

#4

SEP 12 2016

ORDINANCE NO. 4680

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, GRANTING AND APPROVING AN EASEMENT, MAINTENANCE AND ACCESS AGREEMENT TO ASHTON WOODS ARIZONA, LLC, AND THE PARKVIEW PLACE HOME OWNERS ASSOCIATION FOR THE PARKVIEW PLACE DEVELOPMENT LOCATED ON BASHA ROAD ACROSS FROM THE SNEDIGAR SPORTS COMPLEX.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

WHEREAS, the Development of Parkview Place by Ashton Woods Arizona, LLC., will create an approximate 10 foot wide area between their southern fence and the northern fence of an adjacent City of Chandler water production facility; and

WHEREAS, Ashton Woods Arizona, LLC., and its successor in interest, the Parkview Place Homeowners Association, are willing to maintain this strip of land provided they are granted an easement for maintenance and access; and

WHEREAS, the City of Chandler is willing to grant and approve an easement for maintenance and access to Ashton Woods Arizona, LLC., and the Parkview Place Homeowners Association for this purpose;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

Section 1. That the City Council of the City of Chandler, Arizona, authorizes and approves the granting of an Easement, Maintenance and Access Agreement to Ashton Woods Arizona, LLC., and the Parkview Place Homeowners Association through, over, and across that certain property described and depicted in Exhibit "A" attached hereto and made a part hereof by this reference.

Section 2. That the granting of said Easement, Maintenance and Access Agreement shall be in a form approved by the City Attorney.

Section 3. That the Mayor of the City of Chandler, Arizona, is hereby authorized to execute the Easement, Maintenance and Access Agreement, and this Ordinance on behalf of the City.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this _____ day of _____ 2016.

ATTEST:

CITY CLERK

MAYOR

PASSED AND ADOPTED by the Mayor and City Council of the City of Chandler, Arizona, this _____ day of _____, 2016.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4680 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2016, and that the vote was _____ ayes, and _____ nays.

CITY CLERK

APPROVED AS TO FORM

CITY ATTORNEY (i7B)

November 6, 2015
PROJECT # 050186-01-001

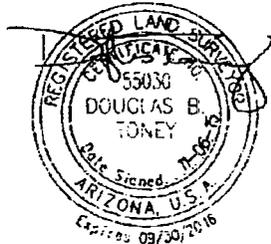


EXHIBIT 'A'

LEGAL DESCRIPTION

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 2 SOUTH, RANGE 5 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 21, BEING MARKED BY A CHISELED "X" IN CONCRETE, FROM WHICH POINT THE NORTHWEST CORNER OF SAID SECTION 21, BEING MARKED BY A CITY OF CHANDLER BRASS CAP IN HAND HOLE, BEARS NORTH 00°13'35" WEST, A DISTANCE OF 2648.77 FEET;

THENCE NORTH 00°13'35" WEST, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 21, A DISTANCE OF 42.30 FEET TO A POINT;

THENCE NORTH 89°49'10" EAST, DEPARTING SAID WEST LINE, A DISTANCE OF 33.00 FEET TO THE EAST RIGHT OF WAY LINE OF BASHA ROAD AND THE POINT OF BEGINNING;

THENCE NORTH 00°13'35" WEST, ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 10.23 FEET TO A POINT ON THE SOUTH LINE OF THAT PARCEL DESCRIBED IN DOCUMENT NO. 2015-0531457, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA;

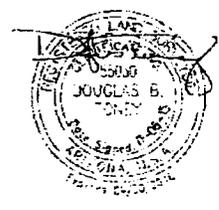
THENCE NORTH 89°44'45" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 519.19 FEET;

THENCE SOUTH 00°13'35" EAST, PARALLEL WITH THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 21, A DISTANCE OF 10.90 FEET;

THENCE SOUTH 89°49'10" WEST, A DISTANCE OF 519.19 FEET TO THE POINT OF BEGINNING.

CONTAINING 5,484 SQUARE FEET OR 0.1259 ACRES, MORE OR LESS.

NORTHWEST CORNER
SECTION 21, T2S, R5E
FOUND C.O.C. BRASS
CAP IN HANDHOLE
OCOTILLO ROAD



LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	55.00'	N89°49'16"E
L2	10.23'	N00°13'35"W
L3	10.90'	S90°13'25"E

BASIS OF BEARINGS:
N 01°31'51"W 2640.77'
2,500.48'
BASHA ROAD

HORLE FARMS, LLC
DOC. 2015-0531457, M.C.R.

