


**TOWN OF GILBERT
COUNCIL COMMUNICATION**

67

TO: HONORABLE MAYOR & COUNCILMEMBERS
FROM: DIANE ARCHER, FINANCIAL AND PERFORMANCE
MANAGEMENT COORDINATOR
THROUGH: MARC SKOCYPEC, ASSISTANT MANAGER 
MEETING DATE: AUGUST 21, 2007
SUBJECT : ADOPT RESOLUTIONS OF INTENT TO FORM NEW PARKWAY
IMPROVEMENT DISTRICTS

RECOMMENDED MOTION

MOTION TO APPROVE:

A. RESOLUTION NO. _____ DECLARING ITS INTENTION TO CREATE AN IMPROVEMENT DISTRICT TO INSTALL AND MAINTAIN LANDSCAPING, IRRIGATION SYSTEMS, COMMON AREA WALLS AND OTHER IMPROVEMENTS INCLUDED WITHIN, NEAR, AND ADJACENT TO A PARKWAY AS SHOWN ON THE PLANS, WITHIN AN AREA IN THE TOWN OF GILBERT AS DESCRIBED HEREIN; ADOPTING PLANS FOR TOWN OF GILBERT PARKWAY IMPROVEMENT DISTRICT NO. PK 07- 4 MORE PARTICULARLY DESCRIBED HEREIN, AND DECLARING THE WORK OR IMPROVEMENT TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT, AND THAT THE COST OF SAID WORK OR IMPROVEMENT SHALL BE ASSESSED UPON A CERTAIN DISTRICT, AND PROVIDING THAT THE PROPOSED WORK OR IMPROVEMENT SHALL BE PERFORMED UNDER ARIZONA REVISED STATUTES TITLE 48, CHAPTER 4, ARTICLE 2, AND AMENDMENTS THERETO;

B. RESOLUTION NO. _____ DECLARING ITS INTENTION TO CREATE AN IMPROVEMENT DISTRICT TO INSTALL AND MAINTAIN LANDSCAPING, IRRIGATION SYSTEMS, COMMON AREA WALLS AND OTHER IMPROVEMENTS INCLUDED WITHIN, NEAR, AND ADJACENT TO A PARKWAY AS SHOWN ON THE PLANS, WITHIN AN AREA IN THE TOWN OF GILBERT AS DESCRIBED HEREIN; ADOPTING PLANS FOR TOWN OF GILBERT PARKWAY IMPROVEMENT DISTRICT NO. PK 07- 9 MORE PARTICULARLY DESCRIBED HEREIN, AND DECLARING THE WORK OR IMPROVEMENT TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT, AND THAT THE COST OF SAID WORK OR IMPROVEMENT SHALL BE ASSESSED UPON A CERTAIN DISTRICT, AND PROVIDING THAT THE PROPOSED WORK OR IMPROVEMENT SHALL BE PERFORMED UNDER ARIZONA REVISED STATUTES TITLE 48, CHAPTER 4, ARTICLE 2, AND AMENDMENTS THERETO;

C. RESOLUTION NO. _____ DECLARING ITS INTENTION TO CREATE AN IMPROVEMENT DISTRICT TO INSTALL AND MAINTAIN LANDSCAPING, IRRIGATION SYSTEMS, COMMON AREA WALLS AND OTHER IMPROVEMENTS INCLUDED WITHIN, NEAR, AND ADJACENT TO A PARKWAY AS SHOWN ON THE PLANS, WITHIN AN AREA IN THE TOWN OF GILBERT AS DESCRIBED HEREIN; ADOPTING PLANS FOR TOWN OF GILBERT PARKWAY IMPROVEMENT DISTRICT NO. PK 07- 11 MORE PARTICULARLY DESCRIBED HEREIN, AND DECLARING THE WORK OR IMPROVEMENT TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT, AND THAT THE COST OF SAID WORK OR IMPROVEMENT SHALL BE ASSESSED UPON A CERTAIN DISTRICT, AND PROVIDING THAT THE PROPOSED WORK OR IMPROVEMENT SHALL BE PERFORMED UNDER ARIZONA REVISED STATUTES TITLE 48, CHAPTER 4, ARTICLE 2, AND AMENDMENTS THERETO;

BACKGROUND/DISCUSSION

Parkway Improvement Districts exist in 11 residential subdivisions to provide for maintenance of improvements in common areas. Gilbert established all but one of these special taxing Districts in 1988, almost 20 years ago. Arizona Statutes require that any maintenance or improvements in the Districts be done in accordance with the plans and specifications prepared by the developer ("Original Plans").

The proposed Resolutions of Intent are to create new improvement districts in the following residential subdivisions:

Resolution No. _____	PK 07-4	Spring Meadows
Resolution No. _____	PK 07-9	Morning Ridge
Resolution No. _____	PK 07-11	Cassia Place

The Town Council will be asked to consider adoption of Resolutions of Intent related to other districts at a later date when preliminary plans and cost estimates are completed.

Town staff recommends that new Districts be formed, because the Original Plans no longer serve the needs of the Districts. For the past several years, Town staff has met with the property owners in the Districts to provide input on what they would like to see changed. It became clear that a Landscape Architect was needed to prepare new plans and that these plans would become the operating guide for the Districts into the future. A Landscape Architect was hired and she prepared preliminary plans and these were reviewed by the neighborhoods and subsequently revised. The preliminary plans as revised and cost estimates for the proposed new improvements have been filed with the Town Clerk and are available for inspection by the public. Following adoption of the Resolutions of Intent and completion of the statutory notice requirements, the plans will be finalized ("New Plans").

As proposed, the New Plans provide for:

- New landscaping. Landscape material has a limited life and after a certain point becomes woody and is not visually appealing. The minimalist budget approach in the past did not provide enough funding for replacement of plant materials when they died. Decomposed granite disintegrates and is blown away during routine clean up.
- New irrigation systems. The existing irrigation systems are reaching the end of their useful life. Some are held together through makeshift means and becomes a maintenance problem resulting in wasted water.
- Other new improvements. What was considered an amenity when constructed might be removed due to safety issues or not in keeping with the needs of the neighborhood today. For example, a ramada was damaged due to age and vandalism and the neighbors do not want it replaced because of fear it will become vandalized again. In one district, neighbors would like monument sign where one does not exist. Another neighborhood would like a sand volleyball area converted to a basketball court.
- Maintenance of certain additional common walls for the benefit of the property owners in the Districts. Typically a homeowners association would maintain common walls, however, because no homeowners associations were formed for the Districts, property owners requested that additional common walls be maintained by the District.

The formation of new Improvement Districts will allow improvements to be completed in the Districts per the New Plans. The spending cap applicable to the existing Improvement Districts is being removed, however the neighbors meet annually to review the proposed budget and make changes as a group that reflect desired spending levels. In addition, property owners in a District will still be able to protest the proposed budgets pursuant to State law. The New Plans may be implemented in phases so that expenses will be incurred and paid for over time. The Resolutions of Intent also provide that the Council may approve Alternative Plans and Specifications in the future if circumstances change.

Additional steps are required before the new Districts are in effect. State law requires the following:

- √ Publish notice of Intention 5 days in newspaper (August 27 to August 31)
- √ Post Resolutions of Intention every 300 feet
- √ 15 day protest period (August 27 to September 14)
- √ Publish notice of hearing on objections for 2 days (September 24 and 25)
- √ Mail notice of hearing on objections (September 24)
- √ Council hearing on objections (October 9)
- √ Council adopt Resolutions Ordering Improvements (October 9)

A petition signed by the majority of owners halts work for six months.

The new Districts will have the same boundaries as the existing Districts. The new Districts will overlap and co-exist with the existing Districts through June 30, 2008. The existing contract for landscaping maintenance in the Districts will remain in place through that date. The Contractor is aware of, and has agreed to allow, new improvements to proceed during the contract term.

FINANCIAL IMPACT

The property owners in the Districts will bear the financial impact related to installation of improvements in the Districts as a result of the New Plans. Each District will determine when improvements are made and how much is budgeted on an annual basis. The budgets and tax levy for Fiscal Year 2007-2008 were adopted on June 19, 2007.

STAFF RECOMMENDATION

Staff recommends adopting the Resolution of Intent to form New Districts to allow the parkway improvement districts to move ahead with needed improvements.

Respectfully submitted,



Diane Archer
Financial and Performance Management Coordinator

Attachments and Enclosures:

Resolutions of Intent (3) with attached Exhibit 1 to include legal description of District, lots to be assessed in District, and parkways in District (also on file with Town Engineer)

Preliminary Plans and Estimate of costs of improvements (are on file with Town Clerk)

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RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GILBERT, ARIZONA, DECLARING ITS INTENTION TO CREATE AN IMPROVEMENT DISTRICT TO INSTALL AND MAINTAIN LANDSCAPING, IRRIGATION SYSTEMS, COMMON AREA WALLS AND OTHER IMPROVEMENTS INCLUDED WITHIN, NEAR, AND ADJACENT TO A PARKWAY AS SHOWN ON THE PLANS, FOR MAINTENANCE WITHIN AN AREA IN THE TOWN OF GILBERT AS DESCRIBED HEREIN; ADOPTING PLANS FOR TOWN OF GILBERT PARKWAY IMPROVEMENT DISTRICT NO. **07-4 (SPRING MEADOWS)** AS MORE PARTICULARLY DESCRIBED HEREIN, AND DECLARING THE WORK OR IMPROVEMENT TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT, AND THAT THE COST OF SAID WORK OR IMPROVEMENT SHALL BE ASSESSED UPON A CERTAIN DISTRICT, AND PROVIDING THAT THE PROPOSED WORK OR IMPROVEMENT SHALL BE PERFORMED UNDER ARIZONA REVISED STATUTES TITLE 48, CHAPTER 4, ARTICLE 2, AND AMENDMENTS THERETO.

