



Board of Supervisors Memorandum

August 2, 2016

Star Valley Settlement Agreement and Development Agreement

Background

On May 17, 2016, the Board of Supervisors voted to proceed with settlement of a lawsuit styled *Stewart Title & Trust of Tucson et al. v. Pima County Board of Supervisors et al.*, Case Number C20144304, in Pima County Superior Court, filed on August 8, 2014. Pima County filed counterclaims in this case. This agreement will settle this case and also resolves a lawsuit styled *Joseph Cesare et al. v. Pima County et al.*, Case Number 4:14-cv-02514-CKJ(EJM), in Federal District Court for the District of Arizona.

Settlement Agreement and Development Agreement

This agreement will resolve all pending claims and disputes among the parties and adopt provisions governing future development of the Star Valley Specific Plan Area. In essence, the agreement contains the following conditions and terms:

1. A Transportation Reimbursement Plan to repay Pima County \$87,760.74 for funds expended to install the traffic signal at Wade and Valencia Roads and \$1,337,942.41 for funds expended to construct Camino Verde from the property boundary north to Valencia Road. The amounts total \$1,425,703.15. Payments of \$1,500 will be made with each building permit issued, and interest will accrue at a rate of 3.5 percent.
2. A phased plan for curb and sidewalk improvements by block groups.
3. Future offsite and onsite roadway construction timing and financing provisions.
4. Terms, including new assurance agreements, plan resubmittals and updated Transportation Impact Studies.
5. Certain assurances from Pima County that the Star Valley Specific Plan area will only be subject to annual adjustments to the impact fee based on the Construction Cost Index until fully reimbursed.
6. Dismissal of Federal Court Action with each side to bear its own costs and fees.
7. Dismissal of State Court Action by both parties with each side to bear its own costs and fees.
8. The Honorable Jeffrey Bergin, the Settlement Conference Judge, will retain jurisdiction to resolve any future dispute arising from this agreement.

The Honorable Chair and Members, Pima County Board of Supervisors
Re: **Star Valley Settlement Agreement and Development Agreement**
August 2, 2016
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Recommendation

I recommend the Board of Supervisors approve and enter into this Settlement Agreement and Development Agreement governing the Star Valley Specific Plan area.

Respectfully submitted,



C.H. Huckelberry
County Administrator

CHH/mjk – July 18, 2016

Attachment

c: Thomas Weaver, Chief Civil Deputy County Attorney
Michael LeBlanc, Deputy County Attorney
John Bernal, Deputy County Administrator for Public Works
Nanette Slusser, Assistant County Administrator for Public Works
Priscilla Cornelio, Transportation Director
Carmine DeBonis, Jr., Director, Development Services
Carla Blackwell, Deputy Director, Development Services

STAR VALLEY SETTLEMENT AGREEMENT AND DEVELOPMENT AGREEMENT

This Settlement Agreement and Development Agreement (“Agreement”) is entered into between Stewart Title & Trust of Tucson, an Arizona corporation, as Trustee under Trust No. 3701 (“Trust No. 3701”), Stewart Title & Trust of Tucson, an Arizona corporation, as Trustee under Trust No. 3697 (“Trust No. 3697”), USH/SVA Star Valley, L.L.C., an Arizona limited liability company (“Developer”), and Pima County, a political subdivision of the State of Arizona (“County”). Trust 3701 and Trust 3697 are collectively referred to in this Agreement as “Owner.”

Recitals

- A. The County adopted the Star Valley Specific Plan in 1987 and amended it in 1992 and 1998 (the Star Valley Specific Plan, including its amendments, is referred to in this Agreement as the “Specific Plan”). The Specific Plan is a “specific zoning plan” and constitutes the County zoning for the approximately 1,436 acres of real property generally depicted in attached **Exhibit A**.
- B. Owner is the owner of the real property within the Specific Plan that is legally described as Star Valley Blocks 1, 3, 4, 7, 8, 9, 11, 12, 14, 16, 17, 19, 21, and 25 the Office of the Pima County Recorder Book 56 of Maps and Plats Page 55.
- C. Developer is the primary developer of the Specific Plan.
- D. The Specific Plan acknowledged that the Specific Plan Area lacked access to the public-road system, and would require both external and internal transportation and other infrastructure to allow development to occur successfully. Condition 11(D) of the Specific Plan required a “transportation improvement financing plan and transportation system implementation plan” before any subdivision plat was approved. That plan was required to, among other things, address the extent of Developer’s and County’s responsibilities to construct necessary infrastructure to serve the Star Valley development.
- E. In 2002, when Developer sought approval of the Star Valley Master Block Plat, it submitted a Traffic Impact Analysis to the County’s Department of Transportation, demonstrating projected needs for future road improvements outside the Specific Plan Area (“Off-Site Improvements”) as a result of the impact of the future Star Valley Development. The Off-Site Improvements included the construction of an extension of Camino Verde Road from the boundary of the Specific Plan Area to Valencia Road (“Camino Verde Extension”), and the installation of a traffic signal at the intersection of Wade Road and Valencia Road (“Wade Signal”). A dispute arose, however, as to the extent of Developer’s responsibility to construct, or contribute to the cost of constructing, the Off-Site Improvements.
- F. In 2002, the County approved the Star Valley Master Block Plat, which is recorded in Book 56, Page 55, Maps and Plats, in the Office of the Pima County Recorder. Plats for Blocks 4, 7, and 8 of the Specific Plan Area were later approved and are recorded at Book 62, Page 5, Book 62, page 47, and Book 62, Page 46 respectively.