N89°44'45"E 519.19'

S89°49'10"W 519.19'

POINT OF BEGINNING

CITY OF CHANDLER
DOC. 1997-0501654, M.C.R.

POINT OF COMMENCEMENT
WEST QUARTER CORNER
SECTION 21, T2S, R5E
FOUND CHISELED
"X" IN CONCRETE



DATE
11-06-15

EXHIBIT 'A'		
BY: DT	CHK:	QC:
PROJECT NO. 050186-01 TASK: 001		
CLIENT REF. NO.		

Bowman
CONSULTING

226 W Washington St #108
Tempe, AZ 85281
Phone: 480 829-8830
Fax: 480 829-8841
www.bowmanconsulting.com

When recorded, mail to:
City of Chandler
City Clerk
Mail Stop 606, P.O. Box 4008
Chandler, AZ 85244-4008

This document is exempt from Affidavit and Fee requirements pursuant to A.R.S. §11-1134.A.2.

EASEMENT, MAINTENANCE AND ACCESS AGREEMENT

THIS EASEMENT MAINTENANCE AND ACCESS AGREEMENT (the "Agreement") is made and entered into as of this ___ day of _____, 2016, by the CITY OF CHANDLER, an Arizona municipal corporation ("City"), ASHTON WOODS ARIZONA, LLC, a Nevada limited liability company (the "Developer"), and THE PARKVIEW PLACE HOME OWNERS ASSOCIATION, an Arizona non-profit association (the "Association") ("City" "Developer" and "Association" are collectively referred to herein as the "Parties").

I. RECITALS

A. The City is the owner of certain real property, which consists of an approximately 4.5 acre well site located approximately one-half mile south of the southeast corner of Ocotillo Road and Basha Road within Chandler, Arizona, (the "Well Site") and more particularly described on Exhibit A, attached hereto and incorporated herein by reference.

B. The Developer is the owner of certain real property, which consists of an approximately 6.8 acre site located on the northern boundary of the Well Site and approximately one-half mile south of the southeast corner of Ocotillo Road and Basha Road within Chandler, Arizona ("Parkview Place") and more particularly described on Exhibit B, attached hereto and incorporated herein by reference.

C. On _____, 2016, Developer recorded CC&R's with the Maricopa County Recorder as Instrument No. _____, whereupon the Association was made responsible for maintaining the landscape easements and common areas within Parkview Place.

D. Most of the Well Site property is enclosed with a cement block wall ("Well Site Perimeter Wall"), however a portion of the Well Site adjacent to the Parkview Place property is located outside of the Perimeter Wall ("Landscape Easement Property") and is more particularly described on Exhibit A, attached hereto and incorporated herein by reference.

E. To avoid a situation where a separate perimeter wall is constructed on the Parkview Place property boundary line ("Parkview Place Perimeter Wall") leaving an unmaintained area between the Well Site Perimeter Wall and the Parkview Place Perimeter Wall, Association and Developer desire to install landscape improvements in the Landscape Easement portion of the Well Site and incorporate the maintenance of the Landscape Easement Property into the Parkview Place development and the Association desires to maintain the Landscape Easement Property subject to

the terms of this Agreement. City is willing to cooperate with Developer and Association so long as City incurs no liability, construction and/or maintenance obligations arising therefrom.

NOW, THEREFORE, for \$1.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Grant of Landscape and Use Easement.** City hereby grants to Association a perpetual, non-exclusive landscape and use easement over the Landscape Easement Property subject to those conditions set forth in Section 2 below and to the other terms and conditions of this Agreement

2. **Conditions of Easement.** The landscape and use easement granted in Section 1 herein shall be subject to the following conditions:

a. **Maintenance.** At the Association's sole cost and expense, the Landscape and Use Easement shall be maintained by the Association to the same extent as required for the Parkview Place subdivision as set forth in the CCR's and City subdivision and zoning approvals for the Parkview Place subdivision. To the extent that the Association installs landscaping or plant materials in the Landscape Easement Property, the Association's obligations for maintenance shall include the costs for providing water and other necessary utilities to the easement property, replacement of infrastructure and plant materials and other general maintenance. In addition to the maintenance of the Landscape Easement Property, Association, at its sole cost and expense, shall be responsible for maintaining the north-facing exterior portion of the Well Site Perimeter Wall, including the application of paint materials consistent with the paint palate and colors utilized throughout the Parkview Place subdivisions. In addition to the foregoing, prior to the installation of any improvements on or to the Landscape Easement Property, Developer, at its sole cost and expense, shall disconnect and discontinue use of any existing irrigation connection serving the Landscape Easement Property and install an irrigation connection and system for the Landscape Easement Property that is owned and operated by the Developer and/or the Association.

