete type of Infrastructure, and includes, by of example only, water lines and appurtenances, sewer lines and appurtenances, roadways, street lights, landscape/hardscape improvements, and drainage improvements.

1.17 "**Court**" means as defined in Section 5.4 paragraph (g).

1.18 "**Cure Period**" means as defined in Section 5.3.

1.19 "**Districts**" means as defined in Section 3.12.

1.20 "**Effective Date**" means as defined in Section 8.6, paragraph (b).

1.21 "**Exactions**" means as defined in Section 2.7

1.22 "**General Engineering Standards**" means those standards adopted by the City on June 7, 2016 and effective on July 6, 2016.

1.23 "**General Plan**" means as defined in Recital F.

1.24 "**Governing Requirements**" means as defined in Section 2.2.

1.25 "**Impact Fees**" means as defined in Section 3.13.

1.26 "**Incomplete Roads**" means as defined in Section 3.4, paragraph (c).

1.27 "**Initiation Notice**" means as defined in Section 5.4, paragraph (a).

1.28 "**Infrastructure**" means as defined in Section 3.1.

1.29 "**Infrastructure Improvements Plan**" or "**IIP**" means as defined in A.R.S. §9-463.05.

1.30 "**Infrastructure Plan**" means as defined in Section 3.1.

1.31 "**Inspection Services**" means as defined in Section 5.6, paragraph (b).

1.32 "**Land Development Code**" means the Prescott City Land Development Code current through Ordinance ____ passed _____.

1.33 "**Master Plan**" means as defined in Recital F.

1.34 "**Master Plan Administrator**" means as defined in Section 5.6.

1.35 "**Master Reports**" means as defined in Section 3.1.

1.36 "**Mortgage**" means as defined in Section 8.17, paragraph (a).

1.37 "**Owner**" meanseach of the Ranch, Chamberlain, and DW 1, and any of their successors and assigns.

1.38 "**Owner Party [Parties]**" means as defined in Section 7.2, paragraph (b).

1.39 "**Owners**" means each Owner collectively, as well as their successors and assigns to whom the rights of an Owner hereunder are assigned in whole or in part.

1.40 "**Owners' Representative**" means as defined in Section 5.1.

1.41 "**Panel**" means as defined in Section 5.4, paragraph (b).

1.42 "**Parties**" means the City and the Owners collectively.

1.43 "**Party**" means the City and each Owner individually.

1.44 "**Private Streets**" means as defined in Section 3.5, paragraph (d).

1.45 "**Process**" means as defined in Section 5.4, paragraph (a).

1.46 "**Property**" means as defined in Recital A.

1.47 "**Providing Party**" means as defined in Section 8.16.

1.48 "**Public Infrastructure**" means as defined in Section 3.4.

1.49 "**Requesting Party**" means as defined in Section 8.16.

1.50 "**Requirements**" means as defined in Section 2.7.

1.51 "**Rules**" means as defined in Section 2.2.

1.52 "**Segment**" means a specific length or area of Infrastructure.

1.53 "**SPC**" means as described in Recital I.

1.54 "**Specialty Features and Materials**" means as defined in Section 3.5, paragraph (b)(ii).

1.55 "**Station**" means as defined in Section 3.9, paragraph (a).

1.56 "**Station Site**" means as defined in Section 3.9, paragraph (a).

1.57 "**Status Statement**" means as defined in Section 8.16.

1.58 "**Submitted Materials**" means as defined in Section 5.6, paragraph (b).

1.59 "**Term**" means as defined in Section 8.6, paragraph (b).

1.60 "**Terms and Conditions**" means those provisions adopted and amended by the City by ordinance from time to time as the terms and conditions for the sale of City owned utilities.

1.61 "**Utility Rates**" means the schedules adopted and made effective from time to time via ordinance setting forth the charges, rates, surcharges, adjustments, fees, and other monies to be collected by the City for City owned utilities.

1.62 "**Zoning**" means as defined in Recital I.

II. DEVELOPMENT PLANS.

2.1 **Zoning**. The City has reviewed the Master Plan and has determined that theMaster Planis consistent with and conforms to the General Plan and is consistent with the types of land uses desired by the City for the Property. Upon the approval of the Zoning, the Owners shall be authorized to implement the Master Plan, and will be accorded all appropriate approvals necessary to permit the Owners to implement the Master Plan, subject to the City's approval of site plans, subdivision plats and other similar items in accordance with the Governing Requirements. Pursuant to the Governing Requirements, subdivision plat and site plan approvals are administrative, as opposed to legislative, actions and will be conducted as described in Exhibit E. References hereafter in this Agreement to the Zoning shall mean the Zoning and Master Plan, as approved by Council, together with all stipulations and other provisions contained in the ordinance approving the Zoning and Master Plan.

2.2 **Regulation of Development**. The existing City Code, rules, regulations, policies, development standards, General Engineering Standards, and other development guidelines will apply to the development of the Property (collectively, the "**Rules**"). Notwithstanding the foregoing, if and to the extent that this Agreement or the Zoning conflict

with or vary from the Rules, then this Agreement and the Zoning will modify the conflicting or varied Rules and will apply to development of the Property. The Rules, as modified by this Agreement and the Zoning, are referred to herein as the "**Governing Requirements.**" The Governing Requirements also include: (i) all future applicable City ordinances, resolutions, rules, regulations, standards, procedures, and policies agreed to by an Owner (with respect to such Owner's property only); (ii) future amendments to the City Code (but not future amendments to the Land Development Code or provisions moved from the Land Development Code to the City Code) that are uniformly applicable, non-discriminatory, and reasonably applied; (iii) all future applicable City ordinances, resolutions, rules, regulations, standards, procedures, and policies necessary to comply with future state and federal laws and regulations, provided that in the event any such state or federal laws or regulations prevent or preclude compliance with this Agreement, such affected provisions of this Agreement shall be modified as may be necessary in order to comply with such state and federal laws; (iv) future updates of, and amendments to, existing building, construction, plumbing, mechanical, electrical, drainage, and similar construction and safety-related codes, such as the Uniform Building Code, which updates and amendments are generated by a nationally recognized construction safety organization or by the county, state, or federal government, or by the Northern Arizona Association of Governments, provided that such building or safety code updates and amendments have been duly adopted by the appropriate publishing agency and the City and are reasonably applied, and unless mandated by superior legal authority, shall not apply to any structures for which a permit already has been issued;(v) future updates to the General Engineering Standards, but only to the extent such future updates, as applied to the Property, do not result in an increase to the construction cost of any segment of Infrastructure by more than 10%, as evidenced by an Owner's engineer's estimate; and (vi) future non-discriminatory imposition of taxes, filing fees, review fees, inspection fees, or modifications thereto.

2.3 **Anti-Moratorium**. The Parties hereby acknowledge and agree that the development of the Property will be phased and that, for the term of this Agreement, no moratorium shall be imposed except as permitted by A.R.S.§ 9-463.06in effect on the Effective Date. The Parties agree that if a subsequent law changes or repeals the standards or language of A.R.S. § 9 463.06, which is set forth on Exhibit C and incorporated herein by this reference, such standards shall continue to apply to the Property. Any futureCity Rules imposing a limitation on the rate, timing or sequencing of the development of property shall meet the requirements set forth on Exhibit C.

2.4 **Additional Property**. If an Owner owns or acquires additional properties adjacent to the Property (the "**Additional Property**") and the City annexes the Additional Property and approves the inclusion of the Additional Property in the Master Plan, then the City agrees that this Agreement shall be administratively amended by the City Manager from time to time at the request of an Ownerto incorporate into this Agreement the whole or any portion of such Additional Property. The City and the Owners agree that if an Owner elects to incorporate such Additional Property or portions thereof, then such Additional Property shall be included in the "**Property**" as defined in this Agreement and shall be subject to and shall benefit from all provisions of this Agreement applicable thereto and any reference herein to the Property shall include such Additional Property.

2.5 **Phasing**. The development planned for the Property, including the Infrastructure, is intended by the Owners to be carried out in phases, which may be non-contiguous, over a significant number of years as described in the Master Plan. Infrastructure will be designed and constructed to accommodate the planned development within each phase and may be expanded in the future to accommodate additional development. In no event shall the Infrastructure be sized to accommodate development on the Property for which the City cannot provide potable water at the time such Infrastructure is constructed.

2.6 **Development Rights**. In consideration of the expenditures by the Owners for the design and planning for the Zoning, the Zoning, if and once approved, shall be deemed contractually vested as of the Effective Date and the Owners and successor owners of the Property shall have a right to undertake and complete the development and use of the Property in accordance with the Zoning. The City will not initiate any changes or modifications to the Master Plan, except at the request of, or with the consent of, the Owners. If an Owner requests a change or modification to the Master Plan, and such change or modification relates solely to the development or use of the portion of the Property owned by such Owner and does not adversely affect the rights and obligations of the other Owners, then the consent of the other Owners to such change or modification is not required. Changes or modifications to the Master Plan shall be processed pursuant the procedures set forth on Exhibit D.

2.7 **No Dedications or Exactions.** Except for the dedications and requirements identified in the Governing Requirements, the City agrees that it shall not attempt to acquire or require (through zoning, subdivision, subdivision stipulations, site plan approvals or stipulations or otherwise) any requirements, reservations, conditions, or further dedications of portions of the Property or easements or other rights over portions of the Property (collectively "**Exactions**"), or money or other things of value in lieu of such Exactions.

2.8 **Continued Ranching and Charitable Operations.** The City recognizes that the Owners may continue agricultural and ranching operations, and, in the case of the Ranch, charitable operations, including agricultural and ranching operations. Agricultural and ranching operations may include, but not be limited to, grazing, agricultural activities, ranch housing and outbuildings, and other operations ancillary to agricultural and ranching operations. The City agrees that such charitable, agricultural, and ranching operations shall not be affected by this Agreement and shall not be the basis for any claim of breach of this Agreement. The continued operations of the Owners as they are currently conducted shall not be the basis for a claim of noncompliance with the Zoning.

