

WHEN RECORDED, RETURN TO:

1506980560645-15-6-3--
Garcia

Marley Park Phase II LLC
7600 E. Doubletree Ranch Rd., Suite 300
Scottsdale, Arizona 85258
Attention: Daniel T. Kelly

315 8-3-16

**DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
MARLEY PARK PHASE 4-5**

This Declaration of Covenants, Conditions and Restrictions for Marley Park Phase 4-5 (this "Declaration") is made as of October 2, 2017, by Marley Park Phase II LLC, an Arizona limited liability company ("Declarant").

RECITALS

A. Declarant is the owner of the real property legally described in Exhibit "A" attached hereto (the "Property"), which is located within the planned community commonly known as "Marley Park" (the "Development").

B. Declarant desires to establish and impose certain covenants, conditions, restrictions, easements, rights, duties, obligations and responsibilities upon each Owner (as defined below) of all or any portion of the Property, under a general plan of development and operation, in order to provide for the orderly development, conduct, operation and maintenance of the Property and to enhance, protect and maintain the value, desirability and attractiveness of the Property and adjacent properties.

DECLARATION

NOW, THEREFORE, Declarant hereby declares that all and every portion of the Property and all interests in the Property, shall be owned, sold, leased, encumbered, used, occupied, improved and conveyed subject to the covenants, conditions, restrictions, easements, rights, duties, obligations and responsibilities set forth in this Declaration, which are imposed as covenants running with the land, and as equitable servitudes, pursuant to a general plan for the development of the Property and adjacent properties, and which shall run with the land within the Property and shall be binding on Declarant and its successors and assigns, and on all persons having or acquiring any right, title or interest in or to the Property or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each Owner.

**ARTICLE 1
DEFINITIONS**

For purposes of this Declaration, the following terms are defined as follows:

1.1 "Builder" - a legal entity (not a natural person) who, directly or through an affiliate, is licensed as a contractor and who purchases one or more unimproved lots or parcels of land within

the Property for further development and resale for Residential Use in the ordinary course of its business.

1.2 “MPCA” - Marley Park Community Association, Inc., an Arizona non-profit corporation.

1.3 “Meritage” - Meritage Homes of Arizona, Inc., an Arizona corporation.

1.4 “Owner” - the record owner, whether one or more persons, of fee simple interest in the Property or any portion of the Property. References in this Declaration to an Owner or to Owners shall include the Property Association and/or Meritage if and to the extent that one or both is the record owner of a fee simple interest in any portion of the Property.

1.5 “PADA” - the Pre-Annexation and Development Agreement recorded on November 3, 2000, as Document No. 00-0849683, official records of Maricopa County, Arizona, as amended from time to time.

1.6 “Perimeter Landscaping” - all landscaping, sidewalks, trails and related improvements (such as lighting, irrigation lines, sprinklers, timers, controllers, backflow preventers, and the like) located outside of the perimeter walls hereafter constructed within the Property, including without limitation any such items installed by Declarant, Meritage, any Builder, or any affiliate of any of the foregoing, in right-of-way areas within Waddell Road, Bullard Avenue and Sweetwater Avenue adjoining the Property, or installed in adjacent common area tracts along such right-of-way.

1.7 “Permittee” - the tenant(s) of an Owner, and the guests and invitees (including contractor invitees) of an Owner or its tenant(s).

1.8 “Property Association” - a property owner’s association having jurisdiction over the entire Property.

1.9 “Residential Use” - use for detached, single-family residences, excluding use for transient lodging, but including (i) operation of a home business that is permitted under applicable law and that does not entail visiting customers, clients, employees or staff and for which there is no signage visible from the exterior of the home, (ii) leasing a residence for Residential Use, subject to any limitations imposed under applicable law or under any other recorded instrument affecting the Property, (iii) open space, recreational amenities and other common areas intended for use by Owners and their Permittees, and (iv) to the extent undertaken by a Builder in the normal course of business, activities associated with construction, marketing, and selling single-family dwellings on the Property for Residential Use, including without limitation temporary construction trailers, equipment and materials staging and storage, on-site marketing offices and sales offices, signs, flags, model homes, and special lighting features or displays.

1.10 “School” - the owner of fee title to the School Parcel. If at any time the School Parcel is subdivided into more than one parcel of real property, the owners of fee title to each such parcel shall be jointly and severally liable for the duties and obligations of School under this Declaration.

1.11 “School Parcel” - collectively, the two parcels of real property, located adjacent to the Property, legally described as (i) Lot 1, according to the Final Plat for Marley Park Legacy Charter School, recorded in Book 1211, Page 27, Official Records of Maricopa County, Arizona, and (ii) Lot 2A, according to the Final Plat for Marley Park Legacy Charter School Expansion, recorded in Book 1298, Page 16, Official Records of Maricopa County, Arizona.

