



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: June 19, 2018

JUN 19 10 06 AM '18 PIMA COUNTY ARIZONA AFS

Title: Termination of Development Agreement between Pima County and Walmart Stores, Donahue Schriber Realty Group, and Donahue Schriber Asset Management Corporation

Introduction/Background:

Pima County entered a Development Agreement in November 2006 with Walmart Stores, Donahue Schriber Realty Group and Donahue Schriber Asset Management Corporation (developer) for a regional shopping center at Ajo Highway and Kinney Road. The developer was to contribute \$20 million and provide an Enhancement Contribution of 2 percent of retail sales for 25 years to expedite transportation and infrastructure improvements at Ajo and Kinney. Agreement requirements were also imposed on any comparable new commercial development in the region through a Comprehensive Plan policy.

Discussion:

Due to the recession, the Ajo and Kinney shopping center was never started and the developer's contribution obligations were never triggered. The agreement remains in effect, but transportation and other infrastructure improvements have been completed in the intervening years through other means (ADOT and RTA projects). Also, other competing commercial developers have been averse to build in the region because of agreement requirements enacted through the Comprehensive Plan policy.

Conclusion:

Pima County and the developer are seeking to terminate the Development Agreement. Transportation and other infrastructure improvements have been completed at Ajo and Kinney, and the region has lagged in much-needed commercial development, especially grocery stores and basic retail services.

Recommendation:

Termination of November 2006 Development Agreement between Pima County and Walmart Stores, Donahue Schriber Realty Group, and Donahue Schriber Asset Management Corporation

Fiscal Impact:

n/a

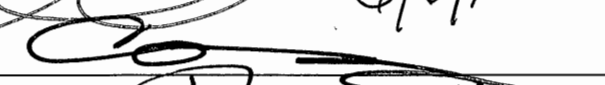
Board of Supervisor District:

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Department: Development Services, Planning Division Telephone: 724-8800

Contact: Mark Holden Telephone: 724-6619

Department Director Signature/Date:  6/6/18

Deputy County Administrator Signature/Date:  6/6/18

County Administrator Signature/Date:  6/6/18



DEVELOPMENT SERVICES

Subject: Development Agreement Termination

Page 1 of 1

FOR JUNE 19, 2018 MEETING OF THE BOARD OF SUPERVISORS

TO: HONORABLE BOARD OF SUPERVISORS

FROM: Chris Poirier, Planning Official
Public Works-Development Services Department-Planning Division

DATE: June 6, 2018

DEVELOPMENT AGREEMENT TERMINATION

Termination of Development Agreement between Pima County and Walmart Stores, Donahue Schriber Realty Group, and Donahue Schriber Asset Management Corporation

Pima County entered into a Development Agreement (recorded November 28, 2006, Docket 12939, Page 7309) with Walmart Stores, Donahue Schriber Realty Group, and Donahue Schriber Asset Management Corporation (developer). Developer was to provide contributions to expedite infrastructure improvements associated with planned shopping center at W. Ajo Highway and S. Kinney Road.

The shopping center was never initiated due to the economy and developer's contribution obligations were never triggered. Infrastructure improvements have been made through scheduled projects, and Pima County and the developer seek to terminate the Development Agreement.

DISTRICT: 3 & 5

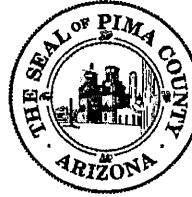
STAFF CONTACT: Chris Poirier

STAFF RECOMMENDATION: TERMINATION

CP/MH/ar
Attachments

cc: Tom Drzazgowski, Chief Zoning Inspector

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: CKB
DEPUTY RECORDER
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For Recorders Use

DEVELOPMENT AGREEMENT

between

PIMA COUNTY, ARIZONA

and

WAL-MART STORES, INC.

and

DONAHUE SCHRIBER REALTY GROUP, L.P.

and

DONAHUE SCHRIBER ASSET MANAGEMENT CORPORATION

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EXHIBITS TO DEVELOPMENT AGREEMENT

Exhibit "A": Property Description

Exhibit "B": Conceptual Site Plan for Center and Store

Exhibit "C": Sales Tax Exemptions

Exhibit "D": May 2, 2006 Requirements of the DRC

Exhibit "E": Estimated Costs of the Roadway Improvements

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") by and between PIMA COUNTY, ARIZONA, a body politic and political subdivision of the State of Arizona (the "County" or "Pima County"); and WAL-MART STORES, INC., a Delaware corporation ("Wal-Mart"); and DONAHUE SCHRIBER REALTY GROUP, L.P., a Delaware limited partnership, and DONAHUE SCHRIBER ASSET MANAGEMENT CORPORATION, a Delaware corporation (collectively, "Donahue Schriber"), is entered into as of the ___ day of October 2006.

RECITALS

A. A.R.S. § 11-1101 authorizes the County to enter into development agreements with landowners and persons having an interest in real property that is located in the County.

B. Donahue Schriber owns or exercises planning and development control over the Property, as defined in Article 1, and is considering the development of the Center, as defined in Article 1. Wal-Mart is considering the purchase of approximately 12 acres of the Property to construct and operate the Store, as defined in Article 1, within the Center.

C. The County, Donahue Schriber, and Wal-Mart each acknowledge that successful development of the Store and the Center will provide additional shopping opportunities and economic development in the affected area of Pima County for the benefit of area residents, as well as pecuniary benefit to Donahue Schriber and Wal-Mart.

D. Specific road improvements surrounding the Center are contemplated by Donahue Schriber, Wal-Mart, the County and ADOT, as defined in Article 1, on Kinney Road and Ajo Way. All parties agree that, for the Center and the Store to operate safely from a traffic perspective, construction of these Roadway Improvements, as defined in Article 1, is necessary. The parties therefore agree that construction of the Roadway Improvements should occur simultaneously with construction of the Center.

E. The County has preliminary (approximately 75%) plans and designs for the Kinney Road Basic Improvements, as defined in Article 1. Kinney Road is adjacent to the Property beginning at Ajo Way. This roadway design was based on projected traffic volumes that did not include the anticipated volume of traffic that the Center will generate. The plans will therefore need modification.

E.1 The County has scheduled construction of the Kinney Road Basic Improvements pursuant to 1997 Bond Project DOT No. 50 - Kinney Road and Ajo Way, scheduled for completion in July 2012. Advancing funds to complete this project in the time frame Donahue Schriber and Wal-Mart need in order to meet their development schedule will require the County to reprioritize both bond-funded and non-bond-funded projects. These schedule changes will cause commensurate funding changes, requiring the County to apply virtually all of the Roadway Development Fees it has collected from Avra Valley Benefit Area to fund this single, Kinney Road Basic Improvements, project.

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E.2 Donahue Schriber and Wal-Mart are willing to participate in the funding for the construction of the Kinney Road Basic Improvements to facilitate the accessibility of the Center and the Store and improve traffic flow in the area upon the terms and conditions described in this Agreement. To offset the effects to other County construction projects caused by the County's acceleration of the construction schedule to accommodate Donahue Schriber's development schedule and funds for the construction of the Kinney Road Basic Improvements, Donahue Schriber and Wal-Mart are further willing to participate in the funding of the construction of those impacted projects upon the terms and conditions described in this Agreement.

E.3 The cost of constructing the Kinney Road Basic Improvements is projected to be \$16.9 million.

F. The additional traffic volumes generated by the operation of the Center and the Store will require construction of expanded transportation improvements to improve traffic flow generated by the Center along Kinney Road. Donahue Schriber and Wal-Mart will construct the required Kinney Road Expanded Improvements, as defined in Article 1, without cost to the County or ADOT.

G. Because of the projected traffic generated by the Center and the Store, ADOT requires Donahue Schriber and Wal-Mart to construct the ADOT Expanded Improvements, as defined in Article 1. Donahue Schriber and Wal-Mart shall construct the ADOT Expanded Improvements without cost to the County and simultaneously with the Kinney Road Basic Improvements.

G.1 Pima County shall pay to Donahue Schriber ADOT's costs of constructing the ADOT Drainage Improvements and, should ADOT timely elect to construct the ADOT Optional Improvements as a part of the Roadway Improvements, the ADOT Optional Improvements.

H. The parties acknowledge and agree that the Property is zoned for the proposed uses, as described herein, subject to Pima County's development guidelines, overlay zone standards, and conformance with the decisions of the DRC, as defined in Article 1. The proposed site plan for the Center and the Store will require approvals by Pima County of development plans and construction drawings and the issuance of permits. Any obligation imposed under this Agreement upon Donahue Schriber and Wal-Mart with the County is contingent upon all such approvals and permits being granted, meeting all applicable Pima County Code and Zoning requirements, and commencement of operations by the Center and the Store. By virtue of the commitments made herein, Pima County acknowledges that the conceptual site plan attached as Exhibit "B" meets the following County requirements:

1. Pima County Zoning Code ("PCZC") § 18.39.030(C)(1)(a).
2. PCZC § 18.39.030(C)(1)(c)(I).
3. Rezoning Condition Number 1, C09-64-21.
4. Buffer Overlay Zone.

5. The number and location of driveways on the site plan is acceptable.

I. Pima County presently has no sales tax applicable to retail sales at the Center.

J. This Agreement is also consistent with the portions of the County's Comprehensive Plan applicable to the Property on the date this Agreement is executed.

K. The Center, which includes the Store, is a Regional Shopping Center, as defined in PCZC § 18.39.040(B). The Store, as proposed, is permitted as part of the Center, pursuant to PCZC § 18.39.040(C), and the restrictions listed in PCZC § 18.39.030(D)(1) and (2) are not applicable.

L. The present County Roadway Development Fees for the Center and the Store are estimated to be approximately \$600,000, and are subject to future increase.

M. The parties each intend by this Agreement to memorialize their understanding and agreement regarding their respective obligations.

N. The County's governing body has authorized execution of this Agreement by Resolution No. _____.

NOW, THEREFORE, in consideration of the recitals, PIMA COUNTY, WAL-MART, and DONAHUE SCHRIBER agree as follows:

Article 1.
Definitions

The following terms have been used throughout this Agreement, the recitals, and the exhibits and have the following meanings:

1.1 "ADOT" – the Arizona Department of Transportation.

1.2 "ADOT Basic Improvements" – the modifications to Ajo Way and the Intersection, other than those denominated as ADOT Expanded Improvements or ADOT Optional Improvements. These improvements include the following components:

1.2.1 Addition of one East-bound traffic lane.

1.2.2 New signalization at the Intersection.

1.2.3 Median and curbing construction with turn bays and cut outs.

1.2.4 Milling and application of overlay to a portion of Ajo Way surrounding its intersection with Kinney Road.

1.3 "ADOT Drainage Improvements" – the improvements to collect storm water or other drainage from property lying to the east of Kinney Road and transport the drainage underneath Kinney Road, as well as to transport accumulated drainage underneath Ajo Way near Sheridan Avenue.

1.4 **“ADOT Expanded Improvements”** – the modifications to Ajo Way and the Intersection that ADOT requires because of the development of the Center and Store on the Property, including the addition of a west-bound traffic lane and the addition of a west-bound right turn lane along the entire edge of the Property. The term “ADOT Expanded Improvements” shall include necessary modifications to the Intersection (including traffic signal) required by the addition of traffic caused by the Center, and the construction of culverts along the Center Property line to allow drainage collected in drainage basins near the intersection of Ajo Way and Kinney Road to travel along the southern edge of the Property and underneath the Center’s private driveways.

1.5 **“ADOT Optional Improvements”** – there are six components to this definition:

1.5.1 An additional travel lane to east-bound Ajo Way directly across from the Center.

1.5.2 Additional right-turn lanes for traffic turning from Ajo Way onto Kinney Road.

1.5.3 Improvements to right-turn lanes for traffic turning from west-bound Ajo Way into the Center.

1.5.4 Milling and overlay to the outside east-bound traffic lane on Ajo Way.

1.5.5 Extension toward Sheridan Avenue of the east-bound additional traffic lanes comprising a portion of the ADOT Basic Improvements.

1.5.6 Improvements to the median lying to the east of the intersection of Ajo Way and Kinney Road.

1.6 **“Affiliated Entity”** – any entity (i) wholly-owned by Donahue Schriber, Wal-Mart, or their constituent members, (ii) wholly-owned by persons or entities actively, and substantially economically, affiliated with Donahue Schriber or Wal-Mart, or (iii) results from Donahue Schriber or Wal-Mart reorganizing, or merging with, or forming a venture with, another entity.

1.7 **“Agreement Effective Date”** and **“Effective Date”** – the later to occur of the execution of this Agreement by the parties and the effective date of Resolution No. 2006-_____ adopted by the Board of Supervisors approving the Agreement.

1.8 **“Basic Improvements”** – the Kinney Road Basic Improvements, the ADOT Drainage Improvements, and the ADOT Basic Improvements.

1.9 **“Center”** – an approximately 180,000 square feet commercial shopping center to be constructed on the Property and tentatively named the Mountain Vista Shopping Center.

1.10 **“Committee”** – the neighborhood advisory committee established pursuant to Article 7 of this Agreement to provide an enhanced opportunity for input from residents on various aspects of the development of the Project.

1.11 **“Competing Retail Development”** – any retail store in excess of 40,000 square feet developed within four miles of the Center.

1.12 **“Consultant”** – the one or more design engineers, regardless of whether the Consultant is independent of the Contractor, hired to design the Basic Improvements.

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1.13 “**Contractor**” – the one or more qualified, licensed and bonded contractors hired by Donahue Schriber to construct (or design and construct) the Basic Improvements. As indicated in Article 5 of this Agreement and pursuant to its restrictions, use of the term “Contractor” does not preclude Donahue Schriber from hiring one contractor to perform both the design and construction of any improvement.

1.14 “**Construction Contract**” – the agreement Donahue Schriber will execute with the Contractor.

1.15 “**County Representative**” – a delegate of the County authorized to implement this Agreement.

1.16 “**Development Fees**” – any fee the County assesses pursuant to A.R.S. § 11-1102, including but not limited to the County’s Roadway Development Fee.

1.17 “**DRC**” – Pima County’s Design Review Committee established pursuant to Pima County Code.

1.18 “**Enhancement Contribution**” – the collective Percentage Contributions paid to Pima County by Donahue Schriber and Wal-Mart, or their authorized assignees.

1.19 “**Expanded Improvements**” – the Kinney Road Expanded Improvements and the ADOT Expanded Improvements.

1.20 “**First Payment Date**” – the date six (6) months after commencement of operations at the Store or Center, at which time Donahue Schriber or Wal-Mart will make its first payment of the Enhancement Contribution required under Article 4 of this Agreement.

1.21 “**Intersection**” – the intersection of Ajo Way and Kinney Road.

1.22 “**Kinney Road Expanded Improvements**” – those on- and off-site improvements to improve traffic flow generated by the Center along Ajo Way or Kinney Road, such as additional turn lanes, frontage roads and potential traffic signals.