b. **Indemnification.** To the fullest extent permitted by law, Developer and Association, its successors, assigns and guarantors, shall defend, indemnify and hold harmless City and any of its elected or appointed officials, officers, directors, commissioners, board members, agents or employees from and against any and all allegations, demands, claims, proceedings, suits, actions, damages, including, without limitation, property damage, environmental damages, personal injury and wrongful death claims, losses, expenses (including claim adjusting and handling expenses), penalties, costs, and fines (including, but not limited to, attorney fees, court costs, and the cost of appellate proceedings), judgments or obligations, which may be imposed upon or incurred by or asserted against the City by reason of this Agreement or the permissions and rights granted under it, or related to, arising from or out of, or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Developer and/or Association, or any of its subcontractors, guests, invitees or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, relating to the discharge of any duties or the exercise of any rights or privileges arising from or

incidental to this Agreement, including but not limited to, any injury or damages claimed by any of Developer's and/or Association's subcontractor's employees.

c. **Maintenance and Access Easement.** On the final plat of the Parkview Place subdivision, Developer and/or Association shall dedicate to the City a perpetual access easement over and across the tracts, roadways and streets within Parkview Place and an access and maintenance easement over and across the entire southern boundary of the Parkview Place property adjacent to the Well Site Property to allow the City to access the Well Site property and to perform maintenance on the Well Site property including, but not limited to maintenance to the Well Site Perimeter Wall.

d. **Improvements within Landscape Easement Property.** Developer, and/or Association shall, at its sole cost and expense, be permitted to install gravel ground cover, grass, artificial turf, limited low height plants and perimeter theme wall along Basha Road frontage connecting exiting Well Site Perimeter Wall to the Parkview Place Perimeter Wall at the location identified on Exhibit D. Developer and/or Association may not install trees, large shrubs, dense growth plants and plants with invasive roots within the Landscape Easement Property. Developer will also not install irrigation infrastructure within the Landscape Easement Property. Notwithstanding the foregoing, in the event the City must reasonably remove any landscape materials from within the Landscape Easement Property, City shall incur no liability or obligation for restoring or replacing the landscape materials so removed from the Landscape Easement Property. No building, fence, wall or other permanent structure may be permitted to be installed on the Landscape Easement Property without the prior written permission of the City.

3. **Termination of Easement.** This Agreement and the easements granted herein shall be perpetual, provided that any easement and this Agreement will terminate and be of no further force or effect automatically and without further action of the parties hereto in the event that the Developer, the Association, or their respective successors or assigns, cease to maintain the easements as required by Section 2 above or if the Parkview Place CC&R's cease to remain effective.

4. **Binding Effect.** This Agreement, and the easements granted herewith, shall be binding upon the Burdened and Benefited properties; shall inure to and be binding upon the City, Developer and Association and their respective successors and assigns and shall run with the land. The easements granted herein may be enforced by the City, Developer or Association or their successors or assigns, or any party acting at the direction of the Grantee or its successors or assigns.

5. **Authority.** This Agreement has been duly and validly authorized, executed and delivered by the Parties and no other action is requisite to the valid and binding execution, delivery and performance of this Agreement by the Parties. No consents or waivers of or by any third party are necessary to permit the consummation by the Parties of the transactions contemplated pursuant to this Agreement. The individuals signing this Agreement on behalf of their respective entity covenants they have full power and authority to execute this Agreement on behalf of the Party so stated.

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

CITY: The City of Chandler, an Arizona municipal corporation

By: _____
Its: Mayor

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY kb

STATE OF ARIZONA)
) ss.
County of Maricopa)

CITY OF CHANDLER
ACKNOWLEDGEMENT

The foregoing Easement, Maintenance and Access Agreement was personally acknowledged before me this ____ day of _____, 2016, by _____ as Mayor of the City of Chandler, Arizona, who executed the foregoing instrument for the purposes therein contained.

Notary Public

My Commission Expires:

DEVELOPER: Ashton Woods Arizona, LLC
a Nevada limited liability company

By: [Signature]
Its: Division President

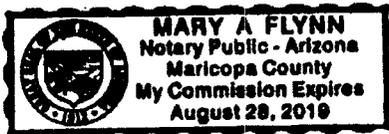
STATE OF NEVADA)
) ss.
County of MARICOPA)

DEVELOPER
ACKNOWLEDGEMENT

The foregoing Easement, Maintenance and Access Agreement was personally acknowledged before me this 28th day of JULY, 2016, by SCOTT MOORE as DIVISION PRES. of Ashton Woods Arizona, LLC, who executed the foregoing instrument for the purposes therein contained.