1.12 “Village Park Parcel” - the portion of the Property located south of the right-of-way for Sweetwater Avenue, as and when such right-of-way is established by a plat, map of dedication or other recorded instrument.

1.13 “Well Site Improvements” - all “Well Improvements” (as defined in Section 7.1.2 of the PADA) and the associated “Connecting Water Lines” (as defined in Section 6.2.1 of the PADA), to the extent that they are not yet constructed as of the date of this Declaration and to the extent that they are to be located on the Property.

ARTICLE 2 **USE RESTRICTIONS**

2.1 Residential Use. The Property may be developed and used only for Residential Use.

2.2 Subdivision. No portion of the Property may be subdivided without Declarant’s express prior written approval of the subdivision plat, provided that the scope of Seller’s approval rights shall be limited to confirming that (a) each submittal of a subdivision plat is reasonably consistent with the proposed Preliminary Plat for Marley Park Phase 4-5, prepared by EPS Group, Job No. 17-234, dated August 24, 2017, (b) each final plat of any portion of the Property shall include the term “Marley Park” in the name of the subdivision, (c) the final plat covering the northeast corner of the intersection of Bullard Avenue and Sweetwater Avenue must include an easement area in favor of Declarant and/or MPCA for community signage at such intersection, which community signage shall be consistent with existing community signage within the Development, and (d) the final plat covering the location of any Well Site Improvements must include an easement area in favor of Declarant and/or MPCA to accommodate construction and maintenance of the Well Site Improvements.

ARTICLE 3 **PROPERTY MAINTENANCE**

3.1 General Property Maintenance and Repair. Except as set forth in Sections 3.2 and 3.3 below, each Owner shall maintain, repair and replace the portion of the Property owned by the Owner, and the improvements at any time located thereon, in accordance with the prevailing standards within the Development and in accordance with applicable law. Each Owner’s maintenance obligations include maintaining the topography of the Property so as to preserve the intended storm water drainage to and from the Property, as indicated in the grading and drainage plans for the Property approved by the City of Surprise.

3.2 Perimeter Landscaping.

3.2.1 Except as set forth in Section 3.2.2 and Sections 3.2.3 below, Meritage shall water, maintain, repair and replace all Perimeter Landscaping.

3.2.2 Notwithstanding Section 3.2.1 above, MPCA shall continue to water, maintain, repair and replace all Perimeter Landscaping that it currently waters, maintains, repairs and replaces (consisting of Perimeter Landscaping (i) adjacent to and east of Bullard Avenue between Sweetwater Avenue and Waddell Road, (ii) within the north half of the Sweetwater Avenue median lying south of the Property, (iii) adjacent to and north of Sweetwater Avenue, (iv) within the 144th Drive median lying east of the School Parcel, and (v) adjacent to and east of 144th Drive between Sweetwater Avenue and the north boundary of the School Parcel. MPCA shall have the right to recover from Meritage all actual costs reasonably incurred by MPCA in watering, maintaining, repairing and replacing such Perimeter Landscaping (the “MPCA Costs”), as set forth in this Section 3.2.2.

(i) MPCA shall present to Meritage a statement of the MPCA Costs from time to time (but not more often than monthly) including reasonably detailed supporting documentation. Meritage shall reimburse MPCA for the MPCA Costs reflected in such statement within thirty (30) days.

(ii) The obligation of Meritage to pay the MPCA Costs is a continuing lien on the Property, and is also the personal obligation of Meritage until the assumption and administration of such obligation by the Property Association as set forth in Section 3.2.3 below. If Meritage fails to timely reimburse the MPCA Costs, and if such failure continues for fifteen (15) days after MPCA gives notice of such failure to Meritage, then MPCA shall have the right (but not the obligation), in addition to any other remedies that may be available at law or in equity, to record a notice of default against all or any portion of the Property, and thereafter foreclose the foregoing lien under then prevailing Arizona law relating to the foreclosure of realty mortgages.

(iii) The foregoing lien is subject and subordinate to (i) liens for taxes and other public charges which by applicable law are expressly made superior, and (ii) all liens recorded in the official records of Maricopa County, Arizona, prior to the date of recordation of the notice of default. The sale or transfer of the Property (or any portion thereof) does not affect such lien, except that the sale or transfer of the Property (or any portion thereof) pursuant to foreclosure of a mortgage or deed of trust superior in priority to a notice of default (including the exercise of the power of sale by a trustee under a deed of trust) extinguishes said lien for obligations arising prior (but not subsequent) thereto, but does not extinguish the personal liability of Meritage (which personal liability is subject to the assumption and administration of such liability by the Property Association as set forth in Section 3.2.3 below).