WHEREAS, the Town Council declares that the installation and maintenance of the landscaping, irrigation systems, common walls and other improvements included within, near, and adjacent to a parkway in the District to be of more than local or ordinary public benefit, and further that the cost of said maintenance shall be assessed on a certain District; and

WHEREAS, the Town Council declares that the installation and maintenance of landscaping, irrigation systems, common walls and other improvements included within, near and adjacent to a parkway in the District is incidental to the maintenance and preservation of the parkway, has aesthetic value, and maintains and increases the value of property within the District; and

WHEREAS, the Town Council declares that the installation and maintenance of landscaping, irrigation systems, common walls and other improvements included within and adjacent to a parkway preserves and promotes the health, safety, and welfare of those citizens of the Town of Gilbert living within the District as well as preservation of the streets and parkways which may be adversely impacted by drainage and other water formations; and

WHEREAS, the Town Council declares that the installation and maintenance of a landscaped buffer between a parkway and the adjacent developments reduces the visual and other impact of light, air and noise pollution and tends to increase personal and vehicular safety on the parkway and decreases the likelihood vehicular accidents will harm adjacent developments in furtherance of the health, safety and welfare of those citizens of the Town living within the District; and

WHEREAS, the Town Council declares that installation and maintenance of landscaped drainage and other water control facilities and features within, near and adjacent to a parkway and related facilities tends to preserve the structural integrity of the parkway and mitigates flooding of adjacent areas and the parkway by draining water to and from the parkway in furtherance of the health, safety and welfare of those citizens of the Town of Gilbert living within the District; and

WHEREAS, the Town Council has determined the type of landscaping, irrigation systems, common walls and other improvements to be installed and maintained; and

WHEREAS, the Town Council has determined that each lot in the District receives an equal benefit from the installation and maintenance of the landscaping, irrigation systems, common walls and other improvements within the District and therefore it is appropriate to assess the total sum of the expenses of the District equally on each lot subject to assessment in the District, to the extent permitted by law, except the expenses of maintaining certain common walls identified in the Plans and Specifications shall be assessed in proportion to the benefits to be received by each lot, as described in this Resolution Section 8.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF GILBERT AS FOLLOWS:

Section 1. Definitions.

In this Resolution, the following terms shall have the following meanings:

“Alternative Plans and Specifications” shall mean the plans and specifications and contract documents for the Parkway Improvement District No. 07-4 or “PK 07-4” approved by the Council.

“Assessment Diagrams” shall mean those duplicate diagrams of the property contained in the Assessment District as to be filed with the Clerk and approved by the Mayor and Council.

“Assessment District” shall mean the lots, pieces or parcels of land lying within the boundaries described in **Exhibit 1** attached hereto and as is shown on the map on file with the Town Engineer.

“Clerk” shall mean the Town Clerk.

“Improvements” shall mean all landscaping, irrigation systems, common walls and other improvements including but not limited to play structures, sidewalks, ramadas, lighting facilities, drinking fountains, and benches identified in the Plans and Specifications on file with the Clerk or subsequent Alternative Plans and Specifications approved by the Council.

“Lots” shall mean all lots, pieces or parcels of land lying within the Assessment District.

“Parkways” shall mean all those streets and rights-of way which are designated on Exhibit 1 as “Parkways.”

“Plans and Specifications” shall mean the plans and specifications and contract documents for the Parkway Improvement District No. 07-4 filed with the Clerk prior to the adoption of this Resolution.

“Superintendent of Streets” shall mean the Town Public Works Director, or any successor to such person.

“Town” shall mean the Town of Gilbert, Arizona.

“Town Council” or “Council” shall mean the Mayor and Common Council of the Town.

“Town Engineer” shall mean the Town Engineering Manager or any successor to such person.

Section 2. Declaration of Intention to Order an Improvement.

The public interest or convenience require, and it is the intention of the Mayor and Council of the Town of Gilbert, Arizona, to order the following work, hereinafter “Work,” to be performed, to wit:

The installation and maintenance of all landscaping, irrigation systems, common walls and other improvements, and the ongoing maintenance of the same, including replacement, as identified in the Plans and Specifications on file with the Clerk or subsequent Alternative Plans and Specifications approved by the Council, in the area generally described as follows:

Spring Meadows: Tract B, and those portions of the right-of-way adjacent to Warner Road, Riata Street, Palomino Drive, and Lindsay Road included within or adjacent to the Assessment District; and

Spring Meadows Commons: Tracts A and B, and those portions of the right-of-way adjacent to Lindsay Road, Riata Street, and East Saratoga Street included within or adjacent to the Assessment District;

All as shown on the maps attached hereto as Exhibit 1, together with all appurtenances and adjustments necessary, as set forth in the Plans, Specifications, and Estimate.

The Town Council hereby designates as parkways, those areas set forth on Exhibit 1 which are labeled “Parkway.” The public interest and convenience require, and it is the intention of the Town Council to order the Work adjacent to the designated parkways to be performed as stated herein. All items of the Work hereby approved and adopted by the Council and on file in the Office of the Town Engineer and no assessment for any lot shall exceed its proportion of the estimate.

The estimate of the cost and expenses of the work or improvements on file in the offices of the Superintendent of Streets and the Clerk of the Town are hereby approved to the

requirements of law, the procedures set forth in Title 48, Chapter 4, Article 2 and amendments thereto will be followed regarding acceptance of bids and setting tax levies.

For purposes of this Resolution and of all resolutions, ordinances and notices pertaining to this Resolution, the improvement as herein described is hereby designated Town of Gilbert Parkway Improvement District No. 07-4 or "PK 07-4".

The Town in its discretion will determine whether to include bid options in landscape maintenance contracts for such items such as planting seasonal flowers in designated areas, winter over-seeding of grass in turf areas, aeration of turf, weed control chemical applications, pesticide applications, and irrigation; such bid options are deemed to be part of the original Plans and Specifications for the District.

The Town in its discretion may immediately remove, replace or modify Improvements when necessary for the protection of public health, safety or welfare.

Section 3. Alternative Plans and Specifications.

In order to ensure flexibility in the operations of the District over time, the Town Engineer is authorized to provide for Alternative Plans and Specifications to be thereafter determined and approved by the Town Council as set forth in A.R.S. § 48-576(C) and or A.R.S. § 48-584 (C), as may be amended from time to time. The Alternative Plans and Specifications may be implemented for purposes of cost reduction, expressed preferences of District property owners, water conservation, flood control, or other public health, safety and welfare reasons.

Prior to Council approval, the proposed Alternative Plans and Specifications shall be filed with the Superintendent of the Streets and the Town Clerk, along with an estimate of the cost and expenses of the work or improvements. The Town will notify by mail the owners of property within the District, as listed in the assessment rolls of the Maricopa County Recorder, of any proposed Alternative Plans and Specifications, any proposed increase in the amount of the assessment and levy and the right to protest said increase. The Town also will publish a notice of the same once in a newspaper of general circulation in the Town. Within fifteen (15) days of the date of publication of said notice any person having an interest in a lot liable to assessment within the District can file with the Town Clerk a written protest to the Alternative Plans and Specifications and/or the increase.

If more than 50% of the owners of lots liable to assessment protest the Alternative Plans and Specifications and/or the increase within fifteen (15) days of the publication of the notice described above, the Town, at its option is authorized to:

- a. Modify the Alternative Plans and Specifications, prepare a new estimate, mail the owners of property within the District a new notice, and publish a new notice of the same; or
- b. Reject the Alternative Plans and Specifications and utilize the original Plans and Specifications; or
- c. Invalidate the District.

If fewer than 50% of the owners of lots liable to assessment protest the Alternative Plans and Specifications and/or the increase within fifteen (15) days of the publication of the notice described, the Town has the authority to approve the Alternative Plans and Specifications by formal resolution, and to levy an amount not to exceed to proposed increase as published.

Section 4. Determination of Need.

In the opinion of the Town Council, the Work is of more than local or ordinary public benefit. The Town Council hereby orders that all amounts due or to become due with respect to the Work shall be chargeable upon the respective lots, pieces and parcels of land within the Assessment District.

Section 5. Preparation of Assessment Diagrams.

The Town Engineer is hereby authorized and directed to prepare duplicate diagrams (Assessment Diagrams) of the property contained within the assessment district. The diagrams shall show each separate lot, numbered consecutively, the approximate area in square feet of each lot, and the location of the lot in relation to the work proposed to be done.

Section 6. Exclusion of Certain Property.

Any public street or alley within the boundaries of the Assessment District is hereby omitted from the assessment hereafter to be made. Any lot belonging to the United States, the State, a county, city, school district or any political subdivision or institution of the State or county, which is included within the Assessment District shall be omitted from the assessment hereafter made.

Section 7. Officers Not Liable.

In no event will the Town of Gilbert or any officer thereof be liable for any portion of the cost of said Improvement District nor for any delinquency of persons or property assessed.

Section 8. Annual Statement.

The Town Council shall make annual statements and estimates of the expenses of the District which shall be provided for by assessment of the total sum upon the several lots, each respectively in proportion to the benefits to be received by each lot in the District as provided in A.R. S. § 48-574, A.R.S. § 48-575 and amendments thereto. Because each lot receives an equal benefit from the maintenance of the landscaping, facilities and structures within the District, the Town Council shall assess the total sum of the expenses of the District equally on each lot subject to assessment in the District, to the extent permitted by law, subject to the following exception:

The expenses of maintaining certain common walls identified in the Plans and Specifications shall be assessed in proportion to the benefits to be received by each lot, as follows:

- a. The expenses of maintaining the finish of the exterior side of the common walls shall be assessed equally on each lot subject to assessment in the District;
- b. The interior side of a common wall (facing the interior of a lot) shall be maintained by the adjacent individual lot owner.
- c. If the Superintendent of Streets (the Public Works Director) determines a common wall requires structural repairs due to ordinary wear and tear or natural causes, the District may make such repairs; provided, however, each adjacent individual lot shall be assessed up to fifty-percent (50%) of the expenses for repair of the wall adjoining said lot, measured on a linear foot cost basis average, and the remainder of the expenses shall be assessed equally on each lot subject to assessment in the District.

The expenses of the District may include incidental expenses as provided for in A.R.S. § 48-589, and amendments thereto.

Section 9. Statutory Authority.

The Work and all proceedings pertaining thereto shall be performed under the provisions of Title 48, Chapter 4, Article 2, specifically A.R.S. § 48-574, and all amendments thereto.

Section 10. Delegation of Authority.

The Town Engineer is hereby authorized to fill in any blanks and to make any minor corrections necessary to complete the Plans and Specifications, Alternative Plans and Specifications, and the Contract Documents.

Section 11. Public Bidding and Contract Award.

The Work shall be publicly bid and a contract awarded to the lowest responsible bidder pursuant to A.R.S. § 48-584, and amendments thereto. The Town may award a one (1) year contract with an option to renew for up to five (5) additional one-year terms, and the price for any renewal term will be adjusted by the percent net change in the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average or similar publication from the prior year.

The Town may perform any portion of the Work separately bid as a bid option, or order that a proposed contract not be made and perform all the Work as provided for in A.R.S. § 48-585 and amendments thereto.

PASSED, ADOPTED AND APPROVED this 21st day of August , 2007.



Steven M. Berman, Mayor

ATTEST:

Catherine A. Templeton, Town Clerk

APPROVED AS TO FORM:

Curtis, Goodwin, Sullivan,
Udall & Schwab, P.L.C., Town Attorneys

I hereby certify that I have read the description set out under the definition “Assessment District” and approve the same. I further certify that I have read the description set out under the definition “Work” and approve the same.

Rick Allred, Town Engineer

I hereby certify that the above and foregoing Resolution No. _____ was duly passed by the Mayor and Council of the Town of Gilbert, Arizona at a regular meeting held on August 21, 2007 and that a quorum was present thereat and that the vote therein was ___ ayes and ___ nays. ___ were no vote or absent.