- G. Developer and County have continued to dispute the extent of Developer's responsibility to construct, or contribute to the cost of constructing, Off-Site Improvements. In 2012, however County installed a temporary Wade Signal, and later designed and constructed the Camino Verde Extension. County also later installed the permanent Wade Signal as part of a County road project on Valencia Road.
- H. County sought reimbursement from Developer for a portion of the cost of both the temporary and permanent Wade Signals, and for the entirety of the cost of designing and constructing the Camino Verde Extension. Developer has refused to pay those costs.
- I. In 2014, under a newly adopted policy governing re-platting of noncompliant subdivisions, County initiated a process to re-plat Blocks 4, 7, and 8 of Star Valley, based primarily on the lack of required assurance agreements, County's position that Developer had failed to comply with the transportation-financing component of the Specific Plan, and changed circumstances.
- J. On August 18, 2014, County's Board of Supervisors adopted Resolution 2014-82, authorizing the re-platting of Star Valley Blocks 4, 7, and 8. Those blocks, however, have not been re-platted.
- K. Owner and Developer filed a lawsuit styled *Stewart Title & Trust of Tucson et al. v. Pima County Board of Supervisors et al.*, case number C20144304, in Pima County Superior Court, on August 8, 2014. That case remains pending.
- L. Joseph Cesare and S.V.A. Corporation, an Arizona corporation, filed a lawsuit styled *Joseph Cesare et al. v. Pima County et al.*, case number 4:14-cv-02514-CKJ(EJM), in Federal District Court for the District of Arizona, on December 3, 2014. That case remains pending.
- M. County, Owner, Developer, Cesare, and S.V.A., all represented by counsel, participated in a settlement conference before the Honorable Jeffrey Bergin, Judge of the Pima County Superior Court, in 2016. As a result of a compromise reached at that settlement conference, the Parties desire to enter this Agreement to resolve all pending claims and disputes among the Parties and adopt provisions governing development of the Specific Plan Area.
- N. County has authority under A.R.S. § 11-251(14) to compromise lawsuits, and under A.R.S. § 11-1101 to enter into development agreements.

Agreement

- 1. Recitals and Exhibits Incorporated. The Recitals above, and all Exhibits attached, are incorporated and made part of this Agreement as if set forth fully in the body of this Agreement.
- 2. Definitions. The following definitions apply to both the Recitals and this Agreement:
 - 2.1. "Accrued Interest" means the total simple interest accrued, at an annual rate of 3.5%, on the County's Costs. As of March 31, 2016 the accrued interest was \$43,139.17.

- 2.2. “Block” means a portion of the Specific Plan Area that is identified by a numbered block on the Star Valley Master Block Plat, recorded in Book 56, Page 55, Maps and Plats, in the Office of the Pima County Recorder.
- 2.3. “Block Group” means either Block Group 1, Block Group 2, or Block Group 3.
- 2.4. “Block Group 1” means Star Valley Blocks 19, 21, and 25.
- 2.5. “Block Group 2” means Star Valley Blocks 11, 12, 16, and 17.
- 2.6. “Block Group 3” means Star Valley Blocks 1, 3, and 9.
- 2.7. “Camino Verde Extension” means the extension of Camino Verde Road from the northern boundary of the Specific Plan Area to Valencia Road, constructed by County in 2015.
- 2.8. “County’s Costs” means \$1,425,703.15, which represents the total principal sum of the costs incurred by County to design and construct improvements outside the Specific Plan Area and subject to reimbursement under Section 6 of this Agreement.
- 2.9. “Federal Court Action” means the civil lawsuit filed in Federal District Court for the District of Arizona, identified by case number 4:14-cv-02514-EJM, and styled *Joseph Cesare et al. v. Pima County et al.*
- 2.10. “Off-Site Improvements” means improvements outside the Specific Plan Area identified in the Specific Plan.
- 2.11. “Permanent Wade Signal” means the permanent traffic signal installed by County at the intersection of Wade Road and Valencia Road by County in 2015.
- 2.12. “Specific Plan” means the Star Valley Specific Plan, adopted by Ordinance 1987-212 and amended by Ordinances 1992-101 and 1998-40.
- 2.13. “Specific Plan Area” means the land area within the boundaries of the Specific Plan.
- 2.14. “State Court Action” means the civil lawsuit filed in Pima County Superior Court, identified by case number C20144304, and styled *Stewart Title & Trust of Tucson et al. v. Pima County Board of Supervisors et al.* The State Court Action includes counterclaims filed by County.
- 2.15. “Temporary Wade Signal” means the temporary traffic signal installed by County at the intersection of Wade Road and Valencia Road.
- 2.16. “Transportation Reimbursement Plan” means the plan detailed in Section 6 of this Agreement.
3. Assurance Agreements. Developer and County will enter into standard assurance agreements for all unreleased blocks within the Specific Plan Area, including blocks 4, 7

and 8, within 30 days of the effective date of this Agreement. Developer acknowledges that County will not issue building permits for any lot in any unreleased block, including blocks 4, 7 and 8, unless Developer and County have entered into a valid assurance agreement for all unreleased blocks within the Specific Plan Area. Improvements required by an assurance agreement entered into under this section must be installed within ten years of the execution of the assurance agreement. The assurance agreements must be in substantially the form attached as **Exhibit B**. Any assurance agreement entered into for any unreleased block within the Specific Plan Area, including any separate assurance agreement authorized under Section 4.3.3 of this Agreement, is subordinate to this Agreement, and, in the event of any conflict between an assurance agreement for any unreleased block in the Specific Plan Area and this Agreement, the terms of this Agreement control.