(iv) Any such notice of default shall be recorded in the official records of Maricopa County, Arizona, shall be signed and acknowledged by MPCA, and shall contain (i) a statement of the unpaid amount of the obligation, (ii) the legal description of the Property (or applicable portion thereof against which it is recorded), and (iii) the name of the owner(s) or reputed owner(s) of the Property (or applicable portion thereof). Upon the curing of any default for which such a notice of default was recorded, MPCA will record an appropriate release of such notice.

(v) MPCA is an intended third-party beneficiary of the provisions of this Section 3.2.2.

3.2.3 Upon the creation of a Property Association, the obligation to pay the MPCA Costs shall be assumed and administered by the Property Association, and assessed against the

members of the Property Association in such manner as is set forth in the documents governing the Property Association, and such assumption and administration of such obligation by the Property Association shall relieve Meritage from the liabilities and obligations imposed under Section 3.2.2, to the extent arising after the date of such assumption, but such assumption and administration of such liabilities and obligations by the Property Association shall not relieve the Property (or any portion thereof) from the liabilities imposed under Section 3.2.2.

3.3 School Boundary Walls. For purposes of this Section 3.3, the term “School Boundary Wall” shall mean a permanent privacy wall (or view fence) constructed on, or adjacent to, the common boundary of the Property and the School Parcel (but not a chain link fence or other temporary fence). Any retaining wall that lies under and supports a School Boundary Wall shall be deemed a part of such School Boundary Wall for purposes of this Section 3.3. Where a School Boundary Wall is a continuous wall running along the boundaries of multiple residential Lots within the Property (each, a “Lot”), the rights and responsibilities of the Owner of each such Lot under this Section 3.3 shall pertain only to the portion of such wall that adjoins such Owner’s Lot. School and each Owner of an adjoining Lot shall equally have the right to use such School Boundary Wall (or applicable portion thereof), provided that the use by one such party does not interfere with the use and enjoyment of such School Boundary Wall by the other. The Builder constructing homes on any Lots adjoining the School Parcel shall be solely responsible for the cost of constructing any School Boundary Wall. The rights and duties of School and each Owner of an adjoining Lot with respect to maintenance and repair of School Boundary Walls shall be as follows:

3.3.1 If any School Boundary Wall is damaged or destroyed through the act of School or any of School’s Permittees (whether or not such act is negligent or otherwise culpable), School shall rebuild and repair the School Boundary Wall to its pre-existing condition (including restoration of any affected landscaping and compliance with all applicable municipal code requirements) at School’s sole cost, provided that any liability imposed on School under this Section 3.3.1 shall not limit or prejudice the right of School to pursue any available legal remedies against the Permittee(s) or other person who may have caused such damage or destruction.

3.3.2 If any School Boundary Wall is damaged or destroyed through the act of an Owner or any of its Permittees (whether or not such act is negligent or otherwise culpable), the Owner shall rebuild and repair the School Boundary Wall to its pre-existing condition (including restoration of any affected landscaping and compliance with all applicable municipal code requirements) at the Owner’s sole cost, provided that any liability imposed on an Owner under this Section 3.3.2 shall not limit or prejudice the right of the Owner to pursue any available legal remedies against the Permittee(s) or other person who may have caused such damage or destruction.

3.3.3 If any School Boundary Wall is destroyed or damaged (including by deterioration from ordinary wear and tear) other than by the act of School or an Owner or their Permittees, or if it cannot be determined who caused such destruction or damage, then School shall rebuild and repair the School Boundary Wall to its pre-existing condition (including restoration of any affected landscaping and compliance with all applicable municipal code requirements) and then shall be entitled to recover one-half (1/2) of the cost of such rebuilding and repair from the Owner(s) of the Lot(s) adjoining the damaged portions of the School Boundary Wall; provided, however, that if such damage or destruction is limited to the surface of a School Boundary Wall, then the obligation to repair such damage or destruction shall be the sole responsibility of the owner of the property toward which such surface faces, at such owner’s sole expense.

3.3.4 If School or an Owner that is responsible to rebuild or repair a School Boundary Wall under this Section 3.3 (a “Responsible Party”) fails to do so within thirty (30) days after written demand by one or more adjacent Owners or School, then the demanding party may undertake such building or repair and thereafter recover from the Responsible Party one hundred twenty percent (120%) of all costs incurred in such rebuilding or repair.

