



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: May 21, 2019

DEVELOPMENT AGREEMENT BETWEEN PIMA COUNTY, ARIZONA AND FHM PARTNERS LLC
Title: REGARDING FOOTHILLS MALL LOOP CONNECTION

Introduction/Background:

The Pima County Board of Supervisors approved the Foothills Mall Specific Plan subject to conditions.

Discussion:

One of the specific plan conditions required the developer to enter into an agreement with Pima County on how to work collaboratively work to connect the Foothills Mall to the Chuck Huckelberry Loop.

Conclusion:

The attached development agreement satisfies the specific plan condition and provides the framework for how the Foothills Mall will be connected to the Chuck Huckelberry Loop

Recommendation:

Staff recommends approval of the attached development agreement.

Fiscal Impact:

0


Board of Supervisor District:

☒ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ All

Department: Pima County Development Services - Planning Telephone: 520-724-9000

Department Director Signature/Date:  4/29/19

Deputy County Administrator Signature/Date:  4/30/19

County Administrator Signature/Date:  4/30/19



TO: HONORABLE BOARD OF SUPERVISORS
FROM: Chris Poirier, Planning Official
DATE: April 26, 2019
SUBJECT: Development Agreement between Pima County and FHM Partners LLC

The above referenced Development Agreement is scheduled for the Board of Supervisors' **TUESDAY, May 21, 2019** hearing.

Development Agreement between Pima County and FHM Partners LLC
Background

On September 18, 2018, the Board of Supervisors approved the Foothills Mall Specific Plan (P18SP00001), which provided for a mixed-use development on the existing Foothills Mall site. The 51-acre site will be transformed over the years from a mall with limited tenants into a vibrant mixed-use project with a potential mix of retail, restaurant, hotel, condominiums and office users. As part of the approval, the owner is required to enter into a development agreement with Pima County to provide for the connection of the Chuck Huckelberry Loop to the Foothills Mall property. The attached development agreement provides the outline and requirements of when and how the connection shall occur.

Recommendation:

Staff recommends that the Board of Supervisors approve the development agreement as presented.

Sincerely,


Chris Poirier
Planning Official



CP/TD

Attachments

c: Carmine DeBonis, Jr., Deputy County Administrator for Public Works

When recorded, mail to:

Keri Silvyn, Esq.
Lazarus, Silvyn & Bangs PC
5983 E. Grant Road, Suite 290
Tucson, Arizona 85712

DEVELOPMENT AGREEMENT

BETWEEN

PIMA COUNTY, ARIZONA

AND

FHM PARTNERS, LLC

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into this ____ day of _____ 2019, by and between FHM PARTNERS, LLC, an Arizona limited liability company (hereinafter "**Developer**"), and PIMA COUNTY, a political subdivision of the State of Arizona (the "**County**").

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. Developer is the owner of approximately 51 acres of land located in unincorporated Pima County near the northwest corner of Ina Road and La Cholla Road (the "**Property**"). The Property is depicted and legally described on **Exhibit "A."**
- C. Developer is working to transform an outdated shopping mall located on the Property into a unique, exciting, regional destination and living environment. The vision is to create a true destination venue with a live/work/play, multi-modal experience for the region.
- D. The County has established and substantially constructed the Chuck Huckelberry Loop ("**Loop**"), which is a multi-use trail that loops the Tucson metropolitan area. As part of the Loop, the County has worked with property owners to establish connectivity to certain properties and uses. The County and Developer want to connect the Property to the Loop when the Property is revitalized.
- E. The County Board of Supervisors ("**BOS**") has approved the rezoning of the Property in Case No. P18SP0001 (the "**Rezoning**"). The Rezoning adopted the Foothills Mall Specific Plan ("**SP**"), which permits the uses and development standards to bring forward Developer's vision for the Property.
- F. The BOS included a condition in the Rezoning requiring Developer to enter into this Agreement with the County establishing, among other things, how the County and Developer will work collaboratively to construct the connecting path between the Loop and the Property (the "**Loop Connection**"), establish the Developer's fair share contribution to the cost of the project, and establish the timing and responsibilities for construction and contribution.
- G. Under the current Pima County Roadway Development Fee program (Pima County Code, Title 19), the Developer would be required to pay the applicable development fee (based on the type of use) for each 1,000 square-foot increase in the existing square

footage of the development. PCC §§ 19.01.030(A)(3) and 19.03.020(B). The County is currently in the process of developing a new development-fee program consistent with the 2016 amendments to A.R.S. § 11-1102.