2.9 **Site Plan and Subdivision Plat Approval**. Site Plans and subdivision plats shall be reviewed and approved pursuant to the procedures set forth on Exhibit E.

2.10 **Additions to Master Plan**. The general development standards attached hereto as Exhibit F, as may be amended from time to time, will apply to development on the Property and are hereby incorporated into the Master Plan. This Section 2.10 survives the expiration or termination of this Agreement.

2.11 **Maximum Number of Dwelling Units**. Notwithstanding that the Land Use Budget contained in Section 6.16 of the Master Plan permits a maximum of 10,500 dwelling units, no more than 8,000 dwelling units may be constructed on the Property until such time as the City or an Owner acquires an alternative water source, such as water from the Big Chino pipeline project.

III. INFRASTRUCTURE AND CITY SERVICES.

3.1 **Public Benefits.** This Agreement provides information for the coordinated planning, design, engineering, construction, acquisition, installation, and/or provision of services/infrastructure improvements as set forth in the Conceptual Master Grading and Drainage Report, the Conceptual Master Transportation Report, the Conceptual Master Water Report, and the Conceptual Master Wastewater Report(collectively the **"Master Reports"**).The City Engineer and City Traffic Engineer have reviewed the Master Reports, which are on file with the City Clerk, and have found them to be acceptable and in final form. The Master Reports conceptually identify the appropriate infrastructure improvements of the type described therein for the development of the Property contemplated by the Zoning. The infrastructure improvements identified in the Master Reports, as well as those infrastructure improvements not referenced in the Master Reports but specifically set forth in the Master Plan or this Agreement shall be referred to herein, individually and collectively, as the "**Infrastructure**." The Master Reports are intended to provide a conceptual overview of the community-wide infrastructure plans for the Property. The Master Reports may be amended from time to time as described in the Master Plan. A more detailed infrastructure report shall be developed as described in Section 4.2 of the Master Plan and submitted with a subdivision plat or site plan for that specific subdivision plat or site plan.If an Owner updates a Master Report in a manner that impacts any portion of the Property owned by another Owner it shall be subject to the other Owner's approval.

3.2 **Construction**.To the extent the Owners develop the Property, the Owners shall have the right and the obligation, at any time after the execution of this Agreement, to dedicate land, subject to the City's or other applicable jurisdiction's acceptance, and/or construct or cause to be constructed and installed any or all portions of the Infrastructure that relate to the portions of the Property developed by the Owners. All such construction performed by the Owners shall be performed in compliance with the Governing Requirements.

(a) **Encroachment Permits**. The Owners, their agents, and employees, shall have the additional right, upon receipt from the City of an appropriate permit, as required by the Governing Requirements, to enter and cross over any City easements or rights-of-way to the extent reasonably necessary to permit construction of the Infrastructure, or reasonably necessary to maintain or repair such Infrastructure, including privately-owned infrastructure maintained by an Owner, all as allowed by the permit, provided that the Owners' use of such easements and rights-of-way shall not impede or adversely affect the City's use and enjoyment thereof and provided that eachOwner shall restore such easements and rights-of-way to their condition prior to such Owner's entry upon completion of such construction, repairs or maintenance. Subject to obtaining the required permit from the City, and as allowed by the terms of such permit once

obtained, the prior dedication of any easements or rights-of-way shall not affect or proscribe anOwner's right to construct, install, and/or provide Infrastructure thereon or thereover.

(b) Rights-of Way and Easements. The City, as necessary to implement the Infrastructure Plan, shall cooperate reasonably with: (a) at the sole cost of anOwner, the abandonment of any unnecessary public rights-of-way or easements currently located on the Property and not otherwise used or required by other members of the public; (b) an Owner's requestfor the City to be the applicantwith appropriate governmental entities regarding the abandonment or acquisition of public rights-of-way or easements necessary to develop the Property; (c) establishing intergovernmental agreements with Yavapai County regarding the improvement of roads adjacent to the Property; (d) anOwner's request to work with adjacent landowners regarding the installation of consistent landscaping within and next to perimeter roadways; and (e) anOwner's request for assistance in acquiring necessary off-site public rights-of-way or easements. If such acquisition is determined to be feasible only by payment of above-market value or by condemnation and the City does not desire to exercise its power of condemnation, then the City will work with anOwner to find an alternative location for ordeferconstruction of the Public Infrastructure for which the necessary public rights-of-way or easements are required. The City acknowledges and agrees that the commercial center described in the Master Plan requires unrestricted and unobstructed visibility along Pioneer Parkway and commercial access as shown on Exhibit 8.40 of the Master Plan; without such visibility and commercial access, the commercial center likely will not be viable or constructed. Accordingly, and without limiting the foregoing, the City shall (a) work reasonably with applicable governmental entities to lower the sound wall on Pioneer Parkway adjacent to the Property; and (b) provide reasonable commercial access to the Property from SR 89 and Willow Creek Road if justified by a traffic impact analysis.The City will provide, at no cost to the Owners, right-of-way or easements as necessary for the construction of Jenna Lane in the alignment as generally shown in the Master Plan. However, if the Parties mutually determine that it is appropriate to shift the alignment of Jenna Lane to that as shown on Exhibit G, then the Owners will reasonably accommodate the relocation of the APS substation site and the City will reasonably accommodate the relocation of Jenna Lane to that as shown on Exhibit G.

3.3 Infrastructure Assurance. Prior to the construction of any Infrastructure, the City may, pursuant to the Governing Requirements, require anOwner to provide assurances to assure that the construction or installation of such Infrastructure being undertaken by suchOwnerwithin a particular subdivision or site plan or other Infrastructure improvements directly related to such subdivision or site plan will be completed.

3.4 Dedication/Acceptance of Services/Infrastructure. The Parties hereto acknowledge and agree that the Master Plan and this Agreement provide that the City will own certain completed segments or components of the Infrastructure, including but not limited to the underlying land (the "**Public Infrastructure**"). Pursuant to the Governing Requirements, the City may accept Public Infrastructure constructed in phases and that will be located under a public street or roadway before it accepts the street or roadway.

(a) Warranty. EachOwner or its assignee shall give the City two-year warranties for all Public Infrastructure it conveys to the City, which warranties shall begin on the

date that the City accepts such Public Infrastructure as provided in this section. Any material deficiencies in the material or workmanship identified by City staff during the two-year warranty period shall be brought to the attention of the Owner or its assignee who provided the warranty, whoshall promptly remedy or cause to be remedied such deficiencies to the reasonable satisfaction of the City Engineer. Continuing material deficiencies in a particular portion of a Segment or Component of the Infrastructure Improvements shall be sufficient grounds for the City to require the proper repair of, or the removal and reinstallation of, that portion of the Infrastructure that is subject to such continuing deficiencies and an extension of the warranty for an additional two-year period for such repairs. Regardless of whether the warranty period has expired, eachOwner agrees to repair any damage to the Infrastructure caused by suchOwner's construction activities on the Property. Nothing herein shall prevent the City or the Owners from seeking recourse against any third party for damage to the Infrastructure caused by such third party.

(b) **Acceptance, Operation, and Maintenance**. So long as such Public Infrastructure is constructed in accordance with the approved plans and the requirements of Section 3.2, as verified by the inspection of the completed improvements by the City Engineer, and all punch list items have been completed, and the Infrastructure is free of any liens and encumbrances, the City shall accept such conveyances of Public Infrastructure, and shall, except as otherwise provided in this Agreement, at its own cost and expense, maintain, repair and operate such Public Infrastructure. Acceptance of any Public Infrastructure is expressly conditioned upon the Ownerwho conveys the Public Infrastructure providing a warranty for the Infrastructure Improvement consistent with City standards and as provided in paragraph (a). SuchOwner, at no cost to the City, shall dedicate, convey or obtain all rights-of-way, rights of entry, easements and/or other use rights, wherever located, as necessary for the operation and maintenance of the Public Infrastructure dedicated to and accepted by the City.

(c) **Asphalt Phasing**.Subject to the conditions in this Section, anOwner may construct and use certain street and roadway improvements on the Property before the final lift of asphalt has been placed ("**Incomplete Roads**") subject to the following conditions:

(i) The Owner will complete all other Components of the Incomplete Roads, including, without limitation, the subgrade, concrete (*e.g.*, curb and gutter, sidewalks, driveway entrances) and first lift of asphalt. City utility infrastructure improvements under the roadway may be accepted before the placement of the final asphalt lift. The asphalt phasing will be certified by a geotechnical engineer and approved by the City Engineer to support projected vehicular traffic, including construction traffic, and that it would not diminish the road's minimum life expectancy of 25 years.

(ii) The two-year warranty period will commence upon the City's acceptance of the final lift of asphalt. The two-year warranty period on City utility infrastructure improvements under the roadway may commence earlier, upon the City's acceptance of those improvements.

(iii) To ensure the completion of all street and roadway improvements on the Property, the Owner will provide financial assurance, as specified in Section 3.3, in connection with each of the Incomplete Roads, or segment thereof, constructed on the Property.

(iv) The Owner will ensure that Incomplete Roads comply with all Governing Requirements, including but not limited to compliance with federal, state and local laws involving accessibility. With respect to each of the Incomplete Roads, the Owner will also demonstrate, to the satisfaction of the City Engineer, and before the commencement of construction of any Incomplete Road, that storm water on and around the proposed Incomplete Road will be accommodated by existing drainage facilities, and will not pond on the proposed Incomplete Road.