3.3.5 In connection with any rebuilding or repair of a School Boundary Wall in accordance with this Section 3.3, School and each adjacent Owner, as applicable, shall have the right to enter upon the property of the other as may be reasonably necessary in order to carry out any required rebuilding or repair (including restoration of any affected landscaping).

3.3.6 Notwithstanding anything to the contrary contained in this Declaration, there shall be no modification of any School Boundary Wall or impairment of the structural integrity of any School Boundary Wall without the prior consent of School and the applicable adjacent Owner(s).

3.3.7 The right of School or any Owner to contribution from the other under this Section 3.3 shall be appurtenant to the applicable Lot and to the School Parcel and shall pass to the successors-in-title of each.

3.3.8 A chain link or other temporary fence (a “Temporary Fence”) installed by an Owner shall not be deemed a School Boundary Wall, regardless of location. The installing Owner shall be solely responsible for the maintenance, repair and rebuilding of any such Temporary Fence. As and when a School Boundary Wall is constructed along all or any portion of any boundary of the Property along which an Owner has installed a Temporary Fence, the Owner shall remove the Temporary Fence, at the Owner’s expense. School is not required to contribute to the cost of installing any School Boundary Wall, nor to contribute to the cost of installing or removing any Temporary Fence.

3.3.9 School shall be a third party beneficiary of the provisions of this Section 3.3.

3.3.10 The provisions of this Section 3.3 are intended to operate in conjunction with the provisions of (i) Section 3.2 of the Declaration of Covenants, Conditions and Restrictions for Marley Park Charter School Site, recorded as Document No. 2015-0043957, official records of Maricopa County, Arizona, and Section 3.2 of the Declaration of Covenants, Conditions and Restrictions for Marley Park Charter School Site #2, recorded as Document No. 2016-0846955, official records of Maricopa County, Arizona.

3.4 Maintenance of Village Park Parcel. Meritage, by taking title to the Property, agrees to maintain, repair and replace the Village Park Parcel, and the improvements at any time located thereon, in accordance with the prevailing standards for comparable parks located within the Development and west of Bullard Avenue, and otherwise in accordance with applicable law, including maintaining the topography of the Village Park Parcel so as to preserve the intended storm water drainage to and from the Village Park Parcel, as indicated in the grading and drainage plans for the Village Park Parcel approved by the City of Surprise. The foregoing obligations shall continue until such time, if ever, as (a) development of the Village Park Parcel is completed with all improvements set forth in the applicable plans for the Village Park Parcel as approved by the City of

Surprise, and (b) the entire Village Park Parcel is dedicated to and accepted for maintenance by the City of Surprise or (if the City of Surprise expressly declines to do so) by the Property Association.

ARTICLE 4
ARCHITECTURAL CONTROL

4.1 General. All site work, landscaping, structures and other improvements placed on any portion of the Property ("Improvements") are subject to approval by Declarant as set forth in this Article. No prior approval is necessary to re-build or restore any damaged Improvements on the Property in a manner consistent with the plans and specifications most recently approved for such Improvements. Generally, no approval is required for work done to the interior of a structure; however, modifications to the interior of screened porches, patios, and any other visible Improvements may require prior approval. Approval under this Article is not a substitute for any approvals or reviews required by the City of Surprise or any governmental agency or entity having jurisdiction over architectural or construction matters.

4.2 Design Review Authority and Process.

4.2.1 Declarant has exclusive authority to review and act upon all applications for review of proposed Improvements. Declarant may designate one or more persons to act on its behalf in reviewing any application. In reviewing and acting upon any application for approval, Declarant and its designee act solely in the best interests of the Development and owe no duty to any other person. Declarant may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees may also include reasonable costs incurred in having design professionals review any application; provided that any fees charged shall be consistent with the fees charged to other landowners within the Development.

4.2.2 No activities described in Section 4.1 may begin on any portion of the Property until a written application is submitted to and approved by Declarant. The application must be accompanied by plans and specifications and such other information as Declarant require. In reviewing an application, Declarant may consider any factors it deems relevant, including, without limitation, harmony of the proposed external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Such determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements. Declarant shall have the discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment, which shall not be subject to judicial review so long as they are made in good faith and in accordance with required procedures.

4.2.3 Declarant shall make a determination on each application after receipt of a completed application with all required information. Declarant may permit or require that an application be submitted or considered in stages, in which case a final decision shall not be required until after the final, required submission. Declarant may (i) approve the application with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application. Declarant shall notify the applicant in writing of the final determination on any application no later than thirty (30) days after its receipt of a completed application and all required submissions. Notice shall be deemed given at the time the envelope containing the response is deposited in the U.S. mail. Hand delivery, facsimile, electronic mail, or similar delivery of such

written notice also shall be sufficient and shall be deemed given at the time of confirmed delivery to the applicant. If Declarant fails to respond in a timely manner, approval shall be deemed given.