Catherine A. Templeton, Town Clerk

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Exhibit 1

LEGAL DESCRIPTION OF
PARKWAY IMPROVEMENT DISTRICT NO. 07-4
FOR: SPRING MEADOWS

That portion of the Southeast quarter of Section 18, Township 1 South, Range 6 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

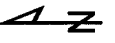
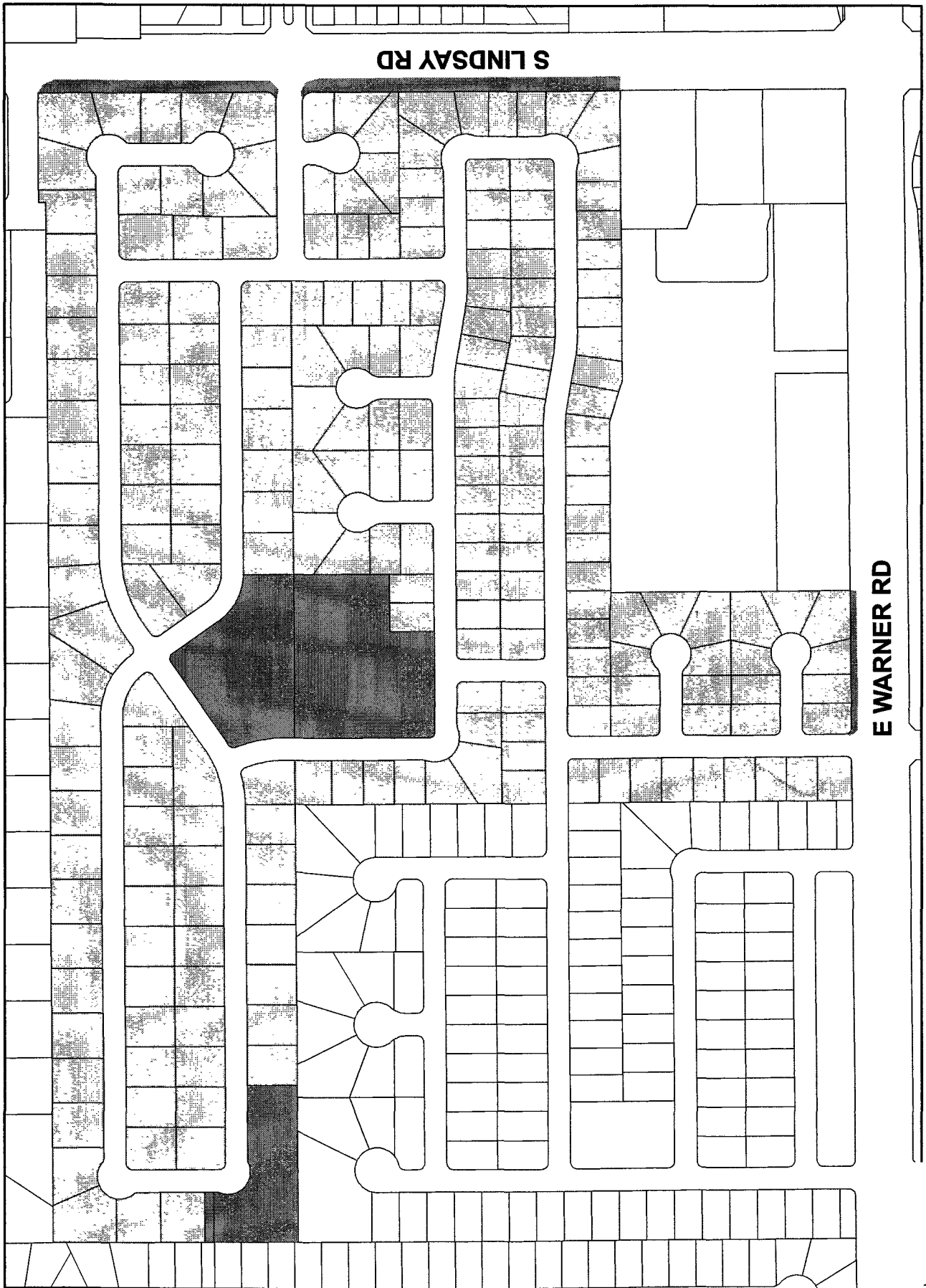
Commencing at the Southeast corner of said Section 18, thence South $89^{\circ}52'45''$ West 1,188.48 feet along the South line of said Section 18 to the point of beginning;

THENCE, North $00^{\circ}05'17''$ West, 537.17 feet; thence, North $89^{\circ}56'16''$ East, 385.00 feet; thence, South $72^{\circ}25'37''$ East, 99.02 feet; thence, North $89^{\circ}56'16''$ East, 645.00 feet to a point on the East line of said Section 18;

THENCE, North $00^{\circ}00'00''$ West, along the East line of said Section 18, 1,311.26 feet; thence South $90^{\circ}00'00''$ West, 310.00 feet; thence South $00^{\circ}00'00''$ West, 16.00 feet; thence South $90^{\circ}00'00''$ West, 2,335.92 feet; thence South $00^{\circ}04'26''$ East, 553.60 feet; thence North $89^{\circ}55'40''$ East, 979.71 feet; thence South $00^{\circ}05'17''$ East, 1,317.65 feet to a point on the South line of said Section 18;

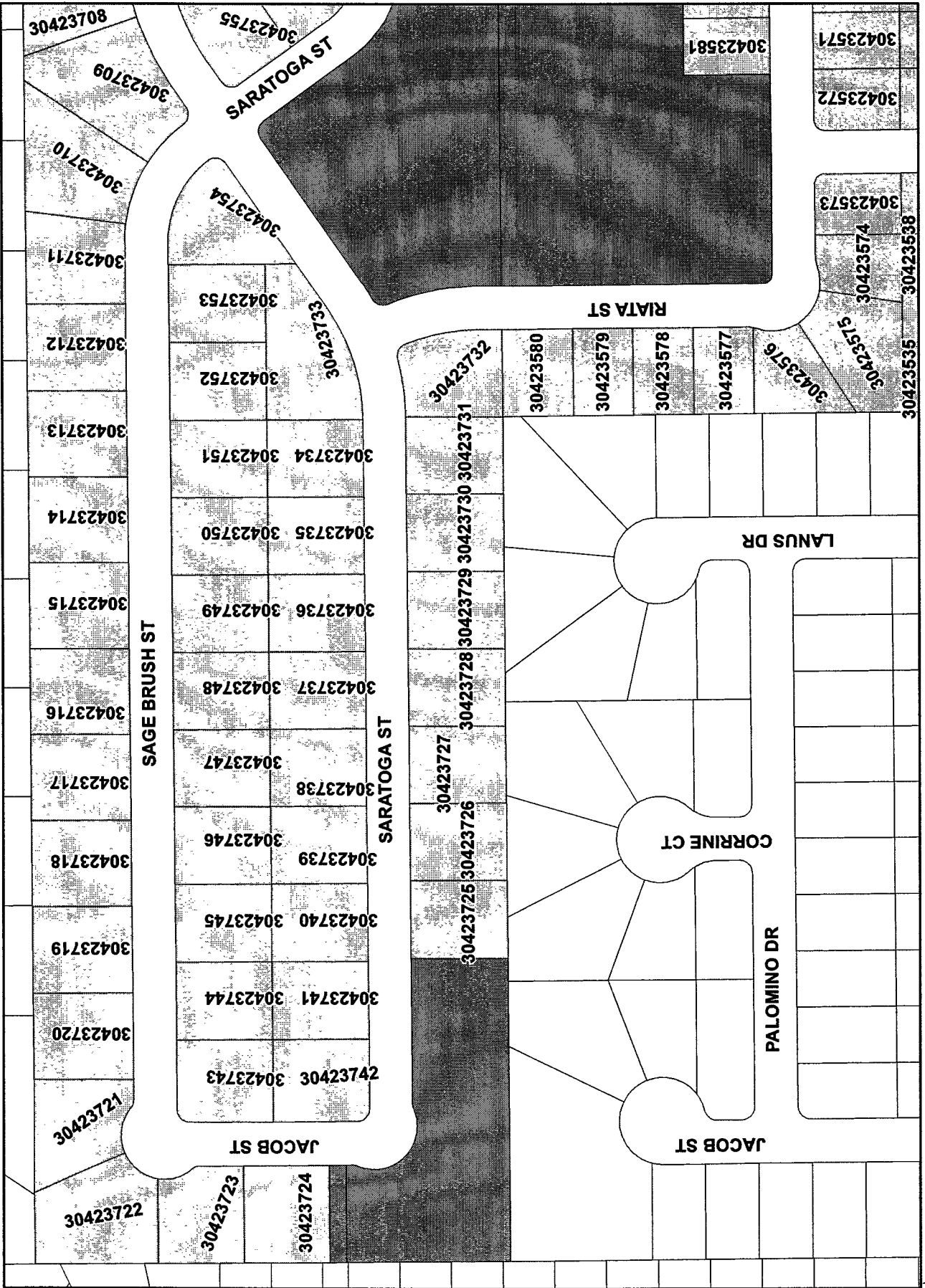
THENCE, North $89^{\circ}52'45''$ East, 475.00 feet to the point of beginning and containing 70.58 acres of land, gross, more or less.