1.23 “**Kinney Road Basic Improvements**” – the transportation improvements included within the 1997 Bond Project DOT No. 50 – Kinney Road and Ajo Way covering approximately 1.2 miles of Kinney Road from Ajo Way north to the new Bopp Road alignment at Sarasota pursuant to the Design Concept Report, including tapering the roadway from four to two lanes to the north of Sarasota and installing a traffic signal at the realigned Sarasota/Bopp intersection.

1.24 “**Minimum Annual Contribution**” – a Percentage Contribution of not less than \$500,000 per year for Wal-Mart and \$50,000 per year for Donahue Schriber.

1.25 “**Percentage Contribution**” – an amount equal to two percent (2%) of all retail sales within the Center, as to the Center, and the Store, as to the Store, except those sales described in Exhibit “C,” that Donahue Schriber, as to the contribution from the Center, and Wal-Mart, as to the contribution from the Store, shall pay to the County pursuant to Article 4 of this Agreement.

1.26 “**Property**” – the approximately thirty-acre parcel located at or near the northwest corner of the Intersection in Pima County, Arizona described in Exhibit “A” that Donahue Schriber intends to develop by constructing the Store and the Center.

1.27 “**Roadway Improvements**” – the improvements collectively constituting the ADOT Basic Improvements, the ADOT Expanded Improvements, the Kinney Road Basic Improvements, the Kinney Road Expanded Improvements, and the ADOT Drainage Improvements. Should the County and ADOT timely reach an agreement to construct the ADOT Optional Improvements, the terms Roadway Improvements shall also include the ADOT Optional Improvements. Each of the Roadway Improvements is depicted in the three sheet diagram labeled on file with the Department along with the party responsible for paying the various costs of each improvement.

1.28 “**Store**” – an approximately 130,000-square foot Wal-Mart Super Center Store within the Center, which will have approximately 40 percent grocery sales and approximately 60 percent general merchandise sales, including a drive-through pharmacy, garden center, fuel center, and other facilities.

1.29 “**Transportation Department**” – the Pima County Department of Transportation.

Article 2.
Incorporation of Recitals and Exhibits

2.1 The recitations and provisions set forth in the preamble to this Agreement are true and are adopted and made a part of the body of this Agreement, binding the parties hereto, as if the same were fully set forth herein. Additionally, all of the exhibits attached hereto and referenced herein are hereby incorporated in their entirety as if fully set forth in this Agreement.

Article 3.
Center and Store Construction

3.1 **Construction.** Donahue Schriber, after construction of the Center commences, agrees to construct the Center in substantial conformity with the conceptual site plan included with this Agreement as **Exhibit “B.”** Wal-Mart, after construction of the Center commences, agrees to construct the Store within the Center also in substantial conformity with this conceptual site plan.

3.2 **Submittal of Plans.**

3.2.1 Donahue Schriber shall submit all plans and specifications to Pima County for the Center for review and approval as required by applicable Pima County Building and Zoning Codes, including compliance with DRC requirements.

3.2.2 Wal-Mart shall submit all plans and specifications for the Store to Pima County for review and approval as required by applicable Pima County Building and Zoning Codes. All plans and specifications must meet applicable building and zoning requirements. Nothing in this Agreement is intended to waive any such requirements.

3.3 **County Plan Review.**

3.3.1 The County’s right to review and approve plans and specifications also shall include review of architectural and aesthetic aspects of the Center and the Store, as required

-ANDREW SCHRIBER-

for development within the Gateway Zoning District. Donahue Schriber and Wal-Mart shall comply with the's May 2, 2006 requirements, attached to this Agreement as Exhibit "D."

3.3.2 Donahue Schriber and Wal-Mart shall submit to the County for its review and approval acceptable design and buffering of the Center and the Store from proximate neighborhoods, which must meet standard code requirements.

3.4 Approvals Required. Neither Wal-Mart nor Donahue Schriber shall construct or use the Center or the Store unless and until all governmental permits and licenses required by applicable law to construct and use the Center and the Store have been obtained, as well as any and all required easements.

3.4.1 The County's review and approval of the plans and specifications for the Center and the Store shall not be unreasonably withheld or delayed.

Article 4. County Fees

4.1 Enhancement Contribution; Credits; Annexation. Beginning on the First Payment Date and every six months thereafter throughout the term of this Agreement, Donahue Schriber, as to the Center, and Wal-Mart, as to the Store, each shall pay their respective share of the Percentage Contribution, which in no event shall be less than Wal-Mart and Donahue Schriber's respective Minimum Annual Contribution. The parties understand that the Percentage Contribution will be passed through by Wal-Mart and the other Center retailers to consumers.

4.1.1 Wal-Mart and Donahue Schriber shall pay the Enhancement Contribution on a semi-annual basis, with the first payment being made on the First Payment Date. On each payment date, the party shall pay the greater of (a) ½ of its Minimum Annual Contribution, or (b) the Percentage Contribution based on sales to date since the last payment date. Each paying party shall provide to County an itemized statement and accounting showing actual retail sales made to date by such party respectively within the Center and the Store, and the calculation of the Percentage Contribution. Such statements shall also include the cumulative balance of any credits calculated pursuant to this Article. The paying party shall also show a reconciliation of the previously paid Enhancement Contribution (in the event that there has been an adjustment in sales figures for any previous payment period) and the party's payment shall be adjusted based on that reconciliation.

4.1.2 Wal-Mart and Donahue Schriber shall receive credit against the payment of the Enhancement Contribution for having made qualifying payments. Qualifying payments shall include the following:

4.1.2.1 The payment by Donahue Schriber or Wal-Mart of design or construction costs for the Kinney Road Basic Improvements;

4.1.2.2 The payment by Donahue Schriber or Wal-Mart of up to \$1.4 million for design and/or construction for the ADOT Basic Improvements;

4.1.2.3 The payment by Donahue Schriber or Wal-Mart of a Development Fee.

4.1.3 Neither Donahue Schriber nor Wal-Mart may receive credit against payment of the Enhancement Contribution due to costs arising out of the design or construction of the ADOT Optional Improvements, the ADOT Drainage Improvements, or the Expanded Improvements.

4.1.4 Notwithstanding the party who originally made a qualifying payment, credits earned under section 4.1.2 of this Agreement may be applied against the Enhancement Contribution in the following manner:

4.1.4.1 Credits for payment by Donahue Schriber or Wal-Mart for County Development Fees shall be applied against the entire Enhancement Contribution.

4.1.4.2 For the first ten (10) years, beginning on the First Payment Date, the credits arising out of the qualifying payment for the design or construction of the Roadway Improvements shall be applied against seventy-five percent of the Enhancement Contribution.

4.1.4.3 For the ten (10) years following the first ten (10) years, described above, credits arising out of the qualifying payment for the design or construction of the Roadway Improvements shall be applied against twenty-five percent of the Enhancement Contribution.

4.1.4.4 For the remaining payments of the Enhancement Contribution, credits arising out of the qualifying payment for the design or construction of the Roadway Improvements shall be applied against fifty percent of the Enhancement Contribution.

4.1.5 Neither the County nor Donahue Schriber nor Wal-Mart, either directly or indirectly, shall seek or support to have the Center or Store annexed into a municipality. Should the Property nonetheless be annexed or otherwise incorporated into a municipality that assesses a general sales tax, Wal-Mart and Donahue Schriber shall be released from their obligations to continue making the Enhancement Contribution, but shall not be entitled to any unredeemed credits. In no event shall annexation relieve Donahue Schriber of its obligation to complete construction of the Roadway Improvements.

4.2 Development Fees. Wal-Mart and Donahue Schriber shall pay all applicable County Development Fees, as and when due, with respect to the Center and the Store.

4.3 County's Use of Enhancement Contribution. County will apply the Enhancement Contribution in accord with the provisions of this section.

4.3.1 One-half of the Enhancement Contribution to be used by the County for roadway improvements within Pima County's Avra Valley benefit area. The qualifying payments made by Donahue Schriber and/or Wal-Mart to design and construct the Roadway Improvements shall be credited against this roadway-improvement portion of the Enhancement

Contribution due from such party hereunder to defray the amount due on the Enhancement Contribution. Credits taken against the payment of the Enhancement Contribution shall reduce this portion of the County's application of the Enhancement Contribution before affecting the parks application listed below.

4.3.2 The remaining one-half of the Enhancement Contribution to be deposited in a special fund and used by the County to support activities of the following types of the Tucson Mountain Park: operation and maintenance, land acquisition, and eradication of invasive species including bufflegass.

Article 5.
Roadway Improvements

5.1 Respective Project Costs. The parties' estimate of the respective Roadway Improvements costs and income sources are described in Exhibit "E."

5.2 Design and Construction Responsibility.

5.2.1 Donahue Schriber shall be responsible for completing the design and construction of the Basic Improvements in accord with Pima County standards upon the terms and conditions described in this Agreement. Construction of the Roadway Improvements is imposed on Donahue Schriber as a condition of development pursuant to A.R.S. § 34-201(L).

5.2.2 Pima County and ADOT respectively require completion of the Expanded Improvements prior to opening of the Center. Pima County and Donahue Schriber desire completion of construction of the Basic Improvements prior to opening the Center. Should ADOT desire completion of the ADOT Optional Improvements in the same project, Donahue Schriber shall be required to construct those improvements if ADOT executes a funding agreement for those improvements within 60 days of the execution of this Agreement. The typical design and construction process for a roadway of this combined scope requires approximately 24 months. Donahue Schriber anticipates opening the Center in Fall 2007. To meet that date, the Parties agree that an accelerated construction schedule is required. Donahue Schriber may use any method of project delivery authorized by A.R.S. Title 34 and may contract separately for design and construction or with one qualifying entity both to design and construct the Basic Improvements.

5.2.3 Within 30 days of execution of this Agreement, Pima County shall deliver to Donahue Schriber all existing design plans for the Kinney Road Basic Improvements for update and completion. Within 60 days of execution of this Agreement, Pima County shall deliver to Donahue Schriber all existing design concept reports and plans within its possession for the ADOT improvements for update and completion. If possible, all plans shall be delivered in electronic form.

5.2.4 Donahue Schriber shall keep Pima County apprised of the projected and actual progress and cost of the Basic Improvements and the ADOT Optional Improvements (if applicable) during the design and construction of those improvements.

5.2.4.1 If at any time the estimated costs of designing and constructing the Kinney Road Basic Improvements exceed \$16.9 million, Donahue Schriber shall immediately require the Consultant to work with Pima County to determine cost-saving alternatives.

5.2.5 Donahue Schriber shall comply with all project development ordinances in completing project development, including preparing the environmental assessment and mitigation report required by Pima County Code Chapter 10.56 and completing the required community participation.

5.3 Kinney Road Basic Improvements Financial Responsibility. Donahue Schriber and Wal-Mart shall pay \$2 million for the design and construction of the Kinney Road Basic Improvements and shall receive credit against the Enhancement Contribution as discussed in Article 4 for their contributions. The County shall contribute \$10 million toward construction of the Kinney Road Basic Improvements. Any cost above \$12 million shall be split equally, with the County contributing one-half of each invoice and Donahue Schriber and Wal-Mart collectively contributing the other one-half. Donahue Schriber and Wal-mart shall receive credit against the Enhancement Contribution as discussed in Article 4 for their contributions.

5.3.1 The County has paid to third parties approximately \$596,000 for the design of the Kinney Road Basic Improvements, which amount shall be credited against the County's total required contribution under this section.

5.3.2 Donahue Schriber shall submit monthly invoices to Pima County reconciling its and Wal-Mart's contribution toward the Roadway Improvements. Pima County shall remit payment up to the full balance of the County contribution to Donahue Schriber pursuant to the timelines established in A.R.S. § 34-221(B)(3).

5.3.3 Donahue Schriber shall have a continuing duty to differentiate between the costs incurred to construct each Roadway Improvement. The County and Donahue Schriber shall meet within thirty days of the date Donahue Schriber's designer fixes the scope of the Roadway Improvements to make an initial differentiation. If the Roadway Improvements are designed or constructed under the same project, Donahue Schriber's duty to differentiate includes a differentiation, or at minimum an apportionment, of the overhead and profit costs of the project. Neither Donahue Schriber nor Wal-Mart may charge its own profit or that of an Affiliated Entity to the construction of the Roadway Improvements.

5.4 ADOT improvements Financial Responsibility; Plans.

5.4.1 Except as otherwise required by ADOT, Pima County shall pay to Donahue Schriber within 30 days of its receipt any payment from ADOT for any of the ADOT improvements.

5.4.2 The County shall pay to Donahue Schriber all unpaid invoices for work on the ADOT Drainage Improvements within 30 days of its receipt of such an invoice.

5.4.3 Donahue Schriber shall construct the ADOT Basic Improvements, and its payment for these costs qualify for credits against payment of the Enhancement Contribution as set forth in Article 4 above.

5.4.4 Donahue Schriber shall construct the ADOT Expanded Improvements wholly without cost to the County.

5.4.5 Donahue Schriber shall construct all of the ADOT improvements described in Article 1 within the same project as the Kinney Road Basic Improvements and the Kinney Road Expanded Improvements.

5.4.6 Neither Donahue Schriber nor Wal-Mart shall be responsible for any costs associated with the ADOT Optional Improvements or the ADOT Drainage Improvements, except that, should ADOT incur costs to advance the construction of the ADOT Optional Improvements, Donahue Schriber and Wal-Mart shall be responsible for those costs of advancement.

5.5 Kinney Road Expanded Improvements. Donahue Schriber shall construct the Kinney Road Expanded Improvements without cost to the County, and this Agreement does not affect or diminish the contributions Donahue Schriber or Wal-Mart may be required to make to construct the Kinney Road Expanded Improvements.

5.6 Requirements for Design and Construction.

5.6.1 Donahue Schriber shall contract with the Consultant to complete the design of the Basic Improvements. Donahue Schriber's selection of the Consultant shall be subject to County approval. Donahue Schriber shall name the County as a third party beneficiary in the design contract, if any.

5.6.2 Donahue Schriber shall require of the Consultant that all original drawings, field data, estimates, field notes, plans, specifications, documents, reports, calculations, and other information developed by Consultant under this contract vest in and become the property of Pima County and be delivered to Pima County upon completion or termination of the services, but Consultant and Donahue Schriber may retain and use copies thereof. Pima County agrees that the material will not be used for any project other than the project for which it was designed without the expressed permission of Consultant.

5.6.3 Donahue Schriber shall contract with the Contractor to construct (or design and construct) the Basic Improvements. The form of the Construction Contract shall be determined by Donahue Schriber and approved by Pima County. Donahue Schriber shall name the County as a third party beneficiary in the Construction Contract. Work shall be deemed acceptable if constructed in substantial accordance with the final plans, as approved by Pima County. Donahue Schriber's selection of a designer or contractor under any delivery method shall be subject to County approval.