4.2.4 As part of any approval, Declarant may require that construction commence within a specified time period. If construction does not commence within the required period, the approval shall expire, and the Owner must reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless Declarant, in its sole and absolute discretion, grants an extension in writing.

4.3 No Waiver of Future Approvals. The individuals reviewing applications under this Article may change from time to time, and opinions on aesthetic matters may vary accordingly. It may not always be possible to identify objectionable features until work is completed. In such cases, Declarant may require that objectionable features be corrected or it may elect not to require changes to objectionable features; provided, Declarant may not require the correction or removal of features or improvements constructed in conformance with plans which it previously has approved. However, in any event, Declarant may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

4.4 Limitation of Liability. Declarant is not responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other governmental requirements, or for ensuring that Improvements are aesthetically pleasing or otherwise acceptable to others. Declarant, and any individual acting on behalf of Declarant in connection with this Article 4, shall not be liable for (a) soil conditions, drainage, or other general site work; (b) any defects in plans revised or approved hereunder; (c) any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents; or (d) any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to the Property.

4.5 Standards of Review. Notwithstanding anything to the contrary in this Article 4, in reviewing and acting upon applications for review of proposed Improvements, Declarant shall not apply standards that are more restrictive than the design standards that apply to the Development through the Charter or that have previously been approved within the Development.

4.6 Applicability. Notwithstanding anything to the contrary in this Article 4, this Article 4 does not apply to an Owner who, as a retail purchaser or investor, has acquired a Lot with a completed residence.

ARTICLE 5

DISCLAIMER OF RIGHT TO ANNEX

The Property was removed from the coverage of that certain Community Charter for Marley Park, recorded on April 23, 2004, as Document No. 2004-0440662, in the official records of Maricopa County, Arizona, as amended (collectively, the "Charter"), pursuant to that certain Sixth Amendment to Community Charter for Marley Park Phase 4-5 of even date herewith recorded immediately prior to this Declaration. Furthermore, Declarant hereby (a) forever disclaims and waives any right to (i) annex the Property (or any portion thereof) into the Charter, or (ii) prevent

Meritage or any other Builder from recording further covenants, conditions and restrictions against the Property (or any portion thereof), and (b) agrees and acknowledges that neither this Declaration nor the Charter prevent Meritage or any other Builder from recording further covenants, conditions and restrictions against the Property (or any portion thereof).

ARTICLE 6
GENERAL PROVISIONS

6.1 **Enforcement.** Declarant shall have the right to enforce the provisions of this Declaration. In connection with such enforcement, Declarant shall be entitled to recover court costs and reasonable attorneys' fees as ordered by the court or other adjudicating body. Failure by Declarant to enforce any provision of this Declaration shall not be deemed a default or a waiver of the right to do so thereafter. Declarant may assign the foregoing rights of enforcement (in whole or in part, on an exclusive or nonexclusive basis) to any one or more third parties at any time, including without limitation to MPCA and/or to any Builder that owns any portion of the Property and/or to the Property Association.

6.2 **Binding: Run With Land.** The provisions of this Declaration shall constitute covenants running with the land and equitable servitudes, shall run with and bind the Property and all interests therein, including, without limitation, the fee interest and any leasehold interests, and shall inure to the benefit of and shall be binding upon each Owner, and each holder of any interest in any part of the Property, and their grantees, lenders, heirs, successors, assigns and personal representatives, with the same full force and effect as though set forth in full in every grant, conveyance or other transfer of the Property, or any part thereof.

6.3 **Invalidity of any Provision.** If any provision of this Declaration is declared by a court of competent jurisdiction to be invalid or in conflict with any applicable law, the validity of all other provisions of this Declaration shall remain unaffected and shall continue in full force and effect.

6.4 **Term.** This Declaration shall remain in effect for a term of fifty (50) years from the date this Declaration is recorded, after which it automatically shall be extended for successive periods of ten (10) years, unless a written instrument terminating this Declaration and signed by Declarant and the Owner(s) of the entire Property, has been recorded within the year preceding the end of the initial term or any extended term of this Declaration.

6.5 **Amendment.** This Declaration may be amended only pursuant to a written instrument signed by Declarant and the Owner(s) of the entire Property, which instrument shall be effective as and when recorded in the official records of Maricopa County, Arizona.

6.6 **Governing Law; Venue.** This Declaration shall be governed by, construed under, and enforced in accordance with the laws of the State of Arizona, without regard to conflicts of law principles. Declarant and each Owner (by taking title to the Property or any portion thereof) consent to the jurisdiction of the courts of the State of Arizona and the United States of America, and agree that venue properly lies in the Superior Court of Maricopa County and the United States District Court for the District of Arizona, as appropriate.