4. Transportation Improvements.

4.1. Traffic Impact Studies.

- 4.1.1. Comprehensive Traffic Impact Study. Within 90 days of the execution of this Agreement, Developer will submit to County for approval of an updated Comprehensive Traffic Impact Study for all commercial and residential blocks in the Specific Plan Area, excluding Blocks 20, 22, 23, 24, 26, 27, 28, 29, and 30, which were previously conveyed to the Pascua Yaqui Tribe. The Comprehensive Traffic Impact Study must determine all traffic and roadway impacts projected to be caused by the Star Valley development at full project buildout.
- 4.1.2. Block Group Traffic Impact Studies. At the time Developer submits any subdivision plat for approval, or requests approval of any commercial development, for any property within Block Group 1, Block Group 2, or Block Group 3, Developer will submit an updated Block Group Traffic Impact Study for that Block Group. A Block Group Traffic Impact Study must determine the need and timing for roadway widening for all blocks within the Block Group for which it is submitted.
- 4.1.3. Minimum Requirements for all Traffic Impact Studies. The Comprehensive Traffic Impact Study and any Block Group Traffic Impact Study must be prepared by an Arizona registered professional engineer selected by Developer at Developer's sole discretion and must comply with accepted professional engineering standards.

4.2. Reimbursement for County Constructed Off-Site Improvements. Developer will reimburse County for the cost of the following Off-Site Improvements already constructed by County outside the Specific Plan Area under the terms of the Transportation Reimbursement Plan in Section 6 of this Agreement:

- 4.2.1. Camino Verde Extension and Temporary Camino Verde/Valencia Road Intersection Signal. Developer must reimburse to County the principal sum

of \$1,337,942.41, which represents 100% of County's costs for designing and constructing the Camino Verde Extension and the temporary traffic signal at the intersection of Camino Verde Road and Valencia Road. Developer is further obligated to pay interest to County at an annual rate of 3.5% until the principal sum is fully paid.

4.2.2. Wade Road/Valencia Road Intersection Signal. Developer must reimburse to County the principal sum of \$87,760.74, which represents 50% of the County's cost for designing and constructing the Permanent Wade Signal. Developer is further obligated to pay interest to County at the annual rate of 3.5% until the principal sum is fully paid.

4.2.3. Interest. Interest on the County's Costs accrues at the rate of 3.5%. Interest as of March 31, 2016 was \$43,139.17. Simple interest on the County's costs will continue to accrue from April 1, 2016 at the rate of 3.5%.

4.3. Developer's Obligation to Construct New Improvements.

4.3.1. Curbs and Sidewalks. County will not release assurances for more than 50% of the unreleased blocks in any one Block Group until Developer installs curbs and sidewalks adjacent to all released and previously developed blocks in that Block Group (Block Groups are depicted in attached **Exhibit C**). Curb and sidewalk installation along Wade Road and Camino Verde Road shall extend to Valencia Road as part of the Group One improvements.

4.3.2. Access to Block 19. The Parties agree that the proposed extension of Viviana Road north of the Specific Plan Area, originally contemplated by the Specific Plan, is no longer necessary. Instead, Developer, at its option, may design and construct access to Block 19 via any of the following options:

4.3.2.1. Viviana Alignment. Developer may construct and dedicate to County a public road north from Los Reales Road within the Viviana Road alignment serving only Blocks 19 through 21;

4.3.2.2. Block 21. Developer may construct and dedicate to County a public road to Block 19 through Block 21; or

4.3.2.3. State Land. Developer may construct and dedicate to County a public road from Camino Verde Road across Arizona State Land north of Block 18. If there is no other means of public access to Block 19, Developer must construct this access as all-weather access. Developer is solely responsible for securing any right-of-way necessary from the Arizona State Land Department to construct this access.

4.3.3. Los Reales Road Within Specific Plan Area. County will not release any lots within Blocks 19, 21, or 25 until Developer constructs Los Reales Road

as a two-lane, all-weather roadway from Camino Verde Road to either Viviana Road or to the end of the roadway connections on Los Reales Road, whichever is furthest east based on the roadway design chosen under Section 4.3.2 of this Agreement. Owner and Developer may, at their option, enter into separate assurance agreements with the County for Blocks 19, 21, and 25.

- 4.3.4. Camino Verde Road/Los Reales Road Signal. Developer will install a traffic signal or other allowable means of traffic control at the intersection of Camino Verde Road and Los Reales Road at the time that the Comprehensive Traffic Impact Study indicates that the signal or other allowable means of traffic control is warranted. Any signal or traffic control design must meet then-applicable County Subdivision and Development Street Standards and must be designed and constructed to sufficiently control traffic at the time of project buildout, as demonstrated in the Comprehensive Traffic Impact Study.
- 4.3.5. Yedra Road. Developer will design and construct an extension of Yedra Road from the west boundary of the Specific Plan Area to Valhalla Road at the time that the Comprehensive Traffic Impact Study indicates that the extension of Yedra Road is warranted. Developer will construct the extension of Yedra Road as a Type II road, as that term is used in the Specific Plan. County will, at its cost, acquire all necessary right-of-way for the Yedra Road extension and clear any encroachments in advance of construction. The Parties agree that the extension of Yedra Road will be eligible for development impact fee credit in an amount to be agreed upon based on a cost estimate prepared by the developer.