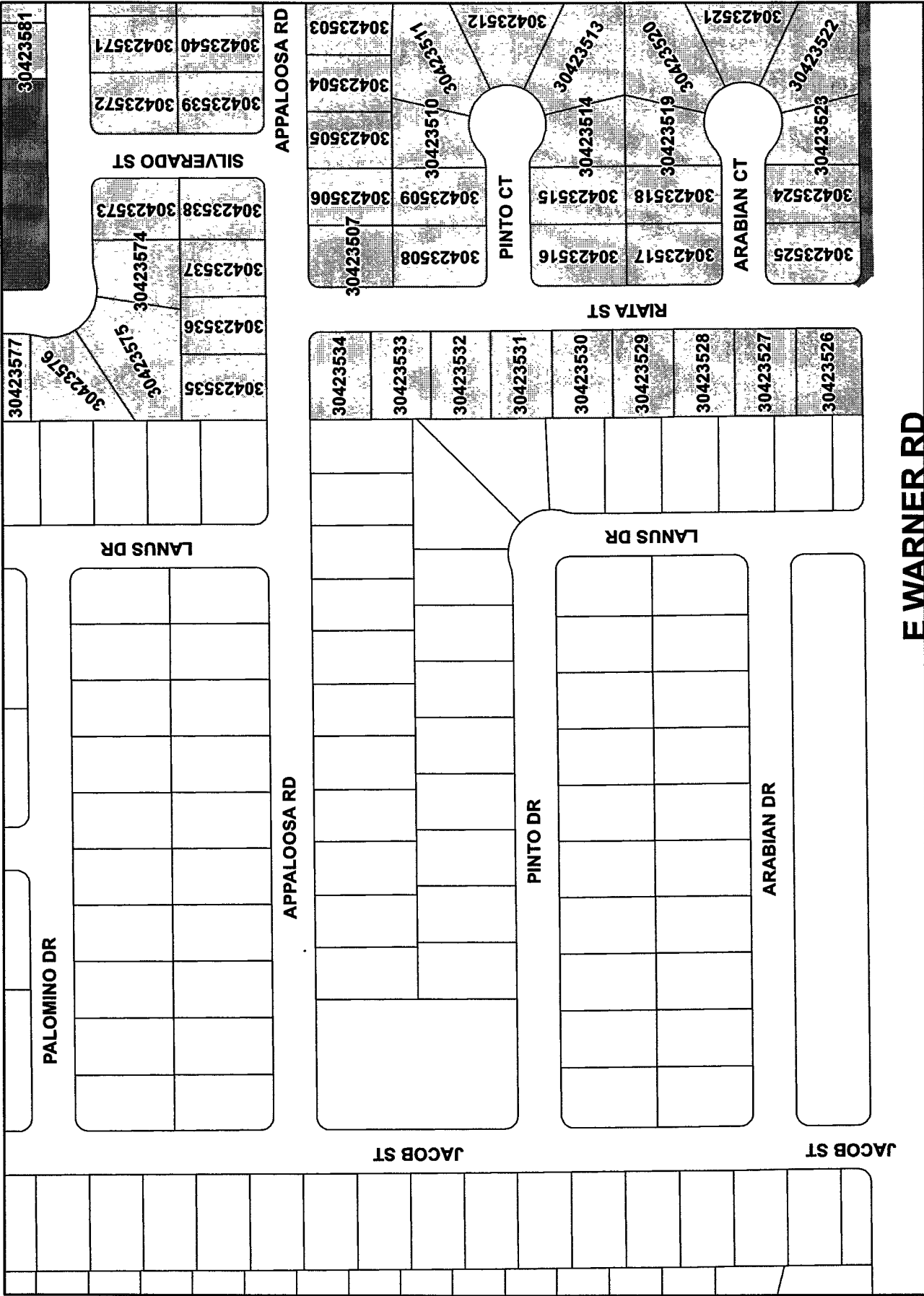
**PARKWAY IMPROVEMENT DISTRICT 07-4
MAINTAINED BY TOWN**





**NW Detail
 PARKWAY IMPROVEMENT DISTRICT 07-4
 MAINTAINED BY TOWN**



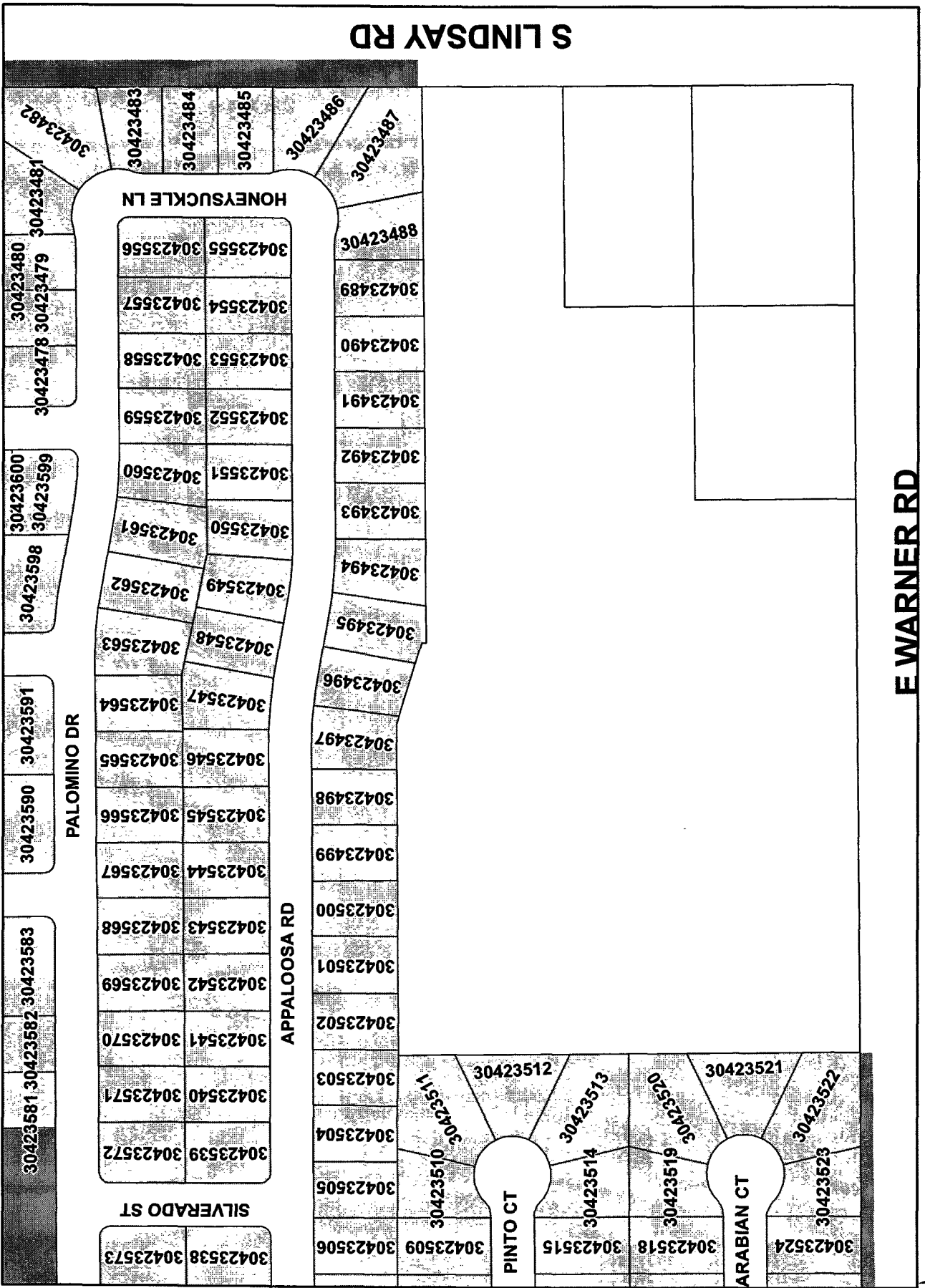


E WARNER RD

SW Detail

**PARKWAY IMPROVEMENT DISTRICT 07-4
MAINTAINED BY TOWN**





E WARNER RD
 SE Detail
 PARKWAY IMPROVEMENT DISTRICT 07-4
 MAINTAINED BY TOWN



RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GILBERT, ARIZONA, DECLARING ITS INTENTION TO CREATE AN IMPROVEMENT DISTRICT TO INSTALL AND MAINTAIN LANDSCAPING, IRRIGATION SYSTEMS, COMMON AREA WALLS AND OTHER IMPROVEMENTS INCLUDED WITHIN, NEAR, AND ADJACENT TO A PARKWAY AS SHOWN ON THE PLANS, FOR MAINTENANCE WITHIN AN AREA IN THE TOWN OF GILBERT AS DESCRIBED HEREIN; ADOPTING PLANS FOR TOWN OF GILBERT PARKWAY IMPROVEMENT DISTRICT NO. **07-9 (MORNING RIDGE)** AS MORE PARTICULARLY DESCRIBED HEREIN, AND DECLARING THE WORK OR IMPROVEMENT TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT, AND THAT THE COST OF SAID WORK OR IMPROVEMENT SHALL BE ASSESSED UPON A CERTAIN DISTRICT, AND PROVIDING THAT THE PROPOSED WORK OR IMPROVEMENT SHALL BE PERFORMED UNDER ARIZONA REVISED STATUTES TITLE 48, CHAPTER 4, ARTICLE 2, AND AMENDMENTS THERETO.

WHEREAS, the Town Council declares that the installation and maintenance of the landscaping, irrigation systems, common walls and other improvements included within, near, and adjacent to a parkway in the District to be of more than local or ordinary public benefit, and further that the cost of said maintenance shall be assessed on a certain District; and

WHEREAS, the Town Council declares that the installation and maintenance of landscaping, irrigation systems, common walls and other improvements included within, near and adjacent to a parkway in the District is incidental to the maintenance and preservation of the parkway, has aesthetic value, and maintains and increases the value of property within the District; and

WHEREAS, the Town Council declares that the installation and maintenance of landscaping, irrigation systems, common walls and other improvements included within and adjacent to a parkway preserves and promotes the health, safety, and welfare of those citizens of the Town of Gilbert living within the District as well as preservation of the streets and parkways which may be adversely impacted by drainage and other water formations; and

WHEREAS, the Town Council declares that the installation and maintenance of a landscaped buffer between a parkway and the adjacent developments reduces the visual and other impact of light, air and noise pollution and tends to increase personal and vehicular safety on the parkway and decreases the likelihood vehicular accidents will harm adjacent developments in furtherance of the health, safety and welfare of those citizens of the Town living within the District; and

WHEREAS, the Town Council declares that installation and maintenance of landscaped drainage and other water control facilities and features within, near and adjacent to a parkway and related facilities tends to preserve the structural integrity of the parkway and mitigates flooding of adjacent areas and the parkway by draining water to and from the parkway in furtherance of the health, safety and welfare of those citizens of the Town of Gilbert living within the District; and

WHEREAS, the Town Council has determined the type of landscaping, irrigation systems, common walls and other improvements to be installed and maintained; and

WHEREAS, the Town Council has determined that each lot in the District receives an equal benefit from the installation and maintenance of the landscaping, irrigation systems, common walls and other improvements within the District and therefore it is appropriate to assess the total sum of the expenses of the District equally on each lot subject to assessment in the District, to the extent permitted by law, except the expenses of maintaining certain common walls identified in the Plans and Specifications shall be assessed in proportion to the benefits to be received by each lot, as described in this Resolution Section 8.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF GILBERT AS FOLLOWS:

Section 1. Definitions.

In this Resolution, the following terms shall have the following meanings:

“Alternative Plans and Specifications” shall mean the plans and specifications and contract documents for the Parkway Improvement District No. 07-9 or “PK 07-9” approved by the Council.

“Assessment Diagrams” shall mean those duplicate diagrams of the property contained in the Assessment District as to be filed with the Clerk and approved by the Mayor and Council.

“Assessment District” shall mean the lots, pieces or parcels of land lying within the boundaries described in **Exhibit 1** attached hereto and as is shown on the map on file with the Town Engineer.

“Clerk” shall mean the Town Clerk.