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

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. **Incorporation of Recitals and Exhibits.** The Recitals set forth above and all the attached Exhibits are a part of and incorporated into this Agreement.
2. **Loop Connection Description.**
 - 2.1. The Loop Connection will run southwest along the Carmack Wash from the Property to Mona Lisa, then north along Mona Lisa to the Ann Day Community Park entrance, and then through the park to the corner of Magee and Shannon as depicted on **Exhibit "B"**.
 - 2.2. The Loop Connection will, to the extent feasible, consist of a 14-foot asphalt striped cross-section with no additional irrigation or other improvements.
3. **Loop Connection Construction.** County will acquire the necessary rights-of-way and design and construct the Loop Connection (together, the "**Project**") under the conditions set forth in this Agreement, and subject to appropriation of necessary funding by the Board of Supervisors.
4. **Cost Sharing.** The preliminary cost estimate for the Project is \$450,000.
 - 4.1. Subject to Section 5 below, Developer will pay one hundred percent (100%) of the cost, excluding any costs to acquire the right-of-way, of designing and constructing the portion of the Loop Connection between the Property and the Ann Day Community Park entrance ("**Developer Contribution**"). This segment is noted on **Exhibit "B"** in blue.
 - 4.2. County will pay all costs associated with acquiring the required right-of-way along the Carmack Wash between the Property and Mona Lisa, and one hundred percent (100%) of the cost of designing and constructing the portion of the Loop Connection between the Ann Day Community Park entrance and the corner of Magee and Shannon.
 - 4.3. The County will allocate costs between the two segments of the Loop Connection using a commercially reasonable methodology, and that allocation will be final and binding on Developer.
 - 4.4. Costs include all direct and indirect costs incurred by County for the Project.

5. **Project Commencement.** The County's obligation to build the Project is contingent on the Board of Supervisors' appropriation of the necessary funding. Developer's obligation to pay the Developer Contribution is contingent upon the issuance of Certificate(s) of Occupancy for a minimum of 100 residential or hospitality units, or 125,000 square feet of newly constructed office space on the Property, and on the Board of Supervisors' appropriation of the necessary funding to construct the Project.
 - 5.1. County may, at any time before commencing construction of the Project, notify Developer that the County has appropriated the necessary funding and is proceeding or intends to proceed with the Project, and provide Developer with an updated Project cost estimate (the "**Initial Notice**").
 - 5.1.1. If the new cost estimate exceeds 110% of the current cost estimate set forth in Section 4 above, adjusted based on changes in the CPI, Developer will, within 45 days after receipt of the Initial Notice, inform County, in writing, whether or not Developer approves the new cost estimate ("**Developer Response**"). Failure to provide the Developer Response will be deemed to be approval.
 - 5.1.2. If the Developer approves or is deemed to approve the new cost estimate, Developer will be obligated to pay the Developer Contribution as and when provided in this Agreement, based on actual Project costs, but capped at 110% of Developer's share of the approved estimate.
 - 5.1.3. If Developer provides a Developer Response indicating that Developer does not approve the new cost estimate, County may elect not to proceed with the Project, or may proceed with the Project under Section 5.2 below.
 - 5.2. If County proceeds with the Project without receiving Developer's approval of a new cost estimate, as set forth above, the amount of the Developer Contribution will be capped at 110% of the Developer's share of the current estimate, adjusted based on changes in the CPI.
6. **Payment of Developer Contribution.** Subject to Section 5 above, Developer will pay half the estimated Developer Contribution to County after County has acquired the necessary right-of-way for the Project and has completed plans and specifications for the Project, but before County begins the procurement process for awarding construction contracts. Developer will pay the remainder of the Developer Contribution within 30 days after Project completion.
7. **Improvements on the Property.** Developer is not required to provide any connectivity from the Loop Connection terminus into the Property.

8. Development Fees.

- 8.1. Developer will pay development fees at the time the County issues any new building permit for the Property in the amount required under the County Code then in effect, offset with credits for existing improvements on the Property, calculated as set forth below.
- 8.2. Developer has confirmed and County agrees that the square footage ("**Existing Square Footage**") of the existing buildings (the "**Existing Buildings**") on the Property is 615,519 square feet. The Existing Buildings are a combination of retail, restaurant and office uses. Developer is required to obtain demolition permits that accurately reflect the square footage and use of any Existing Buildings being demolished. Based on those demolition permits, and on building permits for new or reconstructed space, Developer and County will maintain an accurate accounting of the square footage and use of the buildings on the Property as those things change from time to time, so that Developer is only charged development fees on higher uses and increased square footages, as follows:
- 8.2.1. Each demolition permit will include a calculation of the Development fees that would be due on the demolished space if it were new construction, based on the square footage and use(s) of the demolished space at time of demolition permit application and the development-fee rates in effect at that time. That amount will be a credit. These development fee credits will be aggregated and tracked cumulatively for the entire Property.
- 8.2.2. Development fees will be assessed per the County's development-fee ordinance when building permits are issued for construction/re-construction, based on what would be due using the development-fee rates in effect at that time if it were all new construction. The credits under paragraph 8.2.1 above will offset the amount due.