5. Development Impact Fees.

- 5.1. Applicable Residential Development Impact Fees. The Parties agree that, under Pima County Code §§ 19.03.020 and 19.03.030, residential development in the Specific Plan Area is subject to the current residential use fee of \$5,772.00 per unit because the Specific Plan Area is in the Southwest Benefit Area and proposed residential density is less than six units per acre.
- 5.2. Applicable Non-Residential Development Impact Fees. The Parties agree that, under Pima County Code §§ 19.03.020 and 19.03.030, non-residential development in Blocks 11, 12, 16, and 17 is subject to the current non-residential use fee determined by the type of use as set forth in the table in attached **Exhibit D**.
- 5.3. Future Adjustments to Development Impact Fees. Until County has been fully reimbursed under the terms of Section 6 of this Agreement, development in the Specific Plan Area will be subject only to annual adjustments of the residential and non-residential use fees based on the Construction Cost Index, as published by McGraw-Hill Engineering News Record. After County has been fully reimbursed,

development in the Specific Plan Area will be subject to any future adjustments to development impact fees for the Southwest Benefit Area.

- 5.4. Transfer of Development Impact Fee Credits. If County determines that Developer is entitled to any development impact fee credits under Pima County Code § 19.03.040, Developer may transfer the credit to another development in the Southwest Benefit Area owned by Owner, Developer or by any third party Developer determines.
6. Transportation Reimbursement Plan. Developer and County agree to the following terms under which County will be reimbursed the County's Costs:
 - 6.1. Reimbursement and Interest Accrual. The County's Costs will be fully reimbursed, along with simple interest at an annual rate of 3.5%. Interest will continue to accrue until the County's Costs and interest are fully paid. Interest has been accruing and will continue to accrue monthly, and has been calculated and will continue to be calculated using the principal balance of the County's Costs remaining at the end of each month.
 - 6.2. Reimbursement Payments. Developer will make reimbursement payments in installments of \$1,500.00 due with each application for a building permit for an undeveloped lot within the Specific Plan Area, except for lots within Blocks 2, 13, 14, and 18, until County's Costs and interest are paid in full.
 - 6.3. Application of Reimbursement Payments. Reimbursement payments will apply first to the accrued interest on the date of payment. If any reimbursement payment exceeds the accrued interest on the date of payment, the balance will apply to the County's Costs.
 - 6.4. Account Statements. County will provide Developer with an account statement annually, beginning January 1, 2017. The account statement must include the reimbursement payments that were made, and the interest that accrued, during the previous year, as well as the adjustments to, and current balance of, the County's Costs.
 - 6.5. Reimbursement Payments Independent of Other Fees. Reimbursement payments under this Section are independent from, and in addition to, fees that apply to the Star Valley Development, including building permit fees and development impact fees.
 - 6.6. Prepayment. Developer may prepay the County's Cost with accrued interest at any time without prepayment penalty of any kind.
7. Disposition of Litigation.
 - 7.1. Dismissal of Federal Court Action as Condition Precedent. It is a condition precedent to the Parties' obligations under this Agreement that the Federal Court Action be dismissed with prejudice, with each side to bear its own costs and fees. While the Plaintiffs in the Federal Court Action are not parties to this Agreement, the Parties anticipate that the parties to the Federal Court Action will promptly, after execution

of this Agreement, execute and file a stipulation to dismiss the Federal Court Action with prejudice, with each side to bear its own costs and fees. In the event that the Federal Court Action is not dismissed with prejudice, with each side to bear its own costs and fees, this Agreement is void.

- 7.2. Dismissal of State Court Action. The Parties will promptly execute and file a stipulation to dismiss the State Court Action with prejudice, with each side to bear its own costs and fees.
8. County Refund of Permit Fee. County will refund to Developer the sum of \$22,837.00, which represents a permit fee paid by Developer for a public sewer construction permit that has expired. The refund will be in the form of a credit that Developer may, at its option, apply to any other Pima County Regional Wastewater Reclamation Department fee owed by Developer.
9. County's Plan Review for Blocks 4, 7, and 8. County will review and approve or reject any improvement plan submitted or resubmitted by Developer for development within Star Valley Blocks 4, 7, and 8, within five business days of submission. Developer will pay standard fees for submission of these improvement plans.
10. Agreement Supplemental to Other Obligations. Developer acknowledges that this Agreement effectuates only a portion of Developer's obligations toward constructing improvements identified and required by the Specific Plan. This Agreement supplements, and does not replace, the Specific Plan and other legal requirements that apply to the Star Valley Development. County acknowledges that this Agreement with the 2002 Traffic Impact Analysis satisfies Condition 11(D) of the Specific Plan.
11. Dispute Resolution. The Parties agree that the Honorable Jeffrey Bergin of the Pima County Superior Court will retain jurisdiction to resolve any dispute arising among the Parties relating to this Agreement. If there is a dispute, counsel for the Parties will submit the matter to Judge Bergin for resolution. Judge Bergin's decision will be final and non-appealable. Judge Bergin may impose sanctions, such as attorney's fees, and initiate contempt proceedings, for conduct of the parties that it finds unreasonable. In the event Judge Bergin becomes unable or unwilling to serve in this capacity, the Parties may agree on another Judge or third party to take Judge Bergin's place, or, in the event they are unable to agree, may apply to the Pima County Superior Court for selection of a replacement Judge.
12. Miscellaneous.
- 12.1. Effective Date; Term. This Agreement becomes effective on the date it is signed by the last Party to execute it. This Agreement terminates upon full build out of the Specific Plan Area.
- 12.2. 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 legal

requirements and agreements with the County may apply to development in the Specific Plan Area, and this provision has no effect on them.