6.7 Joint and Several Liability. When a Lot is owned by more than one person, each such person shall be jointly and severally liable for payment and performance of all obligations of the "Owner" of the Lot arising under any provision of this Declaration.

6.8 Attorneys' Fees. If there is any legal action or proceeding to enforce any provision of this Declaration or to protect or establish any right or remedy, the non-prevailing party to such action or proceeding shall pay to the prevailing party all costs and expenses (including, without limitation, reasonable attorneys' fees and costs) incurred by such prevailing party in enforcing or appealing any judgment rendered in any such legal action or proceeding, which costs and expenses shall be recoverable separately from and in addition to any other amount included in such judgment. This Section 6.8 is intended to and shall survive and not be merged into any such judgment.

6.9 Captions. The captions in this Declaration are for convenience and reference only and in no way define, limit, or otherwise affect the scope, meaning or effect of any provision of this Declaration.

6.10 Number; Gender. The singular and plural number and the masculine, feminine and neuter gender shall each include the other where the context requires.

IN WITNESS WHEREOF, Declarant has executed this Declaration of Covenants, Conditions and Restrictions for Marley Park Phase 4-5, this 2 day of October, 2017.

Marley Park Phase II LLC, an Arizona limited liability company

By: DMB Associates, Inc., an Arizona corporation, its Manager

By: [Signature]

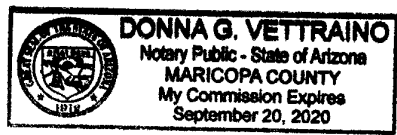
Its: SR. VICE PRESIDENT

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing Declaration of Covenants, Conditions and Restrictions for Marley Park Phase 4-5, was acknowledged before me this 29th day of ~~October~~ ^{Sept.}, 2017, by Daniel T. Kelly, the Senior Vice President of DMB Associates, Inc., an Arizona corporation, in its capacity as Manager of Marley Park Phase II LLC, an Arizona limited liability company.

[Signature]
Notary Public

My Commission Expires:
9-20-2020



20170729650

Exhibit "A"

Legal Description of Property

[see attached]

20170729650

Wood, Patel & Associates, Inc.
(602) 335-8500
www.woodpatel.com

Revised September 22, 2017
Revised July 14, 2017
Revised June 29, 2017
Revised May 8, 2017
Revised September 9, 2016
August 17, 2016
WP# 144227.83
Page 1 of 4
See Exhibit "A"

PARCEL DESCRIPTION

Marley Park

Phase 4/5

A portion of Lot 2B, Marley Park Legacy Charter School Expansion, recorded in Book 1298, page 16, Maricopa County Records (M.C.R.) and Certificate of Correction recorded May 8, 2017 as 2017-0333079 of official records and a portion of the northeast quarter of Section 16, all within Section 16, Township 3 North, Range 1 West, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

BEGINNING at the most northerly northwest corner of said Lot 2B, said point also being on the south right-of-way line of Waddell Road;

THENCE along said right-of-way line and the north line of said Lot 2B, South 89°20'49" East, a distance of 2,531.43 feet, to an angle point in said right-of-way line;

THENCE continuing along said right-of-way line and said north line, and the prolongation thereof, South 89°21'05" East, a distance of 1,334.80 feet, to the northwest corner of Replat of Marley Park Square Amended, recorded in Book 1283, page 24, M.C.R.;

THENCE leaving said right-of-way line, along the west line of said Replat of Marley Park Square Amended and the west line of Minor Land Division Map For Marley Park Square, recorded in Book 926, page 3, M.C.R., South 11°36'21" East, a distance of 2,548.29 feet, to the southwest corner of said Minor Land Division Map For Marley Park Square and a point of intersection of a non-tangent curve;

THENCE leaving said west line, along the south line of said Minor Land Division Map For Marley Park Square, easterly along said non-tangent curve to the left, whose radius bears North 09°45'55" East, a distance of 1,947.00 feet, having a central angle of 09°02'45", a distance of 307.39 feet;

THENCE South 89°16'50" East, a distance of 393.63 feet;

THENCE North 45°20'18" East, a distance of 56.19 feet, to the most easterly southeast corner of said Minor Land Division Map For Marley Park Square and the west right-of-way line of Litchfield Road;

THENCE leaving said south line, along said right-of-way line, South 00°02'34" East, a distance of 93.00 feet, to the south line of the northeast quarter of said section;