9. Miscellaneous Provisions.

- 9.1. **Notices.** All notices and communications under this Agreement must be in writing and delivered personally or sent by registered or certified United States Postal Service mail, return receipt requested, postage prepaid, or by recognized overnight carrier service to:

If to County:

County Administrator
Attention: Carmine Debonis
Assistant County Administrator for Public Works
130 W. Congress, 10th Floor
Tucson, Arizona 85701

If to the Developer:

FHM Partners, LLC
Attention: Toufic Abi-Aad
20 E. Congress, Suite 300
Tucson, Arizona 85701

With a copy to:

Keri Silvyn, Esq.
Lazarus, Silvyn and Bangs, PC
5983 E. Grant Road, Suite 290
Tucson, Arizona 85712

or to such other addresses as either party may from time to time designate in writing and deliver in a like manner. Any such change of address notice must be given at least ten (10) days before the date on which the change is to become effective. Notices given by mail will be deemed delivered 72 hours following deposit in the United State Postal Service in the manner set forth above. Notices given by personal delivery or overnight courier services will be deemed delivered when actually delivered.

- 9.2. **Waiver.** No delay in exercising any right or remedy under this Agreement constitutes a waiver thereof, and no waiver by a party of any breach of any provision of this Agreement by the other party is a waiver of any preceding or succeeding breach of the same or of any other provision of this Agreement.
- 9.3. **Agreement Effective Date; Term.** This Agreement will become effective when approved by the Board of Supervisors.
- 9.4. **Agreement Termination Date.** This Agreement will terminate on the later of the date that (a) the Project is completed; (ii) the Developer Contribution is paid in full to the County; and (iii) all development fee credits under Section 8 above have been used.
- 9.5. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the Project. 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 those.
- 9.6. **Conflict of Interest.** Pursuant to Arizona law, rules and regulations, no member, official or employee of the County may have any personal interest, direct or indirect, in this Agreement, nor may any such member, official or employee participate in any decision relating to this Agreement that affects their personal interest or the interest

of any corporation, partnership or association in which they are, directly or indirectly, interested.

- 9.7. **No Personal Liability.** Except for mandamus and other special actions, no member, official or employee of the County is or will be personally liable to Developer, or any successor or assignee, and no member, official or employee of Developer is or will be personally liable to the County, (a) in the event of any default or breach by either party, (b) for any amount that may become due to either party or its successors or assigns, or (c) pursuant to any obligation of either party under the terms of this Agreement.
- 9.8. **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 then-current fee title owners of the Property. The County will record the amendment or cancellation in the official records of the Pima County Recorder.
- 9.9. **Severability.** If any provision of this Agreement is declared void or unenforceable, that provision will be severed from this Agreement, which will otherwise remain in full force and effect, provided that the severance does not vitiate the overall intent of the parties in entering into this Agreement.
- 9.10. **Governing Law.** The laws of the State of Arizona 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 will 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.
- 9.11. **Recording of Agreement and Subsequent Amendment; Cancellation.** County will record this Agreement, and any amendment or cancellation of it, in the official records of the Pima County Recorder no later than ten (10) days after the County and Developer (or, in the case of an amendment or cancellation, any other necessary party) execute the agreement, amendment or cancellation, as required by A.R.S. § 11-1101 (E).
- 9.12. **Attorneys Fees and Costs.** If either 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.
- 9.13. **Successors and Assigns.** Subject to the provisions of this Section, all of the provisions of this Agreement will inure to the benefit of and be binding upon successors and assigns of the parties to this Agreement pursuant to A.R.S 11-1101(E). The Developer may assign all or a portion of its rights and obligations under this Agreement, provided:

- 9.13.1. The assignment is to a person or entity that has acquired all or a portion of the Property; and
- 9.13.2. The assignment is by written instrument, expressly assigning and assuming the rights and obligations, recorded in the official records of Pima County, Arizona; and
- 9.13.3. In the event of a complete assignment by the Developer or all of the rights and obligations of the Developer under this Agreement, and upon notice to and approval by the County, the Developer's liability under the Agreement will terminate effective upon the assumption by the Developer's assignee of all of Developer's obligations hereunder.