- 12.3. 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.
- 12.4. Conflict of Interest. This Agreement is subject to the provisions of A.R.S. § 38-511.
- 12.5. Authority. Owner and Developer represent to County that they have full power and authority to enter this Agreement. Owner and Developer warrant to County 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.
- 12.6. No Waiver. No delay in exercising any right or remedy shall constitute a waiver of that right or remedy, 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.
- 12.7. Governing Law. The laws of the State of Arizona govern the interpretation and enforcement of this Agreement.
- 12.8. Recording; Successors. As required by A.R.S. § 11-1101(E), County will record a copy of this Agreement with the Pima County Recorder. As provided in A.R.S. § 11-1101(E), the burdens of this Agreement are binding on, and the benefits of this Agreement inure to, the Parties and to all of their successors in interest and assigns.
- 12.9. Amendment. 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 Owner and Developer, or their successors. The County shall record the amendment or cancellation in the official records of the Pima County Recorder.
- 12.10. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.
- 12.11. 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.

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

12.13. Counterparts. This Agreement may be executed in any number of counterparts, which together constitute one and the same instrument.

The Parties have executed this STAR VALLEY SETTLEMENT AND DEVELOPMENT AGREEMENT by their duly authorized representatives below.

PIMA COUNTY

Chair, Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

APPROVED AS TO FORM:



Michael LeBlanc
Deputy Pima County Attorney

USH/SVA STAR VALLEY, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY

S.V.A. CORPORATION, MEMBER

By: _____

Its: _____

U.S. HOME CORPORATION, MEMBER

By: _____

Its: _____

**STEWART TITLE & TRUST OF TUCSON, AN
ARIZONA CORPORATION, AS TRUSTEE
UNDER TRUST NO. 3701**

By: _____

Its: _____

**STEWART TITLE & TRUST OF ARIZONA,
AN ARIZONA CORPORATION, AS TRUSTEE
UNDER TRUST NO. 3697**

By: _____

Its: _____

STATE OF ARIZONA)
County of Pima) ss

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Sharon Bronson, Chair of the Pima County Board of Supervisors, an Arizona political subdivision, on behalf of Pima County.

Notary Public
My commission expires:

[illegible]

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by _____ of S.V.A. Corporation, an Arizona corporation, on behalf of the company.

Notary Public
My commission expires:

[illegible]

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by _____ of U.S. Home Corporation, a Delaware corporation, on behalf of the company.

Notary Public
My commission expires:

[illegible]

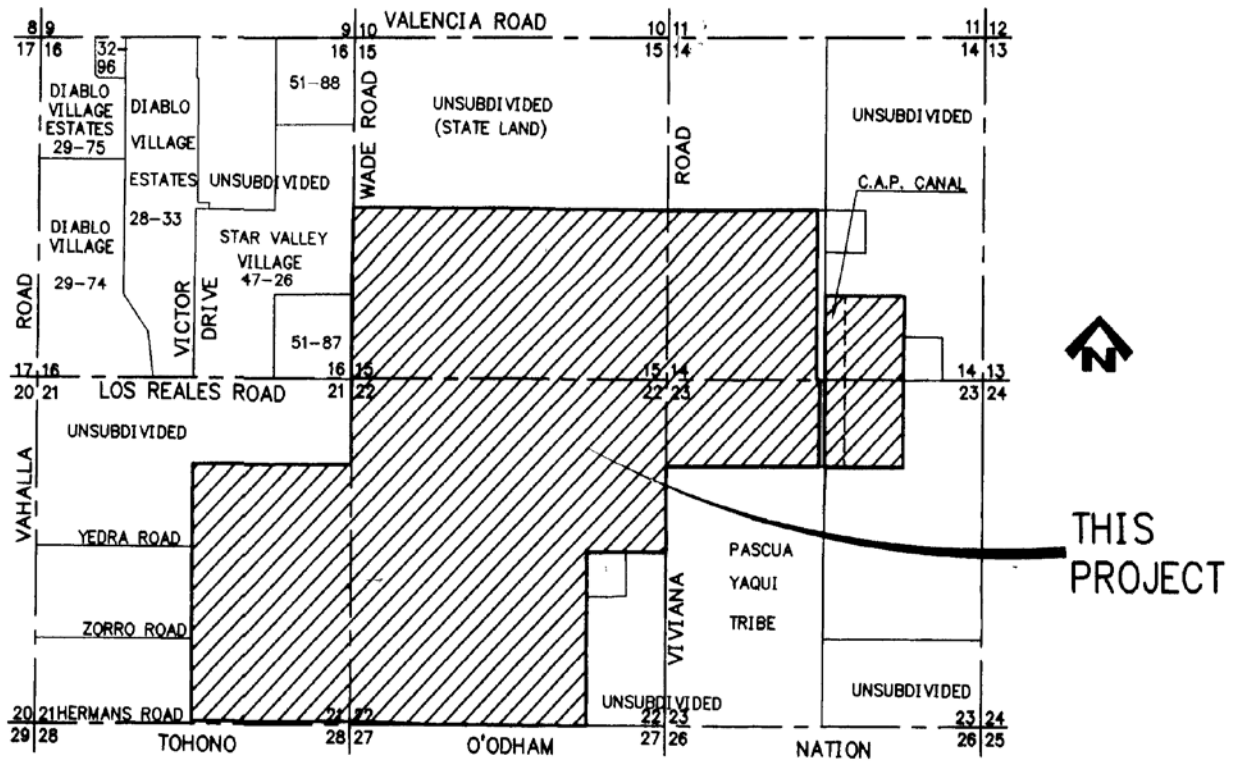
The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by _____ of Stewart Title & Trust of Arizona, an Arizona corporation, as Trustee under Trust No. 3701.