5.6.4 Prior to the execution of a contract with the Consultant or the Contractor, the Consultant or Contractor shall file with County and Donahue Schriber certificates of insurance issued by a company authorized by the Arizona Department of Insurance to underwrite

ARIZONA DEPARTMENT OF INSURANCE

each applicable type of insurance coverage, which company shall be reasonably acceptable to County and Donahue Schriber. The Consultant and Contractor shall ensure that its insurance policies are endorsed as necessary to provide coverage required by this Agreement. Without limiting any liabilities or other obligations of the Consultant or Contractor, the Consultant and Contractor shall provide and maintain, if commercially available, not less than the minimum insurance coverage, in amount and form, required by the County's Risk Manager for each of the following applicable specified type of insurance until all obligations under this Agreement are satisfied: (a) Commercial general liability insurance, which shall be endorsed to include County and Donahue Schriber, and their officers, employees and agents as additional insureds regarding work performed pursuant to this Agreement, and the policy's aggregate coverage limit shall apply to each insured project thereunder, including if applicable construction of the Kinney Road Expanded Improvements; (b) Commercial or business automobile liability insurance; (c) Workers' compensation insurance covering Contractor's statutory obligations for employees engaged in the construction of the roadway improvements, and evidence of qualified self-insurance status shall suffice for this subsection; and, for the Contractor, (d) Builders' Risk insurance for the full insurable value of the Roadway Improvements, including change orders, and providing for partial occupancy, which may not require notice to the insurer or consent of the insurer prior to partial occupancy.

5.6.4.1 Donahue Schriber, with Contractor's assistance and County's approval, shall have the authority to adjust with insurers any insured loss under the Builders' Risk Policy. Donahue Schriber shall be the loss payee under the Builders' Risk Policy and shall deposit all insurance payments received into a separate account. Donahue Schriber shall disburse such funds to Contractor pursuant to the terms of this Agreement, unless County, Donahue Schriber and Contractor mutually agree upon an alternative method for disbursement. Contractor shall pay its subcontractors, material suppliers, and other parties-in-interest pursuant to the terms of their original agreements or other subsequent agreements. If no other special agreement is reached, the damaged work shall be repaired or replaced by applying the funds received from the insurer, and the cost shall be covered by a mutually acceptable change order.

5.6.4.2 The required insurance policies shall stipulate that the insurance afforded the Contractor shall be primary to any insurance or self-insurance of County and Donahue Schriber, and that insurance or self-insurance carried by County and Donahue Schriber and its officers, employees and agents shall be excess and not contributory insurance to that provided by the contractor. The Contractor shall be solely responsible for any deductible or self-insured retention required under any of the above insurance policies. The Contractor and its insurers shall waive all rights of recovery or subrogation against County and Donahue Schriber and all tiers of subcontractors, and their officers, employees and agents. The Contractor shall require its subcontractors to waive all rights of recovery or subrogation against County, Donahue Schriber, Contractor, and all tiers of subcontractors, and their officers, employees and agents.

5.6.4.3 All insurance policies shall be endorsed to require not less than thirty (30) days prior written notice to County and Donahue Schriber of any cancellation or reduction of coverage. Contractor shall immediately notify County and Donahue Schriber of any such cancellation or reduction, and shall cease operations if its insurance is cancelled or reduced to less than that required by this section, and shall not resume operations until the required

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insurance is in force and new certificates of insurance have been filed with County and Donahue Schriber.

5.6.5 Donahue Schriber shall comply with all A.R.S. Title 34 procurement requirements for design and construction of the Basic Improvements. Donahue Schriber shall document and certify to the County that it has complied with all provisions of Title 34 in procuring services for construction of the Basic Improvements.

5.6.6 As a precondition to Donahue Schriber's award of contracts or rejection of bids or proposals (responses), Donahue Schriber shall make such responses available to Pima County for its concurrence. Pima County shall expeditiously review the information submitted by Donahue Schriber relating to project costs and designs and shall not unreasonably object to the same.

5.6.6.1 After the award of the Construction Contract, any change orders requested by Contractor shall be subject to approval by Pima County and Donahue Schriber.

5.6.6.2 If the Construction Contract is in a form that provides for determination of the cost of construction after award, then that fixed price, guaranteed maximum price, or other form of construction pricing shall be subject to approval by County before being accepted by Donahue Schriber.

5.6.7 Donahue Schriber shall require Consultant and Contractor to provide prior written notice to the owners or residents of adjoining property of any activity of Consultant or Contractor which may temporarily interfere with access to or use of said adjoining property. Consultant and Contractor shall maintain access to adjoining properties during all respective design or construction activities or other operations unless the requirement of access is waived in writing by the owner and resident of the adjoining property. If an emergency requires activity without written notice, Consultant and Contractor shall use their best efforts to provide timely actual notice to the owners and residents of the adjoining affected properties.

5.6.8 The County has pledged to its constituents that it will fully disclose substantial modifications to the scope, timing, or costs of any approved bond-funded projects, including 1997 Bond Project DOT No. 50. The County will amend its project disclosure based on the current projected costs in the next amendment cycle, currently scheduled to begin in the fall of 2006. Should the scope, timing, or costs as updated by the Consultant or Contractor require, the County will promptly modify its disclosure.

5.6.9 Donahue Schriber shall require the Contractor to warrant and shall assign to the County and ADOT, as applicable, such warranty that the Roadway Improvements will be free from material defects for a period of two (2) years from the date the County accepts the Roadway Improvements.

5.7 County Oversight. Notwithstanding any provision of this Agreement to the contrary, Pima County shall have an independent right to ensure completion of the Basic Improvements and the ADOT Optional Improvements by retaining a portion of its contribution not to exceed five percent of the total contract price. In the event the County exercises that right and retains funds, neither Donahue Schriber nor the Contractor shall have a right to the interest

otherwise payable on the retained funds. In order for the County to be able to effectively exercise this right, the County shall not be required to pay any further invoice until Donahue Scriber or Wal-Mart have collectively paid \$2 million for the design and construction of the Kinney Road Basic Improvements.

5.7.1 Prior to construction, Donahue Scriber shall submit to the Transportation Department for its review and approval the design plans for all Roadway Improvements required under this Agreement. Plans shall be submitted at 90% and 100% completion or as agreed by the Transportation Department.

5.7.2 Upon completion of the Roadway Improvements, Donahue Scriber shall provide to Pima County as-built drawings certified by a registered civil engineer that the Roadway Improvements or such portion thereof were constructed in accordance with approved plans.

5.7.3 The Transportation Department shall inspect the Roadway Improvements. If it determines in its reasonable discretion that the Roadway Improvements were completed in accordance with the approved plans and in compliance with applicable standards, the Transportation Department shall approve and the County shall accept the same.

5.8 Indemnity.

5.8.1 Donahue Scriber shall (or shall require the Consultant and the Contractor to) indemnify, defend, and hold harmless Pima County, its officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of any act, omission, fault or negligence by the respective Consultant and Contractor, its agents, employees or anyone under its direction or control or on its behalf in connection with the design and construction of the Roadway Improvements. Notwithstanding any provision of this Agreement including the Severability Clause, this Section shall survive the termination or revocation of this Agreement.

5.8.2 Donahue Scriber may require its consultant or contractor to indemnify it for any engineering or construction work completed by the consultant or contractor.

5.8.3 County shall indemnify, defend and hold harmless Donahue Scriber, Wal-Mart, its officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of any act, omission, fault or negligence by the County, its consultants, agents, employees, or anyone under its direction or control or on its behalf in connection with the 75% design plans for the Kinney Road Basic Improvements delivered to Donahue Scriber pursuant to Article 5 of this Agreement.

5.9 Obtaining Right-of-Way. County shall obtain possession of all necessary right-of-way for the construction of the Kinney Road Basic Improvements within one-hundred eighty (180) days of execution of this Agreement. The Costs incurred by County to obtain such roadway shall be borne by the County but shall be credited against the County's contribution to the costs of the respective Kinney Road Basic Improvements, as that contribution is discussed in

Article 5 above. The parties acknowledge that any ADOT right-of-way required shall be acquired at the direction and financial responsibility of ADOT.

5.10 License to Use Public Rights-of-Way. Donahue Schriber and its designees (including the Consultant and the Contractor) are hereby licensed and empowered by County, on a non-exclusive and non-transferable basis, to use the public rights-of-way, streets, highways, roads, alleyways and thoroughfares now established, used or dedicated to the public use and lying within the unincorporated areas of Pima County, under the terms and conditions set forth herein for the purpose of designing and constructing all Roadway Improvements.

5.10.1 Should Donahue Schriber or its designee cause or permit any damage, disturbance, unnecessary alteration or modification to any facility or vegetation located in or adjacent to the right-of-way, Donahue Schriber, at its sole expense and in a manner approved by the County Engineer and to the satisfaction of County, shall restore the damaged, disturbed, altered, or modified facilities or vegetation to the condition in which the facilities or vegetation existed before being damaged, disturbed, modified, or altered and shall also be liable to owners of said facilities for any other losses or expenses which may accrue because of said damage, disturbance, modification or alteration. The restoration of facilities shall be initiated promptly and completed expeditiously by Donahue Schriber, who shall give priority to the restoration, repair or replacement of such facilities over all its non-emergency activities.

5.10.2 Any opening or obstruction in public rights-of-way caused by Donahue Schriber or its designee during the course of activities in rights-of-way shall be guarded and protected at all times by safety barriers erected by Donahue Schriber or its designee, which shall be clearly designated by warning lights during periods of dusk and darkness. Donahue Schriber or its designee shall properly sign and mark any work performed in or adjacent to a public roadway open for travel with warning and directional devices in accordance with all applicable state and local traffic regulations and in accordance with the ADOT's Traffic Control Manual for Highway Construction and Maintenance.

5.10.3 During construction or excavation in public rights-of-way, Donahue Schriber or its designee shall provide proper drainage so that the public right-of-way will be free from standing surface water and adequately drained so as not to cause flood or erosion damage to the facilities of the County or surrounding property. Donahue Schriber or its designee shall submit drainage engineering data and design plans to the Pima County Regional Flood Control District for review and approval prior to the issuance of any right of way use permit by County. The drainage plan shall comply with State Arizona Pollutant Discharge Elimination System Stormwater Construction Permit requirements at A.R.S. § 49-255 *et seq.*

5.10.4 This license shall terminate without action of the County upon the material breach by Donahue Schriber or Wal-Mart of the terms of construction or warranty of the applicable roadway improvements, including the requirement to construct all Roadway Improvements to Pima County technical standards, but in any event shall expire no later than upon completion of construction of the applicable roadway improvements.

5.10.5 All rights hereunder are granted under the express condition that County shall have the power at any time to impose restrictions and limitations, and to make regulations

as to Donahue Schriber's or Contractor's use of the County's rights-of-way as may be deemed best for the public interests, safety or welfare; the rights of County in and to the use of all public rights-of-way located within the unincorporated areas of Pima County are and forever shall be paramount and superior to the rights of Donahue Schriber, Contractor, or any other licensee or franchisee.

5.10.6 Neither this License nor the Agreement generally extend to Donahue Schriber or its contractors a right to place any amount of a required buffer yard in public road right-of-way or to erect any monument sign or other sign; all signs shall be required to comply with applicable provisions of the Pima County Code.

5.10.7 Donahue Schriber acknowledges that only ADOT can license parties to make improvements within ADOT right-of-way (e.g., Ajo Way).

Article 6.
Term

6.1 The term of this Agreement shall commence on the Agreement Effective Date, as defined herein, and shall continue until the date that is twenty-five (25) years and six (6) months after commencement of operations of the Store and the Center (whichever commences last). The respective obligation to pay the Enhancement Contribution shall run for the term of this Agreement as long as the Center and the Store are in operation. If either the Store or the Center discontinues operations other than for a temporary cessation of their respective operations, the respective obligation to pay to Pima County the Minimum Annual Contribution shall be limited to a period of fifteen (15) years from the commencement of operation at the Store and Center. Notwithstanding the foregoing, should the total Enhancement Contribution paid by Wal-Mart and Donahue Schriber be less than \$10 million, Wal-Mart and Donahue Schriber shall continue making payments of the Enhancement Contribution until the total payment equals \$10 million. For purposes of this Article, the Enhancement Contribution shall be deemed "paid" without considering any credits Wal-Mart or Donahue Schriber may have taken against the payment as permitted under Article 4.

Article 7.
Operations

7.1 **Development and Operational Limitations.** In addition to compliance with all County zoning and code requirements, and all other applicable legal restrictions, Donahue Schriber and Wal-Mart agree to the following limitations on the development and operation of the Center and the Store:

7.2 **Use Restrictions.** The following uses are prohibited on the Property:

7.2.1 Night club, tavern, cocktail lounge or bar not associated with a permitted restaurant.

7.2.2 Adult activities facility, as that use is defined in PCZC § 18.03.020.A.5.

7.2.3 Theater, bowling alley, billiard or pool hall.

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7.2.4 Non-chartered financial institution as that use is defined in PCZC § 18.03.020.N.1.

7.3 Development Standards. The following standards shall be applied to the development of the Property:

7.3.1 All utilities shall be installed underground.

7.3.2 All satellite dishes and communications equipment shall be screened from view from adjacent roadways and residentially-zoned properties.

7.3.3 In order to lessen visual impacts as viewed from higher elevations, roofing materials will be dark earthtone in color to blend in with the natural setting. The color of such materials shall not exceed a light reflective value of forty-eight percent (48%). Roof-mounted mechanical equipment shall be screened and painted to reduce visibility.

7.3.4 With respect to the Store, all loading docks/receiving door collars shall be equipped with sealed-delivery options, which shall be used for all receiving and loading. Trash compactors shall be installed with interior access, and bailers shall be located inside the Store.

7.3.5 Parking lot and security lighting shall conform to the Pima County Outdoor Lighting regulations and the Buffer Overlay Zone standards. Such lighting shall be shielded so that no light source shall be visible from adjoining property or higher elevations.

7.3.6 No exterior amplified public address system shall be installed or used in connection with the Center or Store. Remote communications systems used in drive-through facilities such as banks, pharmacies and restaurants, shall be calibrated so as to be inaudible beyond the Property boundaries. Wherever possible, such facilities shall be screened by intervening buildings, walls and landscaping from adjoining residential property.

7.3.7 Maximum building heights and minimum building setbacks from Property boundaries shall conform to those shown on the approved development plan.

7.4 Operating Conditions and Restrictions. The following conditions and restrictions are imposed on the activities and operations conducted on the Property:

7.4.1 Bufferyard and landscaping maintenance in conformity with the DRC's May 2, 2006 requirements. The County's Planning Staff may help with any issue of compliance with the DRC's requirements.

7.4.2 Hours of operation for commercial/retail uses (not including any security-related uses): 6:00 a.m. to Midnight.

7.4.3 Hours of service deliveries: 6:00 a.m. to 9:00 p.m. The continuous operation of truck engines and trailer refrigeration units, the parking of delivery trucks and/or trailers in locations other than designated loading zones and docks, and other operations that generate loud noises that would impact the surrounding properties are prohibited between the hours of 10:00 p.m. and 6:00 a.m.

7.4.4 Trash or refuse removal: 7:00 a.m. to 7:00 p.m.

7.4.5 Outdoor amplified music: At no time is outdoor amplified music permitted.

7.4.6 Additional Restrictions during construction:

7.4.6.1 Hours of site construction activity: 7:00 a.m. to 8:00 p.m., Monday through Saturday; construction prohibited on Sundays. A construction start time of 6:00 a.m. will be permitted during the summer months (May through September).