THENCE along said south line, North 89°16'50" West, a distance of 2,587.13 feet, to the center of said section and the southeast corner of said Lot 2B;

THENCE leaving said south line, along the southerly line of said Lot 2B, North 72°33'48" West, a distance of 101.16 feet;

THENCE North 75°21'28" West, a distance of 84.48 feet;

THENCE North 89°58'52" West, a distance of 240.00 feet;

THENCE North 00°01'08" East, a distance of 5.00 feet;

THENCE North 89°58'52" West, a distance of 240.00 feet;

THENCE South 00°01'08" West, a distance of 5.00 feet;

THENCE North 89°58'52" West, a distance of 255.14 feet;

20170729650

Parcel Description
Marley Park
Phase 4/5

Revised September 22, 2017
Revised July 14, 2017
Revised June 29, 2017
Revised May 8, 2017
Revised September 9, 2016
August 17, 2016
WP# 144227.83
Page 2 of 4
See Exhibit "A"

THENCE South 46°56'43" West, a distance of 71.83 feet
THENCE North 17°41'35" West, a distance of 166.28 feet, to the south right-of-way line of Sweetwater Avenue;
THENCE along said right-of-way line, continuing along said southerly line, North 72°18'25" East, a distance of 210.68 feet, to the beginning of a tangent curve;
THENCE easterly along said curve to the right, having a radius of 2,647.00 feet, a central angle of 02°22'25", a distance of 109.66 feet;
THENCE leaving said right-of-way line, continuing along said southerly line, North 15°19'10" West, a distance of 106.00 feet, to the east right-of-way line of 144th Drive;
THENCE along said east right-of-way line, continuing along said southerly line, North 62°19'19" West, a distance of 29.21 feet;
THENCE North 19°06'12" West, a distance of 706.03 feet;
THENCE leaving said right-of-way line, continuing along said southerly line, South 70°53'48" West, a distance of 83.00 feet, to the west right-of-way line of 144th Drive;
THENCE leaving said right-of-way line, continuing along said southerly line, North 89°12'15" West, a distance of 78.89 feet;
THENCE South 72°25'48" West, a distance of 113.98 feet;
THENCE South 75°17'13" West, a distance of 209.53 feet;
THENCE South 82°23'59" West, a distance of 156.62 feet;
THENCE South 88°24'39" West, a distance of 68.26 feet;
THENCE South 00°01'03" East, a distance of 309.66 feet, to the beginning of a tangent curve;
THENCE southerly along said curve to the left, having a radius of 2,860.00 feet, a central angle of 02°49'50", a distance of 141.30 feet, to a point of intersection with a non-tangent line;
THENCE South 84°48'58" West, a distance of 375.01 feet;
THENCE South 00°01'03" East, a distance of 337.10 feet, to the north right-of-way line of Sweetwater Avenue and a point of intersection with a non-tangent curve;
THENCE along said north right-of-way line, continuing along said southerly line, westerly along said non-tangent curve to the right, whose radius bears North 00°21'00" East, a distance of 2,727.00 feet, having a central angle of 00°57'38", a distance of 45.72 feet;
THENCE North 88°41'21" West, a distance of 439.41 feet;
THENCE North 44°21'12" West, a distance of 57.22 feet, to the most westerly southwest corner of said Lot 2B and the east right-of-way line of Bullard Avenue;
THENCE leaving said north right-of-way line and said southerly line, along said east right-of-way line and the west line of said Lot 2B, North 00°01'03" West, a distance of 2,155.41 feet;
THENCE North 06°44'20" East, a distance of 102.00 feet;
THENCE North 00°01'03" West, a distance of 106.81 feet;
THENCE leaving said east right-of-way line and said west line, North 89°58'57" East, a distance of 29.49 feet;
THENCE North 00°01'03" West, a distance of 30.00 feet;
THENCE South 89°58'57" West, a distance of 29.49 feet, to the west line of said Lot 2B and the east right-of-way line of Bullard Avenue;
THENCE along said east right-of-way line and the west line of said Lot 2B, North 00°01'03" West, a distance of 28.24 feet;

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Parcel Description
Marley Park
Phase 4/5

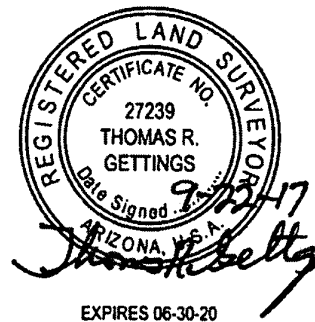
Revised September 22, 2017
Revised July 14, 2017
Revised June 29, 2017
Revised May 8, 2017
Revised September 9, 2016
August 17, 2016
WP# 144227.83
Page 3 of 4
See Exhibit "A"

THENCE North 45°19'04" East, a distance of 56.24 feet, to the POINT OF BEGINNING.