Notary Public
My commission expires:

[illegible]

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by _____ of Stewart Title & Trust of Arizona, an Arizona corporation, as Trustee under Trust No. 3697.

Notary Public
My commission expires:



LOCATION MAP
 SCALE: 3" = 1 MILE
 SECTIONS 14, 15, 16, 21, 22 & 23
 TOWNSHIP 15 SOUTH, RANGE 12 EAST,
 PIMA COUNTY, ARIZONA

SUBDIVISION IS 1419.80 ± ACRES.

**ASSURANCE AGREEMENT FOR CONSTRUCTION OF
SUBDIVISION IMPROVEMENTS (Third Party Trust)**
[Enter County project number]

THIS AGREEMENT is made and entered into by and between _____ or successors in interest ("Subdivider"), _____, an Arizona corporation ("Trustee"), as trustee under Trust No. _____; and Pima County, Arizona ("County").

1. RECITALS

1.1. Subdivider is the beneficiary and Trustee is the trustee of a trust which owns land ("the Land") located in Pima County, Arizona and described in paragraph 2.1 of this agreement.

1.2. County, Subdivider and Trustee wish to establish specific terms, conditions, and guidelines relating to the subdivision of the Land and construction of related improvements to comply with A.R.S. § 11-821.

2. AGREEMENT

Based on the foregoing recitals, which are incorporated here as the intent of the parties, and in consideration of County's approval of a final plat for the Land, County, Subdivider and Trustee agree as follows:

2.1. *Property Description.* The Land is all of the real property which is the subject of the subdivision plat ("the Subdivision Plat") identified as _____ recorded in Sequence number _____ on the _____ day of _____, 20____, in the Office of the Pima County Recorder.

2.2. *Construction of Subdivision Improvements.* As a condition of subdivision approval, Subdivider hereby agrees to construct all subdivision improvements ("the Subdivision Improvements") contemplated by the Subdivision Plat, rezoning conditions, and any associated site construction permits, including but not limited to onsite and offsite streets, sanitary sewers (if necessary), water and electric utilities, drainage and flood control improvements, parks, trails or other recreational facilities, other required infrastructure, and riparian habitat mitigation or payment of the riparian habitat mitigation in-lieu fee.

2.3. *Existing Utilities.* Any relocation or modification of existing utilities or public improvements required in order to construct the Subdivision Improvements shall be done at no expense to the public. Subdividers performance of this requirement shall be considered in determining whether to release assurances under paragraphs 2.5 and 2.6.

EXHIBIT B

2.4. *Assurance of Construction.* This agreement is submitted as an assurance that Subdivider will construct the Subdivision Improvements, as required by A.R.S. § 11-821 and Pima County Zoning Code Chapter 18.69.

2.5. *Limitation on Transfer of Title.* Trustee shall not convey title to any of the Land without obtaining prior written approval from County in the form of a Release of Assurance. A Release of Assurance shall not be provided by County until the Subdivision Improvements are completed in accordance with paragraph 2.12.

2.6. *Partial Release of Assurances.* County shall issue a Release of Assurance for some of the lots depicted on the Subdivision Plat if all of the following have occurred:

A. All of the Subdivision Improvements required in connection with the released lots have been completed in accordance with paragraph 2.12, and

B. County finds that the released lots and the Subdivision Improvements required in connection with them can be used and maintained separately from the Subdivision Improvements not yet completed in accordance with paragraph 2.12, and

C. Recreation area in-lieu fee, if applicable, has been paid to the county for the entire subdivision, prior to a release of greater than 75% of total subdivision lots.

2.7. *Deposit Receipt Agreements.* Notwithstanding paragraph 2.5, Trustee may enter into a deposit receipt agreement for the sale of the Land or any portion of it if the agreement clearly states that no portion of the Land shall be conveyed until Subdivider performs its obligations under this agreement.

2.8. *Bulk Sales.* Notwithstanding paragraph 2.5, Trustee may sell and convey all of the Land in one transaction to a single purchaser who has entered into a satisfactory assurance agreement with County, assuring completion of the Subdivision Improvements.

2.9. *Conveyance Out of Trust for the Purpose of Encumbrance.* Notwithstanding paragraph 2.5, Trustee may convey all or part of the Land to the Subdivider for the sole purpose of encumbering the Land by the recording of mortgages or deeds of trust, provided that the Land is thereafter immediately reconveyed into the trust.