7.4.6.2 Construction is prohibited on all federal holidays.

7.4.6.3 Time frame for construction activities: Upon receiving from the County all permits required to commence construction of the Center, site grading and building construction shall proceed diligently on the Store, the principal in-line shops building in the Center, and all site improvements and landscaping, except site improvements and landscaping directly related to free-standing "pad" buildings, until completion of the construction process. Donahue Schriber and Wal-Mart commit to a construction time of no more than 18 months from the date of receiving these permits, with extensions beyond the 18-month time frame allowed only in the event of court-ordered stay, acts of God, or industry unavailability of necessary construction materials.

7.4.6.4 Donahue Schriber and Wal-Mart will make every attempt to limit the timing of delivery of construction materials and equipment to the period from 8:00 a.m. to 4:00 p.m., including delivery of tenant improvement materials.

7.4.6.5 Donahue Schriber and Wal-Mart shall provide written notification of the preceding restrictions during construction to all contractors, subcontractors, vendors and suppliers.

7.4.7 Site Security: Donahue Schriber and/or Wal-Mart shall provide twenty-four hour per day, seven day per week security for all Center parking areas.

7.5 Committee.

7.5.1 Committee Established. Pima County's Development Services Department Director shall appoint the Committee to provide an enhanced opportunity for input from residents, property owners, businesses, institutions and groups interested in the development of the Property to the County, Donahue Schriber and Wal-Mart during the design review, development and initial operation of the Center.

7.5.2 Committee Membership. The Committee shall consist of:

7.5.2.1 One (1) representative of each of the following subdivisions which, upon invitation, elected to participate on the Committee: Millstone Manor No. 2, Shadow Mountain Ranch, Tucson Estates, Tucson Estates No. 2, Veteran Acres, Falcon Ridge, Sage

Creek, Tucson Mountain Village II (aka Desert Meadows), Tucson Mountain Sanctuary, and Star Ridge;

- 7.5.2.2 One (1) representative of the Arizona-Sonora Desert Museum;
- 7.5.2.3 One (1) representative of Old Tucson Studios;
- 7.5.2.4 One (1) representative of the Kitt Peak National Observatory;
- 7.5.2.5 One (1) representative of existing businesses within one (1) mile of the Property;
- 7.5.2.6 One (1) representative of the Drexel Heights Fire District;
- 7.5.2.7 One (1) representative of the Saguaro National Monument; and
- 7.5.2.8 One (1) representative of the Community Advisory Committee established by the Transportation Department for 1997 Bond Project DOT No. 50.

Alternate representatives, designated by their respective neighborhoods or organizations and approved by the County's Development Services Department Director, may participate in Committee deliberations and recommendations.

7.5.3 Committee Responsibility. The Committee will meet and confer as necessary to provide timely information and advice to the County, Donahue Schriber and Wal-Mart. Specifically, the Committee will:

7.5.3.1 Review Donahue Schriber's proposed development plan and supporting studies for the Center.

7.5.3.2 Provide comments and recommendations on the Center's development plan and subsequent development plan revisions and sign applications under the Gateway Zone regulations, to the DRC through the DRC's neighborhood member. Changes recommended by the Committee may, at the discretion of the DRC Planning Staff, require the DRC's reconsideration of the affected design element.

7.5.3.3 Provide a means for continuing communication between adjacent residents and Donahue Schriber and Wal-Mart during and for three years following the completion of the Center and all freestanding pads, unless following completion of the Center and all freestanding pads the Committee determines that such a role is no longer required.

7.5.4 Clerical Support. Donahue Schriber will be responsible for preparing written minutes of the Committee's meetings and summaries of comments and recommendations, including significant minority positions.

7.5.5 Project Facilitator. Donahue Schriber will, in conjunction with the County Administrator, select and appoint a project facilitator to assume facilitation responsibilities. All costs associated with the Project Facilitator shall be borne by Donahue Schriber and Wal-Mart

and not by Pima County nor by the aforementioned Committee. That being the case, however, it is understood by all that the Facilitator shall not be partial to any one party or interest, but shall fairly, reasonably, and equitably balance all parties' concerns so as to insure the proper execution of this Agreement. Facilitation responsibilities shall include all of the following:

7.5.5.1 Serve as chair of all Committee meetings. Review and edit all meeting minutes to insure their accuracy and completeness.

7.5.5.2 Serve as primary liaison between Donahue Schriber, the Committee, and the County and provide problem-solving, intervention, and mediation services on an as-needed basis to the Committee and to Donahue Schriber in the event that particular issues of disagreement or contention arise.

7.5.5.3 Provide testimony to the DRC, as needed, so as to properly reflect the findings and positions of the Committee and whatever agreements and/or understandings have been reached between it and Donahue Schriber.

7.5.5.4 Provide on-going facilitation services during Donahue Schriber's processing of its final development plan and final building-permit documents. The emphasis of this activity will be insuring the proper internal coordination of the various agencies and County departments involved in these review processes, mediating and resolving any conflicts which might arise between them, and generally working to minimize any delays in the review and approval process.

7.5.5.5 Monitor, on a monthly basis, the construction of the Center so as to insure its conformance and compliance with this Agreement and the project's approved development plan. Prepare a monthly status report to the County Representative detailing same, up through that point in time when the County issues the certificate of occupancy for the Store.

7.5.5.6 Address any issues which may arise, during the Center's construction process, pertaining to potential or alleged inconsistencies between the approved development plan and the constructed final product. Investigate and resolve such matters and prepare a written report to the County Administrator and Donahue Schriber as necessary.

7.6 Regional Trail. Wal-Mart and Donahue Schriber will accommodate development and construction of the County's regional trail, which runs through the Property, and ensure that their landscaping plans and bufferyard designs do not conflict with the plans of the County's Natural Parks and Resources Department's plans for the regional trail.

7.7 Discontinuance of Operations. Wal-Mart, at Wal-Mart's sole discretion and at any time during the term of this Agreement, may cease operation of its business at the Store. Discontinuance shall not, however, relieve Wal-Mart of the duty to guarantee payment of the Minimum Annual Contributions described in **Article 4**. Discontinuance of Store or Center operations shall not relieve Donahue Schriber of any obligation under this Agreement, as outlined in **Articles 4 and 5**.

7.8 Operating Constraints to Survive Termination of Agreement. The Operating Constraints listed in sections 7.2, 7.3, and 7.4 of this Article shall survive the termination of this Agreement and be binding upon Donahue Schriber and Wal-Mart and all successive property owners, as provided in A.R.S. § 11-1101(E).

Article 8.
County Obligations

8.1 Competing Retail Development. The parties acknowledge that Wal-Mart and Donahue Schriber are agreeing to pay the Enhancement Contribution but are concerned that payment of the fee could put them at a financial disadvantage in the event that another similar retail development is constructed in the immediate environs of their development, which is not subject to similar Enhancement Contribution and Operating Constraints. Pima County agrees that it shall request the same Operating Constraints and Enhancement Contribution as described above in Articles 4 and 7, with respect to any Competing Retail Development. Pima County further agrees that the obligation by Donahue Schriber and Wal-Mart to pay the Enhancement Contribution shall terminate in the following circumstances:

8.1.1 In the event that the County has the opportunity and authority to require an Enhancement Contribution or similar Operating Constraints by a Competing Retail Development, through the imposition of zoning conditions or through the platting or development process, and does not require an Enhancement Contribution or similar Operating Constraints, the parties' obligation to pay the Enhancement Contribution or be bound by the Operating Constraints, except as required by the PCZC, shall terminate as of the date that the zoning conditions, plat, development plan, etc., is approved.

8.1.2 In the event that the County imposes, or the developer of a Competing Retail Development agrees to pay, an enhancement contribution in an amount less than the amount of the Enhancement Contribution that the parties have agreed to pay hereunder the amount of the Enhancement Contribution under this Agreement shall be automatically reduced to that lesser amount.

8.2 Adoption of General Sales Tax. Should Pima County enact a general sales tax upon retail sales within the County, then Wal-Mart and Donahue Schriber shall be released from a corresponding proportion of their obligation to continue making the Enhancement Contribution, from and after the date that the sales tax goes into effect. Should Pima County adopt a general sales tax at any time before Wal-Mart or Donahue Schriber has received all of its credits as contemplated by Article 4 above, the Parties shall negotiate in a fair and equitable manner to allow Wal-Mart and Donahue Schriber to recover as permitted by law the full amount of their unredeemed credits.

11-1101(E)

Article 9.
Representations by Donahue Schriber and Wal-Mart

9.1 **Representations.** Donahue Schriber and Wal-Mart hereby respectively represent, covenant, and warrant as follows:

9.1.1 Donahue Schriber has fee simple title to or exercises planning and development control over the Property.

9.1.2 Wal-Mart has an agreement to purchase approximately 12 acres from Donahue Schriber within the Center, upon which it intends to construct the Store.

9.1.3 Donahue Schriber is a duly organized and validly existing limited partnership under the laws of the State of Delaware and is duly qualified to transact business in the State of Arizona. Donahue Schriber has full power and authority to conduct its business as presently conducted, enter into this Agreement, and perform all of its duties and obligations under this Agreement; and such execution and performance have been duly authorized by all necessary approvals.

9.1.4 Wal-Mart is a duly organized and validly existing corporation under the laws of the State of Delaware and is duly qualified to transact business in the State of Arizona. Wal-Mart has full power and authority to conduct its business as presently conducted, enter into this Agreement, and perform all of its duties and obligations under this Agreement; and such execution and performance have been duly authorized by all necessary approvals.

9.1.5 This Agreement and any other documents and instruments required to be executed and delivered hereunder will constitute the duly authorized, valid, and legally binding respective obligations of Donahue Schriber and Wal-Mart and will be enforceable strictly in accordance with their respective terms.

9.1.6 The execution, delivery, and performance of this Agreement and any other documents or instruments to be executed and delivered by either Donahue Schriber or Wal-Mart pursuant to this Agreement and the construction, occupancy, and use of the Property by Donahue Schriber and Wal-Mart will not:

9.1.6.1 Violate any provision of law or any applicable regulation, order, writ, injunction, or decree of any court or governmental authority.

9.1.6.2 Conflict with, be inconsistent with, or result in any breach or default of any of the terms, covenants, conditions, or provisions of any indenture, mortgage, deed of trust, instrument, document, agreement, or contract of any kind to which either Donahue Schriber or Wal-Mart is a party or by which either party may be bound.

Article 10.
Assignability

10.1 **Successors and Assigns.** Subject to the provisions of this Article, all of the provisions of this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the respective parties to this Agreement pursuant to A.R.S. § 11-1101(E).

10.2 **Assignment.**

10.2.1 Donahue Schriber and Wal-Mart may, with the consent of the County, which consent shall not be unreasonably withheld, assign all or a portion of their respective rights and obligations under this Agreement, provided that:

10.2.1.1 The respective assignment is to a person or entity that has acquired all or a portion of their respective interests in the Property; and

10.2.1.2 The respective assignment is by written instrument, expressly assigning such rights and obligations, recorded in the official records of Pima County, Arizona.

10.2.2 Donahue Schriber and Wal-Mart may also assign all or any portion of their respective rights and obligations under this Agreement, without consent of the County, to an Affiliated Entity.

10.2.3 Donahue Schriber and Wal-Mart may also respectively assign their respective interests in this Agreement, but not their respective duties or obligations, to Donahue Schriber and Wal-Mart's respective financial lenders of the Center and Store without the consent of the County. The County agrees to execute, and the County Representative is hereby authorized to execute, any estoppel certificates (in a form reasonably acceptable to the County) required by such financial lenders regarding the status of this Agreement.

10.2.4 Donahue Schriber and Wal-Mart shall promptly provide Pima County with notice of any assignment.

10.3 **No Release.** No assignment pursuant to this Article, even if approved by the County, shall operate as a release of Wal-Mart or Donahue Schriber, who shall, as to the County, remain responsible for making the Enhancement Contribution and fulfilling their other obligations hereunder. County shall be under no obligation to release Wal-Mart or Donahue Schriber.

Article 11.
Notice

11.1 **Notice.** Any notice or demand which the County, Wal-Mart, or Donahue Schriber is required to or may desire to serve upon the other, must be in writing, and shall be sufficiently served if (i) personally delivered, (ii) sent by registered or certified mail, postage prepaid, or (iii) sent by commercial overnight carrier, and addressed to:

If to County:

Clerk of the Board of Supervisors
130 West Congress, 5th Floor
Tucson, Arizona 85701
Fax: (520) 622-0448

and

County Administrator
130 West Congress, 10th Floor
Tucson, Arizona 85701
Fax: (520) 740-8171

With a copy to:

Chief Civil Deputy County Attorney
Pima County Attorney's Office
32 North Stone Avenue
Tucson, Arizona 85701
Fax: 520-620-6556

If to Wal-Mart:

Wal-Mart Stores, Inc.
2001 SE 10th Street
Bentonville, Arkansas 72716-0550
Fax: _____

and

Michael E. Tomlin, Esq.
Wal-Mart Stores, Inc.
2001 SE 10th Street
Bentonville, Arkansas 72716-0550
Fax: (479) 277-5991

With a copy to:

Lewis and Roca LLP
One South Church Avenue, Suite 700
Tucson, Arizona 85701-1611
Fax: (520) 622-3088

4-10-11 10 01/11/11

If to Donahue Schriber:

Mr. Charles B. Hickcox
Donahue Schriber Realty Group, L.P.
1730 East Northern Avenue, Suite 204
Phoenix, Arizona 85020
Fax: (602) 674-5770

With a copy to:

Lewis and Roca LLP
One South Church Avenue, Suite 700
Tucson, Arizona 85701-1611
Fax: (520) 622-3088

or to such other addresses as any party may from time to time designate in writing and deliver in a like manner. Any such change of address notice shall be given at least ten (10) days before the date on which the change is to become effective. Such notice shall be deemed to have been served and effective upon receipt or refusal.

Article 12.
Appointment of Representatives

12.1 Appointment of Representatives. To further the commitment of the parties to cooperate in the implementation of this Agreement, the County, Wal-Mart, and Donahue Schriber each shall designate and appoint a representative to act as a liaison between the County and its various departments, Wal-Mart, and Donahue Schriber. The initial representative for Wal-Mart and Donahue Schriber shall be their respective project managers as identified by Wal-Mart and Donahue Schriber from time to time. The initial County Representative shall be the County Administrator, and the County Administrator is authorized to appoint a delegate or a successor representative. Following the expiration of this Agreement, the County Representative is authorized to modify the Operating Constraints upon request from an owner of the Property and determination that modification is proper to continue the Center's functionality. The respective representatives shall be available at reasonable times and places to discuss and review the performance of the parties to this Agreement and the development of the Center.

Article 13.
Mediation and Disputes

13.1 Mediation. If a dispute arises out of or relates to this Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try to settle the dispute through mediation (for a period that will in no event be required to exceed five (5) days after the first mediation session occurs) before resorting to arbitration, litigation or some other dispute resolution procedure. In the event that the parties cannot agree upon the selection of a mediator within seven (7) calendar days, either party may request the presiding judge of the

Superior Court of Pima County to assign a mediator from a list of mediators maintained by the Arizona Municipal Risk Retention Pool.