“Improvements” shall mean all landscaping, irrigation systems, common walls and other improvements including but not limited to play structures, sidewalks, ramadas, lighting facilities, drinking fountains, and benches identified in the Plans and Specifications on file with the Clerk or subsequent Alternative Plans and Specifications approved by the Council.

“Lots” shall mean all lots, pieces or parcels of land lying within the Assessment District.

“Parkways” shall mean all those streets and rights-of way which are designated on Exhibit 1 as “Parkways.”

“Plans and Specifications” shall mean the plans and specifications and contract documents for the Parkway Improvement District No. 07-9 filed with the Clerk prior to the adoption of this Resolution.

“Superintendent of Streets” shall mean the Town Public Works Director, or any successor to such person.

“Town” shall mean the Town of Gilbert, Arizona.

“Town Council” or “Council” shall mean the Mayor and Common Council of the Town.

“Town Engineer” shall mean the Town Engineering Manager or any successor to such person.

Section 2. Declaration of Intention to Order an Improvement.

The public interest or convenience require, and it is the intention of the Mayor and Council of the Town of Gilbert, Arizona, to order the following work, hereinafter “Work,” to be performed, to wit:

The installation and maintenance of all landscaping, irrigation systems, common walls and other improvements, and the ongoing maintenance of the same, including replacement, as identified in the Plans and Specifications on file with the Clerk or subsequent Alternative Plans and Specifications approved by the Council, in the area generally described as follows:

Morning Ridge: Tracts A, B, C, and D, and those portions of the right-of-way included within or adjacent to Elliot Road, Morning Ridge Drive, and East Silver Creek Street included within or adjacent to the Assessment District, all as shown on the maps attached hereto as Exhibit 1, together with all appurtenances and adjustments necessary, as set forth in the Plans, Specifications, and Estimate.

The Town Council hereby designates as parkways, those areas set forth on Exhibit 1 which are labeled “Parkway.” The public interest and convenience require, and it is the intention of the Town Council to order the Work adjacent to the designated parkways to be performed as stated herein. All items of the Work hereby approved and adopted by the Council and on file in the Office of the Town Engineer and no assessment for any lot shall exceed its proportion of the estimate.

The estimate of the cost and expenses of the work or improvements on file in the offices of the Superintendent of Streets and the Clerk of the Town are hereby approved to the requirements of law, the procedures set forth in Title 48, Chapter 4, Article 2 and amendments thereto will be followed regarding acceptance of bids and setting tax levies.

For purposes of this Resolution and of all resolutions, ordinances and notices pertaining to this Resolution, the improvement as herein described is hereby designated Town of Gilbert Parkway Improvement District No. 07-9 or "PK 07-9".

The Town in its discretion will determine whether to include bid options in landscape maintenance contracts for such items such as planting seasonal flowers in designated areas, winter over-seeding of grass in turf areas, aeration of turf, weed control chemical applications, pesticide applications, and irrigation; such bid options are deemed to be part of the original Plans and Specifications for the District.

The Town in its discretion may immediately remove, replace or modify Improvements when necessary for the protection of public health, safety or welfare.

Section 3. Alternative Plans and Specifications.

In order to ensure flexibility in the operations of the District over time, the Town Engineer is authorized to provide for Alternative Plans and Specifications to be thereafter determined and approved by the Town Council as set forth in A.R.S. § 48-576(C) and or A.R.S. § 48-584 (C), as may be amended from time to time. The Alternative Plans and Specifications may be implemented for purposes of cost reduction, expressed preferences of District property owners, water conservation, flood control, or other public health, safety and welfare reasons.

Prior to Council approval, the proposed Alternative Plans and Specifications shall be filed with the Superintendent of the Streets and the Town Clerk, along with an estimate of the cost and expenses of the work or improvements. The Town will notify by mail the owners of property within the District, as listed in the assessment rolls of the Maricopa County Recorder, of any proposed Alternative Plans and Specifications, any proposed increase in the amount of the assessment and levy and the right to protest said increase. The Town also will publish a notice of the same once in a newspaper of general circulation in the Town. Within fifteen (15) days of the date of publication of said notice any person having an interest in a lot liable to assessment within the District can file with the Town Clerk a written protest to the Alternative Plans and Specifications and/or the increase.

If more than 50% of the owners of lots liable to assessment protest the Alternative Plans and Specifications and/or the increase within fifteen (15) days of the publication of the notice described above, the Town, at its option is authorized to:

- a. Modify the Alternative Plans and Specifications, prepare a new estimate, mail the owners of property within the District a new notice, and publish a new notice of the same; or
- b. Reject the Alternative Plans and Specifications and utilize the original Plans and Specifications; or
- c. Invalidate the District.

If fewer than 50% of the owners of lots liable to assessment protest the Alternative Plans and Specifications and/or the increase within fifteen (15) days of the

publication of the notice described, the Town has the authority to approve the Alternative Plans and Specifications by formal resolution, and to levy an amount not to exceed to proposed increase as published.

Section 4. Determination of Need.

In the opinion of the Town Council, the Work is of more than local or ordinary public benefit. The Town Council hereby orders that all amounts due or to become due with respect to the Work shall be chargeable upon the respective lots, pieces and parcels of land within the Assessment District.

Section 5. Preparation of Assessment Diagrams.

The Town Engineer is hereby authorized and directed to prepare duplicate diagrams (Assessment Diagrams) of the property contained within the assessment district. The diagrams shall show each separate lot, numbered consecutively, the approximate area in square feet of each lot, and the location of the lot in relation to the work proposed to be done.

Section 6. Exclusion of Certain Property.

Any public street or alley within the boundaries of the Assessment District is hereby omitted from the assessment hereafter to be made. Any lot belonging to the United States, the State, a county, city, school district or any political subdivision or institution of the State or county, which is included within the Assessment District shall be omitted from the assessment hereafter made.

Section 7. Officers Not Liable.

In no event will the Town of Gilbert or any officer thereof be liable for any portion of the cost of said Improvement District nor for any delinquency of persons or property assessed.

Section 8. Annual Statement.

The Town Council shall make annual statements and estimates of the expenses of the District which shall be provided for by assessment of the total sum upon the several lots, each respectively in proportion to the benefits to be received by each lot in the District as provided in A.R. S. § 48-574, A.R.S. § 48-575 and amendments thereto. Because each lot receives an equal benefit from the maintenance of the landscaping, facilities and structures within the District, the Town Council shall assess the total sum of the expenses of the District equally on each lot subject to assessment in the District, to the extent permitted by law, subject to the following exception:

The expenses of maintaining certain common walls identified in the Plans and Specifications shall be assessed in proportion to the benefits to be received by each lot, as follows:

- a. The expenses of maintaining the finish of the exterior side of the common walls shall be assessed equally on each lot subject to assessment in the District;
- b. The interior side of a common wall (facing the interior of a lot) shall be maintained by the adjacent individual lot owner.
- c. If the Superintendent of Streets (the Public Works Director) determines a common wall requires structural repairs due to ordinary wear and tear or natural causes, the District may make such repairs; provided, however, each adjacent individual lot shall be assessed up to fifty-percent (50%) of the expenses for repair of the wall adjoining said lot, measured on a linear foot cost basis average, and the remainder of the expenses shall be assessed equally on each lot subject to assessment in the District.

The expenses of the District may include incidental expenses as provided for in A.R.S. § 48-589, and amendments thereto.

Section 9. Statutory Authority.

The Work and all proceedings pertaining thereto shall be performed under the provisions of Title 48, Chapter 4, Article 2, specifically A.R.S. § 48-574, and all amendments thereto.

Section 10. Delegation of Authority.

The Town Engineer is hereby authorized to fill in any blanks and to make any minor corrections necessary to complete the Plans and Specifications, Alternative Plans and Specifications, and the Contract Documents.

Section 11. Public Bidding and Contract Award.

The Work shall be publicly bid and a contract awarded to the lowest responsible bidder pursuant to A.R.S. § 48-584, and amendments thereto. The Town may award a one (1) year contract with an option to renew for up to five (5) additional one-year terms, and the price for any renewal term will be adjusted by the percent net change in the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average or similar publication from the prior year.

The Town may perform any portion of the Work separately bid as a bid option, or order that a proposed contract not be made and perform all the Work as provided for in A.R.S. § 48-585 and amendments thereto.

PASSED, ADOPTED AND APPROVED this 21st day of August , 2007.

Steven M. Berman, Mayor

ATTEST:

Catherine A. Templeton, Town Clerk

APPROVED AS TO FORM:

Curtis, Goodwin, Sullivan,
Udall & Schwab, P.L.C., Town Attorneys

I hereby certify that I have read the description set out under the definition “Assessment District” and approve the same. I further certify that I have read the description set out under the definition “Work” and approve the same.

Rick Allred, Town Engineer

I hereby certify that the above and foregoing Resolution No. _____ was duly passed by the Mayor and Council of the Town of Gilbert, Arizona at a regular meeting held on August 21, 2007 and that a quorum was present thereat and that the vote therein was ___ ayes and ___ nays. ___ were no vote or absent.

Catherine A. Templeton, Town Clerk

F:\578\47\Resolutions\Resolution of Intent PK 07-9.doc

Exhibit 1

LEGAL DESCRIPTION OF
PARKWAY IMPROVEMENT DISTRICT NO. 07-9
FOR: MORNING RIDGE

THAT PORTION OF LAND IN THE NORTH ½ OF SECTION 18, T.1S., R.6E.,
6.&S.A.B.&M., MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY
DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH ¼ CORNER OF SAID SECTION 18;

THENCE NORTH 89°56'12" EAST ALONG THE NORTH LINE OF SAID SECTION 18, A
DISTANCE OF 1149.38 FEET;

THENCE SOUTH 00°03'48" EAST A DISTANCE OF 240.00 FEET;

THENCE NORTH 89°56'12" EAST A DISTANCE OF 53.12 FEET TO A POINT ON THE
NORTHWESTERLY RIGHT-OF-WAY LINE OF THE CONSOLIDATED CANAL;

THENCE SOUTH 30°18'12" WEST ALONG SAID NORTHWESTERLY RIGHT-OF-WAY A
DISTANCE OF 1145.51 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY
OF THE SOUTHERN PACIFIC RAILROAD;

THENCE NORTH 53°15'40" WEST ALONG SAID NORTHEASTERLY RIGHT-OF-WAY A
DISTANCE OF 764.40 FEET;

THENCE NORTH 00°08'31" WEST A DISTANCE OF 450.45 FEET;