(v) Before any Incomplete Roads are used without the final layer of asphalt, the Owner will ensure that the streets or roadways are properly striped. The Owner will also install concrete rings around survey monuments, valves and manhole lids in compliance with the Governing Requirements before each of the Incomplete Roads is used. Before the final lift of asphalt is placed on each of the Incomplete Roads, concrete rings around valve and manhole lids will be repaired as needed by the Owner. After the placement of the final lift of asphalt on each of the Incomplete Roads, the Owner will install final striping and adjust survey monuments, valves and manhole lids in compliance with the Governing Requirements.

(vi) With respect to each of the Incomplete Roads, the Owner will arrange for City inspections before and after the placement of the final lift of asphalt. The Owner will be responsible for replacing any subgrade, asphalt or concrete on the Incomplete Roads and completing any final inspection or punch list items, as required by the City. As part of the final inspection of each of the Incomplete Roads, the Owner shall arrange for the video or television inspection of the sewer lines that underlie the completed roadway, provide a copy of the video or television report to the City, and report the results of such inspection to the City. The Owner will be responsible for the costs of the video inspections, the final video of the sewer lines underlying each of the Incomplete Roads, and any additional correctional items resulting from the Incomplete Roads.

3.5 Transportation.

(a) Transportation Infrastructure. Except as provided in Article IV of this Agreement, eachOwner will construct or arrange for the phased construction of the streets, roadways, and parking facilities to be used for motorized vehicular travel, ingress, egress, and parking and pedestrian, bicycle or other facilities to be used for non-motor vehicular travel, ingress, egress, and parking within the portion of the Property to be developed by such Owner, including street lighting with underground electric service distribution, and all striping, traffic signals, roundabouts, street sign posts, street name signs, stop signs, speed limit signs, and all other directional/warning/advisory signage as required, all in accordance with the applicable provisions of the Governing Requirements, the Master Transportation Report, and any traffic impact analysis or update to the Master Transportation Report required by the Master Plan at the time of subdivision plat or site plan approval. An Owner shall not, except as otherwise specified herein or in a separate agreement with the City, install or cause to be installed any structure

within the public right-of-way, or at any time install or cause to be installed any access control structures limiting public access to public streets within the Property, or control public access to public streets by any other means. For all public streets within the Property, eachOwner shall dedicate the right-of-way and construct the roadway improvements in accordance with the Governing Requirements and any applicable Governing Requirements.

(b) Landscaping, Specialty Features, and Specialty Materials in Public Streets.

(i) EachOwnershall arrange for the installationof the landscaping within the road rights-of-way as part of construction of the street Infrastructure within the portion of the Property to be developed by such Owner according the Governing Requirements and applicable subdivision plat and site plans. Landscaping must be low-water use and must meet all requirements of the Prescott Active Management Area and the Governing Requirements.

(ii) As permitted and approved pursuant to the Governing Requirements, each Owner may design and install in public streets on the Property, specialty poles for traffic control and street name signs, specialty street and sidewalk lighting, specialty street signage, and specialty paving materials ("**Specialty Features and Materials**"). At the subdivision plat or site plan stage of the planning process, the applicableOwner and the City will enter into one or more maintenance agreements concerning the Specialty Features and Materials. Each such maintenance agreement shall contain provisions for the Owner to provide the City with (i) extra quantities of Specialty Features and Materials, in amounts as determined by the City's Traffic Engineer, in his or her sole discretion, for use in City maintenance, repair and replacement on the public streets, and (ii) funds, on an annual basis, to offset the City's costs to perform maintenance or repair the Specialty Features and Materials in the public streets. Each such maintenance agreement shall provide for annual adjustments of the funds provided for the City's costs to maintain, repair, and replace the Specialty Features and Materials in the public streets. AnOwnermay assign its rights and obligations under this subsection to an Association; provided, however, that such assignment shall be accompanied by conclusive evidence of such Association's irrevocable commitment to perform anOwner's obligations hereunder.

(c) Landscape and Multi-Purpose Path Maintenance Within Right-of-Way. The City, at its cost, will maintain to the City's standards the landscaping and multi-purpose paths located within City right-of-way and installed pursuant to the Governing Requirements. At anOwner's option, suchOwner and the City may enter into a landscape maintenance agreement that provides for the Owner to pay the City for the installation and maintenance of multi-purpose paths and landscaping in the City right-of-way at a level higher than the City's landscaping standards (per the Governing Requirements) or for the Owner to maintain any or all such multi-purpose paths and landscaping themselves. The maintenance agreement shall provide that the City and the Owner will mutually pursue recovery of the cost of any repairs to or replacement of the multi-purpose paths and landscaping required due to vehicle accidents, vandalism, or otherwise from those responsible for such damage. The Owner may assign its rights and obligations to a CFD, or upon prior written consent of the City which shall not unreasonably be withheld, may assign its rights and obligations to an Association; provided, however, that such assignment to an Association shall be accompanied by conclusive evidence of

such Association's financial ability to assume and irrevocable commitment to perform the Owner's obligations hereunder.

(d) Pedestrian and Bicycle Circulation System Construction and Maintenance. Each Owner shall construct and maintain the local pedestrianand bicycle circulation system constructed by such Owner and each Owner shall construct and the City shall maintain the street-oriented pedestrian and bicycle circulation system depicted on Exhibit 8.41 of the Master Plan. Upon prior written consent of the City which shall not unreasonably be withheld, the Owner may assign its rights and obligations to an Association; provided, however, that such assignment to an Association shall be accompanied by conclusive evidence of such Association's financial ability to assume and irrevocable commitment to perform the Owner's obligations hereunder. The City, at its cost, will construct and maintain to the City's standards the non-street-oriented pedestrian and bicycle circulation system depicted on Exhibit 8.41 of the Master Plan. At an Owner's option, such Owner and the City may enter into a maintenance agreement that provides for the Owner to pay the City for the maintenance of such non-street-oriented pedestrian and bicycle circulation system at a level higher than the City's standards (per the Governing Requirements) or for the Owner to maintain any or all such circulation system themselves. The maintenance agreement shall provide that the City and the Owner will mutually pursue recovery of the cost of any repairs to or replacement of the non-street-oriented pedestrian and bicycle circulation system required due to vehicle accidents, vandalism, or otherwise from those responsible for such damage. The Owner may assign its rights and obligations to a CFD, or upon prior written consent of the City which shall not unreasonably be withheld, may assign its rights and obligations to an Association; provided, however, that such assignment to an Association shall be accompanied by conclusive evidence of such Association's financial ability to assume and irrevocable commitment to perform the Owner's obligations hereunder.

(e) Open Space/Parks. The City, at its cost, will maintain to the City's standards the public parks and open space constructed pursuant to the Governing Requirements. At an Owner's option, such Owner and the City may enter into a maintenance agreement that provides for the Owner to pay the City for the installation and maintenance of improvements to the public parks and/or open space at a level higher than the City's standards (per the Governing Requirements) or for the Owner to maintain any or all such public parks and/or open space themselves. The maintenance agreement shall provide that the City and the Owner will mutually pursue recovery of the cost of any repairs to or replacement of the improvements in the public parks and/or open space required due to vehicle accidents, vandalism, or otherwise from those responsible for such damage. The Owner may assign its rights and obligations to a CFD, or upon prior written consent of the City which shall not unreasonably be withheld, may assign its rights and obligations to an Association; provided, however, that such assignment to an Association shall be accompanied by conclusive evidence of such Association's financial ability to assume and irrevocable commitment to perform the Owner's obligations hereunder.

(f) Private Streets/Street Naming. The City and the Owners hereby acknowledge and agree that anOwner will have the right to retain some interior local streets located within the Property ("**Private Streets**"). In addition, some or all of the Private Streets may be conveyed to one or more Associations created by anOwner and/or any successor of anOwner for this and other purposes. The Owner of such Private Streets shall have the right to

install access control structures across the Private Streets at any portions of the Property meeting the Governing Requirements for locations adjacent to or connected to City right-of-way. The Owner shall grant to the City an easement for police, fire, ambulance, solid waste collection, water, gas, storm drain line, or wastewater line installation and repair, and other similar public purposes, over the Private Streets. EachOwner shall, at its sole cost and expense, maintain the Private Streets located within such Owner's respective portion of the Property in a manner such that City vehicles may safely, and without undue wear and tear or damage, use the Private Streets for their intended purposes. The Owners and the City agree that new private or public streets shall be named to ensure that the public interest, health, safety, convenience and general welfare are maintained. Street names for arterials and address numbering conventions shall be in conformance with the Governing Requirements. Unique street names for streets within the Property may be proposed by theOwners(or any of them) and shall be reviewed and approved by City staff upon the determination by City staff that the unique street names do not compromise public health safety, convenience and general welfare. Address numbering on non-arterial streets shall be in conformance with the Governing Requirements.

3.6 Drainage Improvements. Except as provided in Article IV of this Agreement, each Ownerwill construct or arrange for the construction of drainage improvements within the portion of the Property to be developed by such Owner in phases and in accordance with the Governing Requirements, the Master Drainage Report, and applicable subdivision plats or site plans. Such drainage improvements shall include, without limitation, drainage and flood control systems and facilities for collection, diversion, detention, retention, dispersal, use, and discharge as necessary for development of the Property.

3.7 Water. Section 10 of the Pre-Annexation Agreement remains in full force and effect and shall control the provision of water by the City for use on the Property. In the event of a conflict between Section 10 of the Pre-Annexation Agreement and this Agreement, Section 10 of the Pre-Annexation Agreement shall control. The City acknowledges and agrees that this Agreement, and in particular, this Section 3.7, applies only to the Property and does not apply to the remaining property owned by HJFT.

(a) Water Use Limitations. The Owners acknowledge that Section 10 of the Pre-Annexation Agreement and the Applicable Water Laws may limit or restrict the City's ability to serve and the Owners' ability to use water for certain uses on the Property. The Owners 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 limits the City's obligation to deliver potable water of sufficient quality to satisfy all Applicable Water Laws.

(b) Wells.