2.10. *Real Property Taxes.* All real property taxes on the Land shall be paid before the taxes are delinquent as defined by A.R.S. 42-18052(B). If the real property taxes on the Land, including any lot or portion of common area, become delinquent, this agreement will be in default.

2.11. *Substitution of Assurances.* Subdivider may submit substitute assurances in a form and amount acceptable to County at any time during which this agreement is not in default.

2.12. *Completion of the Subdivision Improvements.* The Subdivision Improvements shall be completed by Subdivider not more than ten years after the date of this agreement. The Subdivision Improvements shall not be considered completed until after they have been constructed in accordance with the Subdivision Plat, rezoning conditions, associated site construction permits, and after County has inspected them and finds them to be in compliance with the plans.

2.13. *Acceptance of the Subdivision Improvements.* County shall not accept maintenance responsibility for any of the Subdivision Improvements unless and until all of the following have occurred:

A. They have been completed in accordance with paragraph 2.12.

B. They have been dedicated to County by the Subdivision Plat or by some other instrument of record.

C. The dedication has been accepted by the Pima County Board of Supervisors as evidenced by approval of the dedication on the Subdivision Plat or by some other formal action.

2.14. *Default, Non-Compliance; County's Options.* This agreement is in default if either the Subdivider or Trustee fails to comply with obligations under this agreement. If this agreement is in default, the County may exercise option A or B below at its sole discretion:

A. The County may re-plat all or a portion of the Land for the purpose of returning the portions of Land which are the subject of the re-plat to approximately the same boundary configurations of record which existed before the recording of the Subdivision Plat. The Subdivider authorizes the County to execute, on behalf of Subdivider, the re-plat described in this section. The re-plat may exclude any dedications to the public which were made on the Subdivision Plat which are necessary to serve either portions of the Land which are not re-platted, or to serve the public. Subdivider shall pay the reasonable costs incurred in re-platting. Notice of default and intent to re-plat will be sent to the last known address of Subdivider and Trustee by certified mail not less than thirty days before County exercises its option to re-plat under this paragraph.

B. If site conditions change after the Subdivider fails to comply with this agreement, the County may require that Subdivider submit evidence that the Tentative and Final Plat comply with current regulations, under current site conditions. If the County determines that the Tentative Plat or Final Plat does not comply, Subdivider shall submit revisions to the plat, to the County with applicable fees. If the revisions are approved by the Board of Supervisors, the date specified in Section 2.12 of this agreement may be extended by up to four years from the approval date. This subsection is not applicable to Block Plats for master planned communities.

2.15. *Incorporation and Annexation.* If the Land is incorporated as or annexed by a city or town, the city or town shall automatically succeed to all benefits and duties of County under this agreement.

2.16. *Termination.* This agreement shall remain in full force and effect until one of the following has occurred:

A. The Subdivision Improvements have been completed and approved by County in accordance with paragraph 2.11 and a Release of Assurances with respect to all the Land has been recorded in the Office of the Pima County Recorder in accordance with paragraph 2.5; or

B. A new subdivision plat has been recorded for the Land in compliance with any and all applicable laws and regulations; or

C. A substitute assurance agreement has been executed by and between Subdivider and County in accordance with paragraph 2.11.

2.17. *Effective Date.* This Agreement is effective on the _____ day of _____, 20____, which is the date of approval of this agreement by the Pima County Board of Supervisors.

PIMA COUNTY, ARIZONA

SUBDIVIDER:

Chair, Board of Supervisors

By: _____

Its: _____

ATTEST:

TRUSTEE: _____, an Arizona corporation, as
Trustee under Trust No _____, and not in its
corporate capacity

Clerk of the Board

By: _____

Its: _____

STATE OF ARIZONA)
County of Pima)

The foregoing instrument was acknowledged before me this _____ day of
_____, 20____, by _____ of
_____ ("**Subdivider**"),
an Arizona corporation, on behalf of the corporation.

Notary Public

My Commission Expires:

STATE OF ARIZONA)
County of Pima)