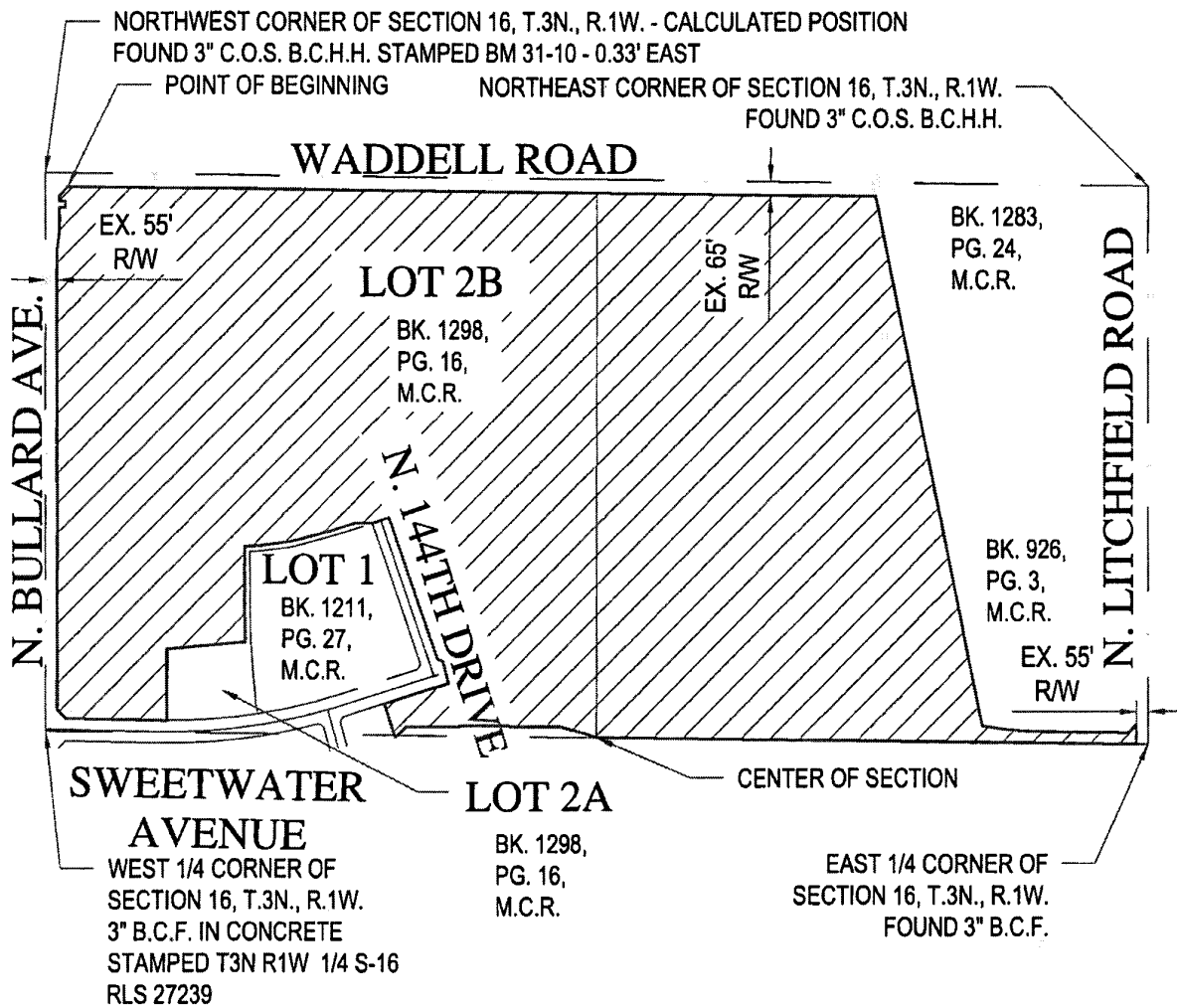
Containing 9,765,301 square feet or 224.1805 acres, more or less.

This parcel description is based on the Final Plat for Marley Park Legacy Charter School, recorded in Book 1211, page 27, M.C.R., and other client provided information. This description is located within an area surveyed by Wood, Patel & Associates, Inc. during the month of December, 2012. Any monumentation noted in this parcel description is within acceptable tolerance (as defined in Arizona Boundary Survey Minimum Standards dated 02/14/2002) of said positions based on said survey.

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EXHIBIT "A"

MARLEY PARK
 PHASE 4/5
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 NOT TO SCALE

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EXPIRES 06-30-20