9.14. **No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement, and no person or entity not a party to this Agreement has any right or cause of action under it.

9.15. **No Agency Created.** Nothing contained in this Agreement creates any partnership, join venture, or agency relationship between the parties.

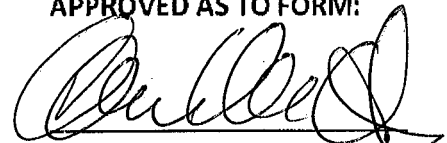
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

PIMA COUNTY BOARD OF SUPERVISORS

Chair, Pima County Board of Supervisors

Date: _____

APPROVED AS TO FORM:


Deputy County Attorney
CHARLES WESSELHOFT

ATTEST:

Clerk of the Board of Supervisors

Exhibits:

Exhibit "A" Legal Description and Depiction of Property

Exhibit "B" Loop Connection

FHM PARTNERS, LLC, an Arizona Limited Liability Company

By: [Signature]
Title: Manager of Bourn Properties, LLC, member of FHM Manager, LLC, manager of FHM Investors, LLC, member of FHM Partners, LLC
Date: 05/07/19
Name: Don E. Bourn

State of Arizona)
County of Pima) ss.

The foregoing instrument was acknowledged before me this 7th day of May, 2019, by Don E. Bourn of FHM PARTNERS, LLC, an Arizona limited liability company, on behalf of the company.

manager of Bourn Properties, LLC, member of FHM Manager, LLC, manager of FHM Investors, LLC, member of FHM Partners, LLC, each an Arizona Limited Liability company

Alisa M. Reed
Notary Public

My Commission Expires:

11/10/22

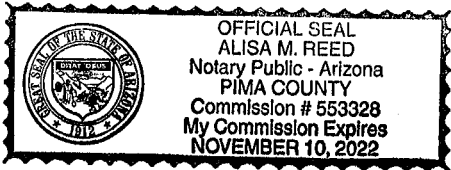


Exhibit “A”

Legal description and depiction of Property

A part of the East half (E 1/2) of Section 33, Township 12 South, Range 13 East, Gila and Salt River Meridian, Pima County, Arizona, including part platted as Lot 2, Federated Stores, as recorded in Book 28 of Maps and Plats at Page 46, described as follows:

Beginning at an ACP LS 4527 monumenting the Southwest corner of said Lot 2;

thence North 00 degrees 00 minutes 03 seconds East along the West line of Lot 2, a distance of 196.00 feet to the Point of Beginning;

thence continue North 00 degrees 00 minutes 03 seconds East along said West line a distance of 1,247.69 feet to an ACP LS 4527 on a South line of Lot 2;

thence North 89 degrees 42 minutes 29 seconds West along said South line a distance of 223.83 feet to a 1/2" iron rod on a West line of Lot 2;

thence North 00 degrees 00 minutes 03 seconds West along said West line a distance of 188.62 feet to the Southeasterly line of the Wash Parcel as recorded in Docket 11195 at page 807;

thence North 89 degrees 59 minutes 57 seconds East along said Southeasterly line a distance of 6.85 feet to a point on the arc of a non-tangent curve concave to the West, a radial line of said curve through said point having a bearing of South 60 degrees 54 minutes 38 seconds East;

thence Northerly along said Southeasterly line, along the arc of said curve, to the left, having a radius of 945.00 feet, with a chord of North 20 degrees 34 minutes 28 seconds East 279.85 feet, and a central angle of 17 degrees 01 minutes 48 seconds for an arc distance of 280.88 feet to the non-tangent line South line of the Wal-Mart Parcel as recorded in Docket 11196 at page 831;

thence South 00 degrees 05 minutes 09 seconds East along said South line a distance of 46.00 feet;

thence North 89 degrees 59 minutes 41 seconds East along said South line a distance of 18.15 feet to a point of curvature of a tangent curve concave to the Southwest;

thence Southeasterly along said South line, along the arc of said curve, to the right, having a radius of 2.50 feet, with a chord of South 45 degrees 00 minutes 19 seconds East 3.54 feet, and a central angle of 90 degrees 00 minutes 00 seconds for an arc distance of 3.93 feet to a point of tangency;