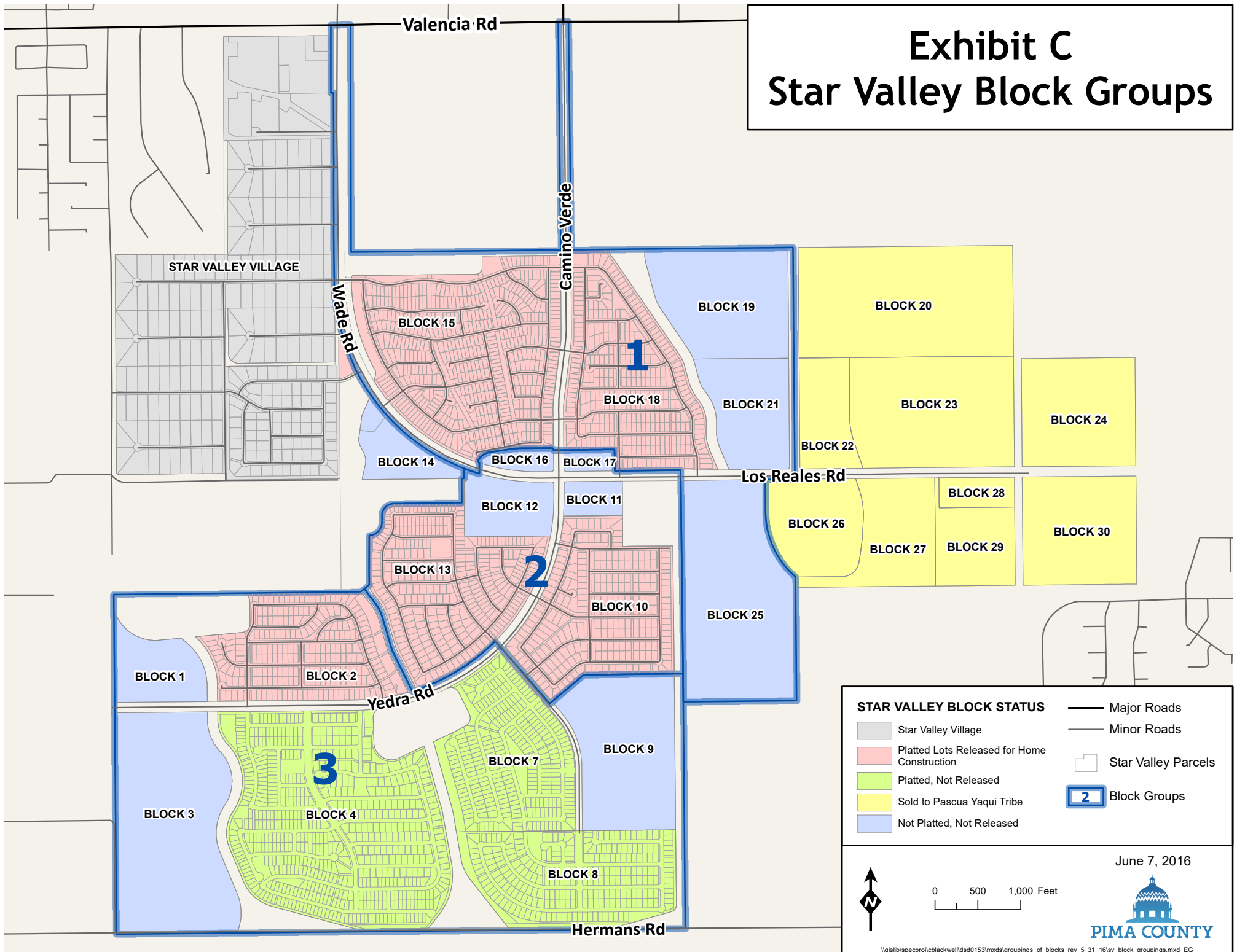
The foregoing instrument was acknowledged before me this _____ day of
_____, 20____, by _____ of
_____ ("**Trustee**"),
an Arizona corporation, on behalf of the corporation, as trustee under trust number _____.

Notary Public

My Commission Expires:

Exhibit C

Star Valley Block Groups



Land Use	Unit	Fee per Unit *
Assisted Living Facility	beds	\$455
Athletic Club	1000 sq. ft.	\$18,342
Auto Car Wash	1000 sq. ft.	\$6,052
Auto Repair	1000 sq. ft.	\$1,608
Auto Sales	1000 sq. ft.	\$1,868
Bank with Drive Thru	1000 sq. ft.	\$8,420
Big Box retail - freestanding, >100,000 sf	1000 sq. ft.	\$3,315
Church - no fee charges	1000 sq. ft.	
Commercial/ Retail	1000 sf gross le	\$2,730
Congregate Care Facility	dwelling unit	\$291
Convenience Store - 24 hour	1000 sq. ft.	\$22,280
Convenience Store /Gas Station	1000 sq. ft.	\$19,543
Day Care	1000 sq. ft.	\$6,347
Discount Club	1000 sq. ft.	\$2,563
Discount Superstore - free standing	1000 sq. ft.	\$3,403
Drug store w/ drive through	1000 sq. ft.	\$5,806
Fast Food with Drive Thru	1000 sq. ft.	\$16,990
Fast Food without Drive Through	1000 sq. ft.	\$15,238
Gas/ Service Station	veh fuel pos	\$5,150
Health/ Fitness Club	1000 sq. ft.	\$10,147
High School - no fee charged	student	
Home Improvement Superstore	1000 sq. ft.	\$1,398
Hospital	1000 sq. ft.	\$1,446
Hotel/Motel	Rooms	\$1,430
Industrial - Heavy	1000 sq. ft.	\$1,506
Industrial - Light	1000 sq. ft.	\$2,391
Industrial Park	1000 sq. ft.	\$2,113

EXHIBIT D

Manufacturing - per 1,000 sq. ft.	1000 sq. ft.	\$1,847
Medical/ Dental Office	1000 sq. ft.	\$4,584
Mega Big Box Retail >150,000 sf	1000 sq. ft.	\$6,580
Mega Shopping Center > 300,000 sq. ft	1000 sq. ft.	\$6,001
Nursery - Retail	1000 sq. ft.	\$8,129
Nursery - Wholesale	1000 sq. ft.	\$9,577
Nursing Home	1000 sq. ft.	\$1,632
Office	1000 sq. ft.	\$1,917
Raquet/ Tennis Club	1000 sq. ft.	\$3,451
Restaurant - High Turnover	1000 sq. ft.	\$9,737
Restaurant - Quality	1000 sq. ft.	\$4,017
RV Park	dwelling unit	\$531
School (K-8)	Student	\$750
Shopping Center	1000 sq. ft.	\$2,296
Supermarket	1000 sq. ft.	\$5,008
Vet Clinic	1000 sq. ft.	\$6,768
Warehouse	1000 sq. ft.	\$784