13.2 Enforcement of Administrative Codes. Donahue Schriber and Wal-Mart acknowledge that Pima County is empowered by A.R.S. § 11-808 to enforce the provisions of the County's administrative Building and Zoning Codes. All plans and specifications must meet applicable building and zoning requirements. Nothing in this Agreement is intended to waive any such requirements or the County's authority to enforce its administrative codes.

Article 14.
Default; No Joint and Several Liability

14.1 Default. Failure by any party to perform any term or provision of this Agreement by the date when such performance is due hereunder and which continues uncured for a period of ten (10) business days after written notice thereof from another party shall constitute a default under this Agreement. If the failure to timely perform is of a nature which is not capable of being cured within ten (10) business days, no default shall arise from such failure if the cure shall be commenced within such ten (10) business day period, and thereafter diligently pursued to completion. The notice shall specify the nature of the alleged failure to perform and the manner in which the failure to perform may be satisfactorily cured. In the event of a default hereunder by any party, the non-defaulting party shall be entitled to all remedies at both law and in equity, including, without limitation, specific performance and the right to perform the obligation(s) of which the defaulting party is in default and to immediately seek reimbursement from the defaulting party of all sums expended in order to cure such default, together with interest on all such sums at the then-current statutory judgment interest rate from the date said sums are expended by the non-defaulting party for the purpose of curing the default to the date such sums are paid in full.

14.2 No Joint and Several Liability. Notwithstanding anything in this Agreement to the contrary, the obligations and liabilities of Wal-Mart and Donahue Schriber under this Agreement and any instrument executed in connection with this Agreement (including any representation or warranties) shall be the several (and not joint) obligations and liabilities of Wal-Mart and Donahue Schriber, respectively.

Article 15.
Agreement Effective Date

15.1 Effective Date. This Agreement shall become effective upon the Agreement Effective Date.

Article 16.
Conflict of Interest; Representatives Not Individually Liable

16.1 Conflict of Interest. Pursuant to Arizona law, rules and regulations, no member, official or employee of the County shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation,

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partnership or association in which he or she is, directly or indirectly, interested. This Agreement is subject to cancellation for conflict of interest as provided in A.R.S. § 38-511.

16.2 No Personal Liability. Except for mandamus and other special actions, no member, official or employee of the County shall be personally liable to Donahue Schriber and Wal-Mart, or any successor or assignee, (a) in the event of any default or breach by the County, (b) for any amount which may become due to Donahue Schriber and Wal-Mart or their successors or assigns, or (c) pursuant to any obligation of the County under the terms of this Agreement.

Article 17.
Miscellaneous

17.1 Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the parties of the breach of any provision of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or of any other provision of this Agreement.

17.2 Headings. The descriptive headings of the sections and Sections of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any of the provisions of the Agreement.

17.3 Authority. The undersigned represent to each other that they have full power and authority to enter into this Agreement, and that all necessary actions have been taken to give full force and effect to this Agreement. Stewart Title represents and warrants to the County that it is duly formed and validly existing under the laws of Arizona and is authorized to do business in the State of Arizona. Donahue Schriber, Wal-Mart, and the County warrant to each other that the individuals executing this Agreement on their respective behalves are authorized and empowered to bind the party on whose behalf each individual is signing. Donahue Schriber and Wal-Mart represent to the County that, by entering into this Agreement, Donahue Schriber and Wal-Mart have bound the Property and all persons and entities having any legal or equitable interest therein to the terms of the Agreement.

17.4 Amendment of the Agreement. This Agreement may be amended, in whole or in part and with respect to all or any portion of the Property, only with the mutual written consent of the County and all then-current fee title owners of the Property. The County shall record the amendment or cancellation in the official records of the Pima County Recorder.

17.5 Severability. If any provision of the Agreement is declared void or unenforceable, the parties agree promptly to meet to attempt to reach an agreement on a substitute provision. If the parties fail to reach a decision, such provision shall be severed from the Agreement, which shall otherwise remain in full force and effect, provided such severance does not vitiate the overall intent of the parties in entering into this Agreement.

17.6 Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior written and oral matters related to this Agreement. This

provision applies only to this Agreement; additional and separate zoning stipulations and agreements with the County may apply to the Property, and this provision has no effect on them.

17.7 Governing Law. The laws of the State of Arizona shall govern the interpretation and enforcement of this Agreement. The parties agree that, notwithstanding A.R.S. § 12-408, venue for any action commenced in connection with this Agreement shall be proper only in a court of competent jurisdiction located in Pima County, Arizona, and the parties hereby waive any right to object to such venue.

17.8 Recording of Agreement and Subsequent Amendment; Cancellation. This Agreement, and any amendment or cancellation of it shall be recorded in the official records of the Pima County Recorder no later than ten (10) days after the County, Donahue Schriber, and Wal-Mart (or, in the case of an amendment or cancellation, any other necessary party) execute such agreement, amendment, or cancellation, as required by A.R.S. § 11-1101(E).

17.9 Attorneys Fees and Costs. If any party brings a legal action either because of a default under this Agreement or to enforce a provision of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees and court costs.

17.10 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement, and, subject to the provisions of Article 10 (Assignability), no person or entity not a party hereto shall have any right or cause of action hereunder.

17.11 Force Majeure. The time for performance by any party to this Agreement of any term, provision or covenant of this Agreement shall be deemed extended by time lost due to delays resulting from acts of God, strikes, terrorism, unavailability of building materials, civil riots, floods, material or labor restrictions by governmental authority, enforcement of governmental regulations or requirements that were not in effect on the Effective Date, unreasonable delay by governmental authorities of applicable approvals, and any other cause not within the control of a respective party, as the case may be.

1-10-10 10:10 AM

17.12 No Agency Created. Nothing contained in this Agreement shall create any partnership, joint venture, or agency relationship between the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple copies, each of which shall be deemed to be an original, as of the date and year first written above.

PIMA COUNTY, ARIZONA

By: [Signature]
Chairman of the Board of Supervisors

NOV 14 2006

ATTEST

By: [Signature]
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

By: [Signature] 11-2-06
Deputy Pima County Attorney

WAL-MART STORES, INC.,
a Delaware corporation

By: [Signature]
Name: Daniel Mallory
Its: Regional Vice President

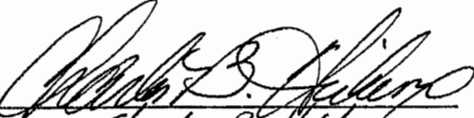
By: _____
Name: _____
Its: _____

Approved as to legal terms only
by [Signature]
WAL-MART LEGAL DEPT.
Date: 10/30/06

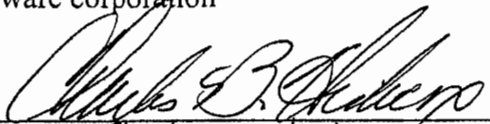
400000 01/11/06

DONAHUE SCHRIBER REALTY GROUP,
L.P. a Delaware limited partnership

By: Donahue Schriber Realty Group, Inc.,
a Maryland corporation,
as General Partner

By: 
Name: Charles B. Frick
Its: as Vice President Development

DONAHUE SCHRIBER ASSET
MANAGEMENT CORPORATION,
a Delaware corporation

By: 
Name: Charles B. Frick
Its: as Vice President Development

4-2011-01-01-01-01-01

EXHIBIT "A"
PROPERTY DESCRIPTION

SJV & ASSOCIATES, LLC

530 South Main Avenue, Suite A • Tucson, Arizona 85701
(520) 882-9392 • Fax (520) 882-5506

surveyors
engineers
planners

October 5, 2006
SJV #SEA9318-10

LEGAL DESCRIPTION

A PORTION OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 14 SOUTH, RANGE 12 EAST, GILA AND SALT RIVER BASE AND MERIDIAN, PIMA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

BEGINNING AT A ½" REBAR TAGGED LS 35545 AT SOUTHEAST CORNER OF SHADOW MOUNTAIN RANCH, LOTS 1-115, A SUBDIVISION RECORDED IN THE OFFICE OF THE PIMA COUNTY RECORDER IN BOOK 59 OF MAPS AND PLATS AT PAGE 2:

THENCE N 00°10'32" E (MEASURED), N 00°10'35" E (RECORD), ALONG THE EAST LINE OF SAID SHADOW MOUNTAIN RANCH, A DISTANCE OF 1089.97 FT. (MEASURED), 1090.00 FT. (RECORD), TO A ½" REBAR TAGGED LS 35545;

THENCE N 36°00'14" E (MEASURED), N 36°00'28" E (RECORD), ALONG SAID EAST LINE, A DISTANCE OF 130.90 FT. (MEASURED), 130.91 FT. (RECORD), TO A ½" REBAR TAGGED LS 35545 ON THE WESTERLY RIGHT OF WAY LINE OF KINNEY ROAD AS DESCRIBED IN DOCKET 8554 AT PAGE 725:

THENCE S 53°59'37" E, ALONG SAID WESTERLY LINE, A DISTANCE OF 1066.01 FT. TO A ½" REBAR TAGGED LS 35545 AT THE POINT OF CURVE;

THENCE ALONG THE ARC OF A 497.96 FT. RADIUS CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 36°03'20" (MEASURED), 36°03'29" (RECORD), AN ARC DISTANCE OF 313.36 FT. (MEASURED), 313.38 FT. (RECORD), A CHORD BEARING OF S 35°57'59" E (MEASURED) AND A CHORD DISTANCE OF 308.22 FT (MEASURED) TO A ½" REBAR TAGGED LS 35545 AT THE POINT OF TANGENT;

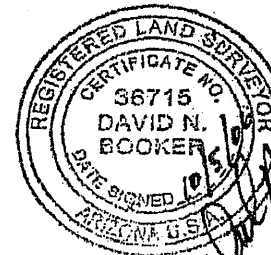
THENCE S 17°56'28" E, A DISTANCE OF 318.09 FT. TO A ½" REBAR TAGGED LS 35545 ON THE NORTH RIGHT OF WAY LINE OF ARIZONA STATE HIGHWAY 86 (AJO ROAD), SAID POINT BEING DISTANT N 72°03'23" E, 468.39 FT. FROM AN ARIZONA DEPARTMENT OF TRANSPORTATION BRASS DISK IN CONCRETE MARKED HIGHWAY STATION 1105 + 00;

THENCE S 72°03'23" W, ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 1757.27 FT. TO A ½" REBAR TAGGED LS 13178 ON THE WEST LINE OF SAID SOUTHWEST QUARTER;

THENCE N 17°56'37" W, A DISTANCE OF 360.12 FT. TO A ½" REBAR TAGGED LS 13178 ON THE SOUTH LINE OF SAID SHADOW MOUNTAIN RANCH;

THENCE N 72°03'31" E (MEASURED), N 72°03'32" E (RECORD), ALONG SAID SOUTH LINE A DISTANCE OF 589.79 FT. TO THE TO THE POINT OF BEGINNING.

CONTAINING 31.34 ACRES, MORE OR LESS.



WILLIAM S. VAHL - Registered Professional Engineer
Registered Land Surveyor

WILLIAM E. JOHNSON - Registered Land Surveyor
DAVID N. BOOKER - Registered Land Surveyor

HANDING OVER

10/05/06 04:14pm P. 009

5209825506

SJV ASSOC

LINE	BEARING	DISTANCE
L1	N 00°10'32" E	1089.97'
L2	N 36°00'14" E	130.90'
L3	S 53°59'37" E	1066.01'
L4	S 17°56'28" E	318.09'
L5	S 72°03'23" W	1757.27'
L6	N 17°56'37" W	360.12'
L7	N 72°03'31" E	589.79'

C1
 $\Delta=36^{\circ}03'20''$
 $R=497.96'$
 $L=313.36'$
 $CLEN=308.22'$
 $BRG=S\ 35^{\circ}57'59''\ E$

NOTE: ALL BEARINGS AND DISTANCES SHOWN HEREON ARE MEASURED.

W. 1/4 COR.
 SEC. 36.
 SHERIDAN AVE.

SE. COR. M.&P. 59/2

1,364,962 SQ. FT.
 31.34 ACRES

AJO WAY

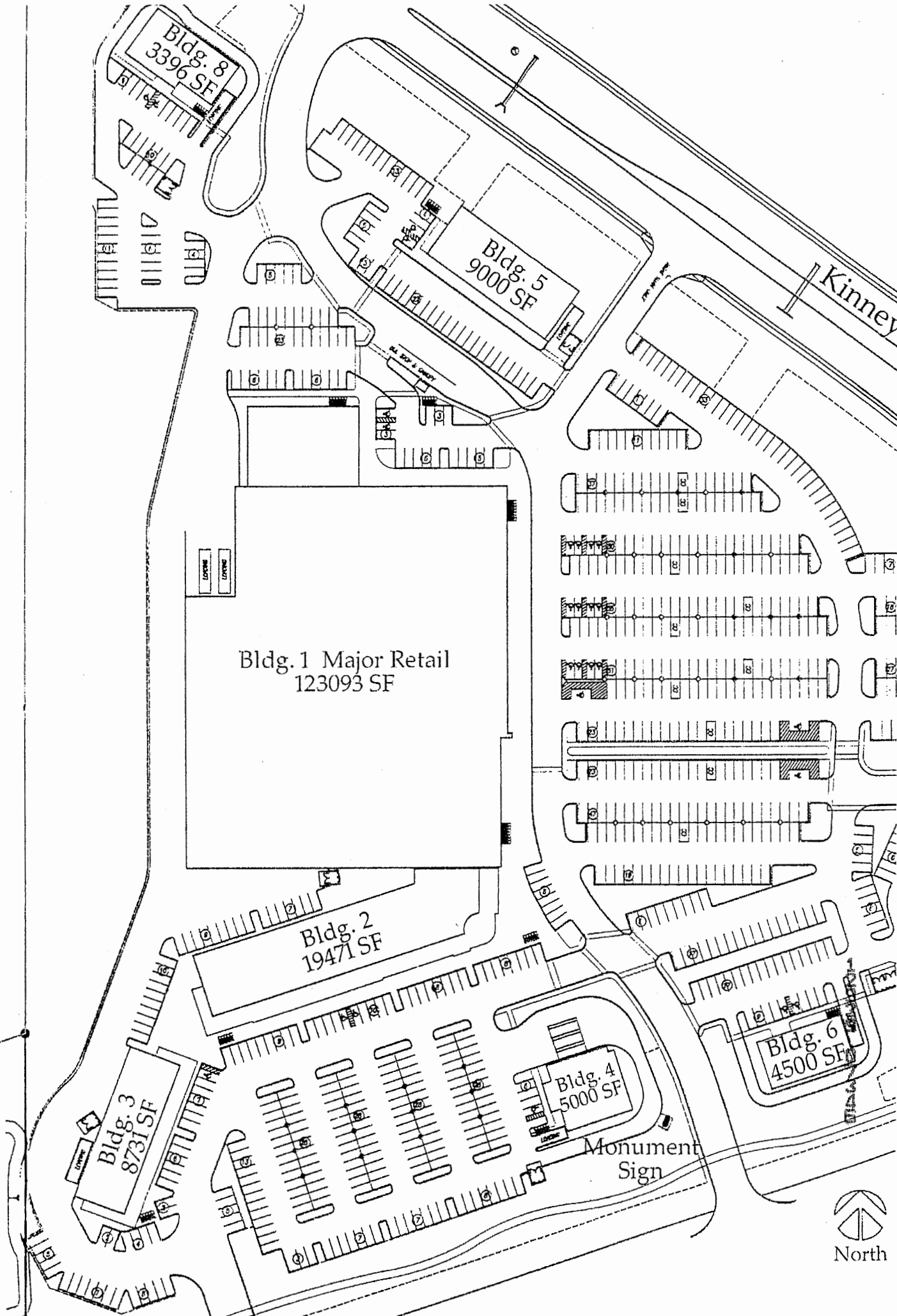
KINNEY RD.