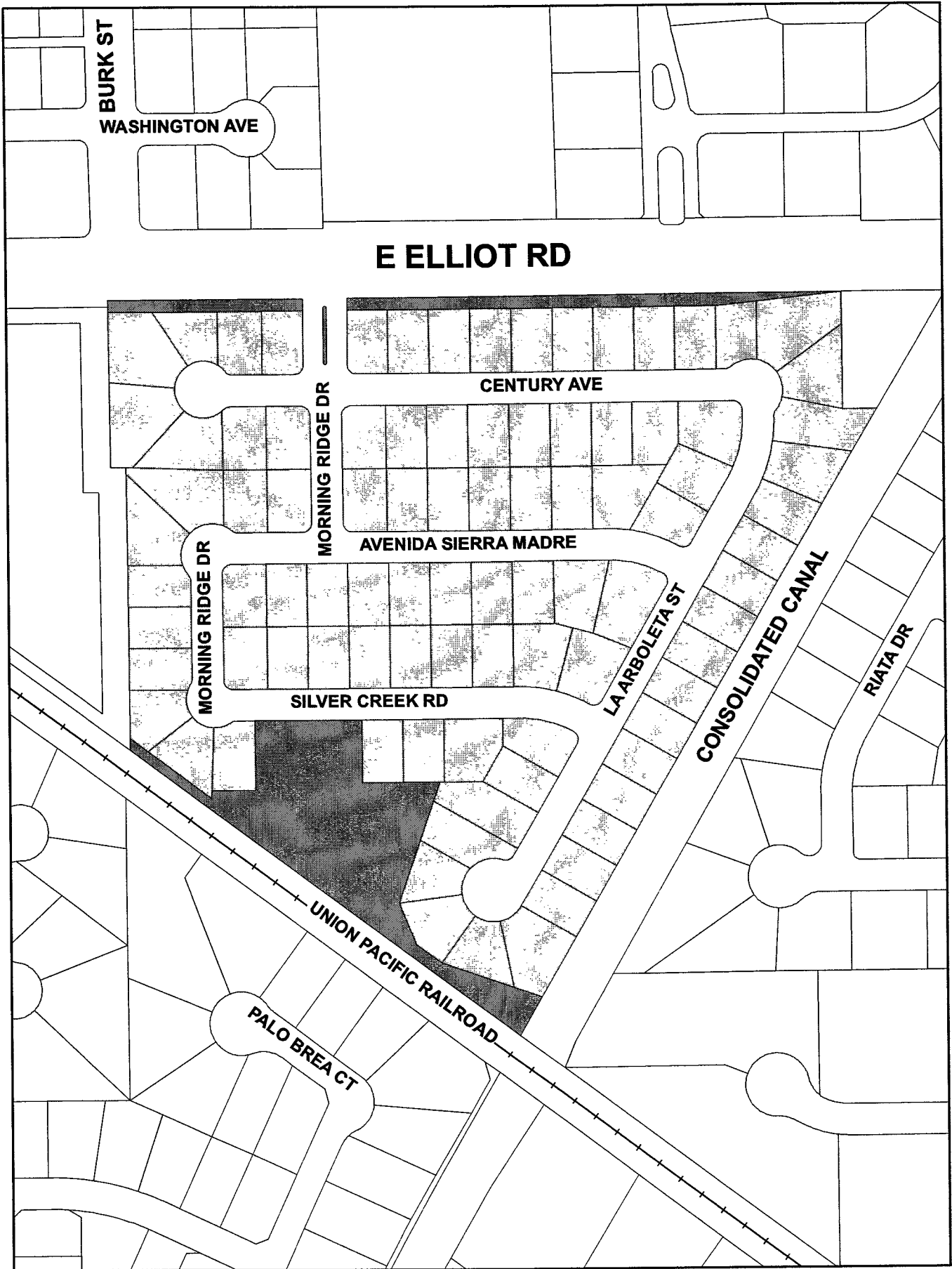
THENCE SOUTH 89°51'29" WEST A DISTANCE OF 24.29 FEET;

THENCE NORTH 00°08'31" WEST A DISTANCE OF 280.02 FEET;

THENCE NORTH 89°56'34" EAST A DISTANCE OF 14.00 FEET TO A POINT ON THE
NORTH-SOUTH MID-SECTION LINE OF SAID SECTION 18;

THENCE NORTH 00°08'31" WEST ALONG SAID NORTH-SOUTH MID-SECTION LINE A
DISTANCE OF 40.00 FEET TO THE TRUE POINT OF BEGINNING AND CONTAINING
23.6850 ACRES OF LAND, GROSS, MORE OR LESS.

SUBJECT TO: ANY EASEMENTS, RESTRICTIONS, OR RIGHT-OF-WAYS,
RECORDED OR OTHERWISE.



27

**PARKWAY IMPROVEMENT DISTRICT 07-09
MAINTAINED BY TOWN**



28

E ELLIOT RD

30423376	30423375	30423374	30423373
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30423464	30423463	30423462	30423461	30423460	30423459	30423458	30423457
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CENTURY AVE

30423377	30423378	30423379	30423380
30423401	30423400	30423399	30423398

30423381	30423382	30423383	30423384	30423385	30423386	30423387	30423388
30423397	30423396	30423395	30423394	30423393	30423392		

AVENIDA SIERRA MADRE

30423403	30423404	30423405
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30423427	30423426	30423425	30423424	30423423	30423422	30423421	30423420	30423419	30423418
30423409	30423410	30423411	30423412	30423413	30423414	30423415	30423416	30423417	30423418

SILVER CREEK RD

30423406	30423407	30423408
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30423428	30423429	30423430	30423431	30423432	30423433	30423434	30423435	30423436	30423437	30423438
30423443	30423442	30423441	30423440	30423439	30423438					

LA ARBOLETA ST

CONSOLIDATED CANAL

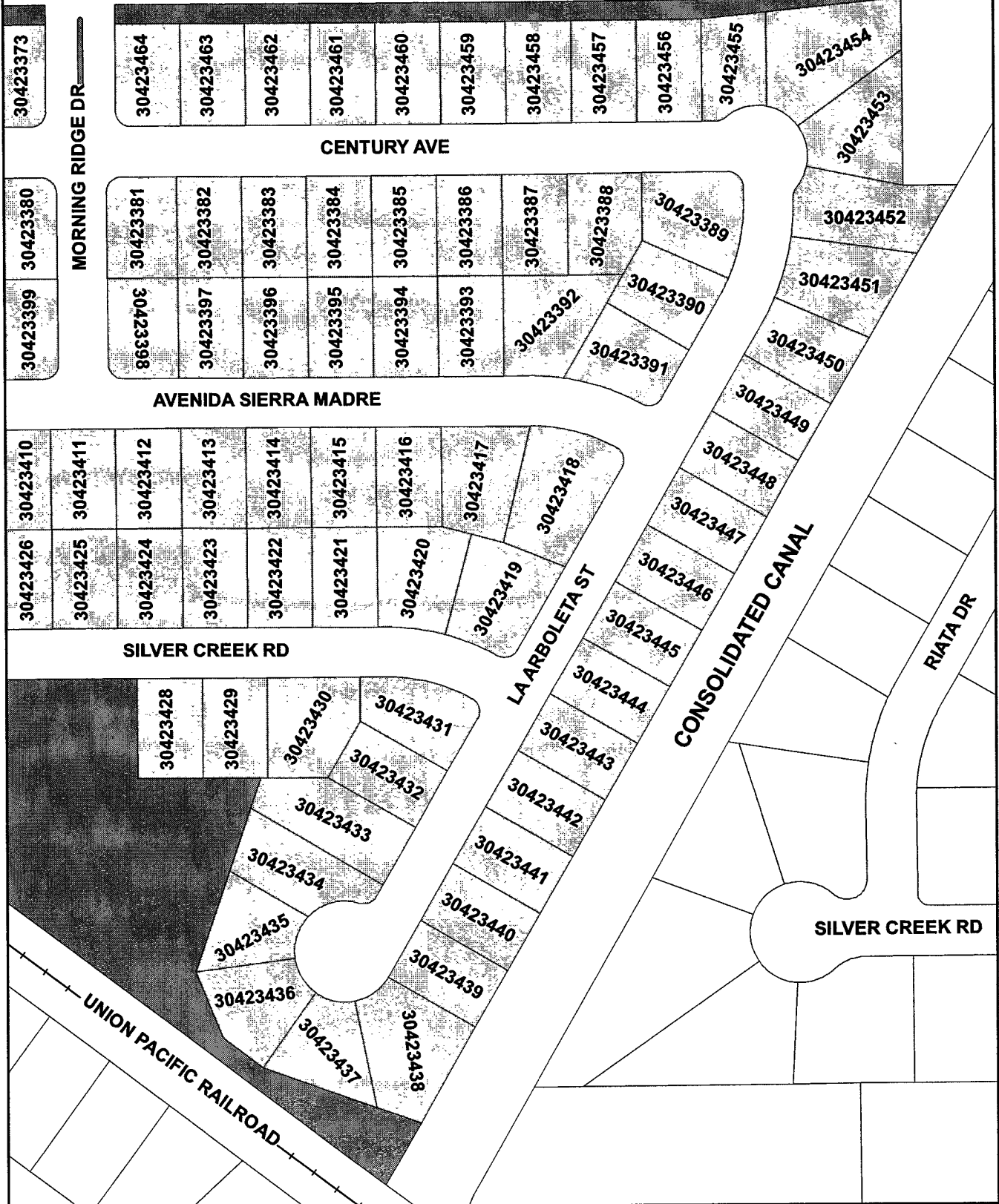
UNION PACIFIC RAILROAD

West Detail

PARKWAY IMPROVEMENT DISTRICT 07-09
MAINTAINED BY TOWN



E ELLIOT RD



East Detail
PARKWAY IMPROVEMENT DISTRICT 07-09
MAINTAINED BY TOWN



RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GILBERT, ARIZONA, DECLARING ITS INTENTION TO CREATE AN IMPROVEMENT DISTRICT TO INSTALL AND MAINTAIN LANDSCAPING, IRRIGATION SYSTEMS, COMMON AREA WALLS AND OTHER IMPROVEMENTS INCLUDED WITHIN, NEAR, AND ADJACENT TO A PARKWAY AS SHOWN ON THE PLANS, FOR MAINTENANCE WITHIN AN AREA IN THE TOWN OF GILBERT AS DESCRIBED HEREIN; ADOPTING PLANS FOR TOWN OF GILBERT PARKWAY IMPROVEMENT DISTRICT NO. **07-11 (CASSIA PLACE)** AS MORE PARTICULARLY DESCRIBED HEREIN, AND DECLARING THE WORK OR IMPROVEMENT TO BE OF MORE THAN LOCAL OR ORDINARY PUBLIC BENEFIT, AND THAT THE COST OF SAID WORK OR IMPROVEMENT SHALL BE ASSESSED UPON A CERTAIN DISTRICT, AND PROVIDING THAT THE PROPOSED WORK OR IMPROVEMENT SHALL BE PERFORMED UNDER ARIZONA REVISED STATUTES TITLE 48, CHAPTER 4, ARTICLE 2, AND AMENDMENTS THERETO.