thence South 00 degrees 00 minutes 19 seconds East along said South line a distance of 39.32 feet;

thence South 49 degrees 27 minutes 56 seconds East along said South line a distance of 20.64 feet;

thence North 44 degrees 56 minutes 21 seconds East along said South line a distance of 169.40 feet to a point of curvature of a tangent curve concave to the South;

thence Easterly along said South line, along the arc of said curve, to the right, having a radius of 50.00 feet, with a chord of North 67 degrees 36 minutes 48 seconds East 38.55 feet, and a central angle of 45 degrees 20 minutes 54 seconds for an arc distance of 39.57 feet to a point of tangency;

thence South 89 degrees 42 minutes 45 seconds East along said South line a distance of 139.15 feet to a point of curvature of a tangent curve concave to the North;

thence Easterly along said South line, along the arc of said curve, to the left, having a radius of 50.00 feet, with a chord of North 67 degrees 38 minutes 02 seconds East 38.52 feet, and a central angle of 45 degrees 18 minutes 25 seconds for an arc distance of 39.54 feet to a point of tangency;

thence North 44 degrees 58 minutes 50 seconds East along said South line a distance of 240.29 feet;

thence South 89 degrees 43 minutes 59 seconds East along said South line a distance of 390.63 feet;

thence North 44 degrees 56 minutes 41 seconds East along said South line a distance of 149.07 feet;

thence North 45 degrees 02 minutes 42 seconds West along said South line a distance of 45.34 feet to a point on the arc of a non-tangent curve concave to the South, a radial line of said curve through said point having a bearing of North 30 degrees 40 minutes 33 seconds East;

thence Westerly along said South line, along the arc of said curve, to the left, having a radius of 112.50 feet, with a chord of North 74 degrees 31 minutes 06 seconds West 58.97 feet, and a central angle of 30 degrees 23 minutes 18 seconds for an arc distance of 59.67 feet to a point of tangency;

thence North 89 degrees 42 minutes 45 seconds West along said South line a distance of 34.01 feet to the East line of said Wal-Mart parcel;

thence North 00 degrees 03 minutes 11 seconds East along said East line a distance of 542.20 feet;

thence South 89 degrees 42 minutes 45 seconds East along said East line and the Easterly prolongation a distance of 313.85 feet to the West right of way line of La Cholla Boulevard;

thence South 00 degrees 05 minutes 48 seconds East along said West right of way line a distance of 67.02 feet;

thence North 89 degrees 42 minutes 35 seconds West 176.14 feet;

thence South 00 degrees 03 minutes 11 seconds West 136.13 feet to a point of curvature of a tangent curve concave to the Northeast;

thence Southeasterly along the arc of said curve, to the left, having a radius of 12.00 feet, with a chord of South 44 degrees 49 minutes 42 seconds East 16.94 feet, and a central angle of 89 degrees 45 minutes 46 seconds for an arc distance of 18.80 feet to a point of tangency;

thence South 89 degrees 42 minutes 35 seconds East 153.32 feet;

thence North 82 degrees 07 minutes 29 seconds East 11.36 feet to the West right of way line of La Cholla Boulevard;

thence South 00 degrees 05 minutes 48 seconds East along said West right of way line a distance of 33.22 feet;

thence North 79 degrees 08 minutes 24 seconds West 14.67 feet;

thence North 89 degrees 42 minutes 35 seconds West 161.42 feet to a point of curvature of a tangent curve concave to the Southeast;

thence Southwesterly along the arc of said curve, the the left, having a radius of 12.00 feet, with a chord of South 45 degrees 10 minutes 18 seconds West 17.01 feet, and a central angle of 90 degrees 14 minutes 14 seconds for an arc distance of 18.90 feet to a point of tangency;

thence South 00 degrees 03 minutes 11 seconds West 200.78 feet;

thence South 89 degrees 42 minutes 35 seconds East 171.52 feet to the New West Right of Way line of La Cholla Boulevard as recorded in Docket 12164 at page 789;

thence South 08 degrees 50 minutes 23 seconds East along said New West Right of Way line a distance of 18.13 feet;

thence South 04 degrees 42 minutes 24 seconds East along said New West Right of Way line a distance of 26.82 feet;

thence South 00 degrees 13 minutes 24 seconds East along said New West Right of Way Line a distance of 9.10 feet to a point on the arc of a non tangent curve concave to the Southeast, a radial line of said curve through said point having a bearing of North 07 degrees 37 minutes 54 seconds West;