PREPARED BY:
 SJV & ASSOCIATES
 530 S. MAIN AVE., SUITE A
 TUCSON, AZ 85701
 (520) 882-9392
 FAX (520) 882-5506



"EXHIBIT
 SJV #SEA9318-1
 10/05/2006

EXHIBIT "B"
CONCEPTUAL SITE PLAN FOR CENTER AND THE STORE



Bldg. 8
3396 SF

Bldg. 5
9000 SF

Bldg. 1 Major Retail
123093 SF

Bldg. 2
19471 SF

Bldg. 3
8731 SF

Bldg. 4
5000 SF

Bldg. 6
4500 SF

Kinney

Monument
Sign

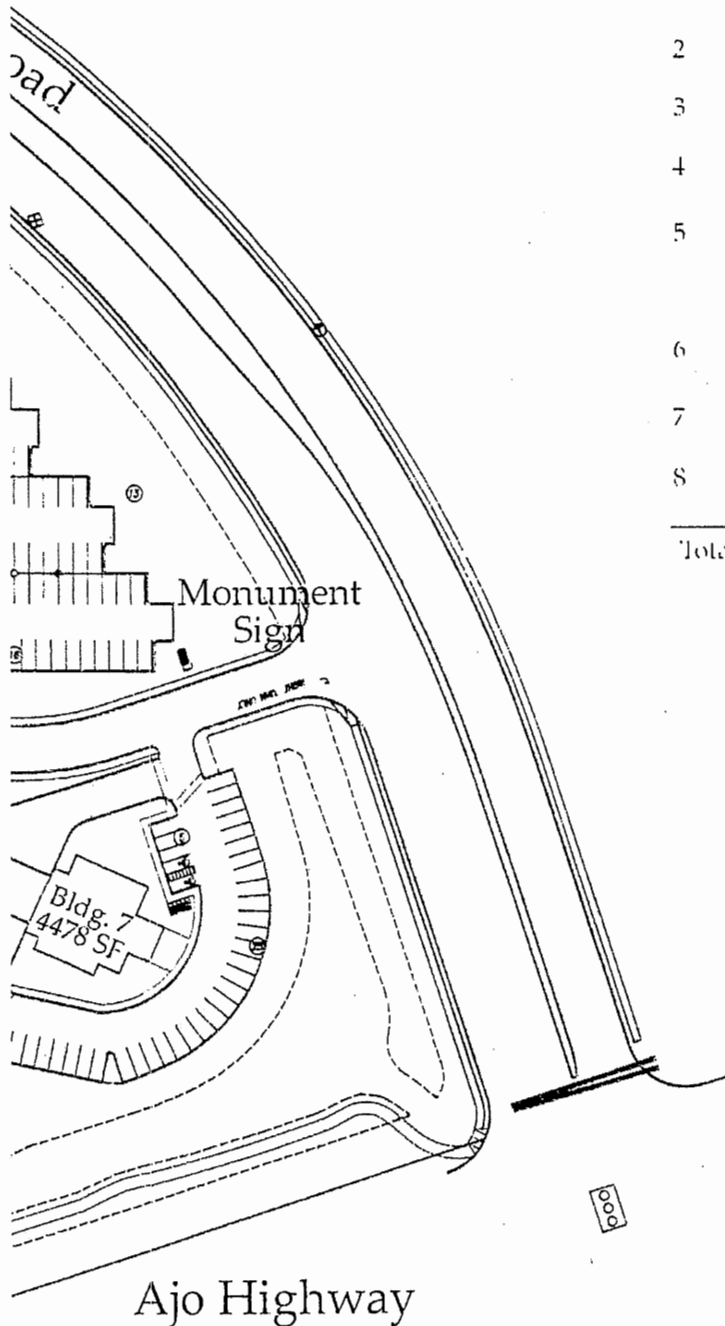


North

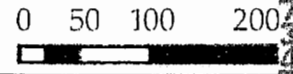
Mountain Vista Shopping Center Tucson Arizona

Data

No.	Building	SF	Parking Calculations	Parking Req'd
1	Retail Pad (Walmart)	123093	1 / 200 SF	615 Spaces
1	Garden Center (Walmart)	8884	1 / 2 @ 220 Employees 1 / 1000 SF 1 / 2 @ 18 Employees	110 Spaces 9 Spaces 9 Spaces
2	Office/Retail Pad	19471	1 / 200 SF 1 / 2 @ 40 Employees	97 Spaces 20 Spaces
3	Office/Retail Pad	8731	1 / 200 SF 1 / 2 @ 20 Employees	44 Spaces 10 Spaces
4	Bank	5000	3 / Teller Window @ 7 1 / 2 @ 14 Employees	21 Spaces 7 Spaces
5	Sit Down Restaurant	9000	1 / Table @ 44 Tables 1 / 2 Bar or Eating Stools @ 11 1 / 2 @ 24 Employees	44 Spaces 6 Spaces 12 Spaces
6	Fast Food Restaurant	4500	1 / 2 @ 23 Employees 4 / Window or Aisle @ 6	12 Spaces 24 Spaces
7	Bank	4478	3 / Teller Window @ 7 1 / 2 @ 14 Employees	21 Spaces 7 Spaces
8	Fast Food Restaurant	5396	1 / 2 @ 23 Employees 4 / Window or Aisle @ 6	12 Spaces 24 Spaces
Totals		188553		1104 Spaces
		17% Reduction		188 Spaces
			Total Req'd Parking	916 Spaces
			Total Provided Parking	927 Spaces
			Surplus Parking	11 Spaces



Site Plan



ARCHITECTS INC AIA

SEAVER FRANKS
ARCHITECTS INC AIA

2552 N. Alvernon Way / Tucson, AZ 85712 / 520 795-4000

EXHIBIT "C"
SALES TAX EXEMPTIONS

EXHIBIT "C"

SALES TAX EXEMPTIONS

For purposes of Article 4 of this Agreement, "retail sales" do not include the gross proceeds from sales or gross income derived from certain excluded or exempt business transactions described in A.R.S. § 42-5061, or as those provisions may hereafter be amended. For the convenience of the parties, A.R.S. § 42-5061 is reproduced verbatim below:

42-5061. Retail classification; definitions

A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:

1. Professional or personal service occupations or businesses which involve sales or transfers of tangible personal property only as inconsequential elements.
2. Services rendered in addition to selling tangible personal property at retail.
3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.
4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.
5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.
6. Business activity which is properly included in any other business classification which is taxable under article 1 of this chapter.
7. The sale of stocks and bonds.
8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.
9. Prosthetic appliances as defined in section 23-501 prescribed or recommended by a health professional licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
10. Insulin, insulin syringes and glucose test strips.
11. Prescription eyeglasses or contact lenses.
12. Hearing aids as defined in section 36-1901.
13. Durable medical equipment which has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

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14. Sales to nonresidents of this state for use outside this state if the vendor ships or delivers the tangible personal property out of this state.

15. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

16. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

17. Textbooks by any bookstore that are required by any state university or community college.

18. Food and drink to a person who is engaged in business which is classified under the restaurant classification and which provides such food and drink without monetary charge to its employees for their own consumption on the premises during the employees' hours of employment.

19. Articles of food, drink or condiment and accessory tangible personal property to a school district if such articles and accessory tangible personal property are to be prepared and served to persons for consumption on the premises of a public school within the district during school hours.

20. Lottery tickets or shares pursuant to title 5, chapter 5, article 1.

21. The sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of coins or other forms of money for manufacture into jewelry or works of art is subject to the tax. For the purposes of this paragraph:

(a) "Monetized bullion" means coins and other forms of money which are manufactured from gold, silver or other metals and which have been or are used as a medium of exchange in this or another state, the United States or a foreign nation.

(b) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, which has been smelted or refined so that its value depends on its contents and not on its form.

22. Motor vehicle fuel and use fuel which are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739, sales of aviation fuel which are subject to the tax imposed under section 28-8344 and sales of jet fuel which are subject to the tax imposed under article 8 of this chapter.

23. Tangible personal property sold to a person engaged in the business of leasing or renting such property under the personal property rental classification if such property is to be leased or rented by such person.

24. Tangible personal property sold in interstate or foreign commerce if prohibited from being so taxed by the Constitution of the United States or the constitution of this state.

25. Tangible personal property sold to:

(a) A qualifying hospital as defined in section 42-5001.

(b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(c) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind, visually impaired and multihandicapped children from the time of birth to age twenty-one.

(d) A qualifying community health center as defined in section 42-5001.

(e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(f) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

26. Magazines or other periodicals or other publications by this state to encourage tourist travel.

27. Tangible personal property sold to a person that is subject to tax under this article by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or to a subcontractor working under the control of a prime contractor that is subject to tax under article 1 of this chapter, if the property so sold is any of the following:

(a) Incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business.

(b) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(c) Incorporated or fabricated by the person into any lake facility development in a commercial enhancement reuse district under conditions prescribed for the deduction allowed by section 42-5075, subsection B, paragraph 8.

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

29. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for mentally or physically handicapped persons if the programs are exclusively for training, job placement, rehabilitation or testing.

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal

revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Sales of seeds, seedlings, roots, bulbs, cuttings and other propagative material to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person who is physically disabled as defined in section 46-191, has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Sales of tangible personal property that is shipped or delivered directly to a destination outside the United States for use in that foreign country.

36. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

37. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for fifteen full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

39. Sales of liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

40. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. For the purposes of this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or upon the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

(b) "Personal property liquidator" means a person who is retained to conduct a sale in a personal property liquidation transaction.

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41. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

42. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

43. Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

44. Sales of implants used as growth promotants and injectable medicines, not already exempt under paragraph 8 of this subsection, for livestock or poultry owned by or in possession of persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

45. Sales of motor vehicles at auction to nonresidents of this state for use outside this state if the vehicles are shipped or delivered out of this state, regardless of where title to the motor vehicles passes or its free on board point.

46. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

47. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

48. Sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

49. Tangible personal property sold to a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

50. Sales of alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

51. Sales of any spirituous, vinous or malt liquor by a person that is licensed in this state as a wholesaler by the department of liquor licenses and control pursuant to title 4, chapter 2, article 1.

52. Sales of tangible personal property to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

53. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

B. In addition to the deductions from the tax base prescribed by subsection A of this section, the gross proceeds of sales or gross income derived from sales of the following categories of tangible personal property shall be deducted from the tax base:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media which are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, raites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government for use by such government outside of this state.

(c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of

business in this state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles which are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and which are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery and equipment which have never been sold at retail except pursuant to leases or rentals which do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins after June 30, 1996 and before January 1, 2002 and the machinery and equipment are purchased before the expiration of five years after the start of initial construction. For the purposes of this paragraph:

(a) "Motion picture, multimedia or interactive video production" includes products for theatrical and television release, educational presentations, electronic retailing, documentaries, music videos, industrial films, CD-ROM, video game production, commercial advertising and

television episode production and other genres that are introduced through developing technology.

(b) "Soundstage complex" means a facility of multiple stages including production offices, construction shops and related areas, prop and costume shops, storage areas, parking for production vehicles and areas that are leased to businesses that complement the production needs and orientation of the overall facility.

16. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations parts 25 and 100.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations parts 25 and 100.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

17. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

18. Machinery and equipment used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

19. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States

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environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

20. Machinery and equipment that are sold to a person engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

21. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

22. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2014 by a qualified business under section 41-1516 for harvesting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.

23. Machinery, equipment and other tangible personal property used directly in motion picture production by a motion picture production company. To qualify for this deduction, at the time of purchase, the motion picture production company must present to the retailer its certificate that is issued pursuant to section 42-5009, subsection H and that establishes its qualification for the deduction.

C. The deductions provided by subsection B of this section do not include sales of:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 16 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology.

manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

E. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.

F. In computing the tax base, gross proceeds of sales or gross income from the sale of use fuel, as defined in section 28-5601, does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4091.

G. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

H. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately the gross proceeds of sales of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

I. A person who engages in manufacturing, baling, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to businesses classified under the:

1. Transporting classification.
2. Utilities classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.
7. Job printing classification.
8. Prime contracting classification.
9. Owner builder sales classification.
10. Restaurant classification.

J. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:

1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.

2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.

3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor

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who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.

K. There shall be deducted from the tax base fifty per cent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies, which is not deducted under subsection J of this section.

L. The department shall require every person claiming a deduction provided by subsection J or K of this section to file on forms prescribed by the department at such times as the department directs a sworn statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.

M. In computing the tax base, gross proceeds of sales or gross income does not include:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

N. There shall be deducted from the tax base the amount received from sales of solar energy devices. The retailer shall register with the department as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

O. In computing the tax base in the case of the sale or transfer of wireless telecommunications equipment as an inducement to a customer to enter into or continue a contract for telecommunications services that are taxable under section 42-5064, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

P. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

Q. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

R. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of:

1. Operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

2. Converting natural gas into liquefied natural gas, for the sole purpose of fueling compressor equipment used in the conversion process, is not a sale of gas to the operator of the compressor equipment.

S. If a seller is entitled to a deduction pursuant to subsection B, paragraph 16, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 16, subdivision (b) of this section have been satisfied.

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If the purchaser cannot establish that the requirements of subsection B, paragraph 16, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest which the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 16, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

T. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

1. On the premises of a multipurpose facility that is owned, leased or operated by the tourism and sports authority pursuant to title 5, chapter 8.

2. At professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

U. In computing the tax base for the sale of a motor vehicle to a nonresident of this state, if the purchaser's state of residence allows a corresponding use tax exemption to the tax imposed by article 1 of this chapter and the rate of the tax in the purchaser's state of residence is lower than the rate prescribed in article 1 of this chapter or if the purchaser's state of residence does not impose an excise tax, and the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall be deducted from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

V. For the purposes of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

3. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

W. For the purposes of subsection J of this section:

1. "Assembler" means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts.

2. "Manufacturer" means a person who is principally engaged in the fabrication, production or manufacture of products, wares or articles for use from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

3. "Modifier" means a person who reworks, changes or adds to products, wares or articles of manufacture.

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, and which are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based upon generally accepted accounting principles and consistent with government contract accounting standards.

5. "Repairer" means a person who restores or renews products, wares or articles of manufacture.