WHEREAS, the Town Council declares that the installation and maintenance of the landscaping, irrigation systems, common walls and other improvements included within, near, and adjacent to a parkway in the District to be of more than local or ordinary public benefit, and further that the cost of said maintenance shall be assessed on a certain District; and

WHEREAS, the Town Council declares that the installation and maintenance of landscaping, irrigation systems, common walls and other improvements included within, near and adjacent to a parkway in the District is incidental to the maintenance and preservation of the parkway, has aesthetic value, and maintains and increases the value of property within the District; and

WHEREAS, the Town Council declares that the installation and maintenance of landscaping, irrigation systems, common walls and other improvements included within and adjacent to a parkway preserves and promotes the health, safety, and welfare of those citizens of the Town of Gilbert living within the District as well as preservation of the streets and parkways which may be adversely impacted by drainage and other water formations; and

WHEREAS, the Town Council declares that the installation and maintenance of a landscaped buffer between a parkway and the adjacent developments reduces the visual and other impact of light, air and noise pollution and tends to increase personal and vehicular safety on the parkway and decreases the likelihood vehicular accidents will harm adjacent developments in furtherance of the health, safety and welfare of those citizens of the Town living within the District; and

WHEREAS, the Town Council declares that installation and maintenance of landscaped drainage and other water control facilities and features within, near and adjacent to a parkway and related facilities tends to preserve the structural integrity of the parkway and mitigates flooding of adjacent areas and the parkway by draining water to and from the parkway in furtherance of the health, safety and welfare of those citizens of the Town of Gilbert living within the District; and

WHEREAS, the Town Council has determined the type of landscaping, irrigation systems, common walls and other improvements to be installed and maintained; and

WHEREAS, the Town Council has determined that each lot in the District receives an equal benefit from the installation and maintenance of the landscaping, irrigation systems, common walls and other improvements within the District and therefore it is appropriate to assess the total sum of the expenses of the District equally on each lot subject to assessment in the District, to the extent permitted by law, except the expenses of maintaining certain common walls identified in the Plans and Specifications shall be assessed in proportion to the benefits to be received by each lot, as described in this Resolution Section 8.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF GILBERT AS FOLLOWS:

Section 1. Definitions.

In this Resolution, the following terms shall have the following meanings:

“Alternative Plans and Specifications” shall mean the plans and specifications and contract documents for the Parkway Improvement District No. 07-11 or “PK 07-11” approved by the Council.

“Assessment Diagrams” shall mean those duplicate diagrams of the property contained in the Assessment District as to be filed with the Clerk and approved by the Mayor and Council.

“Assessment District” shall mean the lots, pieces or parcels of land lying within the boundaries described in **Exhibit 1** attached hereto and as is shown on the map on file with the Town Engineer.

“Clerk” shall mean the Town Clerk.

“Improvements” shall mean all landscaping, irrigation systems, common walls and other improvements including but not limited to play structures, sidewalks, ramadas, lighting facilities, drinking fountains, and benches identified in the Plans and Specifications on file with the Clerk or subsequent Alternative Plans and Specifications approved by the Council.

“Lots” shall mean all lots, pieces or parcels of land lying within the Assessment District.

“Parkways” shall mean all those streets and rights-of way which are designated on Exhibit 1 as “Parkways.”

“Plans and Specifications” shall mean the plans and specifications and contract documents for the Parkway Improvement District No. 07-11 filed with the Clerk prior to the adoption of this Resolution.

“Superintendent of Streets” shall mean the Town Public Works Director, or any successor to such person.

“Town” shall mean the Town of Gilbert, Arizona.

“Town Council” or “Council” shall mean the Mayor and Common Council of the Town.

“Town Engineer” shall mean the Town Engineering Manager or any successor to such person.

Section 2. Declaration of Intention to Order an Improvement.

The public interest or convenience require, and it is the intention of the Mayor and Council of the Town of Gilbert, Arizona, to order the following work, hereinafter “Work,” to be performed, to wit:

The installation and maintenance of all landscaping, irrigation systems, common walls and other improvements, and the ongoing maintenance of the same, including replacement, as identified in the Plans and Specifications on file with the Clerk or subsequent Alternative Plans and Specifications approved by the Council, in the area generally described as follows:

Cassia Place (Park Village Unit VI): Those areas included within or adjacent to the Assessment District all as shown on the maps attached hereto as Exhibit 1, together with all appurtenances and adjustments necessary, as set forth in the Plans, Specifications, and Estimate.

The Town Council hereby designates as parkways, those areas set forth on Exhibit 1 which are labeled “Parkway.” The public interest and convenience require, and it is the intention of the Town Council to order the Work adjacent to the designated parkways to be performed as stated herein. All items of the Work hereby approved and adopted by the Council and on file in the Office of the Town Engineer and no assessment for any lot shall exceed its proportion of the estimate.

The estimate of the cost and expenses of the work or improvements on file in the offices of the Superintendent of Streets and the Clerk of the Town are hereby approved to the requirements of law, the procedures set forth in Title 48, Chapter 4, Article 2 and amendments thereto will be followed regarding acceptance of bids and setting tax levies.

For purposes of this Resolution and of all resolutions, ordinances and notices pertaining to this Resolution, the improvement as herein described is hereby designated Town of Gilbert Parkway Improvement District No. 07-11 or "PK 07-11".

The Town in its discretion will determine whether to include bid options in landscape maintenance contracts for such items such as planting seasonal flowers in designated areas, winter over-seeding of grass in turf areas, aeration of turf, weed control chemical applications, pesticide applications, and irrigation; such bid options are deemed to be part of the original Plans and Specifications for the District.

The Town in its discretion may immediately remove, replace or modify Improvements when necessary for the protection of public health, safety or welfare.

Section 3. Alternative Plans and Specifications.

In order to ensure flexibility in the operations of the District over time, the Town Engineer is authorized to provide for Alternative Plans and Specifications to be thereafter determined and approved by the Town Council as set forth in A.R.S. § 48-576(C) and or A.R.S. § 48-584 (C), as may be amended from time to time. The Alternative Plans and Specifications may be implemented for purposes of cost reduction, expressed preferences of District property owners, water conservation, flood control, or other public health, safety and welfare reasons.

Prior to Council approval, the proposed Alternative Plans and Specifications shall be filed with the Superintendent of the Streets and the Town Clerk, along with an estimate of the cost and expenses of the work or improvements. The Town will notify by mail the owners of property within the District, as listed in the assessment rolls of the Maricopa County Recorder, of any proposed Alternative Plans and Specifications, any proposed increase in the amount of the assessment and levy and the right to protest said increase. The Town also will publish a notice of the same once in a newspaper of general circulation in the Town. Within fifteen (15) days of the date of publication of said notice any person having an interest in a lot liable to assessment within the District can file with the Town Clerk a written protest to the Alternative Plans and Specifications and/or the increase.

If more than 50% of the owners of lots liable to assessment protest the Alternative Plans and Specifications and/or the increase within fifteen (15) days of the publication of the notice described above, the Town, at its option is authorized to:

- a. Modify the Alternative Plans and Specifications, prepare a new estimate, mail the owners of property within the District a new notice, and publish a new notice of the same; or
- b. Reject the Alternative Plans and Specifications and utilize the original Plans and Specifications; or
- c. Invalidate the District.

If fewer than 50% of the owners of lots liable to assessment protest the Alternative Plans and Specifications and/or the increase within fifteen (15) days of the

publication of the notice described, the Town has the authority to approve the Alternative Plans and Specifications by formal resolution, and to levy an amount not to exceed to proposed increase as published.

Section 4. Determination of Need.

In the opinion of the Town Council, the Work is of more than local or ordinary public benefit. The Town Council hereby orders that all amounts due or to become due with respect to the Work shall be chargeable upon the respective lots, pieces and parcels of land within the Assessment District.

Section 5. Preparation of Assessment Diagrams.

The Town Engineer is hereby authorized and directed to prepare duplicate diagrams (Assessment Diagrams) of the property contained within the assessment district. The diagrams shall show each separate lot, numbered consecutively, the approximate area in square feet of each lot, and the location of the lot in relation to the work proposed to be done.

Section 6. Exclusion of Certain Property.

Any public street or alley within the boundaries of the Assessment District is hereby omitted from the assessment hereafter to be made. Any lot belonging to the United States, the State, a county, city, school district or any political subdivision or institution of the State or county, which is included within the Assessment District shall be omitted from the assessment hereafter made.

Section 7. Officers Not Liable.

In no event will the Town of Gilbert or any officer thereof be liable for any portion of the cost of said Improvement District nor for any delinquency of persons or property assessed.

Section 8. Annual Statement.

The Town Council shall make annual statements and estimates of the expenses of the District which shall be provided for by assessment of the total sum upon the several lots, each respectively in proportion to the benefits to be received by each lot in the District as provided in A.R. S. § 48-574, A.R.S. § 48-575 and amendments thereto. Because each lot receives an equal benefit from the maintenance of the landscaping, facilities and structures within the District, the Town Council shall assess the total sum of the expenses of the District equally on each lot subject to assessment in the District, to the extent permitted by law, subject to the following exception:

The expenses of maintaining certain common walls identified in the Plans and Specifications shall be assessed in proportion to the benefits to be received by each lot, as follows:

- a. The expenses of maintaining the finish of the exterior side of the common walls shall be assessed equally on each lot subject to assessment in the District;
- b. The interior side of a common wall (facing the interior of a lot) shall be maintained by the adjacent individual lot owner.
- c. If the Superintendent of Streets (the Public Works Director) determines a common wall requires structural repairs due to ordinary wear and tear or natural causes, the District may make such repairs; provided, however, each adjacent individual lot shall be assessed up to fifty-percent (50%) of the expenses for repair of the wall adjoining said lot, measured on a linear foot cost basis average, and the remainder of the expenses shall be assessed equally on each lot subject to assessment in the District.

The expenses of the District may include incidental expenses as provided for in A.R.S. § 48-589, and amendments thereto.

Section 9. Statutory Authority.

The Work and all proceedings pertaining thereto shall be performed under the provisions of Title 48, Chapter 4, Article 2, specifically A.R.S. § 48-574, and all amendments thereto.

Section 10. Delegation of Authority.

The Town Engineer is hereby authorized to fill in any blanks and to make any minor corrections necessary to complete the Plans and Specifications, Alternative Plans and Specifications, and the Contract Documents.

Section 11. Public Bidding and Contract Award.

The Work shall be publicly bid and a contract awarded to the lowest responsible bidder pursuant to A.R.S. § 48-584, and amendments thereto. The Town may award a one (1) year contract with an option to renew for up to five (5) additional one-year terms, and the price for any renewal term will be adjusted by the percent net change in the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average or similar publication from the prior year.

The Town may perform any portion of the Work separately bid as a bid option, or order that a proposed contract not be made and perform all the Work as provided for in A.R.S. § 48-585 and amendments thereto.