(i) New Wells. No new wells will be permitted to be developed on the Property, with the sole exceptions of: (1) wells that may be permitted by the State of Arizona and developed by the City for municipal potable water utility purposes, including recovery of recharged effluent; and (2) wells producing non-potable water necessary for the continuation of

agriculture and/or livestock ranching on the undeveloped portions of the Property or the remaining property owned by HJFT.

(ii) **Existing Wells**. Existing wells producing non-potable water may be used to continue agriculture and/or livestock ranching on undeveloped portions of the Property, or for a temporary supply of water for construction associated with development of the Property. Existing well sites on the Property no longer needed for continuation of agriculture and/or livestock ranching on the Property or the remaining property owned by HJFT may be rehabilitated for municipal potable water utility purposes.

(iii) New or existing wells may not be used for irrigation of landscaping installed in conjunction with the development of the Property.

(iv) Any existing well on the Property not needed for the continuation of agriculture and/or livestock ranching on the undeveloped portions of the Property or the remaining property owned by HJFT or rehabilitated for municipal potable water utility purposes, must be abandoned at the Owner's expense in accordance with Applicable Water Laws.

(c) **Water Infrastructure.**Except as provided in Article IV of this Agreement, eachOwnerwill construct or arrange for the construction of the on-site potable water distribution systemnecessary for the development of the portion of the Property to be developed by such Owner in phases and in accordance with the Governing Requirements, the Master Water Report, and applicable subdivision plats or site plans. The City shall construct the water Infrastructure conceptually depicted on Exhibit H (the "**Water Infrastructure**") using Impact Fees, rates, user fees and charges, or any other funding source identified by the City. Infrastructure that the Owners construct, or have the responsibility to construct, shall be subject to the terms for acceptance by the City as set forth in the Governing Requirements.An Owner may elect to construct certain Water Infrastructure prior to the City's construction thereof. In such an event, such Owner shall be entitled to reimbursement for the costs thereof pursuant to Section 3.13. The Parties agree that upon completion of the construction, the entire potable system shall be owned and operated by the City at its sole cost and expense.

(d) **Cooperation.** In order to further facilitate the provision of service by the City of water to the Property as set forth herein, the Owners further agree that they shall provide such assistance to the City as is reasonably necessary to allow for the permitting by the City of the wells described herein in accordance with the Applicable Water Laws, including but not limited to, providing signed and notarized consent forms acceptable to ADWR pursuant to A.A.C.R. 12-15-1302 *et. seq.* in the event that the City seeks to construct a new or replacement well which may impact any well on the Property owned by the Owners.

3.8 **Wastewater**.Section 11 of the Pre-Annexation Agreement remains in full force and effect and shall control the provision of sewer service by the City for development on the Property. In the event of a conflict between Section 11 of the Pre-Annexation Agreement and this Agreement, Section 11 of the Pre-Annexation Agreement shall control.

(a) Reservation of Capacity. The City shall provide sewer service to the Property from its existing water reclamation plant located east of the Airport ("**Airport Plant**"). The City agrees to reserve such capacity in the Airport Plantas is sufficient to serve that portion of development on the Property for which a water allocation is available now or in the future.

(b) Wastewater Infrastructure. Except as provided in Article IV of this Agreement, each Ownerwill construct or arrange for the construction of the on-site wastewater collection system for the development of theof the portion ofProperty to be developed by such Owner in phasesand in accordance with the Governing Requirements, the Master Wastewater Report, and applicable subdivision plats or site plans. The City shall construct the wastewater Infrastructure conceptually depicted on Exhibit I (the **"Wastewater Infrastructure"**)using Impact Fees, rates, user fees and charges, or any other funding source identified by the City. An Owner may arrange for the construction of certain Wastewater Infrastructure prior to the City's construction thereof. In such an event, such Owner shall be entitled to reimbursement for the cost thereofpursuant to Section 3.13. Infrastructure that the Owners construct, or has the responsibility to construct, shall be subject to the terms for acceptance by the City as set forth in the Governing Requirements and this Agreement. The Parties agree that upon completion of the construction, the entire wastewater system shall be owned and operated by the City at its sole cost and expense.

3.9 Fire and Police Service.

(a) Reservation of Land for Permanent Fire and Police Station Site on the Property. The Owners shall reservefor the City a site for the construction of a permanent joint use fire and police station ("**Station**") on the Property for a period of ten (10) years from the Effective Date or until development of a portion of the Property adjacent to the Station Site commences, whichever occurs last.The Parties anticipate that the Station will be located generally northeast of the intersection of James Lane and Willow Creek Road. The specific site for the Station (the "**Station Site**") shall be in a location acceptable to the City and the Owner conveying the site, and such Owner shall convey the Station Site to the City at the time and for the priceacceptable to the City and the Owner. The Station Site will meet all of the following criteria: (a) not less than two (2) acres nor more than two and one half (2.5) acres in size; (b) minimum dimension of 300 feet on each side with at least one street side unobstructed; and (c) located on an arterial street.

(b) Construction of Station on the Property. The City shall design, construct, and operate Station on the Station Site. The Owners shall not be responsible for any costs associated with the design or construction of the Station other than to pay the City's fire/EMSand police development fees in place at the time of issuance of each building permit. The City agrees that the Station shall comply with the design guidelines governing commercial and civic development on the Property, as determined by the Master Plan Administrator.

3.10 Reservation of Land for Transit Center and Trailhead. The Owners shall reserve for the City sites for a transit center and trail head (generally located near the northwest corner of 89 and James Lane). Such site shall be reserved for a period of ten (10)

years from the Effective Date or until development of a portion of the Property adjacent to each such reserved site commences, whichever occurs last.

3.11 Municipal Services Generally. The City hereby agrees to include the Property in any and all City service areas and to provide the Property with water, wastewater, police and fire protection services, refuse collection service, and all other services provided by the City, in a manner comparable to those services provided to all landowners and occupants of the City, subject to the terms of this Agreement.

3.12 Schools. The Property is located in the Prescott Unified School District and the Chino Valley Unified School District (the "**Districts**"). The Owners will work diligently with the Districts to ensure that the educational needs of Property residents are met.

3.13 Reimbursements/Impact Fee Credits. EachOwner shall be entitled to credits against and/or cash payments of current and future City impact or development fees ("**Impact Fees**") for Infrastructure or improvements constructed by suchOwner that are components of, and specific to any particular Impact Fee payable by development on the Property. EachOwner may assign such credits to entities that will be requesting issuance of building permits for development on the Property pursuant to an administrative procedure to be developed by the City and the Owner. If an Owner constructs Water Infrastructure or Wastewater Infrastructure as described in Sections 3.7(d) and 3.8(b), and such Infrastructure is not a component of the applicable Impact Fee, then the City shall reimburse such Owner from rates, user fees and charges, or any other funding source identified by the Cityits Capital Improvements Plan.Public Infrastructure that is the subject of credits against Impact Fees is not required to be publicly procured; however, if the Owners receive cash payments for particular Public Infrastructure, then such Public Infrastructure must be publicly procured using the processes permitted by A.R.S. Title 34.

IV. COMMUNITY FACILITIES DISTRICTS.

4.1 Formation. It is contemplated that a community facilities district ("**CFD**") may be formed within the boundaries of the Property or substantially all of the Property. Upon the filing of a complete application, the City shall use good faith efforts to conduct the applicable procedures for formation of suchCFD although the final decision to form a CFD is a discretionary legislative act of the City Council.

4.2 Construction of Public Infrastructure by the CFD. The Parties acknowledge that one purpose of this Agreement is to provide for the coordinated planning, design, engineering, construction and/or provision of the range of public services/infrastructure necessary to serve development on the Property as indicated in this Agreement, the Zoning, and the Master Reports. The City acknowledges and agrees that whenever the Ownersare obligated to construct or arrange for the construction of public Infrastructure, and notwithstanding anything in this Agreement to the contrary, the CFD, if formed, may construct, arrange for the construction, and/or finance any such public Infrastructure. Dedication and acceptance of such public Infrastructure shall be pursuant to Section 3.4 of this Agreement.

V. COOPERATION AND ALTERNATIVE DISPUTE RESOLUTION.

5.1 Appointment of Representatives. To further the commitment of the Parties to cooperate in the implementation of this Agreement, the City and the Owners each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Owners. The City Council or the Owners may change their representative at any time, but each Party agrees to have a current active representative appointed for discussion and review as further detailed in this Agreement. The initial representative for the City (the "**City Representative**") shall be the City Manager or his designee, and the initial representative for the Owners (the "**Owners Representative**") shall be Chamberlain. 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.

5.2 Impasse. For purposes of this Section 5.2 only, "**Impasse**" shall mean either a failure of a City department director to make a decision or anOwner's disagreement with a decision of a City department director. The Parties agree that if anOwner believes that an Impasse has been reached with the City on any issue affecting such Owner's Property, and no appeal process is established in the Governing Requirements, suchOwner shall have the right to appeal to the City Manager for a decision pursuant to this Section. This appeal shall be made in writing and delivered to the City Manager's attention. To facilitate the resolution of such an Impasse, the City Manager shall schedule a meeting with suchOwner and the City Manager or a designated deputy city manager, within fifteen days (15) of the delivery of written notice of the Impasse, to discuss resolution of the Impasse. At that meeting, the Parties will mutually agree on a method and time frame for resolution of the Impasse. Both Parties agree to continue to use reasonable good faith efforts to resolve any such Impasse pending any such appeal to the City Manager.

5.3 Default. Failure or unreasonable delay by either the City or an Owner to perform or otherwise act in accordance with any term or provision of this Agreement for a period of thirty (30) days after written notice thereof from the other Party ("**Cure Period**"), shall constitute a default under this Agreement; provided, however, that if the failure or delay is such that more than thirty (30) days would reasonably be required to perform such action or comply with any term or provision hereof, then such Party shall have such additional time as may be necessary to perform or comply so long as such Party commences performance or compliance within said thirty (30) day period and diligently proceeds to complete such performance or fulfill such obligation. Said notice shall specify the nature of the alleged default and the manner in which said default may be satisfactorily cured, if possible. A default by any Owner of a portion of the Property shall not be deemed a default by the other Owners or any other owners of a different portion of the Property, and the City may not withhold or condition its performance under this Agreement as to any Owner of a portion of the Property who is not in default of this Agreement. No Owners of a portion of the Property may enforce this Agreement as against any other Owners of a portion of the Property.