6. "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

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EXHIBIT "D"
MAY 2, 2006 REQUIREMENTS OF THE DRC



MEMORANDUM

PUBLIC WORKS - DEVELOPMENT SERVICES Planning Division

DATE: May 2, 2006

TO: Michael Marks, MJM Consulting 

FROM: Sue Morman, Project Planner

RE: Co20-05-25, Mountain Vista Shopping Center
Gateway Overlay Zone Review

SUBJECT: ***DRC Decision Letter***
Public Hearing on April 20, 2006

By a unanimous vote (motion by Hanson, second by Goff), the Design Review Committee including representative, Tom Williams, Homeowners Association Representative **approved** Mountain Vista Shopping Center 6-0 subject to staff's recommended conditions with the following revisions and additions:

1. All development and architectural plans shall require compliance with large-scale retail establishment standards for projects adjacent to residential per General Commercial Standards (18.39.030A,B, &C.) and the Commercial Design Manual.
2. Parking areas shall comply with landscape requirements of one tree for every 4-spaces in single parking rows and one tree for every 8-spaces in double-parking rows. Single parking rows along sidewalks, bufferyards, and other open spaces shall be raised half diamond planters between every four parking spaces.
3. Building, fence, rooftop, and wall design shall be muted, desert earth tone shades that comply with the most restrictive standards relative to scenic route, gateway, and buffer overlay zone ordinances.
4. 40% of all trees shall be 36" box and shall be distributed along the scenic route streetscape for Ajo Way and Kinney Road, project access driveways, internal pedestrian circulation pathways, and within building foreground plantings to buffer the building mass within the gateway overlay zone.
5. The GR-1 natural area shall be labeled and supplemented with native plants as a natural area "enhanced."

Mountain Vista Shopping Center
Co20-05-25
4-20-06 DRC Public Meeting
Decision Letter

6. The project shall provide two special features per the Commercial Design Manual, a "patio seating area" and a "Desert Museum Inspired Plant Walk." The "Desert Museum Inspired Plant Walk" shall be maintained by the owner/property Management Team, with an opportunity for the Arizona Sonora Desert Museum to review and comment on the facility's maintenance on a regular basis.

In addition, the project shall provide an internal bus stop with shade and seating features.

7. A final compliance review and approval is required prior to SDRC's second review and approval of the master development plan for this project. An official compliance approval letter shall be provided within ten working days of the revised plan submittal. After the final compliance review and approval and before the re-submittal of the development plan, the applicant shall submit 3 sets of revised DRC documents to the DRC case planner for review and certification within 5 working days to confirm that the revised preliminary development plan, buffer overlay zone open space plan, preliminary landscape plan, and support exhibits conforms with the DRC action.
8. Any submittal (plans, permits, etc.) not in substantial compliance with approved DRC actions such as site planning, building color, landscaping, freestanding signs, special aesthetic areas, and other design elements shall be subject to further DRC review as determined by the Planning Official.
9. Prior to approval by SDRC of the master development plan and subsequent development plans for other building pads within this shopping center, the applicant shall provide the DRC planner with copies of the complete development plan submittal, including landscape plan, native plant preservation plan, and architectural drawings for review and approval. Architectural plans shall include color elevations, and color palette, materials, and color reflectivity ratings for buildings, walls, and fences to ensure overall design continuity and connectivity within shopping center. Staff shall review all plans for compliance with Co20-05-25 DRC actions and General Commercial Standards and Commercial Design Manual.

DRC Additional Conditions:

10. The building elevation as presented shall be revised to eliminate the element on top of the circular towers to effect a less space ship like appearance and promote a design more indigenous to the area and the community. The architect is encouraged to use rock and rock veneer indigenous to the Tucson Mountain area.
11. The colors selected for the building color and materials, shall meet light reflectivity requirements with encouragement toward darker colors.
12. Regarding signage colors, the Sign Color Palette exhibit shall be revised to strike out MAP Natural White 42-202 and replace with Dunn Edwards, DE 6219 Crystal Haze.
13. This project shall maintain continuous Neighborhood Advisory Committee involvement through the design review and approval phase. If resulting substantial changes are identified by DRC planning staff, then the project shall be resubmitted to the DRC for final review and approval prior to final approval by SDRC.

14. In light of pursuing the use of the Arizona Sonora Desert Museum (ASDM) brand name as an integral amenity element in a commercial development, ASDM shall periodically review and have a say, equal to the property manager, as to the maintenance of the plants associated with that amenity. If the "Desert Museum Inspired Plant Walk" does not meet ASDM maintenance requirements or expectations then they can bring the issue back to the DRC for adjudication under the requirements of this approval.

The DRC reviews and approves a project within a gateway overlay zone for site planning, building color, landscaping, freestanding signs for compliance with the purpose statement and design standards as follows:

18.78.010 Gateway

- Purpose. A. Protect the scenic quality of entry points to metropolitan Tucson and nearby public preserves;**
B. Reduce the visual impact of development on scenic vistas and entry points by providing design guidelines and requiring more intensive restoration of graded areas;
C. Provide an appropriate visual transition between natural preserves and more urbanized areas through the implementation of screening or siting of developmental elements; and
D. Protect and enhance the unique character of Pima County.

18.78.030 Development Standards.

- E. Building and Wall Surfaces. All exposed exterior walls and roofs of buildings, retaining walls, and accessory structures that are visible from a designated gateway overlay zone shall be earth tone in color and shall BLEND in with the natural setting.**

The following comments provide clarification or summarize discussion at the meeting that led to the Design Review Committee's action. Their action included the conditions as recommended in the staff report with the clarification to Condition #1 to revise the General Commercial Standards Section 18.39.030 to 18.39.030A,B, &C. Condition #4 was revised to insert the word 'and' after 36" box. Revisions to Condition #6 and additional Conditions, #10-14 are described as follows.

Condition's 6 & 14: The Commercial Design Manual requires that a project of this size incorporate a minimum of two elements from the following: Patio seating area; Pedestrian plaza with benches; Transportation Center; Window shopping walkway; Outdoor playground area; Kiosk area; Water feature, tower, or.... ; Other. The "Other" category allows the applicant to propose an alternative suggestion but requires DRC approval.

The applicant requested that the DRC consider approval of the following revision to staff's Condition 6. The applicant asked that the water feature be replaced as the required second element to a "Desert Museum Inspired Plant Walk." The applicant provided a hand-out for DRC review and discussed the opportunity of working with Desert Museum staff on incorporating an interpretative "nature walk" into the required landscape bufferyards along Ajo Way and Kinney Road. The Committee was very supportive of the proposed aesthetic element and Mr. Robert Edison, Executive Director of the Arizona Sonora Desert Museum was present to provide input and answer any questions of the Committee.

The Committee was pleased with the Desert Museum's interest and involvement in working with the property owner on this joint effort. Condition 14 was proposed by the Committee to provide the Desert Museum with a sense-of-security that if the "Desert Museum Inspired Plant Walk " is not maintained or representative of their expectations for their continued association with the project, then they may bring their issues and concerns back to the DRC for further review and consideration.

Also Committee discussion included that there should be benches and/or maybe covered structures or pergolas with seating along the Plant Walk. Mr. Colton suggested that the applicant consider a low wall/open fence combination in the bufferyards instead of the continuous, open fence. The integration of a low wall into the "Plant Walk" could serve a variety of purposes. In some areas it could function as a seating wall and in other areas as a design interest element, a buffer to parked cars, or a shield to car headlights.

Condition 10: The Committee did not feel that the spaceship like terminus on the stone-faced towers was appropriate for the gateway entrance into Pima County. The Committee decided that this was not an architectural element that implemented the intent of the Tucson Mountain Gateway. The Committee thought that it did not appropriately reflect the purpose statement in the Gateway Overlay Zone Ordinance. The DRC agreed that the spaceship like terminus on the towers did not protect the scenic quality of the Tucson Mountain vista background but contrasted against the mountains. They determined that it did not reduce the visual impact of the project's main buildings but would be a focal point. The Committee determined that the tall towers with the spaceship like tops did not provide an appropriate visual transition into the Tucson Mountains or protect or enhance the existing character of the area or of greater Pima County.

Condition 11: The Committee noted that even though the colors for the buildings met the gateway overlay zone light reflective value of less than 48% the Committee encouraged the applicant to implement the darker range of desert colors. Because of the large scale of the buildings they felt that the darker colors would blend more readily into the surroundings. They would like to see darker colors than the illustrations portrayed, especially the area above the stone portion of the tower.

Applicant was encouraged to utilize stone/rock from the site area or create a stone veneer that is representative of the Tucson Mountains. It was noted that rhyolite is the rock formation for much of the Tucson Mountains and that it is purplish haze in color. Although, rhyolite may not be strong enough to be a building element, it could be added into the proposed stonework or stonework veneer pattern. It was also suggested that the stonework be emphasized to add more interest and create a pattern that becomes the tower showpiece and attractive focal point of the center. Beautiful stonework would also provide a natural visual transition to the Tucson Mountains, which is the intent of the gateway ordinance.

There was also concern about the color of the roof membrane. Generally the roof membrane is a reflective, light color and Mr. Ford wondered if there was a roof membrane product available in darker tans that could be used for this project. The architect agreed that roof membrane materials were usually light and proposed that in this case they would apply a pigmented, low reflective cover to the roof membrane.

4-20-06 DRC Meeting

The Committee also encouraged the architect to consider changing the metal gray color of the steel supports to dark rust so that they would blend in more easily with the desert vernacular.

Condition #12: Mr. Colton raised some concerns about the stark white background shown on the sign illustrations, particularly the wall signs. Mr. Shallen of Floresco signs advised that the signs, as shown on the illustrations, were intended to show only the general style and location of proposed wall signs. On the illustrations they are white so they would contrast and pop out on the building. As the discussion continued, it was noted that the Sign Color Palette exhibit presented in the DRC packets was not the most current proposal. Mr. Shallen then distributed the current color chip exhibit to the Committee members and on the exhibit it showed the white color to be more of a creamy, white-beige. This revision from white-white to creamy, white-beige was acceptable by the Committee. However, recognizing that color chips can be misleading, the Committee recommended that there would be no white-white backgrounds on the signs.

Condition #13: This condition was implemented as a check and balance system for any unforeseen site plan layout, architectural, or design changes that may occur in the upcoming project review processes. This condition is a security measure that provides the DRC an opportunity to re-review the project for any significant changes as determined by DRC planning staff if there is a question of compliance to DRC action. If the project is returned to the DRC, the Committee can act on whether the project complies with the original DRC conditions, can revise the conditions or add new ones as appropriate. This condition responds to possible changes that may result from issues raised in the County Administrator's (Mr. Huckelberry) letter dated 4-20-06, design changes that may occur in the ongoing neighborhood involvement process, by the development agreement, and unperceived issues that may arise in further Pima County and Arizona Department of Transportation reviews.

Issues that require follow-up:

The following are key issues that may have been discussed at the public meeting and require further consideration by applicant and staff. However, please note that this is not necessarily a complete list of all issues that may need to be addressed.

1. Applicant shall work with staff to provide a complete DRC packet that reflects DRC decision and provides consistent information for all applicable submittal items.
2. Applicant shall review with staff Section 18.07.050, Height Limit Exceptions of the Pima County Zoning Code and clarify how the height of the proposed tower applies to this Exception Standard.
3. Applicant shall provide staff with a lighting plan when available.
4. Applicant shall clarify with Pima County Flood Control staff whether or not the project is in a balanced basin or critical basin. PCFCD believes that the project is in a critical basin; Clint Glass (applicant's hydrologist) noted that it was in a balanced basin.
5. Applicant shall work with Pima County Flood Control District to obtain approval of plantings in the detention basin.
6. Applicant shall work with the Planning Official on an administrative exception to the Commercial Design Manual's requirement for an 8-foot decorative masonry wall. Applicant proposes a 6-foot decorative masonry wall buffering the shopping center from adjacent residential on the west.

Mountain Vista Shopping Center
Co20-05-25
4-20-06 DRC Public Meeting
Decision Letter

7. Applicant shall discuss opportunities with staff to incorporate a combination open fence/low wall in the bufferyards rather than a continuous open fence.
8. Applicant shall provide staff with any color chip and stone veneer revisions based on DRC comments.
9. Applicant shall provide planning staff with revised building elevations showing changes to the towers.
10. Applicant shall provide planning staff with illustrations of revised signs without stark white background.
11. Applicant shall address how internal pedestrian walkways will be distinguished from paved driving surfaces.

The above motion and conditions are binding on Co20-05-25. For details, refer to the DRC meeting minutes and audiotapes. If clarification is required, please contact me at 740-6800.

cc: Honorable Sharon Bronson, BOS; Chuck Huckelberry, County Administrator; Arlan Colton, Planning Official; Ben Goff, Assistant Director DOT; Keith Hollinger, Executive Secretary DRC; Bob Edison, Desert Musuem; Buell Januzzi, Kitt Peak; Dan Williams, ADOT; Pete Mangelsdorf, Old Tucson; Sarah Craighead, Saguaro National Park; Debbey Marchbanks, PC Subdivision Coordination; Greg Saxe, PCFCD; Maggie Shaw, PC Development Review; Tina Whittemore, PC Zoning; Robert Young, PC Development Review and Tom Williams, HOA Representative.