PASSED, ADOPTED AND APPROVED this 21st day of August , 2007.

Steven M. Berman, Mayor

ATTEST:

Catherine A. Templeton, Town Clerk

APPROVED AS TO FORM:

Curtis, Goodwin, Sullivan,
Udall & Schwab, P.L.C., Town Attorneys

I hereby certify that I have read the description set out under the definition “Assessment District” and approve the same. I further certify that I have read the description set out under the definition “Work” and approve the same.

Rick Allred, Town Engineer

I hereby certify that the above and foregoing Resolution No. _____ was duly passed by the Mayor and Council of the Town of Gilbert, Arizona at a regular meeting held on August 21, 2007 and that a quorum was present thereat and that the vote therein was ___ ayes and ___ nays. ___ were no vote or absent.

Catherine A. Templeton, Town Clerk

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PK07-11
Legal Description

All of Park Village Unit VI subdivision as recorded in Book 349 of Maps, Page 44, Maricopa County Records, Maricopa County, Arizona, more particularly described as follows:

That portion of the Southeast quarter of Section 5, Township 1 South, Range 6 East of the Gila and Salt River Meridian, Maricopa County, Arizona, described as follows:

BEGINNING at the Southeast corner of said Section 5 from which the South quarter corner of said Section 5 bears North 88°32'30" West 2641.63 feet;

thence North 88°32'30" West 1235.70 feet along the South line of said Section 5;

thence North 01°27'30" East 355.00 feet to the point of curvature of a circular curve to the left having a radius of 500.00 feet;

thence Easterly 152.44 feet along said curve through a central angle of 17°28'08" to the point of non-tangency;

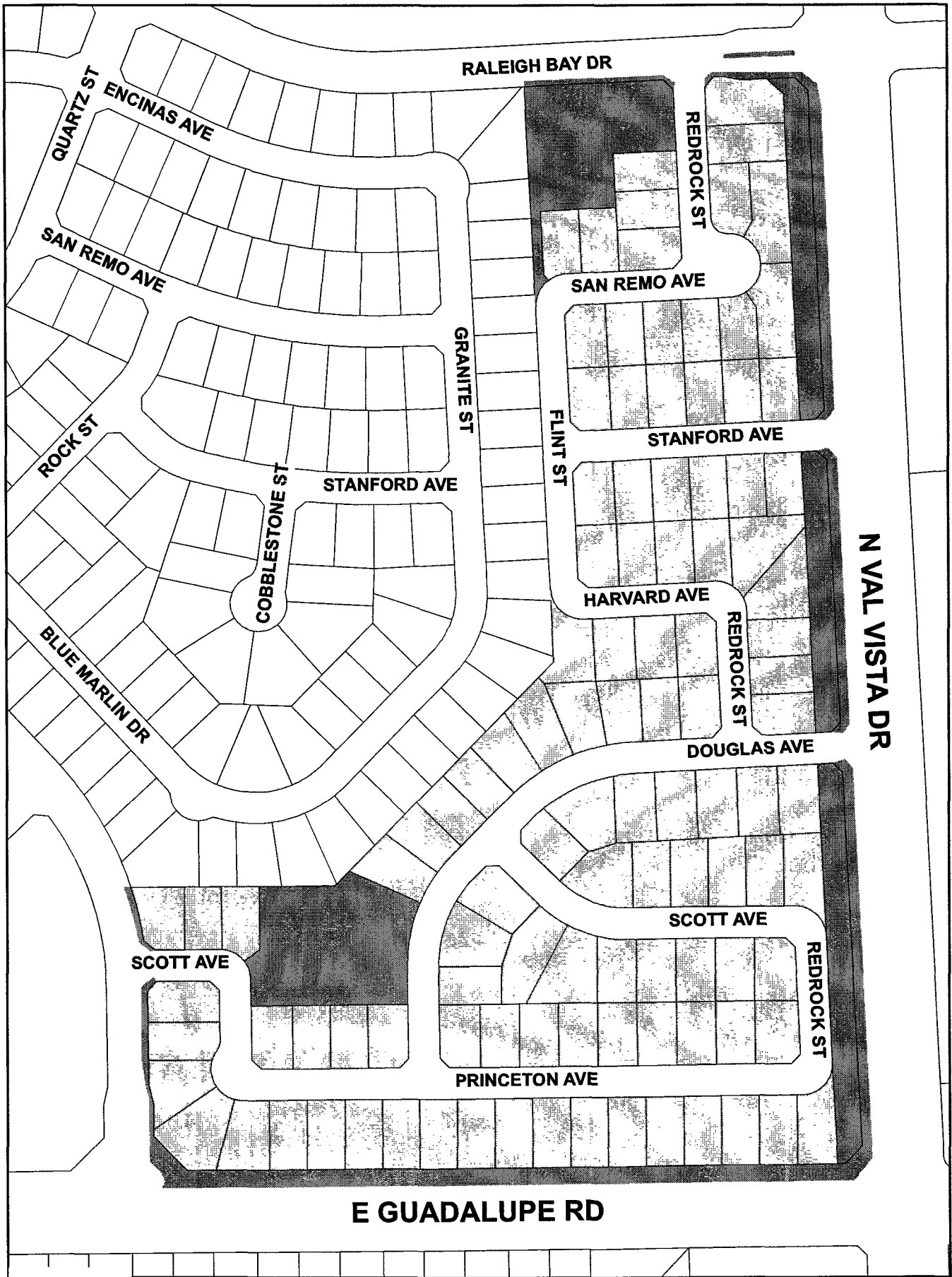
thence North 73°59'22" East 33.00 feet; thence South 88°32'30" East 324.58 feet;
thence North 46°27'30" East 501.15 feet; thence North 00°42'47" West 946.52 feet;
thence North 89°17'13" East 515.00 feet to a point that lines on the East line of said Section 5;

thence South 00°42'47" East 1836.04 feet along said East line to the **POINT OF BEGINNING**.

Containing 31.517 Acres, more or less.

*Professional Land
Surveyor AZ No. 19817*

(Expires 6-30-08)
ELECTRONIC SEAL
*"Digitally signed per
ASBTR Substantive
Statement dated 6-17-02"*



PARKWAY IMPROVEMENT DISTRICT 07-11
 MAINTAINED BY TOWN



N VAL VISTA DR

RALEIGH BAY DR

ENCINAS AVE

SAN REMO AVE

SAN REMO AVE

STANFORD AVE

HARVARD AVE

DOUGLAS AVE

GRANITE ST

FLINT ST

REDROCK ST

REDROCK ST

30903820

30903819

30903818

30903817

30903816

30903805

30903815

30903806

30903814

30903807

30903813

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52830603

30903804

30903803

30903802

30903801

30903800

66730603

66730603

46730603

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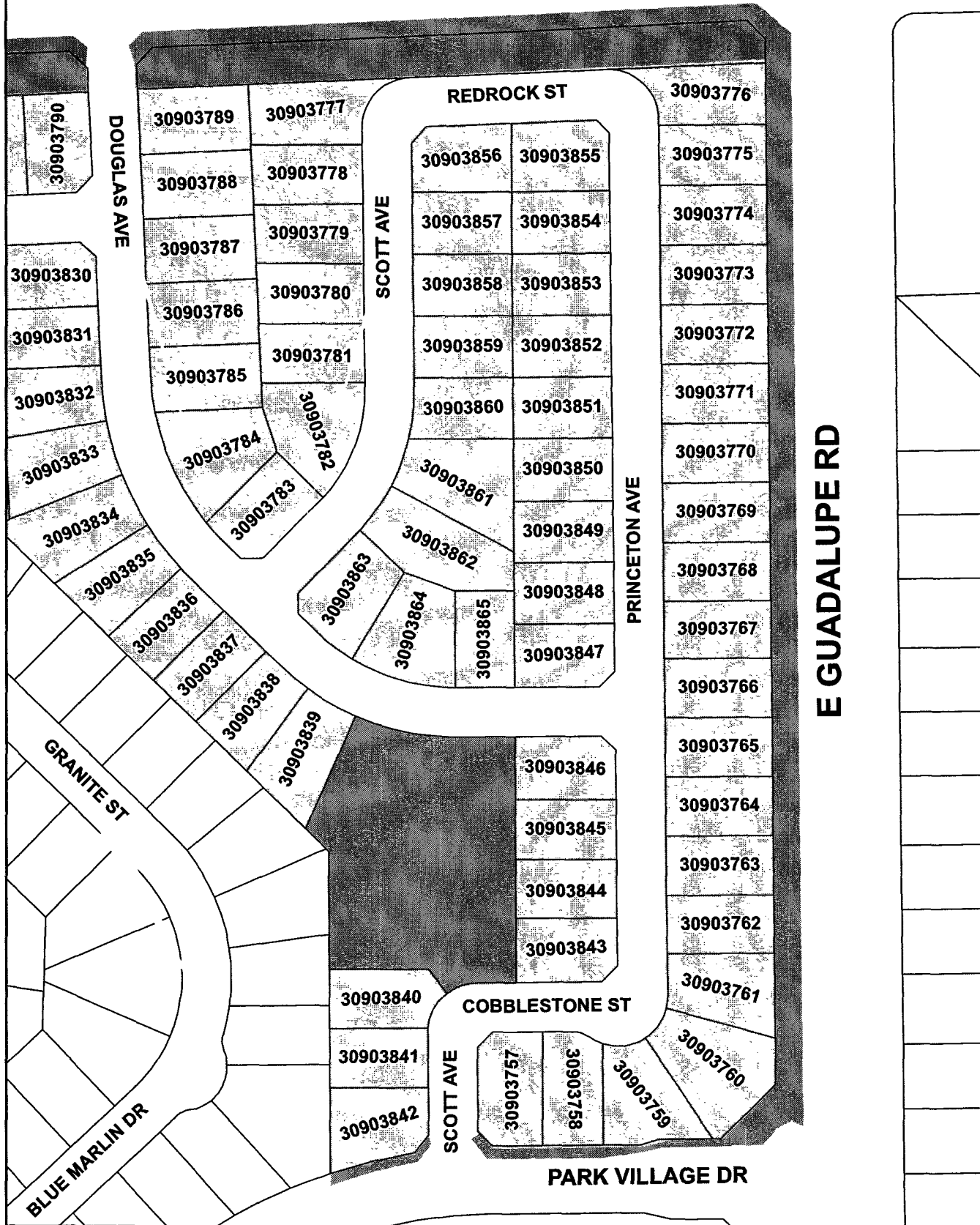
30903834

30903835

North Detail
PARKWAY IMPROVEMENT DISTRICT 07-11
MAINTAINED BY TOWN



N VAL VISTA DR



E GUADALUPE RD

South Detail

PARKWAY IMPROVEMENT DISTRICT 07-11
MAINTAINED BY TOWN