5.4 Dispute Resolution Process. The Parties agree to the following remedies and dispute resolution process, subject to the provisions of Section 5.5, below:

(a) In the event a default is not cured within the Cure Period, the non-defaulting Party may institute the dispute resolution process ("**Process**") set forth herein by providing written notice initiating the process ("**Initiation Notice**") to the defaulting Party.

(b) Within seven (7) days following delivery of the Initiation Notice, each Party, by written notice to the other, shall appoint one (1) person to serve on an arbitration panel ("**Panel**"). Within fourteen (14) days following delivery of the Initiation Notice, the two (2) persons selected to be on the Panel by the Parties shall select one (1) additional person to serve on the Panel. The third person selected to be on the Panel shall act as Chairman.

(c) Within sixty (60) days following delivery of the Initiation Notice, the Panel shall conduct an arbitration hearing pursuant to the Uniform Arbitration Act (A.R.S. §12-1501 *et seq.*, except that the terms of this Agreement and this Section 5.4 shall control over conflicting rules.

(d) The Chairman shall determine the nature and scope of discovery, if any, and the manner of presentation of relevant evidence consistent with the deadlines provided herein, the Parties' objective that disputes be resolved in a prompt and efficient manner. No discovery may be had of privileged materials or information. The Chairman, upon property application, shall issue such orders as may be necessary and permissible under law to protect confidential, proprietary or sensitive materials or information from public disclosure or other misuse. Any Party may make application to the Yavapai County Superior Court to have a protective order entered as may be appropriate to confirm such orders of the Chairman.

(e) In order to effectuate the Parties' goals, the hearing, once commenced, will proceed from business day to business day until concluded, absent a showing of emergency circumstances. Except as otherwise provided herein, the Process shall be governed by the Uniform Arbitration Act as enacted in Arizona at A.R.S. §12-1501 *et seq.*

(f) The Panel shall, within seven (7) days from the conclusion of any hearing, issue its written decision. The decision shall be rendered in accordance with the Agreement and the laws of the State of Arizona.

(g) Either Party may appeal the decision of the Panel to the Yavapai County Superior Court ("**Court**") on the grounds that the decision was arbitrary and capricious or unsupported by the weight of the evidence presented at the evidentiary hearing, if such appeal is made within thirty (30) days after the Panel issues its decision. The decision of the Panel shall be binding on both Parties until the Court renders a binding decision. If the non-prevailing Party in the Process fails to appeal to the Court within the timeframe set forth herein, the decision of the Panel shall be final and binding. If the non-prevailing Party in any arbitration proceeding resulting in an order against such Party for specific performance or injunctive relief fails to perform in accordance with the Panel's order, the other Party may petition the court to order such performance.

(h) The Process set forth herein shall not apply to an action by the City to condemn or acquire by inverse condemnation all or any portion of the Property.

5.5 **Remedies**. The Parties agree that there shall be no damage remedy for breach of any provisions of this Agreement and that the sole remedy for any breach shall be specific performance and/or declaratory judgment. The Parties agree to meet and attempt to resolve any dispute in good faith prior to initiating any legal process, to participate in accelerated arbitration pursuant to Section 5.4 of this Agreement, and to make good faith efforts to expeditiously resolve any dispute during such process, in order to promptly and expeditiously to resolve any disputes. Further, in the event of an appeal from such arbitration process, the Parties agree to utilize all good faith efforts to ensure expeditious resolution of any litigation, including participation in expeditious provisional remedies if available.

5.6 **Duties of the Master Plan Administrator.** In addition to the duties and obligations undertaken in the Zoning and elsewhere in this Agreement, prior to development of the Property, the Ownersshall designate a "Master Plan Administrator," which may be an Owner, and which shall have the specific duties and obligations listed in this Section.The Master Plan Administrator may assign all or any portion of its duties pursuant to this Section to an Association.

(a) **Project Governance**. The Master Plan Administrator will implement a system of private governance to ensure the development, operation, use and maintenance of special community features and infrastructure, and to administer and enforce various governance procedures and design review processes.

(b) **Funding for Review of Submitted Materials.**Due to the scale and scope of the development contemplated for the Property, the Parties acknowledge that the implementation of the Zoning and this Agreementinvolves unique design and engineering standards, and a significant amount of plan review and engineering work. Therefore, if an Owner 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 Master Plan Administratorwill coordinate with such Owner and the City to enter into a funding agreement, which will include provisions addressing the following issues: (i) identifying additional City staff position(s) or outside consultant(s) that may be necessary to review site plans, subdivision plats, construction plans, and other submitted materials (collectively, the "**Submitted Materials**") or provide land development and construction inspection services (collectively, the "**Inspection Services**") within the timeframes desired by the Owner; (ii) providing for the cooperation and mutual agreement of the City and the Master Plan Administrator as to the persons or consultants who are best suited to review the Submitted Materials or provide the Inspection Services; (iii) identifying the time period for which the additional City staff positions and/or outside consultants are necessary; and (iv) any other provision deemed necessary by the City and the Master Plan Administrator. The Parties agree that any portion of the Property may be the subject of a funding agreement, even if such portion of the Property is not owned or developed by Owners.

The City and Master Plan Administrator will mutually agree on review times applicable to construction documents. In the event the City does not have a sufficient number of personnel to implement an expedited development review process requested by an Owner, or expedited land development and construction inspection services requested by the Owner, the Ownermay elect to pay the costs incurred by the City, including an overhead charge of 10%, for such private,

independent consultants and advisors which may be retained by the City, as necessary, to assist the City in the review and/or inspection process; provided, however, that such consultants shall take instructions from, be controlled by, and be responsible to, the City and not the Master Plan Administrator. The Owner requesting expedited and/or outsourced review shall deposit the necessary funding for the review prior the review commencing. All outsourcing and administrative oversight of outsourcing for plan review and inspection activities will be done by the City.

(c) **Update of the Land Use Budget**. The Master Plan Administrator shall submit an update to the land use budget set forth in the Zoning concurrently with the submittal of each site plan, or subdivision plat (or any revisions to such submittals, in the case of redevelopment). The update shall be in both graphic and chart form and shall identify the allocation of the land use budget to such site plan or subdivision plat as well as the remaining unallocated portion of the land use budget.

(d) **Enforcement of Design Guidelines and Development Standards.** The City and the Master Plan Administrator shall cooperate to ensure that any Owners who acquire a portion of the Property builds or constructs such portion of the Property in accordance with the design guidelines and development standards set forth in the Zoning.

(e) **Updating of Development Schedule.** The Master Plan Administrator shall update thephasing plan submitted pursuant to the Master Planbased upon changing infrastructure needs, residential and commercial real estate market conditions, industry factors, and/or business considerations. Any such modification shall not necessitate an amendment to this Agreement or the Zoning.

VI. NOTICES AND FILINGS.

6.1 Manner of Service. Except as otherwise required by law, any notice required or permitted under this Agreement shall be in writing and shall be given by personal delivery, or by deposit in the United States mail, certified or registered, return receipt requested, postage prepaid, addressed to the Parties at their respective addresses set forth below, or at such other address as a Party may designate in writing pursuant to the terms of this Section, or by telecopy facsimile machine, or by any nationally recognized express or overnight delivery service (e.g. Federal Express or UPS), delivery charges prepaid:

The City: City of Prescott
201 South Cortez Street
Prescott, Arizona 86303
Attention: City Manager
Facsimile: (928) _____

Copy to: City of Prescott
201 South Cortez Street
Prescott, Arizona 85211
Attention: City Attorney
Facsimile: (928) _____

Ranch: Ron James
James Deep Well Ranches#1, LLC
P.O. Box 10245
Prescott, Arizona 86304
Facsimile: (928) _____

Copy to: Sal Lutey
Selmer Lutey, PLCC
125 N. Granite Street
Prescott, Arizona 86301
Facsimile: (928) 445-7557

And: Rob Pecharich
Boyle, Pecharich, Cline, Whittington& Stallings, P.L.L.C.
125 N. Granite Street
Prescott, Arizona 86301
Facsimile: (928) 445-8021

Chamberlain: Jim Chamberlain
Chamberlain Development, LLC
1050 W. Washington St., Suite 214
Tempe, Arizona 85281
Facsimile: (480) 968-4865

Copy to: Dana Stagg Belknap
Gallagher & Kennedy
2575 E. Camelback Road
Phoenix, Arizona 85016
Facsimile: (602) 530-8500

DW 1: Jim Chamberlain
DW 1 Investments, LLC
1050 W. Washington St., Suite 214
Tempe, Arizona 85281
Facsimile: (480) 968-4865

Copy to: Dana Stagg Belknap
Gallagher & Kennedy
2575 E. Camelback Road
Phoenix, Arizona 85016
Facsimile: (602) 530-8500

6.2 Notice Effective. Any notice sent by United States Postal Service certified or registered mail shall be deemed to be effective the earlier of the actual delivery, or three (3) businessdays after deposit in a post office operated by the United States Postal Service. Any notice sent by a recognized national overnight delivery service shall be deemed effective one (1) business day after deposit with such service. Any notice personally delivered or delivered through a same-day delivery/courier service shall be deemed effective upon its receipt or refusal to accept receipt by the addressee. Any notice sent by telecopy facsimile machine shall be deemed effective upon confirmation of the successful transmission by the sender's telecopy facsimile machine. Notwithstanding the foregoing, no payment shall be deemed to be made until actually received in good and available funds by the intended payee. Any Party may designate a different person or entity or change the place to which any notice shall be given as herein provided.