4-20-06 2:14:00 PM

EXHIBIT "E"
ESTIMATED COSTS OF THE
ROADWAY IMPROVEMENT

Exhibit E
 Estimated Costs of the Roadway Improvements and Funding Sources

	Basic Costs	Expanded Costs*	
Kinney Road	Pima County	DS/Wal-Mart	
PLN/DES (15% CON)	\$ 1,575,000.00		
CON	\$ 10,500,000.00		
ROW	\$ 2,100,000.00		
CON ADMIN	\$ 1,300,000.00		
UTIL	\$ 250,000.00		
ART	\$ 150,000.00		
CONT. (10%)	\$ 1,050,000.00		
Total - Kinney Road			
Basic Improvements	\$ 16,925,000.00		
 Drainage**	 \$ 500,000.00		
 South of Ajo	 \$ 500,000.00		
 Total - Kinney Road Costs	 \$ 17,925,000.00		
 Ajo Way ***	 \$ 1,400,000.00		
Ajo Way ****		\$ 500,000.00	
 Total Costs	 \$ 19,325,000.00	 \$	 500,000.00
 Front-end Costs		 \$	 2,000,000.00
50/50 > \$12M		\$	3,662,500.00
Contribution to Kinney		\$	5,662,500.00

DS/Wal-Mart Construction Costs \$ 6,162,500.00

center is developed and are necessary for the safe operations in and out of the

** ADOT Drainage Improvements.

*** ADOT Basic Improvements

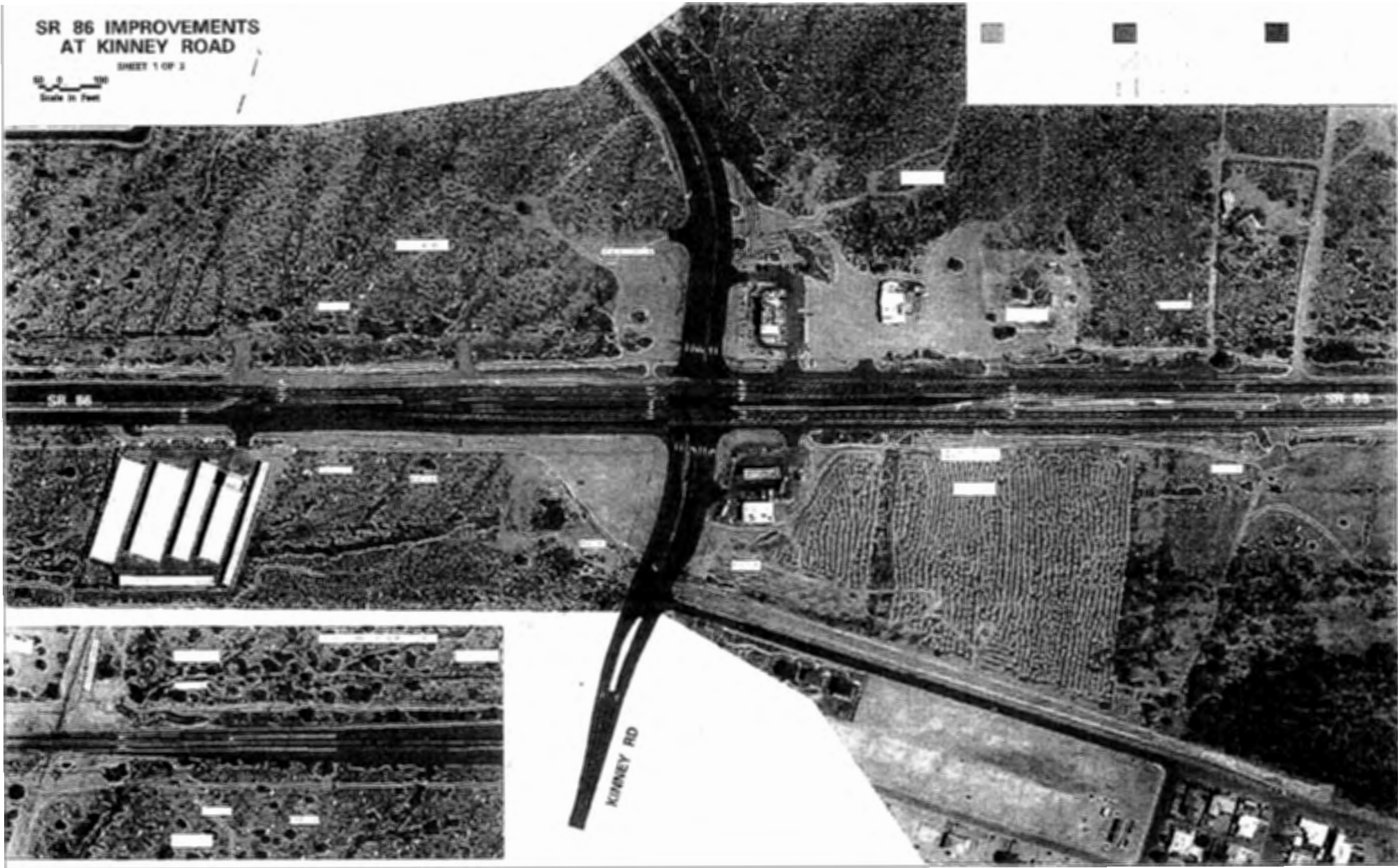
**** ADOT Expanded Improvements

MAPS

SR 86 IMPROVEMENTS
AT KINNEY ROAD

SHEET 1 OF 2

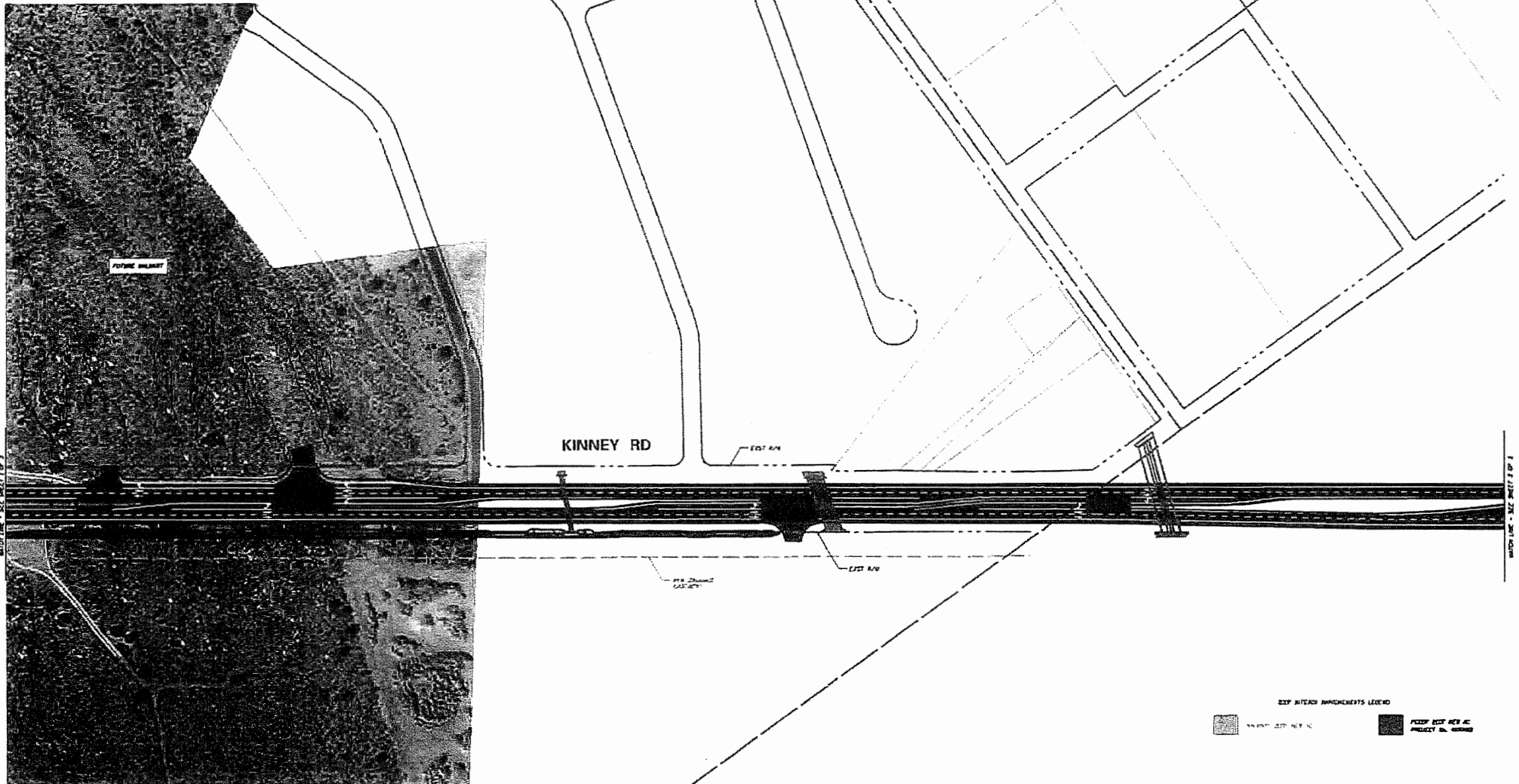
Scale in Feet



SR 86 IMPROVEMENTS AT KINNEY ROAD

SHEET 2 OF 3

50 0 100
Scale In Feet



KINNEY RD

EST. 8/10

EST. 8/10

EST. 8/10

SEE ATTACHED IMPROVEMENTS LEADER



EXISTING UTILITIES



PROPOSED IMPROVEMENTS

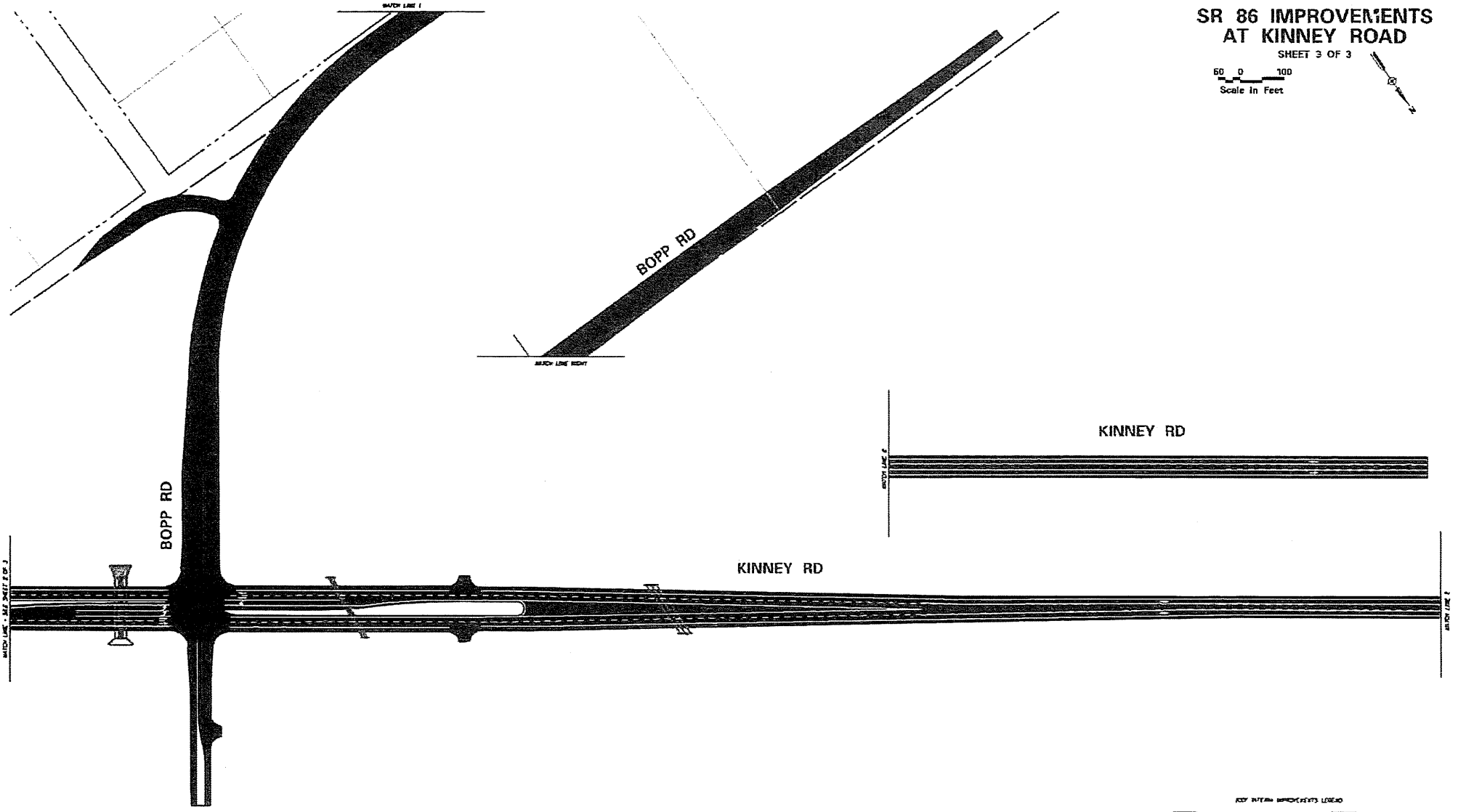
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W-10000 - SEE SHEET 1 OF 3

SR 86 IMPROVEMENTS AT KINNEY ROAD

SHEET 3 OF 3

60 0 100
Scale In Feet



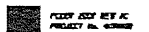
MINI LINE 1 SEE SHEET 2 OF 3

MINI LINE 2

FOR INITIAL IMPROVEMENTS LEGEND



EXISTING ROADWAY



PROPOSED IMPROVEMENTS

PLANNING DIVISION

RESOLUTION NO. 2006 - 305

RESOLUTION OF THE PIMA COUNTY BOARD OF SUPERVISORS APPROVING AND AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN PIMA COUNTY, WAL-MART STORES, INC., AND DONAHUE SCHRIBER REALTY GROUP, L.P.

WHEREAS, Pima County may, pursuant to A.R.S. § 11-1101, enter into development agreements relating to property located in unincorporated Pima County; and

WHEREAS, Wal-Mart Stores, Inc., a Delaware corporation (“Wal-Mart”); and DONAHUE SCHRIBER REALTY GROUP, L.P, a Delaware limited partnership (“Donahue Schriber”) are planning a commercial development on property within unincorporated Pima County and wish to enter into an agreement with the County to deal with matters such as development standards and the funding and construction of various infrastructure improvements; and

WHEREAS, the Board of Supervisors has concluded that the development of the subject property, under the terms set forth in the proposed Development Agreement, will be an economic benefit for the residents of Pima County;

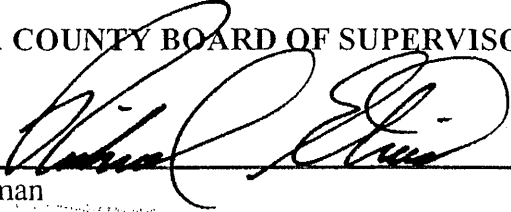
NOW, THEREFORE, UPON MOTION DULY MADE, SECONDED AND CARRIED, BE IT RESOLVED THAT:

1. The Development Agreement between Pima County, Wal-Mart, and Donahue Schriber is hereby approved.
2. The Chairman of the Board is hereby authorized and directed to sign the Development Agreement for the Pima County Board of Supervisors.
3. The various officers and employees of Pima County are hereby authorized and directed to perform all acts necessary and desirable to give effect to this Resolution and the development agreement.

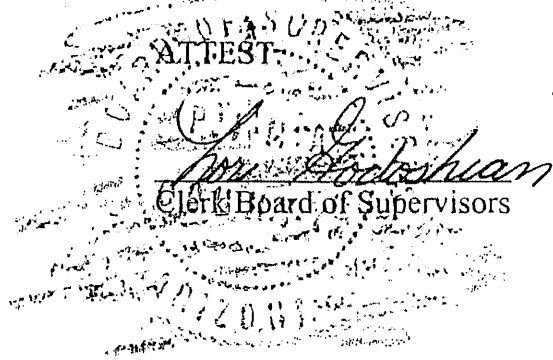
4-11-2006 10:11:11 AM

PASSED, ADOPTED AND APPROVED this 14th day of November 2006.

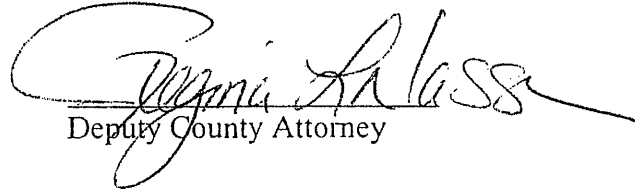
PIMA COUNTY BOARD OF SUPERVISORS:



Chairman

ATTEST

Ann Lockshun
Clerk Board of Supervisors

APPROVED AS TO FORM:



Deputy County Attorney

11-14-06 10:11 AM