[Signature]
Notary Public

My Commission Expires: 8/28/2019



ASSOCIATION: Parkview Place HOA

By: [Signature]
Its: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

PARKVIEW PLACE HOA
ACKNOWLEDGEMENT

The foregoing Easement, Maintenance and Access Agreement was personally acknowledged before me this 28th day of JULY, 2016, by JEREMY BAMSDELL as PRESIDENT of Parkview Place HOA, who executed the foregoing instrument for the purposes therein contained.

[Signature]
Notary Public

My Commission Expires: 8/28/2019

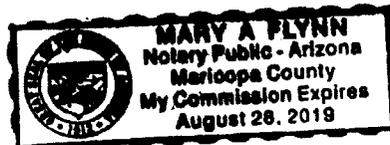


Exhibit "A"

Legal Description of Property

PARCEL NO. 1

BEGINNING AT THE WEST QUARTER CORNER OF SECTION 21, TOWNSHIP 2 SOUTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

THENCE EAST ALONG THE EAST AND WEST MIDSECTION LINE OF SAID SECTION 21, A DISTANCE OF 51 FEET;

THENCE NORTH PARALLEL TO THE WEST LINE OF SAID SECTION 21, A DISTANCE OF 51.93 FEET TO THE TRUE POINT OF BEGINNING;

THENCE RUNNING NORTH PARALLEL TO THE SAID WEST LINE OF SAID SECTION 21, A DISTANCE OF 349.92 FEET;

THENCE EAST AT RIGHT ANGLES 765 FEET;

THENCE SOUTH AT RIGHT ANGLES 349.37 FEET;

THENCE WEST 765 FEET TO THE TRUE POINT OF BEGINNING.

Unofficial Document

EXHIBIT "B"

PARCEL NO. 1

BEGINNING AT THE WEST QUARTER CORNER OF SECTION 21, TOWNSHIP 2 SOUTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

THENCE EAST ALONG THE EAST AND WEST MIDSECTION LINE OF SAID SECTION 21, A DISTANCE OF 51 FEET;

THENCE NORTH PARALLEL TO THE WEST LINE OF SAID SECTION 21, A DISTANCE OF 51.93 FEET TO THE TRUE POINT OF BEGINNING;

THENCE RUNNING NORTH PARALLEL TO THE SAID WEST LINE OF SAID SECTION 21, A DISTANCE OF 349.92 FEET;

THENCE EAST AT RIGHT ANGLES 765 FEET;

THENCE SOUTH AT RIGHT ANGLES 349.37 FEET;

THENCE WEST 765 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL NO. 2

THE EAST 18 FEET OF THE WEST 51 FEET OF THE SOUTH 401.85 FEET OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 2 SOUTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE SOUTH 51.93 FEET THEREOF.

EXHIBIT 'C'

LEGAL DESCRIPTION

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 2 SOUTH, RANGE 5 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 21, BEING MARKED BY A CHISELED "X" IN CONCRETE, FROM WHICH POINT THE NORTHWEST CORNER OF SAID SECTION 21, BEING MARKED BY A CITY OF CHANDLER BRASS CAP IN HAND HOLE, BEARS NORTH 00°13'35" WEST, A DISTANCE OF 2648.77 FEET;

THENCE NORTH 00°13'35" WEST, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 21, A DISTANCE OF 42.30 FEET TO A POINT;

THENCE NORTH 89°49'10" EAST, DEPARTING SAID WEST LINE, A DISTANCE OF 33.00 FEET TO THE EAST RIGHT OF WAY LINE OF BASHA ROAD AND THE **POINT OF BEGINNING**;

THENCE NORTH 00°13'35" WEST, ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 10.23 FEET TO A POINT ON THE SOUTH LINE OF THAT PARCEL DESCRIBED IN DOCUMENT NO. 2015-0531457, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE NORTH 89°44'45" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 519.19 FEET;

THENCE SOUTH 00°13'35" EAST, PARALLEL WITH THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 21, A DISTANCE OF 10.90 FEET;

THENCE SOUTH 89°49'10" WEST, A DISTANCE OF 519.19 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 5,484 SQUARE FEET OR 0.1259 ACRES, MORE OR LESS.