thence Southwesterly along the arc of said curve, to the left, having a radius of 223.50 feet, with a chord of South 63 degrees 39 minutes 32 seconds West 143.38 feet, and a central angle of 37 degrees 25 minutes 09 seconds for an arc distance of 145.96 feet to a point of tangency;

thence South 44 degrees 56 minutes 57 seconds West 106.08 feet;

thence South 45 degrees 03 minutes 04 seconds East 104.53 feet;

thence North 44 degrees 56 minutes 56 seconds East 19.65 feet;

thence South 45 degrees 03 minutes 04 seconds East 119.00 feet;

thence East 42.90 feet to the West Right of Way Line of La Cholla Boulevard;

thence South along said West Right of Way Line a distance of 1,767.34 feet to an ACP LS 4527 monumenting the Northeast corner of Lot 1 of said plat;

thence North 89 degrees 42 minutes 42 seconds West along the North line of Lot 1 a distance of 250.00 feet to an ACP LS 4527 monumenting the Northwest corner of Lot 1;

thence South 71 degrees 03 minutes 55 seconds 45.20 feet;

thence South 89 degrees 36 minutes 44 seconds West 125.89 feet to a point of curvature of a tangent curve concave to the Southeast;

thence Southwesterly along the arc of said curve, to the left, having a radius of 24.00 feet, with a chord of South 44 degrees 48 minutes 22 seconds West 33.83 feet, and a central angle of 89 degrees 36 minutes 44 seconds for an arc distance of 37.54 feet to a point of tangency;

thence South 201.87 feet;

thence South 11 degrees 35 minutes 41 seconds East 7.81 feet to the North right of way line of Ina Road;

thence North 89 degrees 42 minutes 42 seconds West along said North right of way line a distance of 466.48 feet;

thence North 09 degrees 05 minutes 11 seconds East 9.80 feet;

thence North 00 degrees 00 minutes 14 seconds West 217.47 feet to a point of curvature of a tangent curve concave to the Southwest;

thence Northwesterly along the arc of said curve, to the left, having a radius of 18.00 feet, with a chord of North 44 degrees 51 minutes 28 seconds West 25.39 feet, and a central angle of 89 degrees 42 minutes 28 seconds for an arc distance of 28.18 feet to a point of tangency;

thence North 89 degrees 42 minutes 42 seconds West 106.70 feet to a point of curvature of a tangent curve concave to the Southeast;

thence Southwesterly along the arc of said curve, to the left, having a radius of 12.00 feet, with a chord of South 45 degrees 08 seconds 41 seconds West 17.01 feet, and a central angle of 90 degrees 17 minutes 15 seconds for an arc distance of 18.91 feet to a point of tangency;

thence South 00 degrees 00 minutes 03 seconds West 37.00 feet;

thence North 89 degrees 42 minutes 42 seconds West 63.00 feet to the Point of Beginning.

EXCEPTING THEREFROM a part of the Southeast quarter of Section 33, Township 12 South, Range 13 East, Gila and Salt River Meridian, including a portion platted as Lot 2, Federated Stores as recorded in Book 28 of Maps and Plats at page 46, Pima County Recorder's Office, Pima County, Arizona, described as follows:

Beginning at the found ACP 4527 monumenting the Northeast corner of Lot 1 of said plat;

thence North 89 degrees 42 minutes 42 seconds West along the North line of Lot 1, a distance of 201.50 feet to a set 1/2" iron rod 12122;

thence North 201.50 feet to a set nail and disk 12122;

thence South 89 degrees 42 minutes 42 seconds East 201.50 feet to a set aluminum capped pin 12122 on the East line of said Lot 2;

thence South along said East line a distance of 201.50 feet to the Point of Beginning.

And FURTHER EXCEPTING THEREFROM those portions conveyed to Pima County, a political subdivision of the State of Arizona as set forth in Deed recorded in Docket 20121230437.

And FURTHER EXCEPTING THEREFROM any portion thereof as described in Partial Release recorded in Document No. 20123100723.

Exhibit "B"

The Loop Connection

Foothills Mall connectivity to CDO portion of CHH Loop

NW Community Park:
2,750 LF
Significant grade change

Carmack Wash:
2,400 LF
Requires Land Purchase
Issues w/ guardrail at Mona Lisa

Foothills Mall connectivity to CDO portion of CHH Loop

NW Community Park:
2,750 LF
Significant grade change

Carmack Wash:
2,400 LF
Requires Land Purchase
Issues w/ guardrail at Mona Lisa

[illegible]