VII. MISCELLANEOUS.

7.1 Airport Avigation Easement. The Owners shall use the form attached hereto as Exhibit J to provide the airport avigation easement required by the ANO.

7.2 Indemnification.

(a) EachOwner, severally and not jointly, hereby agrees to indemnify and hold harmless the City, its departments and divisions, its employees and agents (each a "**City Party**" and collectively, "**City Parties**"), from any and all claims, liabilities, appeals, expenses or lawsuits, including the costs of defense of any and all claims, lawsuits or appeals as a result of this Agreement's application to such Owner's portion of the Property, unless said claims, liabilities, expenses or lawsuits arise out of any intentional, negligent, or reckless acts of a City Party; or intentional, negligent, or reckless omissions by a City Party in relationship to any actions undertaken or allegedly undertaken pursuant to this Agreement. The Owners jointly and severally covenant to defend any and all claims, lawsuits, and appeals challenging this Agreement at their sole cost and expense, including but not limited to attorneys' fees and costs, unless such is necessitated by the intentional, negligent, or reckless acts, or as a result of intentional, negligent, or reckless omissions of a City Party or assigns. The City may also intervene and join in defending this Agreement at its option.

(b) The City hereby agrees to indemnify and hold harmless the Owners, and their officers, employees, members, managers, agents, and assigns (each an "**Owner Party**" "collectively, "**Owners Parties**"), from any and all claims, liabilities, appeals, expenses or lawsuits, including the costs of defense of any and all claims, lawsuits or appeals, asserted by third parties to the extent that such claims and lawsuits pertain to and allege intentional, negligent, or reckless acts of a City Party; or intentional, negligent, or reckless omissions by a

City Party in relationship to any actions undertaken or allegedly undertaken pursuant to this Agreement. If the City elects to intervene and join in defense of this Agreement pursuant to paragraph (a) above, the City shall do so at its sole cost and expense, including but not limited to attorneys' fees and costs.

VIII. GENERAL.

8.1 Delay; Waiver. Except as otherwise expressly provided in this Agreement, any delay by any Party in asserting any right or remedy under this Agreement shall not operate as a waiver of any such rights or limit such rights in any way; and any waiver in fact made by such Party with respect to any default by the other Party shall not be considered as a waiver of rights with respect to any other default by the performing Party or with respect to the particular default except to the extent specifically waived in writing. It is the intent of the Parties that this provision will enable each Party to avoid the risk of being limited in the exercise of any right or remedy provided in this Agreement by waiver, laches or otherwise at a time when it may still hope to resolve the problems created by the default involved.

8.2 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document.

8.3 Headings. The descriptive headings of the Paragraphs of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

8.4 Exhibits and Recitals. Any exhibit attached hereto shall be deemed to have been incorporated herein by this reference with the same force and effect as if fully set forth in the body hereof. The Recitals set forth at the beginning of this Agreement are hereby acknowledged and incorporated herein and the Parties hereby confirm the accuracy thereof.

8.5 Further Acts. Each of the Parties shall promptly and expeditiously execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the intent and purposes of this Agreement.

8.6 Future Effect.

(a) Time of Essence and Successors. Time is of the essence in implementing the terms of this Agreement. All of the provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the Parties pursuant to A.R.S. § 9-500.05(D), except as provided below; provided, however, the Owners' rights and obligations hereunder may only be assigned to a person or entity that has acquired the Property or a portion thereof and only pursuant to the terms and conditions of this Section.

(i) Assignment to Property Owners' Association or Complete Assignment. An Owner may assign some or all of its rights and obligations hereunder to a CFD,

or upon prior written consent of the City which shall not unreasonably be withheld, may assign some or all of itsrights and obligations to an Association; provided, however, that any assignment to a an Association shall be accompanied by conclusive evidence of such Association's financial ability to assume and irrevocable commitment to perform the such obligations hereunder.EachOwner agrees to provide the City with written notice of any assignment of suchOwner's rights or obligations in a complete assignment by suchOwner of all rights and obligations of suchOwner hereunder within a reasonable period of time following such assignment. Upon the City's receipt of such notice, the Owner's liability hereunder shall terminate as to the obligations assigned.

(ii) Partial Assignment to Purchasers. EachOwner may assign less than all of its rights and obligations under this Agreement to those entities that acquire any portion of the Property (each, an "**Assignment**"). SuchOwner will be released from its obligations under this Agreement with respect to Assignment, subject to the following: (i) the Owner has given the City written notice of the Assignment, which shall include the name, address, and facsimile number for notice purposes; (ii) the assignee has agreed in writing to be subject to all of the applicable provisions of this Agreement and such Assignment provides for the allocation of responsibilities and obligations between the Owner and the assignee; and (iii) such Assignment has been recorded in the official records of Yavapai County on that portion of the Property owned by such assignee.

(iii) Assignment to Financial Institution. Notwithstanding any other provisions of this Agreement, an Owner may assign all or part of its rights and duties under this Agreement to any financial institution from which suchOwner has borrowed funds secured by the Property. Additionally, anOwner may assign its rights and duties under this Agreement to another owners or owners.

(b) Term and Effective Date. This Agreement shall be effective thirty days after approval of the Agreement by the City Council (the "**Effective Date**"). The term of the Agreement shall be fifty (50) years from the Effective Date (the "**Term**").

(c) Termination Upon Sale to Public. This Agreement shall not impose any obligations upon and shall terminate without the execution or recordation of any further document or instrument as to: (i) any residential or commercial lot which has been finally subdivided and sold to the end purchasers or users thereof with a completed structure thereon for which a certificate of occupancy or equivalent has been issued; and (ii) any land that has been conveyed to an Association, private utility or governmental authority. Thereafter, such lot or land shall be released from and no longer be subject to or burdened by the provisions of this Agreement. Any title insurer can rely on this section when issuinganycommitmenttoinsuretitletoanyindividuallotorwhenissuingatitleinsurance policyfor anyindividuallot. Notwithstanding the foregoing, Section 2.8 shall not terminate but shall remain in full force and effect.

8.7 No Partnership; 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 Owners and the City or between the Owners. No term or provision of

this Agreement is intended to, or shall, be for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right to cause of action hereunder, except for transferees or assignees to the extent they assume or succeed to the rights and obligations of the Owners as set forth in this Agreement.

8.8 Entire Agreement. Except as expressly provided herein, this Agreement constitutes the entire agreement between the Parties with respect to the subject matters hereof and supersedes any prior agreement, understanding, negotiation or representation regarding the subject matters covered by this Agreement. With regard to the Pre-Annexation Agreement, Sections 10 and 11 shall control over anything in this Agreement to the contrary; except as to Sections 10 and 11, this Agreement shall control over the Pre-Annexation Agreement.

8.9 Amendment. No change or addition is to be made to this Agreement except by a written amendment executed by the City and the Owners. Within ten (10) days after any approved amendment to this Agreement, such approved amendment shall be recorded in the Official Records of Yavapai County, Arizona. The Owners anticipate conveying one or more parcels of the Property to other owners. After such conveyance, a subsequent owner shall have no right to consent to or approve any future amendment to the Agreement requested by the Owners if such future amendment relates solely to the development or use of the portion of the Property owned by the Owners. "Development or use" includes land use, Infrastructure requirements, and all other issues related to the entitlement, development, and use of the portion of the Property owned by the Owners. No subsequent owners shall be considered a third-party beneficiary to any future amendments to the Agreement that relate to the portion of the Property not owned by such owners. Neither the Owners nor any future owners may enforce or request that the City enforce the obligations contained in this Agreement as against each other. If a future amendment proposed by the City or a subsequent owner impacts the development or use of another subsequent owner or anOwner's portion of the Property, then the Party seeking the amendment shall submit its proposed amendment in writing to the other Parties for review and approval.

8.10 Names and Plans. EachOwner shall be the sole owner of all names, titles, plans, drawings, specifications, ideas, programs, designs and work products of every nature at any time developed, formulated or prepared by or at the instance of such Owner in connection with the Property; provided, however, that in connection with any conveyance of portions of the Property to the City, such rights pertaining to the portions of the Property so conveyed shall be assigned to the extent that such rights are assignable, to the City. Notwithstanding the foregoing, eachOwner shall be entitled to utilize all such materials described herein to the extent required for the Owner to construct, operate or maintain improvements relating to the Property.

8.11 Good Standing; Authority. EachParty represents to the others (i) that it is duly formed and validly existing under the laws of Arizona, with respect to the Owners or a municipal corporation within the State of Arizona, with respect to the City, (ii) that it is anArizona limited liability company or municipal corporation duly qualified to do business in the State of Arizona and is in good standing under applicable state laws, and (iii) that the individual(s) executing this Agreement on behalf of the respective Parties are authorized and empowered to bind the Party on whose behalf each such individual is signing.

8.12 **Severability.** If any provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect. The Parties acknowledge and agree that, although the Parties believe that the terms and conditions contained in this Agreement do not constitute an impermissible restriction of the police power of the City, and that it is their express intention that such terms and conditions be construed and applied as provided herein, to the fullest extent possible, it is their further intention that, to the extent any such term or condition is found to constitute an impermissible restriction of the police power of the City, such term or condition shall be construed and applied in such lesser fashion as may be necessary to reserve to the City all such power and authority that cannot be restricted by contract.

8.13 **Governing Law.** This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of Arizona. In particular, this Agreement is subject to cancellation underthe provisions of A.R.S. § 38-511.

8.14 **Recordation.** This Agreement shall be recorded in its entirety in the Official Records of Yavapai County, Arizona not later than ten (10) days after this Agreement is executed by the City and the Owners.

8.15 **No Owners Representations.** Nothing contained herein or in the Zoning shall be deemed to obligate the Owners to complete any part or all of the development of the Property in accordance with the Zoning or any other plan, and neither this Agreement nor the Zoning shall be deemed a representation or warranty by the Owners of any kind whatsoever.

8.16 **Status Statements.** Any Party (the "**Requesting Party**") may, at any time, and from time to time, deliver written notice to any other Party requesting such other Party (the "**Providing Party**") to provide in writing that, to the knowledge of the Providing Party, (a) this Agreement is in full force and effect and a binding obligation of the Parties, (b) this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments, and (c) the Requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults (a "**Status Statement**"). A Providing Party receiving a request hereunder shall execute and return such Status Statement within fifteen (15) days following the receipt thereof. The City Manager or designee shall have the right to execute any Status Statement requested by an Owner hereunder. The City acknowledges that a Status Statement hereunder may be relied upon by transferees and mortgagees. The City shall have no liability for monetary damages to an Owner, transferee or mortgagee, or any other person in connection with, resulting from or based upon the issuance of any Status Statement hereunder.

8.17 **Mortgage Provisions.**

(a) **Mortgagee Protection.** This Agreement shall be superior and senior to any future lien placed upon the Property, or any portion thereof, including the lien of any mortgage or deed of trust (herein "**Mortgage**"). However, no breach hereof shall invalidate or impair the lien of any Mortgage made in good faith and for value, and any acquisition or acceptance of title or any right or interest in or with respect to the Property or any portion thereof

by a mortgagee (herein defined to include a beneficiary under a deed of trust), whether under or pursuant to a mortgage foreclosure, trustee's sale or deed in lieu of foreclosure or trustee's sale, or otherwise, shall be subject to all of the terms and conditions contained in this Agreement. No mortgagee shall have an obligation or duty under this Agreement to perform anOwner's obligations or other affirmative covenants of the Owners hereunder, or to guarantee such performance; except that to the extent that any covenant to be performed by suchOwner is a condition to the performance of a covenant by the City, the performance thereof shall continue to be a condition precedent to the City's performance hereunder.

(b) Bankruptcy. If any mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving anOwner, the times specified for performing such Owner's obligations or other affirmative covenants of suchOwner hereunder shall be extended for the period of the prohibition, provided that such mortgagee is proceeding expeditiously to terminate such prohibition and in no event for a period longer than two years.

8.18 Nonliability of City Officials, Etc., and of Employees, Members and Partners, Etc. of the Owners. No City Council member, official, representative, agent, attorney or employee of the City shall be personally liable to any of the other Parties hereto, or to any successor in interest to any of the other Parties, in the event of any non-performance or breach by the City or for any amount which may become due to any of the other Parties or their successors, or with respect to any obligation of the City under the terms of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, the liability of the Owners under this Agreement shall be limited solely to the assets of the Owners and shall not extend to or be enforceable against: (i) the individual assets of any of the individuals or entities who are shareholders, members, managers, constituent partners, officers or directors of the general partners or members of the Owners; (ii) the shareholders, members or managers or constituent partners of the Owners; or (iii) officers of the Owners. This Section shall survive termination of the Agreement.

8.19 Proposition 207 Waiver. The Owners hereby waive and release 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.

8.20 Good Faith of Parties. Except where any matter is expressly stated to be in the sole discretion of a Party, in performance of this Agreement or in considering any requested extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily or capriciously and will not unreasonably withhold, delay or condition any requested approval, acknowledgment or consent.

[signatures on following pages]

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective on the Effective Date.

JAMES DEEP WELL RANCHES#1, LLC, an Arizona limited liability company

By: _____

Name_____

Its_____

STATE OF ARIZONA)

) ss.

COUNTY OF YAVAPAI)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____, the _____ of James Deep Well Ranches#1, LLC, anArizona limited liability company, on behalf of the company.

_____

Notary Public

My commission expires:

_____

JAMES DEEP WELL RANCHES #2, LLC, an Arizona limited liability company

By: _____

Name_____

Its_____

STATE OF ARIZONA)

) ss.

COUNTY OF YAVAPAI)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____, the _____ of James Deep Well Ranches #2, LLC, an Arizona limited liability company, on behalf of the company.

_____

Notary Public

My commission expires:

_____

CHAMBERLAIN DEVELOPMENT, LLC, an Arizona limited liability company

By: _____

Name_____

Its_____

STATE OF ARIZONA)

) ss.

COUNTY OF YAVAPAI)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____, the _____ of Chamberlain Development, LLC, an Arizona limited liability company, on behalf of the company.

_____

Notary Public

My commission expires:

_____

DW 1INVESTMENTS, LLC, an Arizona limited liability company

By: _____

Name_____

Its_____

STATE OF ARIZONA)

) ss.

COUNTY OF YAVAPAI)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____, the _____ of DW 1 Investments, LLC, an Arizona limited liability company, on behalf of the company.

_____

Notary Public

My commission expires:

_____

CITY OF PRESCOTT, ARIZONA, an Arizona municipal corporation

By: _____

Its: _____

ATTEST:

By: _____

City Clerk

APPROVED AS TO FORM

By: _____

City Attorney

STATE OF ARIZONA)

) ss.

COUNTY OF YAVAPAI)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____, City _____ of the City of Prescott, Arizona, an Arizona municipal corporation, who acknowledged that he/she signed the foregoing instrument on behalf of the City.

_____

Notary Public

My commission expires:

_____

LIST OF EXHIBITS

A	Legal Description of the Property
B-1	Legal Description of the Ranch Property
B-2	Legal Description of the Chamberlain Property
B-3	Legal Description of the DW 1 Property
C	Moratorium Statute
D	Master Plan Amendment Process
E	Site Plan and Subdivision Plat Approval Process
F	Additions to Master Plan
G	Jenna Lane Relocation
H	Water Infrastructure
I	Wastewater Infrastructure
J	Avigation Easement

Exhibit C

Moratorium Statute

9-463.06. Standards for enactment of moratorium; land development; limitations; definitions

A. A city or town shall not adopt a moratorium on construction or land development unless it first:

1. Provides notice to the public published once in a newspaper of general circulation in the community at least thirty days before a final public hearing to be held to consider the adoption of the moratorium.

2. Makes written findings justifying the need for the moratorium in the manner provided for in this section.

3. Holds a public hearing on the adoption of the moratorium and the findings that support the moratorium.

B. For urban or urbanizable land, a moratorium may be justified by demonstration of a need to prevent a shortage of essential public facilities that would otherwise occur during the effective period of the moratorium. This demonstration shall be based on reasonably available information and shall include at least the following findings:

1. A showing of the extent of need beyond the estimated capacity of existing essential public facilities expected to result from new land development, including identification of any essential public facilities currently operating beyond capacity and the portion of this capacity already committed to development, or in the case of water resources, a showing that, in an active management area, an assured water supply cannot be provided or, outside an active management area, a sufficient water supply cannot be provided, to the new land development, including identification of current water resources and the portion already committed to development.

2. That the moratorium is reasonably limited to those areas of the city or town where a shortage of essential public facilities would otherwise occur and on property that has not received development approvals based upon the sufficiency of existing essential public facilities.

3. That the housing and economic development needs of the area affected have been accommodated as much as possible in any program for allocating any remaining essential public facility capacity.

C. A moratorium not based on a shortage of essential public facilities under subsection B of this section may be justified only by a demonstration of compelling need for other public facilities, including police and fire facilities. This demonstration shall be based on reasonably available information and shall include at least the following findings:

1. For urban or urbanizable land:

(a) That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas.

(b) That the moratorium is sufficiently limited to ensure that a needed supply of affected housing types and the supply of commercial and industrial facilities within or in proximity to the city or town are not unreasonably restricted by the adoption of the moratorium.

(c) Stating the reasons that alternative methods of achieving the objectives of the moratorium are unsatisfactory.

(d) That the city or town has determined that the public harm that would be caused by failure to impose a moratorium outweighs the adverse effects on other affected local governments, including shifts in demand for housing or economic development, public facilities and services and buildable lands and the overall impact of the moratorium on population distribution.

(e) That the city or town proposing the moratorium has developed a work plan and time schedule for achieving the objectives of the moratorium.

2. For rural land:

(a) That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas.

(b) Stating the reasons that alternative methods of achieving the objectives of the moratorium are unsatisfactory.

(c) That the moratorium is sufficiently limited to ensure that lots or parcels outside the affected geographical areas are not unreasonably restricted by the adoption of the moratorium.

(d) That the city or town proposing the moratorium has developed a work plan and time schedule for achieving the objectives of the moratorium.

D. Any moratorium adopted pursuant to this section does not affect any express provision in a development agreement entered into pursuant to section 9-500.05 or as defined in section 11-1101 governing the rate, timing and sequencing of development, nor does it affect rights acquired pursuant to a protected development right granted according to chapter 11 of this title or title 11, chapter 9. Any moratorium adopted pursuant to this section shall provide a procedure pursuant to which an individual landowner may apply for a waiver of the moratorium's applicability to its property by claiming rights obtained pursuant to a development agreement, a protected development right or any vested right or by providing the public facilities that are the subject of the moratorium at the landowner's cost.

E. A moratorium adopted under subsection C, paragraph 1 of this section shall not remain in effect for more than one hundred twenty days, but such a moratorium may be extended for additional periods of time of up to one hundred twenty days if the city or town adopting the moratorium holds a public hearing on the proposed extension and adopts written findings that:

1. Verify the problem requiring the need for the moratorium to be extended.

2. Demonstrate that reasonable progress is being made to alleviate the problem resulting in the moratorium.

3. Set a specific duration for the renewal of the moratorium.

F. A city or town considering an extension of a moratorium shall provide notice to the general public published once in a newspaper of general circulation in the community at least thirty days before a final hearing is held to consider an extension of a moratorium.

G. Nothing in this section shall prevent a city or town from complying with any state or federal law, regulation or order issued in writing by a legally authorized governmental entity.

H. A landowner aggrieved by a municipality's adoption of a moratorium pursuant to this section may file, at any time within thirty days after the moratorium has been adopted, a complaint for a trial de novo in the superior court on the facts and the law regarding the moratorium. All matters presented to the superior court pursuant to this section have preference on the court calendar on the same basis as condemnation matters and the court shall further have the authority to award reasonable attorney fees incurred in the appeal and trial pursuant to this section to the prevailing party.

I. In this section:

1. "Compelling need" means a clear and imminent danger to the health and safety of the public.

2. "Essential public facilities" means water, sewer and street improvements to the extent that these improvements and water resources are provided by the city, town or private utility.

3. "Moratorium on construction or land development" means engaging in a pattern or practice of delaying or stopping issuance of permits, authorizations or approvals necessary for the subdivision and partitioning of, or construction on, any land. It does not include denial or delay of permits or authorizations because they are inconsistent with applicable statutes, rules, zoning or other ordinances.

4. "Rural land" means all property in the unincorporated area of a county or in the incorporated area of the city or town with a population of two thousand nine hundred or less persons according to the most recent United States decennial census.

5. "Urban or urbanizable land" means all property in the incorporated area of a city or town with a population of more than two thousand nine hundred persons according to the most recent United States decennial census.

6. "Vested right" means a right to develop property established by the expenditure of substantial sums of money pursuant to a permit or approval granted by the city, town or county.

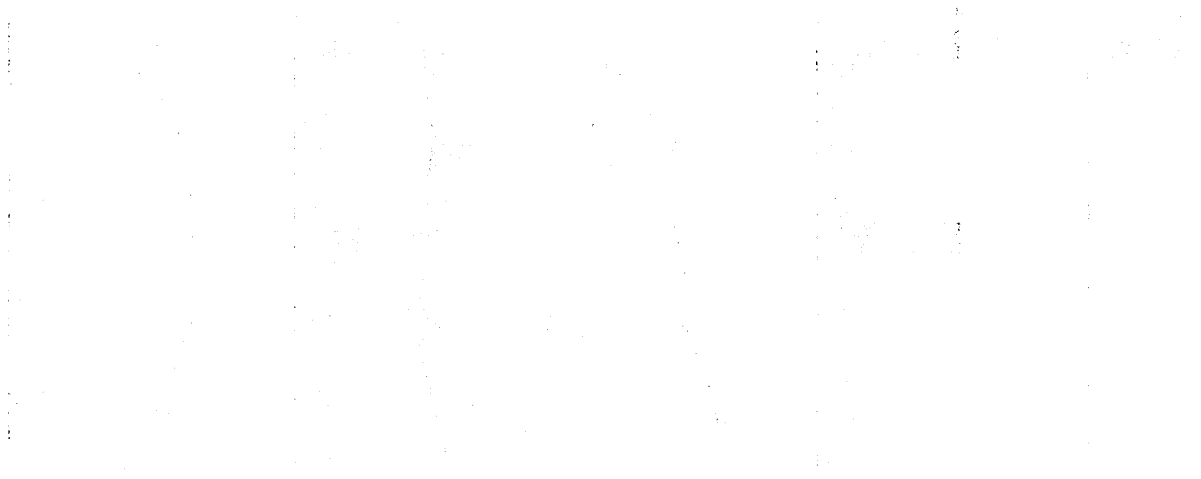

Exhibit D

Master Plan Amendment Procedure

Amendments to the Master Plan may be necessary from time to time and may be requested by the Master Plan Administrator (with the prior approval of all affected Owners) or an Owner. Amendments requested by anOwner, other than the Master Plan Administrator, shall provide documentation that notice of such request has been provided to the Master Plan Administrator. Amendments to the Master Plan may be limited to one or more portions of the Property and any proposed change will not extend to or affect the remainder of the Property unless specifically included in the area specified by the proposed amendment.

The Community Development Director shall determine, based on the criteria below, if the proposed total amendment constitutes a major or minor amendment to the Master Plan.The Community Development Director also may administratively review and approve interpretations of and clarifications to the Master Plan.

A. Major Amendments

An amendment will be deemed major if it involves:

1. An increase in the total number of dwelling units or total square footage of nonresidential uses for the overall Property, as set forth in the Budget

2. A change to Section 5 – Airport Protection / Airport Noise Overlay (ANO)

3. A change to the Land Use Groups (LUGs) location maps on Exhibit 6.3 – LUG OS – Location, Exhibit 6.6 – LUG CS – Location, Exhibit 6.9 – LUG E – Location, Exhibit 6.12 – LUG V – Location, Exhibit 6.15 – LUG D – Location, Exhibit 6.18 – LUG C – Location, Exhibit 6.21 – LUG R – Location, Exhibit 6.24 – LUG GU – Location

4. A change to Exhibit 6.26 - Land Use Group General Development Standards

A major amendment request shall be processed as an amendment to the SPC District and Master Plan in the same manner in which the SPC District and Master Plan were approved by the City.

B. Minor Amendments

An amendment not meeting the criteria for a major amendment as set forth above shall be considered a minor amendment. Upon receipt or a request for a minor amendment to the Master Plan, the Community Development Director shall mail public notices to property owners located adjacent to the Property or the portion of the Property that is the subject of the minor amendment request. The Community Development Director shall provide a written decision to the requester. The request for a minor amendment shall be granted if the Community Development Director determines that the minor amendment (i) will ensure the same general level of land use

compatibility as the current Master Plan; (ii) will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate area of the Property or the portion of the Property that is the subject of the minor amendment request; (iii) will be generally consistent with the purposes of the Code; and (iv) will be based on the physical constraints and land use specifics, rather than on economic hardship. The appeal of a decision of the Community Development Director shall be made per the standard City appeal process in effect as of the date of this Agreement.

Exhibit E

Site Plan and Subdivision Plat Approval Process

SITE PLAN APPROVAL PROCESS

Site plan approval shall be required for development of all buildings within the Property with the exception that no Site plan shall be required for that portion of subdivision plats that are exclusively for a single residence land use. Site plan review shall also not be subsequently required for the individual detached single residence lots as they are developed. Following site plan approval, no additional design review approvals are required. Site plans shall designate the appropriate Land Use Group, or LUG, for each tract, lot or parcel.

A. Pre-submittal

For any property or development for which Site Plan review is required, a pre-submittal conference with the Community Development Director and City Engineer in accordance with Section 9.1.2 of the Land Development Code (in effect as of the date of this Agreement) is required prior to submittal of a site plan application.

B. Required Information for Site Plan Review

1. Site plans shall be drawn at an appropriate size and scale to facilitate review.

2. Site plan submittals shall demonstrate compliance with Section 9.8.4(B) of the City's Land Development Code (in effect as of the date of this Agreement) and the Master Plan. The Disturbable Area Map contained in the Master Plan shall control; Site Plan specific disturbable area maps shall not be required.

3. Site plan submittals shall include items on the City's application form, except as the requirements of such form may be amended by the Governing Requirements.

4. The site plan shall identify the potential uses within the buildings. The application shall demonstrate that the land uses designated on the site plan are allowed per the Land Use Budget (as described in the Master Plan), and the site plan shall designate the appropriate LUGs. Permitted uses at a specific site shall be limited to those specified on the approved site plan, and all other uses are prohibited, unless changed pursuant to a site plan amendment or Section ____ – Change of Use of the Master Plan.

C. Land Use Budget Tracking

Site plans shall designate the number of allowable residential units and amount of commercial square footages for:

1. The site plan approval, and

2. Any existing on-site residential units and/or commercial square footage

This number shall be the approved residential unit count and/or non-residential square footage for the current and future development on the site. This number and amount shall be documented by a concurrent submittal of a Budget Tracker delineating how the proposed current Site Plan approval is in compliance with the approved Budget. The Budget Tracker shall be placed on file with the Site Plan approval.

D. Technical Review Committee

The City's Technical Review Committee shall review the site plan application for consistency with the Master Plan and provide written comments to the applicant within 15 working days. Following receipt of Technical Review Committee comments, the applicant shall correct the site plan and resubmit the corrected application to the Community Development Department.

E. Community Development Director Action

If the site plan is determined to be consistent with the Master Plan, then the Community Development Director shall approve the Site Plan and return two (2) copies of the approved Site Plan to the applicant and keep one (1) for the City. An approved site plan shall expire two (2) years from the date of approval unless a complete building permit application has been submitted. An appeal from any final decision regarding a site plan review shall be in accordance with Section 9.17 of the City's Land Development Code (in effect as of the date of this Agreement).

SUBDIVISION PLAT APPROVAL PROCESS

All subdivision of land within the Property shall be processed in conformance with the applicable State statutes and Article 7 of the City's Land Development Code (in effect as of the date of this Agreement), except as Article 7 is modified pursuant to Section 9.10.13 or elsewhere in the Code by the Master Plan (including, but not limited to, the General Design Standards) and this Agreement. The Disturbable Area Map contained in the Master Plan shall control; subdivision plat specific disturbable area maps shall not be required. The division of land into two (2) or three (3) parcels shall require approval of a Lot split map in compliance with the City's Subdivision Regulations (in effect as of the date of this Agreement). The City shall interpret and apply Article 7 of the Code in a manner that gives effect to the Master Plan and this Agreement to the fullest extent possible. Preliminary plats shall be reviewed and recommended for action by the Planning & Zoning Commission; preliminary plats shall be reviewed and considered by the City Council within four (4) weeks of the recommendation by the Planning & Zoning Commission. Final plats shall be approved by City Council. The subdivision plat approval process shall not be used to change or augment the zoning requirements and rights as described in the Governing Requirements.

ExhibitF

Additions to Master Plan

Exhibit G

Jenna Lane Relocation

Exhibit H

Water Infrastructure

Exhibit I

Wastewater Infrastructure

Exhibit J

Avigation Easement