File: P:\050186 - Bogie Ocotillo\050186-01-001 (SUR)\Survey\Draw\050186 STRIP.dwg Plot: 2015, Nov 06

NORTHWEST CORNER
SECTION 21, T2S, R5E
FOUND C.O.C. BRASS
CAP IN HANDHOLE

OCOTILLO ROAD

(BASIS OF BEARINGS)
N00°13'35"W 2648.77'
2,606.48'
BASHA ROAD
33' R/W

42.30'

POINT OF BEGINNING

POINT OF COMMENCEMENT
WEST QUARTER CORNER
SECTION 21, T2S, R5E
FOUND CHISELED
"X" IN CONCRETE

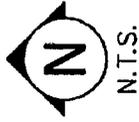
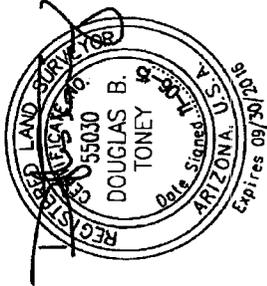
LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	33.00'	N89°49'10"E
L2	10.23'	N00°13'35"W
L3	10.90'	S00°13'35"E

BOGLE FARMS I LLC
DOC. 2015-0531457, M.C.R.

N89°44'45"E 519.19'

S89°49'10"W 519.19'

CITY OF CHANDLER
DOC. 1991-0591656, M.C.R.

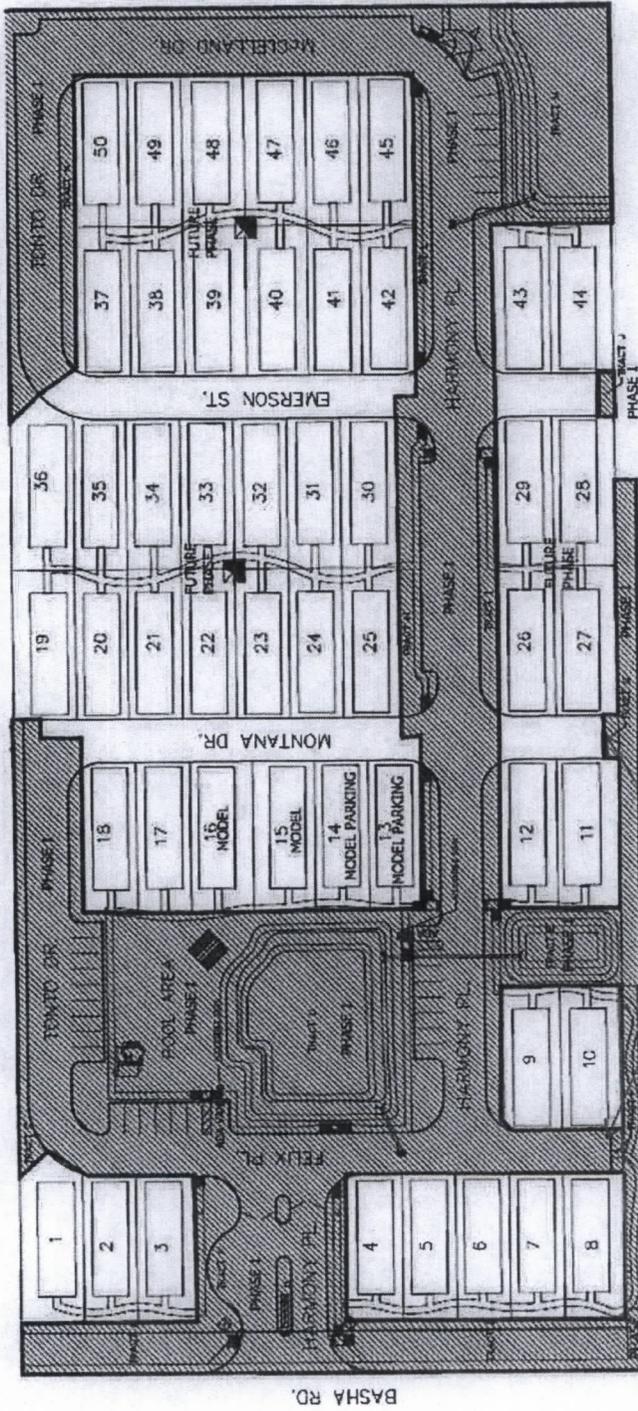


1206 W Washington St, #108
Tempe, AZ 85281
Phone: (480) 829-8830
Fax: (480) 829-8841
www.bowmanconsulting.com

Bowman
CONSULTING

EXHIBIT 'A'			
BY: DT	CHK:	QC:	
BCG PROJECT NO: 050186-01 TASK: 001			
CLIENT REF NO:			
DATE: 11-06-15			
SHEET 1 of 1			

EXHIBIT "D"



Sidewalk or soft surface trail

Access